



BILLET D'ÉTAT

WEDNESDAY, 28th JANUARY 2009

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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 28th JANUARY, 2009,** immediately after the meeting already convened for that day, to consider the items contained in this Billet d'État which have been submitted for debate.

G. R. ROWLAND
Bailiff and Presiding Officer

The Royal Court House
Guernsey
9 January 2009

PROJET DE LOI

entitled

**THE INCOME TAX (MISCELLANEOUS PROVISIONS) (GUERNSEY)
(AMENDMENT) LAW, 2009**

The States are asked to decide:-

I.- Whether they are of the opinion

- (1) To approve the Projet de Loi entitled “The Income Tax (Miscellaneous Provisions) (Guernsey) (Amendment) Law, 2009” and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.
- (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 the said Projet de Loi shall have effect from the 28th January, 2009, as if it were a Law sanctioned by Her Majesty in Council and registered on the records of the Island of Guernsey.

**THE REGISTERED PATENTS AND BIOTECHNOLOGICAL INVENTIONS
(BAILIWICK OF GUERNSEY) ORDINANCE, 2009**

The States are asked to decide:-

II.- Whether they are of the opinion to approve the draft Ordinance entitled “The Registered Patents and Biotechnological Inventions (Bailiwick of Guernsey) Ordinance, 2009” and to direct that the same shall have effect as an Ordinance of the States.

**THE INCOME TAX (GUERNSEY) (APPROVAL OF AGREEMENTS)
ORDINANCE, 2009**

The States are asked to decide:-

III.- Whether they are of the opinion to approve the draft Ordinance entitled “The Income Tax (Guernsey) (Approval of Agreements) Ordinance, 2009” and to direct that the same shall have effect as an Ordinance of the States.

**THE GUERNSEY BAR (BAILIWICK OF GUERNSEY)
(COMMENCEMENT) ORDINANCE, 2009**

The States are asked to decide:-

IV.- Whether they are of the opinion to approve the draft Ordinance entitled “The Guernsey Bar (Bailiwick of Guernsey) (Commencement) Ordinance, 2009” and to direct that the same shall have effect as an Ordinance of the States.

**THE MERCHANT SHIPPING (BAILIWICK OF GUERNSEY) LAW, 2002
(COMMENCEMENT) ORDINANCE, 2009**

The States are asked to decide:-

V.- Whether they are of the opinion to approve the draft Ordinance entitled “The Merchant Shipping (Bailiwick of Guernsey) Law, 2002 (Commencement) Ordinance, 2009” and to direct that the same shall have effect as an Ordinance of the States.

**THE AVIATION (BAILIWICK OF GUERNSEY) LAW, 2008
(COMMENCEMENT) ORDINANCE, 2009**

The States are asked to decide:-

VI.- Whether they are of the opinion to approve the draft Ordinance entitled “The Aviation (Bailiwick of Guernsey) Law, 2008 (Commencement) Ordinance, 2009” and to direct that the same shall have effect as an Ordinance of the States.

**THE AVIATION (FOREIGN AIRCRAFT OPERATIONS)
(BAILIWICK OF GUERNSEY) ORDINANCE, 2009**

The States are asked to decide:-

VII.- Whether they are of the opinion to approve the draft Ordinance entitled “The Aviation (Foreign Aircraft Operations) (Bailiwick of Guernsey) Ordinance, 2009” and to direct that the same shall have effect as an Ordinance of the States.

HEALTH AND SOCIAL SERVICES DEPARTMENT

NEW MEMBER

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

10th December 2008

Dear Sir

I enclose a copy of a letter I have received from Deputy Mike Hadley, tendering his resignation from the Health and Social Services Department and asking that this be debated in the States.

I would wish the States to be aware that it was the unanimous view of the other members of the Health and Social Services Department that Deputy Hadley should consider his position. The Board members who met with him, however, advised him not to make a decision until the concerns we had about his actions had been considered at a meeting of the Board where all the political members were present. Instead, he chose to advise me that he would be resigning and then announced this publicly. Whilst I am grateful to Deputy Hadley for his kind comments about me, I must make it clear that the remainder of the Board is not split on this issue; we all felt that Deputy Hadley's behaviour had been unacceptable, which he concurred with and gave that as his reason to me for his resignation. The Board of the Health and Social Services Department respects Deputy Hadley's position in relation to his decision to resign.

I shall be grateful if this item can be included in the Billet d'État for the January 2009 meeting of the States.

Yours faithfully

A H Adam
Minister



STATES OF GUERNSEY

Deputy Michael Hadley
Member of the States of Guernsey

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Deputy Hunter Adam

Minister of Health

Dear Hunter

With much regret I resign as a member of the HSSD board as requested by two of my colleagues but would like this to be debated in the States.

I would say that I have enjoyed working with you. I do think that the States are fortunate in having you as the Minister and with your leadership I hope some of the difficult issues are resolved.

Yours sincerely

Mike Hadley

The States are asked:-

- VIII.- 1. To accept the resignation of Deputy M P J Hadley as a member of the Health and Social Services Department.
2. To elect a sitting Member of the States to complete the unexpired portion of the term of office of Deputy Hadley to serve until May 2012 in accordance with Rule 7 of the Constitution and Operation of States Departments and Committees.

(NB Paragraph 7 (7) of the Constitution and Operation of States Departments and Committees provides:

If a member elected by the States to a Department or Committee tenders his resignation from that office in a letter to the Minister of the Department or the Chairman of the Committee, as the case may be, and does not include in that letter a request that the matter be debated by the States, his resignation shall automatically take effect on the election by the States of a new member of that Department or Committee in his place.

In this case Deputy Hadley has asked that the matter be debated and there are therefore separate propositions asking the States to accept his resignation from the Health and Social Services Department and, if it is accepted, to elect a new member.)

POLICY COUNCIL

APPOINTMENT OF CHAIRMAN AND ORDINARY MEMBERS OF THE GUERNSEY FINANCIAL SERVICES COMMISSION

Executive Summary

This report proposes the re-election of Dr Cees Schrauwens, Mr Howard Emerson Flight, Mr David John Mallet and Advocate Peter Andrew Harwood as ordinary members of the Commission for three years and the subsequent re-election of Advocate Peter Andrew Harwood as Chairman of the Guernsey Financial Services Commission for one year.

Report

In accordance with the provisions of sub-paragraph 3(1) of Schedule 1 of the Financial Services Commission (Bailiwick of Guernsey) Law 1987, as amended, Dr Dr Cees Schrauwens, Mr Howard Emerson Flight, Mr David John Mallet and Advocate Peter Andrew Harwood retire as ordinary members of the Commission on 1st February, 2009.

The Policy Council is pleased to re-nominate Dr Schrauwens as an ordinary member of the Commission for a three year period to run from 2nd February, 2009 until 1st February, 2012. Dr Schrauwens has been an ordinary member of the Commission since May 2008.

The Policy Council is pleased to re-nominate Mr Flight as an ordinary member of the Commission for a three year period to run from 2nd February, 2009 until 1st February, 2012. Mr Flight has been an ordinary member of the Commission since December 2005.

The Policy Council is pleased to re-nominate Mr Mallet as an ordinary member of the Commission for a three year period to run from 2nd February, 2009 until 1st February, 2012. Mr Mallet has been an ordinary member of the Commission since February, 2003.

The Policy Council is pleased to re-nominate Advocate Harwood as an ordinary member of the Commission for a three year period to run from 2nd February, 2009 until 1st February, 2012. Advocate Harwood has been an ordinary member of the Commission since August 2004 and Chairman since February 2006.

The Chairman of the Commission must be elected annually by the States, from amongst the ordinary members having been nominated by the Policy Council. The Council is pleased to re-nominate Advocate Peter Harwood as Chairman of the Commission for a further year from 2nd February, 2009 until 1st February, 2010.

Recommendation

The Policy Council recommends the States to:

- (a) re-elect Dr Cees Schrauwens as an ordinary member of the Guernsey Financial Services Commission for three years with effect from 2nd February, 2009;
- (b) re-elect Mr David John Mallett as an ordinary member of the Guernsey Financial Services Commission for three years with effect from 2nd February, 2009;
- (c) re-elect Mr Howard Emerson Flight as an ordinary member of the Guernsey Financial Services Commission for three years with effect from 2nd February, 2009;
- (d) re-elect Advocate Peter Andrew Harwood as an ordinary member of the Guernsey Financial Services Commission for three years with effect from 2nd February, 2009;
- (e) re-elect Advocate Peter Andrew Harwood as Chairman of the Guernsey Financial Services Commission for one year with effect from 2nd February, 2009.

L S Trott
Chief Minister

24th November 2008

The States are asked to decide:-

IX.- Whether, after consideration of the Report dated 24th November, 2008, of the Policy Council, they are of the opinion:-

1. To re-elect Dr Cees Schrauwers as an ordinary member of the Guernsey Financial Services Commission for three years with effect from 2nd February, 2009.
2. To re-elect Mr David John Mallett as an ordinary member of the Guernsey Financial Services Commission for three years with effect from 2nd February, 2009.
3. To re-elect Mr Howard Emerson Flight as an ordinary member of the Guernsey Financial Services Commission for three years with effect from 2nd February, 2009.
4. To re-elect Advocate Peter Andrew Harwood as an ordinary member of the Guernsey Financial Services Commission for three years with effect from 2nd February, 2009.
5. To re-elect Advocate Peter Andrew Harwood as Chairman of the Guernsey Financial Services Commission for one year with effect from 2nd February, 2009.

POLICY COUNCIL

THE COURT OF CHIEF PLEAS AFTER MICHAELMAS

Executive Summary

This report proposes the enactment of legislation to enable the Royal Court to prescribe a date other than the first Monday after Michealmas as the date on which the Michaelmas sitting of Chief Pleas may lawfully be held.

The Court of Chief Pleas (Guernsey) Law, 2004

Attached as an appendix is the Policy Council's report dated 15 June 2004 (Billet d'État XII of 2004) which resulted in the enactment of the Court of Chief Pleas (Guernsey) Law, 2004 ("the 2004 Law").

Section 1(a) of the 2004 Law directed that the Court of Chief Pleas after Michaelmas, being the sitting on the first Monday after Michaelmas i.e. 29th September – the "Michaelmas Sitting" - should continue to take place as before.

By Section 1(b) of the 2004 Law, the other customary sittings of the Court of the Chief Pleas, on the first Monday after the feast of St Maur on the 15th January and on the first Monday after Easter Monday, are held at the discretion of the Bailiff if he considers their being convened necessary or desirable. The ability of the Court of Chief Pleas to assemble extraordinarily for any purpose – as can happen on the visit of the Sovereign – has been expressly preserved.

The Michaelmas Sitting

HM Procureur has written to the Policy Council in the following terms:

“Traditionally, the Michaelmas Sitting marks the commencement of the legal year, and requires the attendance of the full assembly of the Court of Chief Pleas, including Advocates (now numbering approximately 150), the Seigneurs and the Constables. The local judiciary, and distinguished guests (who have included the Lord Chief Justice and the Senior Master of the Queen's Bench Division) are also invited.

The Michaelmas Sitting is that occasion on which the Royal Court, sitting en Corps or as a Full Court, reassembles after the summer recess during which the Courts' and Greffe staff carry out annual administrative tasks. No major trials are heard, though of course the Royal Court sitting as a Cour Ordinaire continues to sit throughout the vacation period.

For the past three years it has been necessary, by sheer weight of numbers, for the Court of Chief Pleas to be held at St James, because it would not now be

possible to assemble all the Advocates in the Royal Court Chamber together with all the other attendees, even standing! This will be the case unless the Royal Court decides, as it is entitled to, to modify or abolish the attendance requirements.

But, more importantly and relevantly for the purposes of this letter, the legislative requirement for the Michaelmas Sitting to be on the first Monday after Michaelmas may prove inconvenient. In any year it may be desirable, even necessary, for it to be held earlier or later, and not necessarily on a Monday. For example, St James may not be available, having been booked for a conference or some public event. Furthermore, there may be merit in bringing forward the formal commencement of the legal year to September, reflective of the increased amount of work undertaken by the Royal Court sitting en Corps or as a Full Court – including criminal trials and appeals from the Magistrates' Court, administrative appeals, and liquor and other licensing applications.

Accordingly, and after discussions with the Bailiff and judiciary, I write to propose that legislation be enacted amending the 2004 Law, by which the Royal Court may prescribe by order a date other than the first Monday after Michaelmas as the date on which the Michaelmas Sitting may be lawfully held."

The Policy Council has agreed to act on HM Procureur's proposal.

Recommendation

The Policy Council recommends the States

1. That the Royal Court shall be empowered to prescribe by order a date other than the first Monday after Michaelmas as the date on which the Michaelmas Sitting of the Court of Chief Pleas may be lawfully held.
2. To direct the preparation of such legislation as may be necessary to give effect to the foregoing

L S Trott
Chief Minister

8 December 2008

*Appendix***POLICY COUNCIL****THE COURT OF CHIEF PLEAS**

Her Majesty's Procureur has written to the Policy Council in the following terms:

"The Court of Chief Pleas is an ancient institution, whose origins can be traced back to the earliest times during which the English Crown sought to assert its authority throughout the Bailiwick by the establishment of royal, as opposed to feudal, courts. The Court nowadays ordinarily sits three times a year; on the first Mondays after Michaelmas (September 29th); January 15th, and Easter. It may also sit extraordinarily for ceremonial occasions, such as when the Sovereign visits Guernsey. Attendance at the Court of Chief Pleas is not confined to the Bailiff and Jurats; by custom, the Law Officers and members of the Bar are required to attend, as are the Constables. Relevantly the Seigneurs or Dames of certain Fiefs also appear, to do homage to the Crown, represented by the Bailiff.

In recent years, both before, but specially after the Occupation, as the result of the post war reforms in Guernsey's constitution, the Court has come to lose many of its functions. It no longer has any legislative function. Furthermore, and by way of example, the Court of Chief Pleas at Michaelmas by then had lost its important function of assessing the money value of corn rentes ("l'affeuement des rentes) in 1927, when these became fixed by statute. In truth, apart from certain functions either specified by law, or carried out by tradition (see below), the Court is now primarily ceremonial.

As regards its sittings, of more practical consequence is the great increase in advocates, which makes their attendance almost impracticable, except by sitting in the public gallery with the Constables, and in the dock! For that reason, the Bar and the Constables have, for some years, been excused attendance at the January and Easter sittings.

There is certain business that is required to be, or is otherwise routinely, transacted at the sittings of the Court as follows:

Michaelmas Chief Pleas

- (a) *to receive the reports of the Constables on the adequacy of the fencing of the quarries in their respective Parishes, pursuant to the Ordonnance ayant rapport à l'Inspection des Carrières, 1932;*

- (b) *to renew 'salle publique' licences, pursuant to the Loi ayant rapport aux Licences pour les Salles Publiques, 1914;*
- (c) *to receive the annual report of the Inspector of Explosives in accordance with the Loi relative aux Explosifs, 1905, as amended. (This could, under the legislation, be dealt with by the Royal Court sitting as a Full Court, but is routinely dealt with at this Court of Chief Pleas.)*

January Chief Pleas

- (a) *to receive the annual report of the Public Services Department [as successor to the Public Thoroughfares Committee, itself successor to the Central Streams Committee] on controlled streams, pursuant to the Loi relative aux Douits 1936, as amended;*
- (b) *to renew the aerodrome licences in respect of Guernsey and Alderney Airports, pursuant to the Air Navigation Orders 1980, as amended and extended to the Bailiwick (Whilst these licences are routinely renewed at January Chief Pleas, they might also be dealt with by the Royal Court sitting as a Full Court).*

Easter Chief Pleas

There is no formal business for this sitting.

Of the three sittings of Chief Pleas, that at Michaelmas is the most attended with formality, in that it is the only sitting which continues to require the attendance of the Bar, en corps, and the Constables. The Lieutenant Governor also attends occasionally. It is followed by a service to mark the beginning of the legal year held at the Town Church. There is also an annual dinner, hosted by H.M. Receiver General on behalf of the Crown, for certain attendees, which has been held for as long as the Court has assembled. However, the Seigneurs and Dames do attend all three sittings, and an Order in Council would be required to dispense with their attendance, and to relieve both the Court and the Seigneurs and Dames of their respective rights and obligations in this regard.

The Bailiff, after consultation with the Jurats, has recommended that the January and Easter Courts of Chief Pleas should cease to be held, though without removing the ability, should occasion require, of their being convened. The business that would otherwise be dealt with at the January Chief Pleas would be transferred to the nearest convenient sitting of the Royal Court. Of the items mentioned above, only the report of the Public Services Department under the Loi relative aux Douits formally refers to the report being considered at the Court of Chief Pleas in January, and so legislation would be required to give effect to this proposal if the States were minded to accede. It is to be stressed that the Court is not being abolished, and in any event it will continue to sit as

hitherto at Michaelmas. All that is proposed is that the customary requirement to hold the Court in January and at Easter, and to require the Seigneurs and Dames to there do homage, is being removed.

Whilst the Royal Court is reluctant to dispense with those traditional features of the calendar, in circumstances in which (a) such business as is conducted at the January Chief Pleas could conveniently be conducted at another sitting of the Royal Court sitting as a Full Court, and (b) there is no business for the Easter Chief Pleas, it is believed that no advantage is to be gained by their formal retention.

Accordingly I propose that legislation be enacted by which, without affecting the holding in future of any ordinary or extraordinary sitting of the Court of Chief Pleas, and to the intent that the Michaelmas Court of Chief Pleas should continue to sit as hitherto, the January and Easter Courts of Chief Pleas need not be held, and that the Seigneurs and Dames should be excused their requirement to there do homage.”.

The Policy Council concurs with the view expressed by HM Procureur and recommends the States to direct that legislation be enacted on the lines set out in this report.

L C Morgan
Chief Minister

15 June 2004

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

The States are asked to decide:-

X.- Whether, after consideration of the Report dated 8th December, 2008, of the Policy Council, they are of the opinion:-

1. That the Royal Court shall be empowered to prescribe by order a date other than the first Monday after Michaelmas as the date on which the Michaelmas Sitting of the Court of Chief Pleas may be lawfully held.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

POLICY COUNCIL

THE MATRIMONIAL CAUSES LAW (GUERNSEY), 1939, AS AMENDED

Executive Summary

This Report seeks to extend the powers of the Divorce Court, to enable it to ensure that justice is done between parties in matrimonial proceedings.

In his letter which founds the Report, HM Procureur proposes several amendments to the Matrimonial Causes Law (Guernsey), 1939, as amended (“the Law”), concerning the division of assets between spouses and the payment of capital sums or maintenance.

These include granting power to the Divorce Courts to transfer real property and personal property to a wider range of people, including for the benefit of children of the family and other persons for their (the children) benefit.

Report

HM Procureur has reported to the Policy Council in the following terms:

“Introduction

Prior to 1939, Guernsey had no statutory framework for the divorce of married persons, and indeed the range of rights and remedies available in matrimonial cases was somewhat limited. In July 1939, the Royal Court registered the Matrimonial Causes Law, the development of which had engaged the States for a number of years. This established the Matrimonial Causes Division of the Royal Court (“Divorce Court”) to deal with divorce, judicial separation and other matrimonial causes and issues. The 1939 Law was brought into force in August 1946, except for those provisions which had come into force upon its registration.

The 1939 Law has been subsequently amended, most substantially by the Matrimonial Causes (Amendment) (Guernsey) Law, 1972, by which adultery, desertion, cruelty, etc, as grounds for divorce or other matrimonial relief were replaced by the single ground of irretrievable breakdown of marriage, which was to be established by reliance on the fact of adultery, desertion, unreasonable behaviour and, newly and importantly, living apart for 2 years and divorcing with the consent of the other spouse; and also, though nowadays somewhat infrequently, living apart for 5 years in which case such consent is not required.

Furthermore, it should be recalled that the jurisdiction of the Divorce Court was concurrent with that of the Royal Court sitting as an Ordinary Court in relation to the ratification of the terms of an agreed separation between spouses, and that of (what is now) the Magistrate's Court in relation to certain domestic matters, including the granting of separation orders, and the making of maintenance orders.

Whilst there have been further amendments to the 1939 Law since 1972, none has been substantial in the legal sense, except as to the extension of divorce to Sark, and the principal changes have been procedural, principally by removing the requirement for a petitioner to appear in person before the Divorce Court to give evidence in public, often personally sensitive or embarrassing in nature, which could and did cause great distress, particularly in those cases in which adultery or unreasonable behaviour were relied on to establish irretrievable breakdown of marriage.

Whilst the proportion of marriages ending in divorce has substantially increased, and the number of couples who cohabit and have children without marriage has likewise increased, the number of matrimonial causes that are defended has reduced, but by far the greatest amount of contentious matrimonial work with which the Divorce Court has to deal concerns: -

- (A) custody of and access to children; and,
- (B) the division of assets between spouses and the payment of capital sums or maintenance;

and it is in connection with (B) that this Report is concerned.

Proposed Amendments

The extent of the powers in the 1939 Law of the Divorce Court, (references to which include the Court of Appeal) are somewhat restricted, which has caused some difficulties as these limit the way in which the Divorce Court can fairly and appropriately structure the allocation of the assets of the parties to do justice between them in matrimonial proceedings. In contrast, judges on the mainland have benefited from the width and flexibility of certain statutory provisions of the Matrimonial Causes Act 1973, as amended, which permit a more extensive range of orders to be made. The Guernsey judiciary has been consulted and are keen for this unsatisfactory situation to be remedied, and for the Divorce Court's powers to be extended to include what is necessary or desirable in a local context to match those available on the mainland, but tailored as to their nature and extent to suit local property laws and practices, which are – especially as to real property - very different from those in England.

I therefore write to recommend that Article 46 of the 1939 Law be amended to expand the range of orders that may be awarded by the Divorce Court, better to enable it to ensure that justice is done between the parties in matrimonial proceedings.

At present Article 46 of the 1939 Law provides that:

“...(1) Where a decree of divorce or nullity of marriage or ...judicial separation has been granted, the Court may...subject to Article 57A as regards real and personal property in which each or either of the parties to the marriage has,... an interest..., direct that their interests in such property shall be vested solely in the one or the other of the parties or shall be divided between them in such proportions as the Court directs, and, where such property is so directed to be vested solely in one of the parties or to be divided between the parties, order that one party shall pay to the other for his or her absolute benefit such gross sum or shall secure to the other for his or her benefit, such gross or periodic sum or both for any term not exceeding the life of the party in favour of whom the same is secured....”

It will immediately be seen that this Article restricts the Divorce Court in the orders which can be made.

Accordingly, I propose that the Divorce Court should have additional powers, to enable it to make a wider range of orders, including:

- (a) power to order the transfer of real or personal property to a wider range of people, to include a child or children of the family, or to another person for the benefit of such child or children;
- (b) power to create any trust or settlement of or affecting the real or personal property of the spouses, or to vary any existing trust or settlement of such property held for their respective benefit; and power to vest real or personal property in trust generally, including for the benefit of children of the family and other persons for their benefit; and in any such case on such terms as the Divorce Court may direct;
- (c) power to direct a payment, or periodic payments, out of the proceeds of sale of real or personal property;
- (d) power to direct that real or personal property, or any interest therein, should be held on trust for sale with power to postpone sale either indefinitely or to a fixed time or the happening of a certain event, or until further order of the Divorce Court;
- (e) where real or personal property is held in undivided shares, power to suspend the ability of the co-owners to require a *licitation* (that is, a process vesting the property in either of them, which is ordinarily available as a matter of customary law) of the property for a fixed time or the happening of a certain event, or until further order of the Divorce Court;
- (f) power to create for either of the parties a right of usufruct or habitation, or a right of possession e.g. a lease, or in reversion, or a right of occupation

by way of licence, in any case on such terms and conditions as the Divorce Court may direct;

- (g) power to secure by way of fixed charge any obligation pursuant to an order of the Divorce Court over the interest of either or both of the owners of real property, e.g. to secure the payment of monies;

Furthermore, the Divorce Court should have specific power to make such ancillary or incidental orders as may be necessary or expedient to give effect to any orders made.

It should be noted that none of the foregoing powers would be exercisable in respect of real property in Sark, because the tenements and freehold properties in Sark are indivisible and not readily susceptible of being the subject of orders under Article 46. This point was recognised when the 1939 Law was extended to enable divorce to be granted to Sark persons and by the Matrimonial Causes (Amendment Law) 2002, Sark real property was excluded from the purview of Article 46 but in order to do justice between divorcing spouses power was granted to enable leasehold interest to be created in respect of tenements and freeholds. Accordingly the foregoing provisions should not apply to Sark tenements or freeholds, at least for so long as they remain impartable and only capable of being owned by an individual, or by more than one individual but only on terms of survivorship, undivided ownership being impossible in respect of Sark real property.

It will be noticed that (g) of the foregoing would enable the Divorce Court to make charging orders by which obligations would be secured against the real property, or interest therein, of a spouse or former spouse. In the ordinary way, the creation of a charge over real property will carry document duty, under the Document Duty (Guernsey) Law, 1973, and the Document Duty (Guernsey) Ordinance, 2003, at the rate of 0.5 per cent of the sum secured. In a number of matrimonial causes, it would not be possible to determine at the outset the amount of the sum secured for document duty purposes, as this may – often will - vary over time depending upon the circumstances of the parties and the order made e.g. where the eventual interest of a party is determined by reference to a future proportion of the value of the property. Accordingly, and exceptionally, I would propose that where a charge over real property is created under Article 46, as amended by the foregoing provisions, the document duty attributable to that transaction should be £1.

One further provision would be of assistance to the Divorce Court. Increasingly, either or both of the parties to divorce proceedings are actual or prospective beneficiaries of pension arrangements, which ought to be taken into account to achieve a just and equitable division of the totality of the spouses' actual or prospective assets. However, orders relating to pensions are invariably difficult, and the judiciary would wish to have further time to reflect upon proposals which may be made in this regard. Accordingly, I would recommend that the amending

legislation should enable the States, by Ordinance, to make provision for pensions in divorce proceedings, including pension sharing orders and payments of lump sums where pension schemes have, or are likely to have, lump sums payable.

Finally, it has been the practice of the Divorce Court for some while when making orders concerning the real or personal property of the spouses to apply by reference Section 25 of the Matrimonial Causes Act 1973, which provides for those matters to which the courts should have regard in deciding how to exercise their powers. I consider there is merit, if only for the avoidance of doubt, for the introduction of an enabling provision that would permit the States, by Ordinance, to prescribe the matters that the courts should take into account. The use of an enabling provision, in preference to the importation of Section 25 of the Matrimonial Causes Act 1973, would give the judiciary time to consider what amendments would be most appropriate for Guernsey legislation.

It is proposed that these amendments to the 1939 Law should be available, in the case of real property in Guernsey and Alderney owned by either or both of the parties to the proceedings, and to the personal property of the parties from wherever in the Bailiwick. There has been consultation with the Policy and Finance Committee in Alderney, which has indicated that it supports the proposals contained in this Report.

It is not anticipated that such powers are presently needed for Sark as respects Sark real property, as the Court already has extensive powers in the 1939 Law to make orders for the disposal and vesting of Sark property by way of leasehold arrangements. Consultations are still ongoing with the General Purposes and Advisory Committee in Sark and the Committee's views concerning the exercise of the powers in respect of Sark real property will be taken into account when drafting any amendments to the 1939 Law.

Resources and Human Rights

I am of the opinion that no extra resources will be required from the States to implement these proposals, which will not contravene the European Convention on Human Rights.

Conclusion

I therefore propose that Article 46 of the 1939 Law be amended and extended as set out above.

I would be grateful if you would arrange for this proposal to be placed before the States together with appropriate recommendations."

The Policy Council concurs with the proposals from HM Procureur.

Recommendations

The Policy Council recommends that the States:

1. Approve the proposals set out in this Report.
2. Direct the preparation of such legislation as may be necessary to give effect to the foregoing.

L S Trott
Chief Minister

8th December 2008

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

The States are asked to decide:-

XI.- Whether, after consideration of the Report dated 8th December, 2008, of the Policy Council, they are of the opinion:-

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

TREASURY AND RESOURCES DEPARTMENT

MISCELLANEOUS AMENDMENTS TO THE TAX LAWS

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

19th December 2008

Dear Sir

1. **Executive Summary**

- 1.1. This Report proposes a number of amendments to The Income Tax (Guernsey) Law, 1975, as amended (“the Income Tax Law”) and recommends suspension of The Dwellings Profits Tax (Guernsey) Law, 1975 (“the DPT Law”).
- 1.2. The following proposals arise from the Treasury and Resources Department’s Business Plan:
 - A change in the basis of taxation of individuals, who are resident but not solely or principally resident for income tax purposes, from the present basis (under which they are taxed on Guernsey source income and remittances of non-Guernsey source income) to a flat tax charge of (initially) £25,000 per annum, payable where Guernsey source income does not exceed £125,000 (although individuals in receipt of employment income would be ineligible). The alternative will involve the payment of tax on the basis of the individual’s worldwide income (except that where the Administrator of Income Tax (“the Administrator”) was satisfied that an individual is in Guernsey, principally, to act as an employee, the present basis of taxation would continue to apply).
 - A lowering of the limit of tax payable by individuals (which, at present, is a maximum of £250,000 tax payable in relation to non-Guernsey sources of income) to £100,000 per individual or married couple for non-Guernsey sources with an election for a further £100,000 per individual or married couple where Guernsey sources of income are received.
 - The suspension of the DPT Law.

- An increase in the level of payments that an employee may receive before they are liable to tax, when his employment is terminated, from £10,000 to £30,000.
- Removal of proportional relief.

1.3. Other amendments proposed to the Income Tax Law are:

- An exemption from the deemed distribution rules relating to company trading profits for companies that elect to distribute at least 65% of their profits annually.
- A number of changes which arise from experience of the zero/10 regime so far, in order to address anomalies.
- An exemption from tax of the employment income of merchant seamen.
- A revision to the requirement that exemption from tax for exempt bodies should be granted by the Department, so the Administrator may grant exemption if he is satisfied that the body is eligible, in accordance with the legislation.
- Exempting Premium Bond prizes from income tax.
- A revision to section 40(k) of the Law to reinstate exemption from tax for all Guernsey charities.
- The introduction of an exemption from income tax in respect of the profits derived from the micro-generation of electricity.

1.4. The Department is satisfied that the proposals comply with the Government Business Plan (see 2.13 below).

2. **Detailed Proposals**

2.1. **The taxation of individuals who are resident but not solely or principally resident for income tax purposes**

- 2.1.1. In Billet d'État XX of 2007, as part of the Policy Council's Report on Economic and Taxation Strategy outstanding issues, the Policy Council said (last paragraph, page 1596):

“As part of the review in connection with high net worth individuals and the tax capping proposal, it is apparent that there is merit in also considering the basis on which those individuals who are resident but not solely or principally resident in Guernsey are subject to income tax in the island.

The reason for this is that Income Tax Office statistics show that a significant number of residents in this category pay only modest amounts of income tax and the Policy Council believes this needs to be addressed. Consequently a staff level working group will be considering this category of resident individual and reporting to the Treasury and Resources Department in due course. Following a period of consultation with interested parties, proposals will be brought to the States by the Treasury and Resources Department.”

2.1.2. Most direct tax systems, in the developed world, seek to tax more heavily those individuals with greater connection to the country concerned than those who are only casual or occasional visitors, or who are resident for limited periods of time. The system that currently operates in Guernsey, for individuals, is of this type, in that the Income Tax Law sets out a number of different levels of residence and the amount of tax that an individual has to pay is determined by which group he or she falls into. As a consequence, a person’s residential status is by far the greatest deciding factor on the level of his or her contributions to the island’s revenues.

2.1.3. Under the Income Tax Law, a person is treated as resident but not solely or principally resident in Guernsey if:

- he or she spends 91 days or more in Guernsey during a year, or
- he or she is in Guernsey during a year for 35 days or more and, during the 4 years immediately preceding, he or she was in Guernsey for an average of 91 days or more.

A person in this category is taxable on income arising in Guernsey along with any non-Guernsey income brought into the island (the latter is referred to as “remittances”).

He or she would also be entitled to a proportion of the personal allowances, depending on the length of time spent in Guernsey.

2.1.4. Some individuals who are treated as resident but not solely or principally resident are able to arrange their affairs, so as to limit the level of tax they will pay in Guernsey, simply by ensuring that they remit capital rather than income. To a significant extent, therefore, some persons who are wealthy and who are resident but not solely or principally resident can determine their own tax contribution to the island.

It should be noted that, on arrival, some such individuals do make it clear that, notwithstanding that they could manipulate their affairs in such a way that they paid little or no tax, they wish to make a

contribution to the island's revenues that, in their view, is reasonable. By contrast, there are also individuals in this category who will pay the minimum possible (and the Department does not imply that such an approach is contrary to the Income Tax Law or unethical).

The fact remains, however, that individuals who reside in the island, for whatever length of time, are likely to make use of public services and amenities, which have to be paid for out of general revenue.

- 2.1.5. The Department recognises the value of those individuals who make up the resident but not solely or principally resident sector. Many of these individuals come to work in Guernsey in the tourist and hospitality industries and, without those employees, those sectors would suffer significantly. Furthermore, other sectors, such as the finance industry, have short term "secondees" working in Guernsey from parent and associated organisations. In addition, part of this sector consists of open market residents, who may have a home in Guernsey as well as a home, or homes, in other territories. Whilst some, but by no means all, of these individuals pay relatively small amounts in income tax, compared to the amount that would be due if they were taxable on their worldwide incomes, the Department recognises that these persons do contribute to the island's economy in other ways (for example, in the acquisition/improvement of their Guernsey properties).
- 2.1.6. In September 2008, the Department issued a consultation document to interested parties, seeking comments and suggestions as to whether, and if so how, the method of taxing persons who are resident but not solely or principally resident in Guernsey could be varied so that they fairly contribute towards the costs of running the island's public services and amenities, whilst having regard to:
- the limited amount of time that these persons spend in Guernsey on an annual basis, and
 - providing protection for those persons who, whilst they may be in this sector of the island's population, derive all, or almost all, of their income from Guernsey employment or remit all, or most, of their non-Guernsey source income to the island (to the extent that they have any sources of income arising outside of the island).
- 2.1.7. The outcome of the consultation process was general support for a minimum level of tax payable by an individual who is resident but not solely or principally resident in Guernsey, provided that, to avoid cases of hardship, the person concerned should be permitted to make a return of their worldwide income, and pay Guernsey tax accordingly, if this would give rise to a lower tax liability.

There were concerns, however, that those individuals who are resident but not solely or principally resident for income tax purposes but who are only present in the island for the purposes of taking up employment (mostly those employed in the tourist and hospitality industries or on secondment) should be protected.

2.1.8. As a consequence of the outcome of the consultation process, it is proposed that:

- The Department should be able, by Regulations, to set a minimum level of tax liability for a person treated as resident but not solely or principally resident. The Department proposes that, initially, the minimum liability should be set at £25,000 and proposes that this would be reviewed from time to time and increased, inter alia, to take account of the effects of inflation.
- The current rules for determining residence, contained in the Income Tax Law, would continue to apply.
- An election to pay the minimum charge would be required to be made annually and would be accompanied by a declaration that the individual had no Guernsey source income which would be subject to the deduction of tax under section 81A of the Income Tax Law – essentially income from employment – and that his income from other Guernsey sources did not exceed £125,000 (which, at the individual tax rate of 20%, would generate a liability of £25,000 – no account being taken of allowances, deductions or relief for underlying taxes). This declaration would constitute the filing of a tax return for the relevant year of charge and no other income tax return would be required from that individual, as a matter of course.
- An individual able to make a declaration as described above would have a tax liability of £25,000 for the relevant year of charge.
- An individual who is resident but not solely or principally resident, who does not, or is unable to, make a declaration, as described above, would be required to file a tax return on the basis of their worldwide income and would be entitled to the allowances and deductions prescribed for an individual who is resident but not solely or principally resident, in accordance with the provisions of the Income Tax Law, provided that where the individual had income subject to deduction of tax under section 81A of the Income Tax Law and the Administrator was satisfied that the only, or main,

purpose for the individual being present in the island was in order that he may undertake the duties of an employment, he would continue to be taxable only on his sources of income arising in Guernsey, plus remittances.

- 2.1.9. Under the above regime, therefore, an individual who was resident but not solely or principally resident and who was in Guernsey, employed in a hotel, restaurant, in the growing industry, on secondment, etc, would continue to be taxable only on their Guernsey sources and any overseas income that was brought into Guernsey (i.e. as is the case now). Those individuals for whom the £25,000 flat tax charge would cause hardship would be able to pay tax, instead, on their worldwide income and enjoy the benefit of the income tax allowances, deductions and relief for tax already suffered (for example, overseas taxes) as are provided for in the Income Tax Law.
- 2.1.10. Notwithstanding that an individual who had elected to pay the £25,000 flat fee charge would be entitled to make a, simple, declaration of his circumstances, rather than a complete income tax return, the Administrator would continue to have the right to use the powers which are available to him, under the Income Tax Law, to obtain information if, in any particular case, he considered it appropriate to do so (for example, where the Administrator had reason to believe that an inaccurate declaration had been made).
- 2.1.11. The general view of respondents to the consultation process was that a system of taxation, along the lines as set out above, would provide a simple and certain basis for individuals who are resident but not solely or principally resident, whilst containing the necessary safeguards to protect those individuals who, if required to pay a flat fee tax charge of £25,000, may thereby suffer hardship or, in the case of guest workers, may be disinclined to enter into employment in Guernsey, which would be to the detriment of Guernsey industries.
- 2.1.12. Many respondents also anticipated that the simplicity and clarity of such a regime may generate interest in the island's open market housing sector.
- 2.1.13. In addition to the reduction in the compliance burden for the taxpayer (by virtue of their ability to sign a simple declaration rather than to complete a full income tax return) there would also be some benefits within the Income Tax Office as a consequence of the reduction of enquiries that may need to be made in relation to the amounts that individuals, within this category, may be remitting to Guernsey from their overseas income sources.

2.2. **Revision of the maximum amount of tax payable by individuals (the “tax cap”)**

2.2.1. Up until 2007, the Income Tax Law contained no mechanism by which the tax liability of individuals could be capped. As a consequence, it was not uncommon for the Administrator to be asked to agree not to invoke the legal avoidance provisions of the Income Tax Law in relation to arrangements that some individuals wished to put in place, the effect of which was to limit their Guernsey income tax liabilities.

2.2.2. Following consideration of a Report by the Policy Council (Billet XI of 2006) the States resolved to introduce a tax cap that would have the effect of limiting, to £250,000, the tax liability of individuals on their non-Guernsey source income (but including Guernsey bank deposit interest).

2.2.3. In May 2007 (Billet XIV of 2007) the States further resolved that the cap should apply equally both to individuals and to married couples (i.e. a married couple, both of whom were independently wealthy, would have a joint cap of £250,000 not £500,000).

In addition, the States agreed that the cap should be apportioned in the year of arrival and departure so that if, for example, a wealthy new resident arrived on 1 July, the cap for that year would be £125,000 rather than £250,000.

2.2.4. The tax cap, as described above, has been in existence since 1 January 2008. At the time the cap was introduced, it was not anticipated that it would apply to any existing Guernsey residents and so the cap had no anticipated immediate detrimental impact on Guernsey’s general revenue.

2.2.5. In September 2007, the Policy Council reported to the States that, following the consultation meetings held in March and April 2007, as part of the Economic and Taxation Strategy, a number of representations were received that a cap set at a level of £250,000 would be too high, both in real terms and having regard, for example, to the level of the cap in the Isle of Man (which is £100,000 for an individual and £200,000 for a married couple) and would be of limited benefit unless it applied to worldwide income (which is the position in, for example, the Isle of Man).

2.2.6. At that time, the Policy Council decided against the application of the tax cap to worldwide income on the grounds that it would then apply to a number of existing Guernsey residents and hence result in a direct reduction in existing tax revenues. In addition, because, from

1 January 2008, tax arises on profits made by most Guernsey trading companies only when those profits are distributed (or, in certain circumstances, when treated as distributed) the existence of a tax cap that applied to those profits could encourage the “rolling up” of the profits over a number of years in order for them to be distributed in one year, with the result that the cap could be then applied and which could lead to an additional, and possibly significant, loss of revenue in the long term.

- 2.2.7. The Policy Council did indicate, at that time, that it may be possible to consider, at some future time, extending the cap to worldwide income if the potential losses in relation to trading income, as described above, could be limited. At the same time, the Policy Council advised the States that consideration had been given to introducing a cap at a level lower than £250,000 but had chosen not to do so again, because of the potential impact on existing Guernsey residents (i.e. there would be an immediate reduction in tax revenues, whereas the principal purpose of introducing the cap, in the first instance, was to encourage wealthy individuals to take up residence in Guernsey and thereby increase revenues). Once again, however, the Policy Council indicated to the States that this was a matter that it was prepared to review in the future.
- 2.2.8. In September 2008, the Treasury and Resources Department issued a consultation paper to interested parties, seeking representations on ways in which the level of the present tax cap, and the types of income to which it relates, could be varied in order to make the island a more attractive place for wealthy individuals to take up residence (and it is acknowledged that, almost exclusively, such new residents would occupy properties on the open market register).
- 2.2.9. The consultation document made it clear, however, that the Department would only be prepared to make recommendations to the States that the present level of the cap, and/or the types of income to which it applies, should be varied if the Department could be satisfied that there could, in the long term, be financial benefits to Guernsey from doing so (for example, if the proposals were to achieve their aim of attracting a number of wealthy individuals to take up residence in the island, and thereby contribute to the island’s tax revenues) and if the proposals contained adequate safeguards to the island’s finances.
- 2.2.10. The overwhelming response, from the consultation process, was that the present tax cap (at the level of £250,000 on non-Guernsey source income, other than bank deposit interest) was uncompetitive in a global context and, furthermore, that with tax capping facilities available in some other territories at a lower, and sometimes significantly lower, level, the Guernsey tax cap was actually a

disincentive for existing residents to remain in Guernsey. Indeed, in this regard, it has been reported to the Department that other jurisdictions are “targeting” existing Guernsey residents with a view to encouraging them to relocate on the basis of the lower tax cap available by moving to those jurisdictions. Some respondents to the consultation process were of the view, therefore, that if the island did nothing in relation to the existing tax cap, this would, in itself, be detrimental to the island’s tax revenues.

- 2.2.11. Some respondents reported that the level of the tax cap set by the Isle of Man (£100,000 for an individual and £200,000 for a married couple) has resulted in a number of individuals taking up residence in the Isle of Man with the consequent increase in that island’s income tax revenues. The Department is satisfied that if the tax cap was to be reduced from the current level (£250,000 for an individual or a married couple) to the levels applicable in the Isle of Man but continued to apply only to non-Guernsey source income (other than bank deposit interest) then if there was, as a consequence, a relatively modest influx of new residents wishing to take advantage of the tax cap, this should be sufficient to negate any reductions in tax revenue that would arise as a consequence of applying the reduction in the level of the tax cap to existing Guernsey residents.
- 2.2.12. It was clear, however, from the majority of respondents, that if the tax cap is to be an effective attraction for new residents to consider establishing themselves in Guernsey, it is essential that it applies to worldwide income (i.e. including Guernsey source employment income and business income as well as distributions and deemed distributions from Guernsey companies).
- 2.2.13. The Department recognises that to extend the tax cap to Guernsey sources of income will, in the short term, lead to reductions in tax revenues as there will be existing Guernsey residents who currently have income tax liabilities which are in excess of the level of the tax cap.
- 2.2.14. For example:

Mr A, a Guernsey resident, has:

Non-Guernsey source investment income	£ 750,000
Guernsey source bank deposit interest	£ 100,000
Guernsey source business income	£ 100,000
Distributions and deemed distributions from Guernsey companies	<u>£ 750,000</u>
Total worldwide income	£1,700,000
Less personal allowances, deductions, etc	<u>£ 25,000</u>
Net taxable income	£1,675,000

At present, the £250,000 cap would apply only to the non-Guernsey source investment income and the Guernsey bank deposit interest. As that totals £850,000, on which, after allowances and deductions are taken into account, the tax would be £165,000, Mr A's liability would not be capped.

As a consequence, he would pay tax on the whole of £1,675,000 at 20%, which is £335,000.

If, however, the cap was extended to worldwide income then, even at the current level of £250,000, Mr A would have his liability reduced by £85,000. Clearly that would be a reduction in existing Guernsey revenues and if the level of the cap was also reduced, at the same time, the reduction in existing revenues would be increased accordingly.

- 2.2.15. The majority view of respondents to the consultation process, however, was that unless the level of the existing cap, and the types of income to which it applies, are brought into line with those in other jurisdictions then:
- the tax cap will continue to be a disincentive for wealthy individuals to relocate to Guernsey, and
 - the tax regimes offered by other jurisdictions will continue to be attractive to existing Guernsey residents, who may relocate as a consequence.
- 2.2.16. Clearly, in the example above, if Mr A chose to relocate to another jurisdiction then, as a non-resident, he would have no liability at all in Guernsey except to the extent that he continued to run a business, in his own name, from the island (and it is probable that his professional advisers would encourage him to operate such a business through a company after his removal from Guernsey, to ensure that he paid no Guernsey tax at all). The effect of that, of course, would be that the Guernsey general revenue would suffer to the extent of £335,000.
- 2.2.17. As a consequence of the responses received from the consultation process, the Department proposes that the present level of the tax cap, applicable to non-Guernsey source income (including Guernsey bank deposit interest) should be reduced from £250,000 per individual and married couple, to £100,000 per individual and married couple.
- 2.2.18. To the extent that an individual, or husband and wife between them, had Guernsey sources of income (other than Guernsey bank deposit interest) there would be an option for them to elect (on an annual basis) for a capping facility, set at £200,000.

For the avoidance of doubt, this would mean that if a person had income only from Guernsey sources, the level of the cap applicable would be £200,000, not £100,000.

Allowances and deductions would be applied firstly against non-Guernsey source income and Guernsey bank deposit interest.

- 2.2.19. Applying the above principles to the example of Mr A shown above, Mr A could elect for the £200,000 cap to apply:

Worldwide income	£1,700,000
Less personal allowances, deductions, etc	<u>£ 25,000</u>
	£1,675,000

Which, at 20% =	£ 335,000
Less tax cap	<u>£ 200,000</u>
Tax reduction therefore	<u>£ 135,000</u>

- 2.2.20. Had the liability on Mr A's Guernsey income, shown above, been less than £100,000 then, in this example, it is likely that he would not have elected for the £200,000 cap to apply, and would have continued to have the £100,000 cap applied to his non-Guernsey source income and Guernsey bank deposit interest, and paid tax at 20% on all of his other (Guernsey source) income.
- 2.2.21. The Department recognises that with a tax cap applying to distributions and deemed distributions from Guernsey companies, in the absence of a provision discouraging such a practice, Guernsey resident beneficial members may be incentivised not to make distributions from their companies but, instead, to "roll up" the profits with a view to taking a substantial distribution during the course of a single tax year, in which they elected for the £200,000 cap on worldwide income, in order to have the tax cap apply in one year to what are, in effect, the profits of a number of years.
- 2.2.22. In order to discourage such a practice, the Department proposes that the higher tax cap applicable to Guernsey source income (other than Guernsey bank interest) should only be available to the extent that Guernsey businesses carried on by companies, in respect of which the individual is a beneficial member, have elected to distribute at least 65% of trading profits (see 2.3. below).
- 2.2.23. Due to the significant discretion as to the time when a distribution is made by a company (and deemed distributions are also subject to a number of discretionary, and sometimes (for example, in the case of death of a beneficial member) unforeseeable circumstances) it is not

possible for the Department to accurately estimate the potential reduction in general revenue that would arise, in the short term, from the implementation of the changes to the tax cap, proposed above.

- 2.2.24. The Department shares the view, however, expressed by a number of respondents to the consultation documents, that if no action is taken to make the level of the tax cap more attractive, both to existing Guernsey residents and potential new residents, then taking into account the competitive attractiveness of other jurisdictions, the overall, long term, effect on general revenue may be much more significant.

2.3. **Exemption from deemed distribution regime**

- 2.3.1. Up until 2007, companies resident in Guernsey, for tax purposes, and non-resident companies which had Guernsey sources of income (other than bank deposit interest), paid tax on their income by direct assessment.
- 2.3.2. With effect from 2008, companies have paid tax on the following basis:
- At 20% (the company higher rate) on income from land and buildings in Guernsey (including property development) and income arising from the regulated activities of utility companies.
 - At 10% (the company intermediate rate) on banking business (as defined in the Income Tax Law).
 - At 0% on all other sources of income.
- 2.3.3. Where a company distributes income that has suffered tax at less than 20% (whether in Guernsey or elsewhere) to its “beneficial members”, the company is under an obligation to deduct tax on account of the liability of any Guernsey resident “beneficial members” and to pay that tax over to the Administrator.
- 2.3.4. There are, however, a number of situations where a company is also obliged to pay tax to the Administrator, on behalf of Guernsey resident “beneficial members”, notwithstanding that an actual distribution of the company’s profits has not taken place.

These events have become known as “deemed distribution events” and include:

- The sale of shares.

- The dissolution of a company.
- The cessation of a “beneficial member’s” residence in Guernsey.
- The receipt, by a company, of investment income.

2.3.5. By Regulation, a company is not obliged to deduct tax from a deemed distribution event if the “beneficial member” has a holding in the company of 1% or less.

2.3.6. In addition to deemed distribution events, and as a further anti-avoidance measure, companies are required to account for tax where loans are made to company officers and “participators” (which, broadly, is defined in the Income Tax Law as “beneficial members”) and persons connected to them (hereafter referred to as “loans to participators”).

2.3.7. Under the Income Tax Law, companies are required to make quarterly returns of distributions, deemed distribution events and loans to participators, and to pay any tax due.

2.3.8. These requirements can be particularly burdensome to small and medium sized companies, especially “one man band” businesses and many businesses run by families, with many such companies relying on their professional advisers to make the returns on their behalf (with resultant increases in professional costs).

2.3.9. The Administrator has received a number of requests, from both company owners and professional advisers, to allow companies to continue to pay tax in half-yearly instalments, at the end of June and the end of December, in the same way as companies did up to and including 2007, and to thereby avoid the necessity of having to complete quarterly returns of distributions, deemed distributions and loans to participators.

This could not be done, however, without endangering the position of Guernsey’s corporate income tax regime under the EU Code of Conduct on Business Taxation (and it was the identification of certain aspects of Guernsey’s tax regime as being “harmful”, under the Code of Conduct, that led, in the first instance, to Guernsey agreeing to revise its corporate tax system).

2.3.10. In order to relieve the administrative burden on, in particular, small and medium sized companies, however, the Department proposes that the Income Tax Law be revised to allow a company to be able to make an irrevocable election that it will distribute at least 65% of its trading profits. The consequences of making the election would be:

- The company will be obliged to distribute at least 65% of its tax adjusted trading profits within 12 months of the end of the accounting period in which they are earned.
- The company would not be required to complete quarterly returns except in relation to:
 - (a) deemed distributions of investment income,
 - (b) actual distributions of trading income, and
 - (c) loans to participators.

The Administrator has already issued a Statement of Practice, under section 204 of the Income Tax Law, which provides, in certain circumstances, that investment income may be treated as if it was part of a company's trading profits and for other investment income, below a certain amount, to be returned other than on a quarterly basis. The combined effect of the proposal above, and this Statement of Practice, could be that a significant number of companies, which decide to elect to distribute at least 65% of their trading profits and which do not have investment income and which do not make loans to participators, are relieved from the administrative burden of making any of the quarterly returns otherwise required under the "zero/10" legislation. They will simply deduct and account for Guernsey income tax on distributions actually made to Guernsey residents.

- 2.3.11. To counter possible avoidance (for example, by a company making an election, and within a relatively short period thereafter the beneficial owner leaving the island and subsequently taking a distribution of accumulated untaxed income as a non-resident, with no Guernsey tax liability) there would need to be certain anti-avoidance provisions. The Department proposes that if, within five years of the end of the first year to which an election applied, any of the deemed distribution events relating to trading income, contained in the Income Tax Law, occurred then those provisions would still apply to any untaxed accumulated trading profits within the company.

The Department also proposes, however, that in order to encourage companies to elect for this treatment:

- where a company is already in existence at the time that the ability to make an election becomes effective, and makes an election prior to 30 June 2009, the election should be capable of being valid in relation to 2008 onward and, in addition, these anti-avoidance provisions would not apply; and

- if the company comes into existence after the introduction of the facility to make an election, and in the first twelve months of the company's existence it elects for the facility to apply from the date of its incorporation, these anti-avoidance provisions would not apply.
- 2.3.12. Late payments would be subject to surcharges under the normal rules. If the company failed to distribute the minimum level required, surcharges would be chargeable, as if it had made the minimum distribution but had failed to pay over the relevant tax. In addition, the company's election would be deemed void ab initio and its undistributed profits would once again become subject to the normal deemed distribution events (see 2.3.4. above).
- 2.3.13. There would also be nothing preventing the net amount distributed (i.e. after payment of the relevant tax) being immediately reintroduced into the company, whether by way of a loan or as additional capital, if full distribution of profits would leave the company in an impecunious state.
- 2.3.14. The merits of this proposal include:
- There could be reduced levels of compliance, and therefore costs, for companies making the election (particularly if a company distributed 100% of its profits).
 - There would be reduced levels of administration within the Income Tax Office if a substantial number of companies made the election.
 - It is probable that there would be an increased cash flow to the States than would otherwise have been the case under the existing deemed distribution regime.
- 2.3.15. The Department proposes that the facility to make an election should have immediate effect and (as set out in 2.3.11. above) that companies should be able to elect for the principles of the facility to be applied to the trading profits of the calendar year 2008.

2.4. **Amendments to Zero/10 legislation**

- 2.4.1. When the "zero/10" legislation was introduced, it was always recognised that it might be necessary to make a number of amendments to that legislation in the light of experience during 2008. This was because the new taxation regime for companies was radically different to that which had been in place in the past, and there were relatively few precedents, either in Guernsey or elsewhere, upon which to model the new system.

It has indeed proved to be the case that revisions are needed and this section of the Report addresses a number of varied issues relating to the fiscal strategy so far as it relates to taxation.

- 2.4.2. Section 39B of the Law introduced the cap, on the amount of tax payable by an individual. An amendment to this section is proposed to make it clear that the limit applies to the ultimate amount of tax payable after all allowances, reliefs and deductions have been given, including relief for overseas tax.

There would then be a consequent amendment to Chapter XV of the Income Tax Law (which deals with the credit available for overseas tax) by the introduction of a new section, to make clear the relationship between that chapter and section 39B.

- 2.4.3. Chapter IV of Part IV of the Income Tax Law deals with the liability to Guernsey income tax of non-residents.

A minor amendment to section 47G(d) of the Law is proposed in order to make it clear that the section applies only to businesses carried on in Guernsey.

In section 47J(c) there is a drafting oversight in that the section refers only to non-resident individuals, whereas it should refer to companies also, and it is proposed that the legislation be amended to make this clear.

- 2.4.4. In the same Chapter of the Income Tax Law, section 48 deals with the responsibility of a resident person to deduct tax from certain income paid to non-residents.

It is proposed to insert an additional subsection which makes it clear that a resident agent is not responsible for accounting for tax in respect of income paid to either non-resident individuals or companies if those non-residents are not chargeable in accordance with the provisions of this Chapter. At present, section 48 requires deduction of tax even though no ultimate liability might arise in the hands of the non-resident, and this is not what was intended.

- 2.4.5. Certain bodies are still able to claim exemption from income tax, specifically collective investment schemes, or funds. It is proposed to exclude not only the income of such bodies from the deemed distribution regime but also that of any companies owned by that exempt body. An amendment to the Income Tax Law is needed in order to give this effect.

2.4.6. Chapter VIIIA of the Income Tax Law covers the regime for deemed distributions of company income. These deemed distributions arise in respect of “undistributed income”, which is defined in section 62A(2). It is proposed that a number of amendments are made to this section:

- to make it clear that the definition of “undistributed income” contained in this section applies to the Income Tax Law as a whole, rather than merely the Chapter dealing with deemed distributions; this will create a number of consequential amendments where the definition of “undistributed income” is mentioned;
- to provide that the charge in respect of deemed distributions arises in respect of a beneficial interest in a company, no matter where that company is resident; and
- to clarify the treatment of income that has been taxed overseas in the company’s hands.

2.4.7. Section 62A(7) of the Income Tax Law is superfluous and it is proposed that it be repealed.

2.4.8. The legislation, in section 62B of the Income Tax Law, creates a number of “trigger events” which give rise to a deemed distribution in the hands of the beneficial member, and a company is required to account for tax as appropriate.

It has become apparent that a company may not be aware of the “trigger event” occurring – for example, if a beneficial member dies, the company will not necessarily become aware of that fact or, even if it does, that may not be until some considerable time after the event.

In order to facilitate the collection of tax and to enable companies to comply with their obligations, it is proposed that a new section be introduced into the legislation, requiring a beneficial member to give notice to the company of the occurrence of a relevant trigger event (and in the case of death, that responsibility would devolve onto the personal representative).

2.4.9. It is possible that ultimately there may be no individual who can be identified as holding a beneficial interest in a company. In order to deal with this eventuality, it is proposed that the Income Tax Law be amended in order to make it clear that, in that situation, the beneficial member is to be regarded as the person who holds the legal title to the relevant shares.

2.4.10. Section 66B of the Law deals with the situation when a qualifying loan, which has previously been charged to income tax, is repaid in

whole or in part within six years of being made. There is currently a requirement that a claim for relief, when a loan is repaid, must be made before the reporting date for the relevant quarter in which that event occurs; it is proposed that this be amended so that the claim must be made within 15 days of the reporting date, in order to allow a more practical amount of time for the claimant to do so.

- 2.4.11. The “zero/10” legislation revised section 67 of the Income Tax Law, which relates to anti-avoidance provisions. Some concern has been expressed by industry regarding the scope of these provisions, and in particular the possibility that there might be an adverse effect upon Guernsey’s finance industry because of the possible perception that they could be applied adversely to non-residents.

In order to deal with this concern, it is proposed that a new subsection be added to section 67 to make it clear that the anti-avoidance provisions contained in this section do not apply to non-resident individuals or companies to the extent that their liability to Guernsey income tax would be limited in accordance with Chapter IV of Part IV of the Income Tax Law. In formulating this revision to section 67, the Administrator has consulted with the Guernsey Society of Chartered & Certified Accountants.

- 2.4.12. Chapter XII of Part IV of the Income Tax Law introduced a charge to tax in respect of loans made to participators in companies, in certain circumstances. It also imposed a responsibility on a company to account for tax in respect of such loans.

There are a number of references in the legislation to a requirement to pay tax under the various charging provisions of the Income Tax Law but a review of these provisions has identified that there are a number of areas where cross-reference should be made to the provisions in respect of loans. It is proposed to remedy this by introducing those cross-references in various parts of the Income Tax Law.

- 2.4.13. In section 81B(7), there is an incorrect cross-reference to an earlier subsection and it is intended to correct this.
- 2.4.14. Section 81B of the Income Tax Law sets out the mechanism for requiring a company to deduct and account for tax in respect of distributions and deemed distributions. It is proposed that an amendment be made to this section, to make it clear that where a company makes a distribution, that distribution is deemed to have been made from any undistributed income in the company’s hands at that time, irrespective of the fact that it might otherwise be regarded as a capital payment. It would then only be regarded as a capital payment to the extent that it exceeded the amount of undistributed

income remaining in the company. This would reflect a similar provision, already contained in the Income Tax Law, dealing with actual distributions.

- 2.4.15. Section 139A of the Income Tax Law deals with the position regarding the carry forward of losses in respect of companies. The reference in that section to the source of income in respect of which losses may be carried forward refers to “accrued assessed income”. As in various other parts of the legislation reference is made to a company’s undistributed income, it is proposed that, for consistency, the section be amended in order to refer to use that term rather than “accrued assessable income”.
- 2.4.16. Under the regime which existed prior to 2008, a company was *authorised* to make deductions from distributions in certain circumstances but was not required to do so. The new legislation imposes a *requirement* on a company to deduct tax and there are a number of sections within the Income Tax Law where it is proposed that it be made clear that there is now a requirement rather than merely an authority.
- 2.4.17. Section 193B of the Income Tax Law imposes a penalty on a company which fails to make a return of distributions which it is required to make under the legislation.

There is no similar penalty in respect of a failure to make a return of a qualifying loan and it is proposed that this should be remedied by introducing a similar provision, which imposes a penalty upon any company that fails to make such a return.

- 2.4.18. Section 200 of the Income Tax Law allows the Administrator to impose a penalty in respect of various failures or omissions by taxpayers under the legislation. At present, this power does not cover the ability to impose a penalty in respect of failures in respect of distribution returns and qualifying loan returns. It is proposed that this be remedied by introducing a power to enable the Administrator to impose a penalty in a similar way to other penalties allowed under the legislation in respect of such returns.
- 2.4.19. It is further proposed that an amendment be made to the Income Tax Law in order to provide for the prosecution of any person who failed to account to the Administrator for any tax deducted from qualifying loans (to bring the legislation into line with similar provisions relating to the non-payment of deductions made under the ETI Scheme).

2.4.20. Section 209 of the Income Tax Law contains a list of definitions of various terms used throughout the legislation. Several amendments are proposed to the definitions included as follows:

- to include new definitions in respect of the terms “banking business” and “loan creditor”;
- in the definition of “qualifying loan” there is an incorrect cross-reference to section 66A(8) which should, in fact, be to section 66A(1); and
- to make it clear that the term “undistributed income” has the meaning assigned to it by section 62A(2) of the Law (see paragraph 2.4.6. above).

2.5. **The suspension of The Dwellings Profits Tax (Guernsey) Law, 1975 (“the DPT Law”)**

2.5.1. The DPT Law introduced a potential charge to tax on the sale of a dwelling, or the grant or assignment of a lease or sub-lease. At that time the rate of tax was set at 100% of the profit, computed in accordance with the DPT Law, and has remained at that level ever since.

The DPT Law was introduced as an anti-property speculation measure and collection of tax was not its principal purpose.

The DPT Law provided for a number of exemptions, including, principally, the sale of a dwelling which had been occupied by the owner as his only or main residence for at least a year and a day, or where the property had been owned for five years or more, irrespective of the use to which it had been put.

2.5.2. The intention, as expressed in the Policy Letter presented to the States by the then Advisory and Finance Committee on 31 October 1973 was that the DPT Law would be “a useful adjunct to other direct controls” proposed at that time. They concluded, however, that “... taxation can never do more than treat the symptoms ...” (Billet XVI of 1973, page 565 et seq).

2.5.3. From inception, the DPT Law was under the care and management of the Administrator, subject to the general direction and control of the Income Tax Authority (now Treasury and Resources Department).

2.5.4. In practical terms, for each and every conveyance of a dwelling effected by the Royal Court it is necessary for the vendor to obtain, from the Administrator, a certificate showing that the transaction is either exempt from Dwellings Profits Tax or, if it is not exempt, that

the relevant tax has been paid. The DPT Law expressly states that a conveyance shall not be signed by the Royal Court without the Court being satisfied on these points.

This involves the vendor, usually through his advocate, submitting a form to the Administrator providing sufficient information to enable him to make the decisions required of him regarding the exemption or otherwise of that transaction. If the Administrator is satisfied that the transaction is exempt he will issue a certificate to that effect; if tax is chargeable he will make an assessment accordingly.

- 2.5.5. Tax collected has never been significant – although that was clearly not the main purpose of the DPT Law in any event. In the 14 years, 1994 to 2007 inclusive, the total amount of tax collected has been £58,782, with 7 of those years generating no tax at all.
- 2.5.6. Within the Income Tax Office, the administration of the DPT Law involves the part-time involvement of a Clerk, a Supervisor and an Inspector, to varying degrees, with an estimated annual cost of approximately £17,500. There is also an unmeasured, but not insignificant, amount of time taken up dealing with queries from vendors and their representatives. **It can be seen, therefore, on average, the costs of collection have probably exceeded the tax collected, at least four fold.**

Account should also be taken of the resources consumed in advocates' offices (with a resultant cost in legal fees charged to vendors). No statistics are available within the Income Tax Office regarding this, but as a certificate is required for every transaction, no doubt they would be significant.

- 2.5.7. It seems clear, from the consultation document issued on the island's future economic and taxation strategy, and from subsequent comments arising, and generally, that considerable economies will be required in States expenditure, and each sector of the States will be required to play its part.
- 2.5.8. The Administrator began this process several years ago by reviewing a number of areas of expenditure, and this has included consideration of the role and effectiveness of the DPT Law.

A tax will generally exist to:

- (a) collect significant revenues to fund general States expenditure (e.g. income tax);
- (b) collect sufficient revenue to recover specific costs (e.g. harbour dues);

- (c) alter public behaviour to conform to standards deemed by the States to be socially acceptable (e.g. tobacco/alcohol duties).

2.5.9. From the statistical information provided it is clear that the DPT Law fulfils neither criteria (a) nor (b). The only reason for its continued existence, therefore, is if it is making a positive contribution under (c). In other words, has it prevented speculation in property and kept housing prices down?

2.5.10. The Department considers that, in its present form, the DPT Law is not effective, either in terms of administration costs or in achieving its objective, and recommends it to be suspended. Suspension would immediately remove a not insignificant resource burden within the Income Tax Office, enabling those resources to be directed elsewhere.

It would also have a similar effect in advocates' offices and would remove a layer of bureaucracy and cost for the general public in connection with property transfers.

2.5.11. Suspension, rather than repeal, has the advantage that the DPT Law could more easily be reintroduced if the absence of its intended deterrent effect is shown to be having a detrimental influence on the housing market.

The DPT Law provides for suspension, by Ordinance, at section 29.

2.6. **Termination Payments**

2.6.1. When offices or employments are terminated (whether by redundancy, dismissal or other means) or changed (for example, a full time employee changing to part time employment) it is common practice for payments (hereafter called "termination payments") to be made to the employee, which are over and above his entitlement to salary, wages, commissions, bonuses, etc.

2.6.2. Up until 1995, the taxation of termination payments depended on whether or not they were made under the express or implied terms of a contract of employment.

2.6.3. With effect from 1 January 1996, and in recognition of the fact that many employers may wish to make termination payments to employees leaving service (for example, in gratitude for loyal service or to assist the ex-employee during a time of unemployment) the States approved a revision to the Income Tax Law such that the first £10,000, in aggregate, of termination payments made on the cessation of employment were exempt from tax.

2.6.4. The level of exemption of £10,000 has remained unchanged since 1996.

2.6.5. The Department considers it appropriate to increase the level of exemption to £30,000 with effect from 1 January 2009.

2.7. **Merchant Seamen**

2.7.1. Following representations made to it, the Department had cause to consider the taxation treatment of Guernsey resident officers and crew working in the British Merchant Navy.

2.7.2. The representations claimed that the Guernsey income tax treatment of such earnings was unfair when compared to that afforded to UK and Isle of Man residents in the same occupation. This was because, within the British seafaring community, wages were, in effect, subsidised by the British Government because it offered a 100% deduction in respect of the earnings of seafarers who visited foreign ports; the purpose of this subsidy was to maintain the competitiveness of the British shipping industry.

2.7.3. As a result, the Department proposes that a similar deduction be introduced in Guernsey, on the following basis:

- A deduction of 100% of the relevant foreign earnings would be available, provided that certain criteria were met.
- “Foreign earnings”, for this purpose, would be emoluments derived from engagement as a merchant seaman and which are in respect of duties performed outside Guernsey, the United Kingdom and the other Channel Islands.
- The deduction would only be available in respect of continuous periods of at least 365 days absence from Guernsey, except that the deduction would not be prejudiced if return visits to Guernsey did not exceed more than 183 days in the period (and for these purposes, a day in Guernsey would be treated as such if the individual was present at midnight, which is the normal procedure when determining residence). However, there would be a proviso that such visits must not exceed one-half of the total days in that continuous period.
- A “merchant seaman” for the purposes of the deduction would be an individual who is employed as an officer on, or a member of the crew of, a ship, which essentially would mean a seagoing vessel, with the appropriate definition, capable of,

and used in, navigation and thus would exclude offshore installations such as oil rigs.

- 2.7.4. The Department felt, however, that it would be inappropriate to continue to allow the personal allowances that would otherwise be available to such individuals in respect of their other sources of income (including the income of a spouse).
- 2.7.5. As a result, the Department proposes that if the deduction detailed above was claimed, it would be a condition of such a claim that there would be no entitlement to any other allowances, reliefs or deductions whatsoever. It would thus be for the individual to decide whether it was appropriate to claim the deduction in his personal circumstances.
- 2.7.6. The Department proposes that the Income Tax Law be revised to provide for a deduction, as set out in paragraph 2.7.3 with the appropriate restriction on personal allowances as set out in 2.7.4.

2.8. **The granting of exemption from tax**

- 2.8.1. Under section 40A of the Income Tax Law, the States may provide, by Ordinance, that a body that complies with the conditions prescribed in the Ordinance may be eligible for exemption from tax.
- 2.8.2. Currently, exemption is granted to what are, broadly, collective investment schemes (divided into three categories based on whether the scheme is operated through a unit trust, a company incorporated in Guernsey or a company incorporated in a place other than Guernsey).
- 2.8.3. Under the current legislation, it is the Department's responsibility to grant exemption if it is satisfied that the applicant body is eligible.
- 2.8.4. Section 40A(7) of the Income Tax Law provides a right of appeal to the Royal Court in the event that the Department refuses an application for exemption.
- 2.8.5. In practice, the Administrator obtains the required information from a body applying for exempt status and, before placing the matter before the Department, ensures that the applicant body has satisfied the conditions of eligibility for exempt status.
- 2.8.6. In view of the right of appeal that is available to a body that is refused exemption, and the checks the Administrator carries out on an application before it reaches the Department, the Department believes that its involvement in the process of granting exemption is no longer required and proposes that the Income Tax Law be revised to allow the Administrator to grant exemption, in place of the Department,

providing he is satisfied that the applicant body complies with the conditions prescribed in the relevant Ordinance.

2.9. **Exemption from tax of Premium Bond Prizes**

- 2.9.1. Premium Bonds were first introduced in the United Kingdom in 1957 (with the aim of encouraging saving and controlling inflation).
- 2.9.2. The UK Government pays interest on Premium Bonds, but instead of the interest being paid into individual accounts it is paid into a prize fund, from which a monthly lottery distributes prizes, or premiums, to selected bond holders whose numbers are selected by “ERNIE” (Electronic Random Number Indicator Equipment).
- 2.9.3. In the United Kingdom, by legislation, Premium Bond prizes are exempt from income tax.
- 2.9.4. In Guernsey, there is no specific legislation exempting Premium Bond prizes from income tax. The view of successive Administrators has been to treat Premium Bond prizes as not taxable (i.e. as if they were equivalent to lottery winnings or other profits from gambling). As a bond holder’s investment is never at risk, however, the analogy of treating Premium Bond prizes as equivalent to profits from gambling is not strictly accurate.
- 2.9.5. Whilst the Department does not propose directing the Administrator to change the longstanding practice of not charging Premium Bond prizes to tax, it considers that if Premium Bond prizes are to be exempt from tax, this should be as a consequence of a specific legislative exemption rather than administrative practice.
- 2.9.6. As a consequence, the Department proposes a revision to the Income Tax Law, to specifically exempt Premium Bond prizes from income tax, with effect from 1 January 2009.

2.10. **Exemption in respect of the income of charities**

- 2.10.1. The Charities and Non Profit Organisations (Registration) (Guernsey) Law, 2008 (“the Registration Law”) required the Administrator to establish and maintain a Register of non profit organisations (“NPOs”), including charities.
- 2.10.2. The Registration Law also amended certain sections of the Income Tax Law and specifically section 40(k), which previously provided for exemption from income tax in respect of the income of a charity, as defined in the Income Tax Law. The amendment to section 40(k)

effectively restricted exemption to those charities which would be on the newly established Register.

- 2.10.3. An amendment to the Registration Law, when it was placed before the States, introduced an exemption in respect of NPOs with small incomes. This meant that, in effect, charities with small incomes or assets did not need to register.
- 2.10.4. Whilst this relieved the burden of registration from such charities, because of the amendment to the Income Tax Law, it also meant that the income of such charities would not be exempt from tax unless they registered, thus negating the purpose of the amendment to the Registration Law.
- 2.10.5. Clearly it was not the intention of the States to remove the exemption from income tax in respect of smaller charities and it is, therefore, proposed that section 40(k) of the Income Tax Law be amended so that it contains the definitions which existed prior to the amendments introduced by the Registration Law.

2.11. **Proportional Relief**

- 2.11.1. Under the Income Tax Law, non-residents are not entitled to personal allowances. They can, however, claim an element of those allowances, based, broadly, on the proportion that their Guernsey income bears to their total worldwide income, and this is known as proportional relief.
- 2.11.2. Notwithstanding the above, if a non-resident is employed in Guernsey, he is automatically entitled to 1/52nd of the full year's personal allowance for each week, or part of a week, he works, and Coding Notices are issued accordingly, under the ETI Scheme.
- 2.11.3. The majority of claims for proportional relief are made by:
 - seasonal workers, mainly in the hospitality and growing industries (who have tax deducted under the ETI Scheme),
 - non-resident pensioners (i.e. former Guernsey residents who have retired overseas and who have tax deducted at 20% under the ETI Scheme), and
 - to a lesser extent, residents who own an income producing Guernsey property (who will have tax paid over by a resident agent or may pay tax by direct assessment).
- 2.11.4. The cost of giving proportional relief is in the region of £855,000 annually and there are also considerable administrative resources used

in dealing with such claims in the Income Tax Office. This is particularly so in the case of seasonal workers, because of the need to contact the taxpayer, usually after they have left the island, in order to obtain evidence of overseas income.

- 2.11.5. In addition, compliance checks can also be difficult because of the problems associated with establishing details of overseas sources of income, such as where an individual has been employed overseas, and these problems are exacerbated when dealing with cases where the individual has left Guernsey and contact is difficult.

Through such compliance work, a number of declarations made that overseas income was “nil” have been found, on examination, to be false.

- 2.11.6. The Department therefore proposes that the provision enabling claims to proportional relief be removed, with the result that income tax allowances would be given purely on the basis of the number of weeks spent in Guernsey (in other words, on the basis of the initial ETI Coding Notice given to seasonal workers during the course of their employment in Guernsey) thus removing the need for additional work after the end of the year.
- 2.11.7. The removal of proportional relief, however, would affect non-resident pensioners who have moved away from Guernsey. The Department considers it would be still be appropriate to consider some form of relief for such individuals and proposes that they be granted personal allowances on the basis of the period in the year during which a pension is received. In other words, if a pension is received for a full twelve months, a full year’s personal allowances would be given.

2.12. **Exemption of income from the micro-generation of electricity**

- 2.12.1. As part of the Budget Report presented to the States in November 2008, the Department indicated that it intended to submit a proposal to exempt the income derived from the micro-generation of electricity from income tax.
- 2.12.2. This proposal arises from work carried out in respect of the States energy policy generally and is designed to encourage such activity.
- 2.12.3. The Department proposes that an amendment be made to the relevant sections of the Income Tax Law in order to exempt such income from income tax.

2.13. The Department considers that the proposals contained in this Report are compliant with the principles of the Government Business Plan (“the GPB”) in that they:

- relate, in paragraphs 2.3., 2.5., 2.8. and 2.11., to revisions to the Income Tax Law, and suspension of the Dwellings Profits Law, intended, generally, to make it more “simple, equitable and administratively efficient to operate” (GBP Priority 2, Level 3);
- redress, in paragraphs 2.1. – 2.3. inclusive and 2.7., a “perceived or real imbalance in the island’s economic base” (GBP Priority 2, Level 2);
- satisfy, in paragraphs 2.1. – 2.5. inclusive, 2.7. and 2.9. – 2.12. inclusive, the principle of having a tax system “which is able to respond quickly to changing local and international circumstances” (Second Key Theme of the Corporate Agenda, which forms part of the GBP); and
- are relevant for the Income Tax Office’s function of “maintaining systems for the assessment and collection of income tax” (one of the principal responsibilities contained in the Department’s Operational Plan Summary, which forms part of the GBP).

2.14. It is intended that, pursuant to section 1 of the Taxes and Duties (Provisional Effect) (Guernsey) Law 1992, a *Projet de Loi* enacted to implement the proposal, contained in paragraphs 2.1. – 2.7. inclusive and 2.9. – 2.12. inclusive of this Report, shall have effect from the date on which it receives States approval as if it were a law sanctioned by Her Majesty in Council and registered on the records of the island of Guernsey.

3. **Recommendations**

3.1. The Department recommends the States to agree that legislation is enacted as set out in paragraphs 2.1. – 2.12. inclusive of this Report:

- (a) to revise the Income Tax Law to provide for a minimum tax charge for persons who are resident but not solely or principally resident for income tax purposes, in the circumstances set out in subparagraph 2.1.;
- (b) to reduce the limit on the liability of individuals, in respect of non-Guernsey source income (other than bank deposit interest) from £250,000 to £100,000, and to further provide for the introduction of a new limit of £100,000 in respect of Guernsey source income (other than bank deposit interest) as set out in subparagraph 2.2.;
- (c) to permit companies to elect to distribute 65% or more of their trading profits annually, with the consequence that thereafter the company would be relieved from the effects of, and reporting requirements in relation to, deemed distributions, in the circumstances set out in subparagraph 2.3.;

- (d) to make revisions to the “zero/10” legislation, as set out in subparagraph 2.4.;
- (e) to suspend the Dwellings Profits Tax (Guernsey) Law, 1975, as set out in subparagraph 2.5.;
- (f) to increase the amount of the termination payment that is exempt from tax, from £10,000 to £30,000, as set out in subparagraph 2.6.;
- (g) to permit a deduction in respect of 100% of the relevant foreign earnings of merchant seamen, as set out in subparagraph 2.7.;
- (h) to transfer the responsibility for granting exemption to a body under section 40A of the Income Tax Law, from the Department to the Administrator, as set out in subparagraph 2.8.;
- (i) to exempt from income tax Premium Bond prizes, as set out in subparagraph 2.9.;
- (j) to provide that the income of a charity is exempt from income tax irrespective of whether or not the charity is a registered charity under the Charities and Non Profit Organisations (Registration) (Guernsey) Law, 2008, as set out in subparagraph 2.10.;
- (k) to repeal the provisions of the Income Tax Law relating to proportional relief, as set out in subparagraph 2.11.;
- (l) to exempt from income tax income derived from the micro-generation of electricity, as set out in subparagraph 2.12.

Yours faithfully

C N K Parkinson
Minister

(NB The Policy Council strongly supports the proposals.)

The States are asked to decide:-

XII.- Whether, after consideration of the Report dated 19th December, 2008, of the Treasury and Resources Department, they are of the opinion:-

1. To enact legislation as set out in paragraphs 2.1. – 2.12. inclusive of that Report:
 - (1) to revise the Income Tax Law to provide for a minimum tax charge for persons who are resident but not solely or principally resident for income tax purposes, in the circumstances set out in subparagraph 2.1.;
 - (2) to reduce the limit on the liability of individuals, in respect of non-Guernsey source income (other than bank deposit interest) from £250,000 to £100,000, and to further provide for the introduction of a new limit of £100,000 in respect of Guernsey source income (other than bank deposit interest) as set out in subparagraph 2.2.;
 - (3) to permit companies to elect to distribute 65% or more of their trading profits annually, with the consequence that thereafter the company would be relieved from the effects of, and reporting requirements in relation to, deemed distributions, in the circumstances set out in subparagraph 2.3.;
 - (4) to make revisions to the “zero/10” legislation, as set out in subparagraph 2.4.;
 - (5) to suspend the Dwellings Profits Tax (Guernsey) Law, 1975, as set out in subparagraph 2.5.;
 - (6) to increase the amount of the termination payment that is exempt from tax, from £10,000 to £30,000, as set out in subparagraph 2.6.;
 - (7) to permit a deduction in respect of 100% of the relevant foreign earnings of merchant seamen, as set out in subparagraph 2.7.;
 - (8) to transfer the responsibility for granting exemption to a body under section 40A of the Income Tax Law, from the Department to the Administrator, as set out in subparagraph 2.8.;
 - (9) to exempt from income tax Premium Bond prizes, as set out in subparagraph 2.9.;
 - (10) to provide that the income of a charity is exempt from income tax irrespective of whether or not the charity is a registered charity under the

Charities and Non Profit Organisations (Registration) (Guernsey) Law, 2008, as set out in subparagraph 2.10.;

- (11) to repeal the provisions of the Income Tax Law relating to proportional relief, as set out in subparagraph 2.11.;
 - (12) to exempt from income tax income derived from the micro-generation of electricity, as set out in subparagraph 2.12.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

COMMERCE AND EMPLOYMENT DEPARTMENT**DIRECTOR OF CIVIL AVIATION**

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

3rd November 2008

Dear Sir

1. Executive Summary

- 1.1 The Commerce and Employment Department is recommending to the States the appointment of Mr Fergus Woods as the Director of Civil Aviation for the balance of a five year appointment in accordance with the establishment of the Office of the Director of Civil Aviation in Part I of the Aviation (Bailiwick of Guernsey) Law, 2008.

2. Background

- 2.1 The draft Aviation (Bailiwick of Guernsey) Law, 2008 provides for the establishment of an office known as the Office of the Director of Civil Aviation and for the appointment of the holder of that office as the Director of Civil Aviation.
- 2.2 Commerce and Employment Department saw the need for an expert in the field of aviation safety regulation to assist in the final preparation of the aviation law and saw merit in appointing a Director of Civil Aviation (Designate) to carry out that function.
- 2.3 After a recruitment process following publication of an advertisement in 'Flight International' in August 2007, interviews were held in December 2007 and Mr Fergus Woods was selected and appointed Director of Civil Aviation (Designate). He took up his appointment on 18 February 2008.
- 2.4 Since his appointment Mr Woods has assisted in the preparation of the new Aviation Law and has developed associated material for the effective safety regulation of aviation for the Bailiwick. He has also been active in preparing the Bailiwick for the audit of the UK and its Overseas Territories and Crown Dependencies by the International Civil Aviation Organisation, scheduled for

February 2009. His curriculum vitae (to date October 2007) is attached at Appendix 1.

- 2.5 It is intended that certain Parts of the Aviation Law will be commenced by Ordinance on 1 February 2009 and that Mr Woods' appointment should take effect upon that date for a period ending on 17 February 2013 (ie the balance of 5 years from the date on which he was appointed as Director of Civil Aviation Designate).

3. Recommendation

- 3.1 The States is invited to approve Mr Woods' formal appointment to the post of Director of Civil Aviation in accordance with section 1 of the Aviation (Bailiwick of Guernsey) Law, 2008 with effect from 1 February 2009.

Yours faithfully

C S McNulty Bauer
Minister

Appendix 1

THOMAS FERGUS WOODSCAREER
SUMMARYOctober 2007

An experienced professional pilot and senior manager who has recently completed a secondment from CAA UK to the JAA Europe; now working for the European Aviation Safety Agency in Cologne. Active and influential in international safety regulation developments in EASA and the JAA, including transition to EASA, and ICAO. Having selected and built a technical team to perform the Licensing function in Central JAA, led them to coordinate better-standardised and more effective implementation of Joint Aviation Requirements across the JAA Member States. Having broad experience in the Personnel Licensing Department of the UK Civil Aviation Authority with a successful record of initiating and managing change by leading professional and technical teams to achieve effective, safe and practical solutions in safety regulation.

Key Skills and Qualifications

- Excellent appreciation and understanding of aviation regulation at national, regional and international levels
- Experienced in consulting and communicating with National Aviation Authorities and Interested Parties whilst leading the change processes associated with the development and implementation of international aviation safety standards
- Central figure in the coordination and development of Personnel Licensing in JAA, transition to EASA and in ICAO
- Effective presenter at aviation safety related conferences and seminars
- Whilst in CAA UK, responsible for managing a professional flying staff team of fourteen CAA Flight Examiners, a technical team of fifteen Inspectors and associated administrative support personnel
- Airline Transport Pilot Licence (Aeroplane): single and multi-engine piston, turbo-prop and turbo-jet types; 5 years military helicopter pilot experience
- Flight Instructor and CAA UK Flight Examiner
- Graduate, Bachelor of Laws (LL.B) Aberdeen University
- Basic standard in French language

Achievements

- 2007: head of unit developing the future European rules for aircraft operations and crew licensing
- 2005/06: Implemented ICAO standards for Multi-crew Pilot Licence and Language Proficiency into Europe in JAR-FCL
- 2002/03: Acted as Focal Point for the European Commission's Core Group to develop Essential Requirements for Licensing in transition to EASA – report submitted to EC January 2003
- 2002/04: Member of ICAO FCL Training Panel and Rapporteur for working group on approved organisations
- 2002: Introduced JAA's Agenda for Change programme into Licensing Division and successfully established the Sectorial Team concept into JAA Flight Crew Licensing
- 1998-2001: responsible for technical implementation of JAR-FCL in the UK. Achieved full technical compliance with JAR-FCL 1 in July 1999 and JAR-FCL 2 in January 2000
- June 1998: restructured technical team in FCL Standards, combining the Ground Examiner and Training Standards inspector roles into single team under a new manager
- May 1998: initiated and chaired conference of Chief Flight Examiners from JAA member states. This forum was later developed into the JAA Flight Examiners Working Group
- April 1993: Developed and introduced a scheme for the conduct of the CPL skill test delegated to industry examiners, including devolving examiner training courses

Personal Details

Age 54, DoB 27 May 1953

UK resident, but living and working in Cologne, Germany

Married, 3 children aged 28, 26 and 22

Interests: boating, golf, bridge

THOMAS FERGUS WOODS**CAREER
SUMMARY****October 2007**

September 2007 - present	Manager Operational Evaluation Board, Rotorcraft, European Aviation Safety Agency	Technical role to establish the operational evaluation process for rotary wing aircraft
April 2007 – September 2007	Head of Flight Standards Department (Rulemaking Directorate) EASA	Responsible for development of amendments to extend scope of EU Regulation 1592; development of implementing rules AMC and guidance material for aircraft operations, flight crew licensing and regulation of third country aircraft
December 2001 – December 2006	Licensing Director Joint Aviation Authorities Hoofddorp, Netherlands	Head of Division of 6 technical and 2 support staff Responsible for coordination of JAA Flight Crew Licensing function across Europe
March 1997 - November 2001	Head of Flight Crew Standards, CAA UK	Deputy to Head of Department. Manager of 29 professional and 9 support staff. Principal responsibility for the standard of flight training in UK approved training organisations. Operated CAA's HS 125 corporate jet aeroplane (training and communications flying)
July 1995 - March 1997	Head of Licensing Section, FCL, CAA UK	Managing a section of 30 administrative and licensing staff. Responsible for enforcement, manpower, budget and business planning
June 1992 - July 1995	Senior Flight Examiner, CAA UK	Responsible to Chief Flight Examiner for training and standards of all CAA Flight Examiners. Developed and introduced a scheme for the CPL skill test to be delegated to industry examiners

April 1991 - June 1992	Flight Examiner, CAA UK	Manager Regional Test Centre, responsible for the conduct of CPL and Instrument Rating skill tests and instructor tests. Liaison with local FTOs and Registered Facilities
May 1975 - April 1991	Pilot, Royal Navy	Initially trained on helicopters and operated in support and SAR roles. Converted to fixed wing as a flight instructor on single and multi-engine piston and turbo-prop aeroplanes.
1971 - 1974	Aberdeen University	Graduated Bachelor of Laws, July 1974

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

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

The States are asked to decide:-

XIII.- Whether, after consideration of the Report dated 3rd November, 2008, of the Commerce and Employment Department, they are of the opinion:-

To approve the formal appointment of Mr Thomas Fergus Woods to the post of Director of Civil Aviation in accordance with section 1 of the Aviation (Bailiwick of Guernsey) Law, 2008 with effect from 1 February 2009.

PUBLIC SERVICES DEPARTMENT

WASTEWATER CHARGES

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

21st November 2008

Dear Sir

1.0 **Executive Summary**

1.1 On 31 October 2007, after consideration of a Report dated 22 August 2007 of the Public Services Department (the Department) , the States resolved:-

- “1. To agree in principle to the introduction of Wastewater Charges as outlined in that Report.
2. To direct the Public Services Department to consult with Treasury and Resources Department and the Law Officers of the Crown with regard to the introduction of the necessary legislation.
3. To direct the Public Services Department to undertake the additional work needed so as to report back to the States with firm proposals.
4. To direct the Treasury and Resources Department to take account of the fees raised from Wastewater Charges when recommending to the States Cash Limits for the Public Services Department for 2009 and subsequent years.”

1.2 That Report provided all the background information on the need for the introduction of legislation to enable a wastewater charge to be introduced which is sufficient to cover a significant proportion of the operational costs of the sewerage network.

1.3 The Department has now undertaken further research in order to calculate the level of charges and the necessary variations to take into account special circumstances, and the findings are set out in this Report.

1.4 In addition, the Department has taken the opportunity to consider the level of

charges that would be necessary to enable it to fund preliminary work that would pave the way for improved sewage treatment in the future.

- 1.5 The previous Report explained that the charges would be calculated by reference to the amount of water supplied for those properties with water meters, or by reference to the Tax on Real Property units (hereinafter referred to as “TRP”) for unmetered properties. This Report is also recommending that the wastewater charge should include a standing, or fixed, element.
- 1.6 In accordance with the previous Report the wastewater charges will be collected through Guernsey Water’s billing system.
- 1.7 This Report also includes the proposed formula for calculating reduced cesspit emptying fees where applicable.
- 1.8 The Department has given very careful consideration to the extent to which the wastewater charge should operate and has noted that such charges have been commonplace in the UK for many years. UK water companies have endeavoured to apply charges that are both fair and equitable. Consequently, the Department is seeking to introduce a system whereby the full charges will not apply if commercial or industrial users can demonstrate to the Department’s satisfaction that they are not discharging wastewater to the sewerage network, either by means of a direct connection (i.e. the “main drain”) or via a cesspit and sewage tanker.

2.0 Sewage Treatment

- 2.1 As outlined in the previous report, the States of Guernsey approved the introduction of an average charge of £100 per household per annum, which would raise approximately £2.4 million to offset the revenue costs associated with the upkeep of the sewerage network.
- 2.2 However, the Department is conscious that there is much support for the introduction of more extensive sewage treatment. Whilst it agrees that improved sewage treatment is desirable, it is also aware that there are currently many competing demands for limited capital funds. Consequently it is of the opinion that it will not be possible to pursue a fully developed sewage treatment solution for some time unless it is funded through the wastewater charge.
- 2.3 In its report to the States dated 29 August 2007 entitled “Sewerage and Wastewater Treatment” (Billet d’Etat XXI, 2007 refers), the Department published a budget estimate of £1.5m for site investigation, outline design and a planning enquiry, all of which would be required before sewage treatment could be introduced. A charge of £25 per household over and above the £100 already proposed would raise approximately £1.8m over 3 years, which would allow for inflation and contingency over the original estimate.

- 2.4 However, other funds will also be needed. Controlling saline ingress on high spring tides is fundamental to the feasibility of treatment and process design. The Department has already commenced investigations into this but if improved sewage treatment is to be progressed imminently it would be prudent to accelerate the investigation and rehabilitation of coastal sewers in order to ascertain the residual salinity that can be achieved in practice.
- 2.5 Furthermore, if the proposals were to involve private sector investment, which is a possibility, there could be substantial additional costs for legal and financial advice.
- 2.6 Taking all of this into account, a supplement of £50 per chargeable property and business unit per annum would be an appropriate sum to enable the Department to present to the States within three years firm proposals for the provision of a sewage treatment plant. The intention is that this element of the income should be ring-fenced for this purpose and therefore not included by Treasury and Resources when calculating any reduction in the Department's cash limit for 2010 and beyond.

3.0 **Calculation of Charges**

- 3.1 At present, there are fixed costs involved in maintaining the network, such as monitoring and staffing, and variable costs based on the amount of flow through the sewers. The latter costs are directly related to the amount of flow generated by each property's individual discharge, whereas the former are not.
- 3.2 It is therefore appropriate for the charge associated with wastewater to comprise a fixed charge element - ie a standing charge - and a further variable charge (for metered properties) or fixed charge (for unmetered properties) based on an appropriate measurement. The fixed charge will provide a significant contribution towards the fixed costs.
- 3.3 For unmetered properties it is proposed to impose a charge based on TRP units, which is the same charging basis as Guernsey Water, which has already received States approval. Not all TRP categories will be chargeable, as explained in paragraph 6.5. This is the most convenient basis on which to calculate the charge as it is already used by Guernsey Water.
- 3.4 For domestic metered properties the variable charge is proposed to be based on a charge per cubic metre of potable water used, multiplied by 90% (being the approximate amount of potable water received then discharged through the sewerage network as detailed in the previous report). This figure is the standard figure used throughout the UK water industry.

4.0 **Proposed Reduced Wastewater Charge**

- 4.1 Careful consideration has been given to whether sections of the community

should receive either discounted rates or be exempt from the wastewater charge on the basis of an inability to pay. In its original report the Department acknowledged the progress that had been made with the Corporate Anti-Poverty Programme, and recognised that safeguarding vulnerable users had to be taken into account.

- 4.2 The Public Services Department, however, does not consider that a wastewater charging system can be tailored to take into account individual circumstances relating to householders' ability to pay. A wastewater charge is no different from, say, an electricity or gas charge, which relates to usage and is not adjusted according to the customer's means.
- 4.3 The Department understands that this wastewater charge, in conjunction with others recently introduced, has the potential to increase the level of hardship in some quarters. However, it considers that the Social Security Department is best placed to address this by taking the charge into account when recommending supplementary benefit requirement rates and as an adjunct to the scheme of relief for Tax on Real Property.
- 4.4 A new Law will have to be drafted before wastewater charges can be levied. With regard to industrial/commercial users, the Department would like the Law to give it the power to vary the charges based on each user's "return to sewer" rate, as certain industrial processes result in more wastewater discharge than others and the Department believes it is important that charges should reflect this accordingly. However, if reductions are sought, the onus will be on the customer to demonstrate that a lower rate should apply.
- 4.5 With regard to domestic properties, there are various dwellings around the Island without any connection to the sewerage network either through the main drain or by the use of sewage tankers. These properties are connected to septic tanks and soakaways which deal with the foul wastewater which the households produce.
- 4.6 Ideally the Department would prefer such householders to connect to the main drain if this is feasible or, if not, to install a cesspit. Consequently, it does not want to make the wastewater charge for such properties so low that there is a disincentive to improve wastewater removal, particularly as arrangements such as soakaways can pose a threat of pollution. In light of this, it is proposed that properties with septic tanks and soakaways should pay only the standing charges.

5.0 **Cesspit Emptying Charges**

- 5.1 In the original report the Department explained that the proposed wastewater charge would be applied to all properties including those which rely on the Sewage Tanker Service.

- 5.2 It was however stated that properties on cesspit would be subject to a reduced wastewater charge. Although not directly connected to the sewerage system, such properties do make use of it as their foul water is transported and put into the system at a point remote from the dwelling. It is therefore equitable that householders with cesspits should pay towards the upkeep of the Island's sewerage system as well as paying for the service that they receive in the form of cesspit emptying. Notwithstanding this, the Department does not consider it reasonable that householders with cesspits should pay significantly higher charges than those without.
- 5.3 Having given the matter careful consideration, the Department has concluded that, rather than lowering the rate per unit of wastewater charge, it would be simpler to reduce the charge for sewage collections. This has the advantage that, if the property should be connected to the main drain in the future, there is no need to recalculate the variable element of the wastewater charge and the system is therefore more straightforward to administer than a discounted wastewater charge.
- 5.4 The Department is proposing to set the cesspit emptying rate at approximately one third of the full economic cost (i.e. the cost to the Department) of providing the sewage tanker service, which currently equates to just over £15 per load. At 2008 rates the discounted charge would therefore be £5 per load. The current charge rate is £10 per load, but this is subject to annual reviews. It is anticipated that the continued use of a charge will ensure cesspit users call for tankers only when necessary.
- 6.0 **The Charges**
- 6.1 In considering the level of charges the Department had to take into account the revenue it is seeking to generate in order to cover the costs of providing and maintaining the sewerage network.
- 6.2 In addition, as explained in Section 2, the Department has also considered the level of charges that would be necessary in order to generate sufficient income to carry out investigations that would facilitate the improvements in sewage treatment in due course.
- 6.3 Having taken all of this into account, the following charges have been calculated in order to generate sufficient funds to offset the operational costs of operating the sewerage network and pumping stations. A table detailing the proposed charges and the income they are expected to generate is attached as Appendix B. The wastewater charges will be collected through Guernsey Water's billing system.
- 6.4 It should however be noted that, as explained in the earlier Report, the charges will not cover the full direct costs of the operation of the sewerage network. Whilst they will offset the operational costs, capital expenditure such as

extensions to the public sewerage network and replacement of pumping stations will, at least for the time being, continue to be funded by the States of Guernsey.

- 6.5 Where properties are unmetered, charges will be based on the TRP points applicable to the property being assessed. The only chargeable property references are B1.1, B1.2, B2.1, B2.2, B3.1 and B3.2 (the “chargeable properties”), which mirrors the States’ agreement in respect of charges for potable water levied by Guernsey Water. The descriptions of these properties are as outlined in the TRP legislation and are reproduced as Appendix C for information purposes.
- 6.6 All chargeable properties and business units will pay a wastewater standing charge of £30 for 2010 (£7.50 per quarter). As explained earlier in this Report, the standing charge relates to the fixed cost element of running the sewerage network.
- 6.7 A second fixed charge of £50 for 2010 (charged at £12.50 per quarter) will also apply to all chargeable properties and business units in respect of funding investigations into full sewage treatment. If both elements of the fixed charge are approved, customers will pay only one fixed charge – i.e. £80 for 2010 (£20 per quarter). It is anticipated that the charge will be introduced with effect from 1 January 2010, although the exact date will be dependent on the length of time taken to introduce the necessary legislative provisions. In addition to the fixed charges the following charges will be applied.
- 6.8 All properties on a metered water supply will, upon the introduction of the charge during 2010, pay £0.61 per cubic metre of 90% of water supplied.
- 6.9 All chargeable properties on a non-metered water supply, including private water supplies, will, upon the introduction of the charge during 2010, pay £0.13 per TRP unit (per quarter).
- 6.10 In order to illustrate the effect the charges will have on typical householders, some worked examples are included as Appendix D.
- 6.11 Inevitably, all householders, both those with cesspits and those on the main drain, will pay more for wastewater removal after the introduction of this new charge. However, it is clear from the examples that, in the case of unmetered supplies, those in large properties, who are likely to use a commensurately large amount of water, will face the biggest increases. If a large property is inhabited by only one or two people they may have the option of switching to a metered supply if they wish the wastewater charge to be more closely related to the amount actually discharged.
- 6.12 The level of charges will be kept under review by the Department and adjusted, by Regulation, as necessary. It is envisaged that the charges will be reviewed annually but will not necessarily change each year.

- 6.13 It is proposed that there will be an internal review mechanism, allowing a customer who believed that [discretionary] wastewater charges have been incorrectly calculated to require the Department to review them, by requesting such a review in writing.

7.0 **Income**

- 7.1 It is estimated that the wastewater charge will generate approximately £4.2m, of which £2.4m relates to the operation of the wastewater collection system and £1.8m relates to funding of investigations into full sewage treatment.
- 7.2 The £2.4m would be offset by a reduction in the cesspit emptying fees amounting to approximately £0.7m. The Treasury and Resources Department will look to reduce the Department's cash limit by the remainder from 2010 onwards to reduce the reliance of the Department on General Revenue funding.

8.0 **Recommendations**

The Public Services Department therefore recommends the States to agree to:

- 1) the implementation of wastewater charges and cesspit emptying charges as set out in Sections 3 to 6 of this Report;
- 2) the introduction of an additional fixed charge in relation to improving sewage treatment as set out in Section 2 of this Report;
- 3) direct the Treasury and Resources Department to take account of the fees raised from wastewater charges, with the exception of those detailed in Section 2 of this Report, when recommending to the States, cash limits for the Public Services Department for 2010 and subsequent years; and
- 4) direct the preparation of the necessary legislation.

Yours faithfully

B M Flouquet
Minister

Appendix A – Glossary of Terms

Cesspit	A pit that collects wastewater from premises, where it is held until such time as it can be removed for treatment and disposal.
Foul water	Water that has been used for domestic, industrial or commercial purposes that requires disposal into the sewerage system.
Industrial/commercial user	A customer who is using water, usually in large amounts, for purposes related primarily to the operation of a business.
Potable water	A water fit for drinking, being free from contamination and not containing a sufficient quantity of saline material to be regarded as a mineral water.
Septic tank	A single-storey, watertight, on-site treatment system for domestic sewage, consisting of one or more compartments, in which the sanitary flow is detained to permit concurrent sedimentation and sludge digestion.
Sewage	Water-carried wastes, in either solution or suspension, that flow away from a community. Also known as wastewater flows, sewage is the used water supply of the community.
Sewerage network	System of collectors, pipelines, conduits and pumps to conduct wastewater from the point of generation to the place of disposal or treatment.
Soakaway	A deep hole used for drainage, where rainwater and other wastewater drains directly into the ground, without connection to any mains drainage or sewerage pipes.
Wastewater	Used water and solids that flow to a treatment plant. Storm water, surface water, and groundwater infiltration are included in wastewater.

Average charge per domestic unmetered property **£157.78**

Appendix C

Extract of TRP Property Descriptions

**ONLY THOSE SHADED ARE CHARGEABLE FOR WASTEWATER CHARGE
IN THE ABSENCE OF A METERED SUPPLY**

1 Property Reference	2 Property Description/Usage
B1.1	Domestic (whole unit) Local Market
B1.2	Domestic (flat) Local Market
B1.3	Domestic (glasshouse) Local Market
B1.4	Domestic (outbuildings) Local Market
B2.1	Domestic (whole unit) Open Market
B2.2	Domestic (flat) Open Market
B2.3	Domestic (glasshouse) Open Market
B2.4	Domestic (outbuildings) Open Market
B3.1	Domestic (whole unit) Social Housing
B3.2	Domestic (flat) Social Housing
B3.3	Domestic (glasshouse) Social Housing
B4.1	Hostelry and food outlets
B4.2	Self-catering accommodation
B4.3	Motor and marine trade
B4.4	Retail
B4.5	Warehousing
B4.6	Industrial and workshop
B4.7	Recreational and sporting premises
B5.1	Utilities providers
B6.1	Office and ancillary accommodation (regulated finance industries)
B6.2	Office and ancillary accommodation (regulated finance industries)
B7.1	Horticulture (building other than a glasshouse)
B8.1	Horticulture (glasshouse)
B9.1	Agriculture
B10.1	Publicly owned non-domestic
B11.1	Exempt (Buildings)
B12.1	Buildings – Penal Rate
L1.1	Communal (flat) Local Market
L1.2	Communal (flat) Open Market
L1.3	Hostelry and food outlets
L1.4	Self-catering accommodation

L1.5	Motor and marine trade
L1.6	Retail
L1.7	Warehousing
L1.8	Industrial
L1.9	Recreational and sporting premises
L1.10	Office and ancillary accommodation (non-regulated finance industries)
L1.11	Office and ancillary accommodation (non-regulated finance industries)
L1.12	Utilities providers
L2.1	Approved development site
L3.1	Domestic Local Market
L3.2	Domestic Open Market
L3.3	Horticulture
L3.4	Agriculture
L3.5	Domestic Social Housing
L3.6	Publicly owned non-domestic
L4.1	Exempt (Land)
L5.1	Land – Penal Rate

NB – All industrial/commercial premises are metered and therefore will not be charged on the basis of their TRP rating.

Appendix D

Example charges

Property A - domestic property, no meter, on a cesspit emptied every three weeks, TRP 149

Wastewater charge	
	£
Quarterly standing charge	7.50
Fixed charge	12.50
Variable charge (149 x £0.13)	19.37
	<hr/>
Quarterly charge	39.37
Annual charge	157.48
Estimated Sewage Cart Fees (50% reduction on £10 load)	85.00
Total charges for removal of liquid waste	242.48

Current charge for comparison

Estimated Sewage Cart Fees 170.00

Net increase in charges for removal of liquid waste	72.48
Percentage increase in charges for removal of liquid waste	43%

Property B - large domestic property, no meter, on a cesspit emptied every other week, TRP 275

Wastewater charge	
	£
Quarterly standing charge	7.50
Fixed charge	12.50
Variable charge (275 x £0.13)	35.75
	<hr/>
Quarterly charge	55.75
Annual charge	223.00
Estimated Sewage Cart Fees	130.00
Total charges for removal of liquid waste	353.00

Current charge for comparison

Estimated Sewage Cart Fees 260.00

Net increase in charges for removal of liquid waste	93.00
Percentage increase in charges for removal of liquid waste	36%

Property C - domestic property, metered, on a cesspit emptied every three weeks

	m ³
<i>Annual use of water</i>	<i>121</i>
<i>Quarterly use of water</i>	<i>30</i>

Wastewater charge	
	£
Quarterly standing charge	7.50
Fixed charge	12.50
Variable charge (30 x 90% x £0.61)	<u>16.47</u>
Quarterly Charge	36.47
Annual charge	145.88
Estimated Sewage Cart Fees	85.00
Total charges for removal of liquid waste	230.88

<i>Current charge for comparison</i>	
<i>Estimated Sewage Cart Fees</i>	<i>170.00</i>

Net increase in charges for removal of liquid waste	60.88
Percentage increase in charges for removal of liquid waste	36%

Property D - domestic property, no meter, connected to sewerage network, TRP 96 (RV 43)

Total TRP Units **96**

Wastewater charge	
	£
Quarterly standing charge	7.50
Fixed charge	12.50
Variable charge (88 (B1.1 only) x £0.13)	<u>11.44</u>
Quarterly Charge	31.44
Annual charge	125.76
Estimated Sewage Cart Fees - none applicable	n/a
Total charges for removal of liquid waste	125.76

Current charge for comparison

Estimated Proportion of Rateable Value relating to liquid waste **6.45**

Net increase in charges for removal of liquid waste	119.31
Percentage increase in charges for removal of liquid waste	1850%

Property E - large domestic property, no meter, connected to sewerage network, RV 101

Total TRP Units **260**

Wastewater charge	
	£
Quarterly standing charge	7.50
Fixed charge	12.50
Variable charge (260 x £0.13)	<u>33.80</u>
Quarterly Charge	53.80
Annual charge	215.20
Estimated Sewage Cart Fees - none applicable	n/a
Total charges for removal of liquid waste	215.20

Current charge for comparison

Estimated Proportion of Rateable Value relating to liquid waste *15.15*

Net increase in charges for removal of liquid waste	200.05
Percentage increase in charges for removal of liquid waste	1320%

Property F - metered property, connected to sewerage network, RV 140

	m ³
<i>Annual use of water</i>	170
<i>Quarterly use of water</i>	43

Wastewater charge	
	£
Quarterly standing charge	7.50
Fixed charge	12.50
Variable charge (43 x 90% x £0.61)	23.61
Quarterly Charge	43.61
Annual charge	174.44
Estimated Sewage Cart Fees - none applicable	n/a
Total charges for removal of liquid waste	174.44

Current charge for comparison

Estimated Proportion of Rateable Value relating to liquid waste 21.00

Net increase in charges for removal of liquid waste	153.44
Percentage increase in charges for removal of liquid waste	731%

(NB The Policy Council has noted the views expressed by the Public Services Department in paragraphs 4.1 to 4.3 of the Report concerning the safeguarding of vulnerable users. The Council, through its Social Policy Group, will keep this issue under review.)

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

The States are asked to decide:-

XIV.- Whether, after consideration of the Report dated 21st November, 2008, of the Public Services Department, they are of the opinion:-

1. To implement the wastewater charges and cesspit emptying charges as set out in sections 3 to 6 of that Report.
2. To introduce an additional fixed charge in relation to improving sewage treatment as set out in section 2 of that Report.
3. To direct the Treasury and Resources Department to take account of the fees raised from wastewater charges, with the exception of those detailed in Section 2 of that Report, when recommending to the States, cash limits for the Public Services Department for 2010 and subsequent years.
4. To direct the preparation of such legislation as may be necessary to give effect to their above decisions.

EDUCATION DEPARTMENT

EDUCATION DEVELOPMENT PLAN – PROGRAMME 2 (EDP2): THE RATIONALISATION OF THE STATES PRIMARY SCHOOLS

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

28th November 2008

Dear Sir

Structure of the Report

1. Executive Summary
2. Background
3. Analysis
4. Conclusions
5. Closure Model
6. Recommendations

1. Executive Summary

Purpose

- 1.1 The purpose of this report is to explain the Education Department's decision to recommend to the States the closure of St. Sampson's Infant School and to ask the States to note the decision of the Department that St. Andrew's Primary School should remain open. These decisions follow a process of review started by the then Education Council in 2002.
- 1.2 St. Sampson's Infant School is a one-form entry school for children aged 4-7. It has 62 pupils organised as one reception class, one Year 1 class and one Year 2 class. The closure would be effected commencing from September 2009 and completing with the closure of the school in July 2010.
- 1.3 The Education Department, in line with all other Departments of the States, has the duty to achieve best value in allocating resources efficiently, but without compromise to the quality of education provision. This duty was reinforced by the Government Business Plan (GBP) debate in July 2007 which approved the priority for Education as being to "*maximise the return on investment in Education provision.*"

- 1.4 The Education Department believes that the decision to recommend the closure of St. Sampson's Infant School should be regarded not as a cut in services, but rather as representing a rational and different solution to providing primary education in the north of the Island in a more efficient way.

Current Provision of Schools for St. Sampson's Primary Age Children

- 1.5 Primary age children (4-11 years old) in the parish of St. Sampson attend one of three schools from the age of 4, depending on the part of the parish in which they live. Some attend Amherst or Hautes Capelles Primary Schools from the age of 4-11. Those in the St. Sampson's Infant catchment area attend St. Sampson's Infant School until the age of 7 when they move to join the Vale Infants School children in transferring to the Vale Junior School. The Junior School is located on the same site as the Vale Infants School.

The Proposed Closure Model

- 1.6 The closure process will mean that in September 2009 Reception class children (age 4-5) who would have started their schooling at St. Sampson's Infant will join Vale Infants School instead. The children will continue at Vale Infants until they move to Vale Junior at the age of 7.
- 1.7 For the school year September 2009-July 2010, the remaining Year 1 and Year 2 classes will continue to be taught at St. Sampson's Infant School. At the end of that school year, the Year 2 children will transfer, as they would have done anyway, to the Vale Junior School.
- 1.8 At the same time, the Year 1 children will transfer to the Vale Infants School for their final year (Year 2) of infant schooling, before moving across the site to the Junior School in September 2011.
- 1.9 The Year 1 St. Sampson's Infant children will remain as a separate class for their Year 2 at Vale Infants School and it is expected that to help the transfer process one of their teachers from St. Sampson's Infant School will move with them as their class teacher.
- 1.10 The Board does not consider it to be in the children's best interests to retain one class of children, currently 24 in number, at the school for their final Year 2 school year. It will not allow them to share in the full range of activities a school would normally provide, nor would it be a cost-effective option in terms of running costs for the school.

Background

- 1.11 In 2002 the Education Council brought to the States its intention to review the provision of places in the primary sector as part of Programme 2 of the Education Development Plan (EDP2) "*To rationalise, renovate and improve the*

education facilities in the rest of the Education estate". The review was deferred until the end of 2006 to allow the Education Department to focus on achieving the objectives of Programme 1 of the Education Development Plan.

- 1.12 In 2006 under pressure from the Treasury and Resources Department to look at all options for allocating resources more efficiently, the Education Board established a task group with the remit to review pupil places in the primary sector. The Board had to consider whether cuts in services would be required or whether services could be provided differently and more efficiently
- 1.13 In 2000 the schools had not been overcrowded, and the Board knew numbers in the States primary sector had fallen by 415 between 2000 and 2007.
- 1.14 The Board had been advised that the primary pupil population trend was projected to continue downwards.
- 1.15 The surplus places in the primary schools which already existed presented a means by which savings could be effected through providing services differently and more efficiently by reducing the number of schools, rather than by having to cut a part of the service provision in the Island.

Analysis

- 1.16 The Task Group analysed the cost and provision of places in the primary sector against 10 criteria: Pupil projections, Capacity analysis, Pupil population proximity and housing development, Transport for pupils, Social needs analysis, Condition, capacity and fitness for purpose, Educational character and maximisation of professional expertise, Use of the buildings vacated by primary rationalisation, Closure model considerations, and Closure budget implications

Conclusions

- 1.17 The Task Group's Review led the Board to conclude that approximately £750,000 per annum could be saved by rationalising the distribution of schools in the primary sector through the closure of St. Andrew's Primary and St. Sampson's Infant Schools.
- 1.18 After the internal States elections before reaching its final decision the new Board re-examined aspects of the analysis, looking again at the budget implications, the proposals for the introduction of nursery education and the different facilities required by the primary schools to manage changes in curriculum and teaching and learning.
- 1.19 The Board, by a majority, decided it should complete the structural rationalisation of the States primary schools begun over 20 years previously, when the then Education Council had embarked on the process of amalgamating infant and junior schools to become primary schools as headteachers retired.

- 1.20 The Board, by a majority, decided to recommend to the States the closure of the last stand-alone infant school, St. Sampson's Infant School, and the eventual merger of Vale Infants and Junior Schools to become a primary school. This would complete the process of providing a pre-11 system of schooling in which all States school children would be educated in a 4-11 setting. As most of the primary schools would have more than one class per year, it would also allow greater flexibility in how learning could be organised.

2. Background

2002 The Education Development Plan

- 2.1 In April 2002 the States approved the Education Development Plan Policy Letter "A Site Development Plan for the Reorganisation of Secondary, Post-16 and Special Needs Education".
- 2.2 The Education Council identified three programmes for concurrent action:

Programme 1 – The Site Development Plan (rebuilding)

- 2.3 This was the main focus of the policy letter and presented proposals for a reorganisation and rebuilding programme for secondary, post-16 and special needs schools and the College of Further Education.
- 2.4 The purpose of Programme 1 was to provide equality of educational opportunity within the secondary, special needs and post-16 education sectors; to improve efficiency and effectiveness in the organisation of schools in these sectors, leading to better curriculum opportunities and better facilities for children and young people, and providing appropriately for raising the school leaving age to 16 by 2008.

Programme 2 – The Site Development Plan (rationalisation, renovation and improvement)

- 2.5 The purpose of EDP2 was to rationalise, renovate and improve the educational facilities in the rest of the education estate, the Education Department and its central services, the primary schools and the Grammar School:
- to evaluate the need for site rationalisation of the schools and services outside the remit of EDP1
 - to continue the implementation of the programme of backlog maintenance
 - to introduce planned preventative maintenance regimes
 - to improve facilities management across the Education estate

- to introduce a phased programme of elemental upgrading

e.g. Fire detection, security, glazing, roofs.

Programme 3 – The Development, Funding and Accountability of non-States Schools

- 2.6 The purpose of Programme 3 (EDP3) was to achieve a sustainable system for the development, funding and accountability of non-States schools - Blanchelande Girls' College, The Ladies' College, Elizabeth College, the private schools and the voluntary schools. This was developed as three workstreams:
- to return to the States with funding and governance proposals for the 3 grant-aided colleges
 - to identify the future needs of the voluntary schools and make recommendations to the States on their financial support
 - to revise the system of inspection and registration of the private schools.

2006 Site Rationalisation Task Group (Group A)

- 2.7 The Education Department established a task group (Group A) which commenced work in 2006 as one of a number of task groups established to complete the secondary schools reorganisation programme and to evaluate the need for site rationalisation of the schools and services outside EDP1. Its purpose was to produce recommendations on the provision of schools in the maintained primary and secondary sectors over the next 25 years, confirming number, size, character, location and catchment.
- 2.8 The Task Group reviewed and analysed school age population projections for the States maintained primary, secondary, special needs sectors and for the non-States maintained sectors over the next 25 years in order to determine the capacity requirements for the maintained primary sector over the next 25 years.

2007 The Government Business Plan (GBP)

- 2.9 The remit of the Task Group was summarised in Priority 9 of the GBP, to “*maximise the return on investment in education provision*”. The Level 1 GBP Objective is:

To consolidate and develop best value policies for education and lifelong learning which promote equality of educational opportunity and which are directed to ensure the best quality of education is obtained for the individual and for the community as a whole.

2.10 The workstreams from the EDP which remained to be completed were set out in the Level 4 objectives. For EDP2 they were:

- to progress the review of pupil place requirements in the primary sector
- to reorganise primary catchment areas to accommodate the new secondary school structure
- to arrange the staff redeployment processes arising from the review of pupil place requirements.

December 2007 – Group A Draft Recommendations

2.11 The Task Group produced recommendations on the following:

- the future number, location, size and character of maintained primary sector schools over the next 25 years and a cost analysis
- revised catchment areas for the maintained primary sector schools
- the capacity requirements for the maintained secondary sector over the next 25 years
- the future size (capacity) of Les Beaucamps and La Mare de Carteret High Schools
- whether feeder primary schools should feed one high school only
- the feeder primary schools for each of the three high schools.

3. The Analysis Criteria

3.1 Task Group A examined the information available to it against the following criteria:

1. Pupil Projections

- a) Decline in States primary schools numbers 2000-2007
- b) Pupil population model assumptions
- c) Projected reduction to pupil numbers

2. Capacity Analysis

- a) Pupil-Teacher ratios

- b) Class sizes and averages
 - c) Number of classes per primary sector school
 - d) Number of classrooms
 - e) The effects of closure on the future provision of classroom accommodation
- 3. Pupil population proximity and housing development
 - a) Current primary catchment areas
 - b) Pupil distribution analysis
 - c) Future housing development
- 4. Transport for pupils
- 5. Needs analysis
- 6. Condition, capacity and fitness for purpose
- 7. Educational character and maximisation of professional expertise
- 8. Use of the buildings vacated by primary rationalisation
- 9. Closure model considerations
- 10. Closure budget implications.

1. Pupil Projections

a) **Decline in States primary school numbers 2000-2007**

- 3.2 The Education Department figures show that the number of pupils attending States maintained primary schools dropped by 415 between November 2000 and November 2007.

	Nov 2000	Nov 2001	Nov 2002	Nov 2003	Nov 2004	Nov 2005	Nov 2006	Nov 2007
Primary pupil numbers	4260	4188	4107	3983	3943	3883	3855	3845

November 2000 **4260**
 November 2007 **3845**
 a reduction of **415 pupils**

b) Pupil population model assumptions

- 3.3 Using the information from the Education Department's MIS database, the Social Security Department, the 2001 Census and the Government Actuary's Department, pupil projections were produced.
- 3.4 The following statistical assumptions underpin the projections:
- **Birth Rates**
Based on UK model, which was 1.77/woman in 2004.
 - **Pupil Population of Ages 0 to 3**
Based on Government Actuary projections from 2001 Census modified for the years 2001 to 2005 of actual births.
 - **Migration**
Net inward migration assumed to be 3 pupils per year across all age bands 4 to 17.
 - **Primary Schools**
Entry assumed to be 90% of total population from previous years. Population distributed across primary schools based on historical trend.
 - **Secondary Schools**
Year 7 entrants based on historical trends for Eleven Plus passes and those fee-paying, calculated on a primary school by primary school basis.
 - **Post-16 Education**
Additional entrants to the sixth form at the Grammar School based on 45% of the corresponding Year 10.
 - **Year 13 Cohort** based on 87% of the previous Year 12. A figure derived from historical trends in Post-16 education at the Grammar School.

c) Projected reduction in Guernsey States schools pupil numbers

- 3.5 Based on advice provided by the Government Actuary's Department, both the Social Security Department and the Education Department believe that the downward trend in the number of children will continue for the foreseeable future. Whilst each of these assumptions can be debated, they are based on sound statistical analysis using all available population data. However, it is the number of assumptions and variables involved which mean that projections beyond **2013** (i.e. those beyond data based on existing births) are subject to statistical variation. Nevertheless, all the indications are that the long term trend is downwards.
- 3.6 There are expected to be another 180 fewer pupils in the States primary sector by 2020.

2. Capacity Analysis

a) **Pupil-teacher ratios**

- 3.7 In 1996 the Education Council published its **Five Year Plan**.
- 3.8 It announced its intention to maintain an overall primary school **pupil-teacher ratio of 21:1**. (The PTR is calculated by taking the total number of pupils in a school and dividing it by the total number of teachers, including the headteacher).
- 3.9 The target ratio encompassed the preferential PTR of **18:1** awarded to the social priority schools. In 1996 this referred to the Town schools. Now it would also include La Mare de Carteret Primary School. In the other primary schools the Council accepted **23:1** as its standard.
- 3.10 The pupil-teacher ratio has hardly altered as pupil numbers have fallen. The Education Department has reduced the number of teachers as numbers have declined, and has used the posts to provide extra special needs and curriculum support in the schools.
- 3.11 In **2000** the pupil-teacher ratio was **19.1:1**.
- 3.12 In **2007** the pupil-teacher ratio was **18.1:1** (The figure for 2007 was marginally lower because of the agreement with the teaching unions to provide more planning, preparation and assessment time for primary teachers.). For **reception classes** the Board has provided resources for a **13:1 pupil-adult ratio**. The Education Board, by a majority, has confirmed its support for these ratios as being the target ratio by which staff resources should be allocated to the schools.

b) **Class Sizes and Averages**

- 3.13 The Education Board has established a maximum primary class size of 30. Schools are expected not to exceed this without the agreement of the Department. Schools are expected to maintain an upper limit of 28, where possible.
- 3.14 Schools are advised to aim for classes of approximately 24 pupils, and lower if possible in the social priority schools if staffing resources permit. There is a misconception that the Board has fixed class sizes at 24. This has never been the case. All families are likely to have been aware that at times their children have been in classes of above 24.
- 3.15 The Board is not in favour of mixed age classes because of the curriculum frameworks which the schools now operate.

3.16. Headteachers have the freedom to decide how to deploy their staff. Some choose to have larger classes in order to free staff to provide specialist support in other classes. However, the table below shows that class sizes in all the schools have remained very favourable.

3.17 The average class size for the reception stage (rising 5's), Key Stage 1 (5 -7) and Key Stage 2 (7 – 11) is shown in the table below:

School	Number on roll Sept 2008	R	KS1	KS2	School
Amherst	312	16	20.2	20.4	19.5
Castel	348	22.5	23.5	23.2	23.2
Forest	162	27	19	24.2	23.1
Hautes Capelles	547	26.7	24.8	26.5	26
La Houquette	319	20	21.5	24.1	22.8
La Mare de Carteret *	240	15.5	19.3	21.5	20
Notre Dame	236	15	20	24.3	21.4
St. Andrew's	150	19	22	21.7	21.4
St. Martin's	497	21	23.7	24.3	23.7
St. Mary and St. Michael	155	16	24.5	22.5	22.1
St. Sampson's (Infant)	62	24	19		20.6
Vale (Infants)	139	16	22.7		19.9
Vale (Junior)	298			21.3	21.3
Vauvert	328	21	22.5	24.5	23.4
Total	3793				

* Nurture Group children counted within their mainstream classes.

c) Numbers of classes per primary sector school

3.18 As pupil numbers fell during the last decade, schools reduced the number of classes in each year group. For example, in 2000 Castel Primary and La Mare de Carteret Primary were 3-form entry schools. These two schools now have no more than 2 classes per year group.

3.19 In the primary sector, schools can currently accommodate the following number of classes for each year group. This varies in some instances from earlier capacity assessments because, as numbers have fallen, schools have used the freed space to provide specialist rooms such as libraries, ICT rooms and Nurture Group rooms.

Amherst	3
Castel	2 (3 with additional accommodation provided)
Forest	1
Hautes Capelles	3
La Houquette	2
La Mare de Carteret	2/3
Notre Dame	1/2
St. Andrew's	1
St. Martin's	3
St. Mary and St. Michael	1
St. Sampson's (Infant)	1
Vale (Infants)	3
Vale (Junior)	3
Vauvert	2

d) Number of classrooms

- 3.20 The primary schools currently have enough classrooms for 182 classes.
- 3.21 This includes Castel School reverting to a 3-form entry school. The school has used some of its spare classrooms for extra curriculum areas, but the Board has had long term plans to provide extra accommodation at Castel School. La Mare de Carteret Primary is counted as having classrooms for only two forms per year group, although some additional classrooms are available. Notre Dame is counted as one classroom per year group although more classrooms are available.
- 3.22 A 3-form entry primary school of 7 year groups, such as Hautes Capelles, has space for 21 classes to be accommodated ($7 \times 3 = 21$).
- 3.23 A 1-form entry infant school with 3 year groups, such as St. Sampson's, has space for 3 classes ($3 \times 1 = 3$).
- 3.24 The schools have classroom capacity as follows:

Amherst	$3 \times 7 = 21$
Castel	$3 \times 7 = 21$
Forest	$1 \times 7 = 7$
Hautes Capelles	$3 \times 7 = 21$
La Houquette	$2 \times 7 = 14$
La Mare de Carteret	$2 \times 7 = 14$ * ¹
Notre Dame	$1 \times 7 = 7$ * ²
St. Andrew's	$1 \times 7 = 7$
St. Martin's	$3 \times 7 = 21$
St. Mary and St. Michael	$1 \times 7 = 7$
St. Sampson's (Infant)	$1 \times 3 = 3$
Vale (Infants)	$3 \times 3 = 9$

Vale (Junior)	$4 \times 4 = 16$
Vauvert	$2 \times 7 = 14$
<u>Total</u>	<u>182</u> classes with Castel counted as 3-form entry

NB:

1. La Mare de Carteret currently operates as a two-form school with a joint KS1 and KS2 Nurture Group attached. 13 classes in total, including the Nurture Group, are taught in the school this academic year.
2. Notre Dame currently operates as a 1½-form entry school. It has at present 11 classes of children, but for the sake of the analysis, this is not counted. If it were, it would add another 4 classrooms and another 96 spare places to the calculations which follow.

e) The effects of closure on the future provision of classroom accommodation

- 3.25 If St. Andrew's Primary and St. Sampson's Infant Schools were to close, there would be 10 classrooms fewer (7 at St. Andrew's and 3 at St. Sampson's). **172 classrooms** would remain in the primary sector, spread among the remaining 12 schools.
- 3.26 **At a class size of 24**, 172 classrooms would provide capacity for 4128 pupils. At present the total States primary pupil population is 3793. This leaves 335 places spare in the primary sector, after the St. Andrew's and St. Sampson's pupils have been accommodated elsewhere. Numbers are projected to drop by another 180 by 2020.
- 3.27 If only St. Sampson's Infant School were to close, there would be three fewer classrooms, leaving **179 classes**. At a class size of 24, 179 classrooms would provide capacity for 4296 pupils. This leaves 503 places spare in the primary sector representing over 13% surplus capacity, with numbers projected to drop by another 180 by 2020

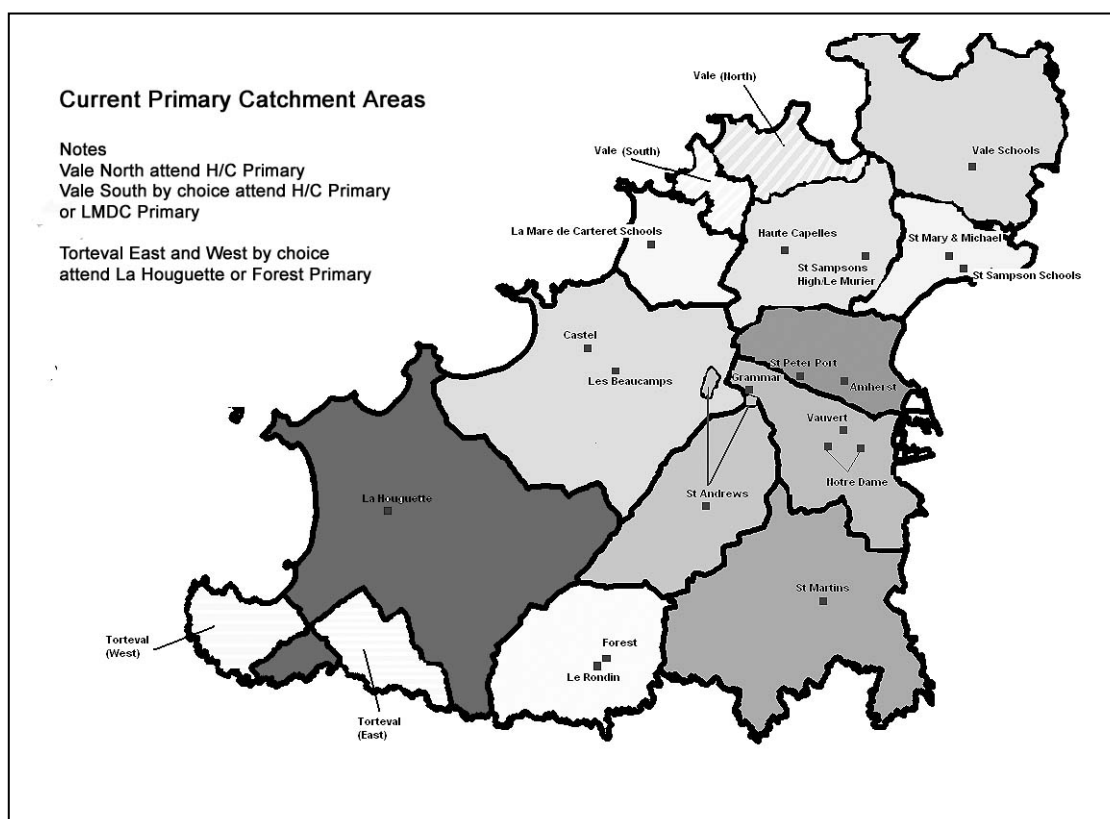
If assessment of capacity were to be based on **classes of 30**, 168 classes of 30 pupils would result in places for a pupil population of 5160. This would mean a surplus capacity of 1367 pupil places in our primary schools and by 2020 a surplus capacity of 1547 places.

179 classes of 30 pupils would give a capacity assessment of 5370, resulting in a surplus capacity of 1577 places, or a 41% surplus capacity.

3. Pupil Population Proximity and Housing Developments

a) Current primary catchment areas

- 3.28 The current catchment areas for the existing primary schools are shown below. There are some legacy anomalies within these catchment areas, notably with regard to two “satellite” areas for St. Andrew’s Primary School and to the choices of primary school offered to the families in the Forest, La Houquette, and Vale (South)



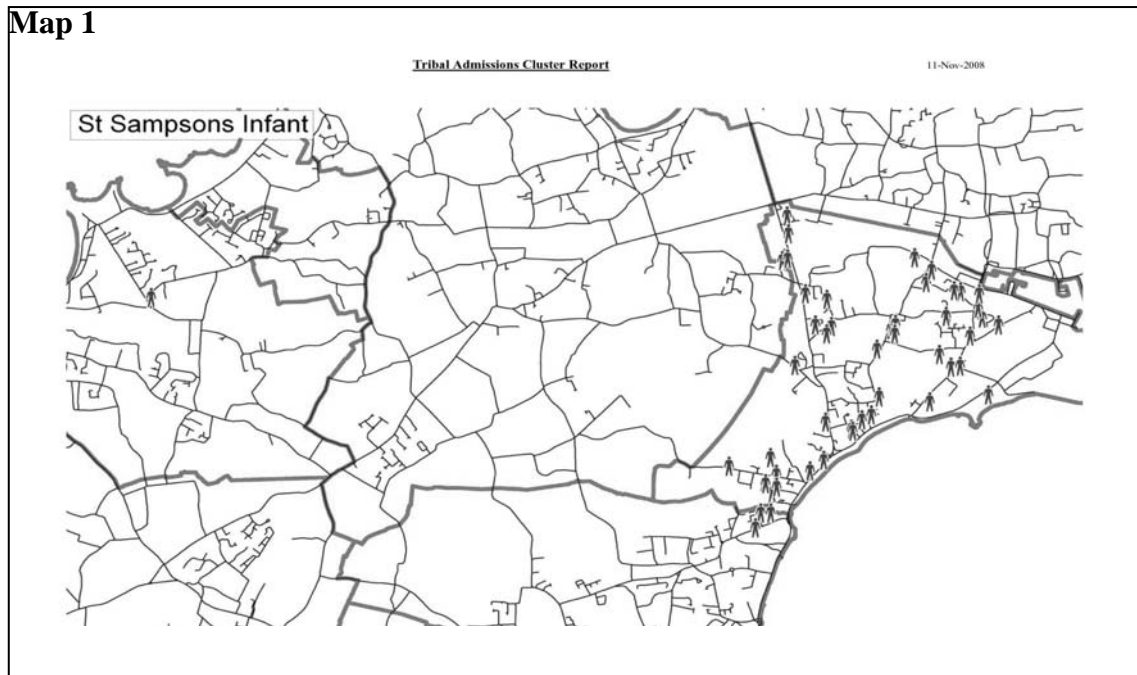
- 3.29 As of September 2007, the children from Vauvert and Amherst Primaries stopped moving to St. Peter Port Secondary at the age of 11.
- 3.30 From that date, the Amherst children started attending St. Sampson’s Secondary School and the Vauvert children started attending La Mare de Carteret Secondary School.
- 3.31 The two voluntary Roman Catholic primary schools, St. Mary and St. Michael and Notre Dame du Rosaire, draw their pupils from the whole Island and are not drawn from parish catchments. In the main, St. Mary and St. Michael draws pupils from the north of the Island and Notre Dame du Rosaire from the rest of the Island.

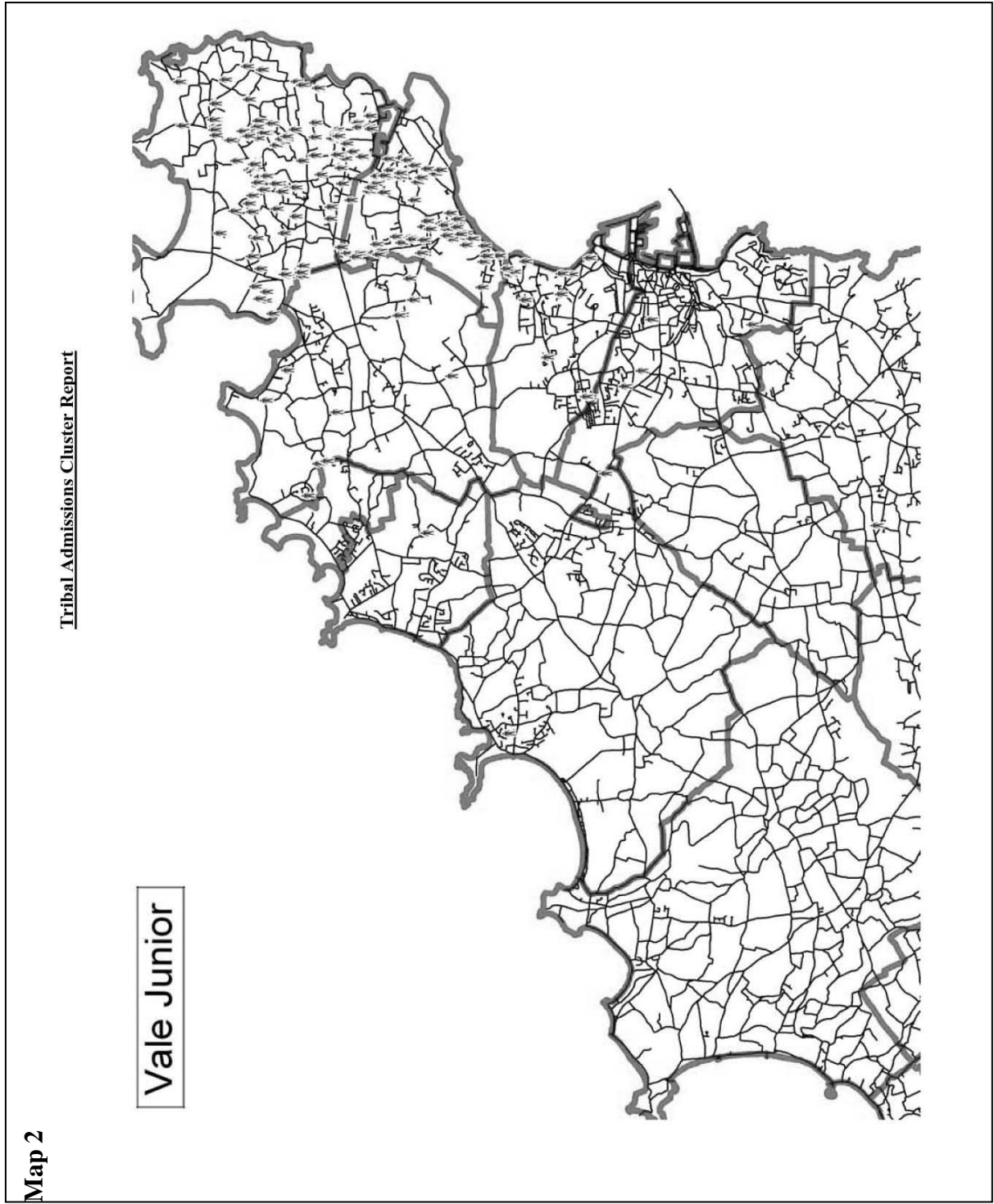
- 3.32 All the schools have some pupils living out of catchment. Pupils are allowed to attend out of catchment schools subject to their parents applying to the Education Department for permission to do so and on the basis of their meeting the criteria for being awarded an out of catchment area (OCAS) place. The families of children who travel to schools out of catchment take responsibility for the transport arrangements for their children.

b) Pupil distribution analysis

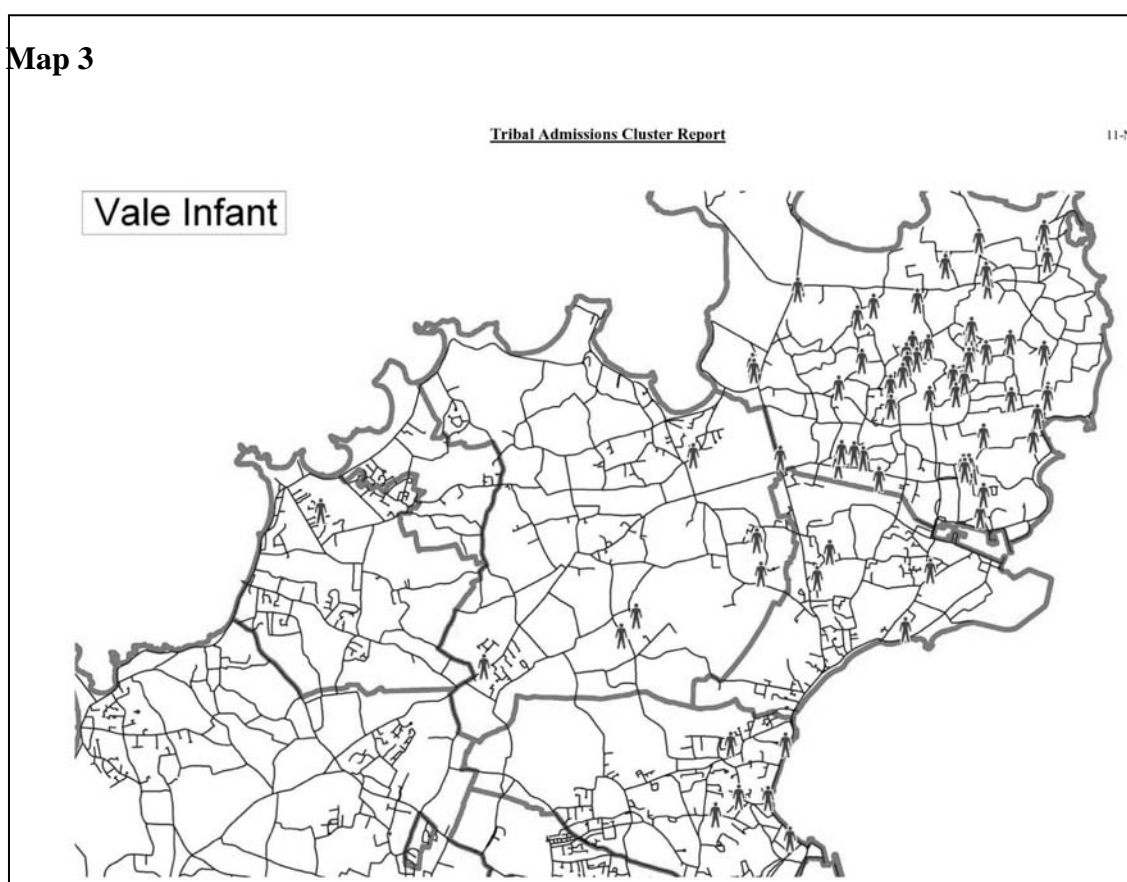
- 3.33 The Department, through its computerised Management Information System (MIS), is able to pinpoint the home locations of the States schools' pupils. The pupil distribution maps for St. Andrew's Primary, La Mare de Carteret Primary, Vale Infants, Vale Junior and St. Sampson's Infant are shown below. (The individual stick figures may represent clusters of pupils, rather than individual pupils as the maps are too small-scale in this document to allow finer definition).
- 3.34 The maps show the current pupil distribution and their clustering around the existing schools. This proximity is part of the Department's catchment policy by which children are generally allocated places in schools according to the area in which they live and its proximity to any given school.
- 3.35. The Department will not need to adjust catchment areas for any of the other primary schools should the decision be taken to close St. Sampson's Infant School alone. The St. Sampson's Infant children's catchment area will be the same as for their elder brothers and sisters when they have gone on to Vale Juniors at the age of 7. Currently 20% of St. Sampson's Infant children have elder siblings at Vale Junior.

Map 1





Map 3



3.36 The furthest distance as the crow flies for a child in the St. Sampson's Infant catchment area to travel to Vale Infants School will be 1.63 miles.

3.37 This compares with travel distances as the crow flies for children at other primary schools as follows:

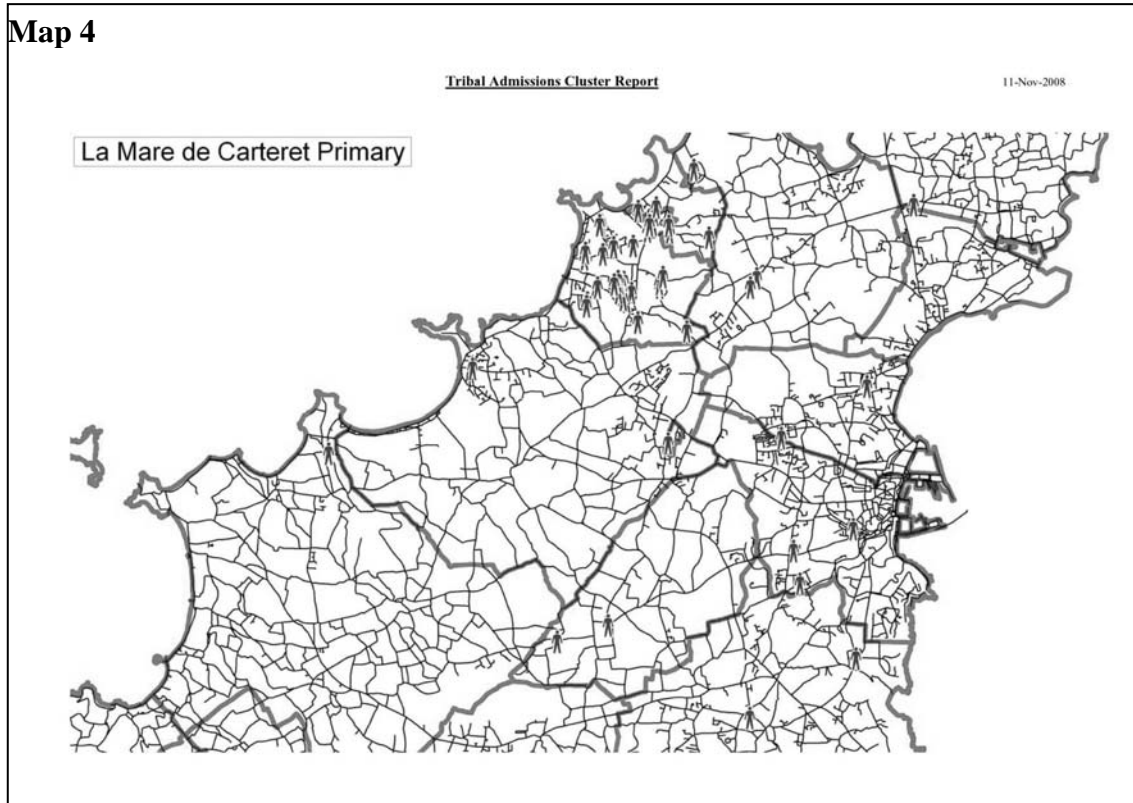
Vale Infants/Junior School	1.66 miles
Forest Primary School	3.33 miles
La Houquette Primary School	2.29 miles
Castel Primary School	1.68 miles
St. Martin's Primary School	1.56 miles
St. Andrew's Primary School	1.48 miles
Hautes Capelles Primary School	1.35 miles
Vauvert Primary School	1.25 miles
La Mare de Carteret Primary School	1.14 miles
Amherst Primary School	0.86 miles

3.38 Task Group A looked at catchment changes and travel distances for pupils if the options of closing La Mare de Carteret Primary and St. Andrew's Primary were to be adopted.

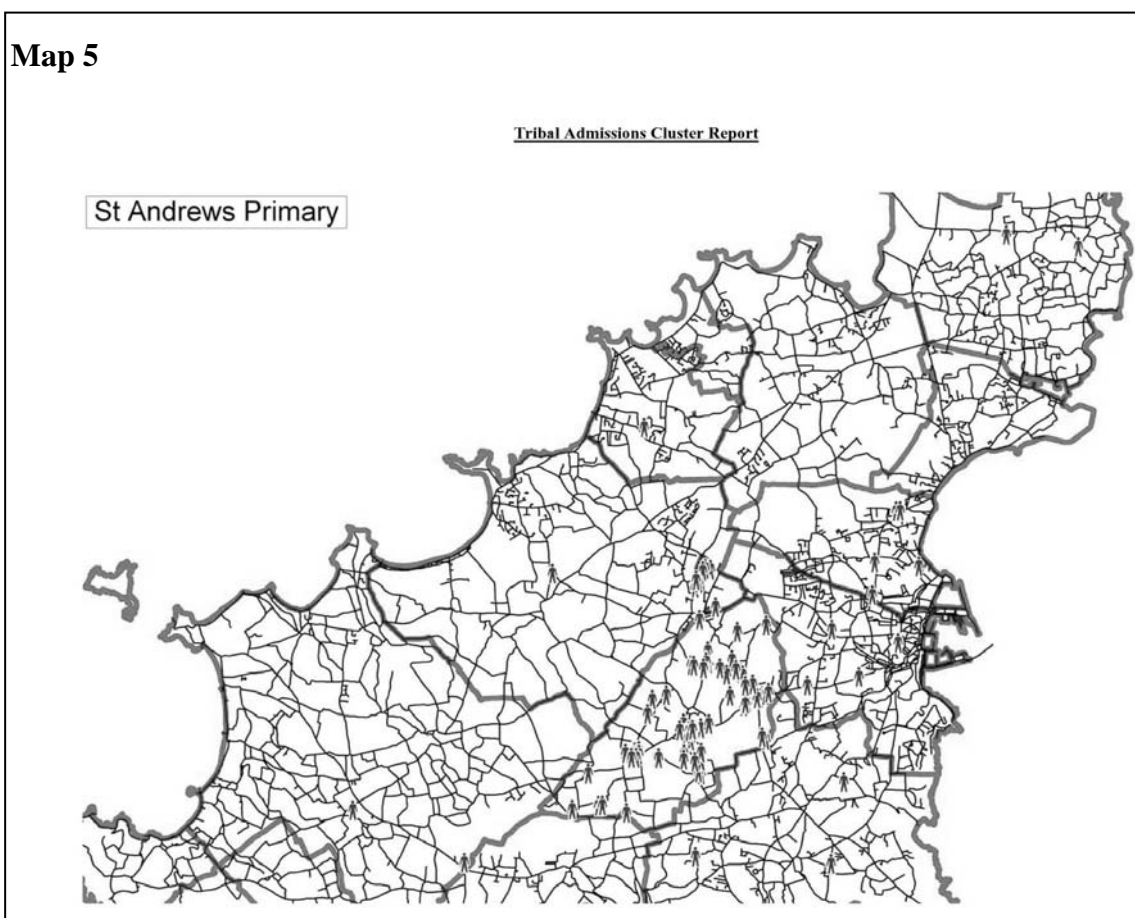
3.39 **La Mare de Carteret** The dispersal of pupils from La Mare de Carteret would

have been more difficult to achieve because of the close clustering of the majority of children around the school. With 240 children to be dispersed, a capacity for up to 588 pupils at a maximum class size of 28 at the school, and the lack of much surplus capacity at Hautes Capelles Primary, a wide redrawing of catchment areas would have been necessary for the whole Island.

Map 4



- 3.40 **St. Andrew's** The 150 pupils of St. Andrew's would have been dispersed to Castel School, Forest School and St. Martin's School depending on their home locations. However, a redrawing of catchment areas would have been required to ensure there was sufficient space at those schools for classes of 24 (even though the three receiving schools all currently have classes in excess of 24). The catchment areas of the three receiving schools would need to change so that some pupils, currently in those catchments, would go to La Mare de Carteret, La Houquette and Vauvert Primary Schools respectively.

Map 5

c) Future housing development

- 3.41 Information has been provided by the Housing Department which states with regard to the Housing Target Areas: *“importantly, because the Housing Target Areas are not reserved solely for the provision of social housing, it is impossible to say with any certainty when such sites will be redeveloped or what tenure, mix and social composition their redevelopment will provideno decisions on the future of St. Sampson’s Infant School can, or should, be made based on an unclear picture in relation to housing development in the north of the Island.”*
- 3.42 Additional capacity will not be needed unless the Island’s over-arching immigration policies are changed in favour of allowing more inward migration by which the school age population will be increased.
- 3.43 The pupil population trend is downwards. Even if the demographic profile of the Island were to change, with more school age children located in the north of the Island, the surplus capacity currently in the primary system will allow places to be found for all children, albeit with some redrawing of catchment areas.

4. **Transport for Pupils**

- 3.44 The Education Law 1970 section 20 subsection 3 defines “walking distance” for pupils *“in relation to a child who has not attained the age of eight years one mile and in the case of any other child two and one half miles, measured by the nearest available route”*.
- 3.45 In practice, this has meant that the Environment Department Traffic Section has provided school buses free of charge or bus tickets for regular service buses for those children who live outside the statutory walking distance. Buses currently transport children to and from nine of the fourteen primary age schools.
- Castel Primary School
Forest Primary School
Hautes Capelles Primary School
La Houquette Primary School
La Mare de Carteret Primary School
St. Andrew’s Primary School
Vale Infants School
Vale Junior School
Vauvert Primary School
- 3.46 Children who use the buses to travel to and from school, but who live within the specified walking distance, are expected to pay for subsidised bus tickets for their journeys to and from school.
- 3.47 The Environment Department has commenced discussion with the Education Department on the possibility of providing free school transport for all pupils, regardless of distance, in a bid to reduce the number of cars transporting children to and from their schools. A pilot scheme is operating.
- 3.48 A consideration in the assessment of primary school places rationalisation has been the impact on school transport routes, should catchment areas be redefined.
- 3.49 The buses which currently serve the Vale Junior pupils would be available for use by the additional pupils from St. Sampson’s Infant School as the buses cover the same area as that currently defined as the St. Sampson’s Infant catchment area.
- 3.50 The Department believes the current bus allocation for the morning run would provide sufficient capacity to accommodate the extra pupils at Vale Infants School, although an extra minibus may be necessary for the afternoon run.
- 3.51 The provision of buses for the school runs is always assessed annually by the Environment Department, and the Education Department will work over the next two years with the Environment Department to evaluate whether different arrangements will be necessary as the number of children progressively increases at Vale Schools.

- 3.52 The Department will work with the Environment Department to assess whether traffic management arrangements around the Vale Schools will have to be changed to help cope with the additional cars which may be dropping off children. For some parents whose elder children already attend Vale Junior School the journey to and from school will be simplified if their children are all travelling to the same site.

5. Social Needs Analysis

- 3.53 A social needs analysis was completed on the basis of numbers of pupils on each school's Special Educational Needs register and the number of pupils in receipt of clothing grants.
- 3.54 The analysis was structured on the three high schools and their catchment primary schools. Its purpose was to identify the current social mix of the schools and to assess any imbalance of social priority need which might occur from redrawing of catchment areas or redistribution of feeder primary schools to different high schools.
- 3.55 None of the three proposed closure models looked at by the Task Group would have resulted in any serious imbalance of social priority needs in any of the secondary receiving schools.

Needs Analysis Academic Year 2007/2008					
La Mare de Carteret High	Total Cohort	Total on SEN Register	% On SEN	Total on C.Grant	% On C. Grant
La Mare de Carteret Sec.	423	98	23.17	37	8.75
La Houquette Primary	331	61	18.43	18	5.44
La Mare de Carteret P.	235	77	32.77	37	15.74
Forest Primary	160	28	17.50	3	1.88
Vauvert Primary	350	91	26.00	42	12.00
Total	1499	355	23.68	137	9.14
Les Beaucamps High	Total Cohort	Total on SEN Register	% On SEN	Total on C.Grant	% On C. Grant
Les Beaucamps Sec	519	80	15.41	51	9.83
Castel Primary	364	42	11.54	28	7.69
St Andrews Primary	147	38	25.85	9	6.12
St Martins Primary	490	72	14.69	47	9.59
Total	1520	232	15.26	135	8.88
St Sampsons High	Total Cohort	Total on SEN Register	% On SEN	Total on C.Grant	% On C. Grant
St Sampsons Sec	596	73	12.25	41	6.88
Haute Capelles Primary	540	109	20.19	31	5.74
Amherst Primary	331	79	23.87	110	33.23
Vale Infant	140	18	12.86	7	5.00
Vale Junior	296	65	21.96	15	5.07
St Sampsons Infant	58	9	15.52	3	5.17
Total	1961	353	18.00	207	10.56

Other	Total Cohort	Total on SEN Register	% On SEN	Total on C. Grant	% On C. Grant
Notre Dame Primary	241	34	14.11	7	2.90
St Mary & St Michael Primary	165	28	16.97	6	3.64
St Annes	207	21	10.14	2	0.97
St Peter Port	269	76	28.25	49	18.22
Grammar	1057	34	3.22	11	1.04
Total	1939	193	9.95	75	3.87
Bailiwick Total	6919	1133	16.38	554	8.01

6. Primary Schools' Condition, Capacity and Fitness for Purpose

- 3.56 The Island's primary school buildings range from Victorian parish schools such as St. Andrew's, Amherst, Notre Dame, Vauvert and Vale, usually with later extensions (and sometimes very significantly as in the case of Hautes Capelles Primary); to post war system-build buildings with an anticipated 'shelf-life' of 25 years, such as at La Houquette, La Mare de Carteret, and to more recent buildings such as Forest Primary School and St. Mary and St. Michael Primary School.
- 3.57 The annual maintenance expenditure on the whole States schools' estate, with the exception of the two voluntary schools, is managed by the Estates Section of the Education Department.
- 3.58 Expenditure on the various buildings is allocated according to need and as equitably as possible.
- 3.59 As well as differences in the general condition of the properties, the primary schools vary considerably in the facilities they can provide for the curriculum, the social and recreational spaces for their children and for the staff.
- 3.60 The condition, capacity and fitness for purpose of the buildings was taken into consideration by the Task Group in arriving at its recommendations.
- 3.61 Total cost estimates for maintenance of the buildings over a 10 year period are shown below, together with estimated annual fixed operating costs. The maintenance figure for each school allows for anticipated replacement, repair and maintenance e.g. decoration, replacement lighting and flooring. The annual fixed operating costs for each school cover servicing, cleaning and inspection of alarms, boilers, fixed electrical, fire alarms and safety equipment, ICT cooling plant, kitchen and laboratory equipment, Legionella programme, lifts, pool plant, chimneys, gym equipment, lightning conductors, windows, workshop machinery, playground equipment, drama lighting, fume cupboards etc.
- 3.62 The figures are based on survey data and the Estates team's knowledge of building condition.

St. Andrew's Primary School

10-year Maintenance Plan 2008-2017	£702,000
Annual fixed operating costs	£ 8,000

La Mare de Carteret Primary School

10-year Maintenance Plan 2008-2017	£629,000
Annual fixed operating costs	£ 15,000

St. Sampson's Infant School

10-year Maintenance Plan 2008-2017	£126,000
Annual fixed operating costs	£ 3,000

La Mare de Carteret Primary School

- 3.63 In evaluating the maintenance costs of the buildings, the Education Board accepted that the projected costs of maintaining La Mare de Carteret Primary could be off-set by the intention to rebuild both La Mare de Carteret High School and Primary School on the same site, as soon as States funds permit. Both buildings are at the end of their functional life and were built with a projected life expectancy of 25 years, which has now been well exceeded.

St. Andrew's Primary School

- 3.64 The anticipated maintenance expenditure required for St. Andrew's is a matter of concern for the Education Department and was a consideration which the Board addressed in reaching its decision whether to recommend the school for closure. Ultimately other factors outweighed this high projected expenditure, and it is not disproportionately high when compared, for example, with maintenance costs for the Vale Schools.

Vale Schools

- 3.65 The anticipated 10-year expenditures on maintenance and annual fixed operating costs are as follows:

Vale Infants

10-year Maintenance Plan 2008-2017	£708,000
Annual fixed operating costs	£ 7,000

Vale Junior

10-year Maintenance Plan 2008-2017	£780,000
Annual fixed operating costs	£ 15,000

- 3.66 Vale Infants School is a 3-form entry school and has operated as such in the past. The additional 62 children of St. Sampson's Infant School will be able to be accommodated in its present buildings.

- 3.67 However, the Estates Team of the Department is in the process of evaluating options for refurbishment and remodelling of the school premises to modernise the facilities and to maximise the learning opportunities for the children as the school becomes a 3-form entry school again.

7. Educational Character and Maximisation of Professional Expertise

- 3.68 The “educational character” of the schools refers to their size, whether they are mixed or single sex, the age range, the number on roll, the class organisation, the ability range of the children, whether a mainstream or special needs school and the type of curriculum which is offered. The character of a school determines how the needs of the children are met and how the staffing resources are allocated and the staff’s professional expertise utilised.
- 3.69 All Bailiwick States maintained schools are mixed, and the majority now operate as 4-11 schools. Vale Infants and St. Sampson’s Infant are the only two remaining 4-7 schools and both transfer their children at 7 to complete their Key Stage 2 courses at Vale Junior School.
- 3.70 Herm School provides primary age classes, in conjunction with Vauvert Primary School, for children living in Herm.
- 3.71 St. Anne’s School, Alderney is the only States school in the Bailiwick which operates as an “all through school”, i.e. from 4 to 16.
- 3.72 Opinions vary as to the educational advantages of small versus large primary schools. Ofsted confirms that the traditional reasons for the popularity of successful small schools remain well established: they have a positive ethos with a family atmosphere, close links between staff and parents, an important place in the local community and good standards of behaviour.
- 3.73 Ofsted also reports that the quality of education provided by small schools compares well with what is provided by larger schools, although smaller schools can be more vulnerable to the adverse influences of weak teaching and/or weak leadership.
- 3.74 Larger primary schools, such as 3-form entry schools are undoubtedly more cost efficient than 1-form entry schools and they provide the opportunity for more flexible organisation of classes and deployment of staff than can be given in smaller schools.
- 3.75 Against this is the popularity of smaller schools with parents of younger children, who often feel a small school environment helps their child’s transition from home to school and who believe that the schools will have greater knowledge of individual children will help their progress.
- 3.76 The Education Department has never questioned the effectiveness and quality of

educational opportunities offered to the pupils of St. Sampson's Infant School by the dedicated and skilful staff of that school.

- 3.77 The Board's decision to recommend closure of St. Sampson's Infant was made in the knowledge that the excellence of the educational provision of St. Sampson's Infant will be matched by the caring, supportive and high achieving ethos of Vale Infants School.
- 3.78 The Vale Infants School Validation Report published in October 2006 confirmed that the headteacher of the school and her staff have established a warm, friendly and purposeful ethos within the school where the children feel secure, valued and are encouraged to make good progress.
- 3.79 The report notes that parents are encouraged to play a full part alongside the school in helping to educate their children. The parental return survey showed the highest level of satisfaction for the work of the school of any school inspected in the Island.
- 3.80 The school was found to be well resourced to meet the requirements of the Bailiwick of Guernsey Curriculum and the generous ICT and extended library facilities were noted. Comment was also made about the enhancement of the outside environment that had recently taken place.
- 3.81 Educational standards at the school were regarded as very good with 95% of lessons observed being of a satisfactory standard and 67% were judged to be good or excellent. Teachers were described as having good working relationships with the pupils and also demonstrating high expectations of standards of behaviour and work.
- 3.82 Whilst it is important to recognise the benefits of successful small schools, there are additional educational advantages associated with larger schools. They relate to larger schools having:
 - a greater flexibility in how pupils might be organised for their learning e.g. the opportunity to set pupils according to ability and aptitude for core subjects such as English and Mathematics
 - an increased range of staff expertise and specialisations available to the pupils because of the greater number of staff at the school
 - an opportunity for staff to benefit from the opportunity of working collaboratively with colleagues when teaching, planning and assessing pupils' work because of the availability of year group teams of teachers.
- 3.83 The Education Department has maintained a policy of merging infant and junior schools to create primary schools as the opportunity arises when headteachers reach retirement. St. Martin's was merged in 1983, Vauvert in 1997, Amherst in

2004 and Hautes Capelles in 2006.

- 3.84 In time the two Vale Schools will become Vale Primary School.
- 3.85 The Department believes that the creation of larger primary schools with more than one class in each year group benefits both pupils and staff. They provide opportunities to maximise professional expertise across year groups and often provide increased parental participation through to the Junior stage in schools. With the closure of St. Sampson's and the creation of Vale Primary School, all the Department's pre-11 schools (and Le Rondin Special Primary School) will be primary schools with the benefit of a whole school 4-11 overview.
- 3.86 All the primary schools provide opportunities for parents and their children to become familiar with their schools before the children join their reception classes. This varies from school to school depending on the staff resources and facilities available.

8. Use of the Buildings Vacated by Primary Rationalisation

- 3.87 The Education Department has looked at the future requirements of the rest of the service in assessing how vacated buildings might be used.
- 3.88 Some of the older primary schools are in buildings owned by their parishes and ceded to the Education Council for its use for educational purposes in 1938 when the responsibility for the schools moved from parish to States control.
- 3.89 Should the Education Department declare the buildings to be of no further educational use, they would revert to the Parish for its use or disposal. If buildings remain in educational use there is no need for the Education Department to consult the Environment Department on possible change of use.
- 3.90 Often the ownership situation is made more complex by later additions of States owned land to the original curtilage of the site, or by the erection of later buildings by the States. An example of this situation is the former Mont Varouf School site in St. Saviour's.
- 3.91 St. Andrew's Primary School would be able to revert to the Parish's use, or be retained for other educational purposes.
- 3.92 There are a number of options available for the re-use of St. Sampson's Infant School should the decision be made to close the school. Options being explored include use as a satellite Youth Centre for the North, to provide additional College of Further Education facilities, to provide ICT and other management and professional development training facilities for the Department's teachers and lecturers. Currently the Department pays to hire rooms at the former Convent of Mercy School at Cordier Hill for a training and ICT base. This could no longer be required, should the buildings at St. Sampson's Infant provide alternative facilities.

9. Closure Model Considerations

- 3.93 Any change to the system of schools, particularly when there is surplus capacity, will be complicated to resolve.
- 3.94 Pupils' families, staff, school committees and local communities are very often resistant to change, especially if it means a school closure, and local lobby groups tend to be formed to oppose the proposed change. It is not unknown that the resolve of the decision makers can be severely tested by such opposition.
- 3.95 When a school is scheduled for closure, there is likely to be an immediate migration from the school of pupils and staff. This would argue for a condensed timescale where the initial shock is countered by the swift resolution of placement for both pupils and staff.
- 3.96 However, the difficulty in closing a school quickly is in achieving the placement of children in schools with which they and their parents are happy, providing transport arrangements which are convenient and which do not adversely lengthen the school day, and in achieving a dignified and considerate redeployment of staff, ensuring they are not professionally disadvantaged by the decision. The receiving schools should be properly resourced in terms of staff numbers, class sizes, additional funding and accommodation to be able to integrate the new pupils successfully. These factors, alongside the budget implications of the different closure options, were considered by the Board, prior to reaching its conclusions on the closure model to be chosen.

10. Closure Budget Implications

- 3.97 The Education Department has been operating under budget constraints for a number of years. Budget settlements since 2005 have, nevertheless, had a detrimental impact on the ability of the Department to continue to operate at the level enjoyed in 2005 and before. At the same time the Department has had to respond to new and emerging demands placed on it.
- 3.98 For the period 2005 to 2008 the Department's General Budget has increased by 11.5%, a below inflation increase for the period and at least £1.5 million below the figure required to maintain the 2005 budget in real terms. In order to balance its budget, it has been necessary for the Department to seek ways of using its budget allocations ever more efficiently and it is against this background that the Department's current proposals are made for the closure of St. Sampson's Infant School.
- 3.99 Closing a school will bring savings in terms of premises, energy, ICT and caretaking/cleaning costs. It will also save ICT costs, a headteacher salary and possibly that of other teaching staff, teaching assistants and administration staff.

- 3.100 If children are able to transfer successfully into existing classes because of spare capacity, the saving will be greater, but more classes may need to be created and more accommodation provided. The consumables budget for a school is usually based on age-weighted pupil units and, therefore, that budget is likely to transfer to the receiving school. Other costs associated with insurances and transport are also likely to be reduced or removed.
- 3.101 The per pupil annual revenue costs for St. Andrew's and St. Sampson's respectively in September 2008 were £4,139 and £5,758. The average per capita cost in the primary sector as at September 2008 is £3,842. St. Sampson's, with the fewest pupils of all the primary schools, not surprisingly places highest in the per capita costing, St. Andrew's places fourth, behind La Mare de Carteret Primary and Vale Infants. Vale Infants per capita costs will improve with the closure of St. Sampson's Infant, thereby bringing it more in line with the primary sector overall. La Mare de Carteret's high costs are partly attributable to the cost of the Nurture Group in that school.

Schools Expenditure Summary –per capita costs September 2008

School	Per Capita Cost £
Grammar School & Sixth Form Centre	5,557
La Mare de Carteret High	5,496
Les Beaucamps	5,251
St. Peter Port	13,442
St. Sampson's High	4,116
Secondary School Average	5,500
Amherst Primary	4,392
Castel Primary	3,508
Forest Primary	4,086
Hautes Capelles Primary	3,019
La Houquette Primary	3,655
La Mare de Carteret Primary	5,361
Notre Dame du Rosaire Primary School	3,878
St. Andrew's Primary	4,139
St Martin's Primary	3,296
St. Mary & St. Michael Primary School	4,045
St. Sampson's Infant	5,758
Vale Infants	4,739
Vale Junior	3,503
Vauvert Primary	4,134
Primary School Average	3,842

Cost Savings from the Closure of St. Andrew's and St. Sampson's Infant Schools

The Education Department considered two options for cost savings:

Option 1**Close the two schools the end of the current academic year (August 2009)**

Current annual budgets:

St. Andrew's Primary School	£620,900
St. Sampson's Infant School	£357,000
Total maximum annual saving	£977,900

In 2009 saving could be approximately £325,000
(because of closure at the end of August 2009)

But

- “Receiving” schools would need additional teaching staff and accommodation might be refurbished / remodelled.
- School supplies figures are per capita. Funding would “follow” the pupils to new school. Fixed costs element of the formula would be saved.

These factors would reduce the potential savings.

St. Andrew's Primary School

St. Andrew's pupils would be transferred to Forest, Castel and St. Martin's schools.

Current organisation: Castel 2/3-form entry, Forest 1-form entry, St. Martin's 3-form entry at 28 pupils per class

	R	1	2	3	4	5	6	TOTAL
Maximum Current Capacity	168	168	168	168	196	168	168	1204

Current Pupil Numbers (2008/09)

	R	1	2	3	4	5	6	TOTAL
Castel	45	43	51	45	55	52	57	348
Forest	27	22	16	23	26	20	28	162
St. Martin's	63	65	77	62	81	81	68	497
	135	130	144	130	162	153	153	1007
Spare Capacity	33	38	24	38	34	15	15	197
St. Andrew's Primary	19	27	17	24	19	17	27	150

The table above shows that there is capacity to absorb the St. Andrew's pupils in years R to 5 but Year 6 may require an increase in class size to 30 in 2008/09.

A full saving on teaching staff costs may not therefore be possible and provision may need to be made to retain at least two staff at a cost of approximately £100,000.

The schools' supplies funding for books and equipment for pupils would also be transferred to the receiving schools' budgets

The potential savings in a full year are therefore:

	£
Supplies and services (fixed costs elements only)	9,100
Premises	43,600
Staff Costs	455,500
	508,200

Savings in 2009 would be approximately £170,000 (1 term only)

St. Sampson's Infant School

St. Sampson's Infant school pupils could be transferred to Vale Infants School. Hautes Capelles and St. Mary and St. Michael Schools could also be used to accommodate some of the children.

Current organisation: Vale Infants 2 / 3-form entry, Hautes Capelles 3-form entry, St. Mary and St. Michael 1-form entry at 28 pupils per class

	R	1	2	TOTAL
Maximum Current Capacity	196	168	168	504

Current Pupil Numbers (2008/09)

	R	1	2	TOTAL
Vale Infants	48	43	48	139
Hautes Capelles	80	72	77	229
St Mary & St Michael	16	22	27	65
	144	137	152	433

Spare Capacity	52	31	16	71
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St. Sampson's Infant	24	21	17	62
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The table above indicates that there is spare capacity to absorb the St. Sampson's School pupils with no requirement for additional staff at the other three schools.

If all pupils were to be transferred to Vale Infants School and class sizes restricted to 24 pupils per class, additional staffing would be required. The school has the accommodation for 3 classes per year group.

	R	1	2	TOTAL
Vale Infants maximum capacity at 24 pupils per class	72	72	72	216
Vale Infants	48	43	48	139
Spare Capacity	24	29	24	77
St. Sampson's Infant	24	21	17	62

Two teachers would be required for the additional Year 1 and 2 classes, so the cost of two teachers (£100,000) would not be saved.

In addition the books and equipment budget per pupil would follow the pupils to their new school.

The potential net savings in a full year are therefore:

	£
Supplies and Services	9,100
Premises	14,900
Staff Costs	<u>227,800</u>
	<u>251,800</u>

Savings in 2009 would be approximately £84,000 (1 term only)

All other staff would be deployed into vacancies at other schools when appropriate, or lost to natural wastage (e.g. staff on short term housing licences, retirements etc.)

Option 2

Phased closure by stopping new admissions

Under this method pupil numbers would fall as follows

St. Andrew's Primary

	R	1	2	3	4	5	6	TOTAL
September 2008 (Actual)	19	27	17	24	19	17	27	150
September 2009 (Year 1)		19	27	17	24	19	17	123
September 2010 (Year 2)			19	27	17	24	19	106
September 2011 (Year 3)				19	27	17	24	87
September 2012 (Year 4)					19	27	17	63
September 2013 (Year 5)						19	27	46
September 2014 (Year 6)							19	19

St. Sampson's Infant

	R	1	2	TOTAL
September 2008 (Actual)	24	21	17	62
September 2009 (Year 1)		24	21	45
September 2010 (Year 2)			24	24

By this method, savings in the early years would be small as supplies and services and premises costs are likely to be unchanged.

In the first academic year (2009 / 10) savings on support staff costs are also likely to be small or non existent.

It may, however, be possible to save the cost of one teacher at each school i.e. £50,000 at each school in the academic year but, as with Option 1, this would depend on other schools being able to absorb additional pupils without the need to employ additional staff.

If staff reductions were possible, the savings in 2009, the first year, would only be £33,000.

The teaching staff establishment at the two schools under consideration for closing are:

St. Andrew's -	headteacher, deputy headteacher, 6.7(f.t.e.) class teachers
St. Sampson's Infant -	headteacher, deputy headteacher, 2.3(f.t.e.) class teachers

In each school, the deputy headteacher is also a class teacher. There is, therefore, one teacher per year group in each school with an additional 10% of support.

It should, therefore, follow that, if closure is to be achieved on a phased basis, a member of the teaching staff is "lost" each year with a saving of approximately £50,000 each year.

In year 2 (2010/11), it may also be possible to save one teaching assistant post as there will only be one Key Stage 1 year group in each school.

St. Andrew's School would still require the same level of administrative support and caretaking.

St. Sampson's Infant School would be left with just one year group of 24 pupils and it would not be economical to retain a school on such a basis. The implications of employing a headteacher, teacher and administrative support for such a small number of pupils would have to be considered. A phased closure on this basis would, therefore, mean a delay in full closure of just one year.

In year 3 (2011/12) at St. Andrew's School, the staffing could be reduced by a further teacher and a teaching assistant. The cleaner's post could also be saved. There could also be a reduction in variable staff costs. Premises costs and supplies and services would be unchanged.

In year 4 (2012/13) savings would be limited to a further teaching post and a small reduction in variable staff costs. Premises costs would be unlikely to fall significantly unless parts of the building could be isolated.

By year 5 (2013/13) there would only be two year groups left in the school and the viability of the running a school on this basis would need to be questioned.

Savings could, therefore, be achieved as follows if all pupils are absorbed into other schools without additional cost.

	Supplies and Services	Premises	Teaching Staff	Support Staff	Variable Staff Costs	Total	Saving
2008 / 09							
St. Andrew's	21,800	43,600	431,600	96,600	27,300	620,900	
St. Sampson's Infant	14,300	14,900	223,700	83,400	20,700	357,000	
	36,100	58,500	655,300	180,000	48,000	977,900	
Year 1 - 2009 / 10							
St. Andrew's	21,800	43,600	381,600	96,600	27,300	570,900	50,000
St. Sampson's Infant	14,300	14,900	173,700	83,400	20,700	307,000	50,000
	36,100	58,500	555,300	180,000	48,000	877,900	100,000
Year 2 - 2010 / 11							
St. Andrew's	21,800	43,600	331,600	80,600	27,300	504,900	116,000
St. Sampson's Infant						0	357,000
	21,800	43,600	331,600	80,600	27,300	504,900	473,000
Year 3 - 2011 / 12							
St. Andrew's	21,800	43,600	281,600	64,600	18,300	429,900	191,000
St. Sampson's Infant						0	357,000
	21,800	43,600	281,600	64,600	18,300	429,900	548,000
Year 3 - 2011 / 12							
St. Andrew's	21,800	43,600	231,600	48,600	13,300	358,900	262,000
St. Sampson's Infant						0	357,000
	21,800	43,600	231,600	48,600	13,300	358,900	619,000

All costs in this report are at 2008 prices and no account has been taken of potential severance costs. However, several staff are on short term housing licences.

4. Conclusions

- 4.1 The Task Group's conclusion was that there was sufficient surplus capacity in the primary sector to permit the closure of two schools: St. Andrew's Primary and St. Sampson's Infant.
- 4.2 Additional accommodation might need to be provided at Castel Primary School to compensate for the conversion of some classrooms to specialist rooms in order to accommodate the children from St. Andrew's. The St. Andrew's children would also disperse to St. Martin's and the Forest Schools, but extra accommodation would not be needed in those schools: rather a redefinition of catchment areas would be required.

- 4.3 The St. Sampson's Infant pupils would generally move to Vale Infants, with Hautes Capelles and St. Mary and St. Michael Schools also available to accommodate some children. There would be sufficient surplus capacity at Vale Infants School to allow St. Sampson's Infant School to close. It was not envisaged that additional accommodation would be required at any of these schools.

Other Rationalisation Models

- 4.4 Other schools had been assessed for closure in order to reduce the number of surplus places in the system. In particular, La Mare de Carteret Primary had been investigated for the following reasons:

- the high school and primary school on the La Mare de Carteret site are both scheduled for rebuilding. Closing the primary school would save approximately £15-20 million because there would be no need to rebuild the school
- the high school on the site needs more accommodation to increase its numbers as St. Peter Port Secondary finally closes. The primary school buildings could have been used for temporary additional accommodation until the new buildings were erected.

However,

- it is a 3-form entry school (although currently 2-form) and the loss of up to 588 places (21 classes x 28 pupils) would be much more difficult to redistribute.
- a 3-form entry school provides flexibility in its provision of the curriculum and the school has more extensive grounds on which to develop than either St. Andrew's or St. Sampson's
- the nurture group which has been established at the school is already having a beneficial impact on the surrounding community
- the implications of introducing some form of nursery education were being considered which meant some of the surplus places in the primary sector might not be available. The loss of up to 588 potential places compared with 280, were St. Andrew's and St. Sampson's to close, was too high a pupil capacity risk.

- 4.5 The Board concluded, for reasons of size, location and the effect on catchment areas, that La Mare de Carteret Primary School should not be considered for closure, but that St. Sampson's Infant and St. Andrew's Primary Schools **could** still be considered for closure because other schools would have space to

accommodate the children.

- 4.6 At this time, the Board was still reviewing the ways in which nursery education could be introduced being convinced of its educational benefit to the Island.
- 4.7 The introduction of some form of nursery education will require additional funding from the States as well as from savings made in other areas of Education, such as by reducing the number of surplus places in the primary sector.
- 4.8 In January 2008, the Education Board decided that until the nursery education report was produced (it was outlined in the Government Business Plan as being in the early Autumn of 2008) the Board would not be in a position to make a definite recommendation to the States on the closure of schools.
- 4.9 In September 2008 the new Education Board, having completed its review of the rationalisation of primary education and with sufficient information about how nursery education could be provided on the Island felt itself ready to recommend, by a majority, to the States that St. Andrew's Primary School remain open, but that St. Sampson's Infant School should close.
- 4.10 The headteachers of the three schools had met with the previous Board in January 2008. The headteachers of the two schools still under consideration of closure were invited by the present Board to meet with it for the heads to express their views. Meetings have also been held with the PTAs of both St. Sampson's Infant School and St. Andrew's Primary School and the president of the Vale Infants and Junior and St. Sampson's Infant School Committee. Correspondence was received from the president of the St. Andrew's Primary School Committee and from the Vale Infants and Junior and St. Sampson's Infant School Committee.
- 4.11 Although the three schools had originally been under consideration for closure: La Mare de Carteret Primary, St. Andrew's Primary and St. Sampson's Infant, the Department's awareness of current and future curriculum changes in the primary schools was recognised by the Board as meaning that more space was needed for specialist facilities, ICT areas, small group spaces and libraries, as well as facilities for the successful nurture groups, such as those already operating in some of the schools.
- 4.12 By a majority, the Board, therefore, decided that the impact which the closure of both St. Andrew's Primary and St. Sampson's Infant schools would have on catchment areas, and the need to give the primary schools more specialist spaces and to keep class sizes low where possible, meant that the closure of St. Andrew's Primary School would not be pursued.
- 4.13 The Board was very satisfied with the high standards of teaching and learning delivered by the dedicated staff at St. Sampson's. However, it was the only

remaining stand-alone infant school. It had the highest cost per pupil in the mainstream primary sector, and was higher than all but one of the secondary schools.

- 4.14 The Board, by a majority, concluded that there was merit in having a pre-11 system of schooling in which all children were educated in a 4-11 setting with the flexibility of more than one class per year group where possible.
- 4.15 The Education Department's policy to amalgamate infant and junior schools over the past 20 years has led to St. Martin's, Vauvert, Amherst and Hautes Capelles combining their infant and junior schools to become primary schools when headteachers have retired. The Department has, therefore, decided that, in time, Vale Infants and Junior Schools should unite under a single headteacher to become Vale Primary School.
- 4.16 The Board believes that the closure of St. Sampson's Infant School should not be regarded as a cut in service, but as a different and more efficient way of providing primary education in the north of the Island. Members, by a majority, believe that the recommendations demonstrate the Board's commitment to achieving best value.

5. Closure Model

- 5.1 The closure model approved by the Board as representing the most pragmatic and sensitive solution to the needs of pupils, parents and staff is as follows:
- 5.2 The majority of St. Sampson's Infant pupils currently transfer to Vale Juniors, and this will continue. To allow time for arrangements to be made, the recommended closure model is set out below:

September 2009

- Reception class pupils will no longer be admitted to St. Sampson's Infant School
- All reception age children who would have gone to St. Sampson's Infant School will be offered places at Vale Infants School
- St. Sampson's Infant School will remain open with its Year 1 and 2 pupils
- One teacher will transfer from St. Sampson's Infant to Vale Infants School

July 2010

- St. Sampson's Infant School will close

September 2010

- St. Sampson's Infant Year 2 pupils will transfer (as usual) to Vale Junior School
- St. Sampson's Infant Year 1 pupils will move as a single class with one of their teachers to Vale Infants School, a year in advance of their normal transfer date to Vale Junior School.

5.3 The space available at Vale Infants School will be sufficient to cope with the transfer of pupils from St. Sampson's.

6. Recommendations

6.1 The Education Department by a majority therefore recommends the States:

1. to approve the closure of St. Sampson's Infant School through the closure model as set out in this report;
2. to approve the Education Department's decision that St. Andrew's Primary School should remain open.

Yours faithfully

C A Steere
Minister

(NB Following careful consideration of this Report seven Members of the Policy Council do not support proposal 2 (ie to keep St Andrew's Primary School open), while two Members do support this proposal. The remaining two Members have reserved their views pending the States debate.)

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

The States are asked to decide:-

XV.- Whether, after consideration of the Report dated 28th November, 2008, of the Education Department, they are of the opinion:-

1. To approve the closure of St. Sampson's Infant School through the closure model as set out in that Report.
2. To approve the Education Department's decision that St. Andrew's Primary School should remain open.

HEALTH AND SOCIAL SERVICES DEPARTMENT

HOMES FOR ADULTS WITH A DISABILITY AND REPLACEMENT ADULT MENTAL HEALTH SERVICES

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

15th December 2008

Dear Sir

EXECUTIVE SUMMARY

1. Oberlands House provides accommodation for twelve adults with disabilities and has been operated by the Health and Social Services Department (HSSD) and, formerly, the Board of Health since the 1970's.
2. The facilities are now not fit for purpose. They do not comply with current best practice standards and the residents are ageing, which leads to the problems experienced by many older people, for example reduced mobility and higher dependency needs. The accommodation at Oberlands House is not suited to people with these needs.
3. Over the past twenty years, it has been HSSD policy to accommodate people with disabilities in smaller homes (for around 6 people) that are as much like 'normal' life, as far as possible. The Department owns and runs several homes of a domestic nature, whereas Oberlands House is institutionalised.
4. Oberlands House is on the site that has been identified for the development of replacement facilities for the adult mental health services, which are currently based at the Castel Hospital.
5. The Castel Hospital has provided mental health services in one form or another since shortly after World War II. Some twenty-five years ago, in the early 1980's, a report by the NHS Health Advisory Service (HAS) concluded that the Castel Hospital was not suitable for modern psychiatric practice and recommended that a future site for an acute admission unit should be within the Princess Elizabeth Hospital site.

6. In the mid 1990's, the former Board of Health embarked on its site development plan, the ethos of which was, and still is, to centralise acute clinical services on the Princess Elizabeth Hospital site and relocate those services currently on the Princess Elizabeth Hospital site that are more suited to less institutionalised care arrangements.
7. The Board of Health (later the HSSD) began to move services off the Castel Hospital site, in line with its site development plan, in 2004, when the continuing care units (Phase 6A) opened at La Corbinerie on the Princess Elizabeth Hospital site.
8. The HSSD proposes to develop three homes to accommodate adults with disabilities in purpose built units of accommodation on sites already owned by the Department and to relocate the adult mental health service from the Castel Hospital to new facilities on the current Oberlands House site at La Corbinerie (Phase 6B). Two of the homes would be to replace Oberlands House and the third to reduce the cost of off island placements and provide a service in Guernsey for some people who would otherwise have to go to the UK.
9. It is then proposed to release the Castel Hospital to the States for other purposes, or disposal.
10. It is estimated that the capital cost of providing the three units of accommodation for adult disability services is £5.6 million and the cost of relocating the mental health services, £26 million (costs based on information supplied in 2008).
11. The HSSD requests that the States note the deficiencies in the existing facilities for people with a learning disability and for mental health services. The HSSD also requests the States to note that, subject to the States giving a high priority to these developments during the planned debate on capital prioritisation in March 2009, the HSSD will return to the States thereafter with fully detailed and costed proposals, including the recommendation for contractors to be appointed to undertake the capital projects.

BACKGROUND

12. The Castel Hospital has provided mental health services in one form or another since shortly after World War II. Twenty-five years ago, in the early 1980's, a report by the NHS Health Advisory Service (HAS) concluded *'The Castel Hospital is not now suitable for modern psychiatric practice. In the short term, there should be an urgent programme of improvements in the long stay wards at the Castel Hospital, furnishings, decorations and sanitary arrangements. Mentally handicapped patients should be moved out of wards as a priority to community based accommodation. A future site for an acute admission unit should be within the Princess Elizabeth Hospital site. A range of services for the mentally ill should be developed in the community.'*

13. The Castel Hospital currently provides acute hospital facilities for adults with mental health problems in a twenty one bedded acute psychiatric ward, with supporting day centre, dementia day centre (The Meadows), out patient services, consulting rooms for psychiatrists and a base for the Community Mental Health Teams and the Community Drug and Alcohol Team, including care records storage.
14. Divette Ward, an assessment and respite ward for older people with mental health problems, was situated at the Castel Hospital until 2001, when it was relocated into temporary facilities in the Princess Elizabeth Hospital as an interim measure, prior to permanent facilities being provided in the planned second phase of building at La Corbinerie (Phase 6B).
15. Oberlands House currently accommodates adults with learning disabilities and has been in existence since the late 1970's when it was built to the standards of the day. In the intervening years, standards of service for people such as those who live in Oberlands House have changed and the HSSD has actively sought to accommodate this client group in more appropriate units, ie domestic houses.
16. In the mid 1990's, the former Board of Health embarked on its site development plan, the ethos of which was, and still is, to centralise acute clinical services on the Princess Elizabeth Hospital site and relocate those services currently on the Princess Elizabeth Hospital site that are more suited to less institutionalised care arrangements. A good example of this is the plan for mental health services, which, as described in the 1980 HAS report, should be located on the Princess Elizabeth Hospital site.
17. The Board of Health (later the HSSD) began to move services off the Castel Hospital site, in line with its site development plan, in 2004, when the continuing care units, known as Phase 6A, opened at La Corbinerie. This facility (three twenty bedded wards for older people with mental health problems) allowed the residents living in the main building and one ground floor ward of the Castel Hospital to be moved to purpose built facilities. This catered for the long stay residents of the hospital. In 2006, St Martin's Community Centre opened and the base for day services for people with a learning disability transferred from the Mignot Centre at La Corbinerie, which was unsuitable for the service users, being on three floors with no lift. The move of the day services base was partly to provide services in much improved facilities but it was also partly enabling work for the relocation of mental health services from the Castel Hospital site to La Corbinerie.
18. The HSSD's site development continued with the construction of John Henry Court (HSSD staff accommodation) and the redevelopment of the Mignot Memorial Hospital, in Alderney. This was followed by the replacement of clinical facilities, some of which are currently located at the King Edward VII Hospital and some at the Princess Elizabeth Hospital. The new clinical block, Phase 5, is now under construction and expected to be completed in late 2009.

19. It is the HSSD's desire to continue with its site development plan and ultimately vacate the Castel Hospital site, as this will allow services to be housed in appropriate accommodation and make best use of States resources. It will be more efficient in revenue requirements to have all acute services on one site and will release the capital asset of the Castel Hospital site.
20. The HSSD's site development plan also includes the relocation of Oberlands House (to make way for the relocation of mental health services). In a similar way to the provision of mental health services, the provision of services for people with a learning disability has changed over the years and the facilities at Oberlands House do not meet modern standards. Both the Castel Hospital and Oberlands House are no longer fit for purpose and to continue to use them is a disservice to vulnerable groups of the local population, ie those with severe mental health problems and older people who have a learning disability.
21. To this end, new facilities for adults with a disability who are currently residents of Oberlands House need to be provided in the community and the remaining mental health services in the Castel Hospital relocated to modern facilities at La Corbinerie.
22. The HSSD considers that these two projects are, in terms of need, entirely separate and justified in their own right. However, the two projects are part of the wider site development plan. Whilst important in its own right, the replacement of Oberlands House is also necessary as enabling works for the relocation of the mental health services from the Castel Hospital, so the re-provision of Oberlands House must be completed before construction on Phase 6B can start.

OUTLINE BUSINESS CASE

23. The HSSD's business case for these projects is submitted following the States approval, in principle, of its site development plan (Billets d'Etat IV, 1995, XV, 1999, XXI, 2003, XX, 2004 and XVII, 2006) and in line with its aims and objectives as described in the Government Business Plan (GBP), which was approved by the States in July and September, 2007.
24. Priority 8 of the GBP is to 'Provide the Best Value Healthcare for the Community.'
25. The Priority 8, Level 1 objective is:
 - *To pursue a strategy for health and social services which promotes the attainment and maintenance of optimum health and which supports and safeguards the vulnerable members of the community. This requires the direction of resources to those areas which provide the best return on investments.*

26. This level one objective leads to two level 2 objectives that are relevant to this proposal.
27. Priority 8, Level 2:
 - *Change the focus of caring for children and adults in institutions to caring for those same people in their own homes. This will reduce the need for more costly institutional care and treatment which will be reserved for those with the most complex needs.*
 - *Improve the range of diagnostic services which can be easily accessed and determine which diagnostic services can and should be provided most cost effectively on island within facilities which are fit for purpose.*
28. Each of these level 2 objectives has associated level 3 objectives, of which the following are relevant.
29. Priority 8, Level 3:
 - *Improve service delivery and co-ordination to reduce the need for residential care and /or the continuation of people not achieving their potential contribution to society;*
 - *Rationalise and improve services through the implementation of the HSSD site development plan to eliminate unnecessary expenditure caused by facilities which are sub-optimal and/or inappropriately sited;*
 - *Consider who is the most appropriate provider of services to ensure that public funding is used to best effect.*
30. These level 3 objectives, in turn, lead to seven level 4 objectives, namely:
 - *Develop community homes to allow the closure of Oberlands House;*
 - *Increase the provision of bedsits to meet need for adults with a disability;*
 - *Provide accommodation for adults with a disability and with challenging behaviour returning from the UK or moving from Children's placements;*
 - *Increase the level of services provided by the Community Mental Health Teams;*
 - *Relocate services from the Castel Hospital and expand them to meet increasing need.*
 - *Provide new development for adult mental health services.*

- *Review the mix of on island and off-island services to obtain best value for money.*
31. A considerable amount of progress has been made on the HSSD's site development plan, but there are still a number of major elements of the plan that remain to be completed. Some of the completed projects were enabling works for other elements of the site development plan, as well as being needed in their own right, e.g. St Martin's Community Centre - a base for day services - was part of the enabling work in preparation for Phase 6B, the relocation of adult mental health services.
 32. Other works undertaken as part of the wider HSSD site development plan include Phase 6A (the relocation of services for older people with mental health problems that were previously located at the Castel Hospital), the creation of a Magnetic Resonance Imaging (MRI) and Computer Tomography (CT) suite at the Princess Elizabeth Hospital, the redevelopment of the Mignot Memorial Hospital in Alderney and the replacement clinical block, known as Phase 5 of the Princess Elizabeth Hospital development.
 33. The proposal to develop replacement facilities for adult mental health services is inexorably linked to the proposal to develop units of accommodation for people with a learning disability who are currently resident in Oberlands House. The development of adult mental health facilities can only commence after the residents of Oberlands House have moved. Once both projects have been completed, the Castel Hospital site can be vacated, in its entirety, as the other services there will be relocated to space freed up as a result of the development of the clinical block at the Princess Elizabeth Hospital. This will be done in 2010 and will only leave the adult mental health service at the Castel Hospital, which will not be an efficient use of a large, valuable site.
 34. The alternative to providing facilities for people with a learning disability and people with mental illness would be to send them off island. This would involve twelve residents of Oberlands House, the seven prospective residents of the proposed new home and in excess of 400 in patient admissions and 18,000 out patient appointments for people who receive treatment for mental illness each year. As well as being more distressing for the people concerned, the cost of off island services would be approximately double the cost of providing local services.

HOMES FOR ADULTS WITH A DISABILITY

35. Vacating Oberlands House is a necessary step towards clearing the area of the Princess Elizabeth Hospital campus required for Phase 6B of the Site Development Plan to proceed and allow transfer of acute mental health services from the Castel Hospital. For this to happen, two new homes to accommodate a

total of twelve adults with a learning disability, who currently live at Oberlands House, need to be built.

36. Notwithstanding the importance of replacing the mental health facilities, Oberlands House itself is no longer fit for purpose. The residents are getting older; as well as having (in some cases severe) learning disabilities, they are also becoming more frail, which in turn leads to mobility problems, difficulty in moving around the building and increasingly impossible conditions for the staff to work in safely.
37. The design of Oberlands House does not lend itself to the care of the people who live there. The rooms are cramped, the interconnecting corridors are narrow and do not allow the easy movement of people in wheelchairs, there are slopes in the corridors which cause difficulties for people using walking frames (particularly when going down hill, as they can fall over the walking frame) and the building is becoming increasingly difficult and expensive to maintain. It does not meet the standards that the States decided should apply to private residential and nursing homes.
38. In addition, the HSSD spends a considerable amount of money on ‘off-island’ placements for people with learning disabilities. In 2007, the HSSD spent £2,020,897 on off-island placements for this client group alone. The issue of off-island placements was raised when the Public Accounts Committee (PAC) presented the National Audit Office (NAO) report entitled ‘Controlling Expenditure on Off-Island Placements’ to the States in 2005 (Billet d’État II, 2005). The summary of the main findings and recommendations in the NAO report concluded that “more should be done to reduce the number and cost of off-island placements”, and “developing facilities on island where justified on grounds of cost and better care”.
39. The HSSD is proposing the development of three units of accommodation for adults with disabilities, two of which are to replace Oberlands House and one to provide accommodation for people either currently in an off island placement or who will need such a placement if no local provision is made.
40. The proposal to build a further unit of accommodation, at the same time as building units of accommodation to replace Oberlands House, would allow for some of the clients who are either currently accommodated in the UK or coming through the system now and are likely to require off-island care to be catered for locally at less expense and in facilities appropriate to their needs.
41. Two properties have been purchased to provide accommodation for the replacement of Oberlands House, The Oaks at Baubigny, St Sampson’s, and Valderie at Rue Maze, St Martin’s. These properties were purchased with the intention that the HSSD develop them to accommodate the residents of Oberlands House. However, the site known as The Oaks appeared to be large enough to accommodate two units of accommodation. It was, therefore,

proposed to develop one unit to accommodate six of the residents from Oberlands House and a second unit either to accommodate seven people who are currently in residential accommodation in the UK or who would otherwise need to be sent to the UK at considerable expense, and therefore achieving the objectives cited in the Government Business Plan and in the PAC report in relation to off-island placements, as agreed by the States.

42. The original proposal has, however, been changed following consultation with the Environment Department on what development would be allowed on The Oaks site. The HSSD still wishes to build 3 homes for adults with disabilities but instead of building 2 homes at The Oaks, due to difficulties with site density etc, the Department is now exploring proposals to build the third home either on other land owned by the HSSD or to purchase a further property to develop.
43. It is still proposed to develop Valderie to accommodate the other six residents of Oberlands House.
44. Indicative costs for the proposals for two homes on The Oaks site and one on the Valderie site have been produced by States Property Services (SPS) in relation to construction costs and by the HSSD in terms of additional revenue required to operate the new homes, as summarised below:

		Capital	Revenue
Construction estimate	Valderie	£1,600,000	
	The Oaks	£1,900,000	
	New House	£2,100,000	
Additional Staffing			£560,000
Total:		£5,600,000	£560,000

45. Due to the diseconomies of scale of providing 24 hour care on two sites instead of one, six additional staff will be required to operate the two homes to replace Oberlands House and this will add £180,000 per annum to the HSSD's revenue costs. This sum has been factored into the Department's Operational Plan. Seventeen staff, at a cost of £380,000, will be required to support the third home and this has also been included in the HSSD's Operational Plan.
46. It is expected that, due to the modern design, new infrastructure and sustainable initiatives proposed in the building, the new facilities, although larger than the existing, will be cost neutral in terms of heat, light and power etc.
47. The potential savings in off-island costs need to be set against the additional revenue expenditure. The HSSD believes that the seven places available in the third home could all be taken up by clients either currently accommodated in the UK or by those coming through the system now and who will otherwise require off-island care. Taking the average cost of £150,000 per annum for each UK

placement, a seven-place unit would yield potential annual savings of £1,050,000. When the annual running costs of £380,000 for this home are deducted, it can be seen that there is a potential annual revenue saving of £670,000. It must be stressed, however, that this is a notional saving, as the £1,050,000 is not all in the HSSD's current budget.

48. It is the HSSD's preference to build two properties on The Oaks site, partly due to the reduced building costs for two homes being on one site. However, if it is not possible to build a second home on The Oaks site, or on other land already owned by the HSSD, the Department will need to purchase an additional property to accommodate the seven people currently accommodated in the UK or who will require off-island care in the near future. It is estimated that it could cost approximately £500,000 to purchase an additional property. The cost of developing the property to meet the needs of the people concerned would be approximately £2,100,000.
49. Should the States purchase another property to accommodate the seven off island service users, it may be possible to subdivide the property, if large enough, and sell part of it to help fund the development costs. At this time, this option is still being investigated.

REPLACEMENT ADULT MENTAL HEALTH SERVICES

50. The problems of the Castel Hospital are many and it has been the intention of the former Board of Health and subsequently the HSSD to relocate these services for many years. This process began with the relocation of residents of the long stay accommodation at the Castel Hospital to La Corbinerie (Phase 6A) in 2004.
51. As already quoted, in the early 1980's, a report by the NHS Health Advisory Service (HAS) concluded that the Castel Hospital was not suitable for modern psychiatric practice and recommended that a future site for an acute admission unit should be within the Princess Elizabeth Hospital site.
52. In 1998, the (then newly appointed) Director of Mental Health and Elderly Care Services wrote, *'The Castel Hospital is beginning to look very tired and is no longer an acceptable environment in which to provide modern day mental health care. We are pleased to hear that the redevelopment of the hospital is top priority of the President (of the Board of Health).'*
53. The inpatient accommodation at the Castel Hospital does not meet current standards for the care of people with mental health problems. The adult psychiatry ward (Albecq Ward) does not provide for any separation between the different types of patient in terms of their condition or gender. Although this ward has recently been refurbished, this was an interim measure intended to make the situation bearable until the ward could be relocated to the Princess Elizabeth Hospital site at La Corbinerie.

54. As well as in patient facilities, modern mental health care relies on a number of other arrangements, including a community focus. In line with this, the HSSD has developed three Community Mental Health Teams (CMHTs) which are based at the Castel Hospital. These teams consist of Community Psychiatric Nurses, Occupational Therapists, Social Workers and Psychologists and are each led by a Consultant Psychiatrist. The CMHTs are operating out of a former ward at the Castel Hospital where the facilities are not fit for purpose because they are too small, the layout is unsatisfactory, it is extremely difficult to see patients with any form of privacy and access for disabled people is very difficult.
55. The Castel Hospital also provides day services for mental health patients. The Day Centre building offers a range of services including psychotherapy, drama therapy, reflexology, art therapy, woodwork therapy and many more. There are approximately 60 attendees per day, Monday to Friday. The building is just capable of taking this number of people but cannot accommodate any more and demand is rising. Other outpatient services on the Castel Hospital site include a dementia day centre (The Meadows), the lithium (depot) clinic and consulting rooms for the psychologists and other professional staff. Again these facilities are not fit for purpose.
56. Divette Ward, an assessment and respite ward for people with mental health problems, was relocated from the Castel Hospital site to temporary facilities in the Princess Elizabeth Hospital as an interim measure until permanent facilities could be provided at La Corbinerie. It had to be moved because access to it was dangerous for frail and confused older people. The facilities at the Princess Elizabeth Hospital, whilst not dangerous, are, however, not ideal as the ward was not designed for people with dementia, so Divette Ward is to be moved into Phase 6B. This will also allow for an expansion of the service provided to meet the growing need that results from an ever increasing number of older people in the population.
57. In the original site development plan, it had been proposed that the Castel Hospital should continue to provide services for acute psychiatry and for older people with dementia. The intention was to provide the majority of patient accommodation on the ground floor, which would have been possible in accordance with the Health Building Notes (HBN) standards which were then applicable. However, current standards require more space, which cannot be provided cost effectively within the existing buildings even by using the whole of the first floor as well as the ground floor. The options, therefore, were to demolish part or all of the hospital and rebuild it, to adapt as much as possible and build new accommodation for some of the services or to replace the hospital completely.
58. After much consideration and debate, including advice from health professionals and other experts, the States agreed to the replacement of the hospital completely (Billet XV, 1999). The advantages of this proposal are to centralise acute clinical services on the Princess Elizabeth Hospital site, to reduce the stigma

associated with 'being in the Castel Hospital' and to provide modern, up to date facilities, including appropriate separation of adults with different mental illnesses, facilities suitable for mothers with post-natal depression and minimisation of the revenue costs of the service. A further advantage is that the Castel Hospital site (approximately 25 acres) will be freed up for other uses or for sale.

59. It is planned that Phase 6B will comprise a twenty-four bedded adult acute mental health ward, a twelve bed assessment and respite ward for older people with mental health problems, a psychiatric day hospital, and a social and therapeutic day centre, plus clinic and consulting room space and a base for the CMHTs, Community Drug and Alcohol Team, Cognitive Behaviour Therapists, psychologists and all the associated support services necessary to provide mental health care.
60. Over the past few years, there have been a number of key (UK) legislative changes that have had an effect on the Construction (Design and Management) Regulations, 2007 (CDM), fire regulations, the Disability Discrimination Act 2005, (DDA) and building regulations. The soon to be completed Mental Health (Bailiwick of Guernsey) Law will also require that certain arrangements are in place to undertake modern mental health treatments in the Island. It is noted that the CDM regulations and the DDA do not apply in Guernsey and the HSSD does not automatically adopt UK standards unless they are considered to be relevant to Guernsey. In this case, the CDM regulations are used as best practice in terms of design and construction of the building for the client group and the DDA will be used as best practice in terms of operational management of the facilities, as a number of the service users could have a range of physical impairments as well as mental health problems.
61. At a workshop organised by the Social Policy Group, held on 7 November 2008, attended by approximately 75% of States members, improving mental health services received twenty-seven individual votes and all seven 'table' votes as being a high priority for the States. It is clear, therefore, that the HSSD must respond to the view of the majority of States members that improvements to the mental health service are a fundamental part of the Social Policy Plan for Guernsey and Alderney.
62. Key to improving mental health services is the provision of adequate, modern, safe and up to date accommodation in which services can be provided.
63. In May 2008, the Health and Social Care Advisory Service (HASCAS) was commissioned to undertake an independent external review of the adult mental health service. This organisation was chosen as it was the successor to the former Health Advisory Service 2000 that had previously undertaken external reviews, as described in paragraphs 5, 12 and 51, above.

64. The HASCAS report notes that the level of stigma associated with the Castel Hospital is seen as a significant issue and regards the planned move to the Princess Elizabeth Hospital site as essential.
65. The HASCAS report states that, “The plan to re-locate Albecq Ward to the Princess Elizabeth Hospital should proceed as quickly as possible to overcome the difficulties service users have with the site and its connotations with the old asylum and the consequent stigma and the possibility of a lack of confidentiality due to the nature and history of the site.”
66. The main benefits of the proposed new facilities, compared to the existing premises at the Castel Hospital, can be summarised as follows:
 - segregation of sleeping and day areas to allow for separation, as necessary, of male and female patients and people with different types of mental health problems;
 - all facilities built to modern standards, thus providing a safe environment for the patients;
 - all bedrooms with en-suite facilities, thus improving privacy and dignity for the patients;
 - improved ‘extra care’ facilities, including well located control and observation bases, which may help to reduce the number or length of off island placements required;
 - provision of domestic skills and complementary therapies areas, which will help to facilitate an early and successful return to independent living;
 - improved clinic and outpatient facilities to allow for the ever increasing numbers of people needing these services;
 - ability to enhance the CMHTs’ services, which will help to maintain patients in the community
 - improved range of mental health services, e.g. Cognitive Behaviour Therapy, as provision of suitable accommodation allows enhanced services to be provided;
 - improved access for disabled people;
 - reduced stigma of mental illness;
 - improved staff working conditions, which will help the HSSD to recruit and retain staff;

- improved staff and patient security;
- improved use of mental health service staff. Due to the division of the mental health services over split service delivery sites, it is not possible to cross cover staff absences when necessary, which leads to increased overtime and use of locum or agency staff (mainly nurses);
- the Castel Hospital site will be vacated and available for other services or for sale.

67. Indicative costs for the replacement facilities for adult mental health services located at La Corbinerie have been produced by Edmond Shipway Ltd., the HSSD's appointed quantity surveyors, and are based on information available in June 2008. The costs, which include demolition of the existing buildings, construction of the new facilities, a budget for furniture, fittings and equipment, appropriate consultants and revenue requirements for the operation of the new facilities are as summarised below:

	Capital £	Revenue £
Works cost – Pre tender estimate	21,537,000	
Consultant fees	1,996,000	
Furniture, Fittings and Equipment	995,000	
IM&T	223,000	
Contingencies	667,000	
Additional staffing		475,000
Total	25,418,000	

68. Additional staffing numbers will be required for the new mental health facilities, primarily due to the increase in bed numbers and new services provided. Based on 1.4 whole time equivalent staff per bed, the Department requires 6 additional staff for the replacement assessment and respite ward. Additionally, the bed numbers of the acute mental health admission ward (currently Albecq Ward) will be increased from 21 to 24 and will require an additional 4.2 staff, based again on 1.4 whole time equivalent staff per bed. The Day Hospital, which is a new service, will require a further 8.8 additional staff, based on 5 places per day for 7 days per week. The result of this, however, should be a reduction in the demand on other services, such as off island placements and sickness and invalidity benefit.
69. It is expected that, due to the modern design, new infrastructure and sustainable initiatives proposed in the building, the new facilities, although larger than the existing, will be cost neutral in terms of heat, light and power etc.

PREVIOUS STATES DECISIONS RELATING TO THE HSSD'S SITE DEVELOPMENT PLAN

70. In 2003, (Billet d'État XXI) the States resolved (in summary):

- To note the progress made by the States Board of Health in implementing its site development plan since its last report on that matter in 1999.
 - To approve the States Board of Health's proposals for progressing with its site development plan, including the appointment of a design team and other consultants;
71. Following these resolutions, the Board of Health engaged a design team, consisting of Nightingale Associates (Architects), Gleeds Management Services (Project Managers), Edmond Shipway (Quantity Surveyors), Finchglow (Clerk of Works) and embarked on a detailed planning design process for Phases 5 and 6B, Phase 6A (the continuing care units at La Corbinerie) having been completed.
 72. In 2003, the initial designs for phase 6B, as produced by the Health Design and Development Group (part of the former Guernsey Technical Services), were noted by the States and subsequently, in 2004, updated by the design team.
 73. In Billet XX, 2004, the States noted that progress had been made in relation to the HSSD's site development plan in terms of the Child Development Centre at Le Rondin School, the States Analyst's Laboratory and Environmental Health Department, the 4th operating theatre and critical care unit at the Princess Elizabeth Hospital and additional car parking, also at the Princess Elizabeth Hospital.
 74. Billet XX, 2004 also identified other elements of the site development plan, which included progressing the development of group homes for people with a learning disability and the resolutions agreed by the States noted the progress made in implementing the site development plan.
 75. The revised design drawings for Phase 6B and the accommodation for people with a learning disability are attached as an appendix to this report.

PLANNING CONSIDERATIONS AND CONSULTATION WITH THE ENVIRONMENT DEPARTMENT

76. In respect of the replacement of the Castel Hospital at La Corbinerie, a number of meetings were held between officers of the Environment Department and the HSSD design team, at which concerns relating to the potential removal of some of the existing trees were discussed. It was proposed that a survey be carried out of these trees as it was considered that some may be affected by rot or decay. This survey has not yet been completed as Phase 5 (the Clinical Block) was prioritised ahead of Phase 6B. The design team's experience of the discussions relating to Phase 5 was that the Environment Department wished to maintain most of the trees, regardless of value, although, should serious decay be found, this would be different. Further discussion will, therefore, be required regarding

the relationship of the buildings and the trees, including the completion of a professional survey.

77. To comply with Environment Department advice, the proposed development has been restricted to the northwest of La Corbinerie site. The proposed plans will be for a mixture of new buildings and re-use of the existing Mignot Centre and former stable block. This complex of buildings is of historical and architectural significance, so the HSSD would wish to retain them but Oberlands House will need to be demolished. The former Mignot Centre and stable block can be re-used for the supporting facilities, e.g. the base for the Community Mental Health Teams, consulting rooms for the Consultant Psychiatrists and areas for secretarial support. Patient areas will be located in purpose designed facilities in the new buildings.
78. Following discussions with the Environment Department, it was agreed that the design team investigate refurbishing the current Civil Defence building and converting it into a replacement Day Centre. The rationale for this is that site density would be an issue if the replacement Day Centre required an additional new building on the site. This proposal would also save approximately £2million, as it is cheaper to convert the existing building than it would be to build new.
79. This proposal was discussed with officers of the Home Department who currently use the building. Officers of the Home Department advised that the Home Department wished to relocate their services to alternate facilities and they saw no reason why this would not be achieved within the timescale proposed for Phase 6B.
80. The HSSD submitted plans to the Environment Department for two units of accommodation on The Oaks site in July, 2007. Officers of the Environment Department advised that the development was unlikely to be approved due to site density issues. Alternative proposals were drawn up with the aid of SPS. Part of the discussions with SPS involved closer liaison with officers of the Environment Department and initial indications suggested that the Environment Department was content with the design for the two properties on The Oaks site.
81. Unfortunately, the HSSD has recently been advised by SPS that, whilst it appeared that discussions with the Environment Department officers were indicating that approval would be given for two units of accommodation on The Oaks site, this is now not the case and the HSSD is, therefore, having to reconsider the options available.
82. In principle planning permission has already been obtained for the proposed building on the Valderie site and for one property on The Oaks site. These would be sufficient for the replacement of Oberlands House but would not allow the HSSD to contain expenditure on off island placements.

HOW THE PROPOSALS WERE PRODUCED

83. The HSSD's site development plan has been in existence since the mid 1990's and Phase 6B of the HSSD's development is a continuation of the plan first approved by the States in 1995.
84. The original design for the replacement adult mental health services proposal was undertaken by the Health Design and Development Group (HDDG) (part of the former States Technical Services) in consultation with staff and management of the mental health services. In 2003, Nightingale Associates and Gleeds Management Services (architects and project managers respectively) were appointed by the Board of Health to take a number of elements of the site development plan forward, Phase 6B being one of these.
85. Following detailed design and development stages being completed, with involvement from the staff of the mental health services, the HSSD approved a design solution for replacement mental health facilities on La Corbinerie site. In 2005, these plans were put on hold as Phase 5 (the replacement clinical block) was the priority in terms of development at the time. This was not because the clinical block was seen as a higher priority in service terms but because the site for this was already available, whereas Phase 6B could not proceed until the residents of Oberlands House could be found alternative accommodation.
86. When it became known that the States prioritisation process was being implemented, the agreed design was reviewed in house and tested to ensure it was still fit for purpose. Following this review, a number of changes in relation to standards of care etc have been identified and will need to be considered and minor changes made to the plans. However, the concept is still valid and the need just as urgent.
87. The proposals to develop homes for adults with a learning disability have been produced with the assistance of the staff of the Project Services section of SPS who have, in conjunction with staff of the HSSD, produced sketch plans of the three proposed homes and given indicative figures for construction costs. The staff of SPS have consulted at staff level with the Environment Department to ensure the plans meet that department's criteria but, as mentioned in the previous section, there appears to be an issue in respect of the proposals for The Oaks site and further discussions are now underway.

CAPITAL PRIORITISATION PROCESS

88. In the December 2007 Budget Report, it was stated that "During the latter part of 2008, a further capital prioritisation process will be undertaken which will identify those projects which should be progressed during the period up to 2012 (ie during the life of the next House)." The Treasury and Resources Department has now decided to submit a States Report for consideration at the March 2009 States meeting.

89. The HSSD is committed to following this process and proposals to develop homes for adults with a learning disability and relocate mental health services were subject to the Strategic Review process and were both evaluated as priority 1.

PROJECT MANAGEMENT

90. The HSSD has a Project Board established for the Phase 5 project and, previously, for the redevelopment of the Mignot Memorial Hospital in Alderney. The Department is used to managing projects through a Project Board and proposes to do so for these projects.
91. In relation to the replacement of the mental health facilities, the HSSD has engaged a professional design team which includes project management consultants in conjunction with the (small) in house team.
92. Department officers and the Design Team have a well established system of managing projects.
93. In relation to the homes for people with learning disabilities, SPS intend to provide the design team element, including a project manager, quantity surveyor, architect and clerk of works. The HSSD's in house team will work with SPS's team on these projects.

CONTRACT PROCUREMENT

94. Alternative procurement options have been evaluated by the Design Team, including Traditional (Bill of Quantities, Specification & Drawings), Design and Build, and Management Contract routes.
95. The main benefits from the Design and Build route, where a contractor could influence design and buildability to achieve cost efficiencies, could not be realised on this project. By necessity, the design brief is very specific in respect of room layouts and equipment and the proposed location is on an extremely tight site. In addition, the negotiations with the Environment Department have resulted in a fully designed solution. Consequently, the opportunity for any contractor design input, other than to reduce quality of materials or finishes, was considered minimal.
96. Management Contracting provides benefits in the overall improvement to a project programme where time is of the essence, but at the detriment of having to proceed with the contract works to a budget cost only, with actual costs being established as works progress.
97. Having fully designed the building, both to address the brief and to resolve the third party issues, the Traditional Specification and Drawings procurement route

will, therefore, be followed, as the client maintains control on quality issues whilst at the same time maximising contractor interest and hence competition.

98. The works will, therefore, be fully designed, with Bills of Quantities produced to identify construction rates for accurate control of cost movement throughout the project.
99. The contracts will be the same as the Phase 5 contract, ie JCT 1998 Edition with Guernsey Amendments or possibly JCT 2005 with Guernsey Amendments.
100. The homes for people with a learning disability are, essentially, domestic dwelling houses and the replacement mental health facilities are not as complex, in building terms, as Phase 5, so both could be undertaken by local contractors.
101. However, there may be suppliers and construction companies that could work in partnership with, or provide sub-contract support to, the main contractor. It is, however, important that sub-contractors are not nominated to the main contractor (such that the client becomes liable for any shortcomings in performance). It will be the intention of the Design Team to compile a directory of any potential local suppliers and sub-contract construction companies which can be supplied with the tender information. Tendering Main Contractors can then select any support that they may require and enter into negotiations with these Island-based companies.
102. Any local or UK main contractors with the relevant experience will be permitted to tender. As the project is in Guernsey, it would not need to be advertised in accordance with OJEU (Official Journal of the European Union) requirements. If used, the requirements of the OJEU process are strictly procedural and can be constraining. In particular, the first notices have to be issued many months prior to the intended award date.
103. As these projects are not considered to be overly complex, an alternative to this process is proposed in that the Project Board will place advertisements locally inviting contractors to submit pre-qualification documentation. The Board will then select from the submissions (using established evaluation criteria) an appropriate number of contractors to tender the works.

PROGRAMME AND FUNDING SENSITIVITY

104. As stated earlier, the HSSD's site development plan has been in existence since the mid 1990's. The most recent element of the site development plan is the construction of the new clinical block on the Princess Elizabeth Hospital site. This development is expected to be complete in late 2009, following which the Department will commission and occupy the building. This is a very complex and time consuming process, which is unlikely to be completed until early 2010.

105. The HSSD does not have sufficient resources to manage two projects the size of Phases 5 and 6B at the same time. However, the provision of what are essentially domestic dwelling houses to provide facilities for the replacement of Oberlands House and either to accommodate adults returning from placements in the UK, or prevent them from going to such placements, can be undertaken concurrently with the latter stages of the Phase 5 development.
106. The Department estimates that these three properties could be developed from mid 2009 with a build duration of twelve to eighteen months (for all three). This would allow Phase 6B, replacement of acute mental health facilities, to begin in mid to late 2011.
107. In addition, the timing and cost of these developments may 'fit' with the projected States funding availability, ie the HSSD would be looking for the capital to undertake the construction of the three homes for people with a learning disability in 2009, and for Phase 6B towards the end of the term of the current Assembly. The amount of funding required for the homes for the adult disability service is of a level that may be available sooner and would continue to benefit the local building industry, particularly in the current financial climate. Neither project would necessarily require UK construction companies to undertake the work.
108. As there will be no income stream from the proposed projects, the only realistic funding option is from the capital reserve, albeit with the potential for a retrospective contribution towards the cost from the sale of the Castel Hospital site.

RELEASE OF THE CASTEL HOSPITAL SITE

109. The Castel Hospital is located on a site of approximately 25 acres. Once the mental health services have moved to the new accommodation at La Corbinerie, this large and valuable site will become available for other uses.
110. At this time, the Castel Hospital is not a listed building. However, it is the understanding of the HSSD that the façade of the main building has the potential to be listed and that this is likely to happen.
111. Whilst it is not for the HSSD to decide what to do with the site, it is aware that there are a number of options. The two options that it considers have merit are:
 - sell the site and use the resultant proceeds to part fund replacement facilities, or;
 - use the site for another States service, thus releasing another site for disposal or other uses or to save the expense of having to purchase another site.

112. The Department accepts that it is not its remit to decide on the Castel Hospital site's future, but it does believe the options above should be considered as additional benefits that will result from proceeding as soon as possible with the relocation of the acute mental health services.

RECOMMENDATIONS

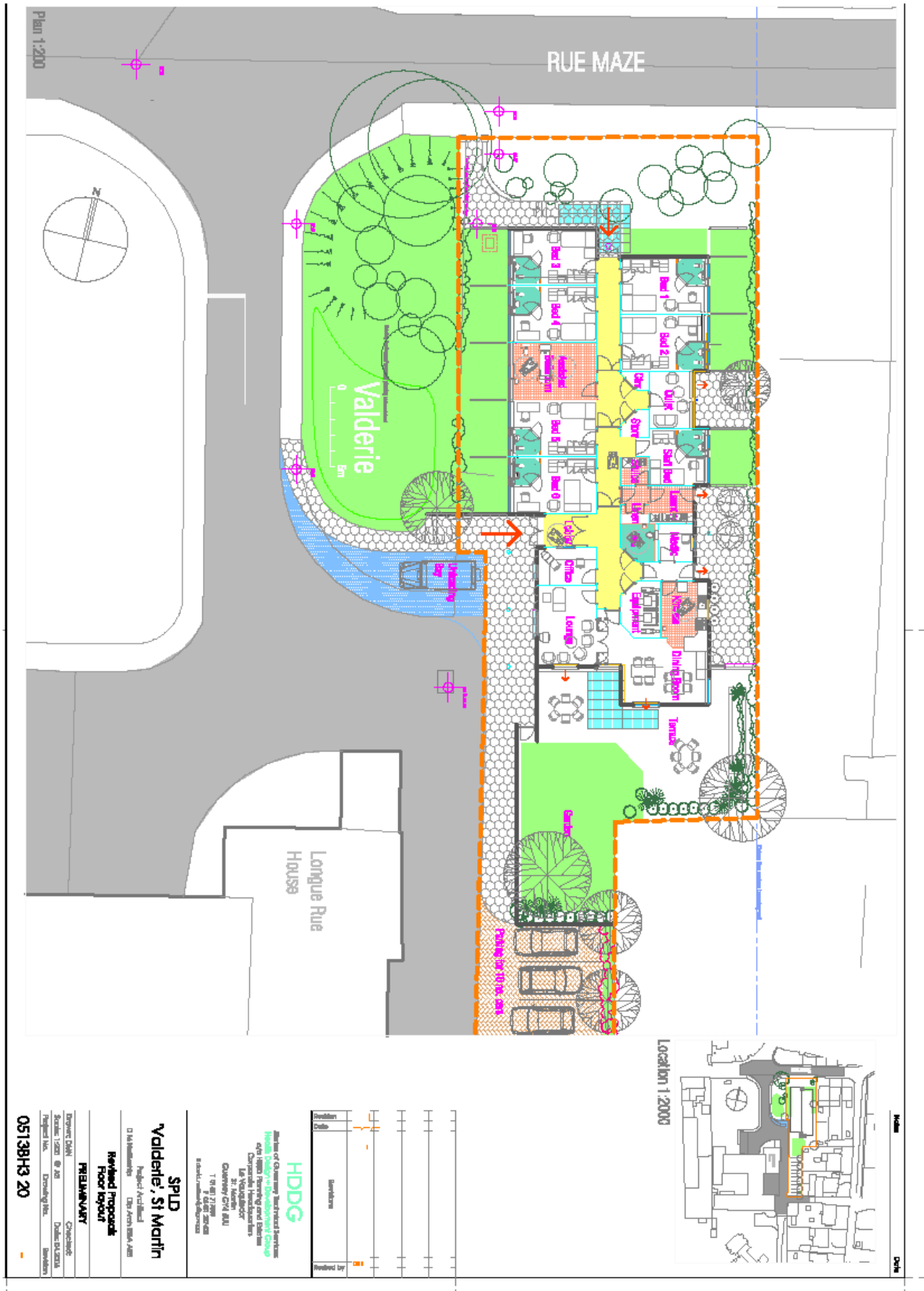
113. The Health and Social Services Department recommends the States:
- a) To note the Health and Social Services Department's concerns about the inadequate facilities for people with a learning disability at Oberlands House and for mental health services at the Castel Hospital and the Department's proposals to remedy these deficiencies in its services.
 - b) To note that, subject to the Health and Social Services Department's proposals being supported as a high priority by the States during the planned capital prioritisation debate, the Health and Social Services Department will return to the States thereafter with detailed proposals for these capital projects, including a recommendation for contractors to be appointed and a request for capital votes to be established.

Yours faithfully

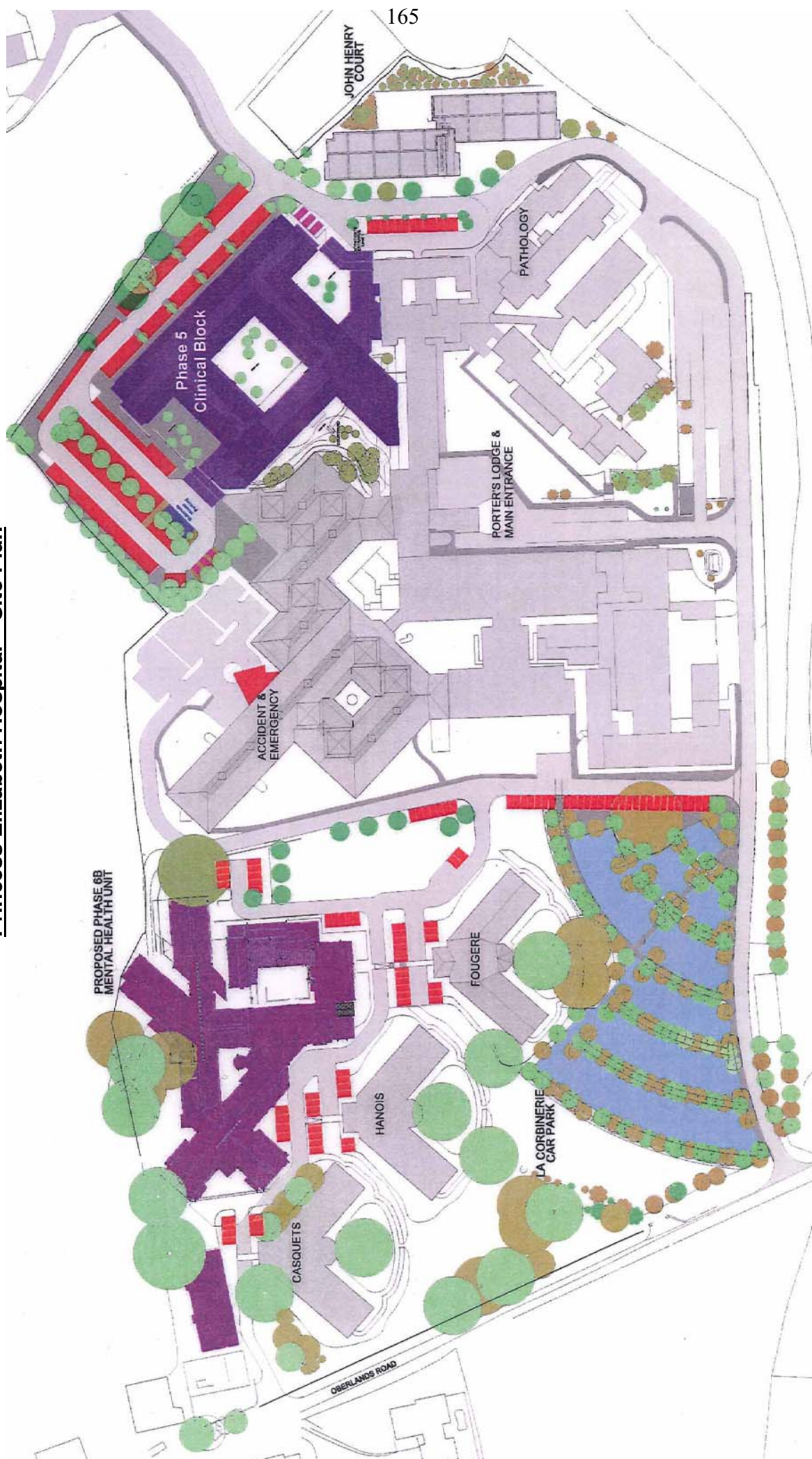
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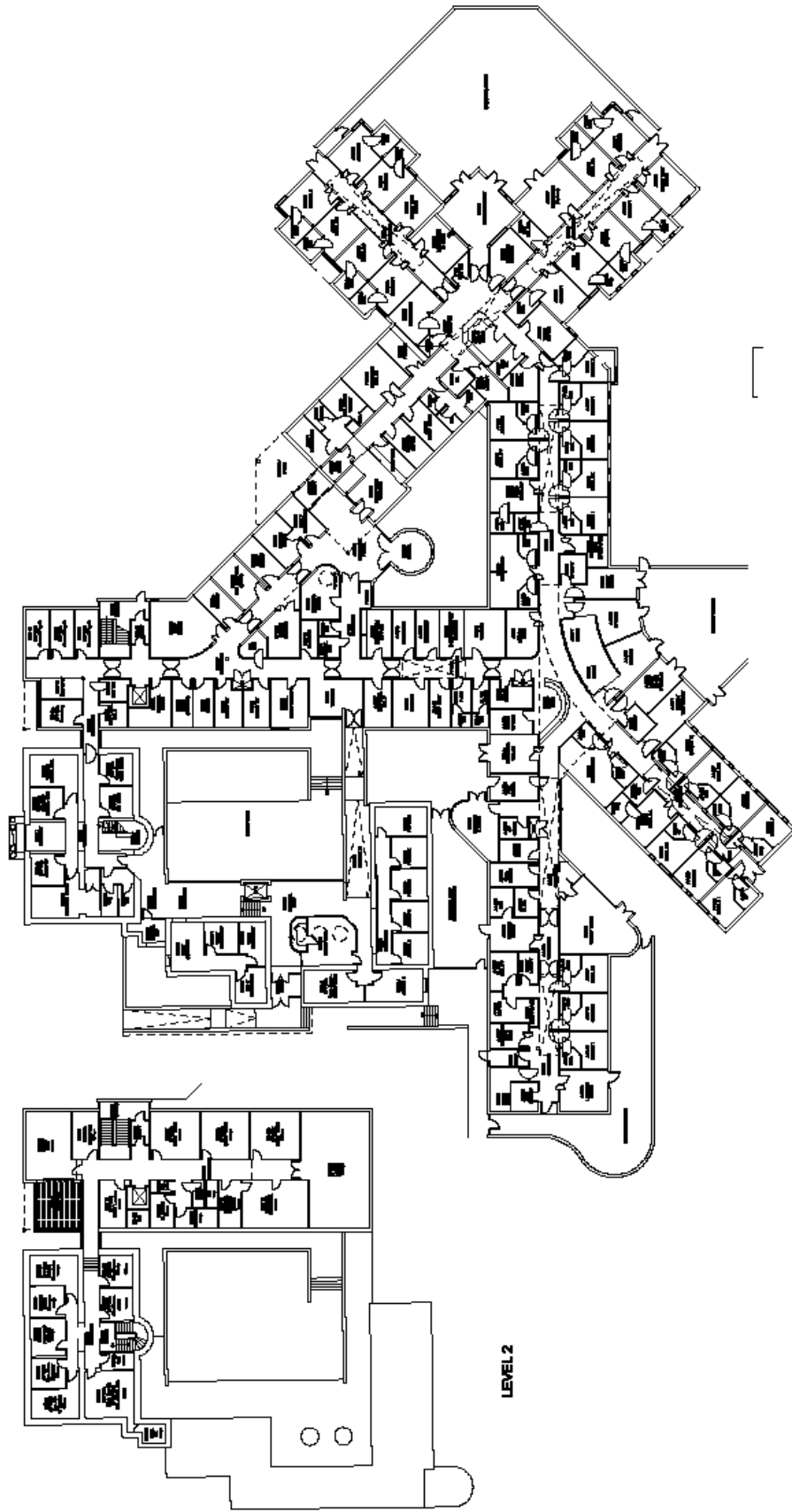




Princess Elizabeth Hospital – Site Plan



Phase 6B – Plan View

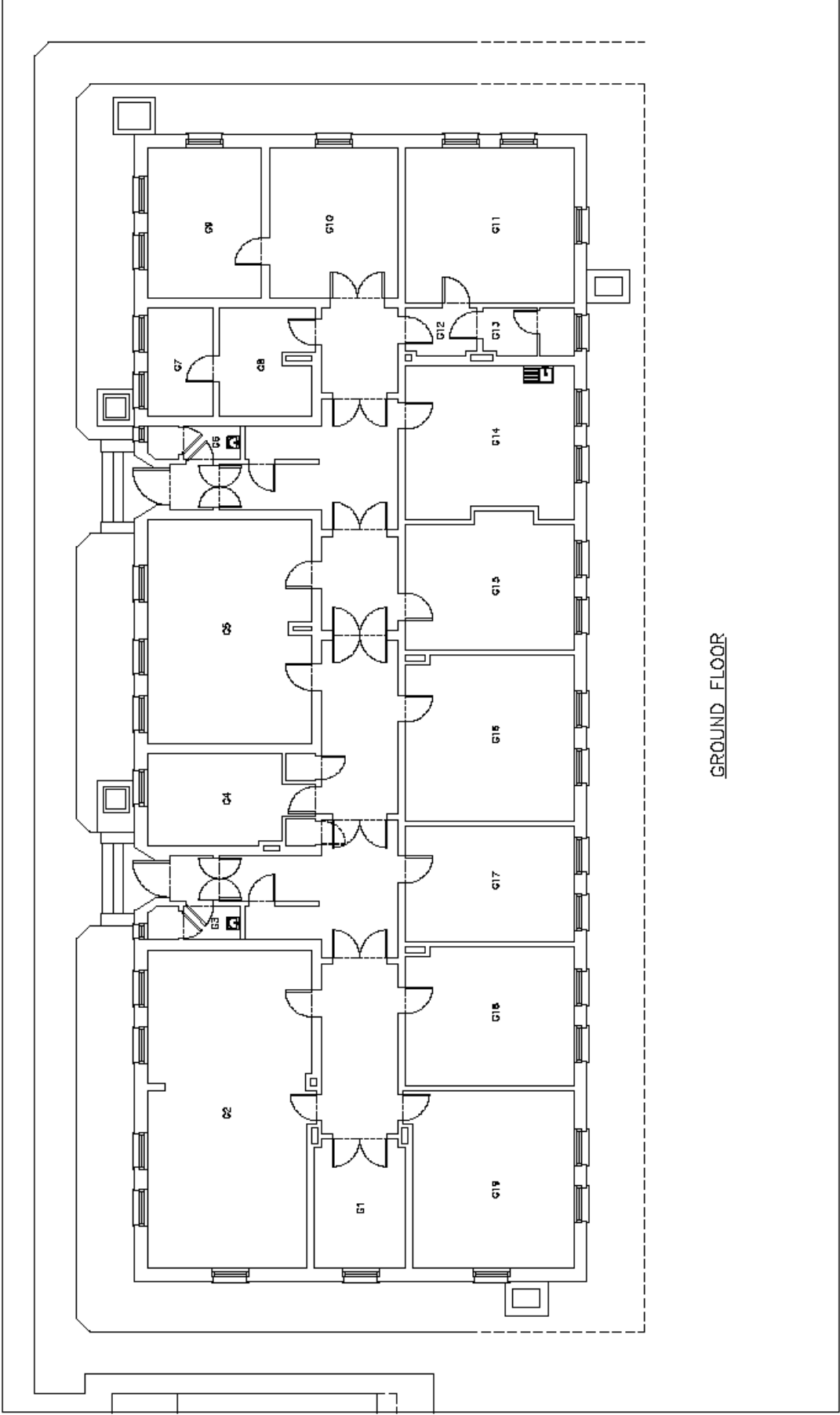


LEVEL 1

LEVEL 2

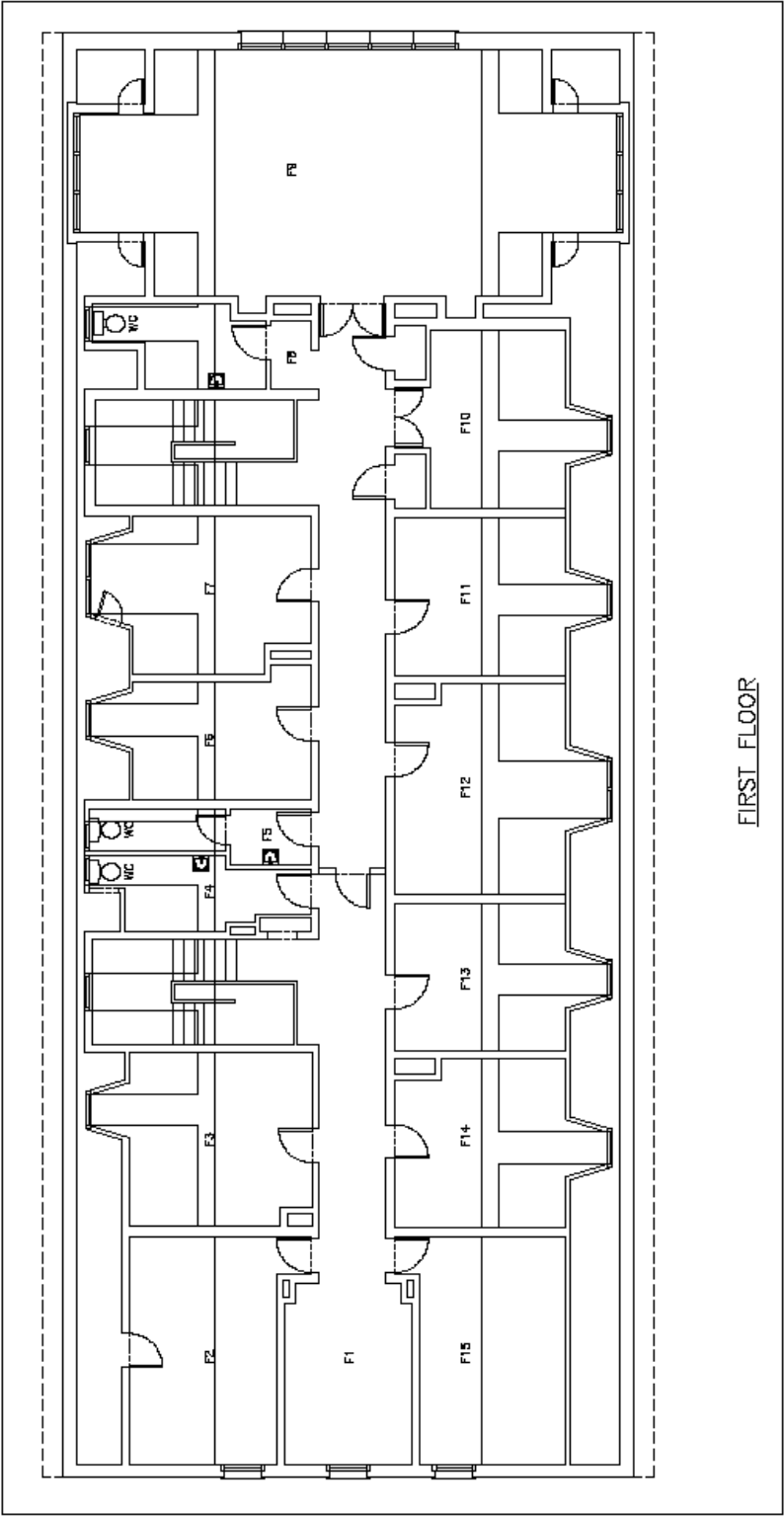
HIGHINGDALE		Project Name	Phase 6B
Architect		Client	Highingdale Health Services
Architect		Project Manager	John Doe
Architect		Project Engineer	Jane Smith
Architect		Project Designer	Mike Johnson
Architect		Project Architect	Sarah Lee
Architect		Project Architect	David Kim
Architect		Project Architect	Emily White
Architect		Project Architect	Frank Green
Architect		Project Architect	Grace Brown
Architect		Project Architect	Henry Black
Architect		Project Architect	Ivy Gray
Architect		Project Architect	Jack Blue
Architect		Project Architect	Karen Red
Architect		Project Architect	Leo Yellow
Architect		Project Architect	Mia Purple
Architect		Project Architect	Noah Pink
Architect		Project Architect	Olivia Orange
Architect		Project Architect	Peter Silver
Architect		Project Architect	Quinn Gold
Architect		Project Architect	Rachel Bronze
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Architect		Project Architect	Xavier Peridot

Day Centre – Ground Floor Plan



GROUND FLOOR

Day Centre – First Floor Plan



(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:-

XVI.- Whether, after consideration of the Report dated 15th December, 2008, of the Health and Social Services Department, they are of the opinion:-

1. To note the Health and Social Services Department's concerns about the inadequate facilities for people with a learning disability at Oberlands House and for mental health services at the Castel Hospital and the Department's proposals to remedy these deficiencies in its services.
2. To note that, subject to the Health and Social Services Department's proposals being supported as a high priority by the States during the planned capital prioritisation debate, the Health and Social Services Department will return to the States thereafter with detailed proposals for these capital projects, including a recommendation for contractors to be appointed and a request for capital votes to be established.

PUBLIC ACCOUNTS COMMITTEE

SAFEGUARDING GUERNSEY'S HERITAGE ASSETS

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

5th December 2008

Dear Sir

1. Executive Summary

- 1.1 The Public Accounts Committee (the Committee) commissioned a review to ensure that Guernsey's heritage assets are safeguarded for future generations of the Island and that best value is achieved.
- 1.2 During the review, the States published its government business plan which endorsed preserving, enhancing and promoting the cultural heritage of Guernsey and strengthened the importance and appropriateness of carrying out the review.
- 1.3 The Committee believes that the fragmented responsibility of caring for the Island's heritage based on historical precedent has resulted in no single organisation driving the corporate vision forward or considering alternatives, such as a single States department, commission or trust, to safeguard the Island's heritage assets which could result in efficiency savings and greater accountability.
- 1.4 Although there were a number of specialised strategies for specific areas of heritage assets, there was no clear overarching corporate strategy for managing and conserving them.
- 1.5 **The appended review's overall conclusion was that Guernsey's heritage assets are not being sufficiently well safeguarded by the States of Guernsey.**
- 1.6 The Committee endorses this conclusion and the Culture and Leisure Department accepts that it is not able to protect the Island's heritage assets as well as it would like to whilst it has an incomplete central record of items collected in the past, inadequate storage facilities and restrictive acquisition and disposal policies in accordance with UK Museums Associations' expectations, the latter adding to the storage problems.
- 1.7 The Culture and Leisure Department has put clear proposals forward for purpose-built storage facilities which, if approved by the States, will address

many of the weaknesses identified by the review. Greater protection for stored assets will be achieved, through improved care and conservation of heritage assets relevant to the Island, with greater accessibility to view and display them. Culture and Leisure Department initiatives to encourage greater utilisation of heritage sites have already been tried and tested with some success.

- 1.8 In commissioning this review the Committee is highlighting the fact that unless appropriate action is taken soon, some of Guernsey's heritage assets may be lost through dereliction and neglect. The future is in the hands of the States Assembly and by supporting the recommendations of the review and this report, Guernsey can address the issues corporately to preserve and protect its heritage for the enjoyment of future generations.

2. Background

- 2.1 The Committee is mandated to examine whether public funds have been applied for the purposes intended by the States and to ensure that extravagance and waste are eradicated. To achieve this, the Committee commissions third parties to carry out reviews to ensure that the States of Guernsey achieves value for money.
- 2.2 In 2006 the Committee considered its programme of work and looked back at the type of areas reviewed during its first two years. Although a variety of reviews had been carried out, the Committee considered that it required further experience on specific value for money reviews.
- 2.3 Upon being subsumed by the Committee in 2004, the former Audit Commission handed over a list of topics of outstanding items, heritage assets being one of the listed items. At that time the Commission was concerned that States funds were tied up in real estate storing heritage assets that were insecure and poorly maintained, whilst the artefacts were deteriorating.
- 2.4 As part of the contract with the States of Guernsey to provide value for money reviews, the NAO was commissioned to carry out a review on Guernsey's heritage assets. This work commenced in 2006 and was completed in September 2007.
- 2.5 The Chief Officers and their supporting staff of the main two departments involved (the Culture and Leisure and Treasury and Resources Departments) were questioned on the contents of the NAO report at a hearing in August 2008. This report is based on the original NAO report, together with evidence gathered through the hearing, subsequently provided or independently researched.

3. Guernsey's Stated Priority for Heritage

- 3.1 Co-incidentally as the review progressed, the States of Guernsey published its

Government Business Plan for 2007¹, setting out eight key themes of the corporate agenda and identifying the States Priorities, one of which was a fundamental priority to assert Guernsey's independent identity:

Figure 1

“Cultural identity

Preserve, promote and uphold the values and physical elements that reflect the Bailiwick's unique cultural identity.”

Source: Billet XIX, 13 December 2006, page 2287, Priority 1, Level 2

- 3.2 By July 2007 the political priority had been amended and became:

Figure 2

“Cultural Heritage

Preserve, enhance and promote those things which the community values, and which reflect the Bailiwick's unique cultural identity and rich heritage”

Source: Billet D'Etat XVIII, 25 July 2007, page 1349, Priority 1, Level 2.

- 3.3 The States Assembly then approved the following work streams for the Culture and Leisure Department as:

Figure 3

“Increase awareness, protection and continued development of Guernsey's identity and differentiation, as expressed through the built environment and other physical elements of the island.

....

- b) Ensure that the island's museum and art collections are protected through proper storage and conservation, methods and policies.
- c) Improve the use, protection and interpretation of historic sites and buildings, with particular reference to more recent history.
- d) Protect the Bailiwick's marine archaeological sites and materials from natural and manmade erosive elements and investigate how best to display the artefacts.....”

Source: Billet D'Etat XVIII, 25 July 2007, page 1354, Priority 1, Level 4

- 3.4 In its Operational Plan, appended to the same Billet, the Culture and Leisure Department indicated that it would ‘preserve the old whilst absorbing the new’²
- 3.5 In 2006 the States of Guernsey also approved the Strategic Land Use Plan which included Strategic Objective 9 Plan:

¹ Billet D'Etat XIX, 13 December 2006, Government Business Plan (Policy and Resource Plan 2007)

² Billet D'Etat XVIII, 25 July 2007, Government Business Plan, Appendix III, page 41

Figure 4**“Strategic Objective 9**

To conserve and enhance the built environment and safeguard the cultural heritage”

Source: Billet D’Etat XIX, 13 December 2006, page 2321

- 3.6 Based on the 2006 set policies and strategies, and in accordance with taking the policy as read and reviewing whether it has been applied, the NAO reviewed whether Guernsey’s heritage assets were adequately safeguarded, and defined an heritage asset as:

Figure 5

“a man-made or collected object or a man-made structure of historic or cultural interest, which is owned or cared for by the States of Guernsey”.

Source: NAO Report on Safeguarding Guernsey’s heritage assets, page 4.

- 3.7 In November 2007³ the States property rationalisation report recommended the disposal of surplus properties, some of historic importance, listing Vale Mill, Fort Richmond and Nelson Place. As the appended NAO report was already available and in order to be open and transparent and not withhold information from States members, the Committee distributed it to States members and interested bodies inviting comment. Responses were limited as indicated in Appendix Two, where more details are provided.
- 3.8 **The Committee believes that the States, having identified Guernsey’s heritage as a priority for the Government Business Plan, should support efforts to improve and retain its cultural history in order to achieve its corporate aims, by providing adequate financial, staff and structural resources. If the States is unable to support the priority due to other corporate or departmental demands on its resources, then the priority should be revisited.**
- 4. The responsibility for Guernsey’s heritage assets is fragmented.**
- 4.1 There is no single Department with responsibility for all of Guernsey’s heritage assets. The lead Department is the Culture and Leisure Department which has responsibility for museums and galleries, historic sites and buildings. A full list of the heritage assets in its care is provided in the NAO report on page 12 in figures 4 and 5. The Treasury and Resources Department has responsibility for 96 heritage sites – including fortresses, mills and many that are used on a daily basis, such as the Royal Court Building.
- 4.2 A considerable number of other States bodies also have responsibility for some heritage assets, such as the Environment Department, Island Archives, Priaulx

³ Billet D’Etat XXIV, 28 November 2007 States Property Rationalisation

Library, Public Services Department, Royal Court and Government House. However, the responsibility of the Environment Department goes further as it records a list of protected buildings whether in the private or public sector. The law to protect these buildings is being strengthened to allow the Department to impose repair to properties on the list.

- 4.3 There must be efficient, effective and economic benefits if the States heritage assets are dealt with by one organisation, whether from reducing duplication of effort and/or bringing together knowledge and experience. The Committee is aware that a more corporate approach is being taken with staff appointed to advise all departments on heritage assets, but more could be done to promote efficiencies and to ensure greater accountability.
- 4.4 In its report the NAO indicated that Jersey and the Isle of Man, have set up independent organisations, funded by government grant and other sources, to be responsible for island assets; with the latter receiving much accolade internationally. It also recommended this as the way forward for Guernsey while recognising and noting the higher level of resources provided by government to those organisations.
- 4.5 The Culture and Leisure Department has indicated that it would be happy to investigate the feasibility of creating a trust or commission in Guernsey once the new storage facilities described above have been provided. It will present its findings and proposals to the States.
- 4.6 **The Committee considers that in order to achieve the corporate aim of protecting Guernsey's heritage, responsibility for heritage assets should be less fragmented and possibly rest with a non-States organisation or trust similar to the Guernsey's Sports and Arts Commissions, already successfully promoted by the Culture and Leisure Department. The Committee believes that in order to secure Guernsey's heritage, this should be considered as soon as practicable.**

5 Guernsey's heritage assets are not being managed and cared for adequately

- 5.1 Although this is the first stated priority of the States of Guernsey in the Government Business Plan, there is no overall Island strategy for managing heritage assets. The Culture and Leisure Department has a strategy for its museums service and, with the Environment and Treasury and Resources Departments, a strategy for States Historic Sites in their care. At the time of the review in 2007, other organisations had no strategies in these areas.
- 5.2 **The Committee is of the opinion that whilst responsibility and accountability for heritage assets is dispersed between government departments and organisations it is vital that an overarching strategy, applicable to all, is drawn up. Such strategy would set out the States objectives and priorities for the future and lead to the preservation of Guernsey's heritage.**

- 5.3 The NAO identified that there were incomplete records of heritage assets held, storage was poor and inadequate, that accepting and disposal criteria should be clearly stated and conservation and maintenance should be better planned⁴. The reluctance to reject offers of items and dispose of others is a common theme to most museums^{5 6 7} as it is difficult to reject gifts which have been offered and legacies bequeathed. Such issues also challenge the professional ethics of members of the Museums Association⁸. Storing items with no other reason than they belonged to a Guernsey person places demands on limited storage facilities, financial and staff resources.
- 5.4 The Culture and Leisure Department has publicised in the media its poor storage facilities. Items given, purchased or lent are deteriorating whilst stored in totally unsuitable and cramped accommodation. Furthermore whilst using inadequate stores, the building already identified for possible disposal through the States Property Rationalisation programme, cannot be sold.
- 5.5 **The Committee believes that whilst artefacts, works of arts etc, are stored in inadequate facilities the heritage of this Island is not being preserved and the States is not meeting its corporate aims.**
- 5.6 The Culture and Leisure Department has applied for capital funding to enable the storage of heritage assets in a fit for purpose building. This will be considered as part of the capital prioritisation proposals being put before the States in March 2009. **Should the States of Guernsey approve the construction of the purpose built building not only will a number of buildings be released for other use or disposal, but also heritage assets will be safeguarded for future generations. Furthermore there will be the opportunity to ensure that only relevant items of cultural interest to Guernsey are preserved and recorded in accordance with the Island's strategy, as proposed in 5.2 above.**
- 5.7 It would appear that the resources allocated by the States to manage and care for local heritage assets over the years, have been insufficient to ensure that the Island's heritage is safeguarded for future generations. Whilst the same budgeted sum for historic sites had been retained and used by the Culture and Leisure Department for the years 2005–2008, with no increase for RPI or market

⁴ NAO Report "Safeguarding Guernsey's heritage assets", September 2007, page 19, paragraph 2.2.

⁵ Wales Audit Office Report "Follow Up report on collections management at Amgueddfa Cymru – National Museum Wales", 8 March 2007, page 6.

⁶ Northern Ireland Audit Office Report "Collections Management in the National Museums and Galleries of Northern Ireland", 8 June 2006, page 15.

⁷ The Museums Association will be publishing a toolkit to support museums undertaking disposal – as stated in their report on "Making collections effective", 2007.

⁸ The Museums Association is a UK body that represents the people and institutions constituting Britain's museums and galleries, www.museumsassociation.org

changes, the Heritage Committee's budget for the four years 2000- 2004 was partially utilised by the Culture and Leisure Department on major restorations of Vale Mill and Victoria Tower. The Culture and Leisure Department attributes the lack of investment prior to its takeover on the concentration on developing over elaborate conservation plans at the expense of practical work.

- 5.8 Although all recent acquisitions for some time have been recorded on computer (MODES XML), there is a considerable backlog not yet fully completed of older items, covering ownership and valuation. The current estimate is that backlog will not be cleared until 2012, given the painstaking process involved. Until such time as the assets are fully recorded, items for disposal (destruction, loan, gift or sale) are difficult to determine (whether through deterioration, duplication or relevance). Furthermore the space needed for the collection is more difficult to quantify.
- 5.9 Even though heritage assets may be covered by insurance and as such have a replacement value, there is no requirement under current accounting policies to state their value in the States accounts. The requirement to register and value all heritage assets is more critical now that the Treasury and Resources Department are considering the accounting treatment and reporting of assets held. A central list of all material assets held is vital to ensure completeness and accuracy within the States accounts and should be recorded in accordance with accounting guidelines or future mandatory codes of practice.
- 5.10 There are a number of specific recommendations in the appended report to assist in the method of acquiring, maintaining, disposing, recording and valuing heritage assets as well as the development of conservation plans. The Committee supports the action being taken to address these issues and implement the recommendations, which are detailed in Appendix One of this report.

6 Guernsey's heritage assets are not being exploited effectively for the Island's benefit

- 6.1. In recent years the Culture and Leisure Department has undertaken a number of initiatives to encourage Islanders to visit the heritage sites in its care, such as Castle Nights, Living History, and Outdoor Theatre. Private sponsorship has allowed free access to the public in some cases and well supported temporary exhibitions have brought in additional visitors and income. The review found that admissions and income fell over the three year period 2004 to 2006. This trend was reversed in 2007 with admissions up 7%, ticket and shop income up 9%. The 2008 figures to September show admissions up a further 13% and income up 11%.
- 6.2. The Island's strategy should include a review of access to public records, artefacts and sites, and consideration of the recommendations made in the appended report.

7 NAO Recommendations

- 7.1. The NAO report made 17 recommendations⁹ in order to ensure that Guernsey safeguards its heritage assets for future generations. The main body of this report incorporates the comments of the Committee on the recommendations.
- 7.2. Since it is some time since the recommendations were first made, Appendix One indicates implementation progress made by the Culture and Leisure, Treasury and Resources, and Environment Departments as indicated at the hearing and in subsequent correspondence.

8 Conclusions

- 8.1 Although each department and committee of the States is mandated to be accountable for the management and safeguarding of public funds and other resources entrusted to it, there is no corporate strategy to meet the aims of the first stated priority of the States of Guernsey Government Business Plan, that of preserving, enhancing and promoting Guernsey's rich heritage. Unless this is addressed and appropriate resources allocated, heritage assets under the collective care of the States of Guernsey may be lost, and once lost can no longer be restored, re-instated or transferred to an independent organisation.
- 8.2 The Committee, in commissioning this review, has contributed to bringing the matter of heritage assets to the forefront. The States own many heritage assets and in order to achieve the best value from them it is appropriate for the States "to spend to save" on heritage assets for the benefit and enjoyment of future generations. However, before that is achieved, the assets that contribute to Guernsey's heritage should be determined, recorded, valued, and rationalised taking account of relevance, duplication and deterioration. Transferring them to a new store, should the States Assembly agree to that direction being taken will facilitate this process.
- 8.3 The States of Guernsey may not have safeguarded Guernsey's heritage assets sufficiently in the past, but the Committee believes that before it is too late, action must be taken to halve the decline and rectify the situation.

9 Recommendations

- 9.1 The Public Accounts Committee recommends the States:
 - a) To note the contents of this report, including the commitments of the Culture and Leisure Department.
 - b) To direct the Culture and Leisure Department to return to the States by June 2009 with clear and costed proposals on the future direction and

⁹ NAO Report "Safeguarding Guernsey's heritage assets", September 2007, page 8.

strategy for safeguarding, storing, displaying and accessibility of the heritage assets of the Island.

- c) To direct the Public Accounts Committee to monitor and review the action taken by the Culture and Leisure Department and other departments in considering and implementing the recommendations as outlined in Section 7, of this report.

Yours faithfully

L R Gallienne
Chairman

Please note that, due to a conflict of interest, the under mentioned member of the Public Accounts Committee did not participate in the process leading to the production of this report:

Deputy Mike Garrett

Reason: Deputy Minister of the Culture
and Leisure Department (2008 -)

(NB The full National Audit Office Report, which is appended to this Report, is published separately.)

PROGRESS AGAINST RECOMMENDATIONS

Appendix One

2007 NAO Recommendation	The Culture and Leisure Department's Progress Made by August 2008	Other Departmental Progress Made by August 2008
On the responsibility for Guernsey's heritage assets being fragmented		
(1) As a first step, the Culture & Leisure Department should take a much stronger lead on the management of the Island's heritage assets. This enhanced role should include acting as a source of direction, advice and stimulation to those Departments and organisations with responsibilities for heritage matters. The Department should also be responsible for identifying and disseminating best practice ideas.	Partially achieved The Culture and Leisure Department believes that responsibility rests with the States of Guernsey as a whole and not with an individual department. As such the lead should be from the centre. However, the appointment of an Historic Sites Curator (HSC) by the Culture and Leisure Department has enabled the provision of advice on all States historic sites by the Department. The Archaeology Officer continues to provide advice to the Environment Department on planning.	
(2) In the medium term, the States should consider how the current fragmentation of approach to heritage matters can be reduced by reorganising responsibilities between Departments.	Not yet achieved No progress has been made.	Not yet achieved The division of responsibilities was as a result of a political decision in 2004, but the Treasury and Resources Department believed that it had resulted in corporate working.
(3) In the longer term, consideration should be given to hiving off responsibilities for heritage matters to a separate, largely States-funded, organisation, as is the case in Jersey and the Isle of Man.	Not yet achieved No progress has been made, although there are plans to do this when the new storage facilities for the museum's collections have been completed.	

2007 NAO Recommendation	The Culture and Leisure Department's Progress Made by August 2008	Other Departmental Progress Made by August 2008
On Guernsey's heritage assets not being managed and cared for adequately		
(4) A single over-arching strategy should be developed for the management of public sector heritage assets on the Island. The strategy should be jointly developed by all those public bodies with a direct interest in this area. The strategy should set out clear objectives and priorities for the future.	Not yet achieved. Although there is a corporate Historic Sites Strategy, it would be difficult to devise an over-arching strategy for other heritage assets as no single body has overall responsibility for public sector heritage assets.	Not yet achieved. The Treasury and Resources Department consider that if such a strategy was required then a collective approach would be taken.
(5) The elimination of the documentation backlog needs to be completed in good time to tie in with any move to new storage premises. Without adequate records, it will be very difficult for the Culture & Leisure Department to make key decisions about what items to transfer to new storage facilities, what space will be needed and how items should be arranged.	Partially achieved The Culture and Leisure Department's 2007 documentation plan sets out a programme to complete documentation of the collections by the end of 2012. In July 2008 the computer system used, MODES XML, was upgraded to enable multiple users to update the database on heritage assets. Further staff resources will be committed in the future. The best time to complete the work is when new storage facilities are approved and the moving of objects is under way.	
(6) The Culture & Leisure Department should adopt a banding system for assessing the worth of its collections. Such a system would identify, at the top end, individual items needing to be separately valued and, at the bottom end, items that could be	Partially achieved The Culture and Leisure Department agrees that a three tier banding system be applied to its assets - comprising most valuable objects, disposals and the remainder.	

2007 NAO Recommendation	The Culture and Leisure Department's Progress Made by August 2008	Other Departmental Progress Made by August 2008
considered for disposal. But the bulk of the collections would probably fall in neither category.	A complete valuation of the collection would not be feasible due to the sheer size, although valuations of weapons, oil paintings and oriental collection are under way.	
(7) As a first step in the preparation of the information base on historic sites, a definitive list of heritage sites in States ownership should be prepared.	<p>Partially achieved</p> <p>The Culture and Leisure Department has completed the detailing of each of its heritage sites, listing area and ownership of adjacent land. A similar list is being prepared by the Treasury and Resources Department with the aim of bringing the two lists together, as well as including information drawn from the Museums' Sites and Monuments Record linked to Digimap to which other departments have access.</p>	<p>Partially achieved</p> <p>The Treasury and Resources Department indicated that a database had been created linking the asset to the cadastre number. The Museums' Sites and Monuments Record is now being used by the Environment Department which has been allocated this role by legislation and mirrors its role in identifying natural heritage assets. Around 3000 monuments and buildings could be on the protected list and a pilot project is being completed to test a methodology which would cut this task down to size. This will result in devising a programme of work to complete the list should resources allow.</p>
(8) The Environment Department should proceed as soon as possible with its project to update the register of ancient monuments and protected buildings. This information is key to protecting the Island's built heritage. We also recommend that the Archaeology Officer's record of all	<p>Partially achieved</p> <p>The Historic Sites Curator has liaised with Treasury and Resources and Environment Departments to bring departmental sets of sites data together, including information drawn from the Sites & Monuments Record.</p>	<p>Partially achieved</p> <p>The Environment Department has indicated that it is not possible to combine the two records, although progress has been made in linking the information.</p> <p>In preparation for the new legislation the</p>

2007 NAO Recommendation	The Culture and Leisure Department's Progress Made by August 2008	Other Departmental Progress Made by August 2008
<p>archaeological and historic sites and monuments on the Island should be integrated with the Environment Department's register.</p>		<p>Environment Department has made a provision to hold the new list of protected monuments and buildings electronically, such list being available to other departments and the public.</p> <p>Furthermore discussions are being held with the Culture and Leisure Department to work with Digimap to share the information on the SMR and to help planning applications.</p> <p>The Treasury and Resources Department had after the change of Government in 2004, created a new database to list heritage assets against their cadastre number.</p>
<p>(9) If the proposed new storage facilities do get the go ahead, the Culture & Leisure Department should grasp the opportunity to:</p> <ul style="list-style-type: none"> • re-group the collections; • improve the documentation of objects in the collections; • dispose of unwanted objects; • set a clear conservation strategy; and • improve public access and research facilities. 	<p>Not achieved yet</p> <p>The Culture and Leisure Department will progress this should capital be allocated to provide a new museums store.</p>	
<p>(10) It is essential that the Culture & Leisure Department should plan carefully in advance, both to determine the optimum</p>	<p>Partially achieved</p> <p>The Culture and Leisure Department has commenced the process to secure new</p>	<p>The Treasury and Resources Department has been involved for 8 years in trying to develop a suitable site. A site has been</p>

2007 NAO Recommendation	The Culture and Leisure Department's Progress Made by August 2008	Other Departmental Progress Made by August 2008
<p>size and specification of the new facilities and to ensure that it takes all the necessary preparatory steps in good time so as to maximise the benefits of the new facilities. The Department should prepare a detailed plan of the actions it needs to take leading up to a possible move to new premises.</p>	<p>storage facilities, prior to consideration by the States Assembly. Developing a plan further will depend on the agreement of the States to construct the facilities, but the size of facilities required will rely on identifying the heritage assets to be retained.</p>	<p>identified and proposals had gone through a Strategic Review within the Capital Prioritisation Process, led by the Treasury and Resources Department but the final decision rests with the States in their priority of spending.</p>
<p>(11) The Guernsey Museum should review its acquisition criteria and establish clear guidelines as to when it should accept or reject new pieces offered to it and what pieces it should actively seek to acquire.</p>	<p>Not yet achieved The Culture and Leisure Department disputed this recommendation. It considered that it has an acquisition and disposal policy in place. The Natural History has enough pieces and will not be seeking to acquire any more. In the case of Archaeology it is more random as things are being dug up all the time. The Art department has a policy of collecting a representative selection of works by local artists (including contemporary artists) and artists who worked in the Island and filling gaps in the collection. Coins and stamps continued to be supplied to the museum by the States Treasury and the Post Office. Social history is now only taking selective items.</p>	
<p>(12) The Guernsey Museum should make more positive efforts to consider whether any items that are no longer required can be</p>	<p>Not yet achieved The museum is bound by its own policy, the Museums Association guidelines and</p>	

2007 NAO Recommendation	The Culture and Leisure Department's Progress Made by August 2008	Other Departmental Progress Made by August 2008
disposed of.	<p>Code of Ethics. If the museum wishes to dispose of an item its options are to return the item to the original donor, loan it out or give the item to another museum able to give the object sufficient care and make it accessible to the public, sell or exchange the item with another museum, or another body is able to keep the object in the public domain.</p> <p>A significant portion of the collection is in fact on long-term loan and not owned by the Museum.</p>	
(13) Once the storage problems have been resolved, the Guernsey Museum should introduce a prioritised programme of conservation work that looks at least two years ahead. A percentage of the annual budget should be retained, however, for contingencies.	<p>Not yet achieved</p> <p>The conservation programme is divided into two halves; historical sites and artefacts but the Department does not have the resources that allow a planned conservation programme.</p> <p>The historic sites budget is also subject to similar problems. Money has to be held back to cover storm damage, vandalism and routine wear and tear.</p>	
On Guernsey's heritage assets not being exploited effectively for the island's benefit		
(14) The Culture & Leisure Department should complete conservation plans for all its sites as soon as is practicable. A start has already been made, but if the level of detail in the	<p>Partially achieved</p> <p>The Historic Sites Strategy Group has set its priorities for maintenance and conservation of the sites and the planning</p>	<p>The Environment Department was fully involved in the process of setting up the Historic Sites Strategy and approved the final version.</p>

2007 NAO Recommendation	The Culture and Leisure Department's Progress Made by August 2008	Other Departmental Progress Made by August 2008
<p>two completed plans were to be applied to all sites the exercise would take many years to complete. The Department must therefore establish what elements of the conservation plans are really needed to take forward into the maintenance plans. Future conservation plans should concentrate on those key elements. Maintenance plans for the major sites should be completed as soon as the conservation plans become available.</p>	<p>timetable is now 15 months in advance. The Historic Sites Curator together with the Museum & Monuments Manager has created a database of the Culture and Leisure Department's properties to include routine maintenance and longer term conservation requirements.</p>	
<p>(15) The availability of public access to the stored collections - either by appointment or through open access - should be a key consideration in designing new storage facilities.</p>	<p>Not yet achieved Public access to the stores would likely only be possible on a highly restricted appointment-only basis although all bona fide individuals and groups wishing to work in the stores would be found a working space. More public access is a desired goal, but the level of resources offered to the Museum for its new store will undoubtedly influence the level of access</p>	
<p>(16) The question of public access to heritage sites and buildings should be considered in the site management plans that are to be drafted in the future. Problems can then be formally identified and appropriate action taken to remedy them.</p>	<p>Not yet achieved The Culture and Leisure Department would like improved car parking provision at both Castle Cornet and at Candie Gardens but it is not within the control of the Department. The Department is doing its best to improve public access but there</p>	

2007 NAO Recommendation	The Culture and Leisure Department's Progress Made by August 2008	Other Departmental Progress Made by August 2008
	<p>are health and safety risks at most of the historic sites. All events are subject to a risk assessment, which leads to additional requirements for staffing, training or safety equipment.</p> <p>The Department has not considered extending the opening times of the sites as this was not economically viable.</p>	
(17) The costs and benefits of potential income generation initiatives from Guernsey's heritage assets should be carefully considered and evaluated.	<p>Achieved</p> <p>The Department has been working on some initiatives to broaden access to the sites beyond plain offering. The objective here would be to reach sections of the local population who would not otherwise come to the sites and to address local apathy. These included Castle Nights and open days on the Queen's Birthday which have been very successful.</p>	

Source: NAO Report "Safeguarding Guernsey's heritage assets", page 7 and evidence gathered through hearings and written responses.

CONSULTATION**Appendix Two**

A copy of the report and covering letter (as attached) was sent to the following for a response by 18 January 2008:

All States Deputies (May 2004-April 2008)
Priaulx Library
Guernsey Maritime Trust
Friends of Guernsey Heritage
La Société Guernesiaise
Guernsey National Trust
Guernsey Arts Commission (to respond by 14 March 2008)

and copied to Chief Officers and other senior staff for information.

The responses from HM Procureur re the Island Archives and Guernsey Maritime Trust are attached, as well as a copy of a letter sent by the Culture and Leisure Department to all States members commenting on the NAO report.



PUBLIC ACCOUNTS COMMITTEE
THE STATES OF GUERNSEY

Public Accounts Committee
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Telephone +44 (0) 1481 717000
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23 November 2007

Dear States Member

“Safeguarding Guernsey’s heritage assets”

In July 2006, following consideration of a number of topics, the Public Accounts Committee decided to review heritage assets held by the States of Guernsey and commissioned the National Audit Office to carry out a review on Guernsey’s heritage assets as part of the contract to provide value for money reviews for the States of Guernsey. The scope of the review is found on page 45 of the attached report.

This work was completed in September 2007 and the NAO concluded that:

“Guernsey’s heritage assets are not being sufficiently well safeguarded by the States of Guernsey”.

The Public Accounts Committee would normally consider the content of a commissioned value for money reports itself, gathering evidence from within the States on the findings and progress made before presenting its own States Report on the matter.

In this instance the Committee has decided that, before considering the findings on the value for money report and drawing up its own conclusions, it would release the document to States members, and interested parties for their views on the way forward to safeguard the heritage assets of the States of Guernsey.

The National Audit Office has made seventeen recommendations (found on pages 6 and 7 of the report) and the Public Accounts Committee would like to receive any comments, in writing, in relation to these or the report in general, by 18 January 2008. All submissions should be addressed to me at the above address indicating Heritage Asset Consultation on the envelope.

The Committee will consider all responses and may publish them or be in contact to gather more evidence to support the representation, (either by letter or at a hearing). There is no guarantee that the Public Accounts Committee will be of the same opinion as your representation in reaching its own conclusions and recommendations.

The States of Guernsey has already committed itself, through the government business plan, to ‘preserve, enhance and promote those things which the community values, and which reflect the Bailiwick’s unique cultural identity and rich heritage’. The Committee believes that this review will contribute to the deliberations of this priority.

Yours sincerely

Deputy Leon Gallienne
Chairman

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Guernsey, GY1 4BY

LAW OFFICERS OF THE CROWN

Our Ref: HMP/crt

Your Ref:

9th January 2008

Deputy L Gallienne
Chairman, Public Accounts Committee
Sir Charles Frossard House
PO Box 43, La Charroterie
St Peter Port
Guernsey
GY1 1FH

Dear Sir

Safeguarding Guernsey's heritage assets

I refer to your letter of 23rd November 2007 inviting comments on the Report prepared for the Public Accounts Committee by the National Audit Office (NAO), dated September 2007, entitled as above. I write only in connection with the Islands Archive Service ("Archives").

In general terms I welcome the Report - its methodology, conclusions and recommendations - though I have to say that, in respect of the Archives, I have found it hard to identify quite what is being recommended. As will be apparent from what follows, I am of the opinion that the Archives are very much working records - in the same way as the majority of the records maintained by the Greffe - and, as such, their characterisation as 'heritage assets' conduces to some confusion about their treatment, not that the Report is particularly specific as regards their future supervision and management. The primary purpose of this letter is to seek to differentiate the Archives from the remainder of Guernsey's heritage assets, and to supplement paragraph 1.39 of the Report (which points out that the Archives are 'anomalous'), and so to suggest how they might be treated. I do not believe that the Culture and Leisure Department should necessarily take the lead in determining how and by whom the Archives should or might be supervised and managed, and this letter also addresses an important issue in relation to the present, non-statutory, treatment of public records and alludes to the related issue of freedom of information. I should add that, in a number of respects, similar considerations apply to the records maintained at the Greffe, which are presently under the superintendence of the Royal Court, and for which in the Treasury and Resources Department is politically responsible.

It would help to explain why I have taken a particular interest in this issue. By virtue of being H.M. Procureur, I am also H.M. Receiver General, and together with H.M.

Comptroller, we collectively comprise the ‘Crown Officers’ (as opposed to the ‘Law Officers’). We and our respective predecessors have generated a large quantity of files and other materials deposited in the Archives, in particular as Law Officers by which legal advice has been given to the Crown (including Lieutenant Governors), the States, the Royal Court, the Parishes and other quasi-governmental bodies e.g. the Financial Services Commission; and also the governmental and administrative organs of Alderney and Sark. Furthermore, and as the Report notes, a large quantity of documents relating to criminal prosecutions have eventually come to be deposited in the Archives. I remind you that these files are, almost invariably, sensitive, and most contain confidential, and often legally privileged, material.

By the present arrangements, the Archivist in any doubtful or difficult case will refer prospective disclosure of potentially sensitive material from Crown Officers’ (indeed any other) files to St James Chambers for advice on disclosure, and (if appropriate) the terms and conditions of disclosure; and this system presently works effectively, to strike an appropriate balance between the competing interests of transparency and confidentiality. More importantly, there is constant interaction between St James Chambers and the Archives about matters historical, constitutional, legal and otherwise, and I venture to suggest that St James Chambers are probably the most avid users of the services of the Archivist.

At present, there is no statutory regime in place dealing with public records, unlike the United Kingdom where, by the Public Records Act 1958 as amended, statutory provision is made for the care and preservation of public records, and which imposes a duty on every person responsible for generating or maintaining public records of every description not already held in the Public Record Office to make arrangements for the selection of those records “which ought to be permanently preserved and for their safe keeping”. The 1958 Act also provides that public records selected for permanent preservation shall be transferred not later than 30 years after their creation to the Public Record Office, provided that, if in the opinion of the person responsible for them any record is required for administrative purposes or ought to be retained for any other special reason, the ‘30 year rule’ may be disappplied, the effect of which is that the records are departmentally retained. The ‘30 year rule’ is a general precept, by which, after that period, governmental and like records become publicly disclosable. Certain records are not publicly available for longer periods, and some may never be disclosed, principally in the interests of national security.

The 1958 Act is only concerned with ‘public records’, which are, in effect, governmental records including records of any office or other body established by the UK government. Scottish governmental records, and records relating to births, marriages, deaths or adoptions, are not included, nor are records of certain governmental or administrative departments, e.g. the Public Trustee. Included as ‘public records’ are records of all courts and tribunals.

Of course, the whole issue of access to public records in and of the United Kingdom has been greatly amended by the Freedom of Information Act 2005, by which a general precept of public access to public documents is established, but which exempts from the scope of the legislation certain categories of document. The inter-relationship between public records and freedom of information legislation can give rise to tensions, because subject only to specified time periods applicable to particular types of record, all public records are disclosable ordinarily only after 30 years of their creation, whereas freedom of information is directed towards the immediate provision of information presently maintained by government departments, much of which will eventually be deposited as public records.

Much material remains subject to the 1958 Act non-disclosure rules mentioned above, and many of the records generated by St James' Chambers in discharging its functions would not ordinarily be immediately disclosable under mainland Freedom of Information Act provisions if that were replicated here.

Guernsey does not yet have freedom of information legislation, and whether it should or not is a matter for the States eventually to determine, although because Guernsey is a small and insular community, the degree of free and immediate access to Guernsey governmental, administrative and legal information would need to be very carefully considered, and in any event introduced, implemented and monitored by means appropriate to Guernsey. The resource implications of a freedom of information regime based on, and operationally similar to, that on the mainland are significant, and potentially burdensome.

I believe that local public records legislation would be desirable, as does the Archivist. Of course the introduction of public records legislation (as opposed to freedom of information legislation) would also have significant, but perhaps not so burdensome, resource consequences.

In a preliminary paper prepared in 1999, the Archivist identified five preliminary conclusions on this issue which are deserving of repetition.

- Proper public records legislation, with custodians answerable for its policies and administration, is a mark of cultural maturity.
- The time is right for Guernsey to introduce comprehensive legislation, to include provision for modern eg digital, records, and reflecting current aspirations such as freedom of access to information.
- Clear and enforceable rules should be laid down with regard to closure periods, if any, appropriate to particular classes of public record.
- Public records deserving of access and permanent retention in whoever's hands should be made available and preserved.
- Problems of lack of resources should be addressed rather than resorted to as a reason for not implementing that which is appropriate.

I agree.

Jersey has introduced public records legislation but not yet a freedom of information regime, as has the Isle of Man, and I have to say that Guernsey's lack of progress in this area is disappointing. Indeed the Jersey regime, reflecting historical, cultural, economic and administrative circumstances which, for these purposes, are not dissimilar from those locally, provides an interesting and useful model on which a Guernsey equivalent could be based.

Whether a '30 year rule' approach would be of Guernsey application is arguable – for example there are various matters relating to the Occupation which remain sensitive, principally because affected persons are still alive. However, I can say that the precept of public access to records is of fundamental importance, if only because of the truth in the dictum that those who ignore history are condemned to repeat its mistakes!

In my opinion, the records maintained at the Archives, at least those deposited there by the Crown Officers or relating to the exercise of their respective functions, are not necessarily, or even helpfully, to be categorised as ‘heritage assets’, i.e. those other items which the NAO have recommended should be brought under the more effective control or direction, or at least co-ordination, of the Culture & Leisure Department, as the Report acknowledges.

I have been in informal discussion for some while with the Chief Executive on the future supervision of the Archives. The Policy Council assumed political responsibility for the Archives in 2004, almost *faute de mieux*, but as the Report mentions the Policy Council desires to shed operational responsibilities. I do not believe it is appropriate for the Culture & Leisure Department to have sole responsibility for the Archives, or alone determining their destination. Further, whilst recognising that a large number of items within the Archives are of historic importance and interest, and carry no constitutional, legal or other risk in disclosure - indeed only benefit, there are a large number of records in respect of which public access should not be automatically afforded, and which should be properly controlled.

The NAO Report has done valuable service in reviewing Guernsey’s heritage assets, and proposing mechanisms to ensure greater care and co-ordination in respect of them. But the Archives are not necessarily heritage assets or even helpfully categorised as such; they are, for the most part, working documents, irrespective of their sensitivities. In a very real sense they are governmental resources. At one stage I had wondered – given the significance of the Archives to the work of St James Chambers – whether, in management terms, it might be appropriate for the Law Officers to assume some involvement for them, but, upon reflection, I doubt that is appropriate. However, recognising that the Archives transcend the functions of all States Departments and Committees, besides those other depositors I mention above, I wonder whether it might be appropriate for the Archivist to be line managed in governmental terms by the Chief Executive (or Deputy Chief Executive, given his ‘domestic’ responsibilities) together with H. M. Procureur; both have an extensive and over-arching view of all aspects of Guernsey’s governance and administration. Such a managerial responsibility would substantially reflect what, in any event, is practically occurring, being the very close working relationship between the Archives and St James Chambers - the Archives’ staff are involved ever more closely with ours in researching and processing enquiries across a number of areas, from which both the Archives and St James Chambers benefit. But, of course, the Archivist requires more than line management: there remains the issue of the institutional supervision of the Archives.

I suggest that the Archives be recognised as sufficiently divorced from Guernsey’s other heritage assets to warrant a different solution. The Report impliedly so recommends. I therefore propose that institutional responsibility for the Archives be transferred to a council constituted specifically for the purpose, comprised of the Bailiff, H.M. Procureur, the Ministers of the Culture & Leisure and Treasury & Resources Departments, together with one other States member and not more than three non-States member(s), they being appointed by the Policy Council. The Chief Executive, or Deputy Chief Executive, would attend council meetings. The council, having established policies, would only need to meet, say, twice yearly, but of course could convene immediately in any necessitous case. I stress that such a council would not have operational functions; but it would be responsible to the States for the good governance and supervision of the Archives, reporting, I suggest, through the Treasury and Resources Department (because the Archives are properly characterised as a resource), laying before the States annually a report. None of these institutional changes would require legislation.

I would be pleased to attend upon your Committee to discuss this further, if thought appropriate. I am copying this letter to the Chief Minister, given that some of the foregoing, whilst prompted by the NAO's Report, concerns the present functions of the Policy Council, together with other interested parties.

Yours faithfully



J.N. van Leuven QC
H.M. Procureur

cc : Chief Minister
Minster, Culture and Leisure Department
Minister, Treasury and Resources Department
Chief Executive
Archivist

H M Procureur
Law Officers of the Crown
P.O. Box 96
St James Chambers
St. Peter Port
Guernsey
GY1 4BY

18 January 2008

Dear Sir

Thank you for sight of your letter of 9 January to the Chairman of the Public Accounts Committee, regarding your views on their recent report on the Safeguarding of Guernsey's Heritage Assets, and in particular their recommendations for the future administration of the Archives.

I have attached here the view of the Culture and Leisure Department which was provided to the Public Accounts Committee following receipt of their Report. This was subsequently circulated to all States Members for their information. In particular I would refer you to Page 2 Paragraph 4 which states;

....In 2004 the Culture and Leisure Department had proposed that responsibility for Museums, Libraries and Archives should reside within C&L echoing the successful model in the UK – the Museums, Libraries and Archives Association (MLA) although a different approach was ultimately preferred by the States. C&L has worked hard to create a good working relationship with the Archives and Priaulx Library and are content that this provides the required level of cooperation and mutual support. It is difficult to see how this could be improved simply by moving them to C&L; we have no magic wand that would improve their operations....

This reflects the current thinking at Culture and Leisure.

Yours sincerely



Deputy Claire Le Pelley
Deputy Minister

Cc: Chief Minister
Minister Treasury and Resources Department
Chairman, Public Accounts Committee
Chief Executive, States of Guernsey
States Archivist



CULTURE AND LEISURE
A STATES OF GUERNSEY GOVERNMENT DEPARTMENT

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26 November 2007

Dear States Member

NAO Report - Safeguarding Guernsey's Heritage Assets

The Culture and Leisure Department welcomes this report into the safeguarding of Guernsey's Heritage Assets. This is principally because of the frustrations that it has encountered since its formation in 2004 in trying to improve the facilities available to its Museums Service which are at best inadequate and at worst prejudicial to the proper care of the Island's national treasures. There have been a number of reports over the last twenty years or so which have clearly outlined the problem areas but their solution has, to date, proved tantalisingly out of reach for a variety of reasons.

The Report's main findings are that Guernsey's heritage assets are not being sufficiently well safeguarded by the States of Guernsey. In particular it found that:

- responsibility for the Island's heritage assets is divided amongst a number of Departments, with the rationale for what Departments manage largely based on historical precedent;
- many of the Island's heritage assets are not being adequately looked after, largely because of poor storage facilities for museum assets and because maintenance and conservation are not being carried out in an organised and timely way;
- More could be done to improve public access to Guernsey's heritage assets and to increase the income generated from them.

Comments

'....responsibility for the Island's heritage assets is divided amongst a number of Departments, with the rationale for what Departments manage largely based on historical precedent....'

The reorganisation of the machinery of government in 2004 was a major step for the then States. The responsibility for historic sites passed untouched to the successors to previous Committees. At that time there were a number of

POLITICAL RESPONSIBILITIES

Arts, Events Group, Historic Sites, Lottery, Sport And Recreation, Museum Service, Information Centre

discussions between departments holding responsibility for historic sites with the aim of rationalising their holdings. They may be heritage 'assets' but they are financial 'liabilities' and with the Black Hole looming departments, perhaps understandably, were reluctant to take on responsibility for more sites particularly as the majority did not have discrete budget or manpower attached to them that could be transferred. The exceptions were the two properties, Fort Richmond and Vale Mill that were transferred successfully from Culture and Leisure to Treasury and Resources as being capable of future beneficial use.

From those meetings, and the realisation that departments were reluctant to take on further responsibilities without the appropriate transfer of resources, arose the development of a Historic Sites Strategy by Culture and Leisure, Treasury and Resources and Environment. This ensures that all three departments are working together to a common objective and appears to be working well. There is no lack of cooperation or assistance from T&R and a solid and mutually beneficial working relationship exists between C&L staff and T&R's property staff.

This will be improved by the recent appointments of a Historic Sites Curator, giving advice under the Historic Sites Strategy to all States Departments; and also by the strengthening of the professional advice available to the States on archaeology following the appointment of an Assistant Archaeologist. This considered approach to strengthening the professional staff of C&L has been undertaken with one eye on the needs of the department and one on the Historic Sites Strategy and the needs of T&R and Environment.

In 2004 the Culture and Leisure Department had proposed that responsibility for Museums, Libraries and Archives should reside within C&L echoing the successful model in the UK – the Museums, Libraries and Archives Association (MLA) although a different approach was ultimately preferred by the States. C&L has worked hard to create a good working relationship with the Archives and Priaulx Library and are content that this provides the required level of cooperation and mutual support. It is difficult to see how this could be improved simply by moving them to C&L; we have no magic wand that would improve their operations.

Comments

'....many of the Island's heritage assets are not being adequately looked after, largely because of poor storage facilities for museum assets and because maintenance and conservation are not being carried out in an organised and timely way....'

Problems were identified with the storage of the collections in the 2002 Audit Commission report. However, the Museum has identified this problem on numerous previous occasions. There is reference to St John's Street to be vacated as early as 1987. It was deemed overcrowded and unsuitable in a paper dated 1995. At that time the estimate of storage needed was 2,000 sq m (four times what was then available). The estimate of total floor space

POLITICAL RESPONSIBILITIES

Arts, Events Group, Historic Sites, Lottery, Sport And Recreation, Museum Service, Information Centre

required in 2002 (Hidden Treasures Report) was given as 3,000 sq m including offices. There have been numerous other papers and discussions prior to responsibility being passed to C&L in 2004.

With regard to the recommendations on the standard of documentation and storage of objects it is worth noting the UK Museum Needs Assessment Report produced for the Heritage Lottery Fund and MLA which provides the most comprehensive overview of the state of the UK's museums. It showed for example that well over 90% of museums had documentation backlogs; only 45% felt that their storage was adequate for their current needs and only between 1 and 6% felt that they had sufficient expansion space. While not condoning the Island shortfalls in provision it does put Guernsey's problems into a somewhat wider context.

Museums worldwide are struggling to come to terms with disposal. It does have a part to play in future collection care but is rarely used because of a 'professional reticence'; where principles give way to expediency cannot be clearly defined, therefore disposals based simply upon the amount of space available is, it is suggested, a dangerous path for a Museums Service.

T&R have been supportive of the wish to develop a new Museums Stores and since 2004 a number of possible opportunities to do so have been progressed without success. Currently the provision of such a store is recognised in the Prioritisation of Capital Projects as being reliant on funding being provided for a new store by the sale of St Johns St. A possible site is under consideration by T&R and C&L although it would be premature at this stage to give further information on it.

Comments

'.... more could be done to improve public access to Guernsey's heritage assets and to increase the income generated from them....'

We would heartily agree with the need to raise more money and increase use and have instigated a number of initiatives to this end.

Despite an encouraging increase in visitors to the Museums in 2007 we really need to see a meaningful and sustained increase in tourist numbers.

With regard to functions, the department has increased the number held at Castle Cornet to a planned eighty events for 2007 ranging from vin d'honneurs to live theatre, wedding receptions to live music. The successful Castle Nights, supported by HMV, were launched in 2006 on five evenings during the summer, attracted 5,000 people. For 2007 the five Castle Nights in the summer will be augmented for the first time by three winter nights with similar numbers expected to take advantage and visit the Castle. This is an area that it is believed is being developed successfully.

Sponsorship income has also been increased recently with six new sponsorship arrangements in place which provide valuable funds and support for the work of the Museums Service.

In his letter to States Members of 23 November; the Chairman of the Public Accounts Committee writes:

*The States of Guernsey has already committed itself, through the Government Business Plan, to '**preserve, enhance and promote those things which the community values, and which reflect the Bailiwick's unique cultural identity and rich heritage.**' The Committee believes that this review will contribute to the deliberations of this priority.*

I hope that I will be able to count upon your support for this GBP priority.

Yours sincerely

P.R. Sirett

Deputy Peter Sirett
Minister



The Guernsey Maritime Trust

Attention Deputy Leon Gallienne
Public Accounts Committee
Sir Charles Frossard House
St Peter Port
GY1 1FD

18th January 2008

Dear Deputy Gallienne

Safeguarding Guernsey's heritage assets

I have read the National Audit Office report and am in complete agreement with its main conclusion, a single body to manage these assets. The difficulty will be to marshal political, executive and financial means to fully implement these recommendations.

The project with which I am familiar, having set up the Guernsey Maritime Trust in 1984, to rescue the Gallo Roman ship facing destruction in the harbour entrance. This work was mainly carried out with voluntary effort both people and money. The rescue and conservation cost over £200,000.

The conserved remains of the ship will be returned to the Island in 2010 and this being a significant part of our history, will need to be housed and displayed, provisional estimates for this are up to £1,000,000. Currently, consultation is taking place to try and target a voluntary contribution towards this.

This project has been used to illustrate the cost of a small part of meeting the objectives set out in the National Audit Office report.

Thank you for your consultation and please do not hesitate to ask, if you feel I can be of any further assistance.

Yours sincerely

T E Darlow, Trustee



CULTURE AND LEISURE

A STATES OF GUERNSEY GOVERNMENT DEPARTMENT

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The Chairman
Public Accounts Committee
Sir Charles Frossard House
La Charroterie
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1 December 2008

Dear Deputy Gallienne

Safeguarding Guernsey's heritage assets

At its meeting of 12 November the Board of the Culture and Leisure Department considered the draft report on 'Safeguarding Guernsey's heritage assets'. In particular the Board was grateful for the supportive comments offered by the Committee in respect of the need for improved storage facilities for the Museums collections. The NAO report is now over two years old and it has been helpful to attach an appendix updating it to 2008.

The Board would offer the following comments on the Report's findings:

Museums Collections Storage

The Culture and Leisure Department welcomed this report into the safeguarding of Guernsey's Heritage Assets. This is principally because of the frustrations that it has encountered since its formation in 2004 in trying to improve the facilities available to its Museums Service which are at best inadequate and at worst prejudicial to the proper care of the Island's national treasures. There have been a number of reports over the last twenty years or so which have clearly outlined the problem areas but their solution has, to date, proved tantalisingly out of reach for a variety of reasons.

Problems were identified with the storage of the collections in the 2002 Audit Commission report. However, the Museum has identified this problem on numerous previous occasions. There is reference to St John's Street being occupied on a 'temporary' basis in 1976; and to being vacated as early as 1987. It was deemed overcrowded and unsuitable in a paper dated 1995. There have been numerous papers and discussions on this issue without resolution prior to responsibility being passed to C&L in 2004.

The Treasury and Resources Department have been sympathetic to these problems supportive of the wish to develop a new Museums Stores. Currently a project to construct a Museum's Store has been submitted to the States Capital Prioritisation

Process and has undergone its strategic review. It is anticipated therefore that the project will be debated by the States in March 2009 with, if successful an opportunity to finally resolve the storage problem.

With regard to the recommendations on the standard of documentation and storage of objects it is worth noting the UK Museum Needs Assessment Report produced for the Heritage Lottery Fund and MLA which provides the most comprehensive overview of the state of the UK's museums. It showed for example that well over 90% of museums had documentation backlogs; only 45% felt that their storage was adequate for their current needs and only between 1 and 6% felt that they had sufficient expansion space. While not condoning the Island shortfalls in provision it does put Guernsey's problems into a somewhat wider context.

Care of Historic Sites

The main thrust of the Historic Sites Strategy is that 'The best way to preserve a building is to use it' - Vale Mill and Fort Richmond have been transferred from C&L to T&R for that very reason.

States departments often get accused of working in silos – Historic Sites Strategy ensures all departments cooperate and work together.

The reorganisation of the machinery of government in 2004 was a major step for the then States. The responsibility for historic sites passed untouched to the successors to previous Committees. At that time there were a number of discussions between departments holding responsibility for historic sites with the aim of rationalising their holdings. They may be heritage 'assets' but they are financial 'liabilities' and with the Black Hole looming departments, perhaps understandably, were reluctant to take on responsibility for more sites particularly as the majority did not have discrete budget or manpower attached to them that could be transferred. The exceptions were the two properties, Fort Richmond and Vale Mill that were transferred successfully from Culture and Leisure to Treasury and Resources as being capable of future beneficial use.

From those meetings, and the realisation that departments were reluctant to take on further responsibilities without the appropriate transfer of resources, arose the development of a Historic Sites Strategy by Culture and Leisure, Treasury and Resources and Environment. This ensures that all three departments are working together to a common objective and appears to be working well. It would be difficult to put all those sites in one basket or to separate their status as an historic site from its day to day use – for example – C&L would want to retain Castle Cornet – T&R would want to retain the Royal Court House, Harbours - Brehon Tower, C&E the slaughterhouse etc. They tend to be useful buildings first and historic sites second. The following basic formula determines which department has responsibility for a site:

- Culture and Leisure generally has the properties that people wish to visit and enjoy from an historical or cultural perspective and can have safe access to,
- Treasury and Resources has the properties that can be used or sold,
- Environment tends to have those with a landscape value

The application of the Historic Sites Strategy cross departmentally has been improved by the appointment by Culture and Leisure of a Historic Sites Curator, giving advice under the Historic Sites Strategy to all States Departments; and also by the strengthening of the professional advice available to the States on archaeology. This considered approach to strengthening the professional staff of Culture & Leisure has been undertaken with one eye on the needs of the department and one on the Historic Sites Strategy and the needs of the States.

The Role of an Arts Trust

The Board noted with interest the suggestion that a Heritage Trust should be considered quoting the positive experiences of Jersey and the Isle of Man. Your Committee will be aware that the Culture and Leisure Department is no stranger to the concept of using Trusts or similar voluntary sector bodies to better provide services traditionally provided by government but which can benefit greatly from the efforts and financial input of those involved in their particular area of interest. Since 2004, Culture and Leisure has created the Guernsey Sports Commission and the Guernsey Arts Commission which are both proving successful. It is hoped therefore that PAC will acknowledge the department's knowledge and expertise in this area and perhaps more importantly the timing of such a move.

A heritage trust has a number of attractions, counterbalanced by a number of drawbacks. Dr Jason Monaghan, the department's Museum's Director has worked for the York Archaeological Trust, Guernsey Maritime Trust and Alderney Maritime Trust so has a perspective on these issues. His comments are:

Advantages:

- An opportunity to "tidy up" the fragmented state of heritage care
- Heritage is freed from jostling for status amongst States priorities
- Management is freed from restraints of being civil servants and can be more "commercial" and more "academic" where necessary.
- More scope for private sector sponsorship, commercial activity, voluntary work
- More flexibility in employment, remuneration, etc
- A move towards "small government" by removing civil servants from a heritage function
- Trust can campaign, express public opinions, even oppose States policies

Disadvantages

- Trust does not have the cushion of the States to protect it against economic downturns, management errors and legal claims. It would be far more vulnerable to shocks than a States run department.
- "Democratic" control of Heritage via elected politicians will be replaced by a largely unelected oligarchy of trustees and academics.
- The States would continue to own many (most) of the assets cared for by the Trust
- We do not know how much local talent is available to provide Trustees with the necessary time, experience, skills AND understanding of heritage issues.

- There will be tension between States and Trust, especially over interfaces such as planning and particularly over budgets.
- Incorrect structuring and funding of the Trust at the outset, perhaps due to short-term political or financial pressures, would prevent it fulfilling its mandate long-term.

Neutral Points

- "We would not start from here"; many issues would have to be resolved before Guernsey heritage was in a fit state to hand over to a Trust. This would include the Museum Store, the Roman wreck, the archiving backlog and the overall funding levels.
- It would not save the States any money. This has to be made perfectly clear from the outset. The Trust's objectives would be to do things better, more effectively, not cheaper. Heritage is already underfunded – the Trust's role would be to redress this problem.
- The Trust and its employees would have exactly the same ethical responsibility to care for the sites and objects in their care as they do now (i.e. they could not just "get rid of stuff")

Feasibility Study

This would require circa 3 months uninterrupted work by a heritage professional (either a consultant or a senior member of Museums staff plucked out of the routine workflow). It would take the previous reports such as the NAO/PAC reports as read and study the workings of trusts in Jersey, the IoM and the UK. It would have to report in detail on such issues as;

- An accurate assessment of the current responsibilities, assets and liabilities of the Museums Service
- Real costs in relation to the above
- Contracts, pensions, remuneration of staff, especially ex-civil servants
- Interim arrangements for new staff pending Trust creation
- Legal ownership of property, museum objects and other museum assets
- Obligations such as loans and bequests
- Funding streams, particularly ring-fenced grants from the States
- Potential and limitations of commercial activities
- Assignment of statutory responsibilities between the Trust and States departments
- Options for legal and management structure, including oversight of the Trust by the States
- The role of the Museum Archaeologists (whether they should be transferred to Environment, or whether conversely planning powers should be passed to the Trust)
- Responsibility for Historic Wreck
- Developer funding for archaeology, so that it can be carried out on a fully commercial basis as in the UK
- Social responsibility – i.e. how the Trust conducts loss making activities such as Education, Outreach, Schools programmes, discounts for Children and disadvantaged groups etc
- Relationship with the Archives and with the Priaulx library

- Relationship with existing heritage groups such as la Societe, National Trust, Maritime Trust, Alderney Maritime Trust, Alderney Society etc
- The boundaries of the Trust's practical responsibilities – does it take on sites currently controlled by Environment, Treasury etc or conversely does it slough off some sites to these departments.
- Issues which need agreed solutions prior to the Trust floating free, for example the Museum Store, Roman Wreck, archive backlogs, urgent repairs
- The “dowry” required up-front to clear up the accumulated issues and allow the new Trust a few years clean run.
- Liabilities over the long term, in particular conservation and upkeep of historic fabric.
- Issues relating to the creation of separate IT, accounting and HR systems etc
- Contingency in the event of the Trust becoming insolvent or incompetent
- Comparative extent of responsibility, staffing and funding at equivalent Trusts
- “lessons learned” from problems and successes of other Trusts

It would be feasible for Guernsey to go down a similar route to Isle of Man or Jersey and establish a heritage trust but such a decision would need to be taken by the States. It is worth noting that the government support in 2007 for Jersey Heritage was £3 million and Manx Heritage was £6.2 million compared to Guernsey's £1.2 million. Guernsey has been heavily under-investing for twenty years in its heritage.

The Guernsey Museums Service currently has sufficient critical mass to support itself in professional matters. However many of its support functions are dealt with centrally within Culture and Leisure, eg Finance, HR, Property, IT, Legal, risk and insurance. A Trust would need to take on those areas of responsibility in order to be independent and effective.

Establishing a heritage trust for Guernsey, therefore would be a major undertaking and would require funding above and beyond the Culture and Leisure Department.

The Board unanimously agree that the proposal for the formation of a Trust has merit, but suggests that the correct time for such an investigation and report being carried out is when the States has provided suitable storage facilities in the form of a new Museum's Store and not before.

It intends to include this investigation into the formation of a Heritage Trust into its Cultural Strategy when it is redrafted in the spring of 2009.

Yours sincerely

Mike O'Hara
Minister

The States are asked to decide:-

XVII.- Whether, after consideration of the Report dated 5th December, 2008, of the Public Accounts Committee, they are of the opinion:-

1. To note the contents of that Report, including the commitments of the Culture and Leisure Department.
2. To direct the Culture and Leisure Department to return to the States by June 2009 with clear and costed proposals on the future direction and strategy for safeguarding, storing, displaying and accessibility of the heritage assets of the Island.
3. To direct the Public Accounts Committee to monitor and review the action taken by the Culture and Leisure Department and other departments in considering and implementing the recommendations as outlined in Section 7, of that Report.

STATUTORY INSTRUMENTS LAID BEFORE THE STATES

**THE CRIMINAL JUSTICE (PROCEEDS OF CRIME)
(RESTRICTION ON CASH TRANSACTIONS) (BAILIWICK OF GUERNSEY)
REGULATIONS, 2008**

In pursuance of Section 54 of The Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey, Law, 1999, The Criminal Justice (Proceeds of Crime) (Restriction on Cash Transactions) (Bailiwick of Guernsey) Regulations, 2008, made by the Policy Council on 24th November, 2008, are laid before the States.

EXPLANATORY NOTE

These Regulations are made under the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999. They restrict the sale or purchase in the course of certain businesses of precious metals, precious stones or jewellery where the payment is made in cash and exceeds £10,000 (or any currency equivalent to that amount). A person who contravenes the restriction commits an offence and is liable, for a first offence, to a fine not exceeding level 2 on the uniform scale (currently £1,000) and, for a second or subsequent offence, to a fine not exceeding twice the value of the cash involved.

**THE CRIMINAL JUSTICE (PROCEEDS OF CRIME) (BAILIWICK OF
GUERNSEY) LAW, 1999 (AMENDMENT OF SCHEDULES 1 AND 2)
REGULATIONS, 2008**

In pursuance of Section 54 of The Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey, Law, 1999, The Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999 (Amendment of Schedules 1 and 2) Regulations, 2008, made by the Policy Council on 24th November, 2008, are laid before the States.

EXPLANATORY NOTE

These Regulations amend Schedules 1 and 2 to the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey, Law, 1999.

Schedule 1 of the Law specifies which businesses are financial services businesses for the purpose of the law. Regulation 1 makes amendments to the descriptions of businesses set out in that schedule.

Schedule 2 of the Law specifies which businesses are relevant businesses for the purpose of the law. Regulation 2 amends the definition of the businesses of estate agency.

**THE CRIMINAL JUSTICE (PROCEEDS OF CRIME)
(LEGAL PROFESSIONALS, ACCOUNTANTS AND ESTATE AGENTS)
(BAILIWICK OF GUERNSEY) (AMENDMENT) REGULATIONS, 2008**

In pursuance of Section 54 of The Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey, Law, 1999, The Criminal Justice (Proceeds of Crime) (Legal Professionals, Accountants and Estate Agents) (Bailiwick of Guernsey) (Amendment) Regulations, 2008, made by the Policy Council on 24th November, 2008, are laid before the States.

EXPLANATORY NOTE

These Regulations are made under the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999 and amend the definition of "client" for the purposes of the Criminal Justice (Proceeds of Crime) (Legal Professionals, Accountants and Estate Agents) (Bailiwick of Guernsey) Regulations, 2008. The amended definition includes as clients of estate agents persons wishing to acquire an interest in property.

**THE REGISTRATION OF NON-REGULATED FINANCIAL SERVICES
BUSINESSES (BAILIWICK OF GUERNSEY) LAW, 2008
(SCHEDULE 1 AMENDMENT) REGULATIONS, 2008**

In pursuance of Section 31 of The Registration of Non-Regulated Financial Services Businesses (Bailiwick of Guernsey) Law, 2008, The Registration of Non-Regulated Financial Services Businesses (Bailiwick of Guernsey) Law, 2008 (Schedule 1 Amendment) Regulations, 2008, made by the Policy Council on 24th November, 2008, are laid before the States.

EXPLANATORY NOTE

These Regulations amend The Registration of Non-Regulated Financial Services Businesses (Bailiwick of Guernsey) Law, 2008 by inserting a new Schedule 1.

**THE SOCIAL INSURANCE (CONTRIBUTIONS)
(AMENDMENT) REGULATIONS, 2008**

In pursuance of Section 117 of the Social Insurance (Guernsey) Laws, 1978-2004, the Social Insurance (Benefits) (Amendment) Regulations, 2008, made by the Social Security Department on 1st December, 2008, are laid before the States.

EXPLANATORY NOTE

These Regulations provide that benefits, as defined in The Income Tax Law, 1975, as amended, be included in the calculation of earnings for the purpose of determining the liability of Class 1 contributors to pay social insurance contributions.

**THE SOCIAL INSURANCE (BENEFITS)
(AMENDMENT) REGULATIONS, 2008**

In pursuance of section 117 of the Social Insurance (Guernsey) Laws, 1978 – 2004, the Social Insurance (Benefits) (Amendment) Regulations, 2008, made by the Social Security Department on 1st December, 2008, are laid before the States.

EXPLANATORY NOTE

These Regulations amend the schedules to the Social Insurance (Benefits) Regulations, 2003 and prescribe the reduced rates payable from 5th January 2009 to claimants who do not satisfy the conditions for entitlement to payment of the maximum rate of benefit.

**THE HEALTH SERVICE (MEDICAL APPLIANCES)
(AMENDMENT) REGULATIONS, 2008**

In pursuance of Section 35 of The Health Service (Benefit) (Guernsey) Law, 1990, the Health Service (Medical Appliances) (Amendment) Regulations, 2008, made by the Social Security Department on 1st December, 2008, are laid before the States.

EXPLANATORY NOTE

These Regulations further amend the Health Service (Medical Appliances) Regulations, 1990, as amended, by increasing the charges payable to authorised appliance suppliers in Guernsey and Alderney by persons supplied with Part I, II or III medical appliances who are not exempt from such charges.

**THE HEALTH SERVICE (PAYMENT OF AUTHORISED SUPPLIERS)
(AMENDMENT) REGULATIONS, 2008**

In pursuance of Section 35 of The Health Service (Benefit) (Guernsey) Law, 1990, the Health Service (Payment of Authorised Suppliers) (Amendment) Regulations, 2008, made by the Social Security Department on 1st December, 2008, are laid before the States.

EXPLANATORY NOTE

These Regulations amend the Schedules to the Health Service (Payment of Authorised Suppliers) Regulations, 2003 by increasing the graduated fees paid to pharmacists not employed by a medical practice.

**THE HEALTH SERVICE (PAYMENT OF AUTHORISED APPLIANCE
SUPPLIERS) (AMENDMENT NO. 2) REGULATIONS, 2008**

In pursuance of Section 35 of The Health Service (Benefit) (Guernsey) Law, 1990, the Health Service (Payment of Authorised Appliance Suppliers) (Amendment) Regulations, 2007, made by the Social Security Department on 1st December, 2008, are laid before the States.

EXPLANATORY NOTE

These Regulations amend the First Schedule to the Health Service (Payment of Authorised Appliance Suppliers) Regulations, 2003.

**THE INCOME TAX (LOANS TO PARTICIPATORS)
(EXEMPTIONS) (NO. 3) REGULATIONS, 2008**

In pursuance of Section 66A(4)(d) of the Income Tax (Guernsey) Law, 1975, as amended, the Income Tax (Loans to Participators) (Exemptions) (No. 3) Regulations, 2008, made by the Treasury and Resources Department on 2nd December 2008, are laid before the States.

EXPLANATORY NOTE

These Regulations -

- (a) exempt certain classes of company loan from the "loans to participators" regime of the Income Tax (Guernsey) Law, 1975, as amended by the Income Tax (Zero 10) (Guernsey) Law, 2007 and the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007. The regime provides that loans made by companies to participators in the company (a term which includes, for example, members of the company) are (subject to various prescribed conditions) taxable as income. The exempted classes of loan are loans advanced at a commercial rate of interest and loans which (when aggregated with other loans to the participator) do not exceed £2,500, and
- (b) provide that tax deducted by a company in accordance with section 81B of the Income Tax (Guernsey) Law, 1975, as so amended, from a distribution of its undistributed income is not a qualifying loan. Accordingly, tax is not deductible and payable on the amount of the tax deducted under that section.

**THE INCOME TAX (DEEMED DISTRIBUTIONS)
(EXEMPTIONS) (NO. 2) REGULATIONS, 2008**

In pursuance of Section 62A(4) of the Income Tax (Guernsey) Law, 1975, as amended, the Income Tax (Deemed Distributions) (Exemptions) (No. 2) Regulations, 2008, made

by the Treasury and Resources Department on 2nd December 2008, are laid before the States.

EXPLANATORY NOTE

These Regulations specify exemptions from the charging regime for deemed distributions established by Chapter VIIIA of the Income Tax (Guernsey) Law, 1975, as amended by the Income Tax (Zero 10) (Guernsey) Law, 2007 and the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007. The exemptions apply where the undistributed income of a company would otherwise have been deemed to have been distributed to a person who is a minority beneficial member of the company or where the undistributed income is income in respect of which the company has been granted an exemption from tax under an Ordinance made under section 40A of the 1975 Law.

THE INCOME TAX (PENSIONS) (CONTRIBUTION LIMITS AND TAX-FREE LUMP SUMS) REGULATIONS, 2008

In pursuance of Sections 153(2), 157A(2)(b)(vi), 157A(5B) and 159 of the Income Tax (Guernsey) Law, 1975, as amended, the Income Tax (Pensions) (Contribution Limits and Tax-free Lump Sums) Regulations, 2008, made by the Treasury and Resources Department on 2nd December 2008, are laid before the States.

EXPLANATORY NOTE

These Regulations are substantially the same as the 2007 Regulations; the only material changes being the tax-free lump sums payable from an approved occupational pension scheme or an approved annuity scheme, which increases to £161,000.

THE INCOME TAX (GUERNSEY) VALUATION OF BENEFITS IN KIND) REGULATIONS, 2008

In pursuance of Section 8(2)(b) of the Income Tax (Guernsey) Law, 1975, as amended, the Income Tax (Guernsey) (Valuation of Benefits in Kind) Regulations, 2008, made by the Treasury and Resources Department on 2nd December 2008, are laid before the States.

EXPLANATORY NOTE

These Regulations increase the levels of benefits from motor vehicles and accommodation benefits for proprietary directors and proprietary employees in a hotel or guesthouse, by 5% (rounded to the nearest £5) over and above those included in the 2007 Regulations.

THE HEALTH SERVICE (BENEFIT) (LIMITED LIST) (PHARMACEUTICAL BENEFIT) (AMENDMENT NO. 7) 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. 7) Regulations, 2008, made by the Social Security Department on 3rd December, 2008, are laid before the States.

EXPLANATORY NOTE

These Regulations add to the 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 BUILDING (AMENDMENT) REGULATIONS, 2008

In pursuance of Section 1 of the Building (Guernsey) Law, 1956, The Building (Amendment) Regulations, 2008, made by the Environment Department on 12th December 2008, is laid before the States.

EXPLANATORY NOTE

These Regulations amend the Building Regulations, 1992 by inserting definitions of "**conservatory**" and "**sun lounge**" into CLASS V of Schedule 2 of those Regulations ("Schedule 2") to clarify the meaning of those terms.

Schedule 2 sets out buildings and types of building work which are exempt from requirements of the 1992 Regulations subject to the provisions of regulation 13 of those Regulations. CLASS V of Schedule 2 sets out extensions which are so exempt including the addition at ground level of a conservatory or a sun lounge.

THE FAMILY ALLOWANCES (QUALIFICATIONS) (AMENDMENT) (GUERNSEY) REGULATIONS, 2008

In pursuance of Section 15 of the Family Allowances (Guernsey) Law, 1950, the Family Allowances (Qualifications) (Amendment) (Guernsey) Regulations, 2008, made by the Social Security Department on 17th December 2008, are laid before the States.

EXPLANATORY NOTE

This Regulation brings The Family Allowances (Qualifications) (Guernsey) Regulations, 1977, as amended into line with the Education (Guernsey) Law, 1970, as amended by revoking the provision which allowed Family Allowances to continue in payment until the last Monday in April in respect of a child who finished full-time education between 1st March and 1st May. This provision provided an end date for the payment of Family Allowances in respect of a 15 year old child who finished full-time education at the end of the spring or Easter term. From September 2008, no pupil will be allowed to leave school legally until the last Friday in June in the school year in which they attain the age of 16, therefore this provision is no longer necessary.

APPENDIX I

STATES ASSEMBLY AND CONSTITUTION 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

24th November 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.”*

*[*name changed on 1st August 2008 to States Assembly and Constitution Committee]*

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

I 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 31st October 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

L. S. Trott	18	12			5	1	
B. M. Flouquet	18	17				1	
A. H. Adam	18	13	2		2	1	
M. H. Dorey	18	15			1	2	
D. B. Jones	18	16				1	1 no notice
G. H. Mahy	18	16				2	
C. S. McNulty Bauer	18	15			2	1	
M. G. O'Hara	18	14			1	3	
C. N. K. Parkinson	18	17				1	
P. R. Sirett	18	16				2	
C. A. Steere	18	14	2			2	

Alternate Members:

D. de G. De Lisle	1	1					
M. G. G. Garrett	2	2					
G. Guille	1	1					
M. P. J. Hadley	1	1					
A. H. Langlois	1	1					
A. R. Le Lièvre	1	1					
S. J. Ogier	3	2	1				
F. W. Quin	1	1					
R. W. Sillars	1	1					
J. M. Tasker	1	1					

COMMERCE AND EMPLOYMENT DEPARTMENT

C. S. McNulty Bauer	18	16				2	
R. W. Sillars	18	14	3			1	
P. L. Gillson	18	17	1				
M. S. Lainé	18	16	2				
M. J. Storey	18	15	1			2	

CULTURE AND LEISURE DEPARTMENT

M. G. O'Hara	5	5					
M. G. G. Garrett	5	4	1*				* at Scrutiny Cttee
G. P. Dudley-Owen	5	5					
J. A. B. Gollop	5	4	1*				* at Scrutiny Cttee
F. W. Quin	5	5					

EDUCATION DEPARTMENT

C. A. Steere	13	13					
A. H. Langlois	13	8	4*			1	*meetings overran
M. W. Collins	13	11	2*				* other States business
D. de G. De Lisle	13	13					
M. J. Fallaize	13	12			1		

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

ENVIRONMENT DEPARTMENT							
P. R. Sirett	19	17	1		1		
J. M. Tasker	19	18				1	
J. Honeybill	19	16				3	
J. M. Le Sauvage	19	19					
B. J. E. Paint	19	17		1		1	

HEALTH AND SOCIAL SERVICES DEPARTMENT							
A. H. Adam	12	12					
B. L. Brehaut	12	10			2		
M. P. J. Hadley	12	10				2	
A. R. Le Lièvre	12	11				1	
R. G. Willmott	12	10	2*				* 1 at T & R mtg

HOME DEPARTMENT							
G. H. Mahy	12	12					
F. W. Quin	12	12					
S. J. Maindonald	12	6				6	
J. M. Tasker	12	12					
M. S. Lainé	12	12					

HOUSING DEPARTMENT							
D. B. Jones	11	10				1	
G. Guille	11	11					
T. J. Stephens	11	10				1	
G. P. Dudley-Owen	11	11					
S. J. McManus	11	11					

PUBLIC SERVICES DEPARTMENT							
B. M. Flouquet	19	19					
S. J. Ogier	19	18	1				
T. M. Le Pelley	19	17				2	
A. Spruce	19	13			2	4	
W. Walden	19	14		1		3	1 unknown

SOCIAL SECURITY DEPARTMENT							
M. H. Dorey	15	15					
A. H. Brouard	15	13	2				
M. W. Collins	15	12	2			1	
A. R. Le Lièvre	15	15					
S. J. Ogier	15	13	1				1 unknown

TREASURY AND RESOURCES DEPARTMENT							
C. N. K. Parkinson	29	28				1	
A. H. Langlois	29	20				8	1 declared interest
S. L. Langlois	29	27	1			1	
R. Domaille	29	28				1	
J. Honeybill	29	27				2	

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

LEGISLATION SELECT COMMITTEE

J. A. B. Gollop	8	8					
R. R. Matthews	8	7			1		
L. R. Gallienne	8	8					
S. J. Maindonald	8	5				3	
T. J. Stephens	8	7				1	

PUBLIC ACCOUNTS COMMITTEE

L. R. Gallienne	9	9					
M. G. G. Garrett	9	8				1	
B. J. E. Paint	9	7				2	
T. J. Stephens	9	9					
M. J. Storey	9	8				1	

PUBLIC SECTOR REMUNERATION COMMITTEE

A. H. Brouard	28	25			3		
A. Spruce	28	19	1	1		7	
B. L. Brehaut	28	26	1			1	
M. W. Collins	28	20	1			7	
R. Domaille	28	24	1			3	

SCRUTINY COMMITTEE

B. L. Brehaut	9	9					
M. J. Fallaize	9	9					
M. G. G. Garrett	9	3	3		2	1	
J. A. B. Gollop	9	6	1		2		
J. Kuttelwascher	9	7				2	
M. M. Lowe	9	9					
R. R. Matthews	9	8				1	
S. J. McManus	9	8	1				
M. J. Storey	9	6			1	2	

STATES ASSEMBLY AND CONSTITUTION COMMITTEE (House Committee until 1.8.2008)

I. F. Rihoy	9	8		1			
M. M. Lowe	9	8				1	
M. J. Fallaize	9	9					
S. L. Langlois	9	9					
T. M. Le Pelley	9	7	1			1	

INHERITANCE LAW REVIEW COMMITTEE

M. M. Lowe	3	3					
P. R. Sirett	3	2			1		
R. W. Sillars	3	3					

PAROCHIAL ECCLESIASTICAL RATES REVIEW COMMITTEE

T. M. Le Pelley	1	1					
J. A. B. Gollop	1	1					
B. M. Flouquet	1	1					
M. M. Lowe	1	1					
S. L. Langlois	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 – Population Policy Group

B. M. Flouquet	1	1					
C. S. McNulty Bauer	1	1					
D. B. Jones	1	1					
G. H. Mahy	1	1					
M. H. Dorey	1			1			

POLICY COUNCIL – Social Policy Group

A. H. Adam	4	3		1			
M. H. Dorey	4	3	1				
G. H. Mahy	4	2	1	1			
C. A. Steere	4	3	1				
C. N. K. Parkinson	4	4					
A. R. Le Lièvre	3	3					
G. Guille	3	2		1			
R. W. Sillars	3	1		2			
M. G. G. Garrett	0						
J. M. Tasker	2	2					
F. W. Quin	1	1					
T. J. Stephens	1	1					

POLICY COUNCIL – Strategic Land Planning Group

B. M. Flouquet	2	2					
P. R. Sirett	2	1	1				
C. S. McNulty Bauer	2	2					
M. G. O'Hara	2	2					
M. H. Dorey	2	2					

POLICY COUNCIL – Fiscal and Economic Policy Steering Group

L. S. Trott	5	5					
B. M. Flouquet	5	4				1	
A. H. Adam	5	5					
C. S. McNulty Bauer	5	4				1	
C. N. K. Parkinson	5	5					

POLICY COUNCIL – Energy Policy Group

C. N. K. Parkinson	2	2					
M. S. Lainé	2	2					
J. M. Le Sauvage	2	2					
G. Guille	2	1	1				
S. J. Ogier	2	2					

POLICY COUNCIL – Environmental Policy Group

P. R. Sirett	2	2					
B. M. Flouquet	2	1			1		
M. G. O'Hara	2	1		1			
C. A. Steere	2	2					
P. L. Gillson	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

POLICY COUNCIL – External Relations Group

L. S. Trott	4	4					
B. M. Flouquet	4	3	1				
C. S. McNulty Bauer	4	3			1		
D. B. Jones	4	3	1				
P. R. Sirett	4	4					

POLICY COUNCIL – Government Business Plan Team

L. S. Trott	3	2			1		
G. H. Mahy	3	3					
A. H. Adam	3	3					
M. H. Dorey	3	3					
S. J. Maindonald	2	1		1			
A. H. Langlois	2	1		1			
R. W. Sillars	3	2		1			
M. W. Collins	1	1					
J. Kuttelwascher	1			1			

POLICY COUNCIL – Parish Liaison Team

A. H. Adam	3	3					
M. P. J. Hadley	3	3					
R. Domaille	2	2					

POLICY COUNCIL – Parochial Legislation Working Party

A. H. Adam	1		1				
S. L. Langlois	1	1					
R. Domaille	1	1					

**COMMERCE AND EMPLOYMENT DEPARTMENT and
TREASURY AND RESOURCES DEPARTMENT – Construction Sector Group**

C. S. McNulty Bauer	2	2					
P. L. Gillson	2	2					
J. Honeybill	2	1				1	
S. L. Langlois	2	1				1	
R. Domaille	1	1					

COMMERCE AND EMPLOYMENT DEPARTMENT – Dairy Management Board

C. S. McNulty Bauer	4	3	1				
R. W. Sillars	4	3	1				

COMMERCE AND EMPLOYMENT DEPARTMENT – Business Guernsey Group

R. W. Sillars	1	1					
M. S. Lainé	1	1					
M. J. Storey	1	1					

**COMMERCE AND EMPLOYMENT DEPARTMENT and
PUBLIC SERVICES DEPARTMENT – External Transport Group**

C. S. McNulty Bauer	1	1					
M. S. Lainé	1	1					
B. M. Flouquet	1	1					
S. J. Ogier	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

COMMERCE AND EMPLOYMENT DEPARTMENT – Finance Sector Group

C. S. McNulty Bauer	4	4					
P. L. Gillson	3	2					1 unknown
L. S. Trott	4	3			1		
C. N. K. Parkinson	1	1					
B. M. Flouquet	1	1					

**COMMERCE AND EMPLOYMENT DEPARTMENT – Intellectual Property Office
Steering Group**

M. J. Storey	2	1				1	
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**COMMERCE AND EMPLOYMENT DEPARTMENT and
CULTURE AND LEISURE DEPARTMENT – Marketing Guernsey Group**

C. S. McNulty Bauer	1	1					
R. W. Sillars	1	1					
M. G. O'Hara	1	1					

CULTURE AND LEISURE DEPARTMENT – Liberation Celebrations Committee

M. G. O'Hara	0						
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CULTURE AND LEISURE DEPARTMENT – KGV Management Committee

M. G. G. Garrett	4	1					3 no notice
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CULTURE AND LEISURE DEPARTMENT – Channel Islands Lottery Advisory Panel

F. W. Quin	1	1					
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CULTURE AND LEISURE DEPARTMENT – Guernsey Sports Commission

F. W. Quin	4	3				1	
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CULTURE AND LEISURE DEPARTMENT – Friends of St. James Association

G. P. Dudley-Owen	3				1	2	
J. A. B. Gollop	3	1		1	1		

CULTURE AND LEISURE DEPARTMENT – Events Group

M. G. O'Hara	0						
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**CULTURE AND LEISURE DEPARTMENT – Events Group – Chairmen of Specialist Interest
Groups Sub-Meeting**

M. G. O'Hara	2	1					1 not required
M. G. G. Garrett	2	2					

EDUCATION DEPARTMENT – Appointments Panel

C. A. Steere	1	1					
D. de G. De Lisle	1	1					
M. W. Collins	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

EDUCATION DEPARTMENT – Project Board for St Sampson’s High School and Le Murier

M. W. Collins	2	2					
D. de G. De Lisle	2	2					
M. J. Fallaize	2	1			1		
J. Honeybill	2	2					
S. L. Langlois	2	2					

EDUCATION DEPARTMENT – Guille-Allès Library

M. J. Fallaize	0						
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EDUCATION DEPARTMENT – Blanchelande Girls’ College Board

C. A. Steere	1	1					
M. J. Fallaize	1	1					

EDUCATION DEPARTMENT – e-Learning

M. W. Collins	2	2					
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EDUCATION DEPARTMENT – College of Further Education Development Committee

C. A. Steere	2	2					
M. W. Collins	2	2					

EDUCATION DEPARTMENT – Apprenticeship Sub-Committee

C. A. Steere	1	1					
M. J. Fallaize	1	1					

EDUCATION DEPARTMENT – Higher Education Working Party

C. A. Steere	2	2					
A. H. Langlois	2	2					
D. de G. De Lisle	2	2					

EDUCATION DEPARTMENT – Grammar School Committee

C. A. Steere	1	1					
M. W. Collins	1				1		

EDUCATION DEPARTMENT – Joint Advisory Committee

C. A. Steere	2	2					
M. J. Fallaize	2	1			1		

EDUCATION DEPARTMENT – Lifelong Learning Sub-Committee

A. H. Langlois	1	1					
M. S. Lainé	1	1					
P. L. Gillson	1	1					

EDUCATION DEPARTMENT – Guernsey Training Agency

M. W. Collins	2	1			1		
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EDUCATION DEPARTMENT – Youth Service

A. H. Langlois	3	3					
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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 – Standing Advisory Council for Religious Education							
C. A. Steere	2	2					
M. W. Collins	2				2		
D. de G. De Lisle	2	2					

EDUCATION DEPARTMENT – Amherst and Vauvert Primary Schools' Committee							
M. W. Collins	1				1		

EDUCATION DEPARTMENT – Forest Primary School Committee							
D. de G. De Lisle	1	1					

EDUCATION DEPARTMENT – La Mare de Carteret Primary School Committee							
D. de G. De Lisle	2	1			1		

EDUCATION DEPARTMENT – La Houquette Primary School Committee							
De. De G. De Lisle	1	1					

EDUCATION DEPARTMENT – St Andrew's Primary School Committee							
C. A. Steere	1	1					

EDUCATION DEPARTMENT – Castel Primary School Committee							
C. A. Steere	0						

EDUCATION DEPARTMENT – St Martins Primary School Committee							
C. A. Steere	2	2					

EDUCATION DEPARTMENT – St Mary and St Michael Roman Catholic Primary School Committee							
M. W. Collins	1	1					

EDUCATION DEPARTMENT – Notre Dame du Rosaire Roman Catholic Primary School Committee							
M. W. Collins	1	1					

EDUCATION DEPARTMENT – Hautes Capelles Primary School Committee							
M. J. Fallaize	2	1			1		

EDUCATION DEPARTMENT – Vale Infant and Junior and St Sampson's Infant Schools' Committee							
M. J. Fallaize	2	1			1		

EDUCATION DEPARTMENT – St. Peter Port School Committee							
A. H. Langlois	2	1			1		

EDUCATION DEPARTMENT – St Sampson's High School Committee							
M. J. Fallaize	1				1		
A. H. Langlois	1	1					

EDUCATION DEPARTMENT – Les Beaucamps High School Committee							
C. A. Steere	2	2					

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 - St Anne's School Committee

A. H. Langlois

1

1

EDUCATION DEPARTMENT – La Mare de Carteret High School Committee

D. de G. De Lisle

2

2

HOME DEPARTMENT – Gambling Sub-Committee

J. M. Tasker

2

2

M. S. Lainé

2

2

HOME DEPARTMENT – Law Enforcement Working Group

G. R. Mahy

3

3

PUBLIC SERVICES DEPARTMENT – Airport Pavement Project Board

B. M. Flouquet

3

2

T. M. Le Pelley

3

3

A. Spruce

3

3

1 unknown

PUBLIC SERVICES DEPARTMENT – Pilotage Board

W. Walden

1

1

A. Spruce

1

1

PUBLIC SERVICES DEPARTMENT – Waste Disposal Authority

B. M. Flouquet

5

5

S. J. Ogier

5

5

T. M. Le Pelley

5

5

A. Spruce

5

4

1

W. Walden

5

3

1

1

PUBLIC SERVICES DEPARTMENT – Guernsey Recycling Advisory Forum

B. M. Flouquet

4

2

S. J. Ogier

4

2

2 unknown

2 unknown

PUBLIC SERVICES DEPARTMENT – Alderney Airport Working Party
No meetings held
PUBLIC SERVICES DEPARTMENT – Waste Industry Forum
No meetings held
PUBLIC SERVICES DEPARTMENT – Waste Project Board

B. M. Flouquet

1

1

S. J. Ogier

1

T. M. Le Pelley

1

1

A. Spruce

1

1

W. Walden

1

1

1 unknown

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

TREASURY AND RESOURCES DEPARTMENT – Property Services Sub-Committee

J. Honeybill	12	12					
R. Domaille	12	12					
S. L. Langlois	12	12					

TREASURY AND RESOURCES DEPARTMENT – Investments Sub-Committee

C. N. K. Parkinson	5	5					
J. Honeybill	5	4				1	
S. L. Langlois	5	5					

TREASURY AND RESOURCES DEPARTMENT – ICT Sub-Committee

R. Domaille	2	2					
A. H. Langlois	2	2					

TREASURY AND RESOURCES DEPARTMENT – Accountancy Sub-Committee

C. N. K. Parkinson	1	1					
A. H. Langlois	1	1					
S. L. Langlois	1	1					

PUBLIC ACCOUNTS COMMITTEE – Housing Association Group

B. J. E. Paint	3	3					
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PUBLIC ACCOUNTS COMMITTEE – Audit Sub-Committee

L. R. Gallienne	1	1					
M. J. Storey	1	1					

PUBLIC ACCOUNTS COMMITTEE – Contract Review Working Party

T. J. Stephens	2	2					
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PUBLIC SECTOR REMUNERATION COMMITTEE – Public Service Employees Joint Council

A. H. Brouard	4	4					
A. Spruce	4	3		1			
B. L. Brehaut	4	3	1				
M. W. Collins	4	4					
R. Domaille	4	3				1	

PUBLIC SECTOR REMUNERATION COMMITTEE – Teachers and Lecturers Joint Council

A. H. Brouard	2	1					1 declared interest
A. Spruce	2	1				1	
B. L. Brehaut	2	2					
M. W. Collins	2	2					
R. Domaille	2	2					

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							
B. L. Brehaut	55	50	2		2	1	
C. S. McNulty Bauer	60	52	1		3	4	
J. M. Tasker	36	35				1	
R. Domaille	81	75	1			5	
A. H. Langlois	58	42	4*	1	1	9	* meetings overran 1 declared interest
J. Kuttelwascher	10	7		1		2	
ST PETER PORT NORTH							
J. A. B. Gollop	26	20	2*	1	3		* 1 at Scrutiny
R. R. Matthews	17	15			1	1	
C. A. Steere	54	49	3			2	
M. J. Storey	40	32	1		1	6	
J. Honeybill	69	62				7	
L. R. Gallienne	18	18					
M. W. Collins	78	60	5*		5	8	* States business
ST. SAMPSON							
P. L. Gillson	25	22	1	1			1 unknown
S. J. Maindonald	22	12		1		9	
S. J. Ogier	50	43	3				4 unknown
I. F. Rihoy	9	8		1			
L. S. Trott	34	26			7	1	
T. J. Stephens	31	29				2	
VALE							
M. J. Fallaize	42	36			6		
G. H. Mahy	41	37	1	1		2	
A. Spruce	63	45	1	2	2	13	
M. M. Lowe	22	21				1	
G. Guille	14	13	1				
D. B. Jones	34	30	1			2	1 no notice
A. R. Le Lièvre	31	30				1	
CASTEL							
M. H. Dorey	43	38	1	1	1	2	
A. H. Adam	46	39	3	1	2	1	
T. M. Le Pelley	38	34	1			3	
S. J. McManus	20	19	1				
B. J. E. Paint	31	27		1		3	
B. M. Flouquet	67	60	1		1	2	3 unknown
M. G. G. Garrett	31	20	4*		2	2	* 1 at Scrutiny 3 no notice

NAME OF MEMBER	TOTAL NUMBER OF MEETINGS	MEMBER PRESENT		MEMBER ABSENT			
		Whole Meeting	Part of Meeting	Indisposed	States business	Personal business/ holiday	Other
WEST							
A. H. Brouard	49	43	2		3		1 declared interest
D. de G. De Lisle	27	26			1		
M. S. Lainé	37	35	2				
S. L. Langlois	66	62	2			2	
P. R. Sirett	44	39	1		2	2	
G. P. Dudley-Owen	19	16			1	2	
SOUTH-EAST							
C. N. K. Parkinson	65	63				2	
F. W. Quin	24	23				1	
M. G. O'Hara	30	24		1	1	3	1 not required
R. W. Sillars	34	26	4	3		1	
J. M. Le Sauvage	21	21					
M. P. J. Hadley	16	14				2	
ALDERNEY REPRESENTATIVES							
R. G. Willmott	12	10	2*				1 at T. & R.
W. Walden	26	19	1	1		4	1 unknown

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		
B. L. Brehaut	12	12
C. S. McNulty Bauer	12	11
J. M. Tasker	12	11
R. Domaille	12	12
A. H. Langlois	12	12
J. Kuttelwascher	12	12
ST PETER PORT NORTH		
J. A. B. Gollop	12	12
R. R. Matthews	12	12
C. A. Steere	12	11
M. J. Storey	12	12
J. Honeybill	12	12
L. R. Gallienne	12	12
M. W. Collins	12	11
ST SAMPSON		
P. L. Gillson	12	12
S. J. Maindonald	12	12
S. J. Ogier	12	12
I. F. Rihoy	12	12
L. S. Trott	12	11
T. J. Stephens	12	12
VALE		
M. J. Fallaize	12	12
G. H. Mahy	12	12
A. Spruce	12	12
M. M. Lowe	12	12
G. Guille	12	12
D. B. Jones	12	12
A. R. Le Lièvre	12	12
CASTEL		
M. H. Dorey	12	12
A. H. Adam	12	12
T. M. Le Pelley	12	12
S. J. McManus	12	12
B. J. E. Paint	12	12
B. M. Flouquet	12	12
M. G. G. Garrett	12	11

NAME OF MEMBER	TOTAL NUMBER OF DAYS (or part)	DAYS ATTENDED (or part)
WEST		
A. H. Brouard	12	11
D. de G. De Lisle	12	12
M. S. Lainé	12	12
S. L. Langlois	12	12
P. R. Sirett	12	12
G. P. Dudley-Owen	12	12
SOUTH-EAST		
C. N. K. Parkinson	12	12
F. W. Quin	12	12
M. G. O'Hara	12	12
R. W. Sillars	12	12
J. M. Le Sauvage	12	12
M. P. J. Hadley	12	12
ALDERNEY REPRESENTATIVES		
R. G. Willmott	12	12
W. Walden	12	9

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.

*APPENDIX II***PUBLIC ACCOUNTS COMMITTEE****HOUSING ASSOCIATIONS IN GUERNSEY**

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

5th December 2008

Dear Sir

1. Executive Summary

- 1.1 The Public Accounts Committee (the Committee) commissioned a review evaluating whether the States of Guernsey was taking the right direction in, and providing value for money by, setting up housing associations.
- 1.2 Notwithstanding identification of initial problems relating to poor internal controls at the Guernsey Housing Association LBG and the prolonged finalisation of the contract at the Rosaire Avenue Scheme, as a result of this review, the Committee has concluded that **the establishment of housing associations in Guernsey has successfully increased the supply of intermediate, social rental and extra care housing on the Island.**
- 1.3 This report outlines the main findings of the review carried out by the National Audit Office (NAO) and adds the Committee's considered opinions, following its own research and also having noted the comments from the Housing Department and Guernsey Housing Association LBG, in particular on progress, since the NAO completed its report.
- 1.4 The Committee considers that the Guernsey Housing Association LBG is providing an increased number of social housing units at better value for public funds. This is monitored mainly by the Housing Department through dialogue and review of its performance benchmarks.
- 1.5 The Housing Department were directed, by the States, to seek approval from the Advisory and Finance Committee for the terms of the sale of Rosaire Avenue to Housing 21 Guernsey LBG and Rosaire Sheltered Housing Limited. As a result of this decision, the States Assembly has not previously been made aware of the final terms of the agreement and profit levels achieved through the sale of this site. Although restrictive covenants have been applied to safeguard the future use of part of the site for sheltered housing, the States no longer have direct

rights over the land, because outright ownership of the Rosaire Avenue site was sold for a total of £20 as part of the negotiations for the contract for the extra care sheltered housing development. Furthermore, in order to ensure completion of the development for extra care sheltered housing, part of the site was sold to a limited company for a nominal sum of £10 to enable it to sell on a number of freehold apartments for a commercial profit. This incentive, provided to the developers in return for their investment in the project, was a key part of the public private partnership. But its mechanism contained no safeguards to ensure that the States could enjoy any share of profits arising from sales above what had been determined to be a reasonable level of return for those private investors.

- 1.6 In addition, some of the agreements under which the entities operate have not been finalised, a situation that the Committee cannot condone.
- 1.7 The Housing Department has introduced new methods of providing social housing in Guernsey and has also negotiated a complex public private partnership for the States through the Rosaire Avenue Scheme. It is important that the States learn from these experiences to ensure success in similar public private partnership schemes set up by States departments in the future.

2. Background

- 2.1 The Committee is mandated to examine whether public funds have been applied for the purposes intended by the States and to ensure that extravagance and waste are eradicated. To achieve this, the Committee commissions third parties to carry out reviews to ensure that the States achieves value for money.
- 2.2 As part of the original contract with the NAO, six risk reviews were carried out throughout the States. One of these risk reviews involved the NAO considering the operations of the Housing Department, from which a further six potential review areas were proposed, one of which was ‘working with Housing Associations to increase housing stock: the framework of funding, performance management and regulation of Housing Associations’.
- 2.3 In 2005 the Internal Audit Unit of the Treasury and Resources Department carried out an internal audit of the Guernsey Housing Association LBG, the first housing association granted funds by the States. The findings of the report indicated that controls were ‘deficient’ and the Guernsey Housing Association LBG immediately took action to rectify the shortcomings. In view of the corrective action being taken, the Committee delayed intervention at that time.
- 2.4 At the beginning of 2006, the Committee considered its work programme for the year and thought that it would be appropriate to review housing associations in order to ascertain whether they were providing value for money.
- 2.5 The NAO had already carried out an overview of the Housing Department’s operations to produce the risk review, therefore the Committee commissioned the NAO to review housing associations, building on the NAO’s experience of such work in the UK.

3. Housing Associations

- 3.1 The housing of Guernsey's population and increasing the Island's housing stock have often been a topic of debate within the States Assembly, and during the 1990s the debate often considered whether it would be appropriate to introduce housing associations in Guernsey. In February 2001¹, the then States Housing Authority returned to the States with clear proposals to introduce housing associations in Guernsey. The Authority believed that:

Figure 1

"Housing Associations can make a significant contribution to the provision of social rented housing in Guernsey. The Authority has concluded that Housing Associations can provide more housing, more quickly, and at lower cost, than if the Housing Authority is responsible for meeting the full requirement of additional social rented housing in the Island."

Source: Billet D'Etat II, 28 February 2001, page 89

- 3.2 The States report then went on to list the reasons for reaching this decision as:

Figure 2

- "The boards of Housing Associations are comprised of individuals who are committed to meeting housing needs in the most effective and cost-efficient manner. Typically they include a range of professionals familiar with housing matters who, for no personal gain, give of their expertise freely as a contribution to the local community.
- Housing Associations are non-profit making organisations who invest surplus income into the maintenance of existing properties or the development of new dwellings.
- While Housing Association developments are predominantly grant-funded by government, Housing Associations also borrow from private finance sources: as a consequence, the call on the public purse would be less than if sites were developed using States' capital alone.
- Unlike the Authority, Housing Associations would not be bound by States' procedures in respect of tendering or the approval of capital projects; they could achieve best value by other means and in a shorter timescale."
- Housing Associations would have greater freedom to employ Architects and other professional of their choice, again potentially speeding up the process of development.

Source: Billet D'Etat II, 28 February 2001, page 89

¹ Billet D'Etat II, 28 February 2001.

3.3 In the UK, housing associations were formally introduced in 1935 and since then have gone on to be the main providers of social housing in the UK (Billet D'Etat II, 28 February 2001 provides a potted history in Appendix I - page 102-107).

3.4 Housing associations are well developed in the UK and Jersey and there are many good practices for Guernsey to adopt and apply.

4. The Guernsey Housing Association's role in developing new social housing in Guernsey

4.1 In February 2001 the States agreed to the principle of the establishment of housing associations in Guernsey and returned to the States Assembly the following September² with proposals on funding and regulatory issues.

4.2 In their report the NAO found that, after initial problems, Guernsey Housing Association LBG was operating soundly. However, in November 2007 the NAO stated there were still financial control weaknesses yet to be addressed.

4.3 Since inception in 2001 over £21million has been granted to the Guernsey Housing Association LBG to enable it to carry out its developments, through reimbursement of rent rebates and direct grants. In view of the large sums of money involved, it was appropriate that immediate action was taken to improve the internal controls within the Guernsey Housing Association LBG when an internal audit, carried out by the States' Internal Audit Unit, found it to be deficient.

4.4 **To avoid the opportunity of misappropriation of funds, all recipients of States funds should ensure that their corporate governance arrangements comply with best practice and appropriate internal controls over their financial systems are put in place and maintained.**

4.5 The Committee emphasises its previously expressed opinion³, that it is essential that the financial watchdogs of the States, Internal Audit Unit and itself, continue to have access to non States bodies to ensure that public funds are safeguarded.

4.6 In its report⁴ the NAO have reported that the Housing and Treasury and Resources Departments jointly regulate the Guernsey Housing Association LBG, although in practice the Treasury and Resources Department takes little part in the regulation. In the United Kingdom housing associations are regulated by an independent commission called the Housing Corporation⁵ which funds

² Billet D'Etat XIX, 26 September 2001, page 1347.

³ Billet D'Etat XVI, June 2007, Section 4.4, page 1320 and Resolution XIII, 3.

⁴ NAO Report "Housing Associations in Guernsey" November 2007, page 11, paragraph 1.21.

⁵ The UK Housing Corporation is a non-governmental body that independently funds and regulates Housing Associations in the UK. It receives its funds from the Department for Communities and Local Government (formerly the Office of the Deputy Prime Minister), a government department that monitors the work of the Department's Executive Agencies, regulators and other associated bodies.

and regulates developments.

- 4.7 Locally, the Housing Department undertakes the role of the Housing Corporation. A framework agreement between the States and the Guernsey Housing Association LBG lays out the responsibilities, funding and document flow between the two bodies. The Housing Department will consider and approve each housing project in advance and ensure that the development conforms to the previously approved business plan.
- 4.8 In 2002 the mix of public and private finance for the Guernsey Housing Association LBG constructions was 75% funded by the States and 25% privately. The additional private funds are borrowed from the Royal Bank of Scotland, with the States acting as guarantor. The proportions have gradually changed over the years with the latest development at Sir John Leale Avenue funded by 10% States grant and 90% private finance. **Thus the provision of social housing through this method of funding is providing better value from public funds for the people of Guernsey.**
- 4.9 The Guernsey Housing Association LBG, through its honorary Board members and executive, is responsible for its own builds, including the appointment of architects, contractors and sub-contractors. The Committee noted that following a rigorous tender procedure for a contractor to carry out the first development at Delancey Court, that contract was then extended to another two developments to achieve better value in a time of high building costs, but that subsequent developments had gone out to tender on an individual basis.
- 4.10 Since 2004, as more and more houses are developed, the Guernsey Housing Association LBG has turned its attention to becoming a social landlord. Since the NAO first visited the Guernsey Housing Association LBG there is now greater communication with the tenants through newsletters, website, telephone calls and a tenants panel will consider new initiatives proposed. At the time of the NAO review, arrears were beginning to increase but the Guernsey Housing Association LBG now considers these to be under control. In addition the Guernsey Housing Association LBG has joined a benchmarking club of similar sized housing associations in order to measure its own performance. This information is reported to the Housing Department as are other improvements suggested in the NAO report.
- 4.11 Although the Housing Department will endeavour to monitor the performance of the Guernsey Housing Association LBG against these indicators, it is comparatively inexperienced in this regulatory role. **The Committee agrees with the NAO, as stated in Paragraph 1.65 of the NAO Report, that it would be appropriate for the Guernsey Housing Association LBG to undergo an independent external inspection sometime in the future and maybe on the tenth anniversary of its inauguration.**

5 Housing 21 and the Rosaire Avenue Scheme

- 5.1 In view of the difficulties experienced in the early days of the Guernsey Housing Association LBG with regard to its poor internal controls, the Committee was keen to ensure that this second developer of social housing in Guernsey receiving States funding was reviewed.
- 5.2 Initially the Housing Department believed that it was too early to include in the review however the Committee considered that it would be remiss for a review of housing associations in Guernsey to exclude the second organisation and the Housing Department agreed that the NAO could have access to relevant data and information to complete the review.
- 5.3 Although the social theory behind this scheme may be sound, the NAO have indicated that there were problems putting the theory into practice in the early days, especially in relation to the prolonged negotiation of a new to Guernsey contract. Furthermore, some of the agreements within the contract have still not been finalised, which would be indicated by signature. Although the Housing and Health and Social Services Departments are of the view that they are taking a pragmatic approach to finalising the contractual obligations for all parties, **the Committee strongly supports the NAO view that, as a general rule, developments should not proceed until a firm contract is in place with all of the key elements agreed.**
- 5.4 In Figure 11 of the NAO report, the key parties involved in the Rosaire development are listed as: the Housing Department, the Health and Social Services Department, Housing 21, Housing 21 Guernsey LBG and Rosaire Sheltered Housing Limited. The latter is a privately owned property development company set up to develop the Rosaire site and to sell on freehold units and lifetime leases.
- 5.5 The NAO has indicated that the States provided a capital grant of £5.662million and land (free of commercial charge but worth £3million in 2001), with the Limited By Guarantee Company taking out a loan of £6million to provide the rest of the capital for the scheme.
- 5.6 The Committee is pleased to note that a full tendering process was carried out for this public private partnership scheme. However, the post tender negotiations with the successful tenderer were protracted and resulted in Housing 21 Guernsey LBG holding the freehold in perpetuity during the continued existence of Housing 21 Guernsey LBG, and Rosaire Sheltered Housing Limited achieving a profit element in the order of £934,000⁶.
- 5.7 The public private partnership arranged by the then States Housing Department was an innovative step for Guernsey, which has been advantageous to the housing needs of some sections of the community. However, the process has

⁶ NAO Report "Housing Associations in Guernsey" – paragraphs 2.20 to 2.23

indicated that such arrangements can place the States at risk. The Committee is therefore concerned that when any department of the States enters into any form of relationship with the commercial sector, the risks arising must be fully assessed and if, at all possible, any potential liability should not rest with the States.

5.8 In the current economic climate, it is likely that the States will enter into more and more public private partnerships. Therefore, it is important that the States take note of the comments made and adopt the recommendations outlined by the NAO who have considerable experience in reviewing public private partnerships.

5.9 Rosaire Sheltered Housing Limited informed the NAO that they had paid off their loan within three months of completion of the project. Greater profits on the development were made than originally anticipated. The profit was £1.2million and it was retained by Rosaire Sheltered Housing Limited (the property developing company). The States had not reserved any right to participate in the share of any profit. The projected profit sum at the time of negotiations was £934,000.

5.10 In 2001 the States of Guernsey agreed that the then Advisory and Finance Committee could approve the transfer of property for this site, which, after some reservations, it did in 2004. The Housing Department were not required to disclose the final negotiated arrangements and profit levels achieved to the States Assembly. The main element of the contract was that the ownership of the site was transferred outright to the two companies for a total of £20.

5.11 The NAO has indicated that it was too early to state whether the development was being managed effectively but noted that there were initial problems encountered in filling the social care housing. The NAO found that the take up of the units in Rosaire Avenue was slower than anticipated and that provision had not been made for that eventuality. If a full risk assessment had been made in accordance with good practice, then such a situation would have been considered and incorporated into the contract, without the need for reconsideration of the financial arrangements or the eligibility criteria. Neither were amended, but a reassessment of the financing of care for those in residential homes as against those in sheltered housing is proposed to be considered by the States Assembly in 2009.

6 NAO Recommendations

6.1 As this report is appended to a Billet D'Etat, the Committee does not make its own recommendations but has appended the full recommendations of the NAO review in full, as follows:

Figure 3

- “(1) Following the improvements achieved in 2006, the Guernsey Housing Association’s management and financial control structure needs to be maintained at a satisfactory level.
- (2) A new business plan for the Guernsey Housing Association should be agreed with the Housing Department without further delay.
- (3) The Guernsey Housing Association should investigate the reasons for the recent increase in the levels of rent arrears and take action to reverse the trend.
- (4) The Guernsey Housing Association should carry out periodical tenant satisfaction surveys.
- (5) The Guernsey Housing Association in conjunction with the Housing Department should develop suitable measures of its performance along the lines suggested by the National Audit Office.
- (6) Once the current development phase is completed, the Guernsey Housing Association should consider submitting itself to an external inspection.
- (7) The Guernsey Housing Association should also periodically carry out a self-assessment of its own performance.
- (8) As a general rule developments should not proceed until a firm contract is in place with all the key elements agreed.
- (9) Departments should ensure that in complex projects involving a public/private partnership there is a mechanism by which the States can share in profits of a windfall nature above an agreed figure.
- (10) The Health & Social Services Department should make full use of the performance indicators and quarterly reports that Housing 21 must provide to the States in order to monitor the effectiveness of Housing 21 in managing the Rosaire scheme.
- (11) As part of the review being carried out into care for the elderly on the Island, consideration should be given as to whether the long term care insurance scheme should fund the care element of extra care housing.
- (12) The problems as regards payment for care hours need to be resolved as soon as possible.”

Source: NAO Report “*Housing Associations in Guernsey*”, page 7.

- 6.2 The Committee will return to review the progress made in implementing the NAO recommendations as part of its follow up procedures.

7. Conclusions

- 7.1 It has not been easy setting up housing associations in Guernsey and problems have been encountered which will provide valuable experience for when further associations are introduced.
- 7.2 The States, in considering its Housing Strategy in December 2007, have supported the concept of housing associations and therefore it is important that these early experiences are used as a basis to ensure even more efficient and effective housing associations in future.
- 7.3 The Committee's main concern from this review is to ensure that all future transfers of States owned property, to a housing association or any other body, are negotiated such that the best value for the tax payer is achieved and that the long term interests of the States are protected.
- 7.4 The concept of housing associations should bring better value to the States provided that they are well managed, risks are assessed and contracts are carefully constructed and managed.
- 7.5 The Committee will return to review the progress made in implementing the NAO recommendations as part of its follow up procedures during this current term of the States.

Yours faithfully

B J E Paint
Vice Chairman

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

Deputy Leon Gallienne	Reason: Former Board Member of Housing Department (2004 – 2007)
Deputy Jane Stephens	Reason: Board Member of Housing Department (2008 -)

(NB The full National Audit Office Report, which is appended to this Report, is published separately.)

(NB Attached are letters from the Treasury and Resources Department, the Health and Social Services Department and the Housing Department submitted in response to the Public Accounts Committee's invitation to comment.)

TREASURY AND RESOURCES DEPARTMENT

Deputy L R Gallienne
Chairman
Public Accounts Committee
Sir Charles Frossard House
La Charroterie
St Peter Port

30 October 2008

Dear Deputy Gallienne

Public Accounts Committee Report on Housing Associations in Guernsey

I refer to the letter from your Vice-Chairman, dated 22 September 2008, enclosing the final Report from your Committee on Housing Associations in Guernsey.

I am grateful for the opportunity to comment on this document. The Report is an endorsement of the strategy and policies that led to the establishment of these organisations enabling further mixed tenure housing to be developed on-island.

However my Board, mindful of its mandate to ensure value for money, would wish to sound a note of caution where the apparently 'free' transfer of States' land and buildings is involved. Looking at the big picture, the notional costs of these assets must be included in entire scheme development costs to allow the total impact on funding of the new homes to be set out, and therefore the assessment of the public subsidy to be fully appreciated. Without this figure it could be construed that the States' gift of land and property has no value and indeed the costs per property appear lower than they actually are.

It must be kept in mind, particularly in these times of financial restraint, that the proceeds from the disposal of other States' property assets are being returned to the General Reserve. The release of capital in these cases can therefore form part of the prioritisation debate for States' capital projects.

My Board would also endorse the comment within the second part of the Report regarding the inclusion of a mechanism by which the States can share in windfall

profits. This method of claw-back is one which has been implemented in several recent sales of States' land and is designed to obtain the best value for the public purse from these transactions.

I trust the above comments are useful to your Committee in compiling its comments.

Yours sincerely

C N K Parkinson
Minister

HEALTH AND SOCIAL SERVICES DEPARTMENT

The Vice Chairman
Public Accounts Committee
Sir Charles Frossard House
La Charroterie
St Peter Port

31st October 2008

Dear Deputy Paint

Public Accounts Committee Report on Housing Associations in Guernsey

I refer to your letter of 22 September which was considered by my Board this week. I am pleased to advise you that there were no comments on the report other than that, unfortunately, the report on the Strategy for Care and Accommodation of Older People (referred to in paragraph 5.11) will not be complete until 2009.

Yours sincerely

A H Adam
Minister

HOUSING DEPARTMENT

Vice-Chairman
Public Accounts Committee
Sir Charles Frossard House
La Charroterie
St Peter Port

18 December 2008

Dear Deputy Paint

PUBLIC ACCOUNTS COMMITTEE REPORT ON HOUSING ASSOCIATIONS

At its meeting held today, the Housing board considered your letter of 5 December 2008, enclosing a copy of your Committee's report on housing associations. We are grateful for the opportunity to comment, which we do below.

General comments

The Housing Department is pleased that the Public Accounts Committee has acknowledged that the Department has "introduced new methods of providing social housing in Guernsey" and that "the establishment of housing associations in Guernsey has successfully increased the supply of intermediate, social rental and extra care housing on the Island."

It is particularly pleasing to note that the Committee recognises that the Guernsey Housing Association "is providing an increased number of social housing *at better value for public funds*" (*italics added*), as this is vindication of the bold step taken by the States in 2001 to establish the first housing association in the Island.

The Department is also pleased to note that the Committee acknowledges the pioneering effort in negotiating "a complex public private partnership for the States through the Rosaire Avenue Scheme."

Inevitably, with no experience in either working with housing associations or developing public private partnerships, it has been a steep learning curve not only for the Department, but all the other parties involved. Many lessons have been learned and applied along the way; lessons we would be very happy to share with other States Departments as the States moves into a new era of working with private and non-governmental organisations to address the Island's priorities for capital projects and new service developments.

Profit sharing

Given this background, it should perhaps be of no surprise that decisions taken some years back may appear at variance with thinking in 2008; however, in drawing conclusions about the actions of the past, it is important that they are assessed in the context of the circumstances at the time. This particularly applies to the statements in paragraphs 1.5 and 5.9 of your Report concerning the absence of a profit share for the States in the Rosaire Avenue development.

As is explained in detail in paragraphs 2.20-2.23 of the NAO report (reproduced in the appendix to this letter), profit sharing had formed part of the original plan, but this would only have been possible if the Housing Authority had also agreed to share any losses – and with political concerns at that time focused on overspend on capital projects, the Authority was very reluctant to expose the States to the risk of meeting a future liability for losses, which then seemed as likely an outcome as excess profits.

Consequently, the Department does not dissent from the NAO recommendation that in future projects undertaken in conjunction with the private sector there should be a mechanism by which the States can share in windfall profits above an agreed figure, but equally it is not critical of its political predecessors for taking the decision they did at the time.

Safeguarding the States' interests

There are two further matters on which the Department believes that it would be useful to make comment.

The first concerns the audit of the Guernsey Housing Association carried out in 2006, which is referenced in paragraphs 4.3 and 4.4 of your Report. Notwithstanding the significance of the deficiencies identified at that time, and the necessity – strongly supported by the Department – that they be addressed, it is important to emphasise that there was no evidence either in the Internal Audit report or the NAO report that the poor internal controls at the GHA were to the detriment of monies granted to them by the States. In particular, there was no evidence of capital grant monies having been misapplied, or that there was a risk of this happening, due to the stringent controls that the States applied to those monies.

Secondly, in paragraph 5.3 of your Report it is stated that some agreements in relation to the Rosaire Avenue scheme are not finalised, as would be indicated by signature.

The contractual arrangements for the Rosaire scheme comprise documents nearly 2” thick.

Paragraph 2.18 of the NAO report makes clear that all the various agreements were signed in 2004, including all the critical documents to govern the building contract aspects of the scheme.

The ancillary agreements that were to govern the operational aspects of the scheme when built – the Care, Nominations and Management Agreements – were, as noted by the NAO, “developed in considerable detail”. They were signed in 2004 as being “in agreed form”, as it was expected that there would be the need for some amendments before the scheme was opened. In the event, first, various operational difficulties in their application postponed their finalisation and then, subsequently, together with our colleagues at Health and Social Services we have been discussing entering into a more wide ranging strategic partnership with Housing 21, into which the Rosaire arrangements can be assimilated.

As a consequence, all parties agreed that as there were only relatively minor matters that needed to be updated, rather than expend monies on further legal fees to finalise these agreements, it would be more beneficial and cost-effective to focus on developing the strategic partnership documentation, on the clear understanding that – as stated in paragraph 2.19 of the NAO report – all the parties regard the agreements signed in 2004 as legally binding.

Conclusions

The Housing Department hopes that the above comments will help readers to understand better not only the complexity of the arrangements entered into, but also the extensive efforts that have been made to safeguard the financial and other interests of the States in using third parties to deliver the housing needs of the Island through the Corporate Housing Programme.

The Department assures your Committee of its ongoing vigilance and its desire to strive continually to make such arrangements even more effective and efficient, thereby giving best value to the taxpayer and maximum benefit to the community.

Yours sincerely

D Jones
Minister

Extract from NAO Report on “Housing Associations in Guernsey”

2.20 At the start of the post-tender negotiations the Housing Authority considered that a profit of £575,000 (just over nine percent at that time) on the developer’s commercial investment (i.e. excluding the States grant) was an acceptable return. As part of the negotiations, the Authority in fact agreed a developer’s profit figure of £934,000, which represented just over 16 percent of the developer’s commercial investment (i.e. excluding the States grant) or just over eight percent of the total financial investment in the project (i.e. including the States grant). The Housing Department told us that, in the post-tender negotiations, the Housing Authority was looking to maximise the number of affordable rental and lifetime lease units – in accordance with the project objectives – and to limit and fix the States’ grant to as small a sum as possible. Limiting the level of the developer’s profit was a consideration, but not the prime one.

2.21 The developer was also allowed to retain any additional consideration above £220,000 on the sale price of each of the freehold units. Initially it had been agreed that the Housing Authority and the developer would share any profits over and above a sale price of £220,000 per unit; and that the Authority would meet 50 percent of the shortfall on any sales below £220,000. However, the Authority had not been comfortable with underwriting the company’s profit by safeguarding it against losses in this way and had therefore renegotiated this point so that there would be no sharing of profits or losses.

2.22 The Housing Department told us that, at the time that the project was negotiated, the overriding monetary aim was to limit the exposure of the States and to transfer the financial risk to the developer. This aim was achieved by fixing the level of grant. This arrangement meant that the developer had an incentive to keep its costs to a minimum, in order to maximise its profit; the developer achieved this by using innovative construction techniques that will benefit other projects in the Island. It was also a positive incentive for the developer to complete the project on time or indeed, as happened, to complete the project early. The Department considers that attempting to agree a profit sharing arrangement would have made agreeing the contract even more complex than it was, as well as exposing the States to the risk of contributing to a cost overrun. It might also have been unacceptable to the developer.

2.23 We understand the reason why the Authority was reluctant to enter a profit-sharing agreement on the sale of the freehold units as this would also have meant underwriting any losses. Developers must also be allowed to make an acceptable return from their risk-taking and be able to benefit from any efficiencies they have been able to achieve. In this case the developer had taken on much of the commercial risk involved in the project and had used design and build innovations and technologies to improve the outcome. However, as a general rule, we consider the States should be able to share in profits that are above normal or of a windfall nature. **We therefore recommend that Departments should ensure that in complex projects involving a public/private partnership there is a mechanism by which the States can share in profits of a windfall nature above an agreed figure.**

IN THE STATES OF THE ISLAND OF GUERNSEY ON THE 28th DAY OF JANUARY, 2009

**The States resolved as follows concerning Billet d'État No II
dated 9th January 2009**

PROJET DE LOI

entitled

THE INCOME TAX (MISCELLANEOUS PROVISIONS) (GUERNSEY) (AMENDMENT) LAW, 2009

I.-

- (1) To approve the Projet de Loi entitled “The Income Tax (Miscellaneous Provisions) (Guernsey) (Amendment) Law, 2009” and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.
- (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 the said Projet de Loi shall have effect from the 28th January, 2009, as if it were a Law sanctioned by Her Majesty in Council and registered on the records of the Island of Guernsey.

THE REGISTERED PATENTS AND BIOTECHNOLOGICAL INVENTIONS (BAILIWICK OF GUERNSEY) ORDINANCE, 2009

II.- To approve the draft Ordinance entitled “The Registered Patents and Biotechnological Inventions (Bailiwick of Guernsey) Ordinance, 2009” and to direct that the same shall have effect as an Ordinance of the States.

THE INCOME TAX (GUERNSEY) (APPROVAL OF AGREEMENTS) ORDINANCE, 2009

III.- To approve the draft Ordinance entitled “The Income Tax (Guernsey) (Approval of Agreements) Ordinance, 2009” and to direct that the same shall have effect as an Ordinance of the States.

**THE GUERNSEY BAR (BAILIWICK OF GUERNSEY)
(COMMENCEMENT) ORDINANCE, 2009**

IV.- To approve the draft Ordinance entitled “The Guernsey Bar (Bailiwick of Guernsey) (Commencement) Ordinance, 2009” and to direct that the same shall have effect as an Ordinance of the States.

**THE MERCHANT SHIPPING (BAILIWICK OF GUERNSEY) LAW, 2002
(COMMENCEMENT) ORDINANCE, 2009**

V.- To approve the draft Ordinance entitled “The Merchant Shipping (Bailiwick of Guernsey) Law, 2002 (Commencement) Ordinance, 2009” and to direct that the same shall have effect as an Ordinance of the States.

**THE AVIATION (BAILIWICK OF GUERNSEY) LAW, 2008
(COMMENCEMENT) ORDINANCE, 2009**

VI.- To approve the draft Ordinance entitled “The Aviation (Bailiwick of Guernsey) Law, 2008 (Commencement) Ordinance, 2009” and to direct that the same shall have effect as an Ordinance of the States.

**THE AVIATION (FOREIGN AIRCRAFT OPERATIONS)
(BAILIWICK OF GUERNSEY) ORDINANCE, 2009**

VII.- To approve the draft Ordinance entitled “The Aviation (Foreign Aircraft Operations) (Bailiwick of Guernsey) Ordinance, 2009” and to direct that the same shall have effect as an Ordinance of the States.

COMMERCE AND EMPLOYMENT DEPARTMENT

DIRECTOR OF CIVIL AVIATION

XIII.- After consideration of the Report dated 3rd November, 2008, of the Commerce and Employment Department

To approve the formal appointment of Mr Thomas Fergus Woods to the post of Director of Civil Aviation in accordance with section 1 of the Aviation (Bailiwick of Guernsey) Law, 2008 with effect from 1 February 2009.

STATUTORY INSTRUMENTS LAID BEFORE THE STATES

THE CRIMINAL JUSTICE (PROCEEDS OF CRIME) (RESTRICTION ON CASH TRANSACTIONS) (BAILIWICK OF GUERNSEY) REGULATIONS, 2008

In pursuance of Section 54 of The Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey, Law, 1999, The Criminal Justice (Proceeds of Crime) (Restriction on Cash Transactions) (Bailiwick of Guernsey) Regulations, 2008, made by the Policy Council on 24th November, 2008, were laid before the States.

THE CRIMINAL JUSTICE (PROCEEDS OF CRIME) (BAILIWICK OF GUERNSEY) LAW, 1999 (AMENDMENT OF SCHEDULES 1 AND 2) REGULATIONS, 2008

In pursuance of Section 54 of The Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey, Law, 1999, The Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999 (Amendment of Schedules 1 and 2) Regulations, 2008, made by the Policy Council on 24th November, 2008, were laid before the States.

THE CRIMINAL JUSTICE (PROCEEDS OF CRIME) (LEGAL PROFESSIONALS, ACCOUNTANTS AND ESTATE AGENTS) (BAILIWICK OF GUERNSEY) (AMENDMENT) REGULATIONS, 2008

In pursuance of Section 54 of The Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey, Law, 1999, The Criminal Justice (Proceeds of Crime) (Legal Professionals, Accountants and Estate Agents) (Bailiwick of Guernsey) (Amendment) Regulations, 2008, made by the Policy Council on 24th November, 2008, were laid before the States.

THE REGISTRATION OF NON-REGULATED FINANCIAL SERVICES BUSINESSES (BAILIWICK OF GUERNSEY) LAW, 2008 (SCHEDULE 1 AMENDMENT) REGULATIONS, 2008

In pursuance of Section 31 of The Registration of Non-Regulated Financial Services Businesses (Bailiwick of Guernsey) Law, 2008, The Registration of Non-Regulated Financial Services Businesses (Bailiwick of Guernsey) Law, 2008 (Schedule 1 Amendment) Regulations, 2008, made by the Policy Council on 24th November, 2008, were laid before the States.

**THE SOCIAL INSURANCE (CONTRIBUTIONS)
(AMENDMENT) REGULATIONS, 2008**

In pursuance of Section 117 of the Social Insurance (Guernsey) Laws, 1978-2004, the Social Insurance (Benefits) (Amendment) Regulations, 2008, made by the Social Security Department on 1st December, 2008, were laid before the States.

**THE SOCIAL INSURANCE (BENEFITS)
(AMENDMENT) REGULATIONS, 2008**

In pursuance of section 117 of the Social Insurance (Guernsey) Laws, 1978 – 2004, the Social Insurance (Benefits) (Amendment) Regulations, 2008, made by the Social Security Department on 1st December, 2008, were laid before the States.

**THE HEALTH SERVICE (MEDICAL APPLIANCES)
(AMENDMENT) REGULATIONS, 2008**

In pursuance of Section 35 of The Health Service (Benefit) (Guernsey) Law, 1990, the Health Service (Medical Appliances) (Amendment) Regulations, 2008, made by the Social Security Department on 1st December, 2008, were laid before the States.

**THE HEALTH SERVICE (PAYMENT OF AUTHORISED SUPPLIERS)
(AMENDMENT) REGULATIONS, 2008**

In pursuance of Section 35 of The Health Service (Benefit) (Guernsey) Law, 1990, the Health Service (Payment of Authorised Suppliers) (Amendment) Regulations, 2008, made by the Social Security Department on 1st December, 2008, were laid before the States.

**THE HEALTH SERVICE (PAYMENT OF AUTHORISED APPLIANCE
SUPPLIERS) (AMENDMENT NO. 2) REGULATIONS, 2008**

In pursuance of Section 35 of The Health Service (Benefit) (Guernsey) Law, 1990, the Health Service (Payment of Authorised Appliance Suppliers) (Amendment) Regulations, 2007, made by the Social Security Department on 1st December, 2008, were laid before the States.

**THE INCOME TAX (LOANS TO PARTICIPATORS)
(EXEMPTIONS) (NO. 3) REGULATIONS, 2008**

In pursuance of Section 66A(4)(d) of the Income Tax (Guernsey) Law, 1975, as amended, the Income Tax (Loans to Participators) (Exemptions) (No. 3) Regulations,

2008, made by the Treasury and Resources Department on 2nd December 2008, were laid before the States.

**THE INCOME TAX (DEEMED DISTRIBUTIONS)
(EXEMPTIONS) (NO. 2) REGULATIONS, 2008**

In pursuance of Section 62A(4) of the Income Tax (Guernsey) Law, 1975, as amended, the Income Tax (Deemed Distributions) (Exemptions) (No. 2) Regulations, 2008, made by the Treasury and Resources Department on 2nd December 2008, were laid before the States.

**THE INCOME TAX (PENSIONS) (CONTRIBUTION LIMITS
AND TAX-FREE LUMP SUMS) REGULATIONS, 2008**

In pursuance of Sections 153(2), 157A(2)(b)(vi), 157A(5B) and 159 of the Income Tax (Guernsey) Law, 1975, as amended, the Income Tax (Pensions) (Contribution Limits and Tax-free Lump Sums) Regulations, 2008, made by the Treasury and Resources Department on 2nd December 2008, were laid before the States.

**THE INCOME TAX (GUERNSEY) (VALUATION OF BENEFITS IN KIND)
REGULATIONS, 2008**

In pursuance of Section 8(2)(b) of the Income Tax (Guernsey) Law, 1975, as amended, the Income Tax (Guernsey) (Valuation of Benefits in Kind) Regulations, 2008, made by the Treasury and Resources Department on 2nd December 2008, were laid before the States.

**THE HEALTH SERVICE (BENEFIT) (LIMITED LIST) (PHARMACEUTICAL
BENEFIT) (AMENDMENT NO. 7) 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. 7) Regulations, 2008, made by the Social Security Department on 3rd December, 2008, were laid before the States.

THE BUILDING (AMENDMENT) REGULATIONS, 2008

In pursuance of Section 1 of the Building (Guernsey) Law, 1956, The Building (Amendment) Regulations, 2008, made by the Environment Department on 12th December 2008, were laid before the States.

**THE FAMILY ALLOWANCES (QUALIFICATIONS) (AMENDMENT)
(GUERNSEY) REGULATIONS, 2008**

In pursuance of Section 15 of the Family Allowances (Guernsey) Law, 1950, the Family Allowances (Qualifications) (Amendment) (Guernsey) Regulations, 2008, made by the Social Security Department on 17th December 2008, were laid before the States.

**K H TOUGH
HER MAJESTY'S GREFFIER**

IN THE STATES OF THE ISLAND OF GUERNSEY ON THE 30th DAY OF JANUARY, 2009

(Meeting adjourned from 28th January 2009)

**The States resolved as follows concerning Billet d'État No II
dated 9th January 2009**

HEALTH AND SOCIAL SERVICES DEPARTMENT

NEW MEMBER

VIII.-

1. To accept the resignation of Deputy M P J Hadley as a member of the Health and Social Services Department.
2. To elect Deputy Mrs M M Lowe to complete the unexpired portion of the term of office of Deputy Hadley to serve until May 2012 in accordance with Rule 7 of the Constitution and Operation of States Departments and Committees.

POLICY COUNCIL

APPOINTMENT OF CHAIRMAN AND ORDINARY MEMBERS OF THE GUERNSEY FINANCIAL SERVICES COMMISSION

IX.- After consideration of the Report dated 24th November, 2008, of the Policy Council:-

1. To re-elect Dr Cees Schrauwers as an ordinary member of the Guernsey Financial Services Commission for three years with effect from 2nd February, 2009.
2. To re-elect Mr David John Mallett as an ordinary member of the Guernsey Financial Services Commission for three years with effect from 2nd February, 2009.
3. To re-elect Mr Howard Emerson Flight as an ordinary member of the Guernsey Financial Services Commission for three years with effect from 2nd February, 2009.
4. To re-elect Advocate Peter Andrew Harwood as an ordinary member of the Guernsey Financial Services Commission for three years with effect from 2nd February, 2009.

5. To re-elect Advocate Peter Andrew Harwood as Chairman of the Guernsey Financial Services Commission for one year with effect from 2nd February, 2009.

POLICY COUNCIL

THE COURT OF CHIEF PLEAS AFTER MICHAELMAS

X.- After consideration of the Report dated 8th December, 2008, of the Policy Council:-

1. That the Royal Court shall be empowered to prescribe by order a date other than the first Monday after Michaelmas as the date on which the Michaelmas Sitting of the Court of Chief Pleas may be lawfully held.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

POLICY COUNCIL

THE MATRIMONIAL CAUSES LAW (GUERNSEY), 1939, AS AMENDED

XI.- After consideration of the Report dated 8th December, 2008, of the Policy Council:-

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

TREASURY AND RESOURCES DEPARTMENT

MISCELLANEOUS AMENDMENTS TO THE TAX LAWS

XII.- After consideration of the Report dated 19th December, 2008, of the Treasury and Resources Department:-

1. To enact legislation as set out in paragraphs 2.1. – 2.12. inclusive of that Report:
 - (1) to revise the Income Tax Law to provide for a minimum tax charge for persons who are resident but not solely or principally resident for income tax purposes, in the circumstances set out in subparagraph 2.1.;
 - (2) to reduce the limit on the liability of individuals, in respect of non-Guernsey source income (other than bank deposit interest) from £250,000 to £100,000, and to further provide for the introduction of a

new limit of £100,000 in respect of Guernsey source income (other than bank deposit interest) as set out in subparagraph 2.2.;

- (3) to permit companies to elect to distribute 65% or more of their trading profits annually, with the consequence that thereafter the company would be relieved from the effects of, and reporting requirements in relation to, deemed distributions, in the circumstances set out in subparagraph 2.3.;
 - (4) to make revisions to the “zero/10” legislation, as set out in subparagraph 2.4.;
 - (5) to suspend the Dwellings Profits Tax (Guernsey) Law, 1975, as set out in subparagraph 2.5.;
 - (6) to increase the amount of the termination payment that is exempt from tax, from £10,000 to £30,000, as set out in subparagraph 2.6.;
 - (7) to permit a deduction in respect of 100% of the relevant foreign earnings of merchant seamen, as set out in subparagraph 2.7.;
 - (8) to transfer the responsibility for granting exemption to a body under section 40A of the Income Tax Law, from the Department to the Administrator, as set out in subparagraph 2.8.;
 - (9) to exempt from income tax Premium Bond prizes, as set out in subparagraph 2.9.;
 - (10) to provide that the income of a charity is exempt from income tax irrespective of whether or not the charity is a registered charity under the Charities and Non Profit Organisations (Registration) (Guernsey) Law, 2008, as set out in subparagraph 2.10.;
 - (11) to repeal the provisions of the Income Tax Law relating to proportional relief, as set out in subparagraph 2.11.;
 - (12) to exempt from income tax income derived from the micro-generation of electricity, as set out in subparagraph 2.12.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

EDUCATION DEPARTMENT

EDUCATION DEVELOPMENT PLAN – PROGRAMME 2 (EDP2):
THE RATIONALISATION OF THE STATES PRIMARY SCHOOLS

XV.- After consideration of the Report dated 28th November, 2008, of the Education Department:-

1. TO NEGATIVE THE PROPOSITION to approve the closure of St. Sampson's Infant School through the closure model as set out in that Report.
2. To approve the Education Department's decision that St. Andrew's Primary School should remain open.

S M D ROSS
HER MAJESTY'S DEPUTY GREFFIER

IN THE STATES OF THE ISLAND OF GUERNSEY ON THE 11th DAY OF FEBRUARY, 2009

(Meeting adjourned from 30th January 2009)

**The States resolved as follows concerning Billet d'État No II
dated 9th January 2009**

PUBLIC SERVICES DEPARTMENT

WASTEWATER CHARGES

XIV.- After consideration of the Report dated 21st November, 2008, of the Public Services Department:-

1. To implement the wastewater charges and cesspit emptying charges as set out in sections 3 to 6 of that Report, except that except that no wastewater charges shall be payable in respect of any field (agricultural land), vinery/glasshouse (horticultural land and buildings), fish farm, farmstead, animal house, stable or similar situations as may be determined by Public Services, which has a metered water supply **but** no connection to mains drainage, septic tank or cesspit. Should a property of the above description or the like have a connection to mains drainage, septic tank or cesspit, that property shall be allowed to apportion by a second meter those waters supplied which return to mains drainage, septic tank or cesspit and hence are chargeable as wastewater and those used for crop, animal watering and the like which are not chargeable as wastewater.
2. To introduce an additional fixed charge in relation to improving sewage treatment as set out in section 2 of that Report, except that no fixed charge shall be payable in respect of any field (agricultural land), vinery/glasshouse (horticultural land and buildings), fish farm, farmstead, animal house, stable or similar situations as may be determined by Public Services, which has a metered water supply but no connection to mains drainage, septic tank or cesspit.
- 2A To reaffirm their Resolution 6 on Article 13 of Billet d'État XI of 1997 - "to agree in principle that the introduction of sewage treatment measures be brought forward for implementation as soon as is practicable"; and to direct the Public Services Department, out of the proceeds of that ring-fenced additional fixed charge, to undertake preliminary investigations into comprehensive, modern sewage treatment, prepare feasibility studies including a full Environmental Impact Assessment, and take all necessary steps to initiate a planning inquiry, and to report back to the States with comprehensive proposals for full sewage treatment, including proposals for its funding, by no later than January 2012.

3. To direct the Treasury and Resources Department to take account of the fees raised from wastewater charges, with the exception of those detailed in Section 2 of that Report, when recommending to the States, cash limits for the Public Services Department for 2010 and subsequent years.
4. To direct the preparation of such legislation as may be necessary to give effect to their above decisions.

HEALTH AND SOCIAL SERVICES DEPARTMENT

HOMES FOR ADULTS WITH A DISABILITY AND REPLACEMENT ADULT MENTAL HEALTH SERVICES

XVI.- After consideration of the Report dated 15th December, 2008, of the Health and Social Services Department:-

1. To note the Health and Social Services Department's concerns about the inadequate facilities for people with a learning disability at Oberlands House and for mental health services at the Castel Hospital and the Department's proposals to remedy these deficiencies in its services.
2. To note that, subject to the Health and Social Services Department's proposals being supported as a high priority by the States during the planned capital prioritisation debate, the Health and Social Services Department will return to the States thereafter with detailed proposals for these capital projects, including a recommendation for contractors to be appointed and a request for capital votes to be established.

PUBLIC ACCOUNTS COMMITTEE

SAFEGUARDING GUERNSEY'S HERITAGE ASSETS

XVII.- After consideration of the Report dated 5th December, 2008, of the Public Accounts Committee:-

1. To note the contents of that Report, including the commitments of the Culture and Leisure Department.
2. To direct the Culture and Leisure Department to return to the States by June 2009 with clear and costed proposals on the future direction and strategy for safeguarding, storing, displaying and accessibility of the heritage assets of the Island.

3. To direct the Public Accounts Committee to monitor and review the action taken by the Culture and Leisure Department and other departments in considering and implementing the recommendations as outlined in Section 7, of that Report.

S M D ROSS
HER MAJESTY'S DEPUTY GREFFIER