



# BILLET D'ÉTAT

WEDNESDAY, 25th MAY 2011

VIII  
2011

## Volume 2

8. Scrutiny Committee - Guernsey's Planning Service: Post-Shepley Review, p. 619
9. Scrutiny Committee - Scrutiny Committee Performance Report, p. 731
10. States Assembly and Constitution Committee - Amendments to the Reform (Guernsey) Law, 1948, as amended; the Rules of Procedure of the States of Deliberation; the Rules Relating to the Constitution and Operation of States Departments and Committees; the Code of Conduct for Members of the States of Deliberation, p. 775

### *Ordinances laid before the States*

- The Egypt (Freezing of Funds) (Guernsey) Ordinance, 2011, p. 799  
The Libya (Restrictive Measures) (Guernsey) (Amendment) Ordinance, 2011, p. 799

### *Statutory Instruments laid before the States*

- The Companies (Transitional Provisions) (Amendment) Regulations, 2011, p. 799  
The Island Child Protection Committee Regulations, 2010, p. 799  
The Children (Children's Convenor) (Guernsey and Alderney) Regulations, 2010, p. 800  
The Child Protection (Registration Fees) (Guernsey and Alderney) Regulations 2011, p. 800  
The Liquor Licensing (Fees) Regulations, 2011, p. 801

## SCRUTINY COMMITTEE

### GUERNSEY'S PLANNING SERVICE: POST-SHEPLEY REVIEW

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

23<sup>rd</sup> March 2011

Dear Sir

#### 1. **Executive Summary**

- 1.1. This States report sets out the background to, and the conclusions from, the Scrutiny Committee's 'Post-Shepley Review' of Guernsey's planning service. The full review report is shown as Appendix 1.

#### 2. **Background**

- 2.1. In April 2008 the former UK Chief Planning Inspector, Mr Chris Shepley, delivered the 'Review of Guernsey's Planning Service' report, which made recommendations relating to planning operations and governance for the Environment Department and the Policy Council to consider.
- 2.2. The new planning Law, the *Land Planning and Development (Guernsey) Law, 2005* came into force on 6<sup>th</sup> April 2009 and represented a major shift in how the planning service would function in the future. The Committee was mindful of the impact of the introduction of the new Law on how the planning service operates.
- 2.3. The Committee resolved to review the action taken by the Environment Department and the Policy Council following the publication of the Shepley report. The Committee identified that public political scrutiny would add value in providing a critical update on the progress made against the Shepley recommendations.
- 2.4. The Committee's findings are based on the evidence collected, principally from written submissions from the Environment Department, Strategic Land Planning Group and the Policy Council and from a public hearing held in March 2010 with representatives of the Environment Department.

### 3. **The Scrutiny Review Report**

- 3.1. The Committee's review report is divided into 11 sections, covering the areas of the planning service which Shepley had evaluated.

**Section A: Summary of the actions taken to date against the recommendations contained in the 'Review of Guernsey's Planning Service' Report by Chris Shepley (April 2008)**

- 3.2. Chris Shepley had made a total of 25 recommendations, including some that can be broken down into further related but stand-alone workstreams. In order to allow the reader of the report to easily locate the action taken against a specific recommendation, the Committee has included a summary table to illustrate the status of each recommendation at the time of writing (i.e. as at 2<sup>nd</sup> February 2011).

**Recommendations**

- 3.3. The Committee resolved to make ten recommendations further to the findings of its review, to be considered by the Environment Department and the Policy Council.
- 3.4. Within this summary States Report, the recommendations pertaining to a specific section will be placed at the end of the summary of that section.

**The Land Planning and Development (Guernsey) Law, 2005**

- 3.5. The new Law commenced on 6<sup>th</sup> April 2009, which brought many changes to the planning service including the introduction of fees for applications, the introduction of exemptions, the introduction of a planning Appeals Tribunal etc.
- 3.6. Shepley had recommended the Law be reviewed after a period of 12 months in order that any changes which may appear necessary or desirable could be brought in. He particularly highlighted the need for the use of exemptions to be monitored and extended as appropriate and that changes be considered to the Use Classes Order to simplify them. The Department has not implemented a deadline and action plan for its review of the Law as suggested by Shepley, but has been monitoring this and compiling a list of required modifications.
- 3.7. The Committee appreciated that time would be needed to allow the Department to assess how the Law was operating in practice and that this would be a continuing process as planning policies and practices develop and issues are identified. However, it concluded that there was a need for a more formal and structured approach to reviewing the appropriateness of the legislative provision and for compiling amendments. It therefore made the following recommendation in its report:

*the **Environment Department** draws up an action plan, in consultation with relevant stakeholders, for review of the legislation, including the extent of exemptions and the number of use classes, aiming to report to the States suggesting any desirable amendments by April 2012.*

### **Strategic Planning Policy**

- 3.8. Shepley had recommended the Environment Department seek greater flexibility in the operation of the Development Plans, which it largely achieved through the amendments and alterations to the Urban and Rural Area Plans in April 2010.
- 3.9. The Committee is aware that the States Strategic Plan and Strategic Policy Plans are still in development, as is the review of the Strategic Land Use Plan and Development Plans. Therefore the ‘golden thread’ of policy and how these plans inter-relate is not yet evident.
- 3.10. In order to provide transparency and greater understanding of the Plans and how they worked together, the Committee made the following recommendations:

*the **Environment Department**, as part of its intended educational publications, provides an explanation of the hierarchy, purpose and relationship of the policy plans, further to the approval of the Strategic Land Use Plan and prior to the 2012 General Election.*

*the **Policy Council** produce a publication providing a clear explanation of the various roles, responsibilities, and where accountability rests, for planning policy, forward planning and operations.*

### **Governance**

- 3.11. The Strategic Land Planning Group was reconstituted as a statutory group, rather than a Policy Council sub-group, further to the introduction of the new Law. Whilst the SLPG is not chaired by the Chief Minister in accordance with Shepley’s recommendation, the Committee concluded this would have no impact on the ability of the group to fulfil its mandate and believed this recommendation arose from Shepley’s misunderstanding of the powers of the Chief Minister. The ‘new’ SLPG came into existence in April 2009, however the changes to its mandate and membership have not been updated in the ‘*Rules relating to the Constitution and Operation of States Departments and Committees*’ which contains the mandates and membership of Departments, Committees and sub-groups. The Committee therefore has made the following recommendation:

*the **Policy Council** make the necessary amendments to the published mandate of the SLPG (as revised in April 2009 as a consequence of the introduction of the new Planning Law) as expeditiously as possible, to prevent any misunderstanding of the role and constitution of this statutory group.*

- 3.12. In 2009 the Policy Council formed a new sub-group to take on the wider strategic land planning issues excluded from the revised role of the SLPG. To date, no further action has been taken to formalise the constitution and mandate of the new group and further consideration of this has been put on hold until the Strategic Land Use Plan is debated and approved. From the evidence available to the Committee, it could not identify a clear need for the proposed new political group.

- 3.13. The Committee therefore recommended:

*the **Policy Council** review the need for its proposed new sub-group intended to take up some responsibilities of the former SLPG. If it determines a group is required, it should clearly define its mandate and constitution and publish it alongside those of all Departments and Committees, in accordance with principles of good governance.*

- 3.14. Shepley's 'governance' recommendations, which largely fall to the Policy Council to progress in consultation with relevant parties, have not been implemented, with a lack of political consensus to date on how to take these forward. The evidence provided to the Committee suggests the SLPG and the Policy Council, when discussing the governance issues arising from Shepley and considering how to progress these, have focused on where responsibility for the planning function should lie. However, it concluded this focus would appear to be a misinterpretation of Shepley's recommendations, which in fact suggest that responsibility for environmental policy, and not the planning service, should be moved to the 'centre'.
- 3.15. The Committee was mindful that the operation of the planning service has changed considerably since the implementation of the new Law and this, combined with the progression of many of the recommendations in the report, may have overcome many of the problems previously facing the planning service, including the perception of possible conflict between planning and environmental responsibilities within the same department. It also noted the conclusions of both the Environment Department and the Policy Council that the current system seems to be working well in practice, with no urgency or identified impetus for change.
- 3.16. From the evidence available, the Committee was minded to conclude that the concerns of Shepley regarding the Environment Department's dual responsibility for environmental policy and planning had, or were being,

largely addressed. The only outstanding point that the Committee felt worthy of note was that, whilst strategic environmental policy is developed by the Policy Council, the Environment Department retains responsibility for advising the States on matters relating to “*environmental policy including transport, energy and waste policy for the conservation, enhancement and sustainable development of the natural and physical environment of the Island...*”. The Committee wondered whether there might be an overlap in these mandates and considered that the governance for environmental policy may require further clarification.

- 3.17. The Policy Council had agreed, in February 2010, to set up a new political group with a mandate to advise further on the political responsibilities for both strategic and corporate planning and operational planning. It was agreed that the group would begin work pending the publication of the Public Accounts Committee’s report on governance, in case that report has any bearing on the group’s considerations. The Committee was mindful of additional information provided by Shepley to the Chairman of the SLPG in 2008 in which he clarified the intention behind his recommendations relating to governance. The Committee remains concerned that the group established by the Policy Council may fail to address issues identified by Shepley, if indeed those issues remain relevant, due to a misunderstanding of Shepley’s recommendations. The Committee therefore recommended:

*the **Policy Council** takes into account the Committee’s caution that any further review of the governance issues arising from the Shepley Report, whosoever may conduct it, would need to first identify whether there are any problems that would need to be addressed in the present day governance of planning and environment policies and operations before further consideration can be given to possible solutions. This might include consideration of whether it remains a perception that the impartiality of the Planning Division is compromised and whether environmental policy is given adequate prominence corporately, which were the problems that Shepley had identified in 2008.*

### **Planning division operations**

- 3.18. Shepley had identified that at the time of his report, morale in the planning division was low, and whilst acknowledging that some of the recommendations in the report would assist in improving morale, he made a specific recommendation that targets should be set out for the improvement of staff morale and a programme drawn up to achieve these targets.
- 3.19. The recommendation to set targets for morale had been rejected by the Department, stating that morale had improved with the changes to the

division further to the introduction of the new Law and efforts to improve communications internally as well as externally.

- 3.20. The Committee acknowledges there is no evidence to determine whether the Department currently has a significant problem, over and above any other department, caused by low staff morale and it would have been beyond the remit of its review for the Committee to seek to establish such evidence.
- 3.21. The Committee shared some of the concerns of the Environment Department's Chief Officer with the difficulty of setting 'targets' in relation to improving staff morale. The Committee would have liked Shepley's recommendation in this respect to be more explicit in how he defined the problem of low morale and how this might be addressed. However, Shepley formally drew the attention of the Department to the dissatisfaction of its staff and the probable impact this would have on customer service and productivity. Whilst the Committee considered setting targets would have been inappropriate, it would have expected to see more conscious steps being taken to improve the perceived morale issue that Shepley identified.
- 3.22. As no formal assessment of issues affecting staff morale was undertaken at the time, and the general employee surveys in the previous format were discontinued after 2007, there is no baseline from which to monitor the extent to which this situation might have improved. Anecdotally, management believe that morale has improved. The improvement of processes and procedures under the new Law; the improved customer information; and the more proactive approach to challenging negative attitudes towards the Department expressed through the media, would presumably have had a positive effect on morale.
- 3.23. The Committee believes a more formal approach is required and therefore recommended:

*the **Environment Department** to seriously consider the introduction of a structured process for engaging staff in identifying issues that may affect the quality of the service they provide and identifying critical actions for improvement. The Department Board might expect formal reports on general progress against these actions, at least on an annual basis.*

- 3.24. Staff morale is an important issue that all Departments need to consider as part of their staff and performance management functions and the Committee would suggest a formal and structured approach.

### **The planning application process**

- 3.25. The Committee's review report demonstrates the Department has put measures in place to try to reduce the 'attention to detail' issues

identified in Shepley's report. It has extended delegation downwards cautiously and aims to expand this as staff gain the necessary experience. Whilst this may not be as large a shift as Shepley had promoted, it is positive that the Department has embarked on a course of action to move in this direction.

- 3.26. The Committee believed that making the performance statistics publicly available would help generate confidence among the public that applications were being dealt with in a timely fashion, and to help counter any perception that the service was still blighted by long delays.
- 3.27. The adoption of the 8-week and 13-week targets, with the Department plotting performance weekly in order to monitor individual and team performance, and how cumulatively that is having an impact on the targets for the year as a whole, should result in the Department having empirical evidence of whether the minor applications are being progressed faster.
- 3.28. In order for the Department to monitor and assess the flexibility and attention to detail applied to minor applications, the Committee recommended:

*the **Environment Department** takes a structured approach to monitoring the flexibility and 'attention to detail' applied to minor applications e.g. through case-study analysis and/or the recording of separate targets.*

### **Communication and openness**

- 3.29. The Committee noted that the introduction of guidance, as recommended, will have undoubtedly aided members of the public in explaining the processes involved in planning applications and should engender greater understanding of the planning service as a result. The Department has demonstrated it is committed to continuing to provide guidance, through identifying topics themselves or reacting to requests from the public. The Committee welcomes the Department's commitment to formally review the effectiveness of guidance in 2011.
- 3.30. The recommendation that had attracted particular public and media attention was the introduction of open meetings, intended to be launched in the first quarter of 2011. Whilst the Committee cannot speculate what impact they will have until they have been in operation for a period of time, it believes this is a vital move in opening up the decision-making process to the public and should increase understanding of how decisions are made.
- 3.31. The opportunity for members of the public to raise and discuss planning problems is being realised in 2011, with the introduction of planning

surgeries for people to meet with officers to discuss planning issues and officers meeting with parish representatives. The Committee welcomes the launch of customer service surveys, to be held on an annual basis, as a means of the Department receiving direct feedback on the experiences of service users to aid improvement of services.

- 3.32. It was apparent at the time of Shepley's review more could be done by the Department to effectively develop and communicate with the media. The development of a planning and building control media strategy should aid this and the Committee believes it is important that the Department maintains its commitment to communicating effectively with media contacts.
- 3.33. The Committee was pleased to note the Department provided a specific webpage for planning media releases which it believed was a useful tool for providing access to information. However, it also observed there were a number of comments and press releases issued by the Department which had featured in the media in recent months, but which were not available on this page, therefore concluded this facility might not be being used to its full potential. It therefore recommended:

*the **Environment Department** ensures it reproduces all information released to the media on its own website in case a member of the public wishes to seek clarification on the position of the Department.*

- 3.34. The Committee was disappointed that the Department had not sought to engage States Members through briefing meetings subsequent to the 2008 election, and initiatives to engage with political members in a structured manner were delayed. However, it is pleased to note the initiatives the Department intends to deliver in developing a 'States Member training programme' in 2011. The Committee resolved to make a further recommendation to be taken forward as part of this programme, that

*the **Environment Department** ensures it schedules specific induction seminars for States Members following the 2012 elections, to ensure all Members are aware of the purpose and function of the planning system within the States of Guernsey.*

- 3.35. Shepley had commented that "*People simply did not know what happened to their application once it had been submitted*". This fed the perception of an inaccessible system, and was one area the Committee was particularly interested to see resolved. It is pleased to report that the launch of the new Planning webpage has now ensured that the status of all valid applications can now be tracked. Aside from this important development, transparency has been increased through the array of information held on the site – from the policies, procedures and web

maps available, to the publication of Planning Officer reports on refused applications. The Department has also identified, through feedback from its Customer Satisfaction Survey, that it needs to reconsider other methods of keeping people better informed about the progress of their application, and has made a public commitment to investigate this further and seek to make improvements.

- 3.36. Whilst some communication initiatives were not assigned the highest priority to progress prior to the recruitment of the Communications Officer, the planning service did make progress in that time on key areas such as the new web search and web map facilities, Guernsey's agents forum and the production of guidance. Following the appointment of the Communications Officer, the planning service intends to launch further initiatives to engage its stakeholders, which should improve how the planning system is understood.

#### **4. Conclusions**

- 4.1. The review report aims to provide a constructive update on what has happened since the publication of the Shepley Report. The Committee has been pleased to demonstrate through its review findings that the Environment Department has made considerable strides in taking forward many of the operational recommendations and has made changes to how planning functions and is understood by its stakeholders. Further work is still required, which the Committee is sure the Department itself would acknowledge, however, the Committee is confident in asserting the Department has made important, positive long-term changes to the operation of its planning service.
- 4.2. The 'governance' recommendations, which largely fall to the Policy Council to progress in consultation with relevant parties, have not been implemented, with a lack of political consensus to date on how to take these forward. The Committee trusts that the Policy Council will accept its recommendations and ensure that the governance issues previously identified will be reconsidered and resolved as appropriate.

#### **5. Letters of comment from the Environment Department, Policy Council and Strategic Land Planning Group**

- 5.1. The final review report was approved by the Committee on 2<sup>nd</sup> February 2011 and sent to the Environment Department, the Strategic Land Planning Group and the Policy Council for their comment.
- 5.2. Whilst the report was provided to the SLPG for comment as a courtesy, as the SLPG was now a statutory group, rather than a Policy Council sub-group, and there were no recommendations directed to the 'new' SLPG, there was less onus on the Group to provide a letter of comment on the

report. The SLPG agreed it would not be appropriate for the Group to offer comments.

- 5.3. The Environment Department submitted a letter dated 22<sup>nd</sup> February 2011 and has accepted five of the six recommendations directed to it. In relation to the remaining recommendation, the Department informed the Committee that it felt it had already implemented actions for improvement to staff morale.
- 5.4. The Committee welcomes the Department's prompt consideration and acceptance of the recommendations. The Committee will continue to monitor progress.
- 5.5. The Policy Council submitted a letter dated 16<sup>th</sup> March 2011. The governance issues contained within the report are still on hold pending the Policy Council's consideration of the resources and timetable needed for a wider review of the machinery of government. The Committee reiterates the findings of its review report that Shepley's recommendations related to the location of environmental policy within the States of Guernsey, and not of the planning function as referred to in the Policy Council's response. The Committee's recommendation that the Policy Council review the need for its proposed sub-group regarding the co-ordination of major spatial projects is on hold pending States consideration of the new Strategic Land Use Plan in the autumn of 2011.
- 5.6. The Committee felt it reasonable to provide a timescale of December 2011 for the Policy Council to formally respond to the Committee on the recommendations relating to it. The Committee will continue to monitor progress.
- 5.7. The Environment Department and Policy Council's letters of comment are shown as Appendix 2.

## **6. Recommendations to the States**

The Scrutiny Committee asks the States to:

- a) Note this Report, and the Committee's Review Report at Appendix 1;
- b) Direct the Environment Department to report to the Scrutiny Committee by not later than December 2011, outlining a timetable for the implementation of the recommendations directed to it contained within the Review Report (as at pages 18 - 19 of Appendix 1) and an update on progress.
- c) Direct the Policy Council to report to the Scrutiny Committee by not later than December 2011, stating whether they have accepted or rejected the recommendations directed to it contained within the Review Report (as at page

18 of Appendix 1) and where they have accepted the recommendations outlining a timetable for their implementation.

- d) Direct the Scrutiny Committee to publish not later than March 2012 an update on actions taken by the Environment Department and the Policy Council.

Yours faithfully

B L Brehaut  
Chairman

# **APPENDIX 1**

## **Scrutiny Review Report**

### **Guernsey's Planning Service: Post-Shepley Review**

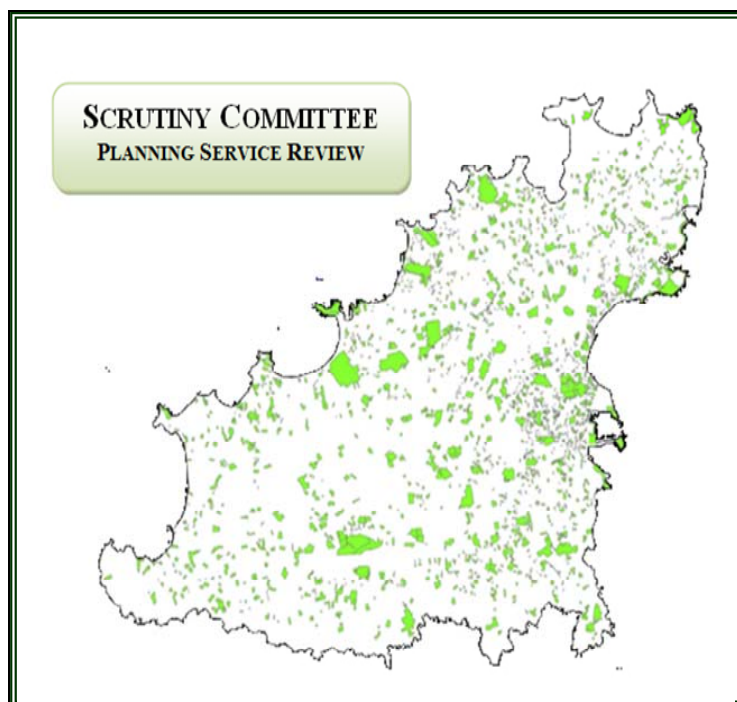


# SCRUTINY COMMITTEE

THE STATES OF GUERNSEY

SCRUTINY REVIEW  
REPORT

GUERNSEY'S PLANNING SERVICE:  
POST-SHEPLEY REVIEW



**FEBRUARY 2011**

# Contents

TOPIC	PAGE
<b>A. Summary of the actions taken to date against the recommendations contained in the ‘Review of Guernsey’s Planning Service’ Report by Chris Shepley</b>	4
<b>1. Recommendations</b>	18
<b>2. Introduction</b>	
• Background to the review	20
• The Shepley Report	21
• The introduction of the new Law	21
• Reasons for Scrutiny review	22
<b>3. Methodology</b>	23
<b>4. The Land Planning and Development (Guernsey) Law, 2005</b>	
• The review of the new Law	24
• The use of exemptions	25
• Use classes	26
<b>5. Strategic Planning Policy</b>	
• Policy Plans	28
• Strategic Land Use Plan	28
• The Urban and Rural Area Plans	29
<b>6. Governance</b>	
• The Strategic Land Planning Group (SLPG)	33
• New Policy Council sub-group	33
• Responsibility for environmental policy and the planning function at a strategic and operational level	35
• Strategic Environmental Policy	36
• Timeline of consideration on recommendations SR3A-D	37
• The creation of a ‘Chief Planning Officer’ role	39
• Crown land administration	39
• States owned land	41
• Planning as a corporate resource	41
<b>7. Planning division operations</b>	
• Separation of planning and building control	43
• Staff resources	43
• Staff retention and recruitment	44
• Staff morale	45
<b>8. The planning application process</b>	
• Interpretation of policy	48

• ‘The Planning Application Process’ map	49
• ‘Attention to detail’ issues	50
• Approved scheme of delegation	52
• Decision making at political level	52
• Code of conduct	54
• Conflicting advice	55
• Caseloads and targets	56
• Analysis of the 2009 – 2010 performance information	58
• Targets for consultees	59
• Quality assurance measures	60
• Review of the application process through the FTP	62
• The Planning Appeals Tribunal	62
<b>9. Communication and openness</b>	
• The role of the Communications Officer	66
• Guidance	68
• Future guidance	69
• Open meetings	69
• Outreach sessions	71
• Obtaining feedback from the Public	72
• Access to planning application reports	73
• Public access to previously approved plans	73
• Communicating with interest groups	74
• The Guernsey Arts Commission: ‘Architecture Today’	74
• Communicating with and through the local media	74
• Communicating with States Members	76
• Communicating with the industry	77
• Architects’ Panel and Design Awards	78
• Communicating using the internet	79
• Internal communication	80
<b>10. Change Management</b>	82
<b>11. Conclusions</b>	83
<b>Appendix A : Terms of Reference for the Review</b>	93

**A: Summary of the actions taken to date against the recommendations contained in the ‘Review of Guernsey’s Planning Service’ Report by Chris Shepley (April 2008)**

REC No.	RECOMMENDATION	STATUS	LEAD	COMMENTS
1	<u>The new planning law</u>			
A	The new Law is brought into force without further delay	Completed	Environment Department	The new Law was brought into force on 6 <sup>th</sup> April 2009. See Section 2: The introduction of the new law
B	Resources are put aside to review the operation of the Law after 12 months and set in motion any changes which may appear necessary or desirable, with a view to implementation not more than three years after the Law has come into operation	Ongoing	Environment Department	The Department stated the Law was under ongoing and continuous review. See Section 4: The Land Planning and Development (Guernsey) Law, 2005
2	<u>The Strategic Land Planning Group (SLPG)</u>			
	The SLPG should be refreshed and upgraded, chaired by the Chief Minister and he or she should have the remit of ensuring that it operates in a corporate way, without members who simply represent the interests of particular Departments	Rejected	Policy Council	The SLPG changed from a Policy Council subgroup to a statutory group further to the commencement of the new Law in April 2009, which essentially made this recommendation obsolete. See Section 6: SLPG
3	<u>Future governance of the Planning Division</u>			
A	That the Planning function should not report to a sectoral political Board	On hold	Policy Council	It is the intention of the Policy Council that this will be considered further by a separate political working group, pending the publication of the PAC

REC No.	RECOMMENDATION	STATUS	LEAD	COMMENTS
				Corporate Governance Report. See Section 6 Governance of Planning Strategic Policy Objectives
<b>B</b>	That responsibility for high level environmental policy should be transferred to a different body at the centre of the States organisation. It should not be downgraded in its importance, but regarded as a cross cutting issue, central to States policy.	Completed in part	Policy Council	High level environmental policy is now developed and performance monitored through the States' Strategic Plan and by the Policy Council. However, this is additional rather than transferred responsibilities and no change has been made to the Environment Department's mandate. See Section 6: Strategic Environmental Policy
<b>C</b>	That the Environment Department is then re-named ("Planning" or "Planning and Transport") and that it should be responsible for forward planning policy, development control, design and conservation and building control.	On hold	Policy Council	It is the intention of the Policy Council that this will be considered further by a separate political working group, pending the publication of the PAC Corporate Governance Report. See Section 6 Governance of Planning Strategic Policy Objectives
<b>D</b>	That the Department should report to the SLPG, as reorganised, in relation to cross cutting strategic policies, and that the Minister should have a formal role through the SLPG in overseeing the consistent implementation of States strategic policies through the land planning process.	On hold	Policy Council	Superseded by the new statutory role of the SLPG. The Policy Council intends a new political group be formed to have responsibility for cross cutting strategic planning policies, pending the States approval of the Strategic Land Use Plan. See Section 6: Governance of Planning Strategic Policy Objectives

REC No.	RECOMMENDATION	STATUS	LEAD	COMMENTS
4	<b>Code of conduct</b> I recommend that the District Audit recommendation in favour of a Code of Conduct for political Board Members should be implemented in full.	Ongoing / Nearing completion	Environment Department	The Department is developing a Code of Conduct' policy to be published in February/March 2011. See Section 8, 'Code of Conduct'.
5	<b>Communication</b> I recommend that the Division consider measures such as outreach sessions where members of the public can raise and discuss planning problems, to improve public knowledge and involvement.	Ongoing	Environment Department	The Division is seeking to plan and implement a programme of public engagement and outreach in planning in 2011. See Section 9, 'Outreach sessions'
A	It should develop a strategy for ensuring that the Press is better informed and is able to ask questions directly to officials about planning matters.	Ongoing	Environment Department	The Department has resolved to create a planning and building control media strategy to be adopted in 2011 and has confirmed it is seeking to forge a positive relationship with the media. See Section 9, 'Communicating with and through the local media'
B	I recommend that guidance is urgently produced and published on a range of matters including how to make a planning application and what material to include; the nature and purpose of pre-application meetings; exemptions in plain English; design guidance; and such other matters as the Division may decide.	Majority Completed/ Ongoing	Environment Department	3 of the 4 suggested guidance notes have been produced, alongside further guidance notes, and published on the States' Planning website. This workstream will be taken forward further by the Communications Officer. See Section 9, 'Guidance'
C				

REC No.	RECOMMENDATION	STATUS	LEAD	COMMENTS
6	<b>Open meetings</b>			
A	I recommend that Board meetings dealing with planning applications should be open to the public and the press and that if successful this should be extended to other planning matters in due course, subject to suitable safeguards about personal or commercially confidential information.	Ongoing / Nearing completion	Environment Department	The Department had resolved to introduce open meetings in Autumn 2010. This was delayed to February/March 2011. See Section 9, 'Open Meetings'.
B	I recommend that the question of whether parties should be able to address the Board should be considered after a period of two years.	Not yet commenced	Environment Department	This recommendation is dependent on the implementation of recommendation 6A.
7	<b>Planning and Commerce and Employment</b>			
	I recommend that the Chief Minister in his recommended role as Chair of the SLPG should as a priority seek to find common ground between the Planning Division and Commerce and Employment, ensuring that both operate within the framework of agreed States policies.	On hold	Policy Council	Superseded by the new statutory role of the SLPG. The Policy Council intends a new political group be formed to have responsibility for cross cutting strategic planning policies, pending the States approval of the Strategic Land Use Plan and this may be an issue for further consideration by that group. This item is still under consideration by the Policy Council. See Section 6 Governance of Planning Strategic Policy Objectives
8	<b>Chief Planning Officer</b>			
	I recommend that a Chief Planning Officer, or Head of Planning, should be appointed and should be a member of the Chief Officers Group.	Rejected	Environment Department	This was considered unnecessary by the Environment Department. The Policy Council may give further consideration to this recommendation

REC No.	RECOMMENDATION	STATUS	LEAD	COMMENTS
				if mandates are revised following consideration of recommendations SR3A & C.
9	<b>Crown Land and States owned Land</b>			
A	I recommend that, however achieved, there should be a separation between responsibility for planning and responsibility for Crown or States Land	<b>Rejected</b>	Environment Department	The Department decided this recommendation was not required as set out in Section 6: Crown Land administration
B	I recommend that a Code of Practice for dealing with the development of States owned land should be prepared, published and operated by all States Departments and bodies. This should be founded on the underlying proposition that the States should work on the basis of the same policies as other land owners unless there are exceptional reasons for departing from them.	<b>Ongoing</b>	Treasury & Resources Department	This issue was largely resolved by the introduction of the new Law. The Treasury & Resources Department is drafting directives on estate management issues which will reference planning policies where appropriate. See Section 6: States owned land
10	<b>Targets</b>			
A	I recommend that the States, through the Planning Division, should have indicative targets in relation to performance. These should cover the length of time taken to deal with applications of various sorts (e.g. 80% of householder cases to be dealt with in 8 weeks; 80% of other cases to be dealt with in 13 weeks; with individual targets or contracts for very large cases).	<b>Completed</b>	Environment Department	The Department has introduced 8 & 13 week targets and is publishing them on its 'Development Control Performance Statistics' webpage on a quarterly basis. See Section 8, 'Caseloads and Targets'
B	For the next three years a gradually tightening series of targets should be set which enable the Division to reach	<b>Completed</b>	Environment Department	The Department has set and published future targets on its 'Development Control Performance

REC No.	RECOMMENDATION	STATUS	LEAD	COMMENTS
	these levels. The achievement of these targets will be dependent on the implementation of all the relevant recommendations in this report, including resources.			Statistics' webpage. See Section 8, 'Caseloads and Targets'
C	It may be necessary to set targets for consultees to respond on planning applications in order for the planners to meet their own targets.	Completed	Environment Department	The Department have agreed 'realistic timetables' with consultees for response times, rather than set targets. See Section 8, 'Targets for Consultees'
D	Similar targets should be set for building control and...	Completed	Environment Department	Targets have been set for building control.
E	....relevant targets should also be established for the review of the RAP and UAP.	Ongoing	Environment Department	Meaningful targets cannot be set until the SLUP is agreed by the States of Guernsey in late 2011. See Section 5: 'The Urban and Rural Area Plans'
F	I recommend that appropriate quality assurance measures from the list I have described should be introduced once timeliness is under control.	Part completed/ Ongoing	Environment Department	Three of the five quality assurances measures have been progressed. See Section 8, 'Quality Assurance Measures'
11	<b>Briefing meetings and guidance</b>			
A	I recommend that briefing meetings are held for all States Members after the election and that meetings are held on a regular basis with those who regularly come into contact with the Division.	Ongoing	Environment Department	The Department did not hold briefing meetings for all States Members after the election. However, States Members who follow planning matters are given the opportunity to meet with staff and discuss cases and concerns and the Department is developing a 'States Member training programme'.

REC No.	RECOMMENDATION	STATUS	LEAD	COMMENTS
				See Section 9, 'Communicating with States Members'.
B	At these meetings the process which is followed in dealing with planning applications should be explained. In addition guidance should be given – internally about the policies, processes and proprieties which Members need to follow, and externally about matters such as the material which needs to be submitted with planning applications or the approach to pre-application discussions.	Pending	Environment Department	As stated above, the initial 'briefing meetings' did not occur. The Communications Officer will be taking forward the formulation of guidance for States Members in 2011. See Section 9, 'Communicating with States Members'.
C	I recommend that guidance is published and publicised giving advice on pre-application discussions. Those seeking such meetings should be advised to submit as much information as possible beforehand so as to enable officials to prepare for the meeting.	Completed	Environment Department	The guidance was produced and published. It contains advice on how an applicant can effectively prepare for a meeting with officials. See Section 9, 'Guidance'
D	Where a decision is ultimately made which differs from the advice given in pre application discussions, the Division should give an explanation on request.	Completed	Environment Department	The Department confirmed that it would always explain when a decision differed from advice originally tendered. See Section 8, 'Conflicting Advice'.
E	Senior staff should carry out a study of the extent to which early advice is later countermanded and the reasons for it.	Ongoing	Environment Department	Details of the original study, and the results from the Customer Satisfaction Survey, are listed in Section 8, 'Conflicting Advice'.

REC No.	RECOMMENDATION	STATUS	LEAD	COMMENTS
12	<b>Attention to detail</b>			
A	I recommend firstly that, with the explicit support of elected members, a policy is adopted which (taking account of the new exemptions rules) requires a less detailed appraisal of smaller developments – defined as any development within the curtilage of a dwelling house, minor extensions to other properties, or any development where there are no objections following advertisement.	Completed	Environment Department	The Department confirmed such a policy had been adopted through the amendments to the Development Plans in April 2010. See Section 8, 'Attention to detail issues'
B	Secondly, I recommend that revised procedure guidance for development control officers is produced alongside that report and implemented through internal training and debate.	Ongoing	Environment Department	The drafting of in-house guidance will be supported by the Communications Officer. See Section 8, 'Attention to detail issues'
C	Thirdly I recommend that the change is monitored in a structured way to ensure that it is embedded in the culture.	Rejected	Environment Department	The Department stated the section was small enough for senior management to monitor change. See Section 8, 'Attention to detail issues'
13	<b>Architects Panel and awards</b>			
	I recommend that an Architects' Panel is re-formed along the lines described in this report, and that the Design Awards are reinstated.	Ongoing	Environment Department	This work will be progressed by the Communications Officer in 2011. See Section 9, 'Architects' Panel and Design Awards'
14	<b>Guidance on the new Law and the planning process</b>			
A	I recommend once again that better guidance is published dealing with planning applications – what information is needed and at what stage. This should be completed and	Completed	Environment Department	Guidance has been produced and is available online / from the Department. See Section 9, 'Guidance'

REC No.	RECOMMENDATION	STATUS	LEAD	COMMENTS
	introduced to coincide with the new Law coming into operation.			
B	In addition information should be published which explains the process through which planning applications go after submission.	Completed	Environment Department	Guidance was produced and is available online / from the Department. See Section 9, 'Guidance'
15	<b>Internal organisation of the Planning Division</b>			
A	Applications should be dealt with at a lower level in the hierarchy. In the simplest fast track cases a provisional decision should be made at the outset as described in this report. For the more complex cases the decision should be agreed by the Principal Officers but processed and issued by the case officers. The Head of Development Control should see only the cases which are to go to the Board or others which the Principals consider to be potentially controversial; the decisions should be processed and issued by the case officers/administrative staff.	Ongoing	Environment Department	The Department has extended delegation downwards however has approached this cautiously. See 'Section 8: 'Attention to detail' issues
B	Reports should be as short and concise as possible and usually need not repeat the policies in the RAP/UAP in full.	Completed	Environment Department	See Section 8: 'Attention to detail' issues
C	Where possible minor alterations or revisions or variations to approved applications should be dealt with by letter rather than requiring a fresh application.	Completed	Environment Department	See Section 8: 'Attention to detail' issues

REC No.	RECOMMENDATION	STATUS	LEAD	COMMENTS
D	The administrative staff should be combined into a single team.	Completed	Environment Department	See Section 7: 'Staff Resources'
E	Professional staff should remain as East and West teams pending the introduction of the new Law – further consideration should be given to combining them should the caseload reduce in due course.	n/a	Environment Department	This recommendation will not come into force unless the caseload reduces.
F	A report should be prepared for the Board, who need to understand and endorse these changes, including the risks involved, and to support the Division in their implementation.	Completed	Environment Department	Reports had been provided to the Department's Political Board who had endorsed the changes and support the Division in implementation. See Section 8: 'Attention to detail' issues
16	<b>Exemptions</b>			
A	I recommend that the new Law is implemented as soon as possible and that the effect of the extension of exemptions is monitored.	Completed	Environment Department	The new law was implemented as aforementioned and the effect of exemptions monitored by the Department. See Section 4: The Land Planning and Development (Guernsey) Law, 2005
B	After a period of twelve months I recommend that, subject to consultation, exemptions are further extended.	Ongoing	Environment Department	The Department has commenced a review of the Exemptions Ordinance. See Section 4: 'Exemptions'
C	Similarly I recommend that the changes to the Use Classes Order are monitored and further simplification should be considered after twelve months.	Ongoing	Environment & Commerce & Employment Departments	The Department confirmed it had met with the Commerce & Employment Department to discuss changes to the Use Classes Ordinance. See Section 4: 'Use classes'

REC No.	RECOMMENDATION	STATUS	LEAD	COMMENTS
<b>17</b>	<b>Appeals</b>			
<b>A</b>	I recommend that the Appeal system as proposed in the new Law is brought into force, in order to avoid further delay.	<b>Completed</b>	Policy Council	See Section 8, 'The Appeals Tribunal'
<b>B</b>	I recommend that the powers to appoint a single adjudicator and to consider appeals in writing are extensively used and monitored.	<b>Pending</b>	Policy Council	See Section 8, 'The Appeals Tribunal'. A report on single adjudication appeals is being prepared for presentation to the Policy Council. A timeframe for its production is not currently known.
<b>C</b>	I recommend that, should that process prove successful, provision should be made in due course to move to a single adjudicator system for all cases.	<b>Pending</b>	Policy Council	See Section 8, 'The Appeals Tribunal'. This recommendation is dependent on SR17B being progressed.
<b>18</b>	<b>Staff morale</b>			
<b>A</b>	I recommend that targets are set for the improvement of staff morale, as measured in the staff surveys which are carried out, and that the Chief Officer is given the task of drawing up a programme to achieve these targets.	<b>Rejected</b>	Environment Department	The Department will not be adopting 'targets'. See Section 7, 'Staff Morale'
<b>B</b>	I recommend that the mechanisms for liaison between the two sides of the Planning Division are reviewed and refreshed.	<b>Ongoing</b>	Environment Department	The Department is undertaking a comprehensive review of internal communications. See Section 9: 'Internal Communication'.
<b>19</b>	<b>Building control</b>			
	I recommend that the proposal to separate the planning and building control processes, which is already in hand, should be implemented	<b>Completed</b>	Environment Department	See Section 7, 'Separation of Planning and Building Control'

REC No.	RECOMMENDATION	STATUS	LEAD	COMMENTS
20	<b>Publication of delegation agreement</b> I recommend that the delegation agreement is published.	Completed	Environment Department	Delegation and the decision making process is discussed in Section 8, 'The Planning Application Process'.
21	<b>Progress of applications/IT systems</b> I recommend that so far as possible applicants and interested parties should be informed on request of the progress of applications; and that when IT systems are updated in the future measures to enable the online tracking of applications should be considered.	Completed	Environment Department	The new Planning website was launched in February 2010, with the facility to enable online tracking of applications. See Section 8, 'Communicating using the internet'
22	<b>Flexibility of the Development Plan</b> I recommend that, with a view to achieving greater flexibility in the operation of the Development Plan:			
A	...firstly the review which I have recommended of the level of detail in development control should take into account the way in which the policy gateway is applied in minor developments;	Completed	Environment Department	Review completed. See Section 5 "The Urban and Rural Area Plans"
B	...secondly the amendments to the UAP to introduce greater flexibility, which are already under consideration, should be progressed as soon as possible;	Completed	Environment Department	A report amending the UAP was passed on 29 <sup>th</sup> April 2010 (Billet d'État VIII 2010). See Section 5 "The Urban and Rural Area Plans"
C	...and thirdly that the provision in the new Law for the production of planning guidance should also be used, judiciously, to introduce greater flexibility.	Ongoing	Environment Department	Guidance continues to be developed by the Communication Officer. See Section 11: 'Conclusions'

REC No.	RECOMMENDATION	STATUS	LEAD	COMMENTS
23	<b>Recruitment and retention</b> I recommend that as appropriate consideration is given to providing planning officers with housing licences for longer than five years to improve recruitment and retention.	<b>Ongoing</b>	Financial Transformation Executive	A review of the impact of the Housing Licence regime on recruitment and retention of staff will be undertaken through the Financial Transformation Programme. See Section 7 'Staff Retention and Recruitment'.
24	<b>Resources</b>			
A	As a minimum, there should be one experienced planner added to each of the two development control teams	<b>Completed</b>	Environment Department	See Section 7, 'Staff Resources'
B	There should be one extra administrative post to support development control and reduce their vulnerability to sickness absence etc	<b>Completed</b>	Environment Department	See Section 7, 'Staff Resources'
C	One additional person should be appointed for a period of twelve months for the purpose of improving external communications – principally by producing guidance notes of various kinds (see references earlier in this report) but also by liaising with the press and with stakeholders in order to open up and explain the planning process as I described earlier in this report. He or she should be located within the Forward Planning Team, though some of the work relates to development control issues.	<b>Completed</b>	Environment Department	A Communications Officer was successfully recruited and commenced employment with the Department in August 2010. See Section 9, 'The role of the Communications Officer'.

REC No.	RECOMMENDATION	STATUS	LEAD	COMMENTS
D	In my view these figures are minima. They should be kept under review and if the workload increases, or does not reduce, as a result of the Law further resources should be added.	Pending	Environment Department	Staffing figures will be kept under review. See Section 7, 'Staff Resources'
E	The source of finance should be the fee income from planning applications.	Completed	Environment Department	Fee income has been used to fund the aforementioned recruitment. See Section 7, 'Staff Resources'
25	<b>Action Plan</b>			
	I recommend that a detailed action plan for the implementation of change in the centre and in the Division should be produced, clearly setting out priorities and timescales, and that its implementation should be carefully monitored at a senior level.	In part/ Completed Ongoing	Environment Department Policy Council	The Environment Department created an action plan for dealing with the recommendations. See Section 10 'Change Management' for further details.

# 1. Recommendations

Further to the conclusions contained in Section 11 of this report, the Committee recommends:

- the **Environment Department** draws up an action plan, in consultation with relevant stakeholders, for review of the legislation, including the extent of exemptions and the number of use classes, aiming to report to the States suggesting any desirable amendments by April 2012. *(11.1 – 11.3)*
- the **Environment Department**, as part of its intended educational publications, provides an explanation of the hierarchy, purpose and relationship of the policy plans, further to the approval of the Strategic Land Use Plan and prior to the 2012 General Election. *(11.4 – 11.8)*
- the **Policy Council** produce a publication providing a clear explanation of the various roles, responsibilities, and where accountability rests, for planning policy, forward planning and operations. *(11.4 – 11.8)*
- the **Policy Council** make the necessary amendments to the published mandate of the SLPG (as revised in April 2009 as a consequence of the introduction of the new Planning Law) as expeditiously as possible, to prevent any misunderstanding of the role and constitution of this statutory group. *(11.9 – 11.11)*
- the **Policy Council** review the need for its proposed new sub-group intended to take up some responsibilities of the former SLPG. If it determines a group is required, it should clearly define its mandate and constitution and publish it alongside those of all Departments and Committees, in accordance with principles of good governance. *(11.12 – 11.18)*
- the **Policy Council** take into account the Committee's caution that any further review of the governance issues arising from the Shepley Report, whosoever may conduct it, would need to first identify whether there are any problems that would need to be addressed in the present day governance of planning and environment policies and operations before further consideration can be given to possible solutions. This might include consideration of whether it remains a perception that the impartiality of the Planning Division is compromised and whether environmental policy is given adequate prominence corporately, which were the problems that Shepley had identified in 2008. *(11.19 – 11.26)*
- the **Environment Department** to seriously consider the introduction of a structured process for engaging staff in identifying issues that may affect the quality of the service they provide and identifying critical actions for improvement. The Department Board might expect formal reports on general progress against these actions, at least on an annual basis. *(11.27 – 11.33)*

- the **Environment Department** takes a structured approach to monitoring the flexibility and ‘attention to detail’ applied to minor applications e.g. through case-study analysis and/or the recording of separate targets. (11.34 – 11.37)
- the **Environment Department** ensures it reproduces all information released to the media on its own website in case a member of the public wishes to seek clarification on the position of the Department. (11.38 – 11.44)
- the **Environment Department** ensures it schedules specific induction seminars for States Members following the 2012 elections, to ensure all Members are aware of the purpose and function of the planning system within the States of Guernsey. (11.45 – 11.48)

## 2. Introduction

### *Background to the review*

- 2.1 The Scrutiny Committee is mandated<sup>1</sup>, through a process of political scrutiny, to subject Departments and Committees to regular reviews to determine the effectiveness of government policies and services.
- 2.2 The Environment Department is responsible for planning services, including building control; environmental protection; environmental services and traffic and transport services.
- 2.3 The planning service is a division of the Environment Department (“the Department”). As outlined in the 2010 States Strategic Plan, the Division has the following responsibilities:
  - *Determination of planning applications in accordance with the provisions of the Land Planning & Development Law, its related ordinances and the statutory Plans (Strategic and Corporate Plan, Urban Area Plan and Rural Area Plan);*
  - *Prepare statutory Development Plans and Briefs;*
  - *Provide advice on matters relating to the conservation and enhancement of the natural and manmade environment/ heritage;*
  - *Administration, processing and determination of applications in accordance with requirements of the Land Planning & Development Law and current Building Regulations.*
  - *Reports to the Royal Court on the adequacy and operation of premises licensed as Salle Publiques (public buildings).*
- 2.4 The Strategic Land Planning Group<sup>2</sup> (the ‘SLPG’) is mandated to advise the Policy Council on matters relating to the development of strategic land use planning/spatial policy in accordance with the strategic economic, social and environmental policies and plans of the States of Guernsey.
- 2.5 The SLPG changed from a Policy Council subgroup to a statutory group in April 2009 with the commencement of the new *Land Planning and Development (Guernsey) Law, 2005* (detailed in Section 4). The role and changes made to the SLPG are detailed in more depth in Section 6.

---

<sup>1</sup> The Scrutiny Committee’s mandate can be located at: [www.gov.gg/ccm/navigation/government/states-members-and-committees/mandates-and-memberships/](http://www.gov.gg/ccm/navigation/government/states-members-and-committees/mandates-and-memberships/)

<sup>2</sup> The statutory function of the Strategic Land Planning Group’s can be located at: [www.guernseylegalresources.gg/ccm/legal-resources/laws/planning/land-planning-and-development-guernsey-law-2005.en](http://www.guernseylegalresources.gg/ccm/legal-resources/laws/planning/land-planning-and-development-guernsey-law-2005.en)

## ***The Shepley Report***

- 2.6 In February 2008, the then SLPG commissioned Mr Chris Shepley, former UK Chief Planning Inspector, to carry out an independent review of Guernsey's planning service.
- 2.7 The review examined, amongst other matters:
- How well the planning system was understood by the States and the public, and how it could be made more responsive;
  - The effectiveness of the current organisational arrangements in setting strategic policy objectives for the planning system;
  - How the system could be improved to make legally robust and timely decisions on planning applications, and what the costs and benefits of this would be.
- 2.8 Shepley delivered the '*Review of Guernsey's Planning Service*' Report<sup>3</sup> ("the Shepley Report") in April 2008, which made recommendations relating to planning operations and governance for the Environment Department and the then SLPG/Policy Council to consider. The Report findings were broadly welcomed by the Department, the then SLPG, the Policy Council and the Division's stakeholders, however there were differing opinions on the Report's recommendations regarding the organisational structure.

## ***The introduction of the new Law***

- 2.9 The new planning Law, the *Land Planning and Development (Guernsey) Law, 2005*<sup>4</sup> ("the Law"), came into force on 6<sup>th</sup> April 2009<sup>5</sup> and represented a major shift in how the Planning Division would function in the future. Deputy Peter Sirett, Minister, Environment Department, remarked at the public scrutiny meeting:

*"The introduction of the new Law has brought many opportunities for positive change. In addition to instigating a system of fees for applications, which has improved our resources, the changes in application types by extension of exemptions, have also altered the profile of our development control work."*

- 2.10 The Committee was conscious of the significant impact the introduction of the new Law would have had on the operation of the service and was mindful that it had only been in force for eleven months at the time the public meeting with the Department was held.

<sup>3</sup> [www.gov.gg/ccm/treasury-and-resources/reports/review-of-guernseys-planning-service.en](http://www.gov.gg/ccm/treasury-and-resources/reports/review-of-guernseys-planning-service.en)

<sup>4</sup> [www.guernseylegalresources.gg/ccm/navigation/orders-in-council/guernsey---bailiwick/p/planning/](http://www.guernseylegalresources.gg/ccm/navigation/orders-in-council/guernsey---bailiwick/p/planning/)

<sup>5</sup> The Law was based on the Report submitted to the States on 31<sup>st</sup> May 2002 entitled the *Review of the Island Development (Guernsey) Laws 1966 - 90* and a further Report (of the same name) included in Billet d'État I of 2005.

### ***Reasons for Scrutiny review***

- 2.11 In July 2009, the Scrutiny Committee finalised its forward work programme. In considering the planning service as a potential topic for review, the Committee had examined the Shepley Report and had noted the comments made in the conclusion that:

*“Perhaps the disappointing finding is that the situation in 2008 is much the same as that identified by District Audit<sup>6</sup> in 1998. Their essential conclusions remain the same”.*

- 2.12 The Committee wished to establish what action had been taken by the Environment Department, Strategic Land Planning Group and the Policy Council following the publication of the Shepley Report.

- 2.13 The Shepley Report has not been presented to the States for debate and no further reports have been published illustrating how the recommendations within the report have been considered. The Committee believed that public political scrutiny would add value in providing a critical update on the progress made by the Environment Department and the Policy Council against the report’s recommendations.

- 2.14 The table located in Section A of this report summarises progress against each of Shepley’s recommendations, which are referred to in the main body of this report.

- 2.15 The Committee considered its involvement would add value to the process in assessing what impact the report and the new Law has had on the planning service. As lead Panel member Deputy Hadley said when announcing the Committee’s intention to hold a public scrutiny meeting:

*“Everyone has a view of the planning service and everyone has at some time, either directly or indirectly, been affected by the decisions it makes”.*

---

<sup>6</sup> The District Audit undertook a value for money service review of the Island Development Committee (IDC)’s operation which culminated in a report entitled the *Review of the Island Development Committee* published in June 1999. The functions of the IDC were subsumed into the mandate of the Environment Department as part of the machinery of government changes which became effective in May 2004.

### 3. Methodology

- 3.1 In October 2009, the Committee appointed a Panel (“the Panel”) comprising Deputies Mike Hadley, Jan Kuttelwascher, John Gollop and Martin Storey<sup>7</sup>. The Panel met in November 2009 to discuss how the review should be taken forward and drafted the terms of reference for the review (Appendix A), which was approved by the full Committee in January 2010.
- 3.2 The Scrutiny Committee resolved to review the action taken by the Environment Department, the Strategic Land Planning Group and the Policy Council in addressing the contents and recommendations contained in the Shepley Report, exploring how the recommendations had been considered, implemented or rejected, and the rationale behind these decisions. The Committee also agreed to assess what indicators, monitoring processes and action plans have been introduced to ensure policies and services have been effectively implemented, performance managed and reviewed.
- 3.3 The Panel critically read the Shepley Report and considered media coverage relating to the planning service. It gathered information through written correspondence with the Environment Department, the SLPG and the Policy Council and by holding a public scrutiny meeting<sup>8</sup> on Thursday 4<sup>th</sup> March 2010 with representatives from the Environment Department<sup>9</sup>.
- 3.4 The staff of the Environment Department, SLPG and Policy Council were asked for their comments on the factual accuracy of the draft report, minus the conclusions and recommendations, on 23<sup>rd</sup> December 2010. The Final Report was approved by the Committee on 2<sup>nd</sup> February 2011 and sent to the Department, the SLPG and Policy Council for their final comments
- 3.5 This report will be submitted to the States of Deliberation, appending the comments of the Environment Department and Policy Council.

---

<sup>7</sup> At the February 2010 States Meeting, Deputy Storey announced his intention to resign from the Scrutiny Committee, and therefore did not take any further part in the review from that time.

<sup>8</sup> Transcripts from the public hearing are available online at [www.gov.gg/scrutiny](http://www.gov.gg/scrutiny)

<sup>9</sup> The Minister, Deputy Minister, Chief Officer, Director of Planning Policy and Director of Planning Control Services.

## 4. The Land Planning and Development (Guernsey) Law, 2005

### *The review of the new Law*

**SR1A&B:** *I recommend that the new Law is brought into force without further delay, despite reservations that individual Members or Officials may have, and that resources are put aside to review the operation of the Law after twelve months and set in motion any changes which may appear necessary or desirable, with a view to implementation not more than three years after the Law has come into operation.*

- 4.1 The new planning Law, the ‘*Land Planning and Development (Guernsey) Law, 2005*’,<sup>10</sup> (“the Law”), came into force on 6<sup>th</sup> April 2009.
- 4.2 The Committee noted comments previously made by the Department (contained in an appendix to a letter to the SLPG dated 30<sup>th</sup> December 2008) that it would set up the means to review the operation of the new Law, and that such a review should be completed before the end of its current term of office (April/May 2012).
- 4.3 In its written response to the Committee, the Department stated the operational issues associated with the new Law are under regular, informal review through discussion at team meetings, with fine tuning of operational procedures being carried out on an ongoing basis. One of the amendments that had already been carried out was to the Fees Ordinance<sup>11</sup> in relation to the fees for moveable structures.
- 4.4 A list of minor amendments necessary to the Ordinances is being compiled, to be actioned together rather than in a piecemeal fashion. Some changes could be undertaken by Regulation, however others would require amendments to the Ordinance.
- 4.5 The Committee noted that amendments to Ordinances could be undertaken relatively quickly and asked whether the Department would consider amending Ordinances as the need arose. The Department responded that ‘*the downside to making incremental changes is that of confusion....from the point of view of avoiding confusion amongst the public and practitioners, as well as ourselves, it is desirable to try and group amendments so that they are dealt with in ‘one hit’ if we can*”.

<sup>10</sup> [www.guernseylegalresources.gg/ccm/navigation/orders-in-council/guernsey---bailiwick/p/planning/](http://www.guernseylegalresources.gg/ccm/navigation/orders-in-council/guernsey---bailiwick/p/planning/)

<sup>11</sup> Land Planning and Development (Fees)(Amendment) Regulations, 2010

- 4.6 The Department had stated a review would take place ‘*once the legislation has had a reasonable time to bed in*’. The Committee questioned when the Department estimated this would be. The Minister responded it was difficult to specify a time, however, the Department was reacting to feedback from the agents’ forum, architects and developers, in order to ensure the Planning Division, and the Law, was working efficiently.
- 4.7 Department representatives later clarified that it was difficult to assign a rigid timescale to the review of the new Law. This is a continuous and ongoing process as planning policies and practices develop and issues are identified that require changes to the Law. It was stated that no changes of high priority or significance had arisen, rather that the Law required some small modifications. Specific areas within the legislation had been prioritised for review, such as the provisions for Environmental Impact Assessments.

### ***The use of exemptions***

- 4.8 At the time the Shepley Report was produced, many small developments fell within the scope of development control i.e. they required planning permission. This changed through the introduction of the *Land Planning and Development (Exemptions) Ordinance, 2007*, brought into force on 6<sup>th</sup> April 2009, which contained a schedule of ten classes of development which are exempt from planning control<sup>12</sup> (in England exemptions are known as “permitted development”). Guidance notes<sup>13</sup> were also introduced for applicants to judge whether their proposals would be exempt from planning control prior to contacting the Planning Division.
- 4.9 Shepley had questioned whether the provisions went far enough. He had acknowledged that there may be public concern regarding the introduction of exemptions, therefore he believed a monitoring period of twelve months would be valuable to ensure the impact was acceptable before seeking to extend them:

**SR16A&B:** *I recommend that the new Law is implemented as soon as possible and that the effect of the extension of exemptions is monitored. After a period of twelve months I recommend that, subject to consultation, exemptions are further extended....*

- 4.10 In its written response in October 2009, the Department had stated it was “*too soon to form a view on the acceptability or otherwise of the exemptions and/or use class ordinance*”.
- 4.11 At the public scrutiny meeting, the Director of Planning Control Services explained it had been difficult to measure precisely the impact of the exemptions

<sup>12</sup> i.e. when planning permission is not required

<sup>13</sup> [www.gov.gg/ccm/navigation/environment/planning/development-control/exemptions/](http://www.gov.gg/ccm/navigation/environment/planning/development-control/exemptions/)

introduced, as many key factors regarding the operation of the Planning Division had changed e.g. the shift in workload, the impact of the recession, the introduction of fees, the changes to the ‘application profile’ etc.

4.12 However, he stated that the Department had introduced new systems to enable the Department to monitor pre-application enquiries, which included exemption queries, so a form of monitoring in respect of exemptions was taking place.

4.13 The Minister acknowledged that there was scope to extend the list of exemptions. However, the Department had approached exemptions cautiously in order first to assess how they would work in practice.

4.14 The Director of Planning Control Services commented:

*“The Exemptions Ordinance is something we are positively committed to looking again at after it’s been in operation for say, a year, eighteen months, and there are thoughts, certainly, as to areas where that could be amended slightly”.*

4.15 The Committee had questioned whether there had been any negative reaction from the public to exemptions being introduced, resulting in complaints regarding exempt developments. The Department stated that it had only received a couple of complaints since its implementation.

4.16 Department representatives stated feedback had been sought through the agents forum on how exemptions were working in practice. It was confirmed that a review had commenced, however there had been no calls from the public to prioritise this particular workstream.

### **Use Classes**

4.17 The *Land Planning and Development (Use Classes) Ordinance, 2007*, contains a schedule of 44 Use Classes<sup>14</sup>. Shepley received relatively few comments about the Use Classes Order however some people had felt the 44 classes set out were ‘too many and too complex’. Shepley therefore made a recommendation to address this:

**SR16C:**...Similarly I recommend that the changes to the Use Classes Order are monitored and further simplification should be considered after twelve months.

4.18 The Committee asked whether the Department had considered simplifying the Use Classes Ordinance. The Department stated in considering this, one of the

<sup>14</sup> Use Classes are defined in the Ordinance to describe different uses of land or premises under broad headings including e.g. residential, visitor economy, retail and industrial.

key contributors to the debate was the Commerce & Employment Department. The Department confirmed at the public scrutiny meeting in March 2010 that:

*“...the full Board met with the full Board of Commerce & Employment quite recently.....where these very issues were touched on, and where the need for clear policy .....in terms of these other Use Classes was identified as being....a guiding instrument in subsequent amendments to the Use Class Ordinance. So the debate has started.”*

- 4.19 The Department later informed the Committee that a coherent policy on land use for industrial purposes was required prior to amending the use classes. Further work would be undertaken with the Commerce and Employment Department to resolve this.

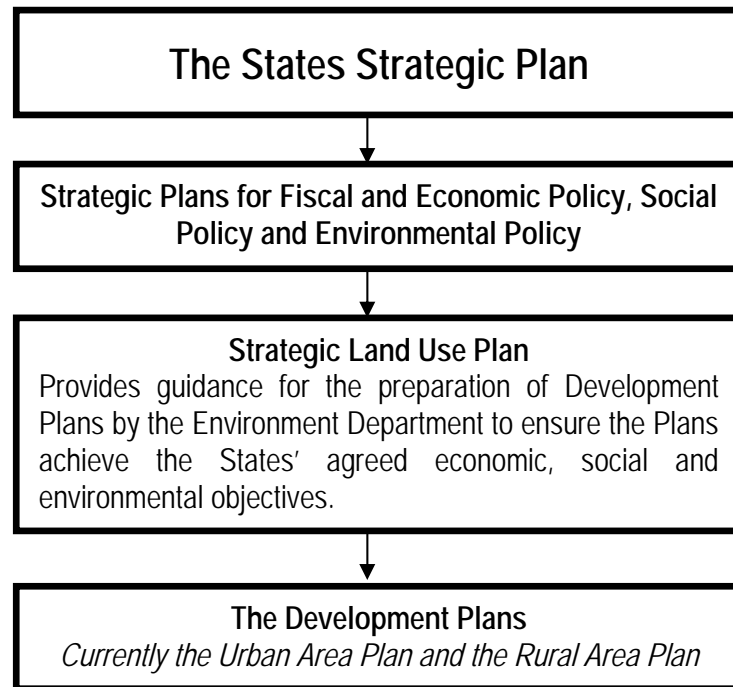
<p><b>See Conclusions: ‘The review of the new Law’, paragraphs 11.1 – 11.3</b></p>
--

## 5. Strategic Planning Policy

### *Policy plans*

- 5.1 The Policy Council presented the Strategic Plans for Fiscal and Economic Policy, Social Policy and Environmental Policy in July 2009, which were approved.

**Figure 1: Hierarchy of Plans**



### *Strategic Land Use Plan*

- 5.2 The SLPG is required under the 2005 Law to consider, from time to time, the Strategic Land Use Plan (SLUP) and to submit to the Policy Council, for consideration by the States, any proposed revised Plan or amendments to the Plan. The purpose of the Plan is to guide the Environment Department in ensuring the land planning system is responsive to the Island's economic, social and environmental needs.
- 5.3 The Guernsey Tomorrow<sup>15</sup> initiative was undertaken to contribute to the review of the SLUP. The Summary Report was published in July 2010, and the Strategic Land Planning Group subsequently presented a report to the States outlining options for general planning and development of the Island.
- 5.4 The States resolved, on 29<sup>th</sup> October 2010, to note the programme for the preparation of a revised Strategic Land Use Plan, including the involvement of

<sup>15</sup> [www.guernseytomorrow.gg/](http://www.guernseytomorrow.gg/)

States Members in the development of a preferred strategy. It was originally intended that the revised Plan would be presented to the States for approval in February 2011, however the Committee was informed that this had been delayed to later in the year once the consultation process with States Members has been completed.

### ***The Urban and Rural Area Plans***

- 5.5 The former SLPG had requested Shepley assess *‘The rigidity/flexibility of the planning system both in terms of development plan policies and the way these are interpreted in dealing with individual planning applications’*.
- 5.6 The two Development Plans, which set out the planning policies for the Island, are the **Rural Area Plan (RAP)** and the **Urban Area Plan (UAP)**. These documents are available to view at the Environment Department’s reception at Sir Charles Frossard House, and online<sup>16</sup>.
- 5.7 The Development Plans are to guide the Planning Division in making decisions on planning applications, to encourage suitable development on appropriate sites, to protect the environment and to help guide public and private investment, amongst other purposes.
- 5.8 Shepley had considered these Plans to be good pieces of work which “*provide a solid basis for decision making*”, and compared well with other such documents he had seen.
- 5.9 Shepley recommended the Department ensured the policies were written to prevent the Division spending too much time on the minor applications at the expense of those which would have a bigger impact on the Island.

***SR22: I recommend that, with a view to achieving greater flexibility in the operation of the Development Plan:***

- (a) firstly the review which I have recommended of the level of detail in development control should take into account the way in which the policy gateway is applied in minor developments;*
- (b) secondly the amendments to the UAP to introduce greater flexibility, which are already under consideration, should be progressed as soon as possible;*
- (c) and thirdly that the provision in the new Law for the production of planning guidance should also be used, judiciously, to introduce greater flexibility.*

<sup>16</sup> [www.gov.gg/ccm/navigation/environment/planning/planning-policy/detailed-development-plans/](http://www.gov.gg/ccm/navigation/environment/planning/planning-policy/detailed-development-plans/)

- 5.10 The Department explained the concept of a ‘policy gateway’ which had resulted from the ‘Portholme’ case. This case had established that when considering an application for development, the Department must first consider whether there is a ‘positive policy gateway’ which would enable the development. If no policy gateway existed because a proposed development was either expressly or implicitly prohibited by the Plan, then permission was refused. Therefore, if no policy exists for a specific form of development requested, and where the development cannot be regarded as a minor departure from the Plan<sup>17</sup>, then the Department is unable to grant consent on an application.
- 5.11 However, the Department recognised that it was not possible for the Urban Area and Rural Area Plans to cover every eventuality, so flexibility was required in the interpretation and application of the policy. The Department believed this enabled individual cases to be determined on their own merit against the policies and, if appropriate, approved.
- 5.12 The Department stated this was one of the reasons it took proposed amendments through public inquiry in November 2009. A Planning Inspector was appointed<sup>18</sup> to hold a public planning inquiry to hear submissions or representations on the proposed amendments to the Development Plans. The Department’s Report<sup>19</sup> suggesting alterations and amendments to the UAP and RAP was presented to the States of Guernsey in April 2010. The Department had acknowledged the findings of the Shepley Report under section 2.1 of the covering Report:

*“An important emphasis of the Interim Amendments is to respond to the recent introduction of new planning legislation and implication for certain forms of development and the application of policy to domestic development which was highlighted in the Review of Guernsey’s Planning Service by Chris Shepley. He recommended that the Department should look at the way the ‘policy gateway’ is applied to minor development and also, in more general terms, how the Plan might be interpreted in a reasonably flexible way”*

- 5.13 The Planning Inspector had acknowledged in her Report<sup>20</sup>:

*“The Shepley report recommends a number of actions to achieve greater flexibility. It seems to me that the proposed additions to sub-section 2.3.1 and new Policies ED1 and ED2 (Change 8) go some way to achieving a more flexible UAP. The Environment Department argued that it has proved challenging to make amendments to the UAP which do not “pull the document as a whole apart”. A comprehensive re-drafting will be undertaken when the*

<sup>17</sup> The legislation provides for minor departures from the Development Plan.

<sup>18</sup> The Planning Inspector was appointed in accordance with Section 9 of the *Island Development (Guernsey) Law, 1966 as amended*.

<sup>19</sup> Billet d’État VIII, April 2010 – ALTERATIONS AND ADDITIONS TO THE URBAN AREA PLAN (REVIEW NO.1) AND THE RURAL AREA PLAN (REVIEW NO.1)

<sup>20</sup> Also published in Billet d’État VIII, April 2010

*UAP and RAP are subject to further full review. I accept that it is difficult to make discrete changes on a subject such as flexibility, and that the future more comprehensive review would be the time to revisit the question more holistically.”*

- 5.14 In respect of introducing flexibility to the Rural Area Plan, the Planning Inspector stated:

*“I conclude that Proposed Change 1, especially parts (i), (ii), (iv) and (ix) would go far enough to increase flexibility in planning and development, without enabling inappropriate development or poor design which would be contrary to conserving and enhancing the rural environment.”*

- 5.15 The report was approved by the States, further to amendment, on 29<sup>th</sup> April 2010.

- 5.16 Shepley made the following recommendation to set targets:

**SR10E:** *‘...relevant targets should also be established for the review of the RAP and UAP*

- 5.17 The Plans have a 10 year lifespan under the new Law, with the RAP lasting until December 2015 and the UAP until July 2012. A short-term extension will be sought for the UAP. The review process of the Development Plans is on hold pending the approval of the SLUP in late 2011, however preparatory work has commenced.

- 5.18 Once the new SLUP has been adopted by the States of Guernsey, the Environment Department will commence a review of the Urban and Rural Area Plans to meet the new strategic agenda. The Director of Planning Policy stated that this review would be an opportunity for open debate on a number of policy issues for the future.

- 5.19 The Department further confirmed that the review would also provide the opportunity to Islanders *“to engage with the planning system at a detailed policy level and to participate in reviewing policies that people might think are no longer appropriate or applicable”*<sup>21</sup>.

- 5.20 In 2011, the Department is looking to develop a dedicated plan review website and newsletter. It will publish an online timetable for the plan review process, which will be regularly updated so that progress can be tracked online.

- 5.21 One of the main objectives of the review of the SLUP was *“to consider whether or not policies based on an ‘urban/rural split’ (which directs the majority of new*

---

<sup>21</sup> Guernsey Press *‘Planning Meetings are set to open up soon’* – 10.01.2011

*development to the urban area), remains a valid guiding principle for the next 10 to 15 years”<sup>22</sup>. The plans may therefore be replaced with a different form of Development Plan.*

<p><b>See Conclusions: Strategic Planning Policy, paragraphs 11.4 – 11.8</b></p>
--

---

<sup>22</sup> Extract from the 2009 States Strategic Plan – Billet d’État XXVI October 2009

## 6. Governance

- 6.1 The first topic for consideration by Shepley in the terms of reference for his review was: *“How effective are current organisational arrangements in setting strategic policy objectives for the planning system and ensuring that they are fulfilled?”*
- 6.2 Shepley concluded that the governance arrangements which existed at the time of his report were not very effective and had made recommendations accordingly.

### ***The Strategic Land Planning Group (SLPG)***

- 6.3 Shepley reported that the *“(pretty unanimous) view was that the SLPG was a good innovation, that it had made a good start, but that for whatever reason it had become less useful”*. He had therefore recommended that:

**SR2:** *...the Strategic Land Planning Group should be refreshed and upgraded. It should be chaired by the Chief Minister and he or she should have the remit of ensuring that it operates in a corporate way, without members who simply represent the interests of particular Departments.*

- 6.4 When the new Law was brought into effect in 2009, the SLPG was reconstituted as a statutory group rather than a sub-group of the Policy Council. This resulted in its mandate becoming more narrowly focused. It is chaired by the Deputy Chief Minister.
- 6.5 The SLPG is mandated under the Law to prepare the Strategic Land Use Plan and to advise the Policy Council on matters relating to the development of strategic land use planning/spatial policy that is in accordance with the strategic economic, social and environmental policies and plans of the States.
- 6.6 The Strategic Land Use Plan provides guidance to the Environment Department to ensure that the land planning system is responsive to the Island’s economic, social and environmental needs.

**See Conclusions: Strategic Land Planning Group, paragraphs 11.9 – 11.11**

### ***New Policy Council sub-group***

- 6.7 The SLPG had previously also been responsible for *“the promotion and co-ordination of major cross-departmental projects and initiatives where the achievement of corporate objectives, in spatial terms, requires sustained political leadership at Policy Council level”*, however this responsibility had

been removed from the SLPG following legal advice, as this was felt to present a conflict with the refined statutory role.

- 6.8 The Deputy Chief Minister informed the Committee that the Policy Council had decided to set up a new Policy Council sub-group tasked with taking on board the wider strategic land planning issues that the statutory SLPG could no longer consider under its mandate.
- 6.9 One such issue was Shepley's identification of the need for mediation between the Environment and Commerce and Employment Departments, which he had attributed to the SLPG but which would not fall within its new mandate:

**SR7:** *I recommend that the Chief Minister in his recommended role as Chair of the SLPG should as a priority seek to find common ground between the Planning Division and Commerce and Employment, ensuring that both operate within the framework of agreed States policies.*

- 6.10 Shepley believed that many of the policy setting problems from which he believed the planners suffered at the time stemmed from the “*significant differences*” he observed between the Environment and Commerce and Employment Departments.
- 6.11 The Department informed the Committee that “*common ground does exist at present*” and the two Departments were working well together.
- 6.12 Shepley had identified that the ‘GBP<sup>23</sup> *provides an opportunity to tackle this difficult problem*’ and to bring the Departments together to ‘*understand one another’s problems*’.
- 6.13 The Chief Officer, Environment Department, stated that:

*“If the States Strategic Plans set the strategic objectives of the States clearly, crisply, focused - then Commerce and Employment and Environment Department should be heading in the same direction without those tensions.*

*I think, at the moment, not only [is it] the will of the [Environment Department] Board to engage and...work these things out, but also the very fact that the States itself is trying to embrace the States Strategic Plan in a corporate way is making these things easier to resolve...”.*

- 6.14 The Committee is aware that, whilst Deputy McNulty Bauer has been appointed Chair of the Policy Council sub-group referred to in paragraph 6.8 above, its constitution and mandate are yet to be confirmed. The development of the group

---

<sup>23</sup> The Government Business plan – now superseded by the States Strategic Plan

has now been postponed until after the publication of the SLUP in late 2011, when its purpose and role will be revisited.

**See Conclusions: ‘New Policy Council sub-group’, paragraphs 11.12 – 11.18**

### ***Responsibility for environmental policy and the planning function at a strategic and operational level***

- 6.15 Shepley made some recommendations relating to governance, based on his observations and arising from his review, but stated in his report that:

*“These are matters which go beyond what I was asked to do – the Departmental structure of the States Government is a complex issue, and one which raises issues outside the organisation of the planning function itself. But I do offer some thoughts”.*

#### **SR3**

- A. That the Planning function should not report to a sectoral political Board.*
- B. That responsibility for high level environmental policy should be transferred to a different body at the centre of the States organisation. It should not be downgraded in its importance, but regarded as a cross cutting issue, central to States policy.*
- C, That the Environment Department is then re-named (“Planning” or “Planning and Transport”) and that it should be responsible for forward planning policy, development control, design and conservation and building control.*
- D. That the Department should report to the SLPG, as reorganised, in relation to cross cutting strategic policies, and that the Minister should have a formal role through the SLPG in overseeing the consistent implementation of States strategic policies through the land planning process.*

- 6.16 In July 2008, Deputy Flouquet, as Chairman of the SLPG, sought clarification from Shepley regarding these recommendations. In his response, Shepley acknowledged that these matters extended beyond his remit, as in fact he had stated in his report, and he made the caveat that, whilst he had knowledge of planning, he did not have information about the way other parts of government operate in any detail and he was conscious of the implications of these recommendations for others.

- 6.17 Shepley stated: *“I do not intend the creation of a new Department. I picked up this misunderstanding during my visit [to discuss the report findings following publication] and I am sorry if it was not clear...But what I propose is simply the*

*removal of the environment function to the centre – the existing Department then remaining largely unaltered...”*

- 6.18 Shepley stated the purpose of this was most importantly to ensure that planning was not seen to be unduly influenced by environmental considerations:

*“I consistently picked up a message, both internally and externally, that the planning function had begun to lean in a particular direction. It was favouring environmental considerations above others. The perception is more important than the reality here...Planning...needs to be, and to be seen to be, fair and impartial. Its special quality is that it can balance environmental, economic and social considerations in a fair and impartial way...The issue which seems to be perceived in Guernsey in that Environment makes policy (and sometimes quite radical policy) which is (at least) thought to affect planning decisions. It is widely thought that environment is placed ahead of, for example, employment.”*

- 6.19 Shepley also considered that environmental policy should be a corporate activity and would therefore be better placed at the ‘centre’ to avoid being marginalised. He concluded:

*“The simple aim is to remove planning from a position where it is, or is thought to be, biased in a particular direction. That is all. I hope my solution would do that without diminishing the importance of the environment and without creating an extra Department or extra bureaucracy.”*

### **Strategic environmental policy**

- 6.20 The Environment Department advised that, at the time of the Shepley Report, some responsibility for high level environmental policy already sat at the centre of Government, and this had been taken further as part of the States Strategic Plan (the ‘SSP’).
- 6.21 The Committee noted that responsibility for high level environmental policy was under the remit of Policy Council, which is mandated to advise the States on matters relating to “*the formulation and implementation of economic, fiscal, human resource, **environmental** and social strategic and corporate policies to meet objectives agreed by the States*”. The Policy Council created a sub-group<sup>24</sup>, the ‘Environmental Policy Group’, which it mandated to “*develop, co-ordinate and review corporate environmental policy, including the development, monitoring and review of the GBP [now SSP] Environmental Plan*’.

---

<sup>24</sup> Under Rule 16(A)(2) of ‘The Constitution and Operation of States Departments and Committees’, “*The Policy Council and any Department or Committee may, by resolution, constitute such Sub-Committees as it deems appropriate and for such purposes and with such membership and quorum as shall be specified in the said resolution, provided that the Council, Department or Committee shall remain responsible for any act done on its behalf*”.

6.22 The States of Deliberation approved the States Environmental Policy Plan on 15th July 2009, and considered and approved the '2010 Update' at the States meeting in September 2010.

6.23 The Committee noted that the Environment Department's mandate still includes responsibility for environmental policy as follows:

*“(a) To advise the States on matters relating to:*

- *Environmental policy including transport, energy and waste policy and policy for the conservation, enhancement and sustainable development of the natural and physical environment of the Island in accordance with the strategic economic, fiscal, environmental and social policies of the States;”*

### ***Timeline of consideration on recommendations SR3A - D***

#### ***2008: Joint consideration by Environment Department and the former SLPG***

6.24 Minutes from a joint meeting held in October 2008 state Members of the SLPG and the Environment Department were asked to consider the creation of a 'Planning and Transport' department, and in doing so, relieve the Environment Department of those responsibilities:

*“In an informal show of hands, the majority of those present indicated that they would wish responsibility for planning and transport to remain within the Environment Department”.*

#### ***2009: Comments of the Environment Department in response to the Committee's review***

6.25 In the Environment Department's initial response to the Committee in late 2009, it stated the political board, whilst recognising the challenges that could arise from reporting to a Board with sectoral interests, was *“not of the majority that this presents an unworkable option or that the Department should be split up”*. It stated that the matter was the subject of ongoing discussion between the Department, the SLPG and the Policy Council.

#### ***2010: Reconsideration by the statutory SLPG***

6.26 The SLPG met in January 2010 and focused its discussion on the issue of where the political and operational planning functions should sit in the States of Guernsey. The Committee was informed it *“discussed and saw the merits in one committee having political responsibility for all 3 levels”*, referring to (1) the strategic (2) forward planning and (3) planning permission, and expressed an *‘in principle majority view that this committee should be the Policy Council to maximise the opportunities for corporate working’*.

- 6.27 The Group considered that *“the involvement of politicians for planning permissions would only be needed for the largest or most controversial projects where it is ambiguous how to apply policies”*. It believed that operationally, the Planning Division could either remain in the Environment Department or be transferred to the Policy Council, although it acknowledged that this would not sit with the mandate or operation of the Policy Council.
- 6.28 It also identified other difficulties that would need to be overcome including establishing a body which would carry out the neutral functions currently carried out by the Policy Council as a ‘neutral body’ e.g. in regards to the Planning Appeals Panel, appointing Planning Inquiry Inspectors etc. Another difficulty identified was the extent to which moving the planning function to the Policy Council might *“result in a conflict of interest between wanting to promote certain developments and acting as the department considering planning applications and preparing plan amendments”*. It agreed that these, and other issues, would need to be more closely examined and therefore believed there needed to be a working group appointed by the Policy Council to investigate where political responsibility should be for the planning functions.

***Creation of a ‘political working group’ to further consider Shepley’s governance recommendations***

- 6.29 The Policy Council again considered the Shepley Report on 8th February 2010 and resolved to appoint a *“separate political working group”* to consult further with the Environment Department and other States Departments, as necessary, to review further the political responsibilities for strategic and corporate planning and operational planning. It agreed that the group will be under the chairmanship of Deputy McNulty Bauer.
- 6.30 The Policy Council informed the Committee that the working group would report back to the Policy Council with *“recommendations on where political responsibility for the planning function should rest in the future (including where the Planning Division of the Environment Department should be incorporated)”*.
- 6.31 The Policy Council agreed that the group should not commence its review until the States of Deliberation had been given the opportunity to consider a report from the Public Accounts Committee (the PAC) on governance issues.

***Public Accounts Committee report on governance in the States of Guernsey***

- 6.32 In May 2008, the PAC commissioned a report by the Wales Audit Office on corporate governance to identify whether the present system of governance in Guernsey provided value for money. The report entitled *‘Review of Good Governance - The States of Guernsey’*<sup>25</sup> was published in September 2009. A

---

<sup>25</sup> [www.gov.gg/ccm/general/public-accounts-committee/review-of-good-governance-in-the-states-of-guernsey.en](http://www.gov.gg/ccm/general/public-accounts-committee/review-of-good-governance-in-the-states-of-guernsey.en)

requête was placed in January 2010, resulting in the PAC being directed to report to the States during 2010 with recommendations for improving the governance arrangements of the States of Guernsey within the existing structure of government by committees and consensus and using as a benchmark the six recognised principles of good governance. In October 2010, the Public Accounts Committee informed the States of Deliberation that it required an extension for the presentation of its governance report to 2011, and it is expected that the Report will be published for debate in the March 2011 Billet.

- 6.33 At its meeting on 8<sup>th</sup> February 2010, the Policy Council considered that, as there was *“no current outcry about delays in the planning system or evidence that the dual Planning Directors structure is not currently working in practice”*, there was no imperative to progress the governance issues raised in Shepley in isolation from the wider States work on corporate governance.

**See Conclusions: ‘Responsibility for environmental policy and the planning function at a strategic and operational level’, paragraphs 11.19 – 11.26**

### ***The creation of a ‘Chief Planning Officer’ role***

- 6.34 Shepley also reported that a number of people, internally and externally, had stated the Planning Division suffered from the lack of a single professional head.

**SR8:** *I recommend that a Chief Planning Officer, or Head of Planning, should be appointed and should be a member of the Chief Officers Group<sup>26</sup>.*

- 6.35 The Committee was informed that the Board of the Environment Department did not hold a majority view that a Chief Planning Officer or Head of Planning needed to be appointed. It did not consider that, at this stage, the Department needed to place a Chief Planning Officer over the existing Planning Directors, or to promote one of those directors to the position of Chief Planning Officer.
- 6.36 The Policy Council had also commented that there was no evidence that the *“dual Planning Directors structure is not currently working in practice”*.

### ***Crown land administration***

- 6.37 The Environment Department’s responsibility for administering Crown Land was an issue which the former SLPG had asked to be examined as part of the Shepley review.
- 6.38 At the time, the Chief Officer of the Environment Department had considered there was no problem with the Department retaining responsibility for Crown

<sup>26</sup> The Chief Officer Group is the six-weekly meeting of Chief Officers from each Department in the States of Guernsey.

Land and also the planning function. He argued that the Department would not determine an application differently if it were Crown Land. Shepley stated he had not seen evidence to the contrary.

- 6.39 However, Shepley believed ‘*the perception is as important as the reality here*’ and that a contrary view had been put to him by the then HM Receiver General<sup>27</sup>, who felt the administration of Crown Land should be transferred to the Treasury and Resources Department.
- 6.40 Shepley had acknowledged in his report that not all Crown Land is administered by the Department. However, he concluded that there should be a ‘*visible separation between the administration of Crown Land and the planning function*’ in order to make it clear that decisions were being made on policy and not on any other grounds.

**SR9A:** *I recommend that, however achieved, there should be a separation between responsibility for planning and responsibility for Crown or States Land.*

- 6.41 When questioned by the Panel, the Department maintained its original stance, stating the Board, by a majority, did not hold the view that the perceived conflict between land management and planning was any different to the conflicts which could exist, for example, between traffic management and planning.
- 6.42 The Committee wrote to the current HM Receiver General to request his views on this issue. In his response to the Committee, HM Receiver General explained that the Chief Officer had written to his predecessor setting out the Department’s position, and that further to reviewing these papers he was reassured by the practicalities of the matter. He therefore did not share Shepley’s view that the perception was as important as the reality, and would not be seeking to change the current position on behalf of the Crown.
- 6.43 HM Receiver General added that, should the States of Guernsey wish to propose to the Crown that the responsibility for Crown Land administration be transferred to another department, he would not be inimical to discussion. He stated that he felt a clearer statement of expectations as to how these areas are to be administered on behalf of the Crown was required. He therefore committed to following up this action.

---

<sup>27</sup> The HM Receiver General functions: “*Our functions in that capacity include the collection within the Bailiwick of Crown revenues, and the administration of Crown property, which include Jethou, the foreshores (in those places where the Crown owns the fiefs contiguous with the coast), and the seabed.*” (quote taken from the Law Officers written submission to Lord Carswell as part of the “The Review of the Roles of the Crown Officers” in Jersey, March 2010.

## **States owned land**

**SR9B:** *I recommend that a Code of Practice for dealing with the development of States owned land should be prepared, published and operated by all States departments and bodies. This should be founded on the underlying proposition that the States should work on the basis of the same policies as other land owners unless there are exceptional reasons for departing from them.*

- 6.44 The Department confirmed that this issue was largely resolved by the new Law, which places the States in largely the same legal position as any other developer.
- 6.45 The Strategic Property Services unit of the Treasury & Resources Department is in the process of drafting directives on estate management issues, which derive from the Rules that were approved by the States in 2009<sup>28</sup>, and will make reference to planning policies where appropriate.

## **Planning as a corporate resource**

- 6.46 Shepley quoted a comment made to him in the course of his review, which he believed to be succinct and convincing, that *“the planners are not seen as a corporate resource; they are seen as the property of the Environment Board”*.
- 6.47 At the public scrutiny meeting, the Chief Officer of the Department stated, that historically, at times, government had not seen the planning service as a corporate resource, instead viewing it as something to be *“fended off”*.
- 6.48 Prior to the introduction of the new Law, a non-statutory protocol had been put in place, further to States Resolutions in July 1991, on proposals from the former Island Development Committee (IDC) entitled *‘Developments by the States’*<sup>29</sup>.
- 6.49 The Resolutions provided that all States Departments should forward their proposals for development to the IDC for comment before carrying them out, and that development must not proceed unless the IDC had commented that it was in favour or unless the proposal was subsequently approved by the States of Deliberation. The Department explained that due to the non-statutory nature of the protocol, some Departments tended to comply more readily than others.
- 6.50 The Department informed the Committee that under the new Law, *‘Departments now have to come to us for planning approval’*, which had inevitably led to Departments increasingly seeking pre-application advice from the Division.

<sup>28</sup> Billet d’État XXXI, November 2009, Article XIII – Review of Administrative and Accounting Guidelines and States Financial Procedures

<sup>29</sup> Billet d’État XX, Article X, July 1991

- 6.51 The Department stated that improvements had also occurred as a result of guidelines issued by the States Property Services section of the Treasury & Resources Department. Planning staff have regular six-weekly meetings with staff of the States Property Service to facilitate liaison at an early stage on proposals for major States' development projects.
- 6.52 The Department believed it liaised well with all departments which had responsibility for public sector development and even before the introduction of the new Law, some departments had followed the correct processes in accordance with the 1991 States Resolutions.
- 6.53 The Committee questioned whether the Department operated a policy of facilitating planners in liaising with other departments regarding future developments. The Department confirmed that it did support this and liaised with other departments as early in the process as possible. It also added that in respect of emerging developments and strategies e.g. through the Corporate Housing Programme, close working relationships existed and continued to develop.

## 7. Planning division operations

### *Separation of planning and building control*

**SR19:** *I recommend that the proposal to separate the planning and building control processes, which is already in hand, should be implemented.*

- 7.1 The Department confirmed that the separation between planning and building control processes had been completed.
- 7.2 The Committee asked what benefits had been realised from this separation, and what improvements had been made to the overall process as a result. It was explained that under the previous system the Division was trying to balance two applications which were for two different processes, which could result in delays.

### *Staff resources*

- 7.3 The issue of resources ran throughout Shepley's report and many contributors had made comments regarding what they perceived as understaffing and a lack of resources. The District Audit had identified resource issues in 1998/9 and Shepley had stated in practice, there had not been any staffing level increase. He agreed that the weight of the Division's workload at the time of the report meant that the Division was overstretched, which had (unsurprisingly) led to a deterioration in performance.
- 7.4 Shepley stated he had given careful consideration to the level of resources which might be required to improve the Division to manage its workload and focused his recommendations on the areas he perceived to be under the greatest strain. He recommended:

<b>SR24: Resources</b>
<i>A. As a minimum, there should be one experienced planner added to each of the two development control teams</i>
<i>B. There should be one extra administrative post to support development control and reduce their vulnerability to sickness absence etc</i>
<i>C. One additional person should be appointed for a period of twelve months for the purpose of improving external communications – principally by producing guidance notes of various kinds (see references earlier in this report) but also by liaising with the press and with stakeholders in order to open up and explain the planning process as I described earlier in this report. He or she should be located within the Forward Planning Team,</i>

<i>though some of the work relates to development control issues.</i>
<i>D. In my view these figures are minima. They should be kept under review and if the workload increases, or does not reduce</i>
<i>E. The source of finance should be the fee income from planning applications</i>
<b>SR15D:</b> <i>The administration staff should be combined into a single team.</i>

- 7.5 The Committee noted the Department had combined the administration staff as recommended, recruited the additional staff as listed above with the source of finance coming from the fee income from planning applications, and that the Department had committed to keeping staffing numbers under review.
- 7.6 However, the Committee has noted the Department had been affected by staff shortages in its conservation and design team, which had impacted on its ability to make progress on two of the actions contained within the Environmental Plan of the States Strategic Plan, namely to:
- (a) Develop positive planning guidance generally and specifically in respect of listed buildings and conservation areas.
  - (b) Review policies for the determination [*scheduling*] of listed buildings.

### ***Staff retention and recruitment***

- 7.7 Shepley outlined what he perceived to be the problems of planning officers being allocated five-year Housing Licences. He acknowledged it was a problem for other States Departments and for the private sector, and that the process was under review. He had recommended:

**SR23...***that appropriate consideration is given to providing planning officers with housing licences for longer than five years to improve recruitment and retention.*

- 7.8 The Department stated it had generally been able to secure seven-year licences (albeit often only as extensions to initial five-year licences). The Chief Officer commented:

*“...that whole process of managing licences, managing trainees, managing succession planning really is a very, very delicate balancing act...[the Director of Planning Control Services] and I meet probably three or four times a year and look at all of the licence expiries, the retirements, the dates the trainees are*

*coming through and whatever...to see if we can...manage that process...It's very complex. There's no simple answer."*

- 7.9 The Committee recognised the difficulties the Department faced in this area and this recommendation was one which could not be taken forward by the Environment Department alone. It noted the work being undertaken in the Financial Transformation Programme, under Ref no. HR\_B to:

*"Review the impact of the Housing License regime on the recruitment and retention of staff across the States and the associated costs pressure this creates"*

- 7.10 In the 'executive summary opportunity reports' contained within the 'Fundamental Spending Review: Phase 2 - Annex' document, it states:

*"A systematic review and appraisal of the causes and factors that adversely affect staff turnover and recruitment across the States (including Housing Licenses) will produce a number of benefits. These include;*

- *Improved clarity over factors that influence recruitment and retention rates*
- *The ability to develop a targeted strategy to address the issues that impact on recruitment and retention rates*
- *Recognition of barriers to recruitment that may be caused by Housing Licenses*
- *Lower staff turnover rates*
- *Improved interdepartmental relationships*
- *Better long term planning"*

- 7.11 The report states the recommended approach is to undertake a 4 stage action plan over a 2 year period.

- 7.12 The current Housing Control Law expires in December 2011. The Population Policy Group launched its 'Managing Guernsey's Population' consultation in January 2011, to run until 31<sup>st</sup> March 2011 to assist the group in the development of the Island's strategy on population management. The strategy and population control regime eventually formulated by this Group will replace the current Housing Control Law.

### ***Staff morale***

- 7.13 Shepley stated that morale in the Division was low. He referred to the 2007 employee opinion survey which showed the Department scored '*worse on almost all measures than the staff of the States as a whole*'. In the course of the report, Chris Shepley identified various reasons which could have contributed to the 'low morale' of staff in the Division.

- 7.14 Shepley had acknowledged that some of the recommendations in the report would assist in improving morale e.g. increasing resources, communication and more delegation. He had also made a specific recommendation:

**SR18A:** *I recommend that targets are set for the improvement of staff morale, as measured in the staff surveys which are carried out, and that the Chief Officer is given the task of drawing up a programme to achieve these targets.*

- 7.15 The Chief Officer's view was that staff morale *"is not significantly better or worse than in other areas of the Department or across the States as a whole"*. He questioned the employee opinion survey as a method of measuring staff morale as he believed certain questions could lead the employee in certain directions, and that it was a formulaic approach to measuring morale and therefore did not necessarily identify the issues to be addressed.
- 7.16 The Committee questioned whether the Department felt morale had improved since the release of the Shepley Report and the introduction of the new Law. At the public scrutiny meeting, the Department asserted morale had *"improved dramatically"* and that it took the issue of morale *"incredibly seriously"*. It also stressed that the staff were its key resource in the Division and, if staff morale was low, it could affect the efficiency and effectiveness of the section. The Department argued that unfair criticism in the media was the most *'demoralising and demotivating thing'* for staff (communication and the relationship with the media are covered in Section 9 of this report).
- 7.17 The Department stated it had made concerted efforts to improve communications internally as well as externally, and progress with the new Law was a major motivating factor within the Department. The Director of Planning Control Services stated:
- "People have seen positive change and they've actually reaped the benefits of positive change as well in terms of efficiencies and being able to do their job more easily and better...and have been congratulated for doing their job better as well, through feedback and success in performance generally."*
- 7.18 As stated in Section 9, the Communications Officer will also be working with all the teams within the Environment Department to *'aim to achieve excellent internal communication'*.
- 7.19 In respect of the recommendation to set targets for the improvement of morale, the Chief Officer argued creating a programme targeted at staff morale specifically, with targets for morale measurement and improvement was, in his opinion, *'a bureaucratic and fruitless exercise'*:

*“My issue with the Shepley recommendation was...I don’t believe you can set a target for morale, and set a strategy around it with that target, I think that’s a false premise. Morale is managed day-to-day in light of whatever it is that’s happened and surrounds that. That’s my issue with Shepley; it’s this perception of a target: ‘I’m going to increase morale by 15% this year’...I don’t buy into that. Managing morale - I do”.*

<b>See Conclusions: ‘Staff morale’, paragraphs 11.27 – 11.33</b>
--

## 8. The planning application process

- 8.1 Shepley identified a number of issues with the application process including: delays, a lack of transparency, too much attention to detail, that the Department was *'too negative'*, and procedural problems.
- 8.2 The Director of Planning Control provided an overview at the review hearing of the process applications went through when being determined. For ease of reference, the Committee has organised this information into a flow chart, as presented on page 49.

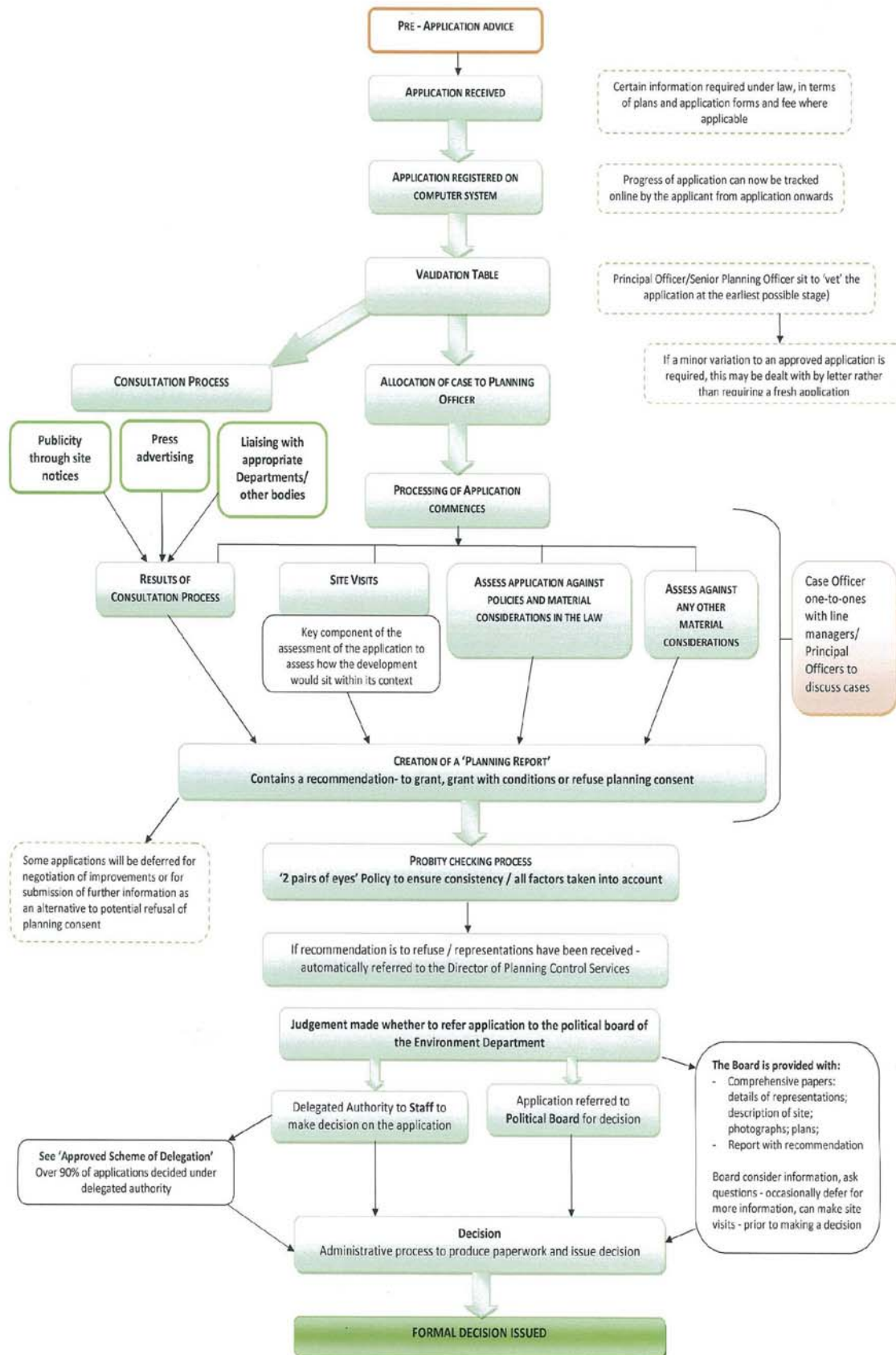
### *Interpretation of policy*

- 8.3 The Committee asked who had the responsibility within the Department for delivering advice on the flexible interpretation of policy. The Director of Planning Policy commented that the policy team she headed up provided advice to the development control staff about how the policies should be interpreted. However, she stressed that:

*"It's important to remember that it is a legal obligation to follow the policies, unless the departure is only a minor one, so we don't have huge leeway in that respect".*

- 8.4 It was stated the Department was very keen to try and introduce ways of ensuring staff were spending more of their time on high impact applications. It added it was involving people in discussions to try and *'disseminate that attitude to use reasonable flexibility within policies'*.
- 8.5 The Committee questioned how the Division strove to achieve consistency in decision-making whilst exercising flexibility. The Department responded that it sought to achieve this through discussion, training sessions, mentoring junior officers and the 'validation and checking' process, where policy could be interpreted and the acceptability of development proposals could be judged.
- 8.6 The Committee asked how the interpretation of the policy was communicated to the applicant. The Department representatives stated if the decision was a minor departure from the policy, it would make it clear that the application had been accepted as a minor departure from the Development Plans.

## THE PLANNING APPLICATION PROCESS



### ***'Attention to detail' issues***

- 8.7 The Department going into too much detail on planning applications was a common complaint which Shepley believed was justified, and one which he had attributed to the 'risk averse' stance of the Planning Division. He stated it was difficult to make a recommendation on this point as it was a cultural issue rather than a procedural one.

**SR12A:** *I recommend firstly that, with the explicit support of elected members, a policy is adopted which (taking account of the new exemptions rules) requires a less detailed appraisal of smaller developments – defined as any development within the curtilage of a dwelling house, minor extensions to other properties, or any development where there are no objections following advertisement.*

**SR12B:** *Secondly, I recommend that revised procedure guidance for development control officers is produced alongside that report and implemented through internal training and debate.*

**SR12C:** *Thirdly I recommend that the change is monitored in a structured way to ensure that it is embedded in the culture.*

- 8.8 As explained in Section 5 of this report, the Development Plans had been amended in April 2010 to allow a more flexible interpretation when applying policy on planning applications<sup>30</sup>. Recommendation SR12A is essentially superseded by the fulfilment of SR22A and B.

- 8.9 The Department stated that the drafting of in-house guidance to assist in this area would be supported by the new Communications Officer.

- 8.10 Department representatives had responded that to monitor change in a structured way required the application and monitoring of performance indicators which would generate an additional resource burden. The Chief Officer stated the section was small enough for the Principals and Directors to be able to know whether or not the approach to minor applications was improving in flexibility.

**SR15A:** *Applications should be dealt with at a lower level in the hierarchy. In the simplest fast track cases a provisional decision should be made at the outset as described in this report. For the more complex cases the decision should be agreed by the Principal Officers but processed and issued by the case officers. The Head of Development Control should see only the cases which are to go to the Board or others which the Principals consider to be potentially controversial; the decisions should be processed and issued by the case*

<sup>30</sup> Billet d'État VIII, April 2010 – ALTERATIONS AND ADDITIONS TO THE URBAN AREA PLAN (REVIEW NO.1) AND THE RURAL AREA PLAN (REVIEW NO.1)

<i>officers/administrative staff.</i>
<b>SR15B:</b> <i>Reports should be as short and concise as possible and usually need not repeat the policies in the RAP/UAP in full.</i>
<b>SR15C:</b> <i>Where possible minor alterations or revisions or variations to approved applications should be dealt with by letter rather than requiring a fresh application.</i>
<b>SR15F:</b> <i>A report should be prepared for the Board, who need to understand and endorse these changes, including the risks involved, and to support the Division in their implementation.</i>

- 8.11 Shepley had explained the “two pairs of eyes” principle operated by the Department in checking applications, in which *“no decision can be made by one individual and therefore no applicant can be disadvantaged by having an application allocated to a particular officer (as some alleged)”*. At the time, decisions were *“vetted at a higher level in a search for consistency and fairness”*, however Shepley also stated this added to the time taken to process a case.
- 8.12 The Department initially responded that a formal policy had not yet been documented and that extending delegation downwards (i.e. allowing more staff to make decisions) was being progressed cautiously. However, the Department stated that incremental steps had been taken to reduce the attention to detail described. These steps had included using training sessions, revised internal consultation procedures, regular meetings to discuss marginal cases and a team approach to development briefs and major applications.
- 8.13 It explained that whilst the Department had maintained the ‘*two pairs of eyes*’ policy at present, report checking was being devolved to case officers. The Department was confident that this approach would be expanded as staff gained the necessary experience.
- 8.14 The Department stated the report template had been amended to assist in ensuring reports, which set out the justification for decisions and recommendations on each application, are as short and concise as possible. The new IT system had also assisted Officers and helped streamline the report generation process. It stated that reports are considered to meet the balance between being brief and meeting the needs of the Courts and/or Tribunals in determining appeals.
- 8.15 The Department confirmed that minor alterations, revisions or variations to approved applications were dealt with by letter instead of a fresh application being required.

- 8.16 Reports have been submitted to the Environment Department Board who endorsed the changes to try to reduce the ‘attention to detail’ approach of the Department.

**See Conclusions: ‘Planning application process’, paragraphs 11.34 – 11.37**

### ***Approved scheme of delegation***

*“The Law and the approved policies of the States determine the way in which the Department approaches planning applications. It adheres to guidance regarding probity issues, and has an approved scheme of delegation to appropriately qualified staff, which is publicised on its website.”*

Minister, Environment Department

- 8.17 The terms of reference for the Shepley review had posed the following question: *“Where is the demarcation line or lines between the responsibilities of politicians and civil servants? On what basis are decisions referred to politicians and why, and on what basis are they dealt with by Civil Servants? Should those demarcation lines be published?”*
- 8.18 The Department operates an ‘Approved Scheme of Delegation’, which had been reviewed and revised in November 2008, in anticipation of the commencement of the new legislation.
- 8.19 The purpose of the scheme is to enable the Board of the Environment Department to delegate authority to the Planning Directors, and staff under their supervision, to carry out the planning functions of the Department, in accordance with the Law, with regard to specific functions of the Planning Division.
- 8.20 Shepley believed the delegation agreement produced by the Department was entirely sensible, and along the lines of those he had seen elsewhere. *“Essentially cases which depart from established policies, or raise particularly contentious issues are referred to Members – and any Board Member can request that an application is referred to them”.*

**SR20:** *I recommend that the delegation agreement is published.*

- 8.21 The Department agreed and published the scheme on its website<sup>31</sup>.

### ***Decision making at political level***

- 8.22 The Department estimated that the Board considered approximately two or three applications at each fortnightly meeting of the Board:

<sup>31</sup> The Department’s ‘Approved Scheme of Delegation’ is available at:  
[www.gov.gg/ccm/environment/planning-division/approved-scheme-of-delegation.en](http://www.gov.gg/ccm/environment/planning-division/approved-scheme-of-delegation.en)

*“there is a judgement made as to whether...[the application] is referred to the political Board, or is determined under delegated powers, and...that delegation agreement.....determines what goes to the Board and, effectively, what we can deal with under delegated powers. At the moment, over 90% of applications are dealt with under delegated authority, as Shepley points out in the report”.*

Director of Planning Control Services

- 8.23 Senior staff advise the Minister on applications that might be regarded as contentious and which should be referred to the Board. The Department stated the Board received the complete list of all applications that had been approved, rejected or deferred which provided the Board the opportunity to question the decisions made and to retain an overarching involvement in the decisions taken by staff. The Department stated Members made their own judgement on whether to request an application be considered by the Board, and an application could be added to the meeting agenda as a result.

- 8.24 At the public scrutiny meeting, the Minister read out the advice the Department had received regarding the role of a quasi-judicial Board:

*“It’s best understood by thinking of requiring to act in decision making like a Court. Board members must decide only that which is before them and may take into consideration only those matters that can legitimately be taken into account and always ignoring legally irrelevant matters. Individual members of the Board should not apply their own personal agenda, or propose alternatives to the matter being considered, or favour advice that departs from that given by a statutory consultee where applicable....Or to raise concerns of other people unless those concerns were submitted through formal representations. More importantly the Board member must approach the decision with an open and unbiased mind and conduct himself or herself impartially. Of course, any personal conflicts of interest must be declared, and the Board Member, if conflicted, must refrain from participating in the decision-making process”*

- 8.25 The Minister highlighted a Board Member may, therefore, find themselves having to vote for an application that would go against the ‘*apparent public view*’ or against ‘*his or her own political agenda, manifesto and/or beliefs*’.

- 8.26 At the February 2010 States Meeting, Members of the Environment Department announced they were abstaining from voting on the Lowe amendment to the ‘*Residual Waste Treatment - Contracting with selected preferred bidder*’ requête<sup>32</sup>, as the Board were in the process of considering a planning application from Suez Environnement regarding the proposed energy from waste plant.

- 8.27 In the light of this, the Committee was interested to learn what process would be followed if all the Board Members were, or were perceived to be, compromised

---

<sup>32</sup> Billet d’État IV 2010 - Wednesday 24<sup>th</sup> February 2010 - [www.gov.gg/ccm/policy-and-hr/billets--resolutions/2010/february/billet-detat---iv-2009-february.en](http://www.gov.gg/ccm/policy-and-hr/billets--resolutions/2010/february/billet-detat---iv-2009-february.en)

or conflicted in relation to an application received and, therefore, unable to make a decision on an application. The Environment Minister responded there were two options: for the Board Members with the lesser perception of bias to make the decision, or for the staff to make the decision on the application with delegated authority. He stated his preference would be the latter option.

- 8.28 The Chief Officer of the Environment Department further explained that the Department was acutely aware of the need to be mindful of any actual or perceived interests of Board Members, and that in his role in helping set the Board's meeting agenda, he and his Directors ensured that Members who might have (or be perceived to have) a conflict of interest did not receive the relevant papers. In respect of the entire Board being perceived to be conflicted, he added:

*“If it was perceived that the whole of the Board was biased then our starting point would be to say ‘Is there a quorum of Members where the perception of bias is far, far weaker than with another part of the Board’ and, if this is the case, we always try to take that approach to ensure that that contentious application was determined by the political members input. But, if the perception of bias is so strong across the whole Board, then really the only thing that is left is to do it...[at] delegated officer level...through that whole process, we make sure we have legal advice”.*

### **Code of conduct**

- 8.29 The ‘*Review of the Island Development Committee*’ report released by the District Audit in 1999 stated it was important to have the correct guidelines and procedures in place so that planning decisions were made in an “*open, structured, fair, equitable and consistent manner*”. It believed the Guernsey system would be strengthened with the adoption of a planning code of conduct. It had therefore made the following recommendation:

***District Audit Recommendation:***

R25 Establish a planning code of conduct. This should govern:

- Declaration of interests
- Policy on accepting hospitality
- Committee membership and people who have frequent contact with developers
- Lobbying and approaches from developers or applicants
- Meetings with developers
- Site visits
- Reasons for decisions, especially rural and urban area plans.

- 8.30 Shepley noted that this recommendation had only been partially implemented.

**SR4:** *I recommend that the District Audit recommendation in favour of a Code of Conduct for political Board Members should be implemented in full.*

- 8.31 The Department stated it followed the principles set out in the Local Government Association publication *‘Probity in planning: the role of councillors and officers – revised guidance note on good planning practice for councillors and officers dealing with planning matters’* (2009), which covered the issues which would be included in a planning code of conduct. The Department accepted that whilst this would not be entrenched in a ‘local context’, it was in line with UK best practice, and was referenced by the legal advisors to the Department.
- 8.32 The Department confirmed the code of conduct was being finalised to be implemented and published prior to the commencement of open meetings in February or March 2011.

### ***Conflicting advice***

**SR11D&E:** *Where a decision is ultimately made which differs from the advice given in pre application discussions, the Division should give an explanation on request. Senior staff should carry out a study of the extent to which early advice is later countermanded and the reasons for it.*

- 8.33 The Committee asked whether a study had been undertaken. It was confirmed that the Department’s Planning Directors had investigated this claim, stating, *“We looked into this following Shepley because this was news to us that it was a problem when Shepley identified it...We’ve looked into it and quite honestly, we can’t...find the evidence to support that one”*.
- 8.34 The Department said all advice given at a pre-application meeting was without prejudice to any subsequent decision. The staff aimed to give the best possible advice but it was important to note they could only do so based on the information available at the time. In the application process, new information could come forward through the consultation and publication processes, therefore the final decision could only be made at the end of the process when all information had been taken into account. The Director of Planning Control Services therefore concluded that it was *“possible that the advice that was given at the beginning may prove to be incorrect, but as I say, having looked into it very carefully, we don’t think that that’s a...significant issue”*.
- 8.35 The Department also added that if it became aware of a mistake having been made in the advice provided to an applicant, a representative would meet with the applicant to explain what had occurred and explain why their advice had changed.

- 8.36 The Department looked at this issue again as part of its Customer Satisfaction Survey<sup>33</sup> and learnt that 61% of the respondents had a pre-application discussion with a planning officer. Of those who met with a planning officer, 86% stated the decision reflected the advice given. However, 14% indicated that the decision was “*not consistent with the advice provided*”.
- 8.37 The Department stated that the matter required further investigation due to the relatively high figure of reported inconsistency. It was explained that a protocol existed in Development Control that all Planning Officers looked at the pre-application advice given to applicants and flagged up any inconsistencies for their line manager to investigate. A further protocol was in development to issue copies of meeting notes to the applicant to reduce the possibility of misunderstandings of the advice tendered in pre-application meetings.

### ***Caseloads and targets***

- 8.38 One of the key drivers for the SLPG commissioning the review of the Planning Division had been reported delays in handling planning applications. In his report, Shepley stated:

*“I can be unequivocal. It is quite clear that the time currently being taken to deal with applications is not acceptable. This is the view inside the Division as well as outside”.*

- 8.39 At the time of Shepley’s Report, the Division did not have a formal set of targets, although it had *normally*<sup>34</sup> sought to deal with most applications within a period of 8 weeks from registration. Shepley recommended that some form of publicly available performance statistics were necessary and needed to be monitored effectively.

**SR10A:** *I recommend that the States, through the Planning Division, should have indicative targets in relation to performance. These should cover the length of time taken to deal with applications of various sorts (e.g. 80% of householder cases to be dealt with in 8 weeks; 80% of other cases to be dealt with in 13 weeks; with individual targets or contracts for very large cases).*

**SR10B:** *For the next three years a gradually tightening series of targets should be set which enable the Division to reach these levels. The achievement of these targets will be dependent on the implementation of all the relevant recommendations in this report, including resources.*

<sup>33</sup> The customer satisfaction survey ran between July to October 2010.

<sup>34</sup> Shepley had stated in the report: “*It (the Department) normally seeks to deal with most applications within a period of eight weeks from registration’ but in its acknowledgement letter for planning applications it notes that at present the heavy workload means that the decision is likely to be reached ‘considerably beyond the normal target’.*”

- 8.40 The Committee noted the National Indicator Set '*Processing of planning applications*'<sup>35</sup> measured in England. These indicators measured:

NI 157a	Planning Applications : <b>Major</b> Applications	Percentage of major applications determined within 13 weeks
NI 157b	Planning Applications: <b>Minor</b> applications	Percentage of minor applications determined within 8 weeks
NI 157c	Planning Applications: <b>'Other'</b> applications	Percentage of 'other' applications determined within 8 weeks

- 8.41 The Committee was therefore interested to learn whether the Department had adopted similar targets to measure their performance.
- 8.42 The Department acknowledged that one of the biggest complaints it had received historically was in regard to the speed of decisions, however it stated this had improved since the introduction of the new Law and revised processes and procedures.
- 8.43 In the Department's initial written response, it reported that targets had been set, published and recently reported on. They added the targets were set out over a three year period and were linked to fees income and resources.
- 8.44 The Committee questioned exactly what the targets measured and where they had been published. The Department responded that performance targets for planning applications had been established in parallel with the changes of application types and the introduction of fees. The targets measured in 2009 – 2010 are as follows:

<b>Guernsey Planning Division's Performance Indicators: April 2009 - 2010</b>						
% of Planning decisions issued within:	<b>Target</b>	<b>Qtr 1</b> <sup>36</sup>	<b>Qtr 2</b>	<b>Qtr 3</b>	<b>Qtr 4</b>	<b>Year Total</b>
<b>13 weeks</b>	70%	100%	83%	81%	80%	81%
<b>8 weeks</b>	60%	89%	50%	39%	48 %	49%

- 8.45 The Department first published a report in July 2010 on the first quarter from April to June 2010. The figures for 2010 – 11 are:

<b>Guernsey Planning Division's Performance Indicators : 2010 - 11</b>					
% of Planning decisions issued within:	<b>Target</b>	<b>Qtr 1</b>	<b>Qtr 2</b>	<b>Qtr 3</b>	<b>Qtr 4</b>
<b>13 weeks</b>	<b>80%</b>	90%	89%	90%	-
<b>8 weeks</b>	<b>70%</b>	74%	70%	72%	-

<sup>35</sup> Previously labelled Best Value Performance Indicators - BVPI 109a/b/c – [www.communities.gov.uk](http://www.communities.gov.uk)

<sup>36</sup> Quarter : 06.04.09 – 05.07.09; Quarter 2 : 06.07.09 – 05.10.09; Quarter 3 : 06.10.09 – 05.01.10; Quarter 4 : 06.01.10 – 05.04.10

- 8.46 The indicators measure the period between the receipt of a **valid** application<sup>37</sup> and the **actual issue** of the decision (i.e. the posting of the decision to the applicant).
- 8.47 The Department stated the targets had been set on the basis of all applications (as opposed to splitting them between major and minor applications as is the case in England – as shown previously). The Department explained that the targets in England had only recently been split between major and minor applications. It had decided to keep to the more simplistic 8 and 13 week targets initially, however in future if evidence suggested there would be a benefit from splitting the targets further, this would be considered.
- 8.48 In the Department's press release of October 2010 for the period between 6<sup>th</sup> April to 5<sup>th</sup> October 2010, alongside the 8 & 13 week statistics, the Department produced the following information:

Total number of applications received	1,037
Total number of applications decided	998
Refusal rate (as a percentage of total applications decided)	11%
Percentage of planning appeals dismissed <sup>38</sup> (since commencement of current appeals system)	77.3%

- 8.49 Shepley had also recommended that, over the next three years, a gradually tightening series of targets should be set. When questioned, the Department confirmed that it had set these targets and stated the Departments targets for 2010 - 2011 were to issue 70% of decisions within 8 weeks and 80% within 13 weeks. In April 2011, this would be increased by a further 10% in each category, with targets set at 80% of planning decisions to be made within 8 weeks and 90% of planning decisions to be made within 13 weeks.
- 8.50 The Department had stated that the refusal rate was approximately 10%.

### ***Analysis of the 2009 - 2010 performance information***

- 8.51 As shown in the table held at 7.37, the Department did not meet the eight-week target for 2009 - 10 but stated it had evolved '*a number of methods which we're moving forward on to actually meet that eight-week figure*'.

<sup>37</sup> The information required to submit a 'valid' application is explained in the 'Making a Planning Application' guidance note

<sup>38</sup> '*dismissed*' in this sense means that the decision of the Environment Department has been upheld by the Planning Tribunal.

- 8.52 The Department explained that there had been an increase in the quantity of applications received immediately prior to fees (both building control and planning) being introduced in June and October 2009. The fees were introduced<sup>39</sup> to charge for services and functions provided under the *Land Planning and Development (Guernsey) Law, 2005*.
- 8.53 The Department explained that the three-week advertisement period associated with site notices also had a general impact on the figures.
- 8.54 Another factor which impacted on the eight-week figure was the Department's decision to defer some applications, where appropriate, for negotiation of improvements or for submission of further information as an alternative to refusal of planning consent.
- 8.55 The Department therefore also measured the proportion of 8-week applications which had been deferred, which it stated was around 16%. This had received positive feedback from planning agents who had indicated that this was a much valued approach. The Department highlighted that this also kept their refusal rate low, which had the consequence of fewer appeals being lodged.
- 8.56 The Department also stated that it was plotting performance weekly in order to monitor individual and team performance, and how cumulatively that is having an impact on the 8 and 13-week targets for the year as a whole.
- 8.57 The Department stated that in the light of the mitigating factors, it would have been content from a customer service perspective with a final year-end outcome of 50% in the 8-week category (which would fall at 10% under target) and 80% in the 13-week category (which would be a 10% improvement on their original target). As shown in the table below 7.41, the Department approximately achieved these outcomes.
- 8.58 The Department informed the Committee that performance information was published quarterly. However, the Committee had been unable to find evidence of this through its research prior, or immediately post, the public scrutiny meeting.
- 8.59 The Department subsequently commenced publishing news releases on the Planning website providing quarterly updates from July 2010.

### ***Targets for consultees***

- 8.60 Point 5 of the terms of reference for the Shepley Report asked him to assess:

---

<sup>39</sup> Billet d'État XX, Article XV, September 2007

*“The handling of consultations on planning applications with official consultees, other stakeholders and the general public, bearing in mind the arrangements to be brought in under the new planning law”*

- 8.61 Shepley stated through his research that little was said on this point, however, one important issue arose; some of the organisations which the Department needed to consult *“are very slow in replying”*, which he stated held up the processing of applications. He therefore recommended:

**SR10C:** *It may be necessary to set targets for consultees to respond on planning applications in order for the planners to meet their own targets.*

- 8.62 The Department stated that consultees had agreed to realistic timetables. However, under current legislation, responses within required times could only be gained through mutual assistance and co-operation and could not be enforced. The Department argued that it *“must be recognised that the alternative of operating in the absence of a consultee response is not conducive to good planning decisions”*.

- 8.63 Department representatives discussed the consultation process in more detail at the public scrutiny meeting. They stated the need for consultees to respond in a timely manner had been emphasised. It explained that it understood the resource issues which could affect consultees’ ability to respond promptly, however it believed consultees had a responsibility to reply expeditiously:

*“the whole process of bringing it (the application process within the 8 & 13 week targets), it’s hindered to a certain extent by the need in quite a few cases to go out to consultation”*.

- 8.64 The Director of Planning Control Services further explained that the Department had been in discussions with all of their consultees *“to try and learn, improve performance, and for them to recognise the timescales that we’re working to”*. He stated this had been successful and the Department had formulated targets for the vast majority of consultees. The Department had also adopted a *‘more project team approach’* with regard to large applications to ensure early notification and provision of information to consultees, so when the consultation process commenced, the relevant parties were well-informed to be able to respond promptly.

### **Quality assurance measures**

**SR10E:** *I recommend that appropriate quality assurance measures from the list I have described should be introduced once timeliness is under control.*

- 8.65 The list in Shepley’s report included:

- (a) *Analysis of the number of comments/complaints received*
- (b) *Survey of service users to measure their response*
- (c) *Case reviews*
- (d) *Peer review*
- (e) *Revisiting sites post-decision*

- 8.66 In its written response, the Department stated that this element was under consideration and would be developed once planning fees had been implemented and target times were under control. At the public scrutiny meeting, the Panel wished to discuss the suggested measures in more detail, and questioned what consideration had been given to them by the Department.
- 8.67 In the Scrutiny Committee's '*Complaints Policies and Appeals Procedures Update Monitoring Report*', November 2007, the Environment Department had informed the Committee that it had nominated a member of staff as a 'Complaints Registrar' who kept a register of the formal complaints received. Department representatives confirmed that it did analyse the number of comments and complaints received, and submitted a report to the Board each month.
- 8.68 In respect of customers' surveys, the Department had responded that it "*can and will look at a more structured method of eliciting feedback in future*", however in terms of prioritisation, the Department, at the time of the meeting, was not at that stage. However, in June 2010, the Department informed the Committee that it had committed to undertaking a survey of service users, and had tested a pilot survey to ensure this was progressed effectively.
- 8.69 The Department held its customer satisfaction survey from July to October 2010. It informed the Committee 700 survey forms had been sent, with a total of 84 replies received, which equalled a response rate of 12%. Whilst the Department stated it was a lower response rate than it would have hoped, it felt it was a sufficient number of responses to form valid conclusions for service improvement. The results of the survey are discussed in Section 9.
- 8.70 In respect of the recommendation to hold case reviews, the Director of Planning Control Services stated that there was a case review section as part of the agenda for the team meetings, to provide the opportunity to discuss lessons learned, what had worked well, where improvements could be made etc.
- 8.71 The Department had no immediate plans to progress the recommendation to have a peer review.
- 8.72 The Committee asked whether the Department had conducted post-decision visits for a selection of sites to examine results on the ground. The Department responded that the current, and past Board(s), had visited a variety of sites and said "*to be honest, with any development, it is usually quite possible to find*

*things that could have been done better but overall... it's always been a very positive result because you're actually seeing the building being put to the purpose for which it's been designed".*

- 8.73 The Department confirmed it did not operate a formal policy of conducting site visits, however when site visits occur the Department follows the UK best practice guidance on how these should be carried out.
- 8.74 In terms of monitoring general quality assurance, the Department stated, "*it's assured through the checking process that we've (the Department) put in place*" however it recognised there was a potential to look at quality assurance measures in a more structured way.

### ***Review of the application process through the FTP***

- 8.75 The Department informed the Committee it would be embarking on a Financial Transformation Programme (FTP) 'Value for Money Workstream' from July to December 2010. The purpose of this was to look at the Planning Control Services and to map processes to improve efficiencies.
- 8.76 The Department envisaged that '*improving the alignment of processes to the new system*' could reduce the administrative burden on staff and customers.
- 8.77 The Department has identified a number of benefits for the Department and customers through this process, which culminated in the Division formulating an 'action list' of areas including the delegation of "submission checks" on Development Control applications to the administrative team, providing feedback to agents on their 'performance' and other improvements to administrative functions across the Division.

### ***The Planning Appeals Tribunal***

*"Previously, the idea of approaching the Royal Court in an appeal put a lot of people off and I think that's unfortunate because...if somebody believes they have a right to appeal, they should be able to have that appeal – and I believe that under the system we've got now, they now can do that."*

Minister, Environment Department

<p><b>SR17A:</b> <i>I recommend that the Appeal system as proposed in the new Law is brought into force, in order to avoid further delay.....</i></p>
---

- 8.78 *The Land Planning and Development (Appeals) Ordinance, 2007* came into force on 6<sup>th</sup> April 2009.

- 8.79 The Committee wrote to the Policy Council seeking to learn how it would monitor the performance of the appeals system, and to ascertain what consideration had been given to the recommendations Shepley made in this area.
- 8.80 The Policy Council clarified that, whilst it had a statutory responsibility under the *Land Planning and Development (Guernsey) Law, 2005* to establish a Planning Panel (from which Planning Tribunals are drawn) and were required to appoint a Secretary to administer the tribunal system, no further role in relation to the appeals system was defined.
- 8.81 It explained the Appeals Panel currently operated at ‘*arms’ length*’ from the Policy Council as an independent statutory body, however the letter from the Scrutiny Committee had led the Policy Council to further consider arrangements for monitoring the performance of the appeal system in future, including reference to Chris Shepley’s recommendations.
- 8.82 The Policy Council, in conjunction with the Secretary to the Appeals Panel and the Environment Department, co-ordinated a response to the Committee.

***Number of planning applications and subsequent appeals***

- 8.83 The Environment Department advised that it received 2,384 valid planning applications between 6<sup>th</sup> April 2009 and 27<sup>th</sup> April 2010. In this period, 216 applications were refused (under the terms of the new Law only), which the Department stated is approximately 10% of cases (in fact 9.06% of cases).
- 8.84 The Appeals Panel Secretary reported that 22 appeals had been received between 6<sup>th</sup> April 2009 and 9<sup>th</sup> April 2010, which was around 1% of all applications received over the year.
- 8.85 The Department published performance figures in January 2011 which showed of the 1,500 valid applications received between 6<sup>th</sup> April 2010 and 5<sup>th</sup> January 2011, 1,492 had been decided, with a refusal rate of approximately 10%.
- 8.86 The Department published the overall percentage of planning appeals dismissed since the current appeals system has been in operation as 81%. The Department was asked what analysis it gave to planning decisions overturned by the Planning Tribunal. Representatives stated it subsequently considered each case to identify any ‘lessons learned’ from the process and to discuss why the decision of the Department had been overturned.

***Guidance***

- 8.87 The Committee asked whether the Policy Council had produced guidance to assist appellants in understanding and accessing the appeals system. It was informed that guidance material was being produced by the Appeals Panel itself which would be published in March 2011.

- 8.88 In an article produced in the Guernsey Press in July 2010, it was indicated that the planning appeals panel would also be launching its own website in the future. The development of a specific appeals panel website has not been prioritised by the Panel. All the relevant information on appeals is currently available electronically through the Environment Department's 'Planning Appeals' and 'Planning Applications & Appeals Websearch' pages.

***Performance management***

- 8.89 The Committee was interested to learn how the Policy Council would monitor the performance of the appeals system. The Policy Council responded that it has yet to consider this but that it understood that the Appeals Panel proposed to produce an annual report which could be used as the basis for such monitoring. In the February 2011 Billet III, the report from the Policy Council entitled 'Planning Panel – New Members' stated:

*"The Policy Council anticipates that the Planning Panel will submit a report on its activities at an appropriate time which will provide a basis for assessing how the system is working"*

- 8.90 At the time of writing, the Policy Council was unable to provide a timeframe for the production of this report.
- 8.91 The Committee was also interested to learn what feedback the Policy Council would seek from appellants and the Department in order to ensure ongoing improvements to the accessibility and usability of the appeals system. This was an area that the Policy Council stated was yet to be discussed.

***Single adjudicator***

<p><b>SR17B &amp; C:</b>...<i>I recommend that the powers to appoint a single adjudicator and to consider appeals in writing are extensively used and monitored. I recommend that, should that process prove successful, provision should be made in due course to move to a single adjudicator system for all cases.</i></p>
---

- 8.92 The Committee was mindful that the appeals system is still in its relative infancy. However, it was interested to learn whether the above recommendation for certain classes of appeal to be dealt with by a single professional member, on the basis of written representations, had been considered.
- 8.93 The Policy Council responded that the Appeals Panel has yet to propose classes of cases which might be eligible for consideration by a single professional member, but that it has started to identify suitable cases. In April 2010, the Policy Council approved the first request submitted by the Chairman of the Panel for an individual case to be dealt with by a single professional member.

- 8.94 The Appeals Panel highlighted that the popularity of this appeal route may increase following the introduction of fees for appeals, when appeals fees are introduced later in 2011, as it would be a lower cost option compared to a tribunal hearing. The Policy Council stated it will put in place administrative arrangements to ensure that there is no delay with further requests from the Chairman of the Panel for individual cases to be dealt with by a single professional member.
- 8.95 The Policy Council discussed the topic at its meeting on 1<sup>st</sup> November 2010 and agreed a further report should be prepared on the subject of single adjudication appeals following staff level discussions with the Planning Panel Chairman. A timeframe for the production of this report is not currently known.

***Third party appeals***

- 8.96 The Committee noted that Shepley briefly considered third party appeals<sup>40</sup> and concluded he would not recommend they were introduced. The Committee was conscious that such an appeal option was available in Jersey, and was interested to learn whether the Policy Council concurred with Shepley's view or whether it would give consideration to third party appeals in the future.
- 8.97 The Policy Council responded that, as the Scrutiny Committee had highlighted, the new Planning Appeals system was still in its infancy and would take time to mature. It stated that when the Appeals Panel Chairman and members have had more experience of the way the process operates, they would be likely to identify areas for improvement and it would anticipate that the Policy Council would see this as a greater priority than any possible introduction of third party appeals.
- 8.98 The Policy Council added that third party appeals were problematic and could introduce added uncertainty and delay into the development process, as Shepley had outlined.

---

<sup>40</sup> A third party, for example a neighbour of an approved development application, making an appeal against that decision.

## 9. Communication and openness

9.1 The Planning Division is often subject to criticism – from the public, the media and from within the States of Guernsey itself. The Shepley review and the introduction of the new Law, at least in part, set out to address some of the criticisms.

9.2 Shepley quoted a view put forward to him by one body in the course of his review, who stated:

*“There is little understanding by the public how the system operates. Information on planning policy processes and procedures are not easily available....there is a perception of a closed, inaccessible system”.*

9.3 However, Shepley highlighted there had been some successful public consultation exercises by the Department, e.g. through development briefs. The view was also expressed *‘from within the Division that public involvement was not well developed in Guernsey’*. He stressed that the staff recognised the importance of implementing better external communication.

9.4 The Committee was particularly interested in assessing how the Department had tried to improve understanding of the planning service. This section details the initiatives the Department has or will progress in making the service more open to the public.

### ***The role of the Communications Officer***

9.5 Shepley recommended that one additional person should be appointed for a period of twelve months for the purposes of improving external communications. In its original written response in late 2009, the Department informed the Committee that it would be recruiting a Communications Officer to assist in various workstreams, including the creation and delivery of a communications strategy.

9.6 The Department initially advertised the post in 2009, a recruitment process which had been delayed through an unsuccessful attempt to recruit locally and the subsequent process of obtaining a housing licence for the post. The Communications Officer was appointed and commenced employment with the Division in August 2010.

9.7 In light of the delay in recruiting a Communications Officer in post, at the time of the public scrutiny meeting the Committee had questioned whether any of the communication workstreams had been reallocated to other posts within the Division, in order that progress could be made. The Department said that some workloads had been reprioritised, with the agents’ forum being progressed prior to the Communications Officer being in post, whilst other proposals had been deferred.

- 9.8 Further to information provided in correspondence and the public scrutiny meeting, the Committee noted the large number of workstreams assigned to the Communications Officer post:

***Recommendations to be taken forward by the Communications Officer:***

No	Shepley Recommendation
<b>5A</b>	<i>Outreach sessions for the public</i>
<b>5B</b>	<i>Development of a strategy for dealing with the media</i>
<b>5C</b>	<i>Design Guidance (and other guidance as the Department may decide)</i>
<b>11A</b>	<i>Briefing meetings for States Members</i>
<b>11B</b>	<i>Guidance for States Members</i>
<b>12B</b>	<i>Revised procedures guidance for development control officers</i>
<b>13</b>	<i>Development of the Architects Panel and Design Awards</i>
<b>14B</b>	<i>Guidance on the planning application process post submission</i>

- 9.9 The Department explained the appointment of the Communications Officer was not simply a case of employing someone with ‘PR’ experience. It believed the role required a person who understood the system and laws of planning to create a planning communication strategy, and to create a framework for communication. The main purpose of the role was:

*“To co-ordinate and facilitate the implementation of the Planning Division's communication plan, a two year programme of events, publications and outreach to increase understanding of the planning system, its purpose, procedures and benefits in order to enable the public, elected representatives, stakeholder organisations and professional groups to engage effectively with it”.*

- 9.10 The Committee was interested to learn why, when the Department had identified the need to consistently engage with stakeholders, and the large amount of identified areas proposed to be progressed by the Communications Officer, the duration of the post was only for two years. The Department responded that Shepley had originally only recommended one year for the post, however the Department had concluded that this was an unrealistic timescale in which to take forward the various workstreams. As shown in the table above, and reiterated by the Chief Officer at the public scrutiny meeting, *“So much comes back to the Communications Officer post”*.
- 9.11 The Department hoped that if the Communications Officer could provide a solid structural base, the Department would be able to continue effectively communicating within the normal staff workload. However, the Chief Officer concluded the realism of this expectation could only be tested once the Communications Officer was in post. The Director of Planning Control Services stated that, whilst the Communications Officer would be tasked with progressing communications work, this would be undertaken with the assistance and

guidance of the Planning Directors to prioritise how the work would be taken forward.

## **Guidance**

- 9.12 Shepley had identified, at the time of his review, that information on planning policies, processes and procedures was not easily available, which led to the perception of a closed, inaccessible system. The lack of guidance available was a key theme to which Shepley returned throughout the report.

<b>SR5C:</b>	<i>I recommend that guidance is urgently produced and published on a range of matters including how to make a planning application and what material to include; the nature and purpose of pre-application meetings; exemptions in plain English; design guidance; and such other matters as the Division may decide.</i>
<b>SR14A:</b>	<i>I recommend once again that better guidance is published dealing with planning applications – what information is needed and at what stage. This should be completed and introduced to coincide with the new Law coming into operation.</i>
<b>SR14B:</b>	<i>In addition information should be published which explains the process through which planning applications go after submission.</i>
<b>SR11C:</b>	<i>I recommend that guidance is published and publicised giving advice on pre-application discussions. Those seeking such meetings should be advised to submit as much information as possible beforehand so as to enable officials to prepare for the meeting.</i>

- 9.13 The Department introduced guidance notes to coincide with the introduction of the new Law in April 2009. The Department had produced seven guidance notes which have been published online on the Planning website, with printed copies available in the Department's reception, along with eighteen specific guidance notes on exemptions.
- 9.14 The Committee noted that the first three guidance notes listed in SR5C above had been produced and published, however the task of producing notes on 'design guidance' had been allocated to the Communications Officer post.
- 9.15 The Committee attended the 'eyesore debate' (discussed in greater length later in this section) and noted the number of attendees who commented, during the subsequent 'question & answer' session, on the lack of design guidance currently available. The Department stated initial drafting had commenced in the absence of a Communications Officer but further work was required, prior to consultation and eventual approval.

- 9.16 The Committee noted that the Department produced post-application process guidance in accordance with SR14B in 2010.
- 9.17 The Department had produced the ‘*Meeting with Planning/Building Control Staff*’ note to meet recommendation SR11C, which contains instructions on how an applicant could effectively prepare for planning meetings. It stated that the greater scope for pre-application discussions had led to improved submissions and a lower level of appeals. It later reported, further to the results of its customer satisfaction survey, that 61% of respondents had taken up the opportunity to hold pre-application meetings with a planning officer.

### ***Future guidance***

- 9.18 The Department stated that guidance issued to date had been favourably received by the professional agents involved in the planning process, and that it had compiled a list of further guidance that was required. This included the intention to draft guidance in 2011 covering the topics of archaeology, protected buildings, design (householder, industrial and commercial), Dower Units, tree protection on building sites, industrial development, conversion/re-use of buildings, working from home and a ‘frequently asked questions’ guidance note.
- 9.19 The Committee was pleased to note that, in light of public confusion over the rules relating to display-boards, the Department announced in the media in August 2010, that it would be producing a guidance note to provide clarification on the law and the rules in this area. The Communications Officer stated:

*“At the moment there seems to be an issue with people not knowing what the rules are or where to go for advice. The law has always said what people can and can’t do. But, because of recent events, we’ve identified that there is a need to put together a user-friendly set of guidelines as a priority”.*

- 9.20 The article was concluded with the sentence “*If more guidance is needed, contact a planning officer at [env@gov.gg](mailto:env@gov.gg) or call 717200*”.
- 9.21 The Department intends to hold a review of the guidance in autumn 2011 in order to identify any information gaps.

### ***Open meetings***

- 9.22 In August 2007, the late Deputy Bill Bell, then Minister for the Public Services Department, had suggested that planning meetings be open to the media, further to his Department allowing reporters to attend its waste meetings:

*“I believe if we open up the planning aspects of...[the Environment Department’s] responsibilities then the public will have a better understanding*

*of the decisions it is making and why they are made. It will help to build a partnership with the public”<sup>41</sup>*

- 9.23 Shepley believed the introduction of open meetings would have numerous benefits, including improving public understanding and confidence in the system:

**SR6A&B:** *I recommend that Board meetings dealing with planning applications should be open to the public and the press and that if successful this should be extended to other planning matters in due course, subject to suitable safeguards about personal or commercially confidential information.*

- 9.24 Public meetings have been in place in the UK and Jersey for many years.
- 9.25 Open meetings were mentioned in a interview conducted with a Council member of the Guernsey Society of Architects, featured on Channel Report on 16<sup>th</sup> February 2010 in relation to the “eyesore” petition launched in February 2010:

*“There is a proposal later in the year to have public meetings where planning decisions are made and I think that would be very good indeed. That’s the norm in Jersey now and also the UK. So that would give people an opportunity to express their feelings, certainly, so I think more could be done on that score...”*

- 9.26 At the start of the Scrutiny review, open meetings had not yet been introduced. The Department had informed the Committee that it wished to form a better view of the process, and the resource implications of such a system. To do so, Members intended to visit some authorities which carried out open planning meetings, before confirming what action to take.
- 9.27 The Department stated that whilst consideration of open meetings had not been deliberately delayed, other recommendations had been granted higher prioritisation in the Division’s forward work programme, such as the introduction of the Law. The Director of Planning Control Services stated:

*“...we’re very supportive of open meetings, we feel it’s a way of getting the planning system more easily understood out there in the public consciousness and accepted as....a fact of life”*

- 9.28 The Department subsequently confirmed that its political Board had visited Jersey and Fareham District Council in March 2010 to observe how open meetings operated in practice. The Department felt useful lessons could be learned from the approach adopted in these examples.
- 9.29 The Department provided the Committee with sight of a report it had considered when agreeing that open meetings would commence in autumn 2010. The report

---

<sup>41</sup> ‘Planning meetings could go public’ - The Guernsey Press, 30<sup>th</sup> August 2007

detailed the action plan for implementation and stated its intention to review and extend the meetings after a year if they proved to be successful. However, the commencement of the meetings had been delayed in order that a protocol for their operation, including the completion of probity guidance, could be devised. The first open meeting is currently scheduled to take place in February or March 2011.

- 9.30 The Department will make the agenda, reports and minutes from the planning open meetings available online.
- 9.31 Attendees at the November 2010 Guernsey's agents forum meeting had discussed the possibility of live broadcasts of open meetings via a webcam. The Department has indicated it will give consideration to the use of webcams and alternative technologies in the future, following the introduction of open meetings.

### ***Outreach sessions***

**SR5A:** *I recommend that the Division consider measures such as outreach sessions where members of the public can raise and discuss planning problems, to improve public knowledge and involvement;*

- 9.32 The Department informed the Committee in its written response that *“under the ambit of the new legislation this work has commenced with a 2 day conference and the first phase of guidance material”*.
- 9.33 Whilst it acknowledged the above, the Committee felt the 2-day conference was not targeted to the public and questioned what consideration had been given specifically to outreach sessions for the **public** to raise and discuss planning problems. The Chief Officer indicated at the public scrutiny meeting that this would be a task for the new Communications Officer to consider.
- 9.34 The Chief Officer commented from his experience and observations throughout the States, that the vast majority of the general public did not engage with the Division unless they were directly involved as an applicant or in submitting comments as a third party, and that this was one of the key issues for the Department in relation to improving communication.
- 9.35 The Chief Officer stated the Department had a ‘duty’ to permanently reinforce the key messages it wished to communicate. He stated this was one of the reasons the Communications Officer role had been created, in order to put in place structures to keep the public informed of the role and work of the Planning Division.
- 9.36 In early 2011, the Department announced its intention to hold Planning surgeries, in conjunction with Building Control, which would provide residents

the opportunity to speak with officers on planning issues on an informal basis. The first session would be held in February or March 2011.

- 9.37 The Department's representatives plan to hold further meetings with parish representatives to discuss applications, as it had done in 2010 with parish representatives from Torteval and Castel. In seeking to communicate with 'parishes', a series of articles for local parish newsletters are planned.
- 9.38 It also intends to hold an 'Environment Activity Week' in the summer of 2011 including exhibitions, possible lectures or films.
- 9.39 Presentations are also planned for 2011, to be held at schools and colleges explaining the role of planning and giving information on planning as a career. A presentation will also be held as part of the Workers Education Association 2011 programme.

### ***Obtaining feedback from the public***

- 9.40 In June 2010, the Department informed the Committee that work was underway to create a customer satisfaction survey targeting anyone who had come into contact with the planning process, whether by formal application or any other means. The survey ran from July to October 2010, and the results were provided to the Committee in January 2011. The publicly available report summarising the findings may be found on the Planning webpage<sup>42</sup>.
- 9.41 The purpose of the survey was to assist the Department in improving the quality of its service by sending a questionnaire through at the decision stage of the planning process to applicants, agents and any other party who made a representation to the Department. Questions asked for feedback on the pre-application meetings, the level of service, the information available on the States website and requesting suggestions on how the Division could improve its services.
- 9.42 The Environment Department Board was presented with a report from Senior Planning Staff on the findings and conclusions of the Customer Satisfaction Survey in December 2010. The Department identified areas for service improvement from customer feedback, including:
- Consistency of application outcome relative to pre-application advice received;
  - Keeping people better informed about the progress of their application;
  - Fair and polite treatment.

---

<sup>42</sup> <http://www.gov.gg/ccm/environment/press-releases/2011/planning-customer-results-show-service-improvement.en>

- 9.43 The Board approved the Division's intention to investigate these areas further, and seek to make improvements further to customer comments. The Department intends to use the results as a benchmark against which future surveys can be measured.
- 9.44 The Department stated its intention to conduct customer satisfaction surveys annually, and to take steps to increase the rate of questionnaire responses.
- 9.45 In 2011, the Department intends to produce a planning information note on 'community involvement in planning' which will set out clearly how individuals and groups can interact with the planning system, to cover both policy – in respect of the plan review – and development control processes.

*“Over the coming year we need to build on the work that has already been done. We are investing a lot of effort into involving the community in planning, to improving public understanding of and confidence in the planning system. We want to help Islanders to gain a better understanding of decisions that the Department makes and why they are made”*

Deputy Peter Sirrett, Minister, Environment Department<sup>43</sup>

### ***Access to planning application reports***

- 9.46 In November 2010, the Department has commenced publication of the Planning Officer reports for refused planning applications on the States of Guernsey Planning website. The Department hopes to extend this in 2011 by introducing planning reports for approvals for planning permission on the website.

### ***Public access to previously approved plans***

- 9.47 In August 2010, the Department publicised its new policy to enable members of the public to see the drawings for approved plans for a period of one year following the approval date. The request for viewing will be recorded.
- 9.48 The press release also detailed proposed future changes, such as extending the property search process to include details of approvals for adjoining properties. As the Minister stated in the press release:

*“Our new policy of enabling access to approved plans is another important step forward in terms of the openness and transparency of the planning process.*

*We are also looking in the near future to expand the Department's property search service to include greater access to details of decisions concerning neighbouring properties. This will be of particular interest to prospective*

---

<sup>43</sup> <http://www.gov.gg/ccm/environment/press-releases/2011/planning-customer-results-show-service-improvement.en>

*purchasers who currently have limited access to information about approved developments in the vicinity of their future home or business premises."*

### ***Communicating with interest groups***

- 9.49 The Minister commented that Board Members also attended meetings of various 'interest' groups, to increase communication between the Department and the public e.g. attendance at the Living Streets AGM, Guernsey Bicycle Group, Bus User Group etc. The Department also confirmed it has held meetings with parish representatives to discuss planning applications.
- 9.50 In 2011, the Department intends to establish a general 'planning forum' with representatives from various interest groups.

### ***The Guernsey Arts Commission: 'Architecture Today'***

- 9.51 The Committee noted that the Guernsey Arts Commission had held a series of events in 2010 which was aimed to encourage Islanders to discuss design. It believed this was further indication of the interest in the Island in planning matters, especially in relation to architecture.
- 9.52 As part of this series, Members of the review panel had attended the 'Eyesore Debate' held on Thursday 22<sup>nd</sup> July 2010 at Beau Sejour, in which the proposition for debate was "Architecture is ruining Guernsey". The debate was well attended, with approximately 230 members of the public present, watching representatives from the Planning Division, the 'eyesore petitioners' and two architects presenting their views on the subject, followed by a question and answer session.

### ***Communicating with and through the local media***

- 9.53 The Committee monitored media coverage received by the Planning Division in 2010. It noted the decisions made by the Division featured in the Guernsey Press, and/or other media outlets, on an almost weekly basis. Whilst some articles showed the Division in a positive light, most were negative.
- 9.54 Shepley considered the role of the Guernsey Press in the Island and concluded a more open relationship on the part of the civil service and a less hostile approach by the Press would help both parties, and the Island, immeasurably.

<p><b>SR5B:</b> <i>It should develop a strategy for ensuring that the Press is better informed and is able to ask questions directly to officials about planning matters.</i></p>
---

- 9.55 When questioned on the Department's relationship with the media, the Minister acknowledged that improvements could be made by the Department in communicating with the media, and vice versa. He stated that, historically, the

Department had suffered from ‘bad press’ on some issues which, he believed, the media had misinterpreted or misrepresented.

- 9.56 An example of negative press occurred in February 2010 when the Guernsey Press questioned the decision-making process within the Department, in a full-page article on Saturday 20<sup>th</sup> February, topped by the following headline:

**We approved ‘eyesores’ – but won’t tell you why....**

....Environment refuses in face of independent advice to be transparent

- 9.57 Whilst the Department subsequently strongly refuted the claims, in a response published five days later on 25<sup>th</sup> February, the subsequent article did not receive the prominence of the first article. The article was published on a Thursday, and was located in the bottom right hand corner of page 6 of the newspaper:

Environment always ‘willing to explain and justify its actions’ over ‘eyesore architecture’

- 9.58 When discussing with the Committee how the Department was seeking to improve relations with the Guernsey Press, it explained it had met with the Editor to discuss planning matters, and that it would be working with the newspaper to assist it in producing articles on the planning process. The Director of Planning Control Services stated:

*“I’m very hopeful personally that the new relationship that we’re striving to obtain with the Guernsey Press, for example,....will actually reap benefits and that when there is criticism it’s actually deserved criticism - obviously we’ll try and avoid that - rather than undeserved or ill-informed criticism”*

- 9.59 The first two page article regarding the planning process appeared in the Guernsey Press on Monday 19<sup>th</sup> July 2010, and detailed the introduction of open planning meetings, the aims of the new planning law, the decision making process, the appeals system and the appointment of a Communications Officer.
- 9.60 The Committee questioned whether the Department would be developing a media strategy, and whether part of the Communications Officer’s role would be to act in part as a press officer. The Department responded that the role would not be to act as a press officer, but, as previously mentioned, to ensure appropriate communication structures were in place. In 2011, the Department intends to adopt a planning and building control media strategy that is currently in development, and will seek to develop a plan for promoting positive news stories. It also intends to build on communication with members of the media through scheduling regular meetings with media contacts.
- 9.61 The Chief Officer added at the public review meeting that the Department had always tried to develop positive media relationships:

*“we’ve invited journalists into the Department, showing them around the planning process, they’ve spent a day with the planners, seeing how the system works, we’ve had agreements with the media that there’s...a senior lead journalist to the Department, we’ve met with them...on a three monthly or a six monthly basis, where we’ve gone through what we’ve considered to be high profile issues that are coming up so that they can be an educated journalist when they ask their questions and similarly that they can raise with us and say well, this is brewing in the background and we are going to be coming to you and asking you and so on”.*

- 9.62 The Committee noted the Minister and Director of Planning Policy had appeared for a Q&A session on BBC Radio Guernsey on 8<sup>th</sup> April 2010, alongside a local architect.
- 9.63 The Department will also analyse how the work of the Division is presented through the media through a quarterly media audit to assess the positive, neutral and negative coverage it has received.

### ***Communicating with States Members***

**SR11A:** *I recommend that briefing meetings are held for all States Members after the election and that meetings are held on a regular basis with those who regularly come into contact with the Division. At these meetings the process which is followed in dealing with planning applications should be explained...*

**SR11B:** *...In addition guidance should be given – internally about the policies, processes and proprieties which Members need to follow, and externally about matters such as the material which needs to be submitted with planning applications or the approach to pre-application discussions.*

- 9.64 Shepley had identified a poor level of understanding of the planning process within the States of Guernsey. He had therefore recommended that briefing meetings were held for all States Members after the election.
- 9.65 The Department had responded that such meetings were held for the new Board members, and that States Members were invited to planning seminars on the application of the new law. The Committee therefore concluded from the Department’s response that such ‘briefing meetings’ for States members as recommended had not taken place.
- 9.66 The Committee did, however, note that a presentation to States Members was held on 13<sup>th</sup> April 2010 prior to the debate on the ‘*Alteration and Additions to the Urban Area Plan (Review No.1) and the Rural Area Plan (Review No.1)*’ contained in Billet d’État VIII of 2010. The Director of Planning Policy and the

Minister provided further explanation and clarification of the policies and held a 'Question & Answer' session with States Members.

- 9.67 The Department stated that States Members who followed planning matters were given the opportunity to meet with the planning staff to discuss individual cases and concerns.
- 9.68 The Committee had asked whether the Department had or would produce written guidance for all States' Members. The Chief Officer had responded that whilst the existing planning guidance is available for everyone to access, there were areas where advice was specific to Deputies e.g. probity issues of how the Board operates, inter-departmental workings etc. He stated there needed to be '*specific planning, briefing, guidance notes for Deputies in those areas*'. He added it would be an important part of the Communications Officer post to identify clearly the '*audiences*' for certain types of guidance notes.
- 9.69 In 2011, the Department is considering the development of a 'States Member training programme'. This will be accompanied by guidance documents or a 'planning pack' providing information on planning processes and procedures.
- 9.70 It also aims to produce educational publications, published on its website, provisionally entitled 'The Planning System in Guernsey'. This aims to provide States Members, and those outside the Planning System, to have a greater understanding of the planning process.

### ***Communicating with the industry***

- 9.71 The 'industry', in the following context, may be broadly defined as agents submitting planning applications.
- 9.72 During the public scrutiny meeting, the Minister commented that most applications received were from architects' offices (apart from very minor applications). The Minister informed the Committee he believed the relationship between the Division and the 'industry' was probably better at present than it had been for a very long time.
- 9.73 The Department had developed an 'agents' forum' to consult, advise and communicate with the industry, and to provide an arena to receive feedback. As the largest stakeholder group, the Department stated communication with the industry was crucially important for service delivery and service improvement in the future.
- 9.74 The Committee questioned how work on the agents' forum was being progressed and what type of feedback the Department had received. Department representatives believed the forum represented a strong cross-section of the 'industry', and it was stated it had received a positive response to the initiative from agents.

- 9.75 The Scrutiny Panel attended the first agents' forum on 20<sup>th</sup> November 2009 as observers. The first meeting sought to explain the changes the Department had made to the planning process since the adoption of the new Law. A second meeting had been held in May 2010, which had been a smaller agents' forum, and a third meeting held in November 2010. It was intended to hold a series of six-monthly events involving people who regularly submitted planning applications. The Department had also held workshops on topics such as planning fees and charges, and planning and design statements.



*\* Still from the presentation given at the agents' forum held on 20<sup>th</sup> November 2009<sup>44</sup>*

- 9.76 It added that the Department planned to make the forum more interactive as it developed, with attendees giving presentations, perhaps through joint seminars, or visits to offices. The Committee was pleased to note the Department had created a forum webpage<sup>45</sup> which held the list of members of the Forum, meeting dates and minutes and updates for general access.
- 9.77 In 2011, the Department intends to develop a quarterly newsletter and will consider further options such as expanding the group to include more planning agents, holding further workshops including presentations and facilitation by agents.

### ***Architects' Panel and Design Awards***

**SR13:** *I recommend that an Architects' Panel is re-formed along the lines described in this report, and that the Design Awards are reinstated.*

<sup>44</sup> A full copy of this presentation is available on line at [www.gov.gg/planning](http://www.gov.gg/planning)

<sup>45</sup> PlanForum webpage: [www.gov.gg/ccm/environment/planforum.en](http://www.gov.gg/ccm/environment/planforum.en)

- 9.78 The Department expected that the Design Awards would be reinstated in a new format, within a series of seminars with architects and other stakeholders on aspects of design. This is likely to be launched during the 'Environment Activity Week' in the summer of 2011. The delay in implementing this recommendation had been due to resource and financial costs, which had now been resolved.
- 9.79 The Department also planned to meet with the Guernsey Society of Architects regarding the proposals for restarting the Architects' Panel, as outlined by Shepley in his report. It was explained that the Panel had not ceased to exist, however it had been under-used in recent years and its purpose would be reviewed. It stated these workstreams would be taken forward by the Communications Officer.

### ***Communicating using the internet***

- 9.80 The Division operates its own webpage on the States of Guernsey website - [www.gov.gg/planning](http://www.gov.gg/planning) - where information can be found on the Law, policies and practices followed by the Department; information on planning and building control applications, conservation and design, planning media releases etc. The Committee noted in late 2010 that the website had been refreshed and made more accessible.

#### ***The Planning website***

**SR21:** *I recommend that so far as possible applicants and interested parties should be informed on request of the progress of applications; and that when IT systems are updated in the future measures to enable the online tracking of applications should be considered.*



**New Planning and Building Control online search launched**

Latest step in Environment's planning openness policy. Search for planning and building control applications using a new map-based search facility.

[Click here to find out all about it](#)

- 9.81 The Committee noted one area key to improving communication and accessibility of the planning system has been the introduction of the planning and building control websearch and webmap pages on 11<sup>th</sup> February 2010.
- 9.82 Facilities available through the website include:
- Planning Applications Websearch
  - Planning Applications Webmap

- Building Control Applications Websearch
  - Building Control Applications Webmap
  - Weekly Register of Planning Applications Received
  - Protected Trees, Buildings and Monuments Websearch
  - Protected Trees, Buildings & Monuments Webmap
  - Enforcement Notices Websearch
  - Planning Appeals Websearch
- 9.83 The website is intended to make the planning process accessible and transparent, addressing the problem Shepley expressed in his report that *“People simply did not know what happened to their application once it had been submitted”*.
- 9.84 As the site had only been running a matter of weeks at the time of the review hearing, it would have been difficult to quantify its success at such an early stage. The impact that its introduction would have on the overall operation of the Planning Division would not be able to be assessed until sufficient data could be collected.
- 9.85 The 2010 customer service survey asked service users *‘Did you access the on-line information on the States website?’* The Department learnt that only 51% of respondents had used the Planning webpage, which held the ‘Planning Application Websearch’ where people could track the progress of their applications, amongst other functions.
- 9.86 The Department resolved to seek to raise awareness of the online Planning system. It stated that work was continuing on the website to improve the information provided, and the accessibility of that information.
- 9.87 The Department intends to continue its ongoing review of the website and will be seeking to implement improvements to the content and structure. Potential improvements being considered include an online fees calculator and online planning applications.

### ***Internal communication***

**SR18B:** *I recommend that the mechanisms for liaison between the two sides of the Planning Division are reviewed and refreshed.*

- 9.88 As previously stated, the Department confirmed that internal communication and liaison between the two sides of the Division was being addressed through training sessions, revised internal consultation procedures, regular meetings and a team approach to development briefs and major applications.
- 9.89 Principal Officer meetings were re-established and held on a monthly basis in 2010, with notes of key issues discussed subsequently circulated to all staff for information. Team meeting notes were also distributed across the Division

- 9.90 An internal newsletter for staff was established entitled 'Environment Update' which provided each team the opportunity to give an update of existing and forthcoming work.
- 9.91 The Committee later learnt that the Division was undertaking a comprehensive review of internal communications. In 2011, further initiatives will include the possibility of staff participating in other team's meetings in order to share information and give presentations on items of mutual interest. There will also be consideration of job rotation and work shadowing between teams, or potentially within the Department as a whole.

<b>See Conclusions: 'Communication and openness', paragraphs 11.38 – 11.48</b>
--

## 10. Change management

**SR25:** *I recommend that a detailed action plan for the implementation of change in the centre and in the Division should be produced, clearly setting out priorities and timescales, and that its implementation should be carefully monitored at a senior level.*

- 10.1 Shepley believed it was important to produce a plan *‘with priorities and timescales for the achievement of those recommendations in this report which the States decides to accept, and the allocation of the necessary staff and financial resources’*. He stated this was complex because the actions involved the central departments (i.e. the Policy Council), as well as the Environment Department.
  
- 10.2 The Department had highlighted that this was not solely a matter for the Environment Department. Many of the workstreams relating to the recommendations had commenced prior to the Shepley Report publication. The main driving force for the Department planning change had been the requirements of the new Law. The Department had already undertaken preparation for the practicalities of its commencement e.g. the new IT system, developing planning guidance etc. It provided the Committee with sight of the internal staff ‘action plan’ to address the operational recommendations contained within the report. This detailed how workstreams would be put to the Department’s political board and progressed.
  
- 10.3 In 2011, the Department intends to produce a ‘Planning Annual Monitoring Report’ to be published on its website, which will provide details of improvements made to the planning service.
  
- 10.4 Since Shepley’s recommendations relating to governance have not yet resulted in agreed changes, there is not currently an action plan for implementation. See Section 6: *‘Governance of Planning Strategic Policy Objectives’*

## 11. Conclusions

### *The review of the new Law*

- 11.1 The Committee understands that time was needed to allow the '*Land Planning and Development (Guernsey) Law, 2005*' to bed in and for the Department to accurately assess how the Law was operating in practice. It further appreciates the review of the Law will have no clear beginning or end and will be a continuing process as planning policies and practices develop and issues are identified. It is reassuring to note that the Department has been monitoring the practical implications of the legislative changes and has not identified any major difficulties to date, with only minor modifications anticipated.
- 11.2 The Committee appreciates the need for a formal and structured approach to reviewing the appropriateness of the legislative provisions and for compiling desired amendments. It would also suggest that setting a deadline for reporting to the States on this matter would provide focus to such a plan, ensuring that appropriate time and resources are dedicated to it and so that appropriate consultation with stakeholders can occur in a timely manner. This should include planning for review of exemptions and use classes, identified by Shepley as particular areas for attention.
- 11.3 **The Committee recommends that the Department draw up an action plan, in consultation with relevant stakeholders, for review of the legislation, including the extent of exemptions and the number of use classes, aiming to report to the States suggesting any desirable amendments by April 2012.**

### *Strategic Planning Policy*

- 11.4 Further to considering the April Billet VIII, 2010, 'Alterations and additions to the Urban Area Plan (Review No.1) and the Rural Area Plan (Review No.1)', and the comments of the Planning Inspector, the Committee is content that the changes to the Urban and Rural Area Plans, as an interim measure prior to the full review of the Plans (pending the introduction of the new Strategic Land Use Plan), provides the necessary flexibility in the policies. It believes this should also provide the Department with the ability to reduce the 'attention to detail' approach on minor applications.
- 11.5 The Committee noted the Strategic Land Use Plan will not be presented to the States of Deliberation until late 2011, which will have a consequent effect on the timing of the review of the Development Plans. However, it was pleased that the Environment Department has begun preparatory work in looking to develop a review website, newsletter and timetable. It has also publicly announced that it will be providing the opportunity for Islanders to engage with the review and have an input into planning policy.

- 11.6 The Committee is aware that the States Strategic Plan and Strategic Policy Plans are still in development, as is the review of the Strategic Land Use Plan and Development Plans. Therefore the ‘golden thread’ of policy and how these plans inter-relate is not yet evident.
- 11.7 **As part of the educational publications the Department intends to produce, the Committee recommends it provides an explanation of the hierarchy, purpose and relationship of the plans, further to the approval of the Strategic Land Use Plan and prior to the 2012 General Election.**
- 11.8 **The Committee further recommends guidance be published providing a clear explanation of the various roles, responsibilities, and where accountability rests, for planning policy, forward planning and operations.**

## ***Governance***

### ***Strategic Land Planning Group (SLPG)***

- 11.9 The Committee noted that the role of the Strategic Land Planning Group had been reconstituted as a statutory group, rather than a Policy Council sub-group, further to the introduction of the new Law. Whilst the SLPG is not chaired by the Chief Minister in accordance with Shepley’s recommendation, the Committee concluded this would have no impact on the ability of the group to fulfil its mandate and believed this recommendation arose from Shepley’s misunderstanding of the powers of the Chief Minister.
- 11.10 The ‘new’ SLPG came into existence in April 2009, however the changes to its mandate and membership have not been updated in the *‘Rules relating to the Constitution and Operation of States Departments and Committees’* which contains the mandates and membership of Departments, Committees and sub-groups.
- 11.11 **The Committee recommends the Policy Council make the necessary amendments to the published mandate of the SLPG (as revised in April 2009 as a consequence of the introduction of the new Planning Law) as expeditiously as possible, to prevent any misunderstanding of the role and constitution of this statutory group.**

### ***New Policy Council sub-group***

- 11.12 To date, no further action has been taken to formalise the constitution and mandate of the new Policy Council sub-group, formed to take on the wider strategic land planning issues excluded from the revised role of the SLPG. The Committee has noted that further consideration of this has been put on hold, until the Strategic Land Use Plan is debated and approved.

- 11.13 The specific responsibility excluded from the statutory SLPG's mandate was *"the promotion and co-ordination of major cross-departmental projects and initiatives where the achievement of corporate objectives, in spatial terms, requires sustained political leadership at Policy Council level"*.
- 11.14 At officer level, coordination of development projects appear to be carried out by a cross-departmental group led by States Property Services, Treasury and Resources Department. As any development carried out by States departments now requires planning permission under the Law, the Environment Department ensures development projects meet the States corporate objectives through the application process and in applying and interpreting the provisions of the Development Plans. The Environment Department liaises with stakeholders pre-application and in the early stages of consideration being given to a major project.
- 11.15 A particular issue highlighted by Shepley, but that would no longer fall within the SLPG mandate, was the need for mediation and a corporate focus in the relationship between the Environment and Commerce and Employment Departments. The Committee recognised the potential for tensions to arise from these Departments pursuing their separate mandates: the former promoting the interests of all sectors of the economy and the Environment Department having to balance social, economic and environmental considerations when considering planning objectives.
- 11.16 However, from the information provided to the Committee, there did not appear to be a current requirement for mediation.
- 11.17 Given the above evidence, the Committee was not able to identify a clear need for the proposed new political group.
- 11.18 **The Committee recommends the Policy Council review the need for this group and, if it is required, it should clearly define its mandate and constitution and publish it alongside those of all Departments and Committees<sup>46</sup>, in accordance with principles of good governance.**

***Responsibility for environmental policy and the planning function at a strategic and operational level***

- 11.19 Shepley's 'governance' recommendations, which largely fall to the Policy Council to progress in consultation with relevant parties, have not been implemented, with a lack of political consensus to date on how to take these forward. The evidence provided to the Committee suggests the SLPG and the Policy Council, when discussing the governance issues arising from Shepley and considering how to progress these, have focused on where responsibility for the planning function should lie. However, this focus would appear to be a

---

<sup>46</sup> The 'Rules relating to the Constitution and Operation of States Departments and Committees' contains the mandates and membership of Departments, Committees and sub-groups.

misinterpretation of Shepley's recommendations, which in fact suggest that responsibility for environmental policy, and not the planning service, should be moved to the 'centre'.

11.20 Shepley acknowledged in his report that his recommendations in respect of governance were matters which went beyond what he was asked to do and were made without detailed knowledge of the local government structure or other departments that would be affected by the recommendations should they be implemented. He confirmed that the underlying problem he had identified and was attempting to resolve was that, at the time, there was a perception that planning was unduly influenced by environmental considerations and his strong view was that the Division's impartiality, and perception of impartiality, needed to be protected.

11.21 The Committee is mindful that the operation of the planning service has changed considerably since the implementation of the new Law and this, combined with the progression of many of the recommendations in the report, may have overcome many of the problems previously facing the planning service, including the perception of possible conflict between planning and environmental responsibilities within the same department. In particular:

- The SLPG is now a statutory body with its role enshrined in legislation and with responsibility for preparing the Strategic Land Use Plan and advising the Policy Council on matters relating to the development of strategic land use planning / spatial policy that is in accordance with the strategic, economic, social and environmental policies and plans of the States;
- The Policy Council is mandated to advise the States on matters relating to *"the formulation and implementation of ... **environmental** ... strategic and corporate policies to meet objectives agreed by the States;"*
- The Department has developed and published its approved scheme of delegation, which provides transparency of responsibilities for decision-making;
- The Department has sought legal advice and extended its application of a Code of Conduct for Board Members in making planning decisions, which is being further developed and entrenched in the local context;
- The planning application process and decision-making has become more transparent and accessible, through the production of guidance notes, and the IT webpages. The planned open planning meetings will further assist in this area;
- Decisions of the Board on planning applications are now easier to challenge with the formation of a Planning Appeals Tribunal, which provides an accessible and affordable opportunity for people to have their refused

applications considered by an independent Panel, which tests the justification of those decisions;

- Planning reports for refusals are published on the planning website and it is intended to publish reports for approved schemes in 2011.
- 11.22 The Committee considers that as planning decisions are now more transparent and becoming increasingly so as further initiatives are developed, the Department is able to demonstrate, and the public judge for themselves, whether the process and decision-making is impartial.
- 11.23 The Committee also noted the conclusions of both the Environment Department and the Policy Council that the current system seems to be working well in practice, with no urgency or identified impetus for change.
- 11.24 Given the above factors, the Committee was minded to conclude that the concerns of Shepley regarding the Environment Department's dual responsibility for environmental policy and planning had, or were being, largely addressed. The only outstanding point that the Committee felt worthy of note was that, whilst strategic environmental policy is developed by the Policy Council, the Environment Department retains responsibility for advising the States on matters relating to "*environmental policy including transport, energy and waste policy for the conservation, enhancement and sustainable development of the natural and physical environment of the Island...*". The Committee wondered whether there might be an overlap in these mandates and considered that the governance for environmental policy may require further clarification.
- 11.25 The Policy Council had agreed, at its meeting of 8<sup>th</sup> February 2010, to set up a new political group with a mandate to advise further on the political responsibilities for both strategic and corporate planning and operational planning. It was agreed that the group would begin work pending the publication of the Public Accounts Committee's anticipated report on governance in case that report has any bearing on the group's consideration. The Committee was mindful of additional information provided by Shepley to the Chairman of the SLPG in 2008 in which he clarified the intention behind his recommendations relating to governance. The Committee remains concerned that the group established by the Policy Council may fail to address issues identified by Shepley, if indeed those issues remain relevant, due to a misunderstanding of Shepley's recommendations.
- 11.26 **The Committee would advise that any further review of the governance issues arising from the Shepley Report, whosoever may conduct it, would need to first identify whether there are any problems that would need to be addressed in the present day governance of planning and environment policies and operations before further consideration can be given to possible solutions. This might include consideration of whether it remains a**

perception that the impartiality of the Planning Division is compromised and whether environmental policy is given adequate prominence corporately, which were the problems that Shepley had identified in 2008.

### ***Planning division operations***

#### ***Staff Morale***

- 11.27 The Committee shared some of the concerns of the Environment Department Chief Officer with the difficulty of setting ‘targets’ in relation to improving staff morale, which is an intangible concept that is therefore difficult to measure empirically. The Committee would have liked Shepley’s recommendation in this respect to be more explicit in how he defined the problem of low morale and how this might be addressed. However, Shepley formally drew the attention of the Department to the dissatisfaction of its staff and the probable impact this would have on customer service and productivity. Whilst the Committee considered setting targets would have been inappropriate, it would have expected to see more conscious steps being taken to improve the perceived morale issue that Shepley identified.
- 11.28 As noted by Shepley, the results of the Employee Opinion Surveys (undertaken in 2003, 2005 and 2007) provided a useful indicator for departments to identify areas for improvement. A formal process might have included engagement with staff through discussion sessions and through the formal appraisal process to identify critical actions against issues identified by staff as factors affecting their job satisfaction and, by extension, the group morale.
- 11.29 As no formal assessment of issues affecting staff morale was undertaken at the time, and the general employee surveys in that format were discontinued after 2007, there is no baseline from which to monitor the extent to which this situation might have improved. Anecdotally, management believe that morale has improved. The improvement of processes and procedures under the new Law; the improved customer information; and the more proactive approach to challenging negative attitudes towards the Department expressed through the media, would have had a positive effect on morale.
- 11.30 **The Committee suggests that the Chief Officer should oversee the implementation of a structured process for engaging staff in identifying issues that may affect the quality of the service they provide and identifying critical actions for improvement. The Department Board might expect formal reports on general progress against these actions, at least on an annual basis.**
- 11.31 Staff morale is an important issue that all Departments need to consider as part of their staff and performance management functions and the Committee would suggest a formal and structured approach.

- 11.32 The Committee acknowledges there is no evidence to determine whether the Department currently has a significant problem, over and above any other department, caused by low staff morale and it would be beyond the remit of this review for the Committee to seek to establish such evidence.
- 11.33 The Committee understands that it is the intention of the Policy Council's Human Resources Unit to re-establish some form of employee survey in the future once appropriate benchmarks for Guernsey can be drawn up and as resources allow, which would provide tangible evidence of the need for any remedial measures and identify whether a more specific direction for action might be required.

### ***The planning application process***

- 11.34 The Department has shown it has put measures in place to try to reduce the 'attention to detail' issues identified. It has extended delegation downwards cautiously and aims to expand this as staff gain the necessary experience. Whilst this may not be as large a shift as Shepley had promoted, it is positive that the Department has embarked on a course of action to move in this direction.
- 11.35 The Committee believed that making the performance statistics publicly available would help generate confidence among the public that applications were being dealt with in a timely fashion, and to help counter any perception that the service was still blighted by long delays.
- 11.36 The adoption of the 8-week and 13-week targets, with the Department plotting performance weekly in order to monitor individual and team performance, and how cumulatively that is having an impact on the targets for the year as a whole, should result in the Department having empirical evidence of whether the minor applications are being progressed faster.
- 11.37 **The Committee recommends the Department takes a structured approach to monitoring the flexibility and 'attention to detail' applied to minor applications e.g. through case-study analysis and/or the recording of separate targets.**

### ***Communication and openness***

- 11.38 The introduction of guidance, as recommended, will have undoubtedly aided members of the public in explaining the processes involved in planning applications and should engender greater understanding of the planning service as a result. The Department has demonstrated it is committed to continuing to provide guidance, through identifying topics themselves or reacting to requests from the public. The Committee welcomes the Department's commitment to formally review the effectiveness of guidance in 2011.

- 11.39 The recommendation that had attracted particular public and media attention was the introduction of open meetings, which will be launched in February or March 2011. Whilst the Committee cannot speculate what impact they will have until they have been in operation for a period of time, it believes this is a vital move in opening up the decision-making process to the public and should increase understanding of how decisions are made.
- 11.40 The opportunity for members of the public to raise and discuss planning problems is being realised in 2011, with the introduction of planning surgeries for people to meet with officers to discuss planning issues and officers meeting with parish representatives. The Committee welcomes the launch of customer service surveys, to be held on an annual basis, as a means of the Department receiving direct feedback on the experiences of service users to aid improvement of services.
- 11.41 Planning decisions are often the subject of intense media scrutiny, with stories appearing in the Guernsey Press on an almost weekly basis. Due to the nature of the role of the Planning Division, this is not surprising. However it was apparent at the time of Shepley's review more could be done by the Department to effectively develop and communicate with the media. The development of a planning and building control media strategy should aid this and the Committee believes it is important that the Department maintains its commitment to communicating effectively with media contacts.
- 11.42 The Committee was pleased to note the Department provided a specific webpage for planning media releases<sup>47</sup> which it believed was a useful tool for providing access to information. However, it also observed there were a number of comments and press releases issued by the Department which had featured in the media in recent months, but which were not available on this page, therefore concluded this facility might not be being used to its full potential.
- 11.43 In respect of communication, the local media is undoubtedly one of the main sources of information for the Guernsey public. Many stories in the local media regarding the Planning Division will have been instigated by the media. The information provided to the media is subject to editing in respect of the story the journalist is producing; therefore, the media has control of how the information provided by the Department is disseminated.
- 11.44 **The Committee recommends the Department ensures it reproduces all information released to the media on its own website in case a member of the public wishes to seek clarification on the position of the Department.**
- 11.45 The Committee was disappointed that the Department had not sought to engage States Members through briefing meetings subsequent to the 2008 election, and initiatives to engage with political members in a structured manner were

---

<sup>47</sup> <http://www.gov.gg/ccm/navigation/environment/planning/media-releases/>

delayed. However, it is pleased to note the initiatives the Department intends to deliver in developing a 'States Member training programme' in 2011.

- 11.46 **The Committee recommends the Department ensures it schedules specific induction seminars for States Members following the 2012 elections, to ensure all Members are aware of the purpose and function of the planning system within the States of Guernsey.**
- 11.47 Shepley had commented that *"People simply did not know what happened to their application once it had been submitted"*. This fed the perception of an inaccessible system, and was one area the Committee was particularly interested to see resolved. It is pleased to report that the launch of the new Planning webpage has now ensured that the status of all valid applications can now be tracked. Aside from this important development, transparency has been increased through the array of information held on the site – from the policies, procedures and web maps available, to the publication of Planning Officer reports on refused applications.
- 11.48 Whilst some communication initiatives were not assigned the highest priority to progress prior to the recruitment of the Communications Officer, the Planning Division did make progress in that time on key areas such as the new web search and web map facilities, Guernsey's agents forum and the production of guidance. Following the appointment of the Communications Officer, the Division intends to launch further initiatives to engage its stakeholders, which should improve how the planning system is understood.

## **Summary**

- 11.49 The Committee would like to conclude this report by repeating Shepley's conclusion, which was one of the Committee's reasons for undertaking this review:

*"Perhaps the most disappointing finding is that the situation in 2008 is much the same as that identified by District Audit in 1998. Their essential conclusions remain the same".*

- 11.50 The Committee has been pleased to demonstrate through its review findings that the Environment Department has made considerable strides in taking forward many of the operational recommendations and has made changes to how planning functions and is understood by its stakeholders. Further work is still required, which the Committee is sure the Department itself would acknowledge, however, the Committee is confident in asserting the Department has made significant, positive long-term changes to the operation of its planning service.

- 11.51 The ‘governance’ recommendations, which largely fall to the Policy Council to progress in consultation with relevant parties, have not been implemented, with a lack of political consensus to date on how to take these forward.
- 11.52 The Committee would like to make a general comment about reports being commissioned and published without the commissioning body providing a clear direction of how and when they will be considered further to publication.
- 11.53 Whilst the Committee’s report demonstrates that extensive action has been taken against many of the Shepley recommendations, prior to this report no action plan or update had been published.
- 11.54 In early 2010, the media had reported that the Environment Department had not adopted open planning meetings as recommended. The Department had responded in the public scrutiny meeting that whilst it was supportive of introducing open meetings, it had not originally prioritised this workstream over more pressing initiatives. However, it would not have been unreasonable for the public to assume that the recommendation had been disregarded or rejected, as they would be unaware of how and why the Department had chosen to prioritise certain workstreams.
- 11.55 The Committee considers it should be part of the political culture that departments publish information on how they will address recommendations and findings from reports. Not to do so hinders the public’s ability to hold the States of Guernsey to account and can subsequently engender a lack of faith in the Government – that whilst it will identify problems, it will not produce and initiate solutions.
- 11.56 This report aims to provide a constructive update on what has happened since the publication of the Shepley Report. It should be the duty of each department, when commissioning and publishing reports, to be transparent and open on whether and how they will be addressed, with clear action plans devised against achievable timeframes, and with a commitment to keeping the public informed of progress at regular intervals.

## Appendix A



# SCRUTINY COMMITTEE

THE STATES OF GUERNSEY

## **Scrutiny Review Meeting** **Review of Guernsey's Planning Service**

### ***TERMS OF REFERENCE***

#### **INTRODUCTION**

In February 2008, the Strategic Land Planning Group (SLPG) commissioned Mr Chris Shepley to carry out an independent review of Guernsey's planning service. He delivered the 'Review of Guernsey's Planning Service' Report in April 2008, which suggested numerous structural and operational recommendations for the Environment Department and the SLPG to consider.

The *Land Planning and Development (Guernsey) Law, 2005* came into force on 6<sup>th</sup> April 2009.

#### **OBJECTIVE**

To review the action taken by the Environment Department and the SLPG in addressing the recommendations contained in the Shepley Report.

The Panel wish to determine:

- how recommendations included in the 'Review of Guernsey's Planning Service' Report have been considered, implemented (in full or in part) or rejected, and the rationale for these decisions;
- what indicators, monitoring processes and action plans have been introduced to ensure policies are effectively implemented, performance managed and reviewed, with particular emphasis on:
  - communication
  - customer satisfaction
  - procedures and processes
  - performance management
  - resources

# **APPENDIX 2**

Scrutiny Review Report:

Letters of comment


**ENVIRONMENT**

A STATES OF GUERNSEY GOVERNMENT DEPARTMENT

Environment Department  
 Sir Charles Frossard House  
 PO Box 43, La Charroterie  
 St Peter Port, Guernsey  
 GY1 1FH  
 Telephone +44 (0) 1481 717200  
 Facsimile +44 (0) 1481 717099  
 Email [env@gov.gg](mailto:env@gov.gg)  
[www.gov.gg](http://www.gov.gg)

The Chairman  
 Scrutiny Committee  
 Sir Charles Frossard House  
 PO Box 43  
 La Charroterie  
 St Peter Port  
 Guernsey  
 GY1 1FH

22<sup>nd</sup> February 2011

Dear Deputy Brehaut

**SCRUTINY COMMITTEE REVIEW REPORT ON GUERNSEY'S PLANNING SERVICE: POST-SHEPLEY REVIEW**

I write in response to the Scrutiny Committee's Review Report concerning 'Guernsey's Planning Service: Post-Shepley Review'.

The Environment Department welcomes this report, its findings and recommendations. The Department is particularly pleased to note that the Scrutiny Committee has recognised and endorsed the many changes and improvements that the Department has made to the planning service and its operation since the publication of the Shepley Report. These include most significantly the introduction of the new Land Planning and Development Law, considerable improvements in the speed of planning decisions and regarding the openness and transparency of the planning process, and improved communications with stakeholders which have in turn led to improvements in the way that the planning process and its objectives are understood by the public.

Most recently, open planning meetings have been organised and are just about to commence and a major communications strategy including public outreach events and the publication of further guidance material is under way. However, the Department recognises that much further work still needs to be done. For example, the way in which the Department engages with the media has long been a particular issue of concern which is not yet fully resolved.

Turning in more detail to the Scrutiny Committee's conclusions and recommendations, the Department would comment as follows:-

### **The review of the new Law**

The Department has an ongoing programme of review of the new Law and Ordinances and has noted a number of albeit relatively minor areas where some refinement could beneficially be made. The Department has also embarked as part of this exercise on the review of the Exemptions and Use Classes Ordinances as recommended by the Shepley Report. User feedback has been sought on the Exemptions Ordinance via the agents' forum and a forthcoming public outreach event will focus on this topic. Discussions have been held with the Commerce and Employment Department regarding Use Classes, and it is proposed to meet with commercial estate agents to explore this topic later in 2011. The Department recognises the value of formulating a clear action plan relating to this work, in consultation with relevant stakeholders, and of setting a target of April 2012 for reporting to the States with any proposed amendments arising from this process. The Department therefore accepts the Scrutiny Committee's recommendation.

### **Strategic Planning Policy**

The Department agrees with the Scrutiny Committee that a need exists for a transparent and understandable explanation of the hierarchy, purpose and relationship of the various policy plans, and regarding the various roles, responsibilities and accountabilities for planning policy, forward planning and operations. This would undoubtedly assist public understanding of the States policy planning processes. Although the Policy Council may wish to lead the production of such guidance, the Environment Department will nevertheless include it as a priority within its own programme of guidance material to be produced.

### **Governance**

The two recommendations made under this heading are directed towards the Policy Council rather than the Environment Department. However, the Environment Department is in agreement with both. Regarding the latter recommendation, the Department is of the opinion that the statutory provisions of the new Law, the effective coordinating role of the States Property Service and the generally more corporate approach taken by individual States departments concerning positive engagement with the planning process obviate the need for any further group, with commensurate savings of States financial and other resources.

### **Responsibility for environmental policy and the planning function at a strategic and operational level**

The Department agrees generally with the comments of the Scrutiny Committee under this heading. However, with regard to the recommendation made, the Department would comment that whilst the balance between environmental, social and economic considerations is currently being achieved well by the present Board and via the present delegation arrangements, in the absence of changes to the underlying structure within which the planning process is carried out perceptions concerning impartiality of the

Board could potentially return as an issue in the future and this aspect should be taken into account when considering this issue further.

#### **Planning division operations – staff morale**

The Department has taken steps to implement under the leadership of the Chief Officer a structured programme of staff appraisals, a comprehensive and effective programme of team meetings encompassing all of its staff groups and has initiated a number of new internal communication initiatives designed to improve dissemination of information and opportunities for staff feedback. The Department believes on this basis that the Scrutiny Committee's recommendation that the Chief Officer should oversee the implementation of a structured process for engaging staff in identifying issues that may affect the quality of the service they provide and identifying critical actions for improvement has already been implemented. Whilst such operational matters have traditionally not been referred to the political Board of the Department for comment, the Department has no objection to this part of the recommendation.

#### **The planning application process**

Having successfully developed new targets and processes to increase the speed with which planning decisions are reached, including greater delegation as recommended by the Shepley Report, the Department is very mindful of the need to ensure that the quality of its decisions, and thus of development on the ground, is maintained. Quality issues are addressed through the stringent checking processes applied in the determination of all planning applications, involving at least 'two pairs of eyes', and through internal guidance and regular structured discussion forums. The Department is in the process of extending its published guidance to clearly indicate its approach to matters such as the design of householder development.

The Department recognises, however, that there remains scope to further reduce apparent concerns regarding 'attention to detail' in respect of more minor matters. In this respect, the Department accepts the Scrutiny Committee's recommendation that a structured approach is taken to monitoring the flexibility and 'attention to detail' applied to minor applications, through for example case study analysis and/or the recording of separate targets relating to householder applications.

#### **Communication and openness**

The Department agrees with the points made by the Scrutiny Committee concerning the treatment of planning stories by the media. The negative approach taken by the media, and particularly by the Guernsey Press, towards planning matters over many years has had a very harmful and undermining effect on public understanding of the planning process, which the Department is now taking firm steps to redress.

The Department is however pleased to see indications that the significant steps it has taken in publishing clear guidance and in promoting greater openness and transparency appear to be reciprocated in the attitude of the Press. The Department welcomes this

more open dialogue and hopes that the relationship will continue to improve and become more productive. The Department accepts the recommendation that it should reproduce all information released to the media on its own website in case a member of the public wishes to seek clarification on the position of the Department. This recommendation has already been implemented by the Department which has introduced a specific feature on its website containing the full text of its responses to media enquiries.

The Department also accepts and fully endorses the recommendation that it should schedule specific induction seminars for States Members following the 2012 elections, to ensure that all Members are aware of the purpose and function of the planning system within the States of Guernsey.

Yours sincerely

A handwritten signature in black ink, appearing to be 'P. Sirett', written over the words 'Yours sincerely'.

**Deputy Peter Sirett**  
Minister, Environment Department

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

16 March 2011

Dear Deputy Brehaut

**Guernsey's Planning Service Post-Shepley Review**

Thank you for your letter of the 4<sup>th</sup> February 2011 and the opportunity to comment on the Scrutiny Planning Panel's Post-Shepley Report Review.

The Policy Council welcomes the substantial investigation that the Committee has undertaken and the fact that its findings demonstrate the 'considerable strides' that the Environment Department has taken in implementing many operational improvements recommended by Chris Shepley.

In relation to the governance issues raised in the Shepley Report, the 'Summary of Actions' at the beginning of the Scrutiny report is an accurate representation of the Policy Council's current position. Specifically the location of the planning function within the States can most effectively be resolved within a wider review of the machinery of government. In this respect the Policy Council will shortly be considering the resources and timetable needed to address this issue in order to establish whether it will be possible to complete the workstream within this States Term. Better co-ordination of major spatial projects will be pursued following States consideration of the new Strategic Land Use Plan this autumn. Recent cross-departmental discussions suggest that there is a willingness to find more effective ways of working.

Yours sincerely



L S Trott  
Chief Minister

The States are asked to decide:-

VIII.- Whether, after consideration of the Report dated 23<sup>rd</sup> March, 2011, of the Scrutiny Committee, they are of the opinion:-

1. To note that Report, and the Committee's Review Report at Appendix 1.
2. To direct the Environment Department to report to the Scrutiny Committee by not later than December 2011, outlining a timetable for the implementation of the recommendations directed to it contained within the Review Report (as at pages 18 - 19 of Appendix 1) and an update on progress.
3. To direct the Policy Council to report to the Scrutiny Committee by not later than December 2011, stating whether they have accepted or rejected the recommendations directed to it contained within the Review Report (as at page 18 of Appendix 1) and where they have accepted the recommendations outlining a timetable for their implementation.
4. To direct the Scrutiny Committee to publish not later than March 2012 an update on actions taken by the Environment Department and the Policy Council.

## SCRUTINY COMMITTEE

### SCRUTINY COMMITTEE PERFORMANCE REPORT

The Presiding Officer  
The Bailiff's Chambers  
Royal Court House  
St Peter Port

23<sup>rd</sup> March 2011

Dear Sir

#### **1. Executive Summary**

- 1.1. The Scrutiny Committee's Performance Report for the period between May 2009 and December 2010 is appended to this report. It documents the work undertaken by the Committee within this period.
- 1.2. The Committee took the opportunity to reflect on its work programme in December 2010 and has revised its approach accordingly. This States Report sets out the challenging but achievable programme of work that the Committee aims to complete prior to the elections in 2012.

#### **2. Introduction**

- 2.1. In 2010, public scrutiny meetings with States departments were held as part of the 'Planning' and 'School Exclusions and Disruptive Behaviour' reviews. Ministers, a Deputy Minister and staff represented their departments to answer questions regarding policy and service delivery for the areas under review.
- 2.2. The Committee undertook a large volume of preparatory work and research on a number of review topics, as detailed in the appended report, in order to produce forthcoming reports to the States in 2011. The Committee also carried out a number of ad hoc workstreams which arose throughout the 18-month period, as detailed in the appended report.
- 2.3. Monthly 'Billet meetings' were revived to give further scrutiny to the Billets d'État, to increase the opportunities for the Committee to comment expeditiously prior to policies being implemented, either by commenting in States debates, asking questions of Departments or circulating the Committee's views to all Members and the public prior to the debate where time allowed.

- 2.4. The Committee met in December 2010 to take a retrospective look at its record and to re-evaluate its priorities for its Forward Work Programme. It concluded that there was an increasing role for Scrutiny in monitoring the effectiveness of policy in response to issues as they occurred. In particular, the Committee wished to continue to dedicate resources to scrutiny of the monthly Billets d'État.
- 2.5. The Committee decided this approach would achieve the appropriate balance between scrutinising policy issues as they arise alongside conducting in-depth reviews.

### **3. Work programme in 2011**

- 3.1. 2011 will be a challenging year for the Committee, which will be taking at least six reports to the States. These reports will be the culmination of the large volume of preparatory work carried out by the Committee in 2010.
- 3.2. In addition to this Performance Report, the Committee intends to publish reports and present to the States of Deliberation the following:

- ***The 'Post-Shepley' Review Report***

- 3.3. The Committee is reporting in this month's Billet d'État on the results of its 'Post-Shepley Review' of the Environment Department's planning service and specifically the Policy Council and Environment Department's response to the 'Review of Guernsey's Planning Service' report carried out by the consultant Chris Shepley in 2008.

- ***School Exclusions and Disruptive Behaviour Review Report***

- 3.4. Further to an extensive public consultation exercise, the Committee will publish a States Report concerning its review into how the Education Department manages school exclusions and disruptive behaviour.

- ***Staff Expenditure and Numbers Monitoring Report***

- 3.5. There will be a monitoring report following up the Treasury and Resources Department's implementation of the Scrutiny Committee's recommendations made in 2007 about the former Staff Number Limitation Policy, which led to the original policy being replaced with staffing controls based on expenditure cash limits rather than numbers.

- ***Monitoring States Resolutions Review Report***

- 3.6. The Committee is undertaking a project to review the progress of departments and committees in implementing States Resolutions and is looking to make the process more robust and transparent in the future.

- ***Public Engagement Review Report***

- 3.7. A review of Public Engagement will look at how the States communicates, consults and engages with the public in improving services for the community. The Committee is also developing and seeking to improve its own policies and performance in engaging with the public.

***Other workstreams***

- 3.8. In 2009, the Committee had prioritised the following workstreams for further consideration as topics of ‘Scrutiny Review Meetings’ to be held over the remainder of its term:

- The Planning Service
- School Exclusions and Disruptive Behaviour
- Staff Number and Limitation Policy
- Housing Policies
- Population and Migration Policies
- Relative Poverty

- 3.9. The Committee commenced background research into the first three topics in 2009, leading to public scrutiny review meetings being held in 2010 with the Environment and Education Departments. Further details on progress made against the first three workstreams are contained within the appended Performance Report.

- 3.10. At its meeting in December 2010, the Committee reconsidered the last three workstreams prioritised for consideration and decided to adopt a different approach to the topics as follows:

- The Committee resolved to consider ‘**Housing Policies**’ as they arise as part of the ‘Billet meetings’, rather than to dedicate a specific review to one policy of the Department.
- The ‘**Population and Migration**’ consultation was published in early 2011 and the workstream will continue to be monitored by the Committee, and comments and recommendations made where appropriate, rather than be subject to a separate review.
- The ‘**Relative Poverty**’ workstream will be subsumed into the Committee’s consideration of the States Strategic Plan, as part of the consideration of the Social Policy Plan.

### ***Monthly ‘Billet Meetings’***

- 3.11. In 2010, the Committee resumed the practice of holding meetings to examine each month’s Billet d’État for scrutiny issues. It was agreed that a rotating Panel of three Members would be set up to take the lead in a monthly Committee Billet meeting dedicated to consideration of the Reports being presented to the States.
- 3.12. In December 2010, the Committee resolved to open the Billet meetings to the media to create a better understanding of the political scrutiny process. This aims to increase the Committee’s existing communications in addition to its website and Facebook presence. The first meeting attended by the media was on 16<sup>th</sup> March 2011.

## **4. Memorandum of Understanding**

- 4.1. The Committee has previously set out its intention to update its procedures and develop a memorandum of understanding to clearly set out the expectations for both Departments and the Committee.
- 4.2. The Committee is continuing the development of this memorandum which will be published and circulated prior to the 2012 elections.

## **5. Governance in the States of Guernsey**

- 5.1. The States of Deliberation will debate the Public Accounts Committee’s ‘Governance in the States of Guernsey’ States Report in March 2011. The Committee will be commenting during debate on the report and its propositions and will also factor into its Forward Work Programme consideration of the PAC suggestions and implementation of any Resolutions relevant to the Committee arising from the debate.
- 5.2. The Committee would recommend, further to the 2012 elections, its successor presents a report to the States of Deliberation on how effective the States of Guernsey has been in conforming to the six Core Principles of good governance, and how these principles have been applied in the Guernsey context.

## **6. Resources**

- 6.1. The Committee has a cash limit for 2011 of £215,000, the majority of which represents staff costs. The Committee is mindful of the financial restraint the States of Guernsey needs to operate under, and in accordance with direction from the Treasury and Resources Department, so endeavoured to set a cash limit in 2011 which would be at the same level as the 2010 cash limit.

## **7. Conclusion**

- 7.1. The Committee's Performance Report for the 18 months between May 2009 to December 2010 demonstrates how the Scrutiny Committee has evolved to scrutinise a vast array of topics: the planning service; school exclusions and disruptive behaviour; staff number and expenditure policies; monitoring states resolutions; public engagement in the States of Guernsey; alongside various ad-hoc subjects through the monthly Billet meetings and in reaction to issues as they have arisen.
- 7.2. The Committee has remained committed to embed 'scrutiny' within the States of Guernsey, and to continue to build relationships with Departments and Committees to improve the understanding and interaction with the Committee. Whilst the Committee acknowledges further work is required to further embed effective scrutiny within Guernsey's government, it is confident that progress has been made to strengthen scrutiny's role.

## **8. Recommendation**

The Scrutiny Committee asks the States to note the Scrutiny Committee's 2009 - 2010 performance report entitled "Guernsey Scrutiny".

Yours faithfully

B L Brehaut  
Chairman

May 2009 – December 2010

# **Guernsey Scrutiny**

## Performance Report



**SCRUTINY COMMITTEE**

THE STATES OF GUERNSEY

# Contents

<b>Chairman's Foreword</b>	3	• Airport Fire Fighters Dispute	23
<b>Overview</b>	4	• Proposed Ban on the display of Tobacco Products	24
<b>About Scrutiny</b>	6	• The Census	24
<b>Forward Work Programme</b>	8	• The States Strategic Plan	25
<b>SCRUTINY REVIEWS AND MEETINGS</b>		• Deposit Compensation Scheme	25
• 'Investigating Vandalism'	10	• Financial Transformation Programme	27
• The Planning Service	11	• Recycling Targets	27
• School Exclusions	12	<b>ADHOC WORKSTREAMS</b>	
• Public Engagement	13	• Governance	29
• Monitoring States Resolutions	15	• HSSD – Disability Attendance Payments	29
○ <i>Prioritisation of Legislation</i>	16	• Human Resources policies	30
○ <i>Animal Welfare Legislation</i>	16	• PFOS	30
○ <i>Sex Offences Legislation</i>	16	<b>Liaison with other Scrutiny Bodies</b>	32
○ <i>Mental Health Legislation</i>	17	<b>The role of the Scrutiny Committee</b>	33
• Staff Numbers and Expenditure	18	<b>Managing Performance</b>	35
• Drug & Alcohol Strategy and the Child Protection Review	20	• Performance Indicators	35
<b>BILLET MEETINGS</b>	21	<b>Contact Details</b>	38
<b>SCRUTINY IN THE STATES</b>	21		
• Administration of the Electoral Roll	22		
• New Jetty Review	22		

## Chairman's Foreword

When discussing the work of Scrutiny it's not uncommon for me to refer to Scrutiny 'in the Guernsey context'. That qualifying statement recognises that we have a unique system of government and a scrutiny role that is over time evolving into a mechanism through which we can monitor, review and ultimately improve the processes of government and enhance service delivery. It is not without its challenges; similar challenges are apparent in the parliamentary committee process in the UK, which has had the benefit of more time and experience and where parameters and protocols have been an integral part of the political vernacular and the boundaries are long established and clear.

The context from the point of view of the electorate would, on the face of it, be clear; we, the States, need to do more to engage the public in our work and also have clearly defined outcomes and actions from our committee, departmental and parliamentary work.

With this in mind Scrutiny has embarked on two significant pieces of work: a Public Engagement Review and a Monitoring States Resolutions Report. We believe that having clear parameters and mutually understood methods of engagement will be of real benefit to both the electorate and the elected representative. And of course it follows that if engagement is to have a material effect on the input and output of the States as a whole then monitoring that output through resolutions and their implementation is a logical step.



*Deputy Barry Brehaut,  
Scrutiny Committee Chairman*

Engagement can take many forms and Scrutiny is always looking for new opportunities by which we can get the scrutiny message out to the broader community. The information available on our website, our Facebook page, consultation questionnaires, drop-in sessions and focus groups, and the very process of public reviews, are all methods by which government can be more accessible. More recently we have taken that a step further by opening our Billet meetings to the media.

Our performance report traces where we have been and documents our performance between May 2009 to December 2010. There is no doubt that the months ahead will be just as demanding if not more so. I am optimistic that the growing acceptance and understanding of the scrutiny process will lead to better informed, evidence based decision making that will in turn give the public a degree more confidence in government.

A handwritten signature in dark ink, appearing to read 'Barry Brehaut'. The signature is stylized with a large, sweeping initial 'B' and a trailing flourish.

## Overview

May 2009 to December 2010

### *The Committee*

- The Committee attended a training day entitled 'Developing Questioning Skills' in October 2009, and held 'mock hearings' in order to enable Members to prepare for the public scrutiny meetings held in 2010.
- The Committee's **May 2008 – 2009 Performance Report** was published in October 2009 and debated by the States in February 2010. The accompanying States report detailed the **internal review** the Committee undertook further to questions regarding the Committee's formal powers.
- Deputy Martin Storey formally resigned from the Scrutiny Committee in April 2010 and was replaced by Deputy David de Lisle.

### *Scrutiny Reviews*

- The Committee produced the comprehensive '**Investigating Vandalism**' Review Report in October 2009, which contained 24 recommendations for Departments to consider. The Committee presented a monitoring report to the States of Deliberation on the actions taken by Departments in addressing these recommendations, which was debated in November 2010.
- The Scrutiny Planning Panel, appointed to consider the action taken further to the publication of the Chris Shepley '**Review of Guernsey's Planning Service**' report in 2008, held a public scrutiny meeting with the Environment Department in March 2010, will publish a report to the States in May 2011.
- The '**School Exclusions and Disruptive Behaviour**' review commenced in 2010, with a public scrutiny meeting held with the Education Department in September 2010, and an extensive public engagement exercise being held from October 2010 to February 2011. The report will be presented to the States in late 2011.
- Work continued on '**Public Engagement**' with a Panel appointed in summer 2010, and a terms of reference for the Committee's review published. The Committee also sought to promote its work and open up a new means of access through establishing a Scrutiny Facebook page. The report will be presented to the States in late 2011.
- A **Monitoring States Resolutions** Panel was appointed to review the implementation of States Resolutions. Throughout 2010 it undertook research on the outstanding actions arising from States Resolutions. The Panel will provide a report to the States in 2011.
- A monitoring report on **Staff Numbers and Expenditure** will be

produced by the Committee in 2011, further to preparatory work undertaken by the Committee in 2010 and consultation with Departments in 2011.

conducting in-depth reviews in conjunction with scrutinising policy issues as they arise.

### ***Adhoc workstreams***

#### ***Monthly Billet Scrutiny***

- The Committee revived the monthly '**Billet meetings**' in 2010 in order to provide scrutiny to policy proposals coming forward. This has included making speeches on behalf of Scrutiny, questions being asked of Departments and the placing of a successful amendment. The Committee has commented on various States Reports in 2010, including:
  - The display of tobacco products and restriction on vending machines;
  - The Depositor Compensation Scheme;
  - Recycling targets;
  - The Financial Transformation Programme.

- A number of separate workstreams arose from the **Monitoring States Resolutions** review, including scrutiny of:
  - delays to the mental health and animal welfare legislation;
  - the prioritisation of legislation process;
  - the status of sex offences legislation
- Topics the Committee also considered included:
  - Governance
  - HSSD – Disability Attendance Payments
  - Human Resources policies
  - PFOS
  - States Strategic Plan

#### ***Forward Work Programme***

- The Committee's **Forward Work Programme** was formulated and circulated to all States Members and Departments in October 2009. It was later approved by the States in February 2010, further to debate of the 2008 – 2009 'Scrutiny Committee Performance Report and Forward Work Programme'.
- The Committee resolved to review its work programme after one year, and in December 2010 agreed to revise it in order to achieve the appropriate balance between

## About Scrutiny

### The Committee

The Committee comprises nine political members, including a Chairman and Vice-Chairman, who are elected representatives of the States of Guernsey and serve a four year term. The current membership and their contact details are listed on page 38 of this report.

Deputy Martin Storey announced his intention to resign from the Scrutiny Committee in February 2010 and was replaced by Deputy David De Lisle in April 2010.

### Resources

#### Staff

In 2009, the Committee had an average of 2.78 full-time equivalent staff. In 2010, this increased to 4.48.

In 2011, the Committee now has four members of support staff. These are:

#### Principal Scrutiny Officer

Alysa Martel

[alysa.martel@gov.gg](mailto:alysa.martel@gov.gg)

#### Scrutiny Projects Officer

Christine Foster

[christine.foster@gov.gg](mailto:christine.foster@gov.gg)

#### Scrutiny Officer

Lisa Bougourd

[lisa.bougourd@gov.gg](mailto:lisa.bougourd@gov.gg)

#### Scrutiny Graduate Officer

Alice Hazlerigg

[alice.hazlerigg@gov.gg](mailto:alice.hazlerigg@gov.gg)

## Training and Development

The Committee has continued to develop its Members and staff as robust scrutineers through further training.

The Committee Members attended a training day on 'Developing Questioning Skills' in October 2009. It has followed up on the valuable lessons learned by holding 'mock' hearings in order to enable Members to practice their questioning skills prior to review hearings.

In December 2009 Deputy Hadley attended a Parliamentary Seminar at Westminster, and reported back to the Committee with his insight into the role of Select Committees in the UK.

The Committee continued to support its Principal Scrutiny Officer in undertaking a part-time Masters in Business Administration, which she successfully completed in 2010.

## Financial Report

<b>£ '000s</b>	<b>Accounts 2010</b>	<b>Authorised Budget 2010</b>	<b>Accounts 2009</b>	<b>Authorised Budget 2009</b>	<b>Accounts 2008</b>
<b>Staff</b>	<b>219</b>	<b>219</b>	<b>148</b>	<b>191</b>	<b>157</b>
<b>Supplies and Services</b>	<b>5</b>	<b>13</b>	<b>8</b>	<b>12</b>	<b>6</b>
<b>Consultant's Fees</b>	<b>0</b>	<b>9</b>	<b>0</b>	<b>5</b>	<b>0</b>
<b>Use of Unspent Balances</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Total</b>	<b>224</b>	<b>241</b>	<b>156</b>	<b>208</b>	<b>163</b>

The Accounts for 2010 will be published in May 2011, detailing the Committee's 2010 budget spend.

## Forward Work Programme

As reported in the 2008 - 2009 Performance Report, the Committee started to plan for a new approach to conducting scrutiny for its remaining term of office.

In 2009, the Committee had prioritised the following workstreams for further consideration as topics of 'Scrutiny Review Meetings':

- **The Planning Service**
- **School Exclusions and Disruptive Behaviour**
- **Staff Number and Limitation Policy**
- Housing Policies
- Population and Migration Policies
- Relative Poverty

The Committee decided the programme would not be set in stone, as it would need to react to events as they arose.

The Committee commenced background research into the first three subjects in 2009, leading to public scrutiny review meetings being held in 2010 with the Environment and Education Departments. Further details on progress made against the first three workstreams are contained within this report.

The Committee met in December 2010 to take a retrospective look at its record and to re-evaluate its priorities for its Forward Work Programme. It concluded that there was an increasing role for Scrutiny in monitoring the effectiveness of policy in response to issues as they occurred. In particular, the Committee wished to dedicate resources to scrutiny of the monthly Billet d'État.

The Committee decided this approach would achieve the appropriate balance between scrutinising policy issues as they arise alongside conducting in-depth reviews.

- **'Housing Policies'** were considered as the topic of a future 'Scrutiny Review Meeting', however the Committee resolved to consider housing policies as they arose as part of the Billet meetings, rather than dedicate a specific review to one policy of the Department.
- The **'Population and Migration'** consultation was published in early 2011 and the workstream will continue to be monitored by the Committee, and comments and recommendations made where appropriate, rather than be subject to a separate review.
- The **'Relative Poverty'** workstream will be subsumed into the Committee's consideration of the States Strategic Plan, as part of the consideration of the Social Policy Plan, as set out on page 25 of this report.

The Committee will report on its Forward Work Programme on a quarterly basis, with an updated table published on its website for the public to access.

## Public Meetings

The Committee aims to continue to plan and host open forum meetings in the remainder of its term.

In 2010, public scrutiny meetings with States departments have been held as part of the 'Planning' and 'School Exclusions and Disruptive Behaviour' reviews. Ministers, a Deputy Minister and representatives of the Departments attended to answer questions regarding policy and service delivery for the areas under review.



*\* Representatives of the Education Department at the 'School Exclusions and Disruptive Behaviour' public scrutiny meeting*

The School Exclusions and Disruptive Behaviour Panel has also held 'drop-in' sessions and organised specific meetings with stakeholder groups and individuals.

In 2011, the Public Engagement Review Panel will be exploring ways of involving the general public as part of its review.

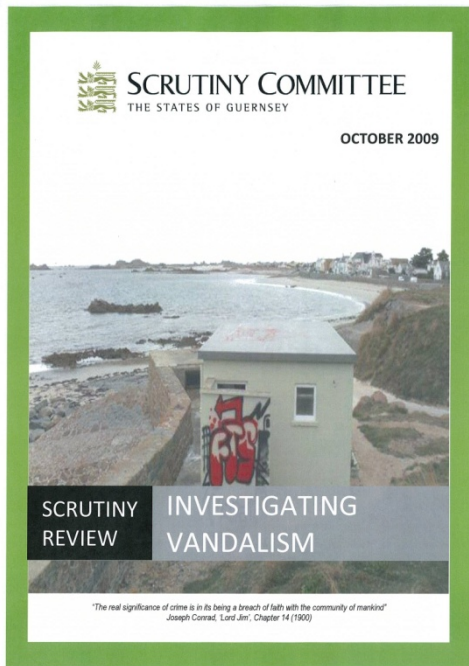
## 2011 Scrutiny States Reports

In addition to this Performance Report, the Committee intends to publish reports and present to the States of Deliberation the following:

- The Post-Shepley Review Report
- Staff Numbers and Expenditure Monitoring Report
- Monitoring States Resolutions Review Report
- School Exclusions and Disruptive Behaviour Review Report
- Public Engagement Review Report

These reports will be the culmination of the large volume of preparatory work carried out by the Committee in 2010.

## Investigating Vandalism



The Committee chose to examine the topic of vandalism as its first major review as it was identified as a problem of significant concern for the Bailiwick; with criminal damage the most frequently reported crime in Guernsey.

"Tackling the causes and effects of crime" was a headline priority of the Government Business Plan, and has now been incorporated under "Social Policy" in the States' Strategic Plan.

The Committee felt vandalism is a matter of public concern and has a strong impact on the whole community. It concluded the general public must be assured that vandalism is an issue that its government takes seriously and wishes to tackle. The contribution to the review from almost 400 members of the public supports the view that this is an issue of importance to the community.

The Committee published its *'Investigating Vandalism'* review report in October 2009, which made 24 separate recommendations covering issues under the various mandates of the Policy Council and Home, Education, Commerce and Employment, Social Security, Housing, Environment, Culture and Leisure, Treasury and Resources Departments, and identified several areas for joint working.

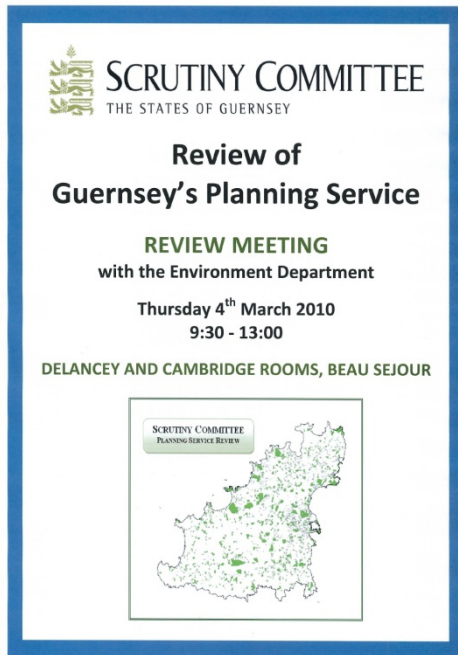
The Committee also wrote to Departments to learn whether they had accepted or rejected the review recommendations, to enable it to produce a short 'monitoring report'. This enabled the Committee to assess how recommendations were dealt with in the year following the release of the report.

The Committee found that Departments do have measures in place to try to tackle vandalism. It made recommendations in areas where it felt improvements could be made, and 69% of those recommendations were accepted and implemented by Departments, as set out in the monitoring report. Overall, the Committee was pleased with the initial responses received and contributions from Departments and the general commitment to tackling vandalism within the community.

The Committee believes the workstreams the Home Department and others have in train should help to tackle vandalism in the long-term. The Committee anticipates that with Departments proactively engaging with the review recommendations and developing further initiatives to address the issue, over time a noticeable reduction in criminal damage should be achieved and the negative effects of criminal damage in the community lessened.

The States of Deliberation debated and approved both the review and monitoring reports at its meeting in November 2010.

## The Planning Service: The Post-Shepley Review



In February 2008, the Strategic Land Planning Group (SLPG) commissioned Mr Chris Shepley, the former UK Chief Planning Inspector, to carry out an independent review of Guernsey's planning service. He delivered the '*Review of Guernsey's Planning Service*'<sup>1</sup> Report in April 2008, which suggested numerous structural and operational recommendations for the Environment Department and SLPG to consider.

The Scrutiny Committee resolved to review the action taken by the Environment Department and the Policy Council in addressing the recommendations contained in the Shepley Report, specifically examining how the recommendations had been considered, implemented or rejected, and the rationale for the decisions taken.

<sup>1</sup> [www.gov.gg/ccm/treasury-and-resources/reports/review-of-guernseys-planning-service.en](http://www.gov.gg/ccm/treasury-and-resources/reports/review-of-guernseys-planning-service.en)

The Committee was also interested to learn what indicators, monitoring process and action plans had been introduced to ensure policies were effectively implemented, performance managed and reviewed.

The Committee held a public review meeting in March 2010, chaired by Deputy Brehaut, where the Minister, Deputy Minister and staff representatives from the Environment Department were invited to answer questions from the Scrutiny Planning Panel on the progress made. The transcript of the review meeting is available at

[www.gov.gg/scrutiny](http://www.gov.gg/scrutiny)

The Committee also wrote separately to the Policy Council for an update on progress in respect of the structural recommendations and the new appeals tribunal.

The Committee will produce a report to the States in May 2011, providing a comprehensive update on the progress made by the Environment Department and the Policy Council, including recommendations where appropriate.



### Scrutiny Planning Panel:

Deputy Mike Hadley

Deputy Jan Kuttelwascher

Deputy John Gollop

## School Exclusions and Disruptive Behaviour



The current 'Managing School Exclusions' policy was introduced by the Education Department in 2007. The Committee resolved to assess how effective this and other relevant policies and procedures are in addressing and reducing disruptive behaviour within the Bailiwick's schools under the Education Department's control.

Two review meetings were held in September 2010 – one in public, one in private – where the Scrutiny Panel questioned political and staff representatives from the Education Department on its policies and their application. Transcripts of both the review meetings are available at [www.gov.gg/scrutiny](http://www.gov.gg/scrutiny)

In order for the Committee to obtain a full picture of how exclusions and behaviour policies impact on key stakeholders i.e. the pupils, parents, teachers and the wider community, it embarked on an extensive public engagement exercise which ran from October 2010 to February 2011.

The engagement exercise included:

- Sending a letter and questionnaire to every headteacher in the Bailiwick of Guernsey to seek their opinion on the effectiveness of the Education Department's policies and procedures in place;
- Sending a separate questionnaire to every teacher in the Bailiwick's schools under the Education Department's control;
- Publishing an online questionnaire for pupils, parents and members of the public to complete;
- Writing to all pre-school nurseries, teaching unions and relevant States of Guernsey departments.
- Ensuring posters and leaflets were distributed widely throughout the Bailiwick to publicise the review and request contributions from all interested parties;
- Holding meetings with people, groups or organisations with an interest in the subject and/or who have been affected by school exclusions and disruptive behaviour locally.

At the time of writing, the Committee is pleased to report that it has received over 100 contributions to be considered and collated as an evidence base for this review. The Committee aims to publish the review report in the autumn of 2011.

### Scrutiny School Exclusions and Disruptive Behaviour Panel

Deputy Mike Garrett  
Deputy John Gollop  
Deputy Barry Brehaut

## Public Engagement



### ***Background to the review***

As reported in the 2008 – 09 Performance Report, the Committee monitored States-wide approaches to public engagement with a view to assessing this as a suitable topic for future review.

When the Forward Work Programme was finalised, the Committee resolved to embark on a review of public engagement.

A member of the Scrutiny staff attended the Centre for Public Scrutiny's '*Public Engagement through Scrutiny*' seminar in February 2010 to learn more about challenges faced by Scrutiny Committees across the UK in engaging the public. Feedback and material from the seminar was provided to the Committee to consider in its further deliberations.

The Committee appointed a Panel to take the workstream forward in the summer of 2010. The Committee has completed the terms of reference for its review, which may be found on its webpage at [www.gov.gg/scrutiny](http://www.gov.gg/scrutiny)

### ***Devising the scope of the review***

In formulating the scope of the review, the Panel undertook various research exercises, including analysing public engagement strategies from other jurisdictions. It also continued to monitor public engagement exercises undertaken by Departments in their preparation of policy proposals.

This aided the Panel in focussing the terms of reference for the review and it resolved to split it into two stages:

- (1) The first stage will focus on developing the Committee's own engagement strategy. This will be completed in the first quarter of 2011.
- (2) The second stage will consider the wider issue of how the States of Guernsey currently engages with the public and how it might improve its public engagement and consultation processes in the future.

### ***Scrutiny 'Social Networking'***

As one part of the groundwork for this review, the Committee considered the merits of establishing Scrutiny's profile on social networking sites such as Facebook and Twitter. After initial research, it was concluded that establishing a Scrutiny Facebook page could be an effective way of increasing awareness of the Committee's work.

The Scrutiny Committee launched its 'Scrutiny Guernsey' Facebook page in late February. Since its inception, the page has attracted a steady stream of people 'befriending' Scrutiny Guernsey to learn more about its work, with the accumulation of 236 'friends' by December 2010.



The page has proved a useful tool in advertising both the Planning and School Exclusions and Disruptive Behaviour Review Meetings, as well as seeking views from members of the public on reviews, a job vacancy within the staff of the Committee and providing brief updates on the activities of the Committee.

The Committee will continue to monitor the effectiveness of the Facebook page as a means of engaging the public, and report on this as part of its Public Engagement review.

### ***Related workstreams under the Financial Transformation Programme***

There are two Financial Transformation Programme (FTP) projects, and numerous associated departmental projects, relating to “communication” that are ongoing. The Panel met with the two overarching co-ordinators for these projects to learn more about what the current workstreams included.

The FTP will specifically consider the two following “opportunities”:

- To develop a States-wide communications plan/strategy, and explore the value of a centralised expert client function that supports Departments; also to consider rationalising purchasing / tendering

for the media and support agencies across the whole of the States to realise economies of scale.

- All website development should be done by a single supplier

The Committee believes its review will complement the work undertaken by the FTP on the above, as well as those undertaken by departments.

### ***Public Engagement through Scrutiny***



The Committee is committed to obtaining the input and views of the general public as part of its reviews. Public engagement exercises to be carried out in 2010-11 will include the School Exclusions and Disruptive Behaviour review and this Public Engagement review.

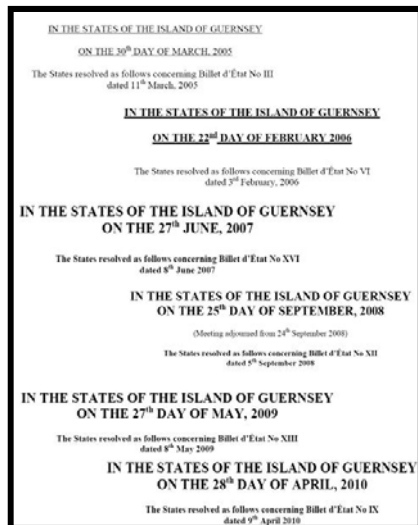
The Committee would welcome members of the public, organisations and businesses to contact it on how government could engage more effectively with those it serves.

#### **Scrutiny Public Engagement Panel**

Deputy Matt Fallaize  
Deputy David De Lisle  
Deputy Mike Hadley  
Deputy Sean McManus

## Monitoring States Resolutions

The fulfilment of obligations that arise out of decisions of the States of Deliberation, in the form of States Resolutions, are of fundamental importance to the effectiveness and accountability of government.



In the past, the Committee has followed up Departments' and Committees' progress against particular States Resolutions that had been identified as relevant to a topic of interest for Scrutiny investigation. Through this process, the Committee noted the difficulty in clearly identifying what progress Departments and Committees had made against Resolutions and found that the publication of Resolutions was not user-friendly for research requirements.

As reported in the 2008 - 09 Performance Report, the Committee had set up a basic in-house 'database' to enable it to monitor and follow up unresolved States Resolutions.

The Committee has also provided a comprehensive log of resolutions from 2000 to the files available in the States

Members' room at Sir Charles Frossard House.

A Panel was appointed in February 2010 to review the implementation of States Resolutions. The Panel wrote to all Departments and Committees in April 2010 to request details of all outstanding action arising from States Resolutions extant at the end of 2009 for which they have political responsibility, including those which direct the preparation of legislation.

The Committee will consider whether the monitoring of States' Resolutions would be improved through the production of a centralised database of all Resolutions. It will assess whether this would be of benefit for the public and the States of Guernsey as a whole in improving the accountability for their implementation.

It is therefore currently investigating options to co-ordinate, in liaison with the Greffe and ITU, a publicly accessible and searchable database of States Resolutions.

The Panel intends to provide a summary overview report on the fulfilment of States Resolutions in the forthcoming year.

### Scrutiny Monitoring States Resolutions Panel

Deputy Barry Brehaut  
Deputy Matt Fallaize  
Deputy Mike Garrett  
Deputy John Gollop  
Deputy Rhoderick Matthews

### *Ad hoc workstreams within the review:*

As part of this review, the Committee has sought to comment or make recommendations, where appropriate, on issues as they have arisen in the States or in the public domain.

- **Prioritisation of Legislation**

In July 2007, the previous Committee had commented on the prioritisation of legislation, within the context of the then Government Business Plan:

*“Given the daunting scale of the drafting task, the Committee is not confident that sufficient political direction has been given on prioritisation or that the workload is achievable”.*

In September 2009, the Committee wrote to the Policy Council requesting information on the prioritisation process applied by the Policy Council in directing St James’ Chambers in its legislative drafting programme. The correspondence covered a number of issues including the delays to the mental health law and the sex offenders legislation (see below) and also asked what the rationale was behind the prioritisation process.

The Committee expressed concern that proposed legislation should be subject to such considerable delay.

In November 2009, the Policy Council informed the Committee that there was no written rationale behind the prioritisation process. However, it was working to produce a paper on this issue, which it committed to provide to the Committee.

The Committee received the *“Prioritisation of Legislation”* proposal in July 2010, which would form part of the States Strategic Plan to be debated at the September 2010 States meeting. After consideration the Committee as a majority concluded that the proposed system was a positive development to try to address this important issue.

The proposal to set up the Prioritisation of Legislation Working Group was supported

by the States of Guernsey on 1<sup>st</sup> October 2010.

- **Animal Welfare Legislation**

In July 2010, the Committee identified that there was perhaps confusion for the public and potentially some States Members as to the current status of animal welfare legislation given the passage of time since the 2003 Resolutions arising from the ‘Review of Animal Welfare Legislation’.

The Committee therefore requested that the Commerce and Employment Department release a statement to be available on its website and publicised providing information on the following areas:

- The background to the introduction of the new legislation;
- The existing powers of animal welfare and animal protection legislation;
- The powers that will be brought in with the new legislation;
- The current estimated timescale for the production of the new legislation;
- The effects of any further delays to the new legislation being brought in.

The Department reacted positively to this request, and produced a briefing paper available on their website under ‘Agriculture - Animal Welfare’. It acknowledged what they described as the ‘*thoughtful and constructive*’ comments from the Committee on this matter.

- **Sex Offences Legislation**

The Committee had considered a statement from HM Procureur contained in a Report from the Home Department published in Billet d’État VI, March 2010:

*“Bailiwick legislation in respect of sexual offences is the subject of an ongoing review, with the aim of introducing new sexual offences legislation that is up to date and comprehensive”*

The Committee noted that whilst the Home Department was undertaking a review of sexual offences legislation, this was not under States Resolution.

For the sake of clarity for the Department, States Members and the public, the Committee recommended that the Home Department should consider submitting a States Report to seek approval for the Department to review the law relating to sexual offences and to recommend new, or changes to the existing, legislation.

The Committee believed an appropriate direction for its preparation would enable this to be taken into account in the Policy Council’s process of prioritising the drafting of legislation and give additional clarity on progressing this matter. It stated the propositions should include one setting out a timescale for reporting back to the States on progress or completion.

The Department highlighted that the sensitivities and considerations surrounding this type of legislation are considerable. The Committee understood careful thought needs to be given in developing this work, and that a number of scoping exercises would need to take place before the Report could be finalised.

It was pleased to note the Department had accepted the Committee’s recommendation to prepare a Report to be placed before the States in 2011, which will provide a realistic timetable for the development of the necessary legislation.

## • **Mental Health Legislation**

The Projet de Loi entitled “The Mental Health (Bailiwick of Guernsey) Law, 2010” was approved by the States of Deliberation in July 2010. At the Committee’s Billet meeting prior to the debate, the Committee resolved to write to the Health & Social Services Department:

- To request that a ‘short guide’ to the mental health law be produced to make the law accessible to the general public.
- To publish the presentation on the new Law provided to People’s Deputies on the States of Guernsey website to allow members of the public or relevant organisations to have a clear introduction to the proposed legislation.
- To provide an estimated timetable for the commencement of the legislation.

The Department responded positively to these recommendations, and agreed to action the above.

## Staff Numbers and Expenditure



The former Scrutiny Committee conducted a review into the Staff Number Limitation Policy, and published its findings in February 2007.

The review had concluded that the then SNLP was not an effective policy to control staff numbers and expenditure. It directed the Treasury & Resources (T & R) Department to report to the States with an alternative policy for controlling staff numbers, taking into account the recommendations contained in the Scrutiny Review Report. The States supported this proposal, and also noted the Committee's intention to monitor the development and implementation of an alternative policy for controlling staff numbers.

The T & R Department returned to the States with a new policy, based upon capping Departments Revenue Budgets, with effect from January 2008.

The key objectives of the new policy, as approved by the States, included *"effectively controlling staff numbers within the public sector"* and *"reducing public sector expenditure where possible"*. The Department had emphasised the need for robust checks and balances and for it to

monitor trends and report to the States on staff numbers and costs.

### Status of the review: 2010 onwards

The Committee appointed a Scrutiny Panel in 2010 to assess the success of the new policy in meeting the recommendations made by the Committee, and to consider how the Treasury and Resources Department has implemented and monitored the new policy.

In the Foreword to the Accounts for 2009<sup>2</sup>, the T & R Department expressed its concern at the increase in staff costs and numbers between 2008-09 – particularly within the Health and Social Services and Education Departments - and stated it would be working with all Departments to complete a detailed review and analysis of the reasons behind the increases.

The Department stated that the results of the review would inform any recommendation to *"to reintroduce controls on the numbers of staff employed, such as those in place under the former SNLP"*.

Further to undertaking an information gathering exercise, the Committee corresponded with the T & R Department throughout 2010 on a number of issues, including expressing concern that the Department had felt it appropriate to indicate a possible return to a policy similar to the SNLP.

This resulted in lead Panel member Deputy Rhoderick Matthews making a speech on the issue of staff numbers and costs during the Budget Debate in December 2010. A summary of this speech may be found on the Committee's *'Scrutiny in the States'* webpage<sup>3</sup>.

<sup>2</sup> Billet d'État XII – May 2010 - Accounts of the States for 2009

<sup>3</sup> [www.gov.gg/scrutiny](http://www.gov.gg/scrutiny)

The key points raised by the Committee during its speech included:

- commenting on the administrative errors in the numbers published by the T & R Department in the Accounts for 2009 and the delay in publicly correcting these.
- questioning whether appropriate monitoring arrangements had been put in place by the T & R Department, as directed by their own policy.
- expressing concern at the Department's original indication of a possible return to a policy previously identified as inherently flawed and welcoming the Department's more tempered stance in the Budget Report, where it acknowledged it would be premature to recommend the reintroduction of more formal establishment controls.

Deputy Matthews stated the Committee's Panel would be considering all aspects of the current policy including the extent to which the key objectives had been met through its operation.

In the second quarter of 2011, the Panel intends to consult with Departments and to report back to the States in 2011 with its monitoring report.

**Scrutiny Staff Numbers and  
Expenditure Panel**

Deputy Rhoderick Matthews  
Deputy David De Lisle  
Deputy Jan Kuttelwascher  
Deputy Sean McManus

## Drug and Alcohol Strategy      Child Protection Review

The Policy Council presented the 'Bailiwick Drug and Alcohol Strategy'<sup>4</sup> to the States of Deliberation in December 2009.

The report stated the Social Policy Group and the Drug & Alcohol Strategy Group wished to undertake a performance review of the Strategy but did not have sufficient funding to undertake this.

The Chairman of the Committee took the opportunity in the December States meeting to offer Scrutiny's help in reviewing the performance of the strategy.

The Committee subsequently met at staff level to discuss the possibility of a Scrutiny-led review for the Committee to consider its inclusion in the work programme for 2010-2011.

Following a review of the Forward Work Programme in December 2010, the Committee concluded it would no longer be feasible to carry out a separate review of the Drug & Alcohol Strategy as it would not have the financial or staff resources to complete this prior to May 2012.

However the Committee will follow the progress of the strategy as part of its monitoring of the States Strategic Plan.

The year 2009 - 2010 had been one of change for child protection services in the Island. The most fundamental change has been the introduction of 'The Children (Guernsey and Alderney) Law 2008' which came into effect in January 2010.

HSSD invited the Committee to receive an update on the work undertaken in relation to Child Protection. In October 2009, the Committee visited Swissville and met with a number of staff to learn more about the facilities available and the changes made to services in preparing for the introduction of the new law.

The Committee's staff also met with the Children's Convenor in 2010 to learn more about the new Tribunal system and how this would operate in the Island.

The Committee will continue its work on monitoring the progress made in implementing changes to child protection services. In 2012, it will also be considering commissioning an independent consultant to review the effectiveness of child protection services.

---

<sup>4</sup> Article 11 - Billet d'État XXXIII December 2009

## Billet Meetings

In 2010, the Committee resumed the practice of holding meetings to examine each month's Billet for scrutiny issues.

It was agreed that a rotating Panel of three members would be set up to take the lead in a monthly Committee Billet meeting dedicated to consideration of the Reports being presented to the States.

The purpose of these meetings is to increase the opportunities for the Committee to proactively comment prior to policies being implemented, either by commenting in States' debates, asking questions of Departments or circulating the Committee's views to all Members and the public prior to the debate where time allows.

SCRUTINY CHECKLIST FOR STATES' REPORTS				
BILLET:	REPORT			
QUESTIONS	Yes	No	N/A	ADDITIONAL COMMENTS
<b>Report</b>				
Is the Report relevant to existing/past Scrutiny topics?				
Are there any areas of policy that are inadequately or inappropriately addressed?				
Has an action plan been incorporated providing timeframes for the development processes?				
Has the report taken into account corporate policies and priorities?				
Has appropriate consultation and inter-agency working taken place to reach findings?				
Does the policy meet the needs of the local community?				
<b>Recommendations</b>				
Are the recommendations included evidence based?				
Do the recommendations address the issues identified?				
Are the propositions included in the Report clear?				
<b>Performance Management of objectives</b>				
Are performance indicators included/have targets been set?				
Is a monitoring programme incorporated?				
Has the Department indicated whether it will publicly report on performance?				

\* "Scrutiny checklist for States Reports"

Members consider questions such as '*Has appropriate consultation and inter-agency working taken place to reach the findings?*' and '*Do the recommendations address the issues identified?*'

## Scrutiny in the States



In the absence of a 'Hansard'<sup>5</sup> system, the Committee has ensured a summary of the speeches it has made in the States of Deliberation has been published on its website, on a specific webpage entitled 'Scrutiny in the States'.

In December 2010, the Committee agreed to open its Billet Meetings to the media to further increase the openness and transparency of the scrutiny process.

<sup>5</sup> Merriam Webster definition of 'Hansard': 'the official published report of debates in the parliament...'

### **February 2010 States Meeting**

- ***The Administration of the Electoral Roll***

#### *Scrutiny Q&A with the Home Department and Policy Council*

At its February 2010 meeting, the States approved a proposal brought by the States Assembly and Constitution Committee (SACC) to amend the legislation governing the electoral roll in order to avoid administrative difficulties for the Registrar-General.

This fell under SACC's mandate in respect of its responsibility to review and report to the States on matters relating to "elections to the office of People's Deputy". The wider issues relating to administration of the Electoral Roll fall under the mandate of the Home Department.

Conscious of the difficulties that had occurred with the 'roll over' of the Electoral Roll in 2008, the Committee asked the Home Department for clarification on what was being done to ensure the same mistakes were not repeated. The Committee did not feel that this could be reliant on corrections by the Registrar-General after publication of the Electoral Roll. The Committee also felt that the responsibility for administering the Electoral Roll appeared to be ill-fitting with the rest of the Home Department's mandate and it asked the Policy Council whether this might be reviewed.

The Committee produced a summary report containing the questions and answers from Home Department Minister, Deputy G H Mahy and Chief Minister Deputy L S Trott, which is available on the Scrutiny website.

The Committee considered the report published by the Home Department in the October Billet (Billet D'État XXI) entitled 'Electoral Roll' however resolved there was no need for further Scrutiny comment. In November 2010, the States subsequently approved the establishment of a new Electoral Roll.

### **April 2010 States Meeting** **(Billet d'État IX)**

- ***Public Accounts Committee - New Jetty Review***

Members considered the reports of the Public Services Department and Public Accounts Committee together with the appended consultants' (FGS McClure Watters) post implementation review of the New Jetty project.

The Committee considered that the post implementation review of the New Jetty project was a stand alone, comprehensive and credible piece of work. However, the Committee expressed concern with the implications of proposition (b) contained in the PAC Report:

*"To direct the Policy Council to ensure that the findings and recommendation within this Report are considered and where appropriate implemented within the context of relevant work streams contained within the Financial Transformation Programme."*

The Committee felt the proposition consolidated multiple ideas and lacked clarity of meaning, e.g. to explain what the "findings and recommendation" and "relevant work streams" referred to. The Committee concluded that the specific recommendation that this presumably referred to was set out in 4.6.4 and repeated in 5.5 of the PAC report:

*“...all major construction contracts should be carried out by one central body, staffed by adequately and appropriately trained personnel and maybe operating as an independent non-governmental organisation...”*

The Committee noted there was no evidence provided in the PAC’s report or its consultant’s report to support this recommendation. The post implementation review of the New Jetty project carried out by the consultants’ identified historical failings that bore no relation to current processes and procedures. There did not appear to have been any review carried out of the adequacy or otherwise of then current practices and therefore no case had been made to suggest that the proposed structural change to project management would represent better value for money.

The Committee noted that the proposition appeared to give the Policy Council, through its Financial Transformation Programme team, carte blanche to simply ignore the findings and recommendation. It felt this potentially undermined the PAC’s effectiveness in holding Departments to account. However, it was of greater concern to the Committee that this could have had the effect of giving powers to the Policy Council or the FTP team to implement the recommendation without evidence-based substantiation.

On 30<sup>th</sup> April 2010, the States of Guernsey approved the PAC report and its propositions.

## **Airport Fire Fighters Dispute**



On 25<sup>th</sup> May 2009, Guernsey airport firemen took industrial action in withdrawing Category 6 cover at the Airport. All flights were suspended causing considerable disruption to passengers and airlines, with a potential knock-on effect to the Island’s economy.

On 27<sup>th</sup> May, it was announced that an agreement had been reached with the Airport Fire Service to restore cover for the following 12 months. It was widely felt a number of issues arose from these events which merited thorough investigation.

In early June 2009 the Committee announced its intention to undertake a review and appointed a Panel to formulate a terms of reference and progress the review.

However, a requête was placed requesting the establishment of a Tribunal under the provisions of the *Tribunal of Inquiry (Evidence) (Guernsey) Law, 1949* to look at the facts and circumstances leading up to and surrounding the industrial action taken by the Airport Fire Fighters at Guernsey Airport in May 2009, including the circumstances in which the industrial action was resolved.

In July 2009, further to the States of Guernsey resolving to appoint a Tribunal of Inquiry, in the interests of avoiding unnecessary duplication of work, the Committee suspended its own investigation.

**June 2010 States Meeting (Billet d'État XV)**

***Policy Council - Tribunal of Inquiry into Industrial Action by Airport Fire Fighters at Guernsey Airport'***

The Committee placed an amendment to the Policy Council's report to ensure that the States of Guernsey and the public are provided with information, by no later than June 2011, regarding the progress made in respect of all the recommendations contained in the Report of the Tribunal of Inquiry.

The amendment received the full support of the Policy Council, and was passed by the States of Deliberation unanimously.

**June 2010 States Meeting (Billet d'État XV)**

- **Health and Social Services - Proposed Ban on the Display of Tobacco Products and Restriction on Vending Machines to Establishments for over 18 Year Olds.**

The Committee focused on whether the results of the consultation exercise undertaken by the Health and Social Services Department had been fed back into the report and the evidence base presented by the Department for the proposals.

The Committee believed the Department should have provided evidence within the Report that the views of all stakeholders had been taken into account - whether

accepted or rejected - in the final deliberations on the policy. It found the Department had reproduced the consultation responses in the Report, without providing any commentary or analysis alongside them.

The Committee emphasised the importance of Departments providing robust evidence-based proposals for policy changes. The Committee noted a lack of evidence presented in the Report to support the proposals, with the expert opinion referred to not included or appended for consideration by Members.

**July 2010 States Meeting (Billet d'État XVII)**

- **Policy Council - Replacement of traditional Censuses with a rolling electronic Census**

The Committee questioned whether the Policy Council would be able to fulfil the 2005 Resolution to hold a Census in 2011, if Members were minded to reject the proposition to rescind that Resolution.

It also highlighted that the proposal was very much at the development stage, and further information was required on the timescales for development and how the existing databases would work together effectively.

It was highlighted that the UK and Jersey would still be holding a Census in 2011, with the UK Government considering other methods of measuring population and collecting other information as an alternative to the conventional census model.

### **September & October States Meeting (Billet D'État XIX 2010)**

- **Policy Council – States Strategic Plan 2010-2015**

Following representations made to the Policy Council by a member of the Committee, and then by the Committee itself, the States Strategic Plan (SSP) was subject to amendment by the Policy Council to restructure the order of debate from a single debate to a debate on each proposition contained within the report.

The Committee welcomed the amendment, believing it was imperative for States Members to have every opportunity to take part in an effective and robust debate on the Plan to ensure that when decisions were taken, they were taken on a firm evidence base and with due account of discussions in the Assembly. It believed the original propositions, as well as being incorrectly referenced, would have been unworkable.

In consideration of the 2010 SSP, the Committee had noted that the States, in planning to consider the Government Business Plan in July 2007, had agreed arrangements for debate in the States in May 2007. The complexities of the document had been recognised, and it was agreed that rather than a single debate a series of debates would take place to consider the States Priority action plans.

The Committee commented during the 2010 debate that it was unfortunate that this more thorough approach was dropped in the development of the SSP.

However, even with the more structured debate, the Committee stated there was still much more that could be done to improve the structure to facilitate debate and appropriate challenge.

The Committee was pleased to note that the SSP Team had taken on board the recommendation made by the Committee in early 2010 that the process of change through the SSP could be better managed if the Plan described the cyclical processes involved.

The Committee urged this to be developed much further however to adequately illustrate the process and allow States Members to identify the avenues available to them to contribute to the Plan and instigate policy change. It believes this opportunity should not be left for an annual States debate, and that greater flexibility and transparency in the process would encourage more engagement and a greater sense of ownership. Until this process is more developed, the Committee is of the view that approval of the SSP cannot necessarily be taken as a determination of priorities with majority support, which the SSP seeks to achieve.

The Scrutiny Committee welcomed and supported the proposition to consult with Departments and Policy Groups to improve the SSP process.

The Scrutiny Committee intends to play its part in testing the consistency and compatibility of departmental and strategic policies and the States record of delivering on its stated objectives.

### **Billet D'État XXIII – November 2010**

- **Commerce and Employment Department – Deposit Compensation Scheme**

The Committee commented on the above report during the States debate as it identified there had been a clear failure to implement a States Resolution agreed in November 2008. On its consideration of the report, the Committee believed insufficient justification had been

provided by the Department for why this failure had occurred.

The reason given in the States Report for delaying the implementation of the pre-funding element of the Scheme was “*due to the ongoing consultation on this issue...*” However, the Committee noted there was no indication in the November 2008 States Report, when the States approved the Scheme as laid out in that Report, that further consultation would be required before the introduction of the regulations. The 2008 report also indicated that the industry was happy with the proposals.

The Committee asked during the debate if the original proposals were flawed. It further questioned whether the States at the time made the wrong decision in approving the Scheme as it was proposed. If this was the case, the Committee felt this had not been made clear by the Commerce and Employment Department in proposing the amendments to the Scheme.

The Committee also questioned that if the original proposals were found to be flawed so quickly after the debate – enough to warrant delaying the implementation of the Scheme in full – what was the reasoning for the Department waiting two years to seek to amend them. The Committee speculated if this suggested the failing was not with the original proposals but with the Department’s implementation of them.

The impression given to both States Members and the general public over the two years since November 2008 is that Guernsey had a Deposit Compensation Scheme that was part pre-funded. It questioned why the Commerce and Employment Department had not made it clear prior to November 2010 that this had not been the case.

The Committee felt it was disingenuous of the Department to suggest that the Island could not miss what it has never had, when the general public and States Members had every right to assume that it did have depositor protection in the form of a part pre-funded scheme, as directed by the States in November 2008.

It was noted that the key driver of the proposed amendments was to remain competitive for banking business. The Committee noted the comments made by its Scrutiny counterparts in Jersey in its review<sup>6</sup> of their Scheme:

*“Deposit Compensation Schemes should not be used as competitive tools. Jersey should have consulted with the Isle of Man and Guernsey with a view to co-operation on developing standard approaches to the protection afforded to depositors”.*

The European Community guidelines indicate a move towards harmonizing funding mechanisms to ensure banks will have to pay on a regular basis to schemes in advance, so a pot of money can be built up, and not only after a bank failure.

Deputy Parkinson had commented publicly that a wholly post-funded Scheme went against the global trend. The Committee stated if the Commerce and Employment Department had researched this or had discussions with Jersey and other jurisdictions to develop a standard approach to their respective schemes, then its States Report remained silent on this important evidence.

The Committee was unconvinced of the effectiveness of the Commerce and Employment Department in carrying out its job mandated by the directions of the Resolutions arising from its November

---

<sup>6</sup> The report from the Jersey Economics Affairs Scrutiny Panel entitled ‘Depositor Compensation Scheme’ may be found on [www.scrutiny.gov.je/](http://www.scrutiny.gov.je/)

2008 report, and resolved to report an update on this issue as part of its review 'Monitoring States Resolutions' in 2011.

### **December States Meeting**

#### **Billet d'État XXV**

- **States of Guernsey Budget 2011 – The Financial Transformation Programme Annual Report**

The Committee considered Appendix 5 of the Budget Report which contained the '*Financial Transformation Programme – Annual Report by the Policy Council*'.

The Committee asked the following question, to all States Members, during the debate:

*"Is this what you expected from the annual report?"*



*Front cover of the "Fundamental Spending Review: Phase 2" Report*

The Committee had noted that the status of each 'opportunity' from the 107 projects originally listed within the FTP detailed various start times. For example, many were to '*commence immediately*' or be '*implemented immediately*' or should be

*'commenced at the earliest opportunity'* or should be '*implemented as soon as possible*'. The Committee was concerned that the annual report presented to the States did not update Members on the status of each of the 107 workstreams. The Committee felt unable to determine which opportunities had been explored, as the report did not provide this information.

The Committee believed that the annual report should serve as the **key document** for members of the public and States Members to learn about the FTP. It felt the report should have summarised the information circulated previously, and inform Members and the public on what the programme has, and will, achieve. At 8 pages, the Committee did not feel the report achieved that.

The Committee concluded that it would have been helpful for the Policy Council to have provided a report with a table appended showing the status against each 'opportunity'. To this end, the Committee stated during debate that it would be corresponding further with the Policy Council on this issue in 2011.

#### **Billet d'État XXIV**

- **Public Services Department – Recycling Targets**

The Public Services Department published its 'Recycling Targets' States Report in the December 2010 Billet. The Department had recommended, as set out in proposition 3, that the States approve the targets for achievement by the end of 2010 as 44% for domestic recycling and 41.5% for commercial recycling.

The Committee was concerned at the Department's recommendation to the States of Deliberation, set out as proposition 3 of the report:

*To approve the targets for achievement by the end of 2010, namely:*

- i. to at least maintain the current out-turn predicted domestic recycling rate of 44% and*
- ii. to achieve a commercial recycling rate of 41.5%.*

The Committee wrote to the Department recommending it amend its report to remove proposition 3 and, if felt necessary by the Department, replace it with a proposition for the States to note the predicted outturn rates.

The Committee believed this was an important change to be made and highlighted to the Department the problems of amending targets at such a late stage in the process, pointing out that it would have no material affect on service planning and driving improvement, and that it *could* be perceived as 'shifting the goalposts' in amending targets to be closer to predicted outcomes. The Committee believed that whilst the role of a target was to show what a service was seeking to achieve, not meeting a target did not necessarily signify failure.

The Department recognised that there was little value in amending the recycling targets for the reasons set out by the Committee and consequently placed an amendment requesting the States noted the predicted outturn rates for 2010, which the Committee, and the States of Deliberation, unanimously supported.

## Adhoc workstreams

- **Governance**

The Public Accounts Committee commissioned the Wales Audit Office in 2008 to undertake a review of governance in the States of Guernsey. The report 'The Review of Good Governance: The States of Guernsey' was published in September 2009.

At that time, the Scrutiny Committee commented critically at a report being produced without recommendations or a clear route map for action by which progress could be monitored and practitioners held to account. A full version of the comments made by the Committee on the WAO report may be found on the scrutiny website.

A successful requête was placed in January 2010:

*"To direct the Public Accounts Committee to report to the States of Deliberation during 2010 with recommendations for improving the governance arrangements of the States of Guernsey within the existing structure of government by committees and consensus and using as a benchmark the six recognised principles of good governance."*

The Committee met with the PAC in 2010 to provide feedback on the sections of the report provided to it and subsequently supplied further information on its workstreams to assist the PAC in ensuring it had up-to-date information to finalise its report, taking into account the Committee's relevant workstreams.

The PAC report is due to be debated at the March 2011 States Meeting and the Committee will consider the report as part of its monthly Billet Meetings.

The Committee recommends, further to the 2012 elections, its successor presents a report to the States of Deliberation on how effective the States of Guernsey has been in conforming to the six Core Principles of good governance, and how these principles have been applied in the Guernsey context.

- **Health and Social Services  
Department – Disability Attendance  
Payments**

In January 2010 the Health and Social Services Department announced the intended removal of attendance payments for people with a disability taking part in occupational activities. However, following public dissatisfaction, the Department subsequently stated that it would retain the payments and re-consider the policy basis of the decision. The Committee wrote to the Department to request details of the Department's internal review on this matter.

The Department informed the Committee that the Social Policy Group's review into supported employment involves coordination of a number of different workstreams into one overall package. Issues relating to the employment of people with disabilities would be considered as part of a wider Disability Strategy. Attendance payments would form part of the ongoing discussions around the employment of people with disabilities. The Department stated that once the group had formulated a proposal on the strategy relating to employment, including attendance payments, a consultation process would take place with all the relevant parties. However, given the enormity of the task in coordinating the overarching and interrelated strategies, and the work on the Disability Strategy being in the early stages, the Department was unable to indicate a timescale for when the specific

issue of attendance payments might be addressed.

The Committee sought clarification on where the political and operational responsibilities for the Disability Strategy lie. The Department has responded that political responsibility for strategic development and coordination of the strategy currently lies with the Social Policy Group, which is a subgroup of the Policy Council. However, operational responsibility for any initiatives arising from the disability strategy would be taken forward by individual departments.

The Committee will be investigating further how service-level decisions, such as those made regarding attendance payments, fit with higher level policy through the Policy Plans and States Strategic Plan.

- **Human Resources policies**

In 2009, the Committee looked at how HR policies had been implemented within the civil service in respect to a case which, at the time, received a high level of media scrutiny.

The Committee was interested to learn:

- How the case reflected on States HR policies;
- Whether the policies were implemented effectively;
- Whether the case suggested areas in which policy or service delivery needed to be improved;
- Whether there had been appropriate accountability in this instance and, if not, what steps might need to be taken (and by whom) to give such assurance.

The Committee was mindful of the sensitivities regarding becoming involved

in the operational aspects of an employment case, however wished to seek an assurance that the Policy Council was ensuring policies were robust and implemented successfully.

The Policy Council undertook an internal review of the case and provided the Committee with its key findings and learning points. It provided the Committee with the assurance that the broader policy and procedural issues would be addressed as part of the HR Management workstreams within the Financial Transformation Programme (FTP).

The Committee subsequently met with the Head of HR and Organisational Development to learn more about the FTP Human Resources workstreams, including the key priorities, what had been undertaken to date, and the next steps for the workstream.

- **PFOS**

Following the 'Guernsey Airport - Pavements Rehabilitation' Report featured in the September 2009 Billet D'État, the Scrutiny Committee wrote to the Public Services and Health & Social Services Departments to obtain details of how the Departments identified the pollution at the Lovers Leap outfall and the Beau Vallee and how the problems were addressed.

Scrutiny Chairman, Deputy Barry Brehaut stated:

*"The Committee has determined that the PFOS water pollution issue is one of public importance which merits further investigation. The Committee has asked questions of the relevant Departments to obtain a clearer picture of the events leading up to this pollution, and the action taken to remedy the situation".*

The Committee has liaised with the Public Services Department and the Health and Social Services Department on this matter. It has received assurances that monitoring of local water is ongoing, which has confirmed that the supply to Islanders continues to comply with the UK Drinking Water Inspectorate's guidelines for 'wholesomeness'.

Most importantly, the Committee received an assurance from the Director of Public Health that the levels of PFOS that are in the local water supply do not pose a significant risk to human health. He also provided the assurance that he would continue to monitor the situation and provide appropriate public health advice and that should there be any change, he would take whatever action he considered necessary in accordance with his responsibilities for the community's public health.

The Committee accepted the assurances provided by the Director of Public Health, requested it be kept informed of developments as they occur and stated its commitment to continue to monitor this issue.

The Committee commented publicly on this issue during the States debate in February 2010 as follows:

*"The Committee considered the information provided by the Departments at its meeting on 20<sup>th</sup> January 2010 and concluded that the Departments were taking the appropriate steps to address the areas of concern identified by the Committee.*

*The Departments' work in this area is ongoing, for example the Public Services Department continues to check the water quality and is taking steps to remove the residual pollution at the airport. The Scientific Technical Advisory Group has commissioned further research into this*

*matter. The Scrutiny Committee has undertaken to monitor the performance of the Departments in carrying out this work, including checking that it is completed within a reasonable timescale. The Departments responsible must be allowed to get on with their jobs and, once the ongoing work has been concluded, the Committee will ensure that questions are answered in public.*

*The important point to note is the assurance from the Director of Public Health that there is no ongoing risk to public health. States Members would be advised to be mindful of the Director of Public Health's warning that the greatest danger to public health is in the inaccurate reporting of health risks that generates unnecessary and ill-founded fears."*

## Liaison with other Scrutiny Bodies

### • ***Committee Secretariat Network***

The Committee Secretariat Network is a group which meets once a year, consisting of staff representatives from parliamentary select committees, including:

- The House of Commons
- The House of Lords
- London Assembly
- Scrutiny Jersey
- National Assembly for Wales
- Scotland
- Northern Ireland
- Ireland
- Isle of Man

A staff representative from Scrutiny Guernsey was unable to attend the 2010 meeting held at the National Assembly for Wales. However, a paper from staff was contributed for discussion by members on its workstream '*Monitoring States Resolutions*' to obtain feedback from other jurisdictions on the challenges faced in ensuring policy and political commitments made are delivered. Members were asked to specify what methods they used to hold Departments and Committees to account on these commitments and what challenges and successes the Committees had had.

The feedback from the meeting was that the paper was well received with lively discussion on the topic. The responses provided will be fed into the '*Monitoring States Resolutions*' States Report to compare and contrast different jurisdictions approaches to this issue.

### • ***Isle of Man Select Committee***

The Chairman of the Committee received a request from the Select Committee of Tynwald, Isle of Man, for information on the advantages and disadvantages of the scrutiny system in Guernsey. The request was further to a Select Committee being established by Tynwald in June 2010, pursuant to the following Resolution:

*"That a system of Standing Committees relating to the work of Government departments be assessed and the implications and benefits of establishing such a system of committees, including the provision of an impact assessment identifying the costs and staffing requirements associated with such introduction be identified, and that a committee of five members be established to consider this matter and to report to Tynwald by no later than December 2010."*

The Scrutiny Chairman provided a comprehensive response to this request in August 2010. This contribution was used as part of the evidence base in the production of the '*Select Committee of Tynwald on the Committee System Report, 2010 – 2011*<sup>7</sup>.

### • ***Jersey's Scrutiny Committee***

The Committee is committed to ensuring a good standard of communication between the two Committees.

---

<sup>7</sup> The report may be found at <http://bit.ly/epBEgd> and should be read with a correction which may be found at <http://bit.ly/eBQk3K>

## The role of the Scrutiny Committee

Further to the States of Guernsey resolving to appoint a Tribunal of Inquiry to examine the Airport Fire dispute, the Scrutiny Committee took the opportunity to reflect on what it believed to be the opportunities and barriers to the Committee in fulfilling its part in strengthening government accountability.

The findings of this review were detailed in the report *'Scrutiny Committee Performance Report and Forward Work Programme'*, presented to the States in February 2009<sup>8</sup>.

### Legal access to evidence

Further to some suggestions that the current Scrutiny process lacked 'teeth', the Committee considered whether it should seek more formal powers, and examined the role of 'call-in' powers as operated in the UK.

The Committee had concluded that to seek legal powers at this point in its evolution was unnecessary, as its experience had been that most Departments and individuals co-operated fully with the current scrutiny process. It also believed it would be an unnecessary burden on the legislative programme.

The Committee will reconsider its view on the appropriateness or otherwise of legal powers towards the end of its term.

### Dual scrutiny / executive roles

From a small sample, a number of respondents to the WAO<sup>9</sup> review of governance expressed concerns about the

independence of the scrutiny process on the basis that membership of the Committee does not preclude membership of a departmental political board with decision-making authority.

The Committee considered this and found the ability of Scrutiny Committee Members to sit on another Committee or Department was a positive asset to the process, providing genuine peer to peer scrutiny, with members having a better understanding of the operation of government and insight into the everyday political culture. As it stated in the report,

*"The Committee does not accept that the maintenance of a strong scrutiny function demands the exclusion of members from a decision-making role, but is mindful that other forms of control are therefore all the more necessary to protect the integrity and objectivity of the process. Therefore, the Committee has developed comprehensive guidelines that mitigate any possible or perceived conflict of interest. Members are excluded from scrutinising aspects in which they have had a departmental decision-making role and the Committee's makeup of nine members ensures the business of the Committee can continue uninterrupted."*

### Memorandum of Understanding

As part of the process, the Committee resolved to develop a 'Memorandum of Understanding' to clearly outline the expectations of the Committee ('the scrutineer') and Departments and Committees (the scrutinised).

Work on this is ongoing and a Memorandum will be published prior to the 2012 elections.

<sup>8</sup> Billet D'État - IV 2010, Article 13

<sup>9</sup> Wales Audit Office

**Committee's position at end of 2010**

The Committee remains of the view that that it would be premature to consider fundamental changes to its structure or the adoption of legal powers at this time. However, it is committed to keep its processes and procedures under regular review in order that it can instigate change where appropriate.

## Managing Performance

In October 2009, the Committee agreed to develop performance indicators (PI's) to measure its performance in reflecting the concerns of, and engagement with, the public; and in delivering the 'critical friend' function to States' Departments.

The performance indicators are monitored on a quarterly basis:

- Quarter 1 – May to July
- Quarter 2 – August to October
- Quarter 3 – November to January
- Quarter 4 – February to April

The results for each indicator are provided in this section alongside a commentary against each one. As monitoring only commenced in November 2009, the year 2009 – 2010 only shows the 3<sup>rd</sup> and 4<sup>th</sup> quarter results<sup>10</sup>.

It is important to state that performance indicators are not the only means by which the Committee evaluates its performance. An 'action plan' and timetable is formulated for each review undertaken by the Committee. The full Committee also receives monthly 'review updates', where the Lead Member for each Panel gives a short presentation on the work the Panel has completed, and outlines the future work that the Panel intends to undertake.

As previously stated under the 'Forward Work Programme' section of this Report, the Committee also met in December 2010 to take a retrospective look at its record.

The Committee carries out structured monitoring of the implementation and effects of its reports and

<sup>10</sup> The media monitoring performance indicator commenced in May 2010, therefore results shown are for 2010 – 2011 only.

recommendations, which it makes publicly available. The Committee also reports to the States on individual reviews and with its summary performance reports such as this one.

## Scrutiny Performance Indicators

### Reflecting the concerns of and engaging with the Public

<b>PI 1A</b>	The number of written representations received from members of the public or private organisations in relation to topics being considered by Scrutiny
--------------	---

Quarter	1	2	3	4
2010/11	2	18	194	n/a
2009/10	n/k	n/k	0	1

The purpose of this indicator is to ensure that the Committee takes into account, where appropriate, the views of the public as part of the review process.

- The 4<sup>th</sup> quarter figure for 2009 – 2010 relates to an inquiry from a member of the public regarding the Disability Attendance Allowance, which the Committee pursued as detailed in *'Health and Social Services Department – Disability Attendance Payments'* on pages 29 - 30 of this report.
- The 1<sup>st</sup> quarter figures for 2010 – 2011 relates to queries the Committee received regarding the delay to the animal welfare legislation, as detailed in *'Animal Welfare Legislation'* on page 16 of this report.
- The figures in the second and third quarters for 2010 – 2011 relate mainly to contributions to the School Exclusions and Disruptive Behaviour review consultation. The 194 written

representations received in the third quarter include the questionnaire responses from teachers, head teachers and respondents to the public questionnaire, alongside other submissions received by letter, e-mail and the Scrutiny Facebook page.

<b>PI 1B</b>	The number of visits to the States' Scrutiny web-page
--------------	---

Quarter	1	2	3	4
2010/11	80	26	38	n/k
2009/10	n/k	n/k	18	36

This indicator measures the number of visits made to the Scrutiny webpage on the States of Guernsey website. The figure excludes hits from internal States IP addresses.

As shown, the Committee's webpage receives a small number of visitors. As a comparison, the Public Accounts Committee provided the equivalent data for their page, which showed similarly low figures.

The Committee subsequently considered alternative means of engaging with the general public through the internet. This resulted in the development of the 'Scrutiny Guernsey' Facebook page in February 2010. Further information on the success of this initiative is held in the 'Public Engagement Review' section of this report.

The Committee has been pleased that developing this page has enabled members of the public to write to the Committee in a more informal setting, through the Facebook e-mail function, with people asking questions or making comments regarding the Committee's reviews.

## Provision of a 'Critical Friend' function to States' Departments

The Committee accepts it is difficult to statistically determine the effectiveness of the 'critical friend' function it provides to Departments and Committees.

As shown in the 'Scrutiny in the States' section, the Committee has often raised points for consideration by States Members and Departments on policy reports without making specific recommendations.

It is, however, possible to monitor the number of recommendations the Committee has formally made to Departments and Committees and to judge whether these have been accepted.

<b>PI 2a</b>	The number of scrutiny recommendations made to the States/ Departments
<b>PI 2a</b>	The percentage of scrutiny recommendations accepted by the States/Departments

Quarter		1	2	3	4
2a	10/11	8	0	1	n/k
2b		100%	0	100%	n/k
Quarter		1	2	3	4
2a	09/10	n/k	52	0	0
2b		n/k	n/k	69%	0

The bulk of recommendations made by the Scrutiny Committee in 2009 - 2010 were contained in the 'Investigating Vandalism' report as shown in the 2<sup>nd</sup> and 3<sup>rd</sup> quarter.

Due to the ongoing work on the Committee's major reviews which will be published in 2011, the recommendations made by the Committee have been on ad hoc workstreams, as demonstrated in the first quarter of 2010 - 2011.

The Committee has continued to make suggestions or comments as part of the monthly Billet d'État meetings. Therefore, whilst the number of recommendations made by the Committee may seem limited, it has made a valuable contribution in providing a 'critical friend' function that is not recorded in these statistics.

### Media Coverage Indicator

<b>PI 1c</b>	The number of media releases/ comments that are published or broadcast
--------------	--

Quarter	1	2	3	4
2010 /11	5	9	13	n/k
2009/10	n/k	n/k	n/k	25

In February 2010, it had been agreed to monitor the coverage received by the Scrutiny Committee in the media, to measure Scrutiny's media profile.

The Committee developed a performance indicator which measures the number of media releases which are published or broadcast, alongside publication of comments made by Members on behalf of the Committee.

This indicator therefore does not measure every mention the Committee receives in the media. To measure this, the Committee also undertakes an audit of all 'positive and negative' news stories to informally assess how scrutiny is presented in the media. However, as this is a subjective judgement made by the Committee, there is not a performance indicator to reflect this monitoring.

### Future indicator: Stakeholder views of the Committee

The Public Engagement Panel will consider, as part of its review, the best means to assess stakeholders' understanding of the Scrutiny function, as part of developing the Committee's own engagement strategy. It will conclude whether a performance indicator can be formulated to measure this statistically.

## Contact Details

Scrutiny Committee  
Sir Charles Frossard House  
La Charroterie  
St Peter Port  
GY1 1FH



**Direct Line:** 01481 717133  
**Switchboard:** 01481 717000  
**E-mail:** [scrutiny@gov.gg](mailto:scrutiny@gov.gg)  
**Website:** [www.gov.gg/scrutiny](http://www.gov.gg/scrutiny)



The Scrutiny Committee operates a Facebook account to improve its engagement with the public. Facebook members who wish to become a 'friend' of '[Scrutiny Guernsey](https://www.facebook.com/ScrutinyGuernsey)' will see news updates on the Committee's activities and receive invitations to events.

## SCRUTINY COMMITTEE MEMBERS



**Deputy Barry Brehaut**  
Chairman  
[bazol@cwgsy.net](mailto:bazol@cwgsy.net)  
Tel: 232914

**Deputy Matt Fallaize**  
Vice-Chairman  
[mattfallaize@cwgsy.net](mailto:mattfallaize@cwgsy.net)  
Tel: 241333



**Deputy David De Lisle**  
[david.delisle@cwgsy.net](mailto:david.delisle@cwgsy.net)  
Tel: 263077

**Deputy Mike Garrett**  
[garrett@cwgsy.net](mailto:garrett@cwgsy.net)  
Tel: 258227



**Deputy John Gollop**  
[johngollop@gmail.com](mailto:johngollop@gmail.com)  
Tel: 715099

**Deputy Mike Hadley**  
[mikehadley@cwgsy.net](mailto:mikehadley@cwgsy.net)  
Tel: 232717



**Deputy Jan Kuttelwascher**  
[jankuttelwascher@yahoo.co.uk](mailto:jankuttelwascher@yahoo.co.uk)  
Tel: 726312

**Deputy Rhoderick Matthews**  
[rhodmat@aol.com](mailto:rhodmat@aol.com)  
Tel: 729642



**Deputy Sean McManus**  
[sjmcmanus@cwgsy.net](mailto:sjmcmanus@cwgsy.net)  
Tel: 259654

The States are asked to decide:-

IX .- Whether, after consideration of the Report dated 23<sup>rd</sup> March, 2011, of the Scrutiny Committee, they are of the opinion:-

To note the Scrutiny Committee's 2009 - 2010 performance report entitled "Guernsey Scrutiny".

## **STATES ASSEMBLY AND CONSTITUTION COMMITTEE**

### AMENDMENTS TO THE REFORM (GUERNSEY) LAW, 1948, AS AMENDED THE RULES OF PROCEDURE OF THE STATES OF DELIBERATION THE RULES RELATING TO THE CONSTITUTION AND OPERATION OF STATES DEPARTMENTS AND COMMITTEES THE CODE OF CONDUCT FOR MEMBERS OF THE STATES OF DELIBERATION

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

28<sup>th</sup> March 2011

Dear Sir

### **EXECUTIVE SUMMARY**

This report proposes amendments to:

- ❖ the Rules of Procedure of the States of Deliberation
  - requiring the inclusion at the end of a report of the names of each member of the Department or Committee submitting it for debate;
  - providing that meetings not concluded on the Friday of the first week shall normally be adjourned to the day immediately before the States Meeting next following;
  - prescribing an order for business at States' meetings;
  - providing in certain circumstances for an adjournment before debate on an article is opened;
  - allowing proposers of amendments which may go further than the propositions to speak prior to the Presiding Officer's ruling thereon and also providing that decisions not to debate or to postpone debate on such amendments be carried by a simple majority rather than by one-third of the States;
  - excluding Saturdays, Sundays and Public Holidays when determining certain functions;

- requiring proposers of motions of no confidence to give the respondent an opportunity to resign before submitting the motion for debate;
  - repealing the requirement that candidates for the office of Chief Minister shall have held office as a People's Deputy for not less than four years in the eight years preceding the date set for the election;
  - confirming that a motion to annul may be proposed either at the meeting at which a Statutory Instrument or Ordinance is laid or at the next meeting.
- ❖ the Rules relating to the Constitution and Operation of States Departments and Committees
- permitting the use of electronic means for the purpose of recording the decisions made at meetings of Departments and Committees;
- ❖ the Reform (Guernsey) Law, 1948, as amended and the Code of Conduct for Members of the States of Deliberation
- extending the provisions of the Code of Conduct to former Members of the States of Deliberation, where the context so permits;
- ❖ the Code of Conduct for Members of the States of Deliberation
- removing the provision that a Member under investigation may appoint one of the members of the Investigation Panel.

## **REPORT**

### **THE RULES OF PROCEDURE OF THE STATES OF DELIBERATION**

#### ***Rule 2 – Reports, etc. in Billets d'État***

1. States reports are usually submitted under the name of the Minister or Chairman of the Department or Committee submitting the report: occasionally reports are submitted under the name of a Deputy Minister or Vice-Chairman or some other member. Members can easily acquaint themselves with the identity of the remaining members of the Department or Committee simply by referring to the membership list in the silver ring-binder.
2. However, when reading historical reports it is almost impossible to ascertain the membership of the Department or Committee concerned without laborious research. It can be more than a passing interest when carrying out research to know precisely who served on a Department or Committee at the time a particular report was drafted.

3. The Committee is therefore recommending that the name of every member of the Department or Committee submitting a report to the States be appended immediately after the signature of the person submitting the report.
4. The following change to Rule 2 is therefore proposed:
  - after paragraph (2) insert:
 

“(3) In the Reports referred to in paragraph (1), immediately after the name of the person signing the Report, there shall be added the name of each other member of the Department or Committee submitting the Report whether or not he personally endorses all of its recommendations.”.

***Rule 3 – Hours of sittings, extensions and adjournments***

5. Rule 3 sets out the hours of sittings, extensions and adjournments. Normal hours are prescribed as 9.30 a.m. to 12.30 p.m. and 2.30 p.m. to 5.30 p.m. with possible extensions of not more than one hour.
6. Although not explicitly stated, meetings usually commence on a Wednesday with adjournments to the Thursday and Friday if necessary. If business remains at the end of the Friday the meeting is normally adjourned to the second Wednesday next following, continuing if necessary on the Thursday and Friday of that week.
7. The States’ sessions in the three years 2008, 2009 and 2010 (excluding the special election-only meetings in May 2008) can be summarized as follows:
 

1 day	4
2 days	16
3 days	10
4 days	2
5 days	1
8. In that three-year period meetings have only been adjourned to the Wednesday next following on three occasions and only once has it been necessary to sit on the Thursday next following. That being so, the Committee, by a majority, believes that there would be merit in amending the Rule to the effect that business not completed on the Friday of the main week be adjourned to the day immediately preceding the next normal meeting date. In the three years reviewed this would have been insufficient on only one occasion in that period.
9. The advantage of so doing would be that Members would know with reasonable certainty that in each month (save in an emergency) there would be a three-week period in which the States would not sit. It would be less disruptive with regard to scheduled meetings of departments and committees and it would free up the Royal Court for two further days each month for court use.

10. The following change to Rule 3 is therefore proposed:

- in paragraph (3) –

delete the words “second Wednesday next following,” in sub-paragraph (c) and substitute therefor “the day immediately preceding the first day of the next meeting of the States.”.

***Rule 5 – Question time***

11. The change to this Rule is consequential to the proposed change to Rule 9 set out below which, if approved, will set out the order in which States business will be taken. The proposed amendment to Rule 5 will not alter the substance of that Rule – it will simply make it conform with the revised Rule 9.

12. The following change to Rule 5 is therefore proposed:

- in paragraph (5) –

delete the words “Before the commencement of the business contained in a Billet d’État,” and substitute therefor “At the time prescribed in Rule 9,”

***Rule 8 – Statements***

13. The change to this Rule is consequential to the proposed change to Rule 9 set out below which, if approved, will set out the order in which States business will be taken. The proposed amendment to Rule 8 will not alter the substance of that Rule – it will simply make it conform with the revised Rule 9.

14. The following change to Rule 8 is therefore proposed:

- delete the existing Rule and substitute therefor –

“(8) Any Member who has obtained permission from the Presiding Officer to make a statement on any matter which, in the opinion of the Presiding Officer, should be made, may make that statement

(i) at the time prescribed in Rule 9, or

(ii) at such other time as the Presiding Officer may direct.”.

***Rule 9 – The Business of the Meeting***

15. Rule 9 states that the business in a Billet d’État shall be taken in the order in which that business appears therein. However, there are two provisos to that

general rule: first, that the States may resolve to take articles in a different order and second, that the Presiding Officer may allow a Rule 10 Urgent Proposition to be submitted at any convenient time.

16. The practice followed in recent years has been to dispose of articles which might loosely be termed non-policy matters early in the proceedings, notwithstanding the fact that they may not be taken in the order in which they are published in the Billet d'État. The Committee, having discussed the matter with the Bailiff, has concluded that it would be of assistance if an appropriate order for the discharge of States' business were set out in the Rules. In the proposal set out below it will be noted that the two provisos referred to in the previous paragraph will still be retained.
17. The following change to Rule 9 is therefore proposed:

- Delete the existing Rule and substitute therefor: -

“(9) (i) Subject to the provisions of Rule 4 and unless the States resolve otherwise, the business at a meeting convened by one or more Billets d'État shall be taken in the following order: -

- (a) Communications by the Presiding Officer, including *in memoriam* tributes
- (b) Statements
- (c) Questions
- (d) Motions to debate an appendix report (1<sup>st</sup> stage)
- (e) Motions to approve Projets de Loi
- (f) Motions to approve draft Ordinances
- (g) Laying of Ordinances
- (h) Laying of Statutory Instruments
- (i) Motions to annul a Statutory Instrument or Ordinance
- (j) Elections
- (k) Motions of No Confidence in the Chief Minister or Deputy Chief Minister
- (l) Motions of No Confidence in a Department or Committee
- (m) Reports pursuant to paragraphs 33 and 34 of the Code of Conduct for Members of the States of Deliberation
- (n) Articles adjourned or deferred from previous meetings of the States
- (o) Reports of the Policy Council
- (p) Reports of States Departments
- (q) Reports of Parliamentary Committees
- (r) Reports of other States Committees

- (s) Requête
  - (t) Motions to debate an appendix report (2<sup>nd</sup> stage).
- (ii) In the case of a proposition to which Rule 10 applies, the Presiding Officer may, in his discretion, permit such proposition to be submitted to the States at any convenient time.”.

### ***Rule 12 – Rules of Debate***

18. Rule 12 (1) provides, inter alia, that the person responding to a debate may, immediately before so doing, request an adjournment of the debate of not more than 15 minutes. There is, however, no specific provision for seeking an adjournment before a debate commences.
19. In the vast majority of cases the efficient running of the States requires one article to commence immediately following the conclusion of the previous article. However, when the States have spent several hours – perhaps even days – on a far-reaching or contentious proposal there is an understandable tendency for a large number of States Members to absent themselves from the Chamber.
20. This however, places the person opening the next debate at a disadvantage because a relatively large proportion of the Members will be absent for at least part of the opening speech. For that reason the Committee is recommending an amendment to the Rule which would allow the person opening a debate to request an adjournment of up to 15 minutes. Whilst it is not intended to propose any restriction on the use of this provision, the Committee nonetheless hopes that the States will generally reserve its use to the circumstances set out above.
21. The following change to Rule 12 is therefore proposed: -
  - In paragraph (1) delete all the words after “reply on the debate”;
  - After paragraph (1) insert:
 

“(1A) Immediately before opening or replying on a debate, the representative referred to in paragraph (1) may propose an adjournment of not more than 15 minutes. Such a proposal shall be put to the States by the Presiding Officer without debate.”.

### ***Rule 13(6) – Amendments which go further than the propositions***

22. This Rule provides that the States may decide either that an amendment which goes further than the proposition be not debated or that debate thereon be postponed. A proposition to not debate or to postpone takes effect if supported by not less than one-third of the Members voting.

23. The reason for the rule is to prevent uninformed decisions being taken when Members consider that insufficient information is before the States. However, the Committee believes that it is inconsistent with democratic principles for a mechanism to exist whereby one-third of Members can block debate on a matter which the majority, and indeed up to two-thirds, of Members wish to debate. That being so the Committee has concluded that motions that an amendment be either not debated or postponed should be carried or lost by a simple majority of Members present, and so proposes.
24. Concern was expressed in the course of a recent debate that the proposers of amendments were not afforded the opportunity of speaking to their amendments before Members questioned whether the amendment went further than the propositions. The Committee notes that the Rules do not afford the proposer a right to speak before the challenge is made.
25. However, the Committee also notes that in Rule 13(4) [which requires seven Members to indicate that they wish an amendment to be debated] there is a specific provision that such a motion can be proposed only “immediately after an amendment or sursis has been proposed and formally seconded (i.e. before any speech by its seconder or further debate”. There appears to be no reason why such a right should not be extended in respect of Rule 13(6).
26. The following change to Rule 13 is proposed: -
  - delete paragraph (6) and substitute therefor: -
    - “(6) Immediately after an amendment has been proposed and formally seconded (i.e. before any speech by its seconder or further debate) any Member may request the Presiding Officer to rule whether the amendment goes further than the original proposition. If the Presiding Officer so rules, that Member, or any other Member, may then propose:
      - (a) that the amendment be not debated and no vote be taken thereon; or
      - (b) that debate on the amendment be postponed.

The proposal shall be put to a vote without debate. Where a proposal that debate on the amendment be postponed is carried the Presiding Officer shall lay the amendment before the States on a suitable occasion.”.

***Rule 18 – Motions of no confidence in a Department or Committee***

***Rule 19 – Motions of no confidence in Chief Minister or Deputy Chief Minister***

27. These two Rules provide that a motion of no confidence is one that requires the immediate resignation of all the members of a Department or Committee or the

Chief Minister or the Deputy Chief Minister, as the case may be (hereinafter referred to as “the respondent”). Such motions must set out the full details of the basis on which the motion is brought.

28. Such motions have a profound impact on the work of the respondent and for that reason should not be proposed lightly. The Committee is not suggesting that motions of no confidence have been brought in the past without appropriate consideration but it does feel that the procedure is lacking in one particular regard.
29. At present the requérants (i.e. the proposers of the motion of no confidence) are not obliged to give the respondent advance notice of their intention to propose the motion of no confidence. The Committee takes the view that justice would be better served if the respondent were first given the opportunity to resign.
30. Under the proposed scheme a motion of no confidence would have to include a statement to the effect that the respondent had been invited in writing to resign, but had not done so. The invitation could not, of course, be open-ended: consequently it is proposed that the respondent be invited to tender a resignation (pursuant to Rule 7 of the Rules relating to the Constitution and Operation of States Departments and Committees) within five days (excluding Saturdays, Sundays and Public Holidays). The absence of a resignation so tendered would enable the requérants to proceed with the motion of no confidence. In the case of a motion of no confidence in a Department or Committee the resignations of all the members would be required to prevent the motion from proceeding.
31. The following change to Rule 18 is therefore proposed: -
  - In paragraph (3) before the words “a statement” insert: “(a)”;
  - At the end of paragraph (3) replace the full-stop with a semi-colon and insert:
 

“(b) a statement that all the members of the Department or Committee, including the Minister or Chairman thereof, were invited in writing to tender their resignations of such membership and that all or some of them had not done so within five days (excluding Saturdays, Sundays and Public Holidays) of that invitation.”.
32. The following change to Rule 19 is therefore proposed: -
  - In paragraph (3) before the words “a statement” insert: “(a)”;
  - At the end of paragraph (3) replace the full-stop with a semi-colon and insert:
 

“(b) a statement that the Chief Minister or Deputy Chief Minister, as the case may be, was invited in writing to tender his resignation

of that office and that he had not done so within five days (excluding Saturdays, Sundays and Public Holidays) of that invitation.”.

### ***Rule 20 – Elections***

33. In general, throughout the Rules of Procedure, reference is made either to “clear” days or days which exclude Saturdays, Sundays and Public Holidays. Rule 20(1A)(a) requires the Chief Minister to notify H. M. Greffier of his intended nominations and order of elections for the offices of Ministers and Chairmen not later than 4.00 p.m. on the day preceding the meeting of the States convened for those elections. In the event that such a meeting were to be held on a Monday this would mean that H. M. Greffier would have to receive the information on the Sunday which the Committee does not believe was the intention of the States when this Rule was approved. For that reason it recommends that weekends and holidays be specifically excluded.

34. Rule 20 (2A) of the Rules of Procedure is in the following terms:

*“Any Member of the States shall be eligible to hold the office of Chief Minister provided that he shall have held the office of People’s Deputy for a period of not less than four years in the eight years immediately preceding the date set for election of a Chief Minister.”*

35. This Rule was approved by the States on the 27<sup>th</sup> April 2006 following consideration of a Report from the then House Committee. At that time the Committee considered that whilst the introduction of a ‘previous experience’ rule was unnecessary in respect of other offices, a majority supported the introduction of such a rule with regard to the office of Chief Minister.

36. The present Committee has again considered whether or not such a constraint should be applied only to the office of Chief Minister, or to all offices or to none and has concluded that no office should be subject to a ‘previous experience’ rule. The Committee, by a majority, believes that Members of the States should be free to choose the person to hold any particular office and should not be constrained by a requirement to select someone with at least four years’ service in the past eight years, and so recommends.

37. The following changes to Rule 20 are therefore proposed:

- in paragraph (1A) after the words “on the day” insert “(excluding Saturdays, Sundays and Public Holidays)”;
- delete paragraph (2A).

***Rule 21 – Motion to debate an Appendix Report***

38. The change to this Rule is consequential to the proposed change to Rule 9 set out above which, if approved, will set out the order in which States business will be taken. The proposed amendment to Rule 21 will not alter the substance of that Rule – it will simply make it conform with the revised Rule 9.
39. The following change to Rule 21 is therefore proposed:
- in paragraph (4) –  
delete the words “immediately before the commencement of the ordinary business listed for debate in the Billet d’État containing the appendix report to which the motion relates” and substitute therefor “at the meeting convened to consider the business listed in the Billet d’État containing the appendix report to which the motion relates and at the time prescribed in Rule 9”;
  - in paragraph (5) –  
delete the words “the conclusion of the ordinary business for debate in the said Billet d’État” and substitute therefor “the time prescribed in Rule 9”.

***Rule 22 – Motion to annul a Statutory Instrument or Ordinance***

40. Rule 22 provides that a motion to annul can be proposed either at the meeting at which the Statutory Instrument or Ordinance is laid, or at the subsequent meeting. However, at a meeting earlier this year there was some confusion regarding that provision.
41. That being so the Committee proposes a simple amendment to the Rule which would put the matter beyond doubt.
42. The following change to Rule 22 is therefore proposed:
- After paragraph (3) insert -  
“(3A) Unless the enactment governing the instrument otherwise provides, a motion to annul may be proposed either at the meeting at which the Statutory Instrument or Ordinance is laid before the States or at the next subsequent meeting.”.

**THE RULES RELATING TO THE CONSTITUTION AND OPERATION OF STATES DEPARTMENTS AND COMMITTEES**

***Rule 14 – Recording of Minutes***

43. Rule 14 provides, inter alia, that a civil servant shall keep an independent record of the decisions made at meetings and that the notes taken pursuant to that

requirement shall be kept in a notebook reserved exclusively for that purpose. The Committee has been advised that some Departments are desirous of using electronic means to record decisions but feel constrained from so doing because of the precise wording of this Rule about a “notebook”. The Policy Council supports, in principle, the use of means such as “electronic tablets” to record Department and Committee decisions.

44. An electronic tablet is a device that can be used either as a standard laptop computer or as a touch screen writing pad. Data can therefore be entered both by standard computer input and by writing on the screen with a stylus (a pen-like input device). As long as the handwriting is reasonably neat and comprehensible to the human eye, the tablet is able to understand it and convert it into text with a high degree of accuracy. This ‘raw’ text can then be refined to produce a final set of minutes, in the same way that minutes recorded in the conventional way in a book are refined by the minute-taker following the meeting.
45. The Law Officers Chambers have confirmed that pursuant to the Electronic Transactions (Guernsey) Law, 2000 records of a Department’s or Committee’s decisions taken on a tablet would be valid, but suggested that the current requirement for a notebook might cause confusion.
46. The following change to Rule 14 is therefore proposed: -
  - in paragraph (2) for “notebook” wherever appearing substitute “paper notebook or electronic data file”.

#### **CODE OF CONDUCT FOR MEMBERS OF THE STATES OF DELIBERATION**

##### ***Paragraphs 18, 18A and 19***

##### ***Confidential information – applicability of the Code to former Members of the States***

47. Paragraphs 18, 18A and 19 of the Code of Conduct for Members of the States of Deliberation relate to confidential information which States Members receive in the course of their duties. If such information is used other than in the discharge of those duties Members concerned would be subject to discipline as set out in Part III of the Code. The Code applies to elected Members of the States currently in office and “*where the context so permits*” to Non-States Members of States Departments and Committees.
48. Whilst the Civil Service code falls outside the Committee’s mandate, the Committee nonetheless notes that it states that staff “*must not misuse their official position or information acquired in the course of their official duties to further their private interests or those of others, nor must they disclose confidential information without authority. This duty continues to apply after they leave the Civil Service.*”. Further, the Declaration of Secrecy signed by civil servants also states that “*this obligation continues to apply after the termination of my employment*”.

49. The Committee is of the opinion that the continuing obligation on Civil Servants after they have left the service of the States should be mirrored in the Code of Conduct for States Members.

50. H M Procureur has advised the Committee in the following terms:

*“I will deal first with confidentiality in general. In that respect it is in my view pertinent to remember that paragraphs 18, 18A and 19 of the Code of Conduct, in contrast to some of the Code’s other provisions, are largely restatement of independently existing civil and criminal law duties and prohibitions which do, as a matter of law, continue beyond the period of a person’s membership of the States. For example:*

- *a former member who uses confidential information learned by virtue of his former office for purposes of financial gain etc. may very well be guilty of criminal offences, such as corruption, and/or incur tortious liability to the States and/or other parties;*
- *equally a member who unlawfully discloses personal information about named individuals which he received by virtue of his former office may be guilty of a Data Protection Law offence, and/or may be civilly liable in damages to those individuals and possibly others affected, either directly or by way of indemnification of the States.*

*In reality, therefore, the position of former States Members in these respects is only different from that of former States Employees in that the latter are subject to contracts of employment through which the States can exert additional leverage not directly available in the case of former members. That said, there can in my view be no harm in specifically saying in the Code of Conduct for States Members that those obligations imposed in general law of course continue after their membership has ceased.*

*It must surely be possible to do that even if the power in Section 20F of the Reform Law to make Codes of Conduct does not extend to post-membership conduct. Insofar as concerns Code of Conduct requirements simpliciter – i.e. those which do not merely reflect the general law – I think the best view probably is that the extension of such a requirement post-membership would be more soundly based if underpinned by a modification of Section 20F (which could of course be achieved by Ordinance under Section 20(H)(1)(a)) although I am not sure that there would be much meaningful sanction.”.*

51. Members of the States who are held by the States Members’ Conduct Panel to have breached the Code may be cautioned, reprimanded, suspended, removed from a particular office or expelled from the States. The Committee considers

that those sanctions (other than suspension, removal from office or expulsion from the States) would be meaningful in their application to former members of the States given the degree of opprobrium which would attach to such sanctions. Some former Members of the States are elected as non-States Members of Departments and Committees and in such cases they could be suspended or removed from any such office.

52. The Committee therefore proposes that the Reform (Guernsey) Law, 1948, as amended be further amended to include former Members of the States of Deliberation within the terms of Article 20F thereof. The following change to Paragraph 50 of the Code of Conduct is also proposed:
  - in the heading after the words “Applicability to” insert  
“Former Members of the States of Deliberation and”;
  - after the words “apply to” insert  
“(i) former Members of the States of Deliberation, and  
(ii)”

***Paragraph 28 – Procedure for Complaints – nomination of Investigation Panel***

53. The States Members’ Conduct Panel comprises a Chairman, Deputy Chairman and eight ordinary members, all of whom are appointed by the Presiding Officer for a period of five years.
54. When the Chairman of the States Members’ Conduct Panel is satisfied that there is *prima facie* evidence to support a complaint he refers that complaint to an Investigation Panel which comprises three persons – himself (or the Vice-Chairman), one member nominated by him with the other person being nominated by the States Member under investigation. If the said Member declines or fails to so nominate then the Chairman appoints both ordinary members of the Investigation Panel.
55. The Committee believes that such a provision is un-necessary and serves only to lengthen the process of any investigation. All the members of the States Members’ Conduct Panel are persons of probity and can be relied on to judge any matter before them impartially. Paragraph 24 of the Code requires any member of the Panel who has any direct or indirect personal interest in a matter referred to the Panel to declare such interest immediately to the Chairman or Deputy Chairman of the Panel.
56. The following change to Paragraph 28 of the Code is therefore proposed: -
  - delete the words “, one of whom shall be” and also “, and the other being nominated by the person under investigation. If the Member declines to

so nominate, or fails to do so within such period as shall be determined by the Chairman, he shall forfeit his right and the Chairman shall make the appointment.”.

## CONSULTATION

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

## RECOMMENDATIONS

58. The States Assembly and Constitution Committee recommends the States to resolve:
1. that the Rules of Procedure of the States of Deliberation shall be amended with immediate effect as follows:
    - (a) in Rule 2 after paragraph (2) insert:
 

“(3) In the Reports referred to in paragraph (1), immediately after the name of the person signing the Report, there shall be added the names of each other member of the Department or Committee submitting the Report whether or not he personally endorses all of its recommendations.”;
    - (b) in Rule 3 in paragraph (3) –
 

delete the words “second Wednesday next following,” in subparagraph (c) and substitute therefor “the day immediately preceding the first day of the next meeting of the States.”;
    - (c) in Rule 5, paragraph (5) delete the words “Before the commencement of the business contained in a Billet d’État,” and substitute therefor “At the time prescribed in Rule 9,”
    - (d) in Rule 8 delete the existing Rule and substitute therefor:
 

“(8) Any Member who has obtained permission from the Presiding Officer to make a statement on any matter which, in the opinion of the Presiding Officer, should be made, may make that statement

      - (i) at the time prescribed in Rule 9, or

- (ii) at such other time as the Presiding Officer may direct.”.
- (e) in Rule 9 delete the existing Rule and substitute therefor:
  - “(9) (i) Subject to the provisions of Rule 4 and unless the States resolve otherwise, the business at a meeting convened by one or more Billets d’État shall be taken in the following order: -
    - (a) Communications by the Presiding Officer including *in memoriam* tributes
    - (b) Statements
    - (c) Questions
    - (d) Motions to debate an appendix report (1<sup>st</sup> stage)
    - (e) Motions to approve Projets de Loi
    - (f) Motions to approve draft Ordinances
    - (g) Laying of Ordinances
    - (h) Laying of Statutory Instruments
    - (i) Motions to annul a Statutory Instrument or Ordinance
    - (j) Elections
    - (k) Motions of No Confidence in the Chief Minister or Deputy Chief Minister
    - (l) Motions of No Confidence in a Department or Committee
    - (m) Reports pursuant to paragraphs 33 and 34 of the Code of Conduct for Members of the States of Deliberation
    - (n) Articles adjourned or deferred from previous meetings of the States
    - (o) Reports of the Policy Council
    - (p) Reports of States Departments
    - (q) Reports of Parliamentary Committees
    - (r) Reports of other States Committees
    - (s) Requêtes
    - (t) Motions to debate an appendix report (2<sup>nd</sup> stage).
  - (ii) In the case of a proposition to which Rule 10 applies, the Presiding Officer may, in his discretion, permit such proposition to be submitted to the States at any convenient time.”;
- (f) in Rule 12 –

(i) in paragraph (1) delete all the words after “reply on the debate”;

(ii) after paragraph (1) insert:

“(1A) Immediately before opening or replying on a debate, the representative referred to in paragraph (1) may propose an adjournment of not more than 15 minutes. Such a proposal shall be put to the States by the Presiding Officer without debate.”;

(g) in Rule 13 –

delete paragraph (6) and substitute therefor: -

“(6) Immediately after an amendment has been proposed and formally seconded (i.e. before any speech by its seconder or further debate) any Member may request the Presiding Officer to rule whether the amendment goes further than the original proposition. If the Presiding Officer so rules, that Member, or any other Member, may then propose:

(a) that the amendment be not debated and no vote be taken thereon; or

(b) that debate on the amendment be postponed.

The proposal shall be put to a vote without debate. Where a proposal that debate on the amendment be postponed is carried the Presiding Officer shall lay the amendment before the States on a suitable occasion.”.

(h) in Rule 18 –

(i) in paragraph (3) before the words “a statement” insert: “(a)”;

(ii) at the end of paragraph (3) replace the full-stop with a semi-colon and insert:

“(b) a statement that all the members of the Department or Committee, including the Minister or Chairman thereof, were invited in writing tender their resignations of such membership and that all or some of them had not done so within five days (excluding Saturdays, Sundays and Public Holidays) of that invitation.”;

- (i) in Rule 19 –
  - (i) in paragraph (3) before the words “a statement” insert: “(a)”;
  - (ii) at the end of paragraph (3) replace the full-stop with a semi-colon and insert:
    - “(b) a statement that the Chief Minister or Deputy Chief Minister, as the case may be, was invited in writing to tender his resignation of that office and that he had not done so within five days (excluding Saturdays, Sundays and Public Holidays) of that invitation.”;
- (j) in Rule 20 –
  - (i) in paragraph (1A) after the words “on the day” insert: “(excluding Saturdays, Sundays and Public Holidays)”;
  - (ii) delete paragraph (2A);
- (k) in Rule 21 –
  - (i) in paragraph (4) delete the words “immediately before the commencement of the ordinary business listed for debate in the Billet d’État containing the appendix report to which the motion relates” and substitute therefor “at the meeting convened to consider the business listed in the Billet d’État containing the appendix report to which the motion relates and at the time prescribed in Rule 9”;
  - (ii) in paragraph (5) delete the words “the conclusion of the ordinary business for debate in the said Billet d’État” and substitute therefor “the time prescribed in Rule 9”.
- (l) Rule 22 –
 

After paragraph (3) insert –

  - “(3A) Unless the enactment governing the instrument otherwise provides, a motion to annul may be proposed either at the meeting at which the Statutory Instrument or Ordinance is laid before the States or at the next subsequent meeting.”.

2. that the Rules relating to the Constitution and Operation of States

Departments and Committees shall be amended with immediate effect as follows:

in Rule 14 –

in paragraph (2) for “notebook” wherever appearing substitute “paper notebook or electronic data file”;

3. that the Reform (Guernsey) Law, 1948, as amended<sup>1</sup> be further amended to include former Members of the States of Deliberation within the terms of Article 20F thereof.
4. that the Code of Conduct for Members of the States of Deliberation shall be amended as follows:
  - (a) with effect from the coming into force of the legislation referred to in 3 above, in paragraph 50 –
    - (a) in the heading after the words “Applicability to” insert  
“Former Members of the States of Deliberation and”;
    - (b) After the words “apply to” insert  
“(i) former Members of the States of Deliberation, and  
(ii)”
    - (b) with immediate effect, in paragraph 28 –  
  
delete the words “, one of whom shall be”; and also “, and the other being nominated by the person under investigation. If the Member declines to so nominate, or

---

<sup>1</sup> Article 3(4) of The Reform (Guernsey) Law, 1948, as amended which applies to this recommendation states -

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

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

fails to do so within such period as shall be determined by the Chairman, he shall forfeit his right and the Chairman shall make the appointment.”.

5. To direct the preparation of such legislation as may be necessary to give effect to the above recommendations.

Yours faithfully

I F Rihoy  
Chairman

The States are asked to decide:-

X.- Whether, after consideration of the Report dated 28<sup>th</sup> March, 2011, of the States Assembly and Constitution Committee, they are of the opinion:-

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

(a) in Rule 2 after paragraph (2) insert:

“(3) In the Reports referred to in paragraph (1), immediately after the name of the person signing the Report, there shall be added the names of each other member of the Department or Committee submitting the Report whether or not he personally endorses all of its recommendations.”;

(b) in Rule 3 in paragraph (3) –

delete the words “second Wednesday next following,” in sub-paragraph (c) and substitute therefor “the day immediately preceding the first day of the next meeting of the States.”;

(c) in Rule 5, paragraph (5) delete the words “Before the commencement of the business contained in a Billet d’État,” and substitute therefor “At the time prescribed in Rule 9,”;

(d) in Rule 8 delete the existing Rule and substitute therefor:

“(8) Any Member who has obtained permission from the Presiding Officer to make a statement on any matter which, in the opinion of the Presiding Officer, should be made, may make that statement

(i) at the time prescribed in Rule 9, or

(ii) at such other time as the Presiding Officer may direct.”.

(e) in Rule 9 delete the existing Rule and substitute therefor:

“(9) (i) Subject to the provisions of Rule 4 and unless the States resolve otherwise, the business at a meeting convened by one or more Billets d’État shall be taken in the following order: -

(a) Communications by the Presiding Officer including *in memoriam* tributes

(b) Statements

- (c) Questions
- (d) Motions to debate an appendix report (1<sup>st</sup> stage)
- (e) Motions to approve Projets de Loi
- (f) Motions to approve draft Ordinances
- (g) Laying of Ordinances
- (h) Laying of Statutory Instruments
- (i) Motions to annul a Statutory Instrument or Ordinance
- (j) Elections
- (k) Motions of No Confidence in the Chief Minister or Deputy Chief Minister
- (l) Motions of No Confidence in a Department or Committee
- (m) Reports pursuant to paragraphs 33 and 34 of the Code of Conduct for Members of the States of Deliberation
- (n) Articles adjourned or deferred from previous meetings of the States
- (o) Reports of the Policy Council
- (p) Reports of States Departments
- (q) Reports of Parliamentary Committees
- (r) Reports of other States Committees
- (s) Requêtes
- (t) Motions to debate an appendix report (2<sup>nd</sup> stage).

- (ii) In the case of a proposition to which Rule 10 applies, the Presiding Officer may, in his discretion, permit such proposition to be submitted to the States at any convenient time.”;

(f) in Rule 12 –

- (i) in paragraph (1) delete all the words after “reply on the debate”;
- (ii) after paragraph (1) insert:

“(1A) Immediately before opening or replying on a debate, the representative referred to in paragraph (1) may propose an adjournment of not more than 15 minutes. Such a proposal shall be put to the States by the Presiding Officer without debate.”;

(g) in Rule 13 –

delete paragraph (6) and substitute therefor: -

“(6) Immediately after an amendment has been proposed and formally seconded (i.e. before any speech by its seconder or further debate) any Member may request the Presiding Officer to rule whether the amendment goes further than the original proposition. If the Presiding Officer so rules, that Member, or any other Member, may then propose:

- (a) that the amendment be not further debated and no vote be taken thereon; or
- (b) that further debate on the amendment be postponed.

The proposal shall be put to a vote without debate. Where a proposal that further debate on the amendment be postponed is carried the Presiding Officer shall lay the amendment before the States for further debate on a suitable occasion.”.

(h) in Rule 18 –

- (i) in paragraph (3) before the words “a statement” insert: “(a)”;
- (ii) at the end of paragraph (3) replace the full-stop with a semi-colon and insert:
  - “(b) a statement that all the members of the Department or Committee, including the Minister or Chairman thereof, were invited in writing tender their resignations of such membership and that all or some of them had not done so within five days (excluding Saturdays, Sundays and Public Holidays) of that invitation.”;

(i) in Rule 19 –

- (i) in paragraph (3) before the words “a statement” insert: “(a)”;
- (ii) at the end of paragraph (3) replace the full-stop with a semi-colon and insert:
  - “(b) a statement that the Chief Minister or Deputy Chief Minister, as the case may be, was invited in writing to tender his resignation of that office and that he had not done so within five days (excluding Saturdays, Sundays and Public Holidays) of that invitation.”;

(j) in Rule 20 –

- (i) in paragraph (1A) after the words “on the day” insert: “(excluding Saturdays, Sundays and Public Holidays)”;
- (ii) delete paragraph (2A);
- (k) in Rule 21 –
  - (i) in paragraph (4) delete the words “immediately before the commencement of the ordinary business listed for debate in the Billet d’État containing the appendix report to which the motion relates” and substitute therefor “at the meeting convened to consider the business listed in the Billet d’État containing the appendix report to which the motion relates and at the time prescribed in Rule 9”;
  - (ii) in paragraph (5) delete the words “the conclusion of the ordinary business for debate in the said Billet d’État” and substitute therefor “the time prescribed in Rule 9”.
- (l) Rule 22 –

After paragraph (3) insert -

“(3A) Unless the enactment governing the instrument otherwise provides, a motion to annul may be proposed either at the meeting at which the Statutory Instrument or Ordinance is laid before the States or at the next subsequent meeting.”.

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

in Rule 14 –

in paragraph (2) for “notebook” wherever appearing substitute “paper notebook or electronic data file”;

3. To further amend the Reform (Guernsey) Law, 1948, as amended to include former Members of the States of Deliberation within the terms of Article 20F thereof.
4. To amend the Code of Conduct for Members of the States of Deliberation as follows:
  - (a) with effect from the coming into force of the legislation referred to in 3 above, in paragraph 50 –
    - (a) in the heading after the words “Applicability to” insert

“Former Members of the States of Deliberation and”;

(b) After the words “apply to” insert

“(i) former Members of the States of Deliberation, and

(ii)”

(b) with immediate effect, in paragraph 28 –

delete the words “, one of whom shall be”; and also “, and the other being nominated by the person under investigation. If the Member declines to so nominate, or fails to do so within such period as shall be determined by the Chairman, he shall forfeit his right and the Chairman shall make the appointment.”.

5. To direct the preparation of such legislation as may be necessary to give effect to their above decisions.

***ORDINANCES LAID BEFORE THE STATES***

**THE EGYPT (FREEZING OF FUNDS) (GUERNSEY) ORDINANCE, 2011**

In pursuance of the provisions of the proviso to Article 66 (3) of the Reform (Guernsey) Law, 1948, as amended, the Egypt (Freezing of Funds) (Guernsey) Ordinance, 2011, made by the Legislation Select Committee on the 21<sup>st</sup> March, 2011, is laid before the States.

**THE LIBYA (RESTRICTIVE MEASURES) (GUERNSEY)  
(AMENDMENT) ORDINANCE, 2011**

In pursuance of the provisions of the proviso to Article 66 (3) of the Reform (Guernsey) Law, 1948, as amended, the Libya (Restrictive Measures) (Guernsey) (Amendment) Ordinance, 2011, made by the Legislation Select Committee on the 21<sup>st</sup> March, 2011, is laid before the States.

***STATUTORY INSTRUMENTS LAID BEFORE THE STATES***

**THE COMPANIES (TRANSITIONAL PROVISIONS)  
(AMENDMENT) REGULATIONS, 2011**

In pursuance of section 537 of the Companies (Guernsey) Law, 2008, the Companies (Transitional Provisions) (Amendment) Regulations, 2011, made by the Commerce and Employment Department on 22<sup>nd</sup> February, 2011, are laid before the States.

EXPLANATORY NOTE

These regulations further amend the Companies (Transitional Provisions) Regulations, 2008 which prescribe savings and transitional provisions in connection with the commencement of the Companies (Guernsey) Law, 2008 by extending the transitional period for the provisions of that Law relating to the memorandum of incorporation, the articles of incorporation, shadow directors, the duties of secretaries, conversion of shares into stock and the powers of the directors to issue shares.

The regulations repeal the Companies (Transitional Provisions) (Amendment) Regulations, 2009 which were in force from 30<sup>th</sup> March 2009 and which extended the aforementioned transitional provisions to the 1<sup>st</sup> July 2011.

These regulations came into operation on the 23<sup>rd</sup> February, 2011.

**THE ISLAND CHILD PROTECTION COMMITTEE REGULATIONS, 2010**

In pursuance of Section 120 (3) of the Children (Guernsey and Alderney) Law 2008, the Island Child Protection Committee Regulations, 2010, made by the Health and Social Services Department on 26<sup>th</sup> January, 2010, are laid before the States.

## EXPLANATORY NOTE

These Regulations are made under the Children (Guernsey and Alderney) Law, 2008 by the Health and Social Services Department. They amend the membership of the Child Protection Committee and prescribe additional functions. The Regulations also prescribe the procedure of the Child Protection Committee.

The Regulations commenced on 26<sup>th</sup> January, 2010.

**THE CHILDREN (CHILDREN'S CONVENOR)  
(GUERNSEY AND ALDERNEY) REGULATIONS, 2010**

In pursuance of Section 120 (3) of the Children (Guernsey and Alderney) Law 2008, the Children (Children's Convenor) (Guernsey and Alderney) Regulations, 2010, made by the Health and Social Services Department on 25<sup>th</sup> May, 2010, are laid before the States.

## EXPLANATORY NOTE

These Regulations are made under the Children (Guernsey and Alderney) Law, 2008 ("the Law") by the Health and Social Services Department and cover notification to the Children's Convenor, investigation and action to be taken by the Children's Convenor and notification of any decision that compulsory intervention is not required. Section 36 (3) of the Law sets out matters which must be notified to the Children's Convenor. Those matters include, by way of example, whenever a child is detained in secure accommodation or by a police officer or customs officer.

Regulation 1 prescribes in detail the persons who are under a duty to notify the Convenor about the matters described in section 36(3) of the Law and the manner and circumstances in which notification must be made. Regulation 2 extends the list of matters to be notified so as to include, for example, whenever a child is detained under mental health legislation. Regulations 3, 4 and 5 make provision concerning the investigation that the Children's Convenor may carry out on receipt of a referral and the action to be taken on receipt of a notification. Regulation 6 lists those persons whom the Children's Convenor must, and may, notify of any decision that compulsory intervention in relation to a child is not necessary. Regulations 7, 8 and 9 deal respectively with interpretation, the extent of the Regulations (which extend to both Guernsey and Alderney) and commencement.

The Regulations commenced on 25th May 2010.

**THE CHILD PROTECTION (REGISTRATION FEES)  
(GUERNSEY AND ALDERNEY) REGULATIONS 2011**

In pursuance of Section 16B (1) (c) of the Child Protection (Guernsey) Law 1972, the Child Protection (Registration Fees) (Guernsey and Alderney) Regulations 2011, made by the Health and Social Services Department on 8<sup>th</sup> March, 2011, are laid before the States.

## EXPLANATORY NOTE

These Regulations prescribe fees payable for the registration and continuing registration of child-minders and non-domestic premises used for childcare.

Fifteen different categories are set out in the Schedule for registration of premises, together with the registration fee payable for each category. For example, childcare premises that do not accept a fee or reward for childcare (other than the minimal fee or payment to cover disbursements) attract a nil registration fee.

Transitional provisions are set out for premises that, and child-minders who, were registered prior to the commencement of these Regulations.

These regulations commenced on 1 April 2011.

**THE LIQUOR LICENSING (FEES) REGULATIONS, 2011**

In pursuance of section 99 (3) of the Liquor Licensing Ordinance, 2006, the Liquor Licensing (Fees) Regulations, 2011, made by the Home Department on 21<sup>st</sup> March, 2011, are laid before the States.

## EXPLANATORY NOTE

These Regulations amend Schedule 4 to the Liquor Licensing Ordinance, 2006 which sets the relevant fees for liquor licences etc. These Regulations come into force on 1<sup>st</sup> June, 2011.

**IN THE STATES OF THE ISLAND OF GUERNSEY  
ON THE 25TH DAY OF MAY, 2011**

**The States resolved as follows concerning Billet d'État No VIII  
dated 15th April 2011**

**PROJET DE LOI**

entitled

**THE LA MARE ROAD (CLOSURE) (GUERNSEY) LAW, 2011**

I.- To approve the Projet de Loi entitled “The La Mare Road (Closure) (Guernsey) Law, 2011” and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

**LADIES' COLLEGE BOARD OF GOVERNORS**

NEW MEMBERS

II.-

1. To elect Advocate B P G Morgan to the Ladies' College Board of Governors with effect from 1<sup>st</sup> June, 2011, to replace Advocate P J G Atkinson;
2. To re-elect Mrs K M N Richards as a member of that Board of Governors with effect from 1<sup>st</sup> June, 2011.

**ADMINISTRATIVE DECISIONS (REVIEW) (GUERNSEY) LAW, 1986**

NEW CHAIRMAN AND DEPUTY CHAIRMAN OF PANEL OF MEMBERS

III.- To re-elect, in accordance with the provisions of section 4 (2) of the Administrative Decisions (Review) (Guernsey) Law, 1986:-

1. Deputy R R Matthews as Chairman of the Panel of Members with effect from 1st June 2011;
2. Douzenier R A R Evans as Deputy Chairman of that Panel with effect from 1st June 2011.

## **HEALTH AND SOCIAL SERVICES DEPARTMENT**

### **FUTURE 2020 VISION OF THE HEALTH AND SOCIAL SERVICES SYSTEM**

IV. - After consideration of the Report dated 9<sup>th</sup> March 2011, of the Health and Social Services Department:-

1. To direct the Health and Social Services Department to pursue the plans outlined in that Report to ensure the future health and social care needs of the population of Guernsey and Alderney are met with a financially sustainable model.
2. To direct all States Departments to contribute, where relevant, to each area of the plan which makes up this framework and for the Health and Social Services Department to establish a suitable governance framework with which States Departments can engage.
3. To direct the Health and Social Services Department to consult the public, professionals and other interested parties on the main objectives and the key elements of the framework (noting that each element will also have its own engagement and consultation plan, due to the size and complexity of the whole system).

### ***ORDINANCES LAID BEFORE THE STATES***

#### **THE EGYPT (FREEZING OF FUNDS) (GUERNSEY) ORDINANCE, 2011**

In pursuance of the provisions of the proviso to Article 66 (3) of the Reform (Guernsey) Law, 1948, as amended, the Egypt (Freezing Of Funds) (Guernsey) Ordinance, 2011, made by the Legislation Select Committee on the 21<sup>st</sup> March, 2011, was laid before the States.

#### **THE LIBYA (RESTRICTIVE MEASURES) (GUERNSEY) (AMENDMENT) ORDINANCE, 2011**

In pursuance of the provisions of the proviso to Article 66 (3) of the Reform (Guernsey) Law, 1948, as amended, the Libya (Restrictive Measures) (Guernsey) (Amendment) Ordinance, 2011, made by the Legislation Select Committee on the 21<sup>st</sup> March, 2011, was laid before the States.

### ***STATUTORY INSTRUMENTS LAID BEFORE THE STATES***

#### **THE COMPANIES (TRANSITIONAL PROVISIONS) (AMENDMENT) REGULATIONS, 2011**

In pursuance of section 537 of the Companies (Guernsey) Law, 2008, the Companies (Transitional Provisions) (Amendment) Regulations, 2011, made by the Commerce and Employment Department on 22<sup>nd</sup> February, 2011, were laid before the States.

## **THE ISLAND CHILD PROTECTION COMMITTEE REGULATIONS, 2010**

In pursuance of Section 120 (3) of the Children (Guernsey and Alderney) Law 2008, the Island Child Protection Committee Regulations, 2010, made by the Health and Social Services Department on 26th January, 2010, were laid before the States.

## **THE CHILDREN (CHILDREN'S CONVENOR) (GUERNSEY AND ALDERNEY) REGULATIONS, 2010**

In pursuance of Section 120 (3) of the Children (Guernsey and Alderney) Law 2008, the Children (Children's Convenor) (Guernsey and Alderney) Regulations, 2010, made by the Health and Social Services Department on 25th May, 2010, were laid before the States.

## **THE CHILD PROTECTION (REGISTRATION FEES) (GUERNSEY AND ALDERNEY) REGULATIONS 2011**

In pursuance of Section 16B (1) (c) of the Child Protection (Guernsey) Law 1972, the Child Protection (Registration Fees) (Guernsey and Alderney) Regulations 2011, made by the Health and Social Services Department on 8<sup>th</sup> March, 2011, were laid before the States.

## **THE LIQUOR LICENSING (FEES) REGULATIONS 2011**

In pursuance of section 99 (3) of the Liquor Licensing Ordinance, 2006, the Liquor Licensing (Fees) Regulations, 2011, made by the Home Department on 21<sup>st</sup> March, 2011, were laid before the States.

# **IN THE STATES OF THE ISLAND OF GUERNSEY ON THE 26TH DAY OF MAY, 2011**

(Meeting adjourned from 25th May, 2011)

**The States resolved as follows concerning Billet d'État No VIII  
dated 15th April 2011**

## **HOUSING DEPARTMENT HEALTH AND SOCIAL SERVICES DEPARTMENT**

### **PROVISION OF 'EXTRA CARE' HOUSING AT MAISON MARITAINE AND LONGUE RUE**

V.- After consideration of the Report dated 15<sup>th</sup> March, 2011 of the Housing Department and the Health and Social Services Department:-

1. To approve the use of the Longue Rue House and Maison Maritaine sites, as delineated in Appendices 6 and 7, to provide 'extra care' housing to be developed and managed by the Guernsey Housing Association.
2. That the Corporate Housing Programme Fund be used to provide capital grant funding associated with the first phase of the redevelopment of the sites of Longue Rue House and Maison Maritaine (including the costs of demolishing both residential homes), such capital grant funding not to exceed £22 million for both schemes combined.
3. In accordance with the existing procedures for general needs social housing, that the actual grant sum required for these 'extra care' schemes be approved, on behalf of the States, by the Treasury and Resources Department, upon production of a robust business case outlining the building costs of the two schemes plus modelling of the revenue consequences.
4. To approve the use of the Corporate Housing Programme Fund to provide "one-off" expenditure not exceeding £900,000 for furniture and fittings for those persons transferring into the new 'extra care' housing from Longue Rue House and Maison Maritaine, and any residential home managed by the Health and Social Services Department, the actual sum to be approved, on behalf of the States, by the Treasury and Resources Department.
5. That, for the reasons set out in paragraphs 361-365 of that Report, for so long as they occupy it, any resident of Longue Rue House or Maison Maritaine who moves into a two-bed 'extra care' flat will be charged the rent for a one-bed 'extra care' flat, the difference between the rental for a one- and two-bed flat in each case being annually reimbursed to the Guernsey Housing Association from the Corporate Housing Programme Fund.
6. To direct that the revenue funding issues, identified in Section 10 of that Report, be addressed inter-departmentally between the Housing, Health and Social Services,

Social Security and Treasury and Resources Departments as part of the preparation of the robust business case to be presented to the latter department.

7. To note that, as identified in paragraphs 328-372 of that Report, in resolving these revenue funding issues there is likely to be a need for a redistribution of monies in revenue budgets from one department to another.
8. To note the likely proposals for the Phase 2 development of the Longue Rue House and Maison Maritaine sites and the associated funding consequences, as set out in paragraphs 260-274 of that Report.

## **HEALTH AND SOCIAL SERVICES DEPARTMENT**

### **FOOD HYGIENE, FOOD SAFETY AND OFFICIAL CONTROLS**

VI.- Whether, after consideration of the Report dated 28<sup>th</sup> February, 2011, of the Health and Social Services Department:-

1. Within the terms of the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994, to consolidate existing food legislation and to implement the food safety and food hygiene provisions set out in that Report.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

# **IN THE STATES OF THE ISLAND OF GUERNSEY ON THE 27TH DAY OF MAY, 2011**

(Meeting adjourned from 26th May, 2011)

**The States resolved as follows concerning Billet d'État No VIII  
dated 15th April 2011**

## **HEALTH AND SOCIAL SERVICES DEPARTMENT**

### **FOOD SUPPLEMENTS, NUTRITIONAL INFORMATION AND HEALTH CLAIMS**

VII.- After consideration of the Report dated 28<sup>th</sup> February, 2011, of the Health and Social Services Department:-

1. To introduce food safety standards for food supplements, to implement relevant parts of Directive 2002/46/EC and any other necessarily related European Community Directives or Regulations throughout the Bailiwick.
2. To introduce compositional and nutritional labelling and advertising of food, including health claims made about food, to implement EC Regulation 1924/2006 and any other necessarily related European Community Directives or Regulations throughout the Bailiwick.
3. To acknowledge the adverse effect on the reputation of the States of Guernsey, so that high priority is given to the drafting of the legislation.
4. To direct the preparation of such legislation as may be necessary to give effect to their above decisions.

## **SCRUTINY COMMITTEE**

### **GUERNSEY'S PLANNING SERVICE: POST-SHEPLEY REVIEW**

VIII.- After consideration of the Report dated 23<sup>rd</sup> March, 2011, of the Scrutiny Committee:-

1. To note that Report, and the Committee's Review Report at Appendix 1.
2. To direct the Environment Department to report to the Scrutiny Committee by not later than December 2011, outlining a timetable for the implementation of the recommendations directed to it contained within the Review Report (as at pages 18 - 19 of Appendix 1) and an update on progress.
3. To direct the Policy Council to report to the Scrutiny Committee by not later than December 2011, stating whether they have accepted or rejected the recommendations directed to it contained within the Review Report (as at page 18 of Appendix 1) and where they have accepted the recommendations outlining a timetable for their implementation.

4. To direct the Scrutiny Committee to publish not later than March 2012 an update on actions taken by the Environment Department and the Policy Council.

## **SCRUTINY COMMITTEE**

### **SCRUTINY COMMITTEE PERFORMANCE REPORT**

IX.- After consideration of the Report dated 23<sup>rd</sup> March, 2011, of the Scrutiny Committee:-

To note the Scrutiny Committee's 2009 - 2010 performance report entitled "Guernsey Scrutiny".

## **STATES ASSEMBLY AND CONSTITUTION COMMITTEE**

AMENDMENTS TO THE REFORM (GUERNSEY) LAW, 1948, AS AMENDED  
THE RULES OF PROCEDURE OF THE STATES OF DELIBERATION  
THE RULES RELATING TO THE CONSTITUTION AND OPERATION OF STATES  
DEPARTMENTS AND COMMITTEES  
THE CODE OF CONDUCT FOR MEMBERS OF THE STATES OF DELIBERATION

X.- After consideration of the Report dated 28<sup>th</sup> March, 2011, of the States Assembly and Constitution Committee:-

1. To amend the Rules of Procedure of the States of Deliberation with immediate effect as follows:
  - (a) in Rule 2 after paragraph (2) insert:

“(3) In the Reports referred to in paragraph (1), immediately after the name of the person signing the Report, there shall be added the names of each other member of the Department or Committee submitting the Report whether or not he personally endorses all of its recommendations.”;
  - (b) TO NEGATIVE THIS PROPOSITION;
  - (c) in Rule 5, paragraph (5) delete the words “Before the commencement of the business contained in a Billet d’État,” and substitute therefor “At the time prescribed in Rule 9,”;
  - (d) in Rule 8 delete the existing Rule and substitute therefor:

“(8) Any Member who has obtained permission from the Presiding Officer to make a statement on any matter which, in the opinion of the Presiding Officer, should be made, may make that statement

- (i) at the time prescribed in Rule 9, or
  - (ii) at such other time as the Presiding Officer may direct.”.
- (e) in Rule 9 delete the existing Rule and substitute therefor:
  - “(9) (i) Subject to the provisions of Rule 4 and unless the States resolve otherwise, the business at a meeting convened by one or more Billets d’État shall be taken in the following order: -
    - (a) Communications by the Presiding Officer including *in memoriam* tributes
    - (b) Statements
    - (c) Questions
    - (d) Motions to debate an appendix report (1<sup>st</sup> stage)
    - (e) Motions to approve Projets de Loi
    - (f) Motions to approve draft Ordinances
    - (g) Laying of Ordinances
    - (h) Laying of Statutory Instruments
    - (i) Motions to annul a Statutory Instrument or Ordinance
    - (j) Elections
    - (k) Motions of No Confidence in the Chief Minister or Deputy Chief Minister
    - (l) Motions of No Confidence in a Department or Committee
    - (m) Reports pursuant to paragraphs 33 and 34 of the Code of Conduct for Members of the States of Deliberation
    - (n) Articles adjourned or deferred from previous meetings of the States
    - (o) Reports of the Policy Council
    - (p) Reports of States Departments
    - (q) Reports of Parliamentary Committees
    - (r) Reports of other States Committees
    - (s) Requêtes
    - (t) Motions to debate an appendix report (2<sup>nd</sup> stage).
  - (ii) In the case of a proposition to which Rule 10 applies, the Presiding Officer may, in his discretion, permit such proposition to be submitted to the States at any convenient time.”;
- (f) in Rule 12 –
  - (i) in paragraph (1) delete all the words after “reply on the debate”;
  - (ii) after paragraph (1) insert:
    - “(1A) Immediately before opening or replying on a debate, the representative referred to in paragraph (1) may propose an adjournment of not more than 15 minutes. Such a proposal shall be put to the States by the Presiding Officer without debate.”;

- (g) TO NEGATIVE THIS PROPOSITION;
- (h) in Rule 18 –
  - (i) in paragraph (3) before the words “a statement” insert: “(a)”;
  - (ii) at the end of paragraph (3) replace the full-stop with a semi-colon and insert:

“(b) a statement that all the members of the Department or Committee, including the Minister or Chairman thereof, were invited in writing to tender their resignations of such membership and that all or some of them had not done so within five days (excluding Saturdays, Sundays and Public Holidays) of that invitation.”;
- (i) in Rule 19 –
  - (i) in paragraph (3) before the words “a statement” insert: “(a)”;
  - (ii) at the end of paragraph (3) replace the full-stop with a semi-colon and insert:

“(b) a statement that the Chief Minister or Deputy Chief Minister, as the case may be, was invited in writing to tender his resignation of that office and that he had not done so within five days (excluding Saturdays, Sundays and Public Holidays) of that invitation.”;
- (j) in Rule 20 –
  - (i) in paragraph (1A) after the words “on the day” insert: “(excluding Saturdays, Sundays and Public Holidays)”;
  - (ii) TO NEGATIVE THIS PROPOSITION;
- (k) in Rule 21 –
  - (i) in paragraph (4) delete the words “immediately before the commencement of the ordinary business listed for debate in the Billet d’État containing the appendix report to which the motion relates” and substitute therefor “at the meeting convened to consider the business listed in the Billet d’État containing the appendix report to which the motion relates and at the time prescribed in Rule 9”;
  - (ii) in paragraph (5) delete the words “the conclusion of the ordinary business for debate in the said Billet d’État” and substitute therefor “the time prescribed in Rule 9”.
- (l) in Rule 22 –

After paragraph (3) insert -

“(3A) Unless the enactment governing the instrument otherwise provides, a motion to annul may be proposed either at the meeting at which the Statutory Instrument or Ordinance is laid before the States or at the next subsequent meeting.”.

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

in Rule 14 –

in paragraph (2) for “notebook” wherever appearing substitute “paper notebook or electronic data file”;

3. To further amend the Reform (Guernsey) Law, 1948, as amended to include former Members of the States of Deliberation within the terms of Article 20F thereof.

4. To amend the Code of Conduct for Members of the States of Deliberation as follows:

(a) with effect from the coming into force of the legislation referred to in 3 above, in paragraph 50 –

(a) in the heading after the words “Applicability to” insert

“Former Members of the States of Deliberation and”;

(b) After the words “apply to” insert

“(i) in relation to paragraphs 18, 18A and 19 (Confidential Information) former Members of the States of Deliberation, and

(ii)”

(b) TO NEGATIVE THIS PROPOSITION;

5. To direct the preparation of such legislation as may be necessary to give effect to their above decisions.

S M D ROSS  
HER MAJESTY’S DEPUTY GREFFIER