



BILLET D'ÉTAT

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HOME DEPARTMENT
CRIMINAL JUSTICE LEGISLATION

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

21st July 2011

Dear Sir

1. Executive summary

A number of developments have recently taken place in England and Wales in relation to the period of pre-charge detention of a person suspected of a criminal offence. As a result of *R. (Chief Constable of Greater Manchester Police) v. Salford Magistrates' Court* [2011] EWHC 1578 (Admin), the UK Government has enacted legislation to reverse the decision in that case, so that where a person is released on bail during a period of detention, he can be lawfully detained for any unexpired portion of that period when he returns to the police station.

Although the practice in the Bailiwick is different and has not been found to be deficient, it is proposed that the provisions of the Powers of Police and Criminal Evidence (Bailiwick of Guernsey) Law, 2003 ("PPACE") should be clarified in any event to prevent any misunderstanding of the legal position.

2. Proposals from Her Majesty's Procureur

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

"In England and Wales, the detention of a person before being charged with an offence has traditionally been a controversial area of law. In order to ensure that a person was not detained for longer than necessary and that investigations were conducted diligently, the Police and Criminal Evidence Act 1984 ("PACE") introduced strict time limits during which suspects could be detained without charge. Those limits are based on the time which has passed since "the relevant time", which is normally deemed to be the time when the arrested person arrives at the police station.

The situation under PACE is as follows:

- (a) *There is an initial period of detention of a maximum of 24 hours and at that point, the person must be charged or released, whether on bail or not (24 hours after the relevant time).*
- (b) *If, however, the police wish detention to continue, a senior officer of at least the rank of Superintendent must be requested to authorise continued detention of a further 12 hours (36 hours after the relevant time).*
- (c) *If after that period, the police still wish to detain a person without charge, a warrant of further detention must be sought in the Magistrates' Court which can permit up to 36 hours additional detention (72 hours after the relevant time).*
- (d) *An extension to that warrant can be sought from the Magistrates' Court which permits up to 36 hours further detention, subject to an overall detention limit of 96 hours after the relevant time.*
- (e) *After 96 hours of detention, a person must either be charged or released as the legislation does not permit them to be detained without charge for any longer.*

The position is made more complicated where the police wish to release a person on bail whilst the investigation continues. The standard practice in most forces in England and Wales has been to assume that the detention clock is akin to a chess clock rather than a normal one i.e. in the initial period in paragraph (a), if a person is held for 12 hours then released on bail for several weeks, the clock is paused at 12 hours; when he returns to the police station after that period, he may be detained for a further 12 hours (the unexpired portion of that 24 hours period), regardless of the fact that this detention takes place more than 96 hours after the relevant time.

Although this practice has been followed for approximately 25 years and is in accordance with the understanding and views of some of the UK's most eminent authors on the topic, it has been held to be unlawful in the judgment of Mr Justice McCombe in the recent case of R. (Chief Constable of Greater Manchester Police) v. Salford Magistrates' Court [2011] EWHC 1578 (Admin). Although the Supreme Court is due to hear the appeal against the High Court's decision on 25th July, the UK Government has proposed that PACE should be amended to restore the position to that which it was generally understood to be. Two things should be noted: (i) there has been some legal criticism of the Salford Magistrates' Court judgment, and (ii) although persuasive, it does not have direct application in this jurisdiction.

Turning to the Bailiwick, therefore, although the Powers of Police and Criminal Evidence (Bailiwick of Guernsey) Law, 2003 ("PPACE") is heavily based on the Police and Criminal Evidence Act 1984, it is not suggested that the solution adopted in the UK should simply be followed here without further consideration : the approach of the Guernsey police

beyond the initial 24 hour period has been to consider that the clock cannot be paused and the practices used in the Bailiwick where extensions to detention have been granted by either a senior police officer or the court are different from those criticised in the Salford Magistrates' Court judgment. However, even though the courts in Guernsey are not bound by this decision, it is proposed that, in the light of the uncertainty now apparent in England and Wales, a clarification of the law would be appropriate to assist law enforcement agencies, people suspected of offences and legal advisers.

I therefore consider that the urgency with which the UK government has acted warrants the early enactment of 2 separate amendments in the Bailiwick to make the legislative position absolutely clear and consistent with local practice prior to the Salford Magistrates' Court judgment: the first is identical to the amendment made in England and Wales, which confirms that any period on bail during the first 24 hour period of detention does not count towards the cumulative permitted total; the second amendment clarifies for the avoidance of doubt what is therefore meant by the "relevant time" where a person has been released on bail following a period of detention in the initial 24 hours after his arrival at the police station. The "relevant time" for these purposes will be deemed to be the time of their subsequent surrender to custody, although any period for which the person was detained prior to being released will be taken into account when considering the calculation of the cumulative time period.

It should also be noted that it will still be possible for a person's detention to be extended by a senior officer or a court under the current provisions of PPACE. For the avoidance of doubt, where a person is released prior to the expiry of a period of detention authorised by a senior officer or granted by a court, any unused balance of that extension will be lost if the suspect is released and bailed to return after the period has expired. This latter point will be considered further once the Supreme Court has made its ruling in the forthcoming appeal.

Therefore, although PPACE is broadly the same as PACE, the Bailiwick's practice and interpretation of the relevant provisions has generally been narrower than that in England and Wales, and therefore there is a need for an additional amendment to clarify the position. It is emphasised that the amendments recommended are not considered to be substantive; they are for clarification and confirmation of existing practice, for the avoidance of doubt and to pre-empt extensive legal argument based on the English position."

3. Resources

It is not anticipated that these proposals will result in any additional expenditure by the States.

4. Consultation

Alderney and Sark have been consulted and do not have any concerns with this policy.

5. Principles of Good Governance

The proposals made in this States Report are in accordance with the Principles of Good Governance as outlined in Billet D'Etat IV 2011, particularly Principle 5 "developing the capacity and capability of the governing body to be effective."

6. Legislation

PPACE can be amended by Ordinance and, in order to avoid confusion and extensive legal argument based on the English position, and to enable certainty in respect of police practice, the early and immediate enactment by the Legislation Select Committee of the necessary clarificatory legislation was considered to be necessary and expedient in the public interest.

The Police Powers and Criminal Evidence (Bailiwick of Guernsey) (Amendment) Ordinance, 2011, which was enacted by the Legislation Select Committee on the 25th July and came into force on that date, is accordingly laid before the States herewith in accordance with the requirements of article 66(3) of the Reform (Guernsey) Law, 1948.

7. Recommendation

The Department recommends the States be asked to approve the following:-

- (a) the clarification of the current position that any period on bail during the first 24 hour period of detention does not count towards the cumulative permitted total, and
- (b) the clarification that the "relevant time" for a person who is released on bail will be deemed to be the time of their subsequent surrender to custody, although any period for which that person was detained prior to being released will be taken into account when considering the calculation of the cumulative time period.

Yours faithfully

G H Mahy
Minister

F W Quin, Deputy Minister
J M Tasker
M S Laine
B N Kelly
A L Ozanne

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

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

The States are asked to decide:-

XVIII. - Whether, after consideration of the Report dated 21st July, 2011, of the Home Department, they are of the opinion:-

1. To approve the clarification of the current position that any period on bail during the first 24 hour period of detention does not count towards the cumulative permitted total.
2. To approve the clarification that the "relevant time" for a person who is released on bail will be deemed to be the time of their subsequent surrender to custody, although any period for which that person was detained prior to being released will be taken into account when considering the calculation of the cumulative time period.

HOME DEPARTMENT**CRIMINAL JUSTICE LEGISLATION – LIFE SENTENCES**

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

28th June 2011

Dear Sir

1. Executive summary.

In the Bailiwick, a small number of offences carry either a mandatory or a maximum sentence of life imprisonment: a person convicted of murder must be sentenced to life imprisonment pursuant to s.1(1) of the Homicide (Guernsey) Law, 1965 (a "mandatory sentence" of life imprisonment), whilst a person convicted of a serious assault or rape may be sentenced to life imprisonment (a "discretionary sentence" of life imprisonment). Although a life sentence is imposed to protect the public from the risk that the offender poses, a minimum term which the offender must serve before he can be considered for release on licence is set at a period which reflects the degree of punishment, retribution and deterrence appropriate for the offence. In exceptionally serious cases, a whole life term is set and the offender is never eligible for release (by way of example, see the English case of the "Yorkshire Ripper" (*R. v. Peter Coonan (Formerly Peter Sutcliffe)* [2011] EWCA (Crim) 5).

Currently, there is no procedure by which this term can be set in the Bailiwick although provision has previously been made in respect of mandatory sentences for the term to be determined by an English judge following the offender's transfer to a prison in England. It is proposed that in future the Royal Court should have power to set the minimum term upon passing a mandatory or discretionary sentence of life imprisonment.

2. Proposals from Her Majesty's Procureur

As part of an on-going review of criminal justice matters generally, and after consultation with the Bailiff, Her Majesty's Procureur has written to the Department in the following terms:

“Mandatory sentence of life imprisonment

Background

A mandatory sentence of life imprisonment can only be passed on an offender convicted of murder and the procedure which has been adopted is for the Royal Court to make an extra-statutory recommendation of the minimum term which should be served. This recommendation is made by the trial judge sitting with the Jurats who, having heard the witnesses give evidence and decided on the guilt of the offender, are in the best position to consider all of the factors which are relevant to the length of the minimum sentence. Offenders sentenced to long periods of imprisonment are normally transferred to a prison in England, so that their sentences can be served where the most appropriate facilities exist.

*Prior to 2003, the system used in England and Wales was adopted in relation to offenders transferred from Guernsey to England as no formal procedure otherwise applied. In that jurisdiction, the final decision on the length of the minimum term was made by the Secretary of State for the Home Department, following recommendations made by the trial judge and the Lord Chief Justice. However, the legality of setting the term in this way was challenged in the case of *R (Anderson) v. Secretary of State for the Home Department* [2002] UKHL 46, in which the House of Lords held that the setting of an offender's minimum term was legally indistinguishable from the imposition of a sentence and that only an independent and impartial tribunal could set such a term. Accordingly, as the Home Secretary was not a member of the judiciary and could not be independent of the executive, this procedure was deemed to be non-compliant with article 6(1) of the European Convention on Human Rights. As a result, the UK Parliament enacted Schedules 21 and 22 of the Criminal Justice Act 2003.*

Schedule 21 gave the power to set the minimum term of imprisonment to the Crown Court judge who had tried the offender convicted of murder, with an appeal to the English Court of Appeal, whilst Schedule 22 permitted a High Court judge to reconsider the minimum sentences set by the Home Secretary under the previous regime. For the purposes of the Bailiwick, Schedule 22 gave the High Court judge power to determine the appropriate minimum term, assisted in practice by a recommendation of the Royal Court. Any appeal from the decision of the High Court judge was heard by the English Court of Appeal. The term set was then acted upon by Her Majesty's Prison Service and when it expired, the English Parole Board had the responsibility of deciding when the offender can be released on licence. This whole process took some time to complete during which uncertainty existed not only for the offender, his family and friends but also other interested parties such as the victim's family and friends. However, the particular wording of Schedule 22 no longer permits this method of determining the minimum term and therefore another way of doing so is required.

Proposals

In future, it is recommended that the Royal Court should set the minimum term before the offender is transferred to England to serve his mandatory sentence of life imprisonment. The proposals have 3 important effects: (a) the Royal Court, having convicted him, would have the final decision on the minimum term rather than an English judge relying only on documentary records of the case; (b) the offender and any other interested person would know the length of the minimum term very shortly after he had begun to serve his sentence; and (c) the judicial autonomy of the Bailiwick would be enhanced in a manner comparable to steps already taken by the other Crown Dependencies (in Jersey: article 10 of the Criminal Justice (Mandatory Minimum Periods of Actual Imprisonment (Jersey) Law, 2005; and in the Isle of Man: section 1 of the Death Penalty Abolition Act 1993). This would be underlined by the fact that an appeal from the Royal Court's decision would lie to the Guernsey Court of Appeal in the usual way.

The Ministry of Justice has stated that the minimum term determined by the Royal Court would then be respected by Her Majesty's Prison Service in England, and the English Parole Board, which would have easier access to the offender than Guernsey's Parole Review Committee, would retain responsibility for deciding when to release him after expiry of the minimum term. Accordingly, these proposals would not require any additional expenditure above what is already incurred.

It might be argued that it would be more appropriate for the minimum term of imprisonment for a Guernsey offender to be set in the jurisdiction to which he is transferred so that the offender is in the same position as he was under the Criminal Justice Act 2003; but I do not think that there is any compelling reason why this power should be given to an English judge who would determine the minimum term solely on the papers when it could be placed in the hands of the Guernsey tribunal that had convicted the offender. Again I am not persuaded that it would be difficult for a offender transferred to England to appeal to the Guernsey Court of Appeal against the minimum term set in the Royal Court; and if in a particular case it were more appropriate for an offender to remain in Guernsey, pending an appeal, I believe that could be accommodated.

Setting the minimum term

I recommend that the factors to be taken into account when setting a minimum term should be specified in the legislation granting the Royal Court the power to set such a term. I recommend that the criteria set out in Schedule 21 to the Criminal Justice Act 2003 should be used because they include all relevant factors which a court should properly consider. Moreover, this approach would ensure consistency with previous

decisions in respect of Guernsey offenders as previous recommendations have been made on the basis of this Schedule.

Under that Schedule, the court must decide on a starting point and then consider the aggravating and mitigating factors before setting the minimum term. The current provisions can be summarised as follows:

1. The starting point.

(a) Murder of exceptionally high seriousness: the starting point is a whole life order if the offender was aged 21 or over when he committed the offence. Examples of an exceptionally serious murder would be where the murder is of two or more persons where each murder involves e.g. a substantial degree of premeditation or planning, or the abduction of the victim; or where the murder is of a child and involves the abduction of the child, or a sexual or sadistic motivation.

(b) Murder of particularly high seriousness: the starting point is 30 years if the offender was aged 18 or over when he committed the offence. Examples of a particularly serious murder would be where the murder is of a police officer or prison officer in the course of his duty; where the murder involves the use of a firearm or explosive; where a murder is done for gain; where the murder is of two or more persons; and where the murder was one of exceptionally high seriousness but committed by an offender who was aged under 21 at the time of the offence.

(c) Murder of sufficiently high seriousness: the starting point is 25 years if the offender was aged 18 or over when he committed the offence and he took a knife or other weapon to the scene intending to commit any offence, or have it available to use as a weapon, and used that knife or other weapon in committing the murder.

(d) Murder not of exceptionally, particularly or sufficiently high seriousness and committed by offender aged 18 or over: the starting point is 15 years.

(e) Murder not of exceptionally, particularly or sufficiently high seriousness and committed by offender aged under 18: the starting point is 12 years.

A summary of these proposals is contained in the following table:

<i>Description of Murder</i>	<i>Starting Point</i>
<i>Exceptionally serious</i>	<i>Whole life order</i>
<i>Particularly serious</i>	<i>30 years</i>
<i>Sufficiently serious</i>	<i>25 years</i>

<i>Other cases - Offender 18 or over</i>	<i>15 years</i>
<i>Other cases - Offender under 18</i>	<i>12 years</i>

2. Aggravating and mitigating factors.

(a) The aggravating factors include: a significant degree of planning or premeditation; the fact that the victim was particularly vulnerable because of age or disability; the abuse of a position of trust; and the fact that the victim was providing a public service or performing a public duty.

(b) The mitigating factors include: an intention to cause serious bodily harm rather than to kill; the fact that the offender was provoked (for example, by prolonged stress); the fact that the offender acted to any extent in self-defence; and the age of the offender.

In accordance with best practice in England and Wales, it is proposed that the minimum term could only be set as a whole life order where the offender is 21 years of age or above.

It should again be noted that the normal provisions in relation to eligibility for parole would not apply in the case of a mandatory life sentence, so that for example an offender who is given a minimum term of 15 years would actually serve that period in custody before becoming eligible for parole.

Miscellaneous

In order to allow flexibility without delay, I further recommend that the States be given power by Ordinance to amend the ages and starting points referred to in the paragraphs above. If the principle of the Royal Court setting the minimum term of a mandatory sentence of life imprisonment is accepted, an amendment to the Court of Appeal (Guernsey) Law, 1961 would be required to permit an appeal to be made to the Court of Appeal against the minimum term of imprisonment. In addition, a technical amendment is required to the Homicide (Guernsey) Law, 1965 regarding youth detention.

Discretionary Sentence of Life Imprisonment

Background

A discretionary sentence of life imprisonment can be passed on an offender who has been convicted of a common law offence for which the punishment is "at large", such as assault perverting the course of justice or rape, or an offence created by statute, such as

arson or robbery. In England and Wales, the decisions of whether to impose a discretionary sentence of life imprisonment and the length of the minimum term are governed by the general provisions which apply to all sentences of imprisonment. As yet, no formal procedure has been adopted by the Royal Court to set the minimum term.

Proposals

For the same reasons given in relation to mandatory sentences of life imprisonment, it is recommended that the Royal Court should set the minimum term of a discretionary life sentence before the offender is transferred to England to serve that sentence. However, as the offences for which an offender can be given a discretionary life sentence vary greatly, it is not proposed that any starting points equivalent to those set out above should be enshrined in legislation. It would be for the Royal Court to decide the minimum term on the facts of each individual case.

To ensure consistency with the position regarding mandatory sentences, it is proposed that the minimum term for a discretionary sentence could only be set as a whole life order where the offender is 21 years of age or above.

It should again be noted that the normal provisions in relation to eligibility for parole would not apply in the case of a discretionary life sentence, so that for example an offender who is given a minimum term of 15 years would serve that period in custody before becoming eligible for parole.

Miscellaneous

Similarly, if the principle of the Royal Court setting the minimum term of a discretionary sentence of life imprisonment is accepted, an amendment to the Court of Appeal (Guernsey) Law, 1961 would be required to permit an appeal to be made to the Court of Appeal against the minimum term set.

Conclusions

Human Rights

I am of the opinion that these proposals, if enacted, will comply with the European Convention of Human Rights. The proposal to give jurisdiction to set the minimum term of a mandatory sentence of life imprisonment to the Royal Court of Guernsey, rather than a court in England cannot of itself be said to interfere with any Convention rights. In a similar way, a clear procedure by which the minimum term of a discretionary sentence of life imprisonment can be set would not contravene an offender's human rights.

It should be noted that, although a Guernsey offender would be introduced into the mainland prison system, as he had been sentenced by a court of competent jurisdiction

it could not be argued that the offender's human rights had been breached simply because a more severe sentence had been passed in Guernsey than might have been the case in England and Wales.”

3. Resources

As noted above it is not anticipated that these proposals will result in any additional expenditure by the States.

4. Consultation

The States of Alderney and Chief Pleas of Sark have been consulted regarding the proposals in this Report.

The Law Officers support the legislative amendments proposed in this States Report.

5. Principles of Good Governance

The proposals made in this States Report are in accordance with the Principles of Good Governance as outlined in Billet D’Etat IV 2011, particularly Principle 5 “developing the capacity and capability of the governing body to be effective.”

6 Recommendation

The Department recommends the States be asked to direct the preparation of legislation in accordance with the foregoing, to:

- (a) give the Royal Court power to set the minimum term of mandatory and discretionary sentences of life imprisonment,
- (b) specify the criteria for setting a starting point and specify the aggravating and mitigating factors in relation to mandatory sentences of life imprisonment, and
- (c) permit the amendment of the relevant provisions of the Law by Ordinance of the States.

The Presiding Officer has agreed that this States Report and the legislation may appear in the same Billet d’État.

Yours faithfully

G H Mahy
Minister

F W Quin, Deputy Minister
J M Tasker
M S Laine
B N Kelly
A L Ozanne

PRIORITISING LEGISLATION**1. THE NEED FOR LEGISLATION**

Currently there is no procedure by which the minimum term for a mandatory or discretionary sentence of life imprisonment can be set in the Bailiwick, provision has previously been made in respect of mandatory sentences for the term to be determined by an English judge following the offender's transfer to a prison in England.

2. FUNDING IMPLICATIONS

The Home Department does not believe that the proposed changes would result in a request for additional resources.

3. RISKS/BENEFITS ASSOCIATED WITH ENACTMENT/NON-ENACTMENT

These proposals will give the Royal Court the power to set the minimum term upon passing a mandatory and discretionary sentence of life imprisonment.

4. ESTIMATED DRAFTING TIME

The legislation has been drafted and is to be included in the same Billet d'Etat as this States Report.

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

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

The States are asked to decide:-

XIX.- Whether, after consideration of the Report dated 28th June, 2011, of the Home Department, they are of the opinion:-

1. To agree that the Royal Court be given power to set the minimum term of mandatory and discretionary sentences of life imprisonment.
2. To agree that criteria be specified for setting a starting point and specifying the aggravating and mitigating factors in relation to mandatory sentences of life imprisonment.
3. To permit the amendment of the relevant provisions of the Law by Ordinance of the States.
4. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

HOME DEPARTMENT

**PROPOSAL TO APPOINT A PAN-ISLAND DATA PROTECTION
COMMISSIONER**

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

13th July 2011

Dear Sir

1. EXECUTIVE SUMMARY

- 1.1. This report describes the rationale behind, and the options available for, the appointment of a Pan-Island Data Protection Commissioner. The opportunity has arisen due to the forthcoming retirement of the Guernsey Commissioner and the growing trend towards Pan-Island Statutory Officials.
- 1.2. The Department has worked closely with the Chief Minister's office in Jersey and has approached the Jersey's Data Protection Commissioner, Mrs Emma Martins who would be happy to be appointed to this role in Guernsey.
- 1.3. The report recommends that the Jersey Data Protection Commissioner is appointed as Data Protection Commissioner in Guernsey and that offices remain in both Islands and continue to be staffed locally, enabling current services to be maintained.
- 1.4. The new proposed organisation has been designed to address the future demands and needs of Data Protection for both Bailiwicks, strategically and tactically, whilst maintaining the integrity which allows both jurisdictions to determine the legislation appropriate to their individual requirements.
- 1.5. The proposal identifies cost savings for each Island, along with improved service and consistency of application across each jurisdiction.

**2. THE GOOD GOVERNANCE PRINCIPLES AND THE STATES
STRATEGIC PLAN**

- 2.1. The proposals made in this States Report are in accordance with the *Principles of Good Governance* as outlined in Billet d'État IV 2011 (page 247), most

particularly Principle 1 “*focusing on the organisation’s purpose and on outcomes for citizens and service users*” and Principle 4 “*taking informed, transparent decisions and managing risk*”.

- 2.2. The Department is committed to ensuring that services are not lost but are joined up, consistent and more cost effective in order to secure high quality public services that meet the needs of Islanders but which also represent value for money.
- 2.3. A full assessment has been carried out with the primary objective being to achieve effective operational capability. Financial savings are seen as an added benefit.
- 2.4. The Department has communicated and consulted widely within both Bailiwicks and has been open with staff from the outset to ensure transparency and inclusiveness.

3. CURRENT SITUATION

The Role

- 3.1. The role of the Data Protection Commissioner’s in both Guernsey and Jersey is to safeguard the privacy rights of individuals in relation to the processing of personal information and to ensure that organisations comply with data protection legislation: The Data Protection (Jersey) Law, 2005 and The Data Protection (Bailiwick of Guernsey) Law, 2001, the European Communities (Implementation of Privacy Directive (Guernsey) Ordinance, 2004 and equivalent Ordinances in force in Alderney and Sark.
- 3.2. Both of the Commissioners’ roles involve maintaining contacts with other data protection and privacy commissioners and officials in the European Commission to ensure that their jurisdictions continue to be recognised as conforming to European and International regulatory standards. In practice this role has occasionally been shared between Guernsey and Jersey because the ability to attend each meeting, conference or seminar is dependent upon workload within the separate Data Protection offices.

The Bailiwick of Guernsey

- 3.3. The Bailiwick of Guernsey Data Protection Commissioner is appointed by the States of Guernsey on the nomination of the Home Department for a five year term of office. The current Commissioner’s term of office expires on 30th September 2011.
- 3.4. In 2001 the States approved the appointment of the current Data Protection Commissioner, Dr Peter Harris on a full time basis in order to oversee the introduction and implementation of the new law and to ensure proper

representation in the international community; the full time contract was successfully renewed in 2006, but the Commissioner has indicated that the role in Guernsey does not require a full time post going forward.

- 3.5. The Commissioner post is non-pensionable and on a self employed basis, however the Commissioner's staff are States of Guernsey Civil Servants on secondment. The staffing complement has remained unchanged over the years at one full-time Assistant Commissioner and one part-time Personal Assistant. It is anticipated that this will continue.

The Bailiwick of Jersey

- 3.6. The Jersey Data Protection Office comprises a Commissioner and three full-time staff – a Deputy Commissioner, an Administrative Support Manager and an Administrative Support Assistant. The Administrative Support Manager has accepted voluntary redundancy and is due to leave the service at the end of August 2011.
- 3.7. The Commissioner's role exists as a contract with the States of Jersey until 2015 when the contract is due for renewal. The Commissioner and staff are employed independently from the States of Jersey Civil Service. However, their terms and conditions reflect those of the Civil Service including remuneration, pensions and all other conditions.
- 3.8. In 2013 it is anticipated that there will be funds available to recruit an Officer-level post to carry out compliance work. If the proposal to appoint a Pan- Island Commissioner is approved, this post will be jointly funded and the post-holder will carry out compliance work for both jurisdictions.

Legislation

- 3.9. The Data Protection legislation in force in Guernsey and Jersey is very similar, being based on the UK Data Protection Act, 1998 with only minor differences existing between the Bailiwicks.
- 3.10. In addition, Guernsey, Alderney, and Sark have implemented Regulations which transpose European Union Directive 2002/58/EC on privacy in electronic communications. This has yet to be enacted in Jersey.
- 3.11. Notification fees payable by registered organisations on both islands are comparable at a rate of £50.

Freedom of Information (FoI)

- 3.12. Jersey has approved the introduction of FoI legislation although the implementation date is as yet unknown. The Jersey Commissioner will be

responsible for supervision of FoI in Jersey and has been awarded two dedicated Officer-level posts to administer this function.

- 3.13. In Guernsey, the Policy Council is presently considering on what form, if any, FoI legislation might take. In the event that Guernsey does approve the introduction of FoI at a local level then Guernsey will, under this proposal, benefit from the knowledge and experience of staff based in the Jersey Office.
- 3.14. This proposal is flexible in order to ensure that any introduction of FoI legislation would have a seamless implementation, although funding will need to be reflected in any future proposal to introduce FoI in Guernsey in order to recruit dedicated staff and provide administrative resource.

4. THE OPTIONS

- 4.1. In the current financial climate, the end of term of a public-office holder is an appropriate time to review and scrutinise the office to ensure that, in the performance of its core responsibilities, expenditure is minimised and efficiency is maximised.

- 4.2. The Department has undertaken such a review, taking into account the Home Department's strategic and business objectives and two options have been put forward:

4.3. Option A

Appoint a Pan-Island Data Protection Commissioner covering both Bailiwicks.

- a) Under this option the Pan-Island Commissioner could assume responsibility for both Islands with effect from 1st October 2011.
- b) This option will enhance the daily administration within both offices.
- c) This option will reduce the cost of the service for both jurisdictions.

4.4. Option B

Remain as now and appoint a Data Protection Commissioner on a part-time basis for Guernsey to replace the current Commissioner, when he retires.

- a) Under this option the Department would need to extend the current Guernsey Commissioner's contract in order to allow time for recruitment and training.
- b) This option will realise some minimal cost savings when the new commissioner is in place.

5. OPTION A - Appoint a Pan-Island Data Protection Commissioner

- 5.1. This is the preferred option of the Home Department. The reasons behind the recommendation of this proposal are as follows:

- a) It will provide an enhanced, more consistent and superior service to both jurisdictions by improving operational and service performance;
- b) Cost savings can be realised, both in staffing resource and operational costs; and
- c) There is a political will encouraging pan-Channel Island working.

The Role of the Pan-Island Commissioner

- 5.2. It is proposed that the Pan-Island Commissioner (“The Commissioner”) will act on behalf of each Bailiwick independently. The Commissioner will continue to be accountable to each respective Government and will be governed by the legislation appropriate to that jurisdiction.
- 5.3. The Commissioner will retain independence from both Governments and will continue to advise each Government on the application of the Data Protection legislation and on best practice and matters which may affect each jurisdiction. However, it remains for each Government to determine the specific legislation appropriate to that jurisdiction.
- 5.4. It is anticipated that the Commissioner’s schedule will be flexible and dependent upon workload with estimated travel costs and accommodation costs of up to £10,000 per annum. Savings from staff resources, dependent upon negotiations, may amount to approximately £40,000 per annum and reduced travel costs for international representation might save a further £5,000 per annum.

The Offices of the Pan-Island Data Protection Commissioner

- 5.5. As outlined in 3.4 the current Commissioner has indicated that a full-time commissioner is not required to manage the office on a day to day basis. The offices in Guernsey and Jersey will remain with staff responding to queries, complaints and requests by telephone, email and fax from either office. A physical presence will remain in both Islands during the working week, in order that the public experience no reduction in service, communication, or support from Data Protection at any time.
- 5.6. The objective is to improve transactions, internal efficiencies and the service provided to customers. There will be an enhanced consistency of approach and application of Data Protection legislation with improved communication and accessibility procedures, the two offices will work together to develop resilience, provide coverage and offer guidance and support.
- 5.7. One of the key advantages is the ability to share workloads and service-delivery between the teams irrespective of location. The need to retain both offices is imperative – this provides a reassuring presence to both communities that Data Protection is being delivered by local officers with no reduction in the quality of

service. However, the communications infrastructure will need to be enhanced to ensure that joint telephone support can be readily provided and that officers in one location can have ready access to information situated in the other. It is anticipated that the appointment of a Pan-Island Commissioner will not adversely impact on the service offered to either Island, but will going forward provide increased efficiency and resilience.

Governance

- 5.8. A Steering Group has been formed and will act as an ‘advisory body’ to the Commissioner, and will initially oversee the implementation of this proposal and its operation from October 2011. This will ensure that both Governments are working in parallel and are engaged. Membership to this Steering Group will include the relevant representatives from within both Governments along with an independent element. It is envisaged that the Steering Group will build-in monitoring and suitable targets to evaluate against the achievement of continued operational capabilities in both jurisdictions.
- 5.9. The Steering Group will be exploring effective ways to use I.T. systems and to provide joined up office capabilities. If this proposal is agreed, this work will be taken forward from October 2011. An initial scoping exercise was undertaken when investigating whether a Pan-Island Data Protection Commissioner was a feasible option for the future.

Reporting

- 5.10. Within both jurisdictions the Data Protection Commissioner is required by Law to produce an Annual Report. It is envisaged that over the period of one year the reports will be amalgamated, and from the beginning of the next financial year (2012) the Commissioner will record finances under consistent headings. This will enable a consolidated Annual Report to be published, as normal in June 2013, whilst maintaining and reflecting each jurisdiction’s expenditure and contribution.

Benefits

- 5.11. The advantages of appointing a Pan-Island Commissioner under this proposal are that:
- a) there will be an increased perception of independence and a reduced potential for political interference in the work of the Commissioner by either Island;
 - b) there is a greater likelihood of consistency in decision making as based on common experience and case history;
 - c) there will be an improvement in service coverage – coping with peaks, troughs and absences;

- d) there is no competitive element so businesses which operate in both jurisdictions will experience continuity in service;
- e) the consistency in development of both Statutory and Voluntary Codes of Practice will be rationalised across the Channel Islands;
- f) staff time will be utilised more efficiently;
- g) the combined cost of provision would be reduced by:
 - i. a reduction in salary costs;
 - ii. long term savings in the provision of IT support;
 - iii. a reduction in the cost of publicity and educational campaigns; and
 - iv. a reduction in the travel costs and expenses of international liaison and representation.

Financials

5.12. It is proposed that the budget is split based on the historic and current levels of activity between Guernsey and Jersey 40% - 60% respectively.

Current Office Accounts Summary

5.13. The following table below shows the current accounts summary from each office. For comparison purposes both the Guernsey and Jersey expenditure headings and corresponding costs have been aligned.

	Guernsey 2010 £	Jersey 2010 £
Fee income from notifications	63,611	100,752
Expenditure	£	£
Salaries	166,355	226,934
International conferences and travel	9,119	10,604
Supplies and services	18,905	16,579
Premises	23,692	37,808
Total operating expenditure	218,071	291,925
excess of income over expenditure ¹		36,717
Net cost to the Government	154,460	227,890

5.14. Substantial savings can be made under this option. Firstly savings can be made by sharing the cost of the Commissioner's salary with the States of Jersey and secondly international travel costs will be reduced.

¹ Sum retained for future capital expenditure

Staffing Cost Summary

5.15. It is recognised that to go from the existing situation to this proposed new organisation in one step is not viable; hence there are interim steps which are milestones to achieving the desired outcome. These interim steps will result in cost savings in terms of staffing – namely the retirement of the Data Protection Commissioner for Guernsey and the Administration Support Manager in Jersey.

5.16. The following table attempts to outline prospective staffing costs by appointing a Pan-Island Commissioner by October 2012. You will note that the introduction of FoI in Jersey does not indicate a funding increase for Guernsey.

Stages of implementation	Guernsey £	Jersey £	Total £	Reasons for change
Currently	166	226	392	
By October 2011	120	160	280	Guernsey Commissioner retires and a voluntary redundancy in Jersey (funded by Jersey)
By 2015 no FoI implemented in Jersey	140	190	330	Possible Compliance Officer recruited
By 2015 with FoI implemented in Jersey	140	265	415	Possible Compliance Officer recruited Takes account of 2 officers responsible for FoI (funded by Jersey)

6. OPTION B - Continue to employ separate commissioners in both Bailiwicks

6.1. This option requires that a new Data Protection Commissioner for Guernsey be appointed. The current Commissioner's term ends on 30th September and if this option is taken forward there will be a requirement to extend the current Commissioner's contract for a period until a suitable replacement has been appointed. Additionally the Department would like to ensure that there is a seamless transition in the appointment of this new Commissioner and will require a further handover period. The Department would look to bring another report to the States in December 2011.

6.2. In 2001, when the current Commissioner was appointed the contract was increased to a full-time post as it required a much higher level of commitment in order to oversee the introduction and implementation of the new law. This work is now complete and the Department is conscious that it is no longer necessary to have in place a full-time commissioner. The current Commissioner is in agreement with this proposal and the Department will, if directed, ensure that a suitable person is appointed on a part-time basis.

7. CONSULTATION

- 7.1. The Department has developed this proposal in consultation with the current Data Protection Commissioners in both Guernsey and Jersey and with their respective staff.
- 7.2. The Chief Executives in both Islands are supportive of this proposal and have endorsed the Department's review of the Service which not only promotes joint working between the Islands, but also its efficiency saving element. A simultaneous proposal will be taken forward in Jersey, although in terms of appointment this does not need to be approved by the States of Jersey as it does by the States of Guernsey.
- 7.3. The Law Officers in both Islands have considered this proposal; they advise that there are no immediate requirements for legislative change in order to provide for the proposal detailed in this report.
- 7.4. The Policy and Finance Committee of the States of Alderney have considered this proposal and unanimously agree to support the appointment of a Pan-Island Data Protection Commissioner to act on behalf of both the Bailiwick of Guernsey and Jersey.
- 7.5. The General Purposes and Advisory Committee of Sark welcome the proposal to appoint a Pan-Island Commissioner.

Housing Licence Issuance

- 7.6. In developing this proposal, the Home Department has taken into consideration the Housing Department's Pan Channel Island Appointments Policy and a Housing Licence has been approved 'in principle' by the Housing Department should the recommendation in Section 8.1.1 be agreed by the States.
- 7.7. The Department is cognisant that if a Pan-Island Commissioner is appointed, as recommended in Section 8.1.1, further consideration will need to be given at the point of contract renewal. At this stage it is anticipated that the proposed Commissioner's contract will be renewed.
- 7.8. If the Department was to appoint a dedicated Guernsey Commissioner, the Home Department is confident that a part-time Commissioner could be sourced from within the Bailiwick. The Housing Department will be further consulted should the recruitment of a Guernsey Commissioner need to be progressed outside of the Bailiwick.

RECOMMENDATIONS

- 7.9. Pursuant to Section 6(2) of the Data Protection (Bailiwick of Guernsey) Law, 2001, the Home Department recommends that the States:
- 7.9.1. Approves the appointment of Mrs Emma Martins, the current Data Protection Commissioner in Jersey as Guernsey Data Protection Commissioner for the period 1st October 2011 to 30th November 2015.
- 7.9.2. If the States are not minded to approve Section 8.1 the States are asked to approve the extension of Dr P Harris' term of office for approximately three months until 31st December 2011, when a further recommendation for appointment can be made.

Members are directed to Appendix 1 in order to examine an outline of Mrs Martins' experience, demonstrating her suitability for the post.

Yours faithfully

Minister
Home Department

F W Quin, Deputy Minister
J M Tasker
M S Laine
B N Kelly

A L Ozanne

APPENDIX 1

Mrs Martins was born in the UK in 1970. She has a BA (Hons) in Social Science and Politics. She has lived in Jersey for 20 years and is married with 2 children.

Mrs Martins joined the Civil Service in Jersey in 1995 having previously worked in the finance industry. She took up her first management role working for the States of Jersey Police in 1998. Part of the responsibilities of that role was overseeing data protection compliance across the force. Mrs Martins then joined the Office of the Data Protection Registrar in 2001 in the role of Deputy Registrar. Upon the retirement of the then Registrar in 2005, Mrs Martins applied successfully for the position of Commissioner, a position she has held since that time.

(NB The Treasury and Resources Department supports the proposal to appoint Mrs Emma Martins as Data Protection Commissioner for both Guernsey and Jersey and will take account of the revenue savings when recommending future Cash Limits for the Home Department as part of the annual Budget process.)

(NB The Policy Council supports the proposals.)

The States are asked to decide:-

XX. - Whether, after consideration of the Report dated 13th July, 2011, of the Home Department, they are of the opinion:-

1. (a) To approve that a Pan-Island Data Protection Commissioner should be appointed in cooperation with the Bailiwick of Jersey; and
- (b) To appoint Mrs Emma Martins as the Guernsey Data Protection Commissioner in accordance with Section 6(2) of the Data Protection (Bailiwick of Guernsey) Law, 2001, with effect from 1st October 2011 until 30th November 2015

In the event of the States rejecting proposition 1 above, whether they are of the opinion:-

1. To appoint Dr Peter Harris as Data Protection Commissioner in accordance with Section 6(2) of the Data Protection (Bailiwick of Guernsey) Law, 2001, for the period from 1st October to 31st December 2011.

ENVIRONMENT DEPARTMENT**WASTE DISPOSAL AT A PRIVATE SITE – WHISPERS VINERY, CASTEL**

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

27th June 2011

Dear Sir

EXECUTIVE SUMMARY

Under section 2 of the Environmental Pollution (Waste Control and Disposal) Ordinance, 2010 ("the Ordinance") the Director of Environmental Health and Pollution Regulation ("the Director") can only issue a waste disposal licence to a person, other than the States itself, if that person is authorised by the States for that purpose.

The Director of Environmental Health and Pollution Regulation (the Director) has received an application for a waste management licence for the operation of a waste wood incinerator and boiler for the generation of heat for the green houses at Whispers Vinery, Castel. As this is a waste disposal operation, this report requests that the States authorise the applicants to operate the Castel site and equipment on it for the disposal of waste on the site so that a licence may be issued by the Director should she decide to grant the licence.

Waste disposal operations other than by the States

Under the Environmental Pollution (Guernsey) Law, 2004 ("the EP Law") the decision as to whether or not a licence is issued is that of the Director and it is for her as the independent regulator to consider the relevant material considerations (see sections 14(3), 15 and 33(2) of the EP Law). Therefore, this report does not go into the issue of whether or not the particular application should be granted as this is a matter for the Director.

A letter from the Director is annexed giving details of the application, confirming that she is considering it in accordance with the EP Law and asking the Environment Department to recommend to the States that the States authorise the applicants as persons to whom a licence may be issued should the Director decide to grant the licence.

Matters to be taken into account by the States

The States is asked to consider the strategic issue as to whether a waste disposal licence should be granted to a person other than the States. It is clear from the provisions of the EP Law, in particular sections 22 and 33, that the States authorisation is required so as to ensure that private waste disposal operations do not proliferate so as to jeopardise the operation of a universal waste disposal service operated by, or on behalf, of the States.

The Environment Department has considered the matter in view of its responsibility to advise the States on waste policy. As part of this consideration, the Environment Department has consulted the Public Services Department as Waste Disposal Authority.

The Environment Department is content that to issue the current authorisation would be consistent with the current Environment Policy as the development is small, will not interfere with States operations and will remove 1,000 tonnes of waste wood per annum from the waste stream.

The Public Services Department has raised no objection to the operation at the Whispers site in the course of preparing its recommendations to the Environment Department in relation to the proposed Waste Disposal Plan. It has raised no concerns that granting the particular licence would be contrary to the public interest in not diverting waste from public waste disposal sites. Should States approval be granted, the Director will consider the application for the waste management licence. The licence will apply stringent conditions to the operation in respect of all aspects of the operation including site management, combustion processes, emissions of smoke, gases, noise, ongoing monitoring etc.

Recommendations

The Environment Department recommends the States to authorise BR Langlois and Sons Ltd, as persons to whom a licence may be issued, by the regulator, for the carrying on of waste disposal operations comprising the combustion of waste wood at Whispers Vinery, Rue des Goddards, Castel, GY5 7BG.

Yours faithfully

Deputy Peter Sirett

Minister, Environment Department

Deputy Jenny Tasker, Deputy Minister

Deputy Janine Le Sauvage

Deputy Jack Honeybill

Deputy Barry Paint

OFFICE OF ENVIRONMENTAL HEALTH AND POLLUTION REGULATION
Longue Rue, St. Martin, Guernsey. GY4 6LD Tel 711161

Mr. S Smith,
Chief Officer,
Environment Department,
Sir Charles Frossard House,
La Charroterie,
St Peter Port.

16th May 2011

Dear Mr. Smith,

**Application for a Waste Management Licence – Whispers Vinery, Rue des
Goddards, Castel GY5 7BG**
Environmental Pollution (Guernsey) Law, 2004
Environmental Pollution (Waste Control and Disposal) Ordinance, 2010

Further to our recent conversations and report to the Environment Board on 29th March 2011, I confirm that an application for a waste management licence has been received from B.R. Langlois and Sons Ltd. in relation to a waste disposal operation to be carried out at the above premises.

The operation is a small waste wood incinerator and boiler (3MW), which will produce heat for the greenhouses at the site. Waste wood chip will be delivered to the site from one of the local recycling centres. This will be burned in the purpose built furnace to generate heat, necessary for the crops in the greenhouses. The development is intended to replace the old diesel boiler plant.

Consideration of the application will take account of any pollution arising from the operation e.g. noise, products of combustion such as smoke, dust, fume and gases. Appropriate measures will ensure that the operation meets international pollution prevention and control standards.

Within the terms of the above legislation, I cannot issue a licence for a waste disposal operation to a person, other than the States itself, unless that person is authorised in writing by the States. This provision was drawn up in order to prevent waste from being unnecessarily diverted from the waste stream with the result of jeopardising the universal States' waste disposal service. In this case, 1,000 tonnes of waste wood per annum will be diverted to the BR Langlois ltd. private waste disposal site at Whispers vinery.

I am currently considering the application in accordance with the Law and have consulted with various bodies as required by section 33(2) Law. The Public Services Department as Waste Disposal Authority have in their consultation response raised no concerns that granting a licence for the operation would be contrary to the public interest in not diverting waste from public waste disposal sites or inconsistent with recommendations they will be making in relation to the proposed Waste Disposal Plan. I am also of the view that granting the licence would not be contrary to such public interest in that the development is relatively small and that appropriate pollution prevention and control measures will be put in place.

In view of the above, I request that the Environment Department recommends to the States that they authorise B.R. Langlois and Sons Ltd as person to whom a licence may be issued for the carrying on of waste disposal operations at the above address.

I would be pleased if you could give this matter you early consideration.

Yours sincerely

V Cameron

Valerie Cameron
Director of Environmental Health and Pollution Regulation

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

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

The States are asked to decide:-

XXI.- Whether, after consideration of the Report dated 27th June , 2011, of the Environment Department, they are of the opinion:-

1. To authorise the regulator to issue of a licence to BR Langlois and Sons Ltd for the carrying on of waste disposal operations comprising the combustion of waste wood at Whispers Vinery, Rue des Goddards, Castel, GY5 7BG.

STATES ASSEMBLY AND CONSTITUTION COMMITTEE

**RULES OF PROCEDURE OF THE STATES OF DELIBERATION
REVOCATION OF RULE 16**

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

18th July 2011

Dear Sir

EXECUTIVE SUMMARY

This report proposes that Rule 16 of the Rules of Procedure of the States of Deliberation be revoked.

REPORT

1. Rule 16, entitled “Re-submission”, is in the following terms:

“(1) Where a proposition is passed, rejected or modified by the votes of less than two thirds of the Members entitled to vote then present, it shall be within the discretion of the Presiding Officer to declare the Resolution to be ineffective. A declaration of ineffectiveness, as respects any Resolution, shall be made within the three days next following the date of the Resolution by notice signed by the Presiding Officer and posted in the lobby of the Royal Court; and during that period the Resolution shall be deemed ineffective unless the Presiding Officer has otherwise declared to the Minister or Chairman of the Department or Committee concerned. Where, under this Rule, the Presiding Officer declares a Resolution to be ineffective, he shall, as soon as is reasonable, submit to a Meeting a proposition in terms similar to those of the proposition concerned and the Resolution of a simple majority of the States in regard thereto shall be effective.

- (2) The provisions of the foregoing paragraph of this Rule shall not apply as respects a Resolution of the States taken on a matter re-*

submitted to them pursuant to Article 3 of the Reform (Guernsey) Law, 1948.”.

2. Its genesis is to be found in Article 15 of the Loi relative à la Réforme des États of 1844¹ and in 1948, when the relevant Articles of the Law were repealed, it was incorporated into the Rules of Procedure. The effect of this Rule is that all resolutions passed by less than a two-thirds majority (when a recorded vote has been taken) are ineffective for three days unless the Presiding Officer has otherwise declared. This is unsatisfactory for two reasons: it creates uncertainty and it requires the Presiding Officer to make substantive decisions as to whether resolutions should be declared ineffective.
3. During the three days following the passing of a resolution carried by less than two-thirds majority, the resolution is deemed to be ineffective. Serious ramifications could well result therefrom: for example, a resolution approving a contract or legislation which needs to take immediate effect is deemed to be ineffective for three days unless the Presiding Officer has otherwise declared.
4. The Presiding Officer has advised the Committee that, given his current role in the machinery of government, he does not consider it appropriate that he should remain vested with a power of such potentially draconian consequence. He is firmly of the view that Rule 16 should be revoked and that resolutions should be of immediate effect unless there is a statutory provision providing otherwise (as, for example, there is when dealing with amendments to the Reform Law). The Committee has been further advised that the Deputy Presiding Officer concurs with that view.
5. Research indicates that the Rule has not been invoked for more than 75 years. In 1935 the Bailiff, Mr. Victor G. Carey, was asked to use his discretion to declare ineffective a resolution regarding the establishment of an aerodrome². In declining to do so, he stated:

“the discretion given to the President of the States ... should be exercised only under very exceptional circumstances, such as if a vote of the States tended to imperil the autonomy of the Island, or if a vote were taken under a misapprehension of law or fact, or if the States had been misled either deliberately or inadvertently by a mis-statement during the debate before going to the vote, or if some equally cogent reason existed.”. ...

“I desire to make it clear for guidance in the future, that, in my view, the impartial judgment in the interests of the Island of the President of the States in regard to the exercise of the discretion

¹ Ordres en Conseil Vol. I, p. 91
² Billet d'État XI of 1935, p. 313

vested in him alone ... is more likely to be secured if he be uninfluenced by importunity to exercise, or not to exercise, that discretion, and, if I am right, it follows that he should be free from such importunity.”

6. Whilst Bailiff Victor Carey declined to declare a resolution ineffective in 1935 no positive application of the Rule has been traced. The Committee believes that retention of this Rule does nothing other than to provide a degree of uncertainty. It serves no practical purpose. Moreover, there are other democratic mechanisms available which afford the States the opportunity to reconsider a decision. That being so the Committee recommends that Rule 16 be revoked.

CONSULTATION / RESOURCES / NEED FOR LEGISLATION

7. The Presiding Officer’s view is set out in paragraph 4. The Policy Council concurs fully with the proposal that Rule 16 be revoked. The Law Officers have advised that they raise no objection to the proposal.
8. The approval of the recommendation would have no implications for the manpower resources of the States nor does it require any legislation.

RECOMMENDATION

The States Assembly and Constitution Committee recommends the States to agree that Rule 16 of the Rules of Procedure of the States of Deliberation be revoked with immediate effect.

Yours faithfully,

I. F. RIHOY

Chairman
States Assembly and Constitution Committee

Members of the Committee are
Deputy I. F. Rihoy (Chairman)
Deputy M. M. Lowe (Vice-Chairman)
Deputy T. M. Le Pelley
Deputy S. L. Langlois
Deputy M. J. Fallaize

The States are asked to decide:-

XXII- Whether, after consideration of the Report dated 18 July, 2011, of the States Assembly and Constitution Committee , they are of the opinion:-

That Rule 16 of the Rules of Procedure of the States of Deliberation be revoked with immediate effect.

STATES ASSEMBLY AND CONSTITUTION COMMITTEE**‘HANSARD’ REPORTS OF THE STATES OF DELIBERATION**

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

18th July 2011

Dear Sir

EXECUTIVE SUMMARY

This report proposes the introduction of a ‘Hansard’ report of all meetings of the States of Deliberation at a cost not exceeding £20,000 per annum.

REPORT

1. The reporting of Westminster parliamentary debates, in both the House of Lords and House of Commons, developed gradually in the course of the 19th century. Hansard¹ reports have been produced in their present form for over 100 years. These are edited, verbatim reports of parliamentary debates.
2. Erskine May² defines the reports as follows:
“The Official Report is a full report, in the first person, of all speakers alike, a full report being defined as one which, though not strictly verbatim, is substantially the verbatim report, with repetition and redundancies omitted and with obvious mistakes corrected, but which on the other hand leaves out nothing that adds to the meaning of the speech or illustrates the argument.”
3. Most developed countries, including practically all Commonwealth countries, produce a Hansard-type report of their parliamentary debates: it is considered to be an essential and fundamental parliamentary tool.

¹ So called after Thomas Curson Hansard, the first printer and later publisher of Westminster parliamentary reports. The word ‘Hansard’ is used throughout this report: its use originally was limited to reports of the United Kingdom Parliament but it is now used generically.

² Erskine May: Parliamentary Practice, 22nd edition, p. 222

4. Appendix 1 lists just some of the jurisdictions which produce Hansard reports. The list includes direct links to the relevant websites which may be of interest to Members of the States. It will be noted from that list that (with the exception of Alderney and Sark) Guernsey is alone in the British Isles in not producing a Hansard. In addition to the large countries such as Canada and India many small jurisdictions such as the Falkland Islands and Cayman Islands publish a Hansard. In 2010 the House of Assembly in Bermuda resolved to publish an official record of its proceedings.
5. States meetings have been recorded since 1983, originally on reel-to-reel tapes and now digitally. The Committee is aware that the Treasury and Resources Department is currently investigating the possibility of publishing audio files of recordings of States debates on the internet. Whilst the Committee welcomes this initiative and looks forward to its introduction, the availability of audio files cannot, however, be considered as an acceptable substitute for a readily available written record.
6. Core principle 4 of the Principles of Good Governance refers to taking “informed transparent decisions” – the availability of a Hansard would make the proceedings of the States of Deliberation more transparent and would increase public awareness of, and accessibility to, meetings of the States. It would also preserve a permanent written record of their proceedings for posterity. In addition to the clear domestic advantages, the introduction of a Hansard would undoubtedly be an additional building block in enhancing Guernsey’s international reputation as an effective and modern jurisdiction.
7. Core principle 6 refers to “engaging stakeholders and making accountability real”. The Committee believes that the publication of a Hansard would engage the public in the work of the States and would be a significant tool in the development of real accountability. Further, a Hansard would also accord with the States Objectives set out in the States Strategic Plan³, in particular, “improved awareness of the culture and identity of Guernsey”.
8. An official record of a legislature’s deliberations is a most important source of accurate and unbiased information. It can be used by anyone who wants to know the exact words spoken in the debate, such as how a Member voted on an issue and what he or she said on a particular matter. Equally it allows politicians and other interested parties to determine the exact intent of legislation. Thus a Hansard would be of great value to States departments and committees, and also to States Members and officers, providing them with easy and speedy access to words spoken in the States.
9. Until recently the cost of producing a Hansard record was exceedingly high. However, last year the States Assembly and Constitution Committee learned that the Isle of Man Government had introduced a system whereby a written

³

Billet d’État XIX of 2010, p. 1120

record is produced by means of voice recognition rather than by audio-typing. That being so, the Committee requested the Isle of Man authorities to produce a trial transcript of the States' proceedings of Wednesday, 27th January 2010 which represents a typical States meeting. The resulting document (as perfected or refined minimally) is reproduced as Appendix 2 to this report.

10. The cost of the trial publication was £470.40. The States Assembly and Constitution Committee believes that this is indicative of the rate which might be charged if the States agree to the propositions. The Committee considered it to be premature to enter into any detailed negotiation with the Manx authorities prior to obtaining a States resolution. However, the Committee is aware that the staff and equipment employed to produce reports of Tynwald are not fully utilised and that the Manx authorities would therefore be willing to enter into an agreement with the States regarding the production of an official report of the proceedings of the States of Deliberation.
11. On the basis that the States might sit for 30 days per annum and including a provision for unforeseen expenditure the Committee has concluded that a Hansard of the States of Deliberation could be provided at a cost not exceeding £20,000 per annum. The Committee is therefore recommending to the States that it be authorised to negotiate an agreement, initially for a period not exceeding five years, for the production and revision of a Guernsey Hansard.
12. It is envisaged that the document would then be refined in Guernsey by H.M. Greffier following which it would be placed on the States website for public access. Whilst it is not proposed to publish a printed version, copies would be made available at certain key locations.

RESOURCES / NEED FOR LEGISLATION

13. As its annual budget (excluding staff costs and elections) is only £5,000, the Committee clearly cannot finance the cost from its existing resources. Given the relatively small annual cost, the Committee was disappointed that the Policy Council did not agree to fund this initiative on the basis that it is responsible for the cost of 'input' into States meetings (i.e. the Billets d'État) and therefore should also meet the cost of 'output' from States meetings (i.e. Hansard).
14. That being so, the Committee has submitted a bid for new revenue funding from 2012 in this year's States Strategic Plan process, in the sum of £20,000 per annum. There are no implications for the manpower resources of the States as it is anticipated that the Committee's Principal Officer would undertake the task of editing the publication.

15. No legislation is required in connection with this proposal.

CONSULTATION

16. 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

17. The States Assembly and Constitution Committee recommends the States to:
- (1) agree to the introduction of an official report of the proceedings of the States of Deliberation to commence in 2012;
 - (2) authorise the States Assembly and Constitution Committee to negotiate appropriate terms and conditions for the production of the said official reports;
 - (3) note that the additional funding requirements arising from the proposals set out in this report will be subject to prioritisation as part of the States Strategic Plan.

Yours faithfully,

I. F. RIHOY

Chairman
States Assembly and Constitution Committee

Members of the Committee are
Deputy I. F. Rihoy (Chairman)
Deputy M. M. Lowe (Vice-Chairman)
Deputy T. M. Le Pelley
Deputy S. L. Langlois
Deputy M. J. Fallaize

APPENDIX 1**States of Jersey Assembly**

<http://www.statesassembly.gov.je/frame.asp>

Isle of Man Tynwald

<http://www.tynwald.org.im/papers/hansards/main.shtml>

Falkland Islands Legislative Assembly

http://www.falklands.gov.fk/assembly/Public_Papers.html

Cayman Islands Legislative Assembly

http://www.legislativeassembly.ky/portal/page?_pageid=1588,2236517&_dad=portal&_schema=PORTAL

United Kingdom - House of Commons

<http://www.parliament.uk/business/publications/hansard/commons/>

United Kingdom - House of Lords

<http://www.parliament.uk/business/publications/hansard/lords/>

Scottish Parliament

<http://www.scottish.parliament.uk/business/officialreports/index.htm>

National Assembly for Wales

<http://www.assemblywales.org/bus-home/bus-record-of-proceedings.htm>

Northern Ireland Assembly

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House of the Oireachtas, Ireland

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OFFICIAL REPORT
OF THE
STATES OF THE
ISLAND OF GUERNSEY

(HANSARD)

Royal Court House, St Peter Port

Wednesday, 27th January 2010

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Present:

Sir Geoffrey Rowland, Bailiff and Presiding Officer

Law Officers

R. J. McMahon, Esq., Q.C. (H. M. Comptroller)

People's Deputies

St. Peter Port South

Deputies B. L. Brehaut, C. S. McNulty Bauer, J. M. Tasker,
A. H. Langlois, J. Kuttelwascher

St. Peter Port North

Deputies J. A. B. Gollop, R. R. Matthews, C. A. Steere,
M. J. Storey, J. Honeybill, L.R. Gallienne, M. W. Collins

St. Sampson

Deputies P. L. Gillson, S. J. Ogier, I. F. Rihoy,
L. S. Trott, T. J. Stephens

The Vale

Deputies M. J. Fallaize, G. H. Mahy, A. Spruce,
M. M. Lowe, G. Guille, D. B. Jones, A. R. Le Lièvre

The Castel

Deputies M. H. Dorey, A. H. Adam, T. M. Le Pelley,
S. J. McManus, B. J. E. Paint, B. M. Flouquet, M. G. G. Garrett

The West

Deputies A. H. Brouard, D. de G. De Lisle, M. S. Lainé,
S. L. Langlois, P. R. Sirett, G. P. Dudley-Owen

The South-East

Deputies C. N. K. Parkinson, F. W. Quin, M. G. O'Hara,
R. W. Sillars, J. M. Le Sauvage, M. P. J. Hadley

Representatives of the Island of Alderney

Alderney Representatives R. G. Willmott, R. Walden

Absent at the Roll Call:

H. E. Roberts, Esq., Q.C. (H. M. Procureur),
Deputies R. Domaille (absent de l'Île), Deputy S. J. Maindonald (indisposée)

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The States of Deliberation

*The States met at 9.30 a.m. in the presence of
His Excellency Vice Admiral Sir Fabian Malbon, K.B.E.
Lieutenant-Governor and Commander-in-Chief of the Bailiwick of Guernsey*

[THE BAILIFF presiding]

The Bailiff: Your Excellency, good morning, and welcome to the first meeting of the States of Deliberation in 2010.

His Excellency: Thank you.

PRAYERS

CONVOCATION

EVOCAATION

The Greffier: Billet d'État No. 1, 2010. To the Members of the States of the Island of Guernsey, I have the honour to call a meeting of the States of Deliberation to be held at the Royal Court House on Wednesday, 27th January 2010 at 9.30 a.m. to consider the items contained in the Billet d'État.

Tribute to the late Air Commodore Stanley Charles Widdows, CB, DFC

The Bailiff: Members of the Assembly, I propose to open proceedings by paying tribute to the life of Air Commodore Stanley Charles Widdows.

Air Commodore Charles Widdows, as he was commonly known, died on 8th January 2010. He had served in this Assembly as a Deputy for St Peter Port for two terms between 1973 and 1979, during which time he had served as President of the Public Transport Licensing Authority and as a Member of the Housing Authority, Police

Committee, Income Tax Committee and Island Reception Committee. He had also served as President of the Special Committee, set up to investigate the rights of the father and mother of a minor.

In September last year he and his wife, Nickie, celebrated their 70th wedding anniversary and I visited them at their home that morning. Air Commodore Widdows looked back with great fondness on his time as a Member of the States. He said that he was grateful to have had the opportunity, given to him by the electorate of St Peter Port, to serve Guernsey in that way, particularly as he had not been born in Guernsey nor educated here and had not lived here prior to his retirement to the Island.

Prior to the Second World War, Air Commodore Widdows, as a test pilot, had carried out tests on Spitfires and Hurricanes during their development phase. In 1939 he was given command of No. 29 Night Fighter Squadron and flew both fighters during the Battle of Britain. He took part in the defence of London and, under his leadership, No. 29 Squadron became one of the leading night fighter squadrons in Flight Command.

His distinguished Royal Air Force service was recognised when he was honoured as a Companion of the Most Honourable Order of the Bath in the Military Division. He was mentioned twice in despatches and was also awarded the Distinguished Flying Cross.

On October 4th last year he celebrated his 100th birthday. He received many cards and one of them said this:

'It is with great admiration that I send greetings on behalf of the Royal Air Force. It is an honour to mark the birthday of one of 'the few' who contributed so much to the Service and, most critically, to the defence of this nation.'

That card was sent by Air Chief Marshal Sir Stephen Dalton, the current Chief of the Air Staff. Regrettably, I was out of the Island that day but I had sent him a letter on behalf of the States of Deliberation and myself as Bailiff, conveying warmest and heartfelt congratulations.

A Service of Thanksgiving for his life will be held at St Andrew's Church on Friday 19th February. Our thoughts are with his widow, Nickie, and their two sons, Robin and Geoffrey. Will you please, Members of the Assembly, now rise to honour the memory of one of Guernsey's adopted sons, who, in his retirement, rendered valuable public service to this Island. (Members stood in silence)

Thank you.

Statement by the Chairman of the Public Sector Remuneration Committee

The Bailiff: I have received a request to make a statement and that request came from Deputy Allister Langlois, Chairman of the Public Sector Remuneration Committee.

I call upon Deputy Langlois to make a statement.

The Chairman of the Public Sector Remuneration Committee (Deputy A H Langlois): Thank you, sir. I am grateful to you agreeing that I may make a statement on behalf of the Committee in respect of the current status of the discussions with the

Airport fire fighters and their unions and the pay and conditions.

Sir and Members of the States, while in the normal course of events, it would be unusual to say the least for my Committee to make a statement in respect of pay negotiations with a small specialist group of public sector employees, we are obviously acutely aware that the events of the May Bank Holiday weekend last year and the subsequent developments, including the Inquiry which is currently in progress, have resulted in this issue attracting intense public and political interest.

I and my Committee are well aware that there is a widespread assumption that, having reached agreement in principle with the fire-fighters on a package of measures, then that agreement would by now have been concluded and, if appropriate, a broad description of the structure of the package would be in the public domain. The purpose of this statement, however, is to explain the process involved in translating and agreeing it in principle into a firm and lasting arrangement and thereby to explain why matters have not been concluded.

In order to finalise the agreement in principle, which we reached in December 2009, which is self financing out of efficiencies identified by Airport management, it is necessary to complete three related work streams. These are, firstly, the preparation of new individual contracts for each employee; secondly, a collective agreement; and, thirdly, a revised operating handbook in order to give life to new operational arrangements.

Good progress has been made on each of these work streams, which it is hoped can be concluded in the next few weeks. In this respect there remain matters of detail to be formalised in conjunction with the Public Services Department, my Committee, staff, airport management, the fire fighters themselves, UNITE, the Union, and legal advisers from St James Chambers.

Given the importance of creating a clear, unambiguous and lasting self-financing agreement involving so many interested parties, I trust States Members will appreciate why the initial agreement, in principle, could not be translated into action overnight.

Sir, against this background, I would ask Members of the States and the community to give the Committee space to do its job properly and, with this in mind, I will be declining to answer any questions on matters of detail of the agreement in principle, until those matters have been properly concluded by the contracting parties.

Thank you.

The Bailiff: Thank you very much.

Procedural

The Bailiff: Members of the Assembly, we now move on to Question Time. By way of preface, may I say this: earlier this month I was at the bi-annual Conference of Speakers and Presiding Officers of Commonwealth Parliaments. We spent a long time analysing and discussing the issue of Question Time.

In New Zealand it is peculiarly brief in terms of an Answer and the shortness of a Question. The Speaker said that they had done a statistical analysis and they get through something like 60 Questions and Answers in one hour.

On the other hand, the Lord Speaker of the House of Lords at Westminster indicated that they could not possibly give any in-depth analysis if the New Zealand position were to be followed. They took a much more leisurely approach and perhaps Question Time in one area might last four, five, or six minutes, which is indicative of the House of Lords approach. But why do I mention that? Well, this morning we have in our rules 30 minutes allocated time that is allowed by me if I deem it appropriate.

I do usually show some latitude when there are a number of Questions. We are going to hear this morning Deputy Matthews addressing four Questions to the Chief Minister; Deputy Lowe, four Questions to the Minister of Commerce and Employment Department; Deputy De Lisle, four Questions to the Minister of the Department of Public Services; Deputy Gollop to the Deputy Chief Minister and Minister for the Public Services Department, five Questions; and Deputy Hadley, the Minister for Health and Social Services Department, four Questions.

I add that up to over 20 Questions this morning. We are now going to embark on Questions. It means that I am likely to be reasonably tight on the number of supplementaries, but Question Time is an important part of the parliamentary democracy at work.

[Time: 09:45 a.m.]

Questions for Oral Answer

CHIEF MINISTER

International Conference on Climate Change Guernsey to match or exceed UK government response

The Bailiff: I ask Deputy Matthews to place the first of his Questions addressed to the Chief Minister.

Deputy Matthews.

Deputy Matthews: Thank you, Mr Bailiff.

I note what you say and shall try to be as brief as possible, but I shall have supplementaries!

The Bailiff: I think we have spent a long time in this Assembly analysing what the word 'note' means but... (*Laughter*) Thank you very much.

First question.

Deputy Matthews: Yes, there are, as you say, four Questions for the Chief Minister on high-level policy and external relations.

The first one is:

Do you anticipate that Guernsey will match or do more than the UK government's response to the issues raised at the International Conference on Climate Change in

Copenhagen last month?

The Bailiff: I call upon the Chief Minister to reply to the first Question.

The Chief Minister (Deputy Trott): Thank you, sir.

Any future outcomes of the Copenhagen Conference will be a matter for the Energy Policy Group to consider at that point in time. The Group would then put forward recommendations to the Policy Council and subsequently the States of Deliberation for debate. It is not for me, as Chief Minister, to speculate what the outcomes and subsequent recommendations will be for Guernsey. As with the Kyoto principle, the UK signatory to the Protocol was extended to Guernsey with our agreement.

If it were to be the case that a new agreement results from the Copenhagen Conference, then the UK signature to that agreement and any resultant protocols under that agreement would not automatically extend to Guernsey. Guernsey would be consulted first and a decision on its extension and the extent of Guernsey's response will be made at that point in time.

Deputy Matthews: Could I ask a supplementary on that?

Is the Chief Minister saying that he has no authority to comment to us or to anyone, including on his external visits, because the Policy Council has not yet discussed the matter?

The Bailiff: Chief Minister.

The Chief Minister: Well, sir, any answer I gave to an enquiry of that sort overseas would need to be very carefully considered, but I think the important thing to remember is that I am not the Chairman of the Energy Policy Group; that honour falls to Deputy Parkinson. Therefore, one would expect his knowledge of the matter to be greater and one would expect that any enquiries of that type would be best answered by him.

The Bailiff: Deputy Matthews.

International Conference on Climate Change Commitment to developing nations

Deputy Matthews: My second question is:

Will Guernsey's response include a commensurate commitment to make payments to developing nations, as has been indicated in the response?

The Bailiff: Chief Minister.

The Chief Minister (Deputy Trott): Sir, Guernsey's response cannot be predicted at this stage. This will be a matter for the States of Deliberation to decide upon at the appropriate time, certainly not before an international agreement has been consolidated

and also not in isolation of Guernsey's commitment to other aspects of such an agreement.

Guernsey is in contact with officers at the Department of Energy and Climate Change requesting that they keep us updated of how the UK, and indeed the EU, anticipates proceeding following the Copenhagen Conference and what commitments they are likely to make.

Deputy Matthews: Sir, can the Chief Minister say how much – as far as he can estimate – is likely to be expected of us as a commensurate contribution?

The Bailiff: Are you able to answer that?

The Chief Minister: Sir, I could simply say – as they would say in Westminster – I refer the hon. gentleman to the answer I gave a moment ago. I will not. But, no, I am not in a position to be able to answer that question.

The Bailiff: Right.

Deputy Matthews: If I could say that it has been widely suggested that an annual contribution for three years of about £800,000 would be expected. If that were the case – and I am saying, in the light of his answer, *if* – does he anticipate that Guernsey will, rather like the Overseas Aid, be at the bottom of the league and punching well below our weight?

The Chief Minister: Sir, I remind the Member of the answer I gave, which read as follows:

'Guernsey's response cannot be predicted at this stage. This will be a matter for the States of Deliberation to decide upon at the appropriate time.'

The Bailiff: Deputy Gollop.

Deputy Gollop: I have a supplementary there.

Would the Chief Minister consider that, at some point, these issues might be considered by a forthcoming British Irish Council to which the Chief Minister, or Minister from the Policy Council, would be expected to listen and then take a view back and then give a view in return?

The Chief Minister: Sir, I can confirm that matters pertaining to the environment and, in particular, climate change, are regular agenda items at such convocations and I will anticipate that continuing into the future.

**Energy from Waste Plant
Carbon emissions at maximum predicted capacity**

The Bailiff: Let us now move on to the third Question.

Deputy Matthews: Yes.

On present calculations of refuse tonnage to be incinerated, how much carbon per annum will be emitted by the Suez Plant when it is operating at the maximum predicted capacity?

The Bailiff: Chief Minister.

The Chief Minister: Sir, I am advised that the Energy from Waste Plant will be responsible for emissions of 14,247 tonnes of CO₂ equivalent per year based on the estimated 37,000 tonnes starting tonnage. Operating at the maximum capacity of 41,000 tonnes, this would be equivalent to 15,785 tonnes CO₂ per annum.

However, there are also carbon benefits from the Plant that need to be taken into consideration. 593 tonnes of CO₂ equivalent should be added to the 14,247 tonnes CO₂ produced by the Energy from Waste Plant to allow for the transportation of waste, recyclables and residuals to and from the plant. This results in a total carbon burden of 14,840 tonnes CO₂ equivalent from the Energy from Waste. However, this is offset by carbon savings resulting from electrical export, a saving of 5,798 tons, I am advised, CO₂ equivalent per annum and metal recycling and bottom ash recovery, a further saving of 3,803 tons CO₂ equivalent in year one, sir, resulting in a carbon impact of 5,239 tons CO₂ equivalent per annum.

However, the benefit of the materials recovery facility should also be taken into consideration, as this is part of the integrated residual waste treatment facility proposed. The benefits of recycling at this facility far outweigh the carbon impacts from processing emissions, transportation and disposal of residues, giving a carbon saving of 11,663 tons of CO₂ equivalent at the materials recovery facility. Therefore, when considering the impact of the plant as a whole, taking into account the carbon impacts and benefits from both the Energy from Waste Plant *and* the materials recovery facility in year one, there is a net carbon saving of 6,424 tons of CO₂ – i.e. a carbon saving of 11,663 tons of CO₂ equivalent, minus the carbon impact of 5,239 tons of CO₂ equivalent.

Sir, I am further advised that if this is compared to the impact of land filling our waste, there is an overall net saving of 13,897 tons of CO₂ equivalent in year one, from switching from landfill to the proposed residual waste treatment facility.

I hope, sir, that all Members understood that data.

The Bailiff: I would be amazed if they did! *(Laughter)*

Well, you asked the question – you've got your answer! *(Laughter)*

Deputy Matthews: The Chief Minister has been able to give a detailed answer on this question but he, three times, said he has been 'advised' about it. Does this come from the public sector?

The Bailiff: Well, I think it is reasonable to assume that the Chief Minister, with lots of duties to discharge, does not wake up in the morning or go to bed at night, thinking

about these tonnages. So I think he's right to say he was 'advised'.

Deputy Matthews: That is why I'm asking. That is certain to be true, but the question I am asking is: did the advice come from the Public Services Department or the energy group?

The Bailiff: The origin of the advice.

The Chief Minister: Sir, may I respectfully request that Deputy Matthews asks his fourth Question, because I think the answer may be contained therein.

The Bailiff: Let's move on to the fourth Question.

Deputy Matthews: No, I did want to pursue this a little bit further. The information I have received is that there seems to be a confusion between carbon and carbon dioxide equivalent emissions and that a good deal of this information is not correct.

I would ask the Chief Minister if he is prepared to discuss the answer with those who are more expert than I am on these statistics.

The Bailiff: Can I, before I call upon the Chief Minister, say this. Your comment – and we were amused by it – did have an important point that, all of a sudden, we receive a lot of technical information and you intimated that, perhaps, Members of the States may not have comprehended it. You might well, on reflection, conclude that it, perhaps, was not so urgent that we had to hear the answer this morning and it might have been that, to flesh out such technical detail, could be secured in Written Questions and Answers, (**Several Members:** Hear, hear!) because I am imagine that you do want to pursue, in a little bit more detail, the points that you have highlighted. You do have the opportunity of putting it in Written Questions, which will be in the public domain.

Deputy Matthews: I think that is something that, given the nature of the Chief Minister's answer, I will take up and I hope that he will accept that he can respond to experts in the Island, or from outside, who can comment on what appears to be incorrect in these figures.

What I would, just on this Question, finally ask is: does not the Chief Minister think it is unrealistic to make a comparison with past bad practice which we know we are not going to continue with – the landfill of putrescible waste – and yet make an apparent but illusory reference to savings by using the incinerator, which does not compare with the savings and efficiencies that would result from all other means?

The Bailiff: Chief Minister, if you are actually answering the question, please answer it, but it was not easy to comprehend precisely what was in that question.

The Chief Minister: No sir, it wasn't and I believe the question, despite its technical content, was answered in the answer that I gave.

But I am concerned at something that Deputy Matthews has said, sir. He said that he questions the validity of this data. One of the problems with Question Time is that there is no opportunity for questions to be asked by the person being questioned, but I would

like to know after, sir, how he can be so certain that this statement is inaccurate.

I will give him an undertaking that I will seek some answers from those that have advised me, as to why they believe that you would think that such information is inaccurate.

Deputy Matthews: I thank the Chief Minister for that undertaking and I shall take it up. Just like him, I am advised by people who know and understand more about the subject.

The general point of principle, without getting technical, was to ask him if he felt that he was making a false comparison by looking at past practice on landfill of putrescible waste and suggesting savings, rather than considering any other method of incineration that might happen, because incineration is going to commit this Island -

The Bailiff: Well, that is a statement, and let us move on. The Chief Minister will take into account what you have said. He will deal with the matter diligently: it is a very technical area.

I think it is best now that you move on to your fourth Question. I think he has done his best this morning.

Guernsey Facts and Figures 2009 Greenhouse gas emissions not yet included

Deputy Matthews: I am glad that he has done his best.

Are you able to give your best estimates of the greenhouse gas emissions and the carbon dioxide equivalent terms for the years 2008 and 2009, which have not been included in the Guernsey Facts and Figures 2009 booklet published recently?

The Chief Minister: Sir, I am, once again, further advised that carbon emissions for Guernsey are calculated by AEA Technology, who conduct the work on behalf of the UK government, in line with international reporting conventions. UK figures are due for release by the Office of National Statistics on 2nd February 2010 and we shall receive Guernsey figures on that date.

Sir, Policy Council will make those figures available on receipt from AEA Technology.

The Bailiff: Well, we now move on to the next set of Questions. They are to be addressed to Deputy McNulty Bauer, by Deputy Lowe.

COMMERCE AND EMPLOYMENT DEPARTMENT

Guernsey dairy milk and milk products Licences for milk distributors

Deputy Lowe: Thank you, sir.

Following the October 2008 debate on the distribution of Guernsey dairy milk and milk products' exclusive rights, would the Minister please inform States Members if the milk distributors have now received their licences, and if not, why there has been such a delay?

The Bailiff: The Minister for Commerce and Employment to reply.

The Minister for Commerce and Employment (Deputy McNulty Bauer): Thank you, sir.

Milk distributors have not yet received individual licences, although a final wording for the licence and regulations had been agreed prior to Christmas 2009 by a process of productive discussion which, by mutual agreement, was at staff level. This now rests with the GMRA, who are considering the licence and associated documents further, before responding to the Department.

Whilst this process has clearly taken many months, there has been no 'delay' as such. Since the appointment of the new GMRA President in 2009, steady joint progress has been made through a series of meetings and communications, with both sides working positively towards the goal of achieving a fully agreed form for distributors' licences and regulations. The pace has been dictated by the need for consultation with the wider GMRA membership and for the Department to consult on occasions with St James Chambers, as well as the practical issue of arranging mutually convenient meetings.

It is my Department's clear understanding, from very recent contact with the GMRA, that they are not unhappy with the process used, the timescale and the progress that has been made to date.

The Bailiff: Deputy Lowe.

Licences for milk distributors Revocations or amendments to be debated by States

Deputy Lowe: Thank you, sir.
Question 2 –

Would the Minister give an assurance that the licences, when issued, will not go beyond the States' resolution of October 2008, and should Commerce and Employment wish to revoke or amend these licences, that Commerce and Employment bring the matter to this Assembly for debate.

The Bailiff: The Minister to reply.

The Minister: Thank you, sir.

I am happy to confirm that distributors' licences, as currently drafted, when issued in the future, will not go beyond resolutions of the States.

**Licences for milk distributors
Unresolved issues to be debated by Assembly**

The Bailiff: Deputy Lowe.

Deputy Lowe: Third question –

Would the Minister please give the States assurances that any outstanding matters relating to the milk distributors will now be treated as a matter of urgency and that if any issues remain unresolved before the end of March 2010 she will bring the matter back to this Assembly for debate?

The Bailiff: Minister.

The Minister: The States may rest assured that the finalisation of matters regarding distribution licences remains a priority for the Department and its staff.

However, I will decline to give Deputy Lowe the assurance she seeks regarding an arbitrary March 2010 deadline as, firstly, there is no indication that the current stable, amicable process of consultation and discussion will fail to result in the shared goal of milk distributors being issued with licences in an agreed form. Secondly, and most importantly, the GMRA have confirmed in recent days that they are not unhappy with the process and the current outcomes, that they are not, to our knowledge, seeking political involvement, and that they have had no substantive disagreements with the Department in respect of the job in hand.

The Bailiff: Deputy Lowe.

Deputy Lowe: Could I just ask a supplementary on this one, please, sir?

The Bailiff: Yes.

Deputy Lowe: Would the Minister not accept that, surely, the statement that the Department of Commerce and Employment believe that this remains a priority and it has taken 10 years... that if this is a priority, it does not reflect very well on the Department?

The Bailiff: Minister, are you able to answer that supplementary?

The Minister: Yes, sir. To recap on some of the comments I made in the previous answers, this is a process that we have been working with the GMRA on.

**Licences for milk distributors
Correspondence re compensation**

Deputy Lowe: Question 4 –

Will the Minister inform this Assembly if any correspondence has been received at Commerce and Employment regarding any form of compensation for the milk distributors or their agents as a result of decisions of this Assembly having seriously devalued their private businesses?

The Bailiff: Minister.

The Minister for Commerce and Employment: Sir, the Department received a copy of a letter dated 19th October 2009 that had been sent to the Chief Minister by Ozanne's, who are acting on behalf of the GMRA, and which sought compensation for the losses suffered by GMRA members as a result of the October 2008 resolutions.

On behalf of the Policy Council, the States' legal advisers sent a reply to Ozanne's on 25th November 2009. We understand that no further correspondence has been received.

PUBLIC SERVICES DEPARTMENT

**Solid waste reduction and recycling
Input tonnage to Mont Cuet 2008-09**

The Bailiff: We now move on to Deputy De Lisle. You have four Questions to address to the Minister for the Public Services Department.

Deputy De Lisle: Yes, thank you, sir.

I would like to ask the Minister for Public Services with respect to the issue of solid waste reduction and recycling. I would like also to thank the Minister for sending on his Answers before the Question period.

My first Question, sir:

Can the Minister update Members of the Assembly on the residual waste input tonnage to Mont Cuet for the years 2008 and 2009, and also the current recycling rates for those years separately for household and commercial waste?

The Bailiff: Deputy Flouquet, Minister for the Public Services Department, to reply to the first Question.

The Minister for Public Services (Deputy Flouquet): Thank you, Mr Bailiff.

I thank the Deputy for asking these Questions and, in particular, this Question as it is the subject of a media release by the Department today, but I have no problem in answering it, obviously. The general public will get to see that and hear that through the media.

In 2008, 36,690 tonnes of waste were sent to Mont Cuet. In 2009, a total of 35,859 tonnes was received, which is a decrease of around 2%. This was broadly in line with expectations, given the downturn in the economy.

The waste going into Mont Cuet is not a very reliable measure of residual waste. As we have seen in recent years, as gate fees have increased, there has been considerable diversion of waste away from the landfill site to other waste-management facilities. A reduction in waste going to Mont Cuet, therefore, does not necessarily reflect a reduction in the overall residual waste itself. In fact, household waste increased slightly in 2009, compared to 2008. The decision by one of these private waste contractors to cease burning at its facility following a successful action by Environmental Health has highlighted the possibility of much of this additional waste going once again to Mont Cuet. We know that some is currently disposed of in ways that may not be permitted once the provisions under the new environmental health law come into force later this year.

I should like now to turn, if I can, to the question on recycling waste. The recycling rate for household waste was 35.5% in 2008 and rose to 36.5% in 2009. Unfortunately, this slight rise in official statistics does not give the full picture, due to a fire at the green waste site last year. This resulted in around 700 tonnes of garden material that would otherwise have been turned into soil conditioner being disposed of at Mont Cuet. Had that not been the case then the household recycling rate would have been around 39%. We therefore expect to see a significant rise, an increase, this year.

So far as commercial recycling is concerned, it is difficult to provide as accurate a recycling figure as for household waste, due to the fact that much of the Island's commercial and industrial waste is dealt with not by the Department but by private waste contractors. However, through the Waste Industry Forum, the Department has been working with the main contractors and, as a result, now has more information on these wastes. 2008 is the first year that the Public Services Department has been able to calculate with any degree of accuracy the recycling rate for commercial and industrial waste, which was estimated at 41.5%. We do not yet have a figure for 2009, as we are still awaiting information from the private waste contractors. However, the indication from the figures that we have to date suggests that there will be an increase.

The Bailiff: Deputy De Lisle.

Deputy De Lisle: Can I ask a supplementary on that, sir?

The Bailiff: I will allow one supplementary on Question 1, yes.

Deputy De Lisle: Yes. With regard to commercial waste, does the Public Services Department intend to introduce Island waste commercial collection of recyclables in order to boost the commercial waste numbers?

The Minister: Can I ask the Deputy... He is going to ask me further questions and I

think we have covered the initiatives that we are going to be bringing out shortly. I think I have covered that particular point.

The Bailiff: Let's hold that in suspense, then, and I will allow Deputy De Lisle to come back if it is not answered in one way or another.

**Solid waste reduction and recycling
Meeting the States' Resolution target of 50% household waste**

The Bailiff: Question 2.

Deputy De Lisle: Thank you, sir.

Can the Minister indicate how the Department intends to meet the States Resolution target of 50% household waste by 2010 – this year – and what new recycling initiatives he intends to bring forward to meet this target?

The Bailiff: Minister.

The Minister for Public Services: The target of 50% recycling for commercial and household waste was set by the States in January 2007. At that time, the household recycling rate stood at around 26%, having risen from around 19% in the previous three years.

To achieve the 50% target for domestic waste by 2010, therefore, meant almost doubling the recycling rate in less than four years. It has always been a challenging target, I am sure most would agree, but one that the Public Services Department has always sought to achieve.

In the three years since the Public Services Department took on the responsibility for waste management, the level of household recycling has risen from 26.7% to 36.5% and would have been even higher last year: had we not had the problem of the fire at the green waste site it would have been circa 39%. In real terms, that is an increase of around half, which I have to say, Mr Bailiff, is an achievement of which Islanders of Guernsey should be proud.

Again, turning to the new initiatives, it is planning to introduce a number of new initiatives this year that will build on the successes previously mentioned. This will be discussed by the board next month and we hope to begin implementing them shortly thereafter. They include: assistance for those Islanders who are unable to use the existing facilities; improvements to the current bring bank site, which was discussed during the kerbside recycling debate, and indicative costs given by myself; and the provision of facilities at more convenient locations, particularly around St Peter Port. We are also investigating collection schemes for town businesses and are working with parishes, with retailers and with the commercial sector to help drive forward these initiatives to increase recycling this year.

Over Christmas, the Department launched a major drive to increase recycling during this normally busy period. Additional facilities were provided at the bring bank sites to

cope with the additional demand and emptied more frequently. Promotion posters were on display at all the main supermarkets and on milk cartons. The message was taken into the schools with a special recycling pantomime production and advertisements were taken out in the Guernsey press and on Island FM.

The recycling message was also very evident in other local media. As a result, we saw an increase of around 25% in the materials collected through the bring banks in December compared to one year earlier. It demonstrates that there is still more that can be achieved by using and improving the existing facilities and, of course, through ongoing education and encouragement.

Solid waste reduction and recycling Collection of plastics types 3 to 7

The Bailiff: Deputy De Lisle.

Deputy De Lisle: My third Question, sir –

Will the Public Services Department assist this year in collecting, through the bring bins or bring banks and other means, plastic waste used in packaging and other harder plastics not currently collected – that is, the plastics types 3 to 7, other than six?

The Bailiff: Deputy Flouquet, the Minister, to reply.

The Minister for Public Services: As Deputy De Lisle is aware, recycling of plastic type 6 – polystyrene – was introduced in 2008. However, unlike polystyrene and the other plastics that we currently collect through the bring banks, there is not as clear a recycling route for types 3, 4, 5 and 7. Processing facilities in the United Kingdom are limited, as is the demand for these recycled materials. As a result, we currently have no plans to introduce collection of these other plastic types but will continue to review the situation.

The Bailiff: Deputy De Lisle.

Deputy De Lisle: Can I ask a supplementary on that, sir: just in terms of that review, will the Department assist by introducing regulatory control to minimise and reduce the packaging of waste coming into the Island?

The Bailiff: Minister.

The Minister: If I can add just a bit of information on that – I hope it answers the question. We, as an Island, currently recycle PET1 and HDPE2 plastics as there is a sustainable market for these products, and I am sure Deputy De Lisle is aware of that. More and more consumer items are moving to packaging made from these particular products and, in particular, to PET.

As for other plastics, some small amounts from commercial operators, baled as homogenous plastic loads – such as polythene, plastic film, seed trays and certain graded hard plastics etc – are sent back to the United Kingdom, as there is a market for these materials on their own. This equates to over 300 tonnes per annum from the commercial sector. It is the commercial sector that has actually taken that on board and is carrying out that activity.

The problem with domestic mixed plastics is the difficulty of sorting the variable types of plastic due to the many different polymers involved. WRAP have recently published, in June 2009, the results of trials on mixed plastics recycling and found that, technically, this is possible and there are markets where 95% of the polymer is separated. However, there is currently not a sustainable market for the processing of [*Inaudible*] plastics, and WRAP concludes that this is something for the future. As I mentioned before, this is under review and we will continually keep it under review until we establish and can see a sustainable market for these products.

But let me just impart some information to Members of the Assembly. I have a list here of the plastics that we are discussing. The polyethylene terephthalate – I hope I have got it correctly, it is difficult to pronounce and I cannot get my mouth round that one – is one, and that is PET1, that we recycle currently. The high-density polyethylene is HDPE – number 2 – which we currently recycle. Polyvinyl chloride, which is 3 – which we do not, that is what I am discussing and I mentioned in my remarks – we do not, because of the sustainability of the market. Low-density polyethylene – carrier bags, bin liners and packaging films – which is LDPE, which is number 4, we do not recycle. Polypropylene – that is item 5, as the Deputy is aware, that is PP – is another one which is contained within the unsustainability of the market in the UK.

Then, of course, we have 6, which is straightforward polystyrene, and we also have the unallocated references between 7 and 19, which do not at this current time have a market for their use. But I can assure Members that the Public Services Department are continually researching any market place whereby we could bring in a system to collect all these other plastics and obviously discharge them in that particular way.

I hope that has answered the Deputy's question.

Solid waste reduction and recycling Scheme to help parishioners unable to use current bring bank system

The Bailiff: Question 4.

Deputy De Lisle: Question 4, sir.

Is it still the intention of the Public Services Department to introduce this year a scheme to help parishioners who are unable to use the current bring bank system because of age, infirmity, disability or lack of transport, and is the Public Services Department proposing to use the same system as used for the [*Inaudible*] manned kerbside collection trials in St Pierre du Bois and St Peter Port for the collection, sorting and delivery of the recyclables at the Fontaine Vinery site for processing?

The Bailiff: Minister.

The Minister: The Public Services Department has been looking at the possibility of introducing a selective collection scheme for those who, for whatever reason, are unable to use the current facilities. This is one of a number of initiatives that we may introduce this year and the Department is working with the parishes and with other agencies to identify how such a scheme would best operate.

No decision has yet been made regarding the collection and processing but discussions have been had with States' Works over the possibility of using the Services' employees for collections. However, it is envisaged that such a scheme, if launched, will be on a much smaller scale than the kerbside trials that were previously operated.

Deputy De Lisle: I would like to thank the Minister for his Answer, sir.

My third supplementary was dealing, actually, with regulatory control. I do not think he answered that, as to whether there was some way in which we could stop the vast amount of these packaging wastes coming into the Island.

Thank you, sir.

The Bailiff: Minister, are you able to answer?

The Minister: I think I have answered that question in the past, but if the Deputy is referring to the likes of industry bringing in their goods with packaging, I mentioned that, at this current time, a lot of the packaging we are seeing now is actually being recycled. I mentioned the fact that it was PET and a lot of the stuff that is coming into Guernsey at this current time is wrapped in PET and that is being recycled.

The Bailiff: Deputy Guille.

Deputy Guille: Thank you, sir.

I was hoping to ask a supplementary question on the previous Question. Is that permitted, sir?

The Bailiff: Yes.

Deputy Guille: It is really to do with the frequency of the clearing of the bring banks. I know my fellow Deputies and I receive considerable comment that they always seem to be full, sir. I applaud the success that has been made of these facilities, but could the Minister give an assurance that he will look at the frequency of clearance, please?

The Bailiff: Minister.

The Minister: This has been a problem brought to our attention on numerous occasions. The initiative of actually upgrading the bring bank sites and a complete review of all their placements around the Island has taken place. Indeed, the new type of containers that we hope to install will, I am sure, overcome the problem we have been experiencing over the last two or three years.

Questions to be answered in writing

The Bailiff: We now move on to the next set of Questions to be placed by Deputy Gollop, and addressed to the Minister of the Public Services Department.

Deputy Gollop, your first Question.

Deputy Gollop: Sir, in view of the length of Question Time, might it not be better for these...? Are they typed out? I have not had a copy, but...

[Time: 10:22 a.m.]

The Bailiff: Thank you.

Deputy Gollop: Yes. If they are available in written form, unless you –

The Bailiff: If you are content that they be not answered orally, then we will ensure that Questions and Answers which have been prepared will be circulated.

The Minister for Public Services: I am quite happy, Mr Bailiff, to make sure that every Member receives a hard copy within the next 76 hours.

The Bailiff: Thank you, Deputy Gollop, for your understanding.

HEALTH AND SOCIAL SERVICES DEPARTMENT

Cessation in funding for nursery places Benefits for key personnel

The Bailiff: We have been going for about 35 minutes in Question time but, Deputy Hadley, you have four Questions to address to the Minister of the Health and Social Services Department.

(The Bailiff in exercise of his discretion under the Rules permits Question time to continue.)

Deputy Hadley: Mr Bailiff, I would like to ask Question 1:

Why has the Minister for Health and Social Services made the decision to cease to fund nursery places, given the benefit that this gives to key personnel who are often difficult to recruit.

The Bailiff: Minister.

The Minister for Health and Social Services (Deputy Adam): Thank you, sir.

The Department of Health and Social Services is required to try to manage within the budget set by the States for 2010 and subsequent years. To do so means that cuts to existing services have to be made.

All the HSSD services were examined to identify where expenditure was going and what it achieved. In this case, the annual expenditure was high for a relatively small number of staff. A comprehensive report on the options to revise the expenditure on the crèche was prepared and considered, and it is with great regret that it was concluded that the scale of the cuts required meant that it had to adopt the proposal to discontinue the subsidy.

The Bailiff: Deputy Hadley.

Deputy Hadley: Could the Minister tell us what the value of the benefit was to the employee?

The Bailiff: Minister, if you can answer the second question?

The Minister: The benefit to the staff member is £1 per hour per child.

The overall benefit varies greatly from person to person, as some have two children at the nursery full time and some have one child there only a few hours per week. The nursery also offers flexibility in its placements – part-time hours or odd days – which most other nurseries do not.

The Bailiff: Deputy Matthews, you have a supplementary?

Deputy Matthews: Yes. I actually wanted to ask in relation to the previous one, but it can still be put. The Minister referred to a comprehensive report being presented. Can I just ask, if that included consultation with the appropriate union representatives, what was included?

The Bailiff: Minister.

The Minister: Sir, that is actually part of the last Question because Deputy Hadley's last Question, 4, is 'Why was there no prior consultation?' But, yes, a report was presented and, sir, Deputy Matthews may remember that the HSSD actually made a presentation to Deputies concerning the cuts that we were considering, prior to the Budget, so they would be aware of the fact that, if we were going to receive the amount that had been quoted, then cuts such as this would have to be considered and put into place.

As far as consultation is concerned, sir, informal consultations were held with staff representatives from all staff groups. Their views, as management would have expected, were that changes to the nursery provisions were a retrograde step and would adversely affect the parents of the children attending it.

Those staff affected have been advised individually and a good period of notice – that is until August this year – has been given so that they can make other arrangements, if they so wish.

**Cessation in funding for nursery places
Cost to the Department of benefit provision**

The Bailiff: Deputy Hadley, Question 3.

Deputy Hadley: Mr Bailiff, could the Minister tell us:

What was the cost to the Department of providing this benefit?

The Bailiff: Minister.

The Minister for Health and Social Services: Thank you, sir.

The expected saving to the budget of stopping this subsidy is £165,000 per annum from 2011. There are some savings already, as we have relinquished unfilled hours, which has significantly reduced the amount that HSSD has paid.

Deputy Hadley: Mr Bailiff, if I may be allowed, as you agreed a supplementary question on this –

The Bailiff: Yes.

Deputy Hadley: The Minister says that stopping a subsidy of £1 an hour will save the Department £165,000. Therefore, this figure must represent 165,000 hours – in other words, the subsidy for every working hour for 4,500 people. Yet the Department only employs 2,500 people. Can he explain to me, therefore, how such a huge sum of money can be expended, in words I can understand?

The Bailiff: Minister.

The Minister: Thank you, sir.

If Deputy Hadley had grandchildren, he would know the system that most nurseries operate. In other words, you contract so many hours per week for your grandchild - or your son does. Therefore, in my case, he is contracted six hours a day for three days, but that means that he has to pay for 18 hours a week, whenever that nursery is open. Likewise, HSSD contracted with the nursery concerned for so many places. If the place was not used by one of their staff, then HSSD would have to pay the full amount for that time that was not used.

Therefore, as Deputy Brehaut said on the radio, I think it was last Monday, there was a case that we were paying a certain amount of money out for what you might call empty spaces – and this sum was about £100,000. Therefore, with that information, it was a unanimous decision of the Board that this was not a cost-effective way of using money and therefore, reluctantly, we decided to stop, or to abandon this contract.

Thank you, sir.

Deputy Hadley: Mr Bailiff, if I may be allowed to say, it seems to me there is -

The Bailiff: You can put a question.

Deputy Hadley: Yes, all right, Mr Bailiff. Does the Minister not agree with me that this is an extraordinary waste of money (*Laughter*) and can he not tell us which Department would negotiate a contract like that? Is there no financial scrutiny at all? Perhaps the Minister would like a calculator for his Department? (*Laughter*)

The Minister: Thank you, sir. I already have a calculator.

When this contract was initially negotiated, there was a lack of nursery spaces, that is for under two year olds. At the time, the unions were very concerned about recruitment and retaining people in Guernsey who had young children. Also, around 1998 to 2001, there were negotiations with the then IDC to see if property could be made available for people working in the public sector. This was not available, therefore this could not be carried out.

An option came along to have a contract with a nursery and at that time it was considered very favourable. The cost per hour was very similar to other nurseries. As you state, Deputy Hadley, sir, may be suggesting it has not been scrutinised sufficiently over the years and that is why it was a unanimous decision of the Board to request that this contract be discontinued.

The Bailiff: Let us move on to question 4.

Deputy Matthews: Could I just ask a -

The Bailiff: Deputy Matthews -

Deputy Matthews: Could I just ask a quick supplementary. In view of what – and I am flabbergasted at the incredible amount of money it has turned out to be – but in view of that – and I imagine it was entered into some years back – did the Department consider making some much less expensive direct compensation to the individuals concerned?

The Bailiff: Minister.

The Minister: Sir, for Deputy Matthews's information, if all the spaces had been utilised to their full capacity, then HSSD would only be paying about £54,000. The reason is trying to juggle the number of spaces with what the staff required: obviously, you end up with empty spaces, but a nursery must have knowledge of how much their income is going to be. They cannot judge it on day to day, or hour to hour.

Any nursery must have a contract with it and we were trying to provide a flexible service for our staff. Remember, our staff do not have the luxury of working 9 to 5 or 8 to 5. Often they have to do shift work etc and, therefore, it is much more difficult for them to get satisfactory nursery arrangements at an economical amount.

Thank you, sir.

The Bailiff: Right, any more questions?

Deputy Matthews: Mr Bailiff, I would like to... Does the Minister not agree with me, though, that the subsidy of £1 per hour is actually quite small in relation to the overall cost of £6 per hour and does not the Minister agree that it would cost the Department less if they had paid the full cost of the nursery place to the member of staff and asked them to make their own arrangements? But how many members of staff were affected? The figures just do not seem to make any sense.

The Bailiff: Thank you. That is your last and second supplementary. Minister.

The Minister: To a certain extent, I think what Deputy Hadley is saying is not unreasonable. But, as I say, this was an operational situation: as soon as it came to the Board, the Board unanimously agreed that it should discontinue.

If you could have filled all the spaces, as I said, it would have cost the Department approximately £54,000, not £165,000, but trying to get shift workers to fit in exactly is very difficult. These people do not have regular hours, therefore they rely on some other support.

You could say why are we not spending £54,000 on giving subsidies, but then we would have to look at giving subsidies to all staff in our organisation, if they had children at nurseries. At the present time we do not know what that would cost and, at the present time, we do not have the funds for such a facility.

Cessation in funding for nursery places Lack of consultation

The Bailiff: Right, we are now moving on to your fourth Question. The fourth question.

Deputy Hadley:

Why was there no prior consultation?'

The Bailiff:

In introducing that Question, you will have to remind us what aspect we are talking about, because we have gone off on a slightly different tangent here. We are moving on to the fourth Question. Any other points - and it has been very illuminating - you can pursue at either the next Question Time or in writing.

Deputy Hadley: Right, sir.

In fact, Mr Bailiff, the Minister has answered Question 4 -

The Bailiff: That is good!

Deputy Hadley: – when he was answering Deputy Matthews, although he has not answered the question as to which Department negotiates these contracts.

Thank you, Mr Bailiff.

The Bailiff: Minister, perhaps you can answer that residual question. I should imagine it would have been your Department that would have negotiated the contracts?

The Minister for Health and Social Services: Yes, the contract was initially negotiated in 2001 or 2002. It then moved into the Human Resources Directorate, who were in charge of this contract.

The Bailiff: That completes Question Time this morning. We have taken just over three quarters of an hour, almost 50 minutes.

Procedural Length of Question Time

The Bailiff: I just turn to the Chairman of the States Assembly and Constitution Committee. It may be, in the light of how we have seen Question Time expanding in length over the last year, that we do need to revisit whether only half an hour is allocated. I am not pronouncing that should be the case, but I think the time has come to start collecting some statistical information. It will not be a simple matter, because if one simply analyses the number of Questions this morning, sometimes within what has been designated Question 1 or Question 2, there might have been three Questions. That was particularly so in relation to Questions addressed to the Minister for Public Services Department.

So, I think, over the next six months, nine months, we need to start carrying out an analysis and then your Committee should consider whether the time allocated is reasonable, and take account also of any other guiding principles, then come back to the Assembly. I think Question Time is very important and, in other jurisdictions - I know in Jersey - a much longer time is allocated to Question Time.

Deputy Rihoy: Yes, sir, excuse my voice, because I have lost it, but I can give an assurance that we shall do an analysis of that and report back to the States.

The Bailiff: I certainly encourage your Committee to do so.
Thank you very much.

Billet d'État I

Article I

The Income Tax (Guernsey) (Amendment) Law, 2010 approved

The Bailiff: Greffier, now we are going to revert to the Brochure of draft legislation.

The Greffier: Article 1, the Projet de Loi entitled Income Tax (Guernsey) (Amendment) Law 2010

The States are asked to decide:-

I.- Whether they are of opinion:-

(1) To approve the Projet de Loi entitled “The Income Tax (Guernsey) (Amendment) Law, 2010”, and to authorise the Bailiff to present a most humble Petition to Her Majesty in Council praying for Her Royal Sanction thereto.

(2) Considering it expedient in the public interest so to do, to declare, pursuant to the Taxes and Duties (Provisional Effect) (Guernsey) Law, 1992, that the said Projet de Loi shall have effect in respect of any year of charge after 2009 (but subject to the transitional provisions set out in section 51 of the Income Tax (Guernsey) Law, 1975), as if it were a Law sanctioned by Her Majesty in Council and registered on the records of the Island of Guernsey.

The Bailiff: Before I turn to the content of that legislation, I would draw your attention in relation to Item 1 in the Billet. There are two separate propositions, the first is to approve the Projet and the second one, whether you, as an Assembly, consider it expedient in the public interest so to do, to declare, under the Provisional Duties and Effect Law, that the Projet de Loi should have effect in respect of any year after 2009, as if it were a law sanctioned by Her Majesty in Council, that is, for the draft legislation to have provisional effect forthwith. We need to consider those two elements.

The first one we deal with is the piece of legislation. The Projet is on pages 1 to 4.

Any comment or debate? I see no-one rising, therefore we go to the vote. Those in favour: those against.

Members voted Pour

The Bailiff: I declare that carried.

Proposition 2 is to bring it into provisional effect, under the legislation of 1992. Those in favour: those against.

Members voted Pour

The Bailiff: I declare both the propositions carried.

Article II

**The Control of Trade in Endangered Species (Enabling Provisions)
(Bailiwick of Guernsey) Law, 2010 approved**

The Greffier: Item 2: the Projet called the Control of Trade in Endangered Species

(Enabling Provisions) (Bailiwick of Guernsey) Law 2010.

The States are asked to decide:-

II.- Whether they are of the opinion to approve the Projet de Loi entitled “The Control of Trade in Endangered Species (Enabling Provisions) (Bailiwick of Guernsey) Law, 2010” and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

The Bailiff: This Item, is at pages 5 to 16, but an amendment is to be placed by Her Majesty’s Comptroller, seconded by the Minister, Deputy McNulty Bauer. Comptroller?

The Comptroller: The Sark authorities approached the Law Officers and the Department for this Projet to say that the subject matter of this legislation falls within the mandate of their Agriculture Committee rather than the General Purposes and Advisory Committee and I am now going to move an amendment to substitute the Agriculture Committee for the General Purposes and Advisory Committee in the two places in this Projet where it appears. There is a statutory obligation to consult with the Committee.

The Bailiff: Deputy McNulty Bauer.

The Minister of Commerce and Employment (Deputy McNulty Bauer): I support and second the amendment, sir.

The Bailiff: Members, it is in the Brochure at page 12, the penultimate line, and then again at page 15.

Deputy Le Sauvage: Sir. Sorry. May I ask a question?

The Bailiff: In relation to this amendment?

Deputy Le Sauvage: No, to this Projet.

The Bailiff: Well, let us deal with the amendment first, if we may, unless there is no debate or discussion in relation to the amendment - I assume there is not. We go to the vote to adopt the amendment first, as I see no-one trying to attract my attention.

In relation to the amendment only; those in favour; those against.

Members voted Pour

The Bailiff: I declare that carried, so what we are now looking at is the draft legislation in its amended form.

Deputy Le Sauvage, you have some comment on this point. A question?

Deputy Le Sauvage: Yes, thank you, sir. I would have thought that this Projet should be forming part of our animal welfare law, so I would like to ask the Comptroller

where is Guernsey's animal welfare law, please?

The Bailiff: Had you given any prior notice of the question? Is it going to affect the content of this legislation and its passage, or is it something that the Comptroller could answer afterwards?

Comptroller, I suspect you may not have an immediate answer to the question, if you have not had any prior notice?

The Comptroller: Sir, it is not something that is at my fingertips [*Inaudible*] but this Law is to enable the Bailiwick to give effect to the international convention, as all of the Island authorities have indicated they wish that to happen to it. It is distinct from the animal welfare law.

The Bailiff: Right. I think what we can do, Deputy Le Sauvage, is proceed, unless there is anyone wishing to debate – Minister, it may be you can provide Deputy Le Sauvage with the answer during the course of today or tomorrow to the unrelated matter of the animal welfare law.

Yes, Deputy Le Pelley.

Deputy Le Pelley: If I can be of any help to the Deputy, sir, I believe the animal welfare law does control the treatment and transport regulations of animals, but not the trade, so I think this would be an entirely different matter to be dealt with in this way.

The Bailiff: Right we are going to go to the vote on the legislation. The Projet at pages 5 to 16. Those in favour; those against.

Members voted Pour

The Bailiff: I declare that carried.

Article III

The Bethanie Chapel (Guernsey) Law, 2010 approved

The Greffier: Article 3, the Projet de Loi entitled The Bethanie Chapel (Guernsey) Law 2010.

The States are asked to decide:-

III.- Whether they are of the opinion to approve the Projet de Loi entitled "The Bethanie Chapel (Guernsey) Law, 2010" and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

The Bailiff: We find this at pages 17-22. Any comment or debate?

I see no-one trying to attract my attention. We go to the vote; those in favour; those against.

Members voted Pour, nem con.

The Bailiff: I declare that carried.

Article IV

The Guernsey Finance LBG (Levy) (Guernsey) Law, 2010 approved

The Greffier: Item 4, the Projet entitled the Guernsey Finance LBG (Levy) (Guernsey) Law.

The States are asked to decide:-

IV.- Whether they are of the opinion to approve the Projet de Loi entitled “The Guernsey Finance LBG (Levy) (Guernsey) Law, 2010” and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

The Bailiff: Members, this Projet is at pages 23-51. Any comment or debate?

I see non-one trying to attract my attention. We are going to go to the vote. Those in favour; those against.

Members voted Pour

The Bailiff: I declare that carried.

Article V

The Income Tax (Guernsey) (Approval of Agreement with Australia) Ordinance, 2010 approved

The Greffier: Item 5, the Income Tax (Guernsey) (Approval of Agreement with Australia) Ordinance 2010.

The States are asked to decide:-

V.- Whether they are of the opinion to approve the draft Ordinance entitled “The Income Tax (Guernsey) (Approval of Agreement with Australia) Ordinance, 2010” and to direct that the same shall have effect as an Ordinance of the States.

The Bailiff: You will find this legislation at page 52. Any comment or debate?

I see non-one trying to attract my attention. We are going to the vote. Those in favour; those against.

Members voted Pour

The Bailiff: I declare that carried.

Article VI

The Data Protection (Bailiwick of Guernsey) (Amendment) Ordinance, 2010 approved

The Greffier: Item 6, Data Protection (Bailiwick of Guernsey) (Amendment) Ordinance 2010.

The States are asked to decide:-

VI.- Whether they are of the opinion to approve the draft Ordinance entitled “The Data Protection (Bailiwick of Guernsey) (Amendment) Ordinance, 2010” and to direct that the same shall have effect as an Ordinance of the States.

The Bailiff: You will find this legislation at pages 53-67. Any comment or debate? We therefore go to the vote. Those in favour; those against.

Members voted Pour

The Bailiff: I declare that carried.

Article VII

The Milk (Control) (Guernsey) (Amendment) Ordinance, 2010 approved

The Greffier: Item 7, the Milk (Control) (Guernsey) (Amendment) Ordinance 2010.

The States are asked to decide:-

VII.- Whether they are of the opinion to approve the draft Ordinance entitled “The Milk (Control) (Guernsey) (Amendment) Ordinance, 2010” and to direct that the same shall have effect as an Ordinance of the States.

The Bailiff: We find this legislation at pages 68-74. Any comment or debate? Deputy Lowe.

Deputy Lowe: Yes, please, sir.

Sir, I hope that States’ Members are actually going to reject this Ordinance. Why do I say that? I asked Questions earlier on this morning and was given Answers, and I held back for many supplementaries because I felt it would fit here under this Ordinance, sir.

The GMRA were unaware this Projet was actually coming to the States for approval. The GMRA have always objected to having the opportunity for charging. Why would they want to do that? I will expand on it, sir, because obviously we have got a new States here and there are an awful lot of Members who are unaware of the history. As I say, it has been going on for 10 years this year with Commerce and Employment and

the GMRA.

Commerce and Employment at one time wished to allow the shops to go directly to the dairy to pick up their milk, therefore bypassing milk retailers, although they are now described as ‘distributors’ and they are paid good money in good faith by those businesses. At the time, it was said, ‘Well, you can actually charge your customers for delivery to make up the difference for any trade you would lose from customers going directly to the shop.’

During the 2007 debate, States Members received an awful lot of correspondence and, indeed, had meetings with the GMRA, who were very professional in their approach to the report that we had before us.

I will not read them all, sir, but if you do not mind, I will read one of them, and this was just one of the times that they actually wrote to all States Members to say:

‘The Department has decided they would like to include in the changes to the Ordinance the introduction of a delivery charge that the retailer can incur, if they see fit. The retailer has expressed concerns about having to include a delivery charge, and also the expert, Mr Alan Hinton, whom Commerce and Employment employed to comment on the whole situation, suggested that if a delivery charge was incurred by the retailer it would have a catastrophic effect on the doorstep sales.’

As I say, sir, this was repeated many times leading up to the 2007 debate.

Having spoken to the Guernsey Milk Retailers Association about my Questions and, indeed, about this Ordinance, they have produced a statement, which I will read to you today. This statement was produced yesterday:

‘We have been consistently against the delivery charge (see Billet 13, 2007, paragraph 3.8.11). It was reiterated in the Billet. The rounds-men have indicated they do not believe it would be wise to charge a higher rate for doorstep deliveries being introduced, and the current wording, I believe, is in the Ordinance.

It is questionable as to whether it is valid for Commerce and Employment to introduce this matter at all as it was raised under the broader umbrella of minimum retail price for milk. As the substance for that approach was rejected by the House in 2007 and delivery charges were interlinked with that proposal, we would again ask questions on why this detail should not also be rejected. We further question the rationale for seeking to amend the Ordinance now when it is clear that this represents the end of any changes which may or may not arise.

Considering the broader question of our current discussions with Commerce and Employment on working together on producing an exceptional licence document, I can confirm that the only matter absolutely agreed between ourselves and Commerce and Employment is the process that we are following, wherein we have jointly agreed that once the GMRA Committee finds the words and content acceptable, it will then be passed to the membership for their agreement and then to our legal advisers for their views. This process is the only matter which can be described as agreed between Commerce and Employment and the GMRA.

It is true to say we have met on numerous occasions since March 2009, the last being 16th December, from which we are still awaiting information... and that there is the substance of a licence format lurking in there. It is also true to say that these discussions have been polite but frequently robust in the nature of probing and searching in order to gain a better understanding of each other’s position. Our original intention with these discussions was to proceed in an orderly but positive fashion to a speedy conclusion. A speedy conclusion is one thing that we have not achieved, as each discussion appears to raise finer detail that requires clarification. Our view is that a better result will be achieved when not measured strictly against the clock but rather by clear understanding.’

Signed ‘Brian Martel, Guernsey Milk Retailers Association President’.

So there you have it.

I ask Members, please, to reject this Ordinance until they actually do get it sorted out. The milk retailers have said all along, all the distributors, they did not want this. Until those licences, which are long outstanding and have huge ramifications for the businesses of those milk retailers... and the States gave assurances that they would deal with that, certainly nearly 10 years ago, certainly five years ago, certainly three years ago, and they are still no further ahead, but they are in negotiations and I believe that, for the good of the outcome of this, it is paramount that this Ordinance is actually rejected today, sir.

The Bailiff: Can you help me? It is very difficult, not having the Law in front of me, to be analysing an Ordinance which amends many subsections. Looking at it on its face, a lot of the matters contained in this Ordinance are unrelated to issues involving milk retailing. What is the section that might offend the Guernsey Milk Retailers Association, so we can focus on that?

Deputy Lowe: I can, sir. It is right towards the end. Just bear with me a moment.

The Bailiff: Yes.

Deputy Lowe: Page 73, sir, number 9 in section (8)(3)(a) and (b).

The Bailiff: Thank you. Let me just pause and note the matter which causes Deputy Lowe some concern.

Deputy Guille.

Deputy Guille: Thank you, sir.

I am a little confused. In answer to the Questions that were posed by Deputy Lowe this morning, the Minister for Commerce and Employment assured the House that the GMRA were entirely happy with the proposals, yet by what has been read out this morning it appears they were not even aware that this Projet was going to be before the House today. Both statements cannot be true.

Can the Minister help me, please?

The Bailiff: Any other debate??

Deputy Lainé: Yes, sir. I think the House has been slightly misled. The Department of Commerce and Employment has never suggested that shops or businesses should be able to purchase milk directly, and that is not what the States decided, either. What the States decided related to milk products.

The situation today is that the GMRA distributors still have a monopoly in that area. However, given the States' decision, Commerce and Employment could decide to allow that, but we would have to also consider that the Policy Council is doing a review on the whole of the dairy industry, and I think that aspect is misleading.

When it comes to the licence, Commerce and Employment could have issued a licence the day after the States debate – 'Here you are, here's a licence,' as the old licence, just a few lines, meaningless. What Commerce and Employment did was they had a 15-page licence, which covered things like hygiene – how you would deal with a recall if somehow the milk was poisoned. Whose responsibility would it be to find out where it had been delivered to? Would it be the retailers' responsibility? Would it be Commerce and Employment's? It was covering all things like that. Should the vehicles be refrigerated? I am not suggesting they should be refrigerated.

We put to the GMRA, 'Which format would you prefer?' because there are protections in the larger document and it was clear they had a preference for the 15-page licence. The challenge was then to go through that licence and find items that were disagreeable to the GMRA and, if possible, by negotiation, remove them. We did, as I

recall, remove items relating to hygiene because we felt and agreed with the GMRA that that was well covered in other health regulations, so it was just doubling up.

So any delay... and I just answer on behalf of the Minister. The GMRA have been happy with the process. Of course, they were not happy with the States' decision and the States' decision went even further – because of Le Lièvre's amendment – than Commerce and Employment were suggesting, but that was the States' decision and we have got to live with that.

The one item that the GMRA do not like in the licence is that they no longer have exclusivity on milk products. They do, in reality, because nothing has been changed. Commerce and Employment could decide to do that, but my view is we should wait until the review that the Policy Council is taking out following the Le Lièvre amendment. So I think that is extraordinarily misleading.

So the GMRA – it has been confirmed by Deputy Lowe – are happy with the process. Of course, they are not going to be happy with the rest of it. Think back to the debate; think back to all the press headlines. The decision went against them. It was not what they wanted. Do remember, we could issue a licence tomorrow, but what would be the point of not providing a modern licence that covers all the liabilities and responsibilities, what to do if a retailer, for want of a better description, misbehaves or perhaps is a registered sex offender? All those kind of things are what we are trying to put in a licence in an agreeable format.

We have moved mountains; we have made major changes. The situation that we had at the last meeting I attended was, aside from the things they have always disagreed on, like exclusivity to milk products... Those non-contentious aspects of licences were acceptable. What they have said is, 'We are going to get our legal people to look at them now, but', paraphrasing them, 'what is the point of burning up legal fees when we have not even arrived at something that we are reasonably...' – I will not use the word 'happy' – 'with?'

We are there now. It is with the GMRA. We are pretty much in a situation where they can say, 'We are totally unhappy with it and we have spoken to our lawyers. We are against it.' Commerce and Employment will have to take a view, and their view might be, 'Okay, well, what changes do you want us to make?' or our view could be, 'Well, I am sorry – we have gone as far as we can and we are issuing that licence.'

I just want, while on my feet talking about it... One of the other aspects is we have been trying to get route information to add to that licence and mapping. It is not a prerequisite to issuing a licence, but it is something else we have been trying to do.

Make no mistake about it: a licence may not have been issued, but the way a milk retailer operates since the States debate and today has not changed. No retailers have been given direct access to milk at all. That remains something that only the GMRA are entitled to. The debate was all about milk products, but even though that milk products market could be opened up, Commerce and Employment has not opened it up, and I think that is right. We wait for the Policy Council report to come back, which is something that is going on at the moment.

I was not expecting this to come up today, but there are a number of other items that are covered in this legislation that we have got today – really good, important housekeeping, good corporate governance issues – and I see no reason not to support this legislation.

Thank you.

The Bailiff: Thank you, Deputy Lainé.

Deputy Lowe: Could I just correct the Deputy there, please, sir? Perhaps he was not listening to the statement that came out from the GMRA. The GMRA actually said, ‘The process is the only matter which can be described as agreed.’

They agree the process. I read that out this morning.

Deputy Lainé: That is exactly what I said: they were happy with the process. I never said they were happy with anything else.

The Bailiff: Okay, we note that.
Chief Minister.

The Chief Minister (Deputy Trott): Sir, conscious as I am of the comments you made earlier about how difficult it is without having the original legislation in front of us, it does seem to me – and I would wonder if Her Majesty’s Comptroller is in a position to confirm – that this entire piece of legislation seems to be dealing with the wholesale side of things in respect of milk delivered to the Committee.

It would seem to me, sir, in the absence of that clarity that the original Law would provide, that the exception of delivery charges pertains to the wholesale delivery of milk and not in any way to the retail delivery, and I would be grateful for his clarity.

The Bailiff: Can we hear from the Minister?

The Minister of Commerce and Employment (Deputy McNulty Bauer): Yes. I would just like to sum up on this particular Ordinance.

Firstly, I will be focusing just purely on the Ordinance and not looking at the bigger picture, although I will make reference to my comments in Question Time, where I did say that the finalisation of matters regarding milk distribution licences does remain a priority for the Department and its staff and it has taken a while with us because we are going through a process of consultation and discussion.

If we can go on now to the Milk (Control) (Guernsey) (Amendment) Ordinance 2010, which we have in front of us today, the current amendments that you have in front of you for final approval arise as recommendations in the States Report, which was approved by the States in April 2007. This Report was an extremely wide-ranging one on the whole of the dairy industry and the changes that are in front of you today are actually very straightforward and aim to modernise and make more flexible details of the operation of the dairy. These have been drafted and are before you.

If I can go through, sir, what some of the main points of the changes are, one is that the Department may approve that a farmer can retain milk for the purpose of manufacture by himself. The quantity of milk retained and the time for which this may be done can be specified by the Department and permission can be terminated, but that is giving more flexibility to the current arrangements.

It gives updated powers for the dairy to test and classify milk from producers without the need for an amendment Ordinance in future.

There is no restriction in the future on the number of producer prices that can be

paid. Previously, producer prices could be either A price, B price or nothing. I suppose, most importantly, in the context of questions that have been arising, there is no change to the aspects of the legislation that cover the licensing of milk distributors, except that they will now be permitted to raise a delivery charge, if they wish. Distributors, through this Ordinance, can raise a delivery charge without being guilty of a criminal offence. Of course, they do not have to; it is totally optional and up to them. What this means is that it can safely replace the administrative charges that have been levied in the past...

I have not finished... (*Laughter*)

The Bailiff: Please continue, Minister.

The Minister: Thank you, sir.

The distributors' delivery charge was discussed in detail during 2009 with the GMRA, when licences were being jointly worked on with them. Our understanding is that there are no objections to the proposals because, as I have just said, it is a delivery charge which is legally recognised, as opposed to the administrative charge which has been charged by some distributors in the past.

So we have had no objections to these proposals within this Ordinance from the GMRA and the farmers have been particularly supportive of the changes, which allow them greater flexibility in their dealings with the dairy. So I would hope, sir, that the Chamber will support the Ordinance in front of you today.

Deputy Jones: Sir, I go back to Deputy Lowe's objection to this particular Ordinance. The fact of the matter is that we have just heard some detail from the Minister about the farmers retaining products and all the rest of it. We have no idea, by passing this Ordinance, if this new milk review is going to change all that in the entirety. That is unless, of course, Commerce and Employment already know what the results of that milk review are going to be.

I think this is an absolute dog's dinner of our dairy industry – ever since Commerce and Employment got involved in it in the last administration. What we have had is fudge after fudge after fudge. We went from decades of stability for deliveries through the milk industry, to chaos, quite frankly, where milk retailers now no longer know whether they have businesses or not and whether those businesses have become worthless because of the actions of this House. I think we should throw this Ordinance out. If we are going to have this milk review, let's have it. Let's look at what that produces and it comes back to the States then.

I agree that in this Ordinance there are lots of things to do with dairy hygiene, what goes in the milk and how the milk is handled at the dairy. That is fine, but that is all going to be part of a review. We do not even know whether the States will agree to retain the dairy as a States-run entity. For goodness' sake! My advice to this House is to throw this out, wait until this milk review comes along and then see whether the States can instil some stability back into our dairy industry and take it from there.

The Bailiff: Mr Comptroller, are you able to assist us in any way in bringing the debate back to the particular provision of this draft that has caused Deputy Lowe anxiety?

The Comptroller: I cannot give you chapter and verse, sir, because, similarly, I do not have the principal Ordinance with me. I have learnt a lesson here to come along with just about everything.

The Bailiff: Normally, on a matter like this, you would have been given advance notice. We do encourage Members to give advance notice if a technical point is going to be raised. We cannot expect you to come with the whole of the Law Officers' library.

The Comptroller: But looking at the revision on page 73 under 'Corrections', sir, the insertion of the words 'with the exception of delivery charges' at the beginning of subsection (3) of section 8, and what the Minister of the Department has said, leads me to at least speculate – and I could check this, if necessary, sir – that that is the creation of the defence for raising charges other than in relation to the delivery of milk. Therefore, by excluding the charging for deliveries, it is suggesting that you would not criminalise somebody if they chose to introduce a delivery charge, as opposed to an administration charge. But, sir, that is pure speculation on my part.

In relation to what the Chief Minister said, yes, this is principally about what happens at the dairy, subject, of course, to the retention of milk by the producers - *[Inaudible]*

The Bailiff: Okay.

The Comptroller: The only thing I was going to say was that if Members do want that clarity then I would suggest deferring a vote on the amendment so that I can undertake the research to give that answer.

The Bailiff: Deputy Lainé are you able to assist us?

Deputy Lainé: Yes, having had time to think about this – and I do remember it was discussed – the Department has become aware that there are a number of retailers that -

The Bailiff: I do not want you to make a statement -

Deputy Lainé: No, I am not making a speech.

The Bailiff: Are you able to tell us whether it does relate to - *[Interruption]*

Deputy Lainé: Yes, it will be. There are a number of retailers that administer a so-called administration charge. That is a grey area. Adopting this Law will make it clear there is not a criminal offence being committed: therefore, this is protecting retailers in what is currently a grey area.

The Bailiff: At this point, Members, I must ask you this - are you minded now to go to the vote or do you seek an adjournment? Let us just see an indication if you are minded to go to the vote now. Will you please rise in your chairs?

Several Members rose

The Bailiff: I think there is overwhelming support to go to the vote. Without more ado, we are going to go to the vote. Those in favour; against.

Members voted Pour

The Bailiff: I declare that carried.

Greffier, I ask you please, not to call the next item as listed, but to introduce Item 14?

**Article XIV
Treasury and Resources Department
Double Taxation Agreement with the Government of Australia
Motion carried**

The Greffier: Item 14, which begins at page 6. Item 14, the Treasury and Resources Department, the Double Taxation Agreement with the Government of Australia.

The States are asked to decide:-

XIV.- Whether, after consideration of the report dated 4th November, 2009, of the Treasury and Resources Department, they are of the opinion:-

To ratify the Agreement with Australia, as appended to that Report, as required by section 172(1) of the Income Tax Law.

The Bailiff: Minister, you have drawn my attention to the fact that this seems to be linked with a piece of legislation we dealt with before. I think perhaps the Members of the Assembly, in their wisdom, anticipated there would be a favourable outcome to this one. Can you introduce it?

The Minister of Treasury and Resources (Deputy Parkinson): Yes, this is the States Report which underpins the Project on the Income Tax and the Double Tax Agreement with Australia. This is the same form of Tax Information Exchange Agreement as Members have seen on many occasions with other jurisdictions and I simply move it.

(Nobody rises to attract the attention of the Presiding Officer.)

The Bailiff: We go to the vote. Those in favour; against.

Members voted Pour

The Bailiff: I declare that carried.

Right Greffier, we return to the next piece of legislation.

Article VIII
The Vehicular Traffic Amendment Ordinance, 2010 approved

The Greffier: Article 8, the Vehicular Traffic Amendment Ordinance, 2010.

The States are asked to decide:-

VIII.- Whether they are of the opinion to approve the draft Ordinance entitled "The Vehicular Traffic (Amendment) Ordinance, 2010" and to direct that the same shall have effect as an Ordinance of the States.

The Bailiff: This legislation that you will find at pages 75, 76, I drew to the attention of the Comptroller, that, on page 76, there is reference to the Ordinance coming into effect on 4th January. The Law Officers anticipated that this legislation was going to come before us at the end of last year.

Comptroller.

The Comptroller: There is no intention to make the substituted offence for pillion passengers retrospective. That is simply a drafting error for which I apologise and I move an amendment to substitute the 4th January 2010 with the 1st February 2010, in other words on Monday and [*Inaudible*].

Deputy Mahy: I am happy to second that, sir.

The Bailiff: This is a straightforward matter. I am sure there is no debate. Those in favour of the amendment; those against.

Members voted Pour

The Bailiff: So, duly amended. Accordingly, in the citation commencement and provisions section 2.2.

Any debate? Generally? No. We therefore go to the vote. Those in favour; those against.

Members voted Pour

The Bailiff: I declare that carried.

Article IX
The Driving Licences (Guernsey) (Amendment) Ordinance, 2010 approved

The Greffier: Article 9, the Driving Licences (Guernsey) (Amendment) Ordinance, 2010.

The States are asked to decide:-

IX.- Whether they are of the opinion to approve the draft Ordinance entitled “The Driving Licences (Guernsey) (Amendment) Ordinance, 2010” and to direct that the same shall have effect as an Ordinance of the States.

The Bailiff: You will find the legislation at pages 77 to 79. Any comment or debate? I see no-one trying to attract my attention. Therefore we will go to the vote forthwith. Those in favour; those against.

Members voted Pour

The Bailiff: I declare that carried.

Greffier, we will deal with the other items on the Brochure if you would.

The Greffier: Article 10 – oh, sorry, the Brochure.

The Bailiff: Greffier, what I meant was, before proceeding to article 10, we will deal with the Ordinance laid before the States and also take the opportunity to deal with Statutory Instruments. Then we can dispose of the Brochure and all matters relating to legislation.

Ordinances laid before the States

The Greffier: Two ordinances are laid before the States:

The Public Holidays Ordinance, 2009.

The Children (Consequential Amendments etc) (Guernsey and Alderney) Ordinance, 2009.

The Bailiff: Thank you. Would you now mention the Statutory Instruments?

Statutory Instruments laid before the States

The Greffier: Two Statutory Instruments are laid:

The States Housing (Rent and Rebates) Scheme (Guernsey) (Amendment) Regulations, 2009.

The Water Charges (Amendment No. 2) Regulations, 2009.

Article X Inheritance Law Review Committee

Mr Harris elected

The Bailiff: Right. Thank you, Greffier. Let us now move on, to Item 10.

The Greffier: Article 10, the Inheritance Law Review Committee – new member.

The States are asked:-

X.- To elect a member of that Committee, who need not be a sitting member of the States, to replace the late Mr Paul Leslie Mathews.

The Bailiff: This is a Report of a Special Committee set up by the States, chaired by Deputy Lowe.

I call Deputy Lowe to introduce this matter.

The Chairman of the Inheritance Law Review Committee (Deputy Lowe):
Thank you, sir.

Before placing the name of the candidate to replace the unexpected vacancy on the Inheritance Law Review Committee, I would like to publicly acknowledge and pay tribute to the work of the late Mr Paul Mathews. We lost a very valuable member of our Committee when Paul Mathews passed away.

He contributed even up to the week before he died, when he phoned in with his feedback on the papers he had received. He wanted to be part of this Committee and its work right to the end. It was a great sadness to us all when Paul died and our sympathies are extended to his wife, Julie, and his family.

The Bailiff: Thank you.

Deputy Lowe: So I now put forward the name of Mr Norson Boyd Harris as the replacement member on the Inheritance Law Review Committee.

The Bailiff: You have circulated his CV? Did Members of the Assembly receive it?

Deputy Lowe: I thought it might be more helpful to circulate it –

The Bailiff: It is to be seconded by Deputy Sirett? Is that correct?

Deputy Sirett: Yes, sir. I confirm I second that nomination.

The Bailiff: No other nominations? No-one rising, therefore we are going to go to the vote. Those in favour; those against.

Members voted Pour

The Bailiff: I declare Mr Norson Harris duly elected as a member of the Inheritance Law Review Committee.

Article XI
Legislation Select Committee
Deputy Kuttelwascher elected

The Greffier: Article 11, the Legislation Select Committee – new member.

The States are asked:-

XI.- To elect a sitting Member of the States as a member of the Legislation Select Committee to complete the unexpired portion of the term of office of Deputy S J Maindonald, who has resigned as a member of that Committee, namely to serve until May 2012 in accordance with Rule 7 of the Constitution and Operation of States Departments and Committees.

The Bailiff: I turn to the Chairman of the Legislation Select Committee, Deputy Gollop, to propose a candidate for election.

The Chairman of the Legislation Select Committee (Deputy Gollop): Thank you, sir.

We very much appreciated the work of Sam Maindonald, who brought expertise, vision and always a different point of view to everything we did (*Laughter*) and an analytical mind – but we think we have a very worthy replacement after a surprising amount of interest from different Members of this Assembly. We have decided to go for Deputy Jan Kuttelwascher. I do not know if there were any other candidates at this stage.

The Bailiff: Right, let us see if that is seconded.
Deputy Matthews.

Deputy Matthews: Yes, I second that.

The Bailiff: Right, so Deputy Kuttelwascher has been proposed. Any other candidates being proposed? No. Therefore, we are going to go to the vote on Deputy Kuttelwascher, proposed by Deputy Gollop, Chairman of the Committee, seconded by Deputy Matthews.

Those in favour; those against.

Members voted Pour

The Bailiff: I duly declare Deputy Kuttelwascher elected as a member of the Legislation Select Committee.

Article XII
Ladies College Board of Governors
Election of new Chairman

The Greffier: Article 12, The Ladies' College Board of Governors – new Chairman.

The States are asked:-

XII.- To elect a sitting member of the States as Chairman of the Ladies' College Board of Governors to complete the unexpired portion of the term of office of Deputy S J Maindonald, who has resigned as Chairman of that Board of Governors, namely, to 31st May 2010.

The Bailiff: Deputy Allister Langlois to propose a candidate – and you may wish to speak on the retirement of Deputy Maindonald, which has caused this election.

Deputy A H Langlois: Sir, I do not think it is my position to do that, but I am rising to propose Deputy Peter Gillson.

The Bailiff: Right, and seconded by Deputy Mahy, is that correct?

Deputy Mahy: That is right, sir.

The Bailiff: Are there any other candidates to be proposed? Are there any?
Yes.

Deputy Steere: Yes, sir, I have no hesitation in putting forward the name of Deputy Jack Honeybill.

Deputy Jones: Sir, and I am happy to second that nomination.

The Bailiff: So we have Deputy Steere proposing Deputy Honeybill and Deputy Jones seconding. Any other candidates?

The procedure now is that the two proposers will speak on the merits of their respective candidates. They may speak for up to five minutes.

Deputy Langlois.

Deputy A H Langlois: Thank you, sir.

It gives me great pleasure to propose Deputy Peter Gillson for the position of Chairman of the Board of Ladies' College.

Deputy Gillson has, in my view, an ideal skills set for the Ladies' College at this particular stage of its illustrious history, having had career experience in both the public and private sectors in Guernsey. Prior to his election in 2008, I would like to remind you that Deputy Gillson spent ten remarkable years, first co-founding with now Jurat Connie Helyar, building up, and then selling, a private company specialising in the administration of private equity funds.

For we, relatively uninitiated in the mysteries of the finance sector, basically that involved organising and managing a large team of professionals and support staff in a fiercely competitive environment. In this sector, cost control and efficiency are the keys to success and Deputy Gillson's firm achieved that success under his leadership.

Sir, I have it on good authority from former colleagues that the honesty and integrity

that we have come to recognise as Deputy Gillson's hallmark, made a major contribution to the business success and the way in which his team could trust him totally through difficult decisions. It should not be forgotten that, prior to his move into finance, Deputy Gillson spent over ten years in the Guernsey Civil Service, during which he acquired foundation business studies qualifications through the College of Further Education. He went on to gain a full professional qualification as a chartered company secretary, while all the time in full-time employment – further evidence of his determination and application to task.

A Guernseyman, Deputy Gillson is married with two children: his daughter is a pupil at the Ladies' College. As in the past and in the case of many school governor positions, both here and elsewhere, this should present no difficulty, as there is clear governance provision for that situation. On the contrary, being a parent means he is well placed to understand the current challenges faced by the school.

When elected to the States, it was a logical move for him to become a member of the Commerce and Employment Department and he has taken on a full set of responsibilities, being a member of a long list of subgroups, including the Apprenticeship and Youth Employment Committee, the Lifelong Learning Group, Business Guernsey Group and so on. The theme of skills development in the workplace runs through his work.

He is also a member of two Policy Council subgroups. With his very focused portfolio, Deputy Gillson has dedicated himself to learning the political role. He will certainly have no potential conflict of interest in his States' role through work with other committees. He now feels ready to take on the serious leadership challenge by chairing the Ladies' College Board. He has every intention of standing for a second term as a Deputy and will, therefore, be in a position to provide continuity, serving the College through a critical phase of its development. He has worked hard on these, liaising with the Principal and the Board members since announcing his candidature and they have confirmed that they would be happy to work with whichever candidate is successful in today's election.

In discussion with Deputy Gillson leading up to today, I and my good friend, Deputy Mahy, who is seconding the proposal, feel sure that he is aware of the key educational and organisational issues that will be most important in the years to come.

Sir, the Ladies' College needs a strong and positive leadership, and a positive relationship with the States, and under Deputy Gillson's leadership they will have that. I urge Members to support Deputy Gillson in this election.

The Bailiff: I now turn to Deputy Steere to propose candidate Deputy Honeybill.

Deputy Honeybill: Thank you, sir.

As I said a little earlier when I said that I had no hesitation in putting forward the name of Deputy Jack Honeybill for the position of Chairman of the Ladies' College Board, I will now expand on the reasons why I have no hesitation.

I think it is fair to say that Deputy Honeybill is no shrinking violet. He is a pretty determined character and he has an impressive record of dedicated service to the role of Chairman of the Friends of Les Bourgs Hospice – it is widely recognised and applauded – and his long serving banking and business acumen is put to good use with the Town Centre Partnership.

He has been a Member of Treasury and Resources for six years since he was first elected to the States. I currently work with him on the Les Beaucamps Project Board and I am impressed with his commitment to that Project.

I think it is fair to say that there are challenging times ahead for the Ladies' College Board members. Members of the Assembly are well aware of the fundamental spending review and its identification of potential savings with the current grant to the colleges. The Education Department is also charged with reporting to the States on the current arrangement of funding to the colleges in 2012, when the current agreement ceases.

Sir, might I suggest that there may be difficult conversations ahead. Therefore, it will be important for the College to have someone with a business background and communication skills to put forward the interests of the College. I may not be doing myself any favours by supporting the nomination of Deputy Honeybill. As I have said, he is no shrinking violet. He can be quite formidable. However, I am convinced of his support and interest in the future of the Ladies' College.

I would like to remind Members that he was the choice of the Board when the late Deputy Bill Bell retired from the States and had to relinquish the chairmanship. Deputy Bell recommended Deputy Honeybill's nomination to me and informed me that he also had the support of the rest of the Board at that time and I was more than happy, on the last occasion, to put forward his name.

We know that Deputy Honeybill lost out to Deputy Maindonald and I would like to, at this moment in time, thank Deputy Maindonald, I am sure, on behalf of the Ladies' College Board for all of the effort she has put in during her time as Chairman.

However, it is clear to see that Deputy Honeybill's commitment is unwavering. He knows the school well. He has had conversations with the head teacher and his commitment, as I have said, is unwavering. I am convinced he would promote the interests of the school in his usual robust and forthright manner. I certainly commend his nomination to you.

The Bailiff: We now go the vote on the election of a Chairman for the Ladies' College Board of Governors. We have two candidates: Deputy Gillson, proposed by Deputy Langlois and seconded by Deputy Mahy; and Deputy Honeybill, proposed by Deputy Steere and seconded by Deputy Jones.

Will you now please take your voting slips and vote accordingly.

There was a ballot.

The Greffier: Are there any more voting slips?

After a brief pause.

The Bailiff: I see no one trying to attract your attention, Greffier. The votes should now be sent out to be counted. The next item is not governed by the outcome of this election.

So Greffier, we can proceed to the next Item.

Article XIII
Policy Council appointment: Guernsey Financial Services Commission
Sally-Ann Farnon elected as ordinary member
Advocate Peter Andrew Harwood re-elected as Chairman

The Greffier: Article 13: the Policy Council appointment of Chairman and ordinary member of the Guernsey Financial Services Commission.

The States are asked to decide:-

XIII.- Whether, after consideration of the Report dated 21st December, 2009, of the Policy Council, they are of the opinion:-

- 1. To re-elect Mrs Sally-Ann Farnon as an ordinary member of the Guernsey Financial Services Commission for three years with effect from 2nd February, 2010.*
- 2. To re-elect Advocate Peter Andrew Harwood as Chairman of the Guernsey Financial Services Commission for one year with effect from 2nd February, 2010.*

The Bailiff: The matter emanates from the Policy Council. It is dealt with differently because it is a nomination, as required by the provisions of the 1987 law governing the Financial Services Commission. We have before us is a Policy letter with resolutions.

Chief Minister.

The Chief Minister (Deputy Trott): Yes, sir. Thank you.

As you say, this report proposes the re-election, under the legislation, of Mrs Sally-Ann Farnon, known as Susie, as an ordinary member of the Commission for three years and the re-election of advocate Peter Andrew Harwood as Chairman of the Guernsey Financial Services Commission for one year.

Both nominees are highly valued members of the Commission. I am delighted that they are both committed to serve a further term and would ask the Assembly to endorse their nomination.

The Bailiff: We will deal with the two propositions separately. The first one, relating to the re-election of Sally-Ann Farnon as an ordinary member of the Commission. Those in favour. (**Members:** Pour.) Those against.

Members voted Pour

The Bailiff: I declare Sally-Ann Farnon duly elected as an ordinary member.

Proposition 2, to re-elect Advocate Peter Andrew Harwood as Chairman of the Commission. Those in favour. (**Members:** Pour.) Those against.

Members voted Pour

The Bailiff: I duly declare Advocate Peter Andrew Harwood elected as Chairman of the Commission.

Article XV
Home Department
Police Complaints Commission
Mr S Chisholm appointed Chairperson
Mr G S Pier and Mr N Ward, Mr K McGoldrick, Mrs A Nippers and Mrs B
Hamilton appointed ordinary members

The Greffier: Article 15, page 15: Home Department – Police Complaints Commission. Appointment of Chairperson and members.

The States are asked to decide:-

XV.- Whether, after consideration of the Report dated 30th October, 2009, of the Home Department, they are of the opinion-

- 1. To appoint Mr Stewart Chisholm as Chairperson of the Police Complaints Commission for a period of four years with the option to be reappointed as defined in the legislation.*
- 2. To appoint Mr Gavin St Pier and Mr Nigel Ward as ordinary members of the Police Complaints Commission for a period of four years with the option to be reappointed as defined in the legislation.*
- 3. To appoint Mr Kevin McGoldrick, Mrs Ann Nippers and Mrs Bonita Hamilton as ordinary members of the Police Complaints Commission for a period of two years with the option to be reappointed as defined in the legislation.*

The Bailiff: Deputy Mahy.

The Minister for the Home Department (Deputy Mahy): Thank you, sir.

The Report today concerns the Police Complaints Commission Law: this Law will provide the opportunity for complaints to be supervised by an independent body and to be dealt with fairly. The key objectives of the legislation are to provide greater protection for the public, should police officers act outside their powers, and to increase public confidence and trust in the Police and the complaints system. This legislation will also offer a greater protection for police officers themselves. Our objectives are to improve the openness, accessibility and independence of the complaints process itself and provide an appropriate and time defining structure.

The Board was delighted with the response that we received from prospective candidates, both in the number and in the quality. The quality of the applicants' work was exceptional: we received 43 applications, of which 12 were shortlisted.

Following this exercise, it was decided to recommend to the Policy Council, and then subsequently to the Assembly, Mr Stuart Chisholm to be the Chairman for a four-year appointment; Mr Gavin St Pier and Mr Nigel Ward also for four-year appointments; and then three ordinary members of the Board to be two-year appointments, Mr Kevin McGoldrick, Mrs Ann Nippers and Mrs Bonita Hamilton. There are brief résumés of their backgrounds in the Report. We believe that past performance is the best line to future performance and we strongly recommend all six of the nominations put forward today.

Thank you, sir.

The Bailiff: I see no one rising to debate. Therefore, we must look at the three resolutions.

I do see someone now. Deputy Guille.

Deputy Guille: I would just like to say how much I welcome the establishment of the Commission. Having served on the Home Department during my first term, I was acutely aware of the very difficult task that we ask of our Police Service. I am also very aware of the very high standards that our society rightly demands when they are performing this difficult task.

Our Government has recently been accused – unfairly in my view – of lack of openness and transparency, so with the formation of a Commission we can demonstrate, at least in this regard, that we are fully compliant in the best standards of providing transparency and independence in this process.

So, mercifully, there have been a very small number of incidents over the years where members of the public have sought redress; for instance, where they have had contact with police officers. I endorse what Deputy Mahy has just said. It is important that both parties involved have a speedy, thorough and impartial review of the circumstances.

I will be supporting the candidates being put forward and I would ask the Members from the House to do the same.

I would, finally, like to ask the House if they would keep the membership of this Commission under review because it is important to have the public's confidence that those serving on it are representative of the ordinary working man in the street.

Thank you, sir.

The Bailiff: Let us now turn to page 18 of the Billet. There you will see three propositions.

I am going to put proposition 1 first, which is to appoint Mr Stuart Chisholm as Chairperson of the Police Complaints Commission for a period of four years, with the option to be re-appointed, as defined in the legislation.

Those in favour. (**Members:** Pour.) Those against.

Members voted Pour

The Bailiff: I declare that Mr Chisholm is duly appointed as Chairperson of the Commission.

Resolution 2 relates to two people, Mr Gavin St Pier and Mr Nigel Ward, as ordinary members of the Commission for a period of four years, with the option to be re-appointed, as defined in the legislation.

Are you content that we go to the vote on both together? Is anyone asking that we deal with the two individuals separately? I see no one asking that we vote separately. So we are now going to go to the vote on proposition 2.

Those in favour. (**Members:** Pour.) Those against.

Members voted Pour

The Bailiff: I therefore declare Mr Gavin St Pier and Mr Nigel Ward appointed as

ordinary members, as set out in the proposition.

We turn to proposition 3. This relates to three persons, Mr Kevin McGoldrick, Mrs Ann Nippers and Mrs Bonita Hamilton, as ordinary members of the Commission, in this case for a period of two years, with the option to be re-appointed, as defined in the legislation.

Is anyone proposing that we vote individually? I see no one trying to attract my attention and therefore we are going to go to the vote on proposition 3.

Those in favour. (**Members:** Pour.) Those against.

Members voted Pour

The Bailiff: I declare Mr Kevin McGoldrick, Mrs Ann Nippers and Mrs Bonita Hamilton elected as ordinary members of the Commission for a period of two years.

Item XVI
Health and Social Services Department
Implementation of charges for Motorised Vehicle Accidents
Propositions carried

The Greffier: Item 16, the Health and Social Services Department – Implementing charges for motorised vehicle accidents.

The States are asked to decide:-

XVI.- Whether, after consideration of the Report dated 25th November, 2009, of the Health and Social Services Department, they are of the opinion:-

- 1. To approve the Health and Social Services Department's proposals to redesign, in the manner proposed in that Report, the scheme previously approved by the States for recovering treatment fees in relation to motor vehicle accidents.*
- 2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.*

The Bailiff: I turn to the Minister of the Health and Social Services Department, Deputy Adam, to introduce this matter.
 Minister.

The Minister for Health and Social Services (Deputy Adam): Thank you, sir.

The States has previously debated the issue of introducing charges for patients attending HSSD facilities for treatment following a road traffic accident. This was in November 1983 and May 1986. Resolutions were passed that allowed the then Board of Health to introduce charges for patients. To date, no charges have been introduced.

In 2006 a States' decision conferred political approval for a charging policy, i.e. that HSSD could send bills to motor accident victims for hospital charges. However, the Department has realised that, under local law, the only person to whom a bill could be sent was the victim. This was not a problem when a victim could immediately pass the bill on to an insurance company but there would be situations where the victim had no

recourse to an insurance company to recover the money. We felt, therefore, that this needed to be changed.

Consequently, legislation is proposed that will say that anyone liable for making payments following establishment of liability for a motor accident will be duty bound in law to pay hospital fees. The intention is that those who pay should be those who operate commercially in insurance businesses, and not individuals at risk of financial hardship. The effect of the legislation will be that the insurance company, or what is called a motor insurance bureau, will be directly liable. So the person, the victim, will not have to pay and then reclaim. They will not be involved in the charging process at all.

The legislation, if approved, would simply make the position in Guernsey no different to that in England and Wales. The benefit: it would probably raise approximately £150,000 in revenue for HSSD.

Sir, I ask the Members to support this recommendation to bring forward this legislation.

Thank you.

The Bailiff: Is there any debate? Anyone wishing to address the Assembly?
Deputy Jones.

Deputy Jones: Sir, I have not made up my mind on this, really. There are just some questions for the Minister.

What about work-related accidents in the workplace: will they be liable to a charge for treatment? What about all the other things that cause people to go into hospital, for smoking disorders and all kinds of other disorders? Is this a first step on a rung to privatising our Health Service? I have no idea. I am looking at it and it sounds sensible... if you have a car accident then, clearly, the insurance companies are involved.

What happens to people who are hit or are damaged by people who are uninsured? I do not know what the figures on that are – I think they have gone down significantly since we have got the insurance disc in the window – but, clearly, there will always be one or two.

So, really, those are just a general set of questions that you might like to –

The Bailiff: Deputy Collins.

Deputy Collins: Sir, I am concerned at the legal and administrative cost of applying this sort of framework. Accidents are complex incidents, often with mutual responsibility, so I will be looking for an alternative method of collecting this charge which I believe, according to the Minister, is around 300 incidents at £500 a time, or £150,000 a year.

Assuming there are 30,000 cars on the Island, if we applied an additional insurance charge of £5 on each insurance premium, this would cover the cost without all the legal and administrative backup.

Thank you, sir.

The Bailiff: Deputy Gollop and then Deputy Kuttelwascher.

Deputy Gollop: Sir, I was, broadly, minded to support this set of measures because I recall that it was actually part of the framework of a wider package of possible charges that the then Roffey administration were putting as a scenario to fund budget issues, which were fortunately avoided by negotiation of the then Treasury and Resources Department. But this stayed in the package and, of course, I think health charges have returned to at least a possible agenda.

Having listened to professional advice at a recent Douzaine meeting, there were some misgivings from people who know more about the subject than myself. I feel that this really should be open to greater consultation and professionalism. Of course, there is a safeguard that, if we vote for it now, there will be at least a month before the legislation returns, but I think there are question marks over liability, over loss of no claims, over the administrative mechanism for looking at these things, amongst many other points, and I think we need more thought on this.

The Bailiff: Deputy Lowe.

Sorry, Deputy Kuttelwascher, I have called already, and then Deputy Lowe.

Deputy Kuttelwascher: Sir, I wish to focus on this statement: establishment of liability.

If you read your motor insurance policy and you look at what you are allowed to do and not to do after an accident, I am sure it will say there you must not admit liability, and that is part of the insurance. In fact, if you were to admit liability, you would become uninsured, and therein lies the problem.

When I think of the savings that are to be made, they could be wiped out by one unsuccessful legal pursuit of liability by the Health and Social Services Department, and that is an issue for me. I know often insurance companies will pay, assuming some sort of liability, but when they pay invariably they say they pay out a claim without prejudice, in that they do not admit liability.

So it is an issue for me and I want to know whether or not they have some agreement, or have had some consultations, with the insurance company that one or other of those involved will admit liability, because I suspect they will not, and, to me, this will open a door to all sorts of litigation which will be expensive and, if unsuccessful, may completely wipe out the savings. That is my comment.

This was brought up at the December meeting I attended with Deputy Gollop. It is the bureaucracy associated with it which could actually cost more than you will ever save. I am not convinced it is a good idea at this stage.

The Bailiff: Deputy Lowe.

Deputy Lowe: Thank you, sir.

I concur with what Deputy Kuttelwascher just said. In fact, there is a letter in there, signed by me at the time, from Social Security, pointing out the fact that it overlooks the fact that motor insurance premiums in Guernsey are discounted by comparison for those UK motorists, and there are understood to be several reasons for this, including the fact that no compensation recoveries are currently pursued in respect of either Health Service or Social Security benefit. In that letter on page 32 we also explained how the

Chief Officer actually went across to the Compensation Recovery Unit in Newcastle and came back with the view that we did not go forward trying to claim off insurances.

I have two hats on here, sir. I just want to wear my St John Ambulance and Rescue hat here because it is mentioned on page 20, where it says 'depending on the views of the St John Ambulance and Rescue Service'. Both the board and the Chief Officer of the Ambulance and Rescue Service were unaware of this report and, indeed, it states in the Billet that 'depending on the views of the St John Ambulance and Rescue Service'...

The question was put to me that they hoped, and would assume, that our views would be sought prior to legislation being prepared, because we would need to be consulted on how that was going to be done to ensure a minimum of administration costs and the recovery was a reasonable length of time. That is another point, about a reasonable length of time, and I think anybody who has been involved with insurances... trying to claim off insurances can take months and months, and even sometimes years. I have just had a prime example of one personally – a tiny little scratch on the bonnet of my husband's car that has taken six months, numerous phone calls and letters, and this is what we are doing.

If we are talking here of probably 300 – that are going to be more complex, I suggest, than a scratch on the bonnet of a car where a person accepted responsibility for it – I am not convinced this is going to be cost effective, so my view is still the same as the letter that I actually signed four years ago.

Just going back to the Ambulance and Rescue Service, they are concerned that the Service was not even approached in 2006, so there is not actually a letter here at the time... and hope that we will be because, unlike some of the others that have been consulted, the St John Ambulance and Rescue Service are nearly always called to the motor vehicle accidents and, therefore, there could be an implication for us there.

Back to having my hat on as a States' Member, sir, I am disappointed with this Report for numerous reasons, because I think it is going to be too expensive, it is going to be very complex, it is going to be very bureaucratic and, in my view, it is discriminatory because, as was alluded to just before by Deputy Jones, if you have an accident at work... Sit down, Minister!

If you have an accident at work, the person who has been injured at work can claim off the work insurance for that, but... We are not doing that here, but we are doing it for people driving motor vehicles. So we are not treating everybody the same, who is coming into Accident and Emergency, with the definition of 'an accident'. Nearly everybody who goes into A&E... it is through an accident of some form or another but, equally, if you go to all the appendices that are in this Billet, they are four years old, there is no up-to-date information and, page after page, whether it is from the insurance company, who say quite clearly that they believe there are discounts in Guernsey, compared to the UK, and premiums would certainly rise... that is on page 30.

On page 31, another insurance company says:

'The implication of the policy will result in an increase in claims costs to insurers and may therefore result in a price increase. Often, responsibility for an accident is disputed by the insurers acting for the various parties involved and may only be resolved by lengthy out-of-court negotiation and ultimately court action. This process is often distressing for those involved.'

You then go on to the Home Department at the time. I accept we have got a different Minister now and the views might have changed, but the Home Department were very much concerned about this proposal that was coming forward and did not see it as the

right route to go.

You then move on to the medical practitioners – whether it is Queen’s Road Medical Practice... They envisage you – HSSD – having difficulties collecting this money and policing the collection of these moneys. When is a motor vehicle accident not a motor vehicle accident? There are many grey areas. They go on, and as I say, it is repetitive. I have got yellow stickers everywhere over this one.

If we are changing it as well slightly to what it was before, I think it would have been more helpful to have up-to-date appendices from the insurance companies, the medical practitioners and, indeed, the St John Ambulance and Rescue.

I did not support it when it came to the States last time and I will not be supporting it this time.

The Bailiff: Deputy Tasker.

Deputy Tasker: Thank you, sir.

I was disappointed in this Report because it did lead us to looking at what we discussed in 2006 and, of course, there are considerable changes that have happened since then.

I am disappointed, first of all – and I do not know whether the Minister can provide them – in there being no up-to-date figures for accidents from 2005. Of course, when one looks at page 25 and the background, we no longer have a Reciprocal Health Agreement with the UK, anyway, and I wonder how that change will impact on people who may be here on holiday and so on, and how the costs might arise as a result of that.

I wonder, as far as page 21 is concerned... The first bullet point I find quite strange because there would be no risk of causing hardship to persons whose insurance did not cover them. The liability would always be borne by a party who was able to pay. I do not know whether I am particularly dense – I may well be – but that makes no sense to me. If you have insurance, then it is the insurance that should be paying, we are told elsewhere, and if you have not got insurance, other means are being put into place here, apparently. I just question that bullet point.

The fourth one there, as well: the scheme would cover hit-and-run cases and other scenarios which would otherwise circumvent the system. I wonder how. Surely this is going to add costs to the actual administration by the HSS Department and their staff, and we have no indication of those additional costs in staff time in putting forward the accounts and so on for all of these things.

My other issue is item 10 on page 21. It is intended that the application of the legislation would not extend merely to road traffic accidents, but the scope would include vehicles and vessels, such as in aviation and sea travel. We have no indication in the propositions as to whether that will be the case and, if so, how will that be operated. What information have we from boat owners’ insurers, aircraft owners’ insurers about these issues?

I do ask for some clarity, but I must also say that I was originally well in favour of this being put into operation. I have started to question it now in looking at the detail and will listen to others’ points of view.

Thank you, sir.

The Bailiff: We now turn to Deputy Hadley.

Is there anyone else wishing to speak after Deputy Hadley? Yes, noted, two more. Thank you.

Deputy Hadley.

Deputy Hadley: Mr Bailiff, I urge Members of the Assembly to support the Department in its efforts to increase its revenue by obtaining money from insurance companies. This is common practice in the United Kingdom and there is no difficulty in obtaining money from insurance companies there.

I have, in the past, criticised the Department for not getting all the revenue it can from private treatment within Princess Elizabeth Hospital and I hope that they will also be pursuing that matter more vigorously in the future.

The Bailiff: Next, Deputy Le Lièvre, then Deputy Spruce, then Deputy Honeybill. Deputy Le Lièvre.

Deputy Le Lièvre: Thank you, sir.

I was not intending to speak because I see this as a completely common-sense way of helping to close an enormous funding gap that this House or Assembly has already recognised. I am staggered by the complications that people are raising, because I do not think it is that difficult. How many of us hold our heads in our hands when we have a minor dent and we have to go to the spray shop and make a claim?

There is not any great problem in that and I would imagine that the majority of incidents will be exactly the same for the people who are injured in road traffic accidents, one way or the other.

I would urge this Assembly to support these recommendations and help HSSD balance the books. This is what it is about. (**A Member:** Hear, hear.)

Thank you, sir.

The Bailiff: Deputy Spruce.

Deputy Spruce: Thank you, sir.

Obviously, we all realise why Health and Social Services have a funding problem and we all want to assist them in whatever way we can, but this is possibly opening the door to a whole range of other charges which could follow in the future, and I wonder where an accident starts and finishes.

I will give you an example. My wife recently fell over and broke her shoulder. That was covered by our health insurance scheme. She had no insurance for that situation. People who run around on a football pitch on a Saturday morning and break an ankle: do they have cover? I just wonder where accidents will start and finish. I personally believe we have a health insurance scheme, which we pay a premium for at the moment, and currently all of these situations are covered under that scheme premium, and it is an illusion to suggest that this will not cost the public more, in spite of the fact that they are already paying into the health insurance scheme.

Premiums will undoubtedly go up: insurance companies will have to cover these additional costs and, whilst I support every effort HSSD are making to save money where they can, if additional money has to be raised, the simplistic way is to put a very small percentage extra premium on the health insurance scheme.

Thank you very much.

The Bailiff: Deputy Honeybill.

Deputy Honeybill: Thank you, sir.

I have not got a lot to say because I totally agree with the principles behind this issue. But the one thing I feel... On the one hand, obviously, we have got the complexities of insurance and claims etc, but the other major issue, which is one of my bones of contention with regard to the Health Department, is that A&E is a service they provide and, obviously, they are trying to recoup the cost of providing that service.

The only point I would like to make here is the fact that our Health Service is second to none. I have used the Health Service in the last two weeks. When I walk in, I have an appointment, I get dealt with my particular situation that I need to be done. I walk out and say, 'Thank you very much,' and I am one of hundreds of people who are doing that every day of the week – and it costs me sweet Fanny Adams.

I am sorry, I think, Health Department, you are looking at one use here: people who are involved in accidents. It should go wider. You should be looking at all other services which are provided to many, many people who could afford to contribute. All I would say... My plea is, please have a very long look at the services that you are providing, which are brilliant, but are free to people who could perhaps contribute, to try and balance your books.

Thank you, sir.

Deputy Lowe: Could I just remind Deputy Honeybill that it is not free. The contribution rates went up to pay for the Medical Specialists Group.

Deputy Honeybill: Can I also say that the Social Security Department deals with that. They also deal with the contract with the Medical Specialists Group, which is a principle that I think is totally wrong in the current... but that is another issue for another day. That should all be part of their responsibilities.

The Bailiff: Deputy Brehaut now.

Sorry, Deputy Brehaut, are you just easing your back, or are you getting up to speak?
(*Laughter*)

Deputy Brehaut: It's a combination of the two, but I will speak very briefly, thank you very much, sir.

I sometimes wonder – I have mentioned this before – whether it may be a political failing on the part of HSSD that we have not conveyed, other than shouting across this Chamber at times, as we do, the depth of the problem that HSSD have, and can I say, HSSD, sometimes I just say 'Health' – I think Deputy Honeybill referred to 'Health' – but the problem that the Health and Social Services Department have.

We are in quite a quandary at the moment. Every item we look at is contentious. If we look to things that our employees have... if we say, 'No, you cannot have your meals when you work night shift at the Castel,' that is contentious. If you look at their childcare costs, that is contentious. If you want to charge consumables to members of the public, that is contentious.

I think it was in 2006 that the then HSSD, when Deputy Roffey was the Minister, produced a paper referred to by Deputy Gollop on fees and charges, and it was felt at the time that it was inappropriate. Well, now it is no longer inappropriate. We really have to do everything that we possibly can. I appreciate a member of the St John Ambulance board having a view on HSSD's finances. I also have a view on St John Ambulance and Rescue's finances – so please, let's be consistent. It is common practice in the UK, it is common sense to do it on Guernsey, and it is a revenue that we urgently require.

I think now with HSSD, every time we produce a States report, the last recommendation or proposition should read, 'This will not always be easy,' because that is the opposition here. People do not like it, there is some resistance. We accept these things will not be easy, but this is not a choice any longer. This is out of sheer necessity, so please support the propositions.

The Bailiff: Deputy Mahy.

Deputy Mahy: Thank you, sir.

Deputy Lowe has drawn attention to the letter from the Home Department, which was dated 2006. I was a Member of the Home Department at that time and I supported that letter. However, things have changed. The financial climate is different now and I think that we must grab every opportunity we can to make sure that we can safeguard the high priority health areas for the people on this Island.

So, despite the comments that were attributed to the Home Department – and I was a Member in 2006 – I feel now that we are looking at a different ball game and therefore I shall be supporting this Report, sir.

The Bailiff: Deputy Sillars.

Deputy Sillars: Sir, we must save money. It seems perfectly reasonable for this proposal to be accepted. I do fully agree with Deputy Le Lièvre; he is absolutely right. This is a good start and please vote for this.

The Bailiff: I turn to the Minister to wind up the debate.
Sorry, you were trying to attract my attention.

Deputy Matthews: What might be called a point of order. This morning, the Dean of Guernsey mentioned –

(Deputy Matthews referring to a minute's silence being Holocaust Memorial Day.)

The Bailiff: Yes, I will deal with that in due course, but I am not going to interrupt debate on this matter.

Deputy Matthews: Right, thank you.

The Bailiff: I do not think it is important we deal with it at 12 noon exactly.
Yes, Minister.

The Minister: Thank you, sir.

It is interesting the amount of comments that have been made, because my naive concept of this was that the principle of charging in relation to motor vehicle situations had already been established – by, I accept, a previous States of Deliberation – and this was simply a States report trying to make the situation simpler and easier by stating that charges would be raised and once liability had been established, then the person liable, or the insurance company liable, would have to have a statutory requirement to pay for medical fees.

It does *not* mean that HSSD is going to have long drawn-out court cases, trying to establish liability. The liability has to be established. We are *not* wanting to get involved in trying to establish these things. That is for the courts, as well as insurance companies. Once established, then it would be a statutory requirement for the cost of the health service. So, Deputy Jones, no, I do not believe it is privatising the health service, it is simply bringing Guernsey up to speed in relation to (**A Member:** The UK.) what applies in the UK.

Uninsured, I mentioned the MIB – the Motor Insurance Bureau – and if Members want to know, we are signed up to this Motor Insurance Bureau. Someone called Deputy Trott last signed in 2002 or 2003 and this allows people in Guernsey to use that Bureau: it is a public body and it covers those – a public body funded by insurance companies – not able to pay and compensation, for example, where there is hit and run.

The Bailiff: I do not think it is a question of ability to pay, it is a question of whether you can find the driver.

You did not know where you can pin down the vehicle and the UK government resolved that there should be a bureau, conscious that insurance companies would do pretty well out of insurance premiums which would follow from compulsory insurance, so the government said, right, there should be a bureau that would pick off liability in certain circumstances where you could not find a driver and Guernsey is, indeed, party to that.

The Minister: Thank you for clarifying that, sir.

Deputy Gollop, as he states, this was part of a range of potential challenges in 2006, when HSSD had to make savings of £3 million. Yes, and there were States' reports prepared for charging for pathology, radiology and accident and emergency and this one. This one was the only one that survived and was considered reasonable to bring before the States at that time.

So, Deputy Kuttelwascher, I hope I have mentioned the liability that you are concerned about, that this is established: we are not going out there to find out, once liability has been established. It will be a statutory requirement to cover the cost.

Deputy Lowe, it would have been a bit more helpful if you had mentioned some of these questions when you were at the last board meeting. (*Laughter*) This has been there to discuss, has been discussed two or three times. She was making comments about the St John Ambulance service. St John Ambulance has a problem with bad debtors and, therefore, I am sure they might find it quite useful if they can piggyback onto HSSD when medical charges are being raised in relation to motor traffic accidents. I think they wrote off a considerable sum in bad debts last year, and the year before and the year

before.

Deputy Tasker, I am afraid I missed the page 21 bullet point - was it point 6? Through you, may I ask Deputy Tasker to remind me of which bullet point?

Deputy Tasker: Point 7.

The Minister: I hope they have had that explained now.

I would like to thank those who have supported HSSD. Deputy Spruce, your wife broke her shoulder. That was not in a motor traffic accident: she fell off her bicycle, if I am correct, and therefore a bicycle is not a motorised vehicle. Therefore, she would not be charged and no charge would be raised. And I would like to thank him for his support.

As Deputy Mahy said quite rightly, the letters in the Billet were from 2006 and, as he quite rightly stated, things have changed slightly since then. I think that is putting it fairly mildly.

There have been huge changes in relation to financial matters since 2006. In 2006 the insurance companies were not totally against it and, in fact, I have spoken to some insurance brokers and they said, 'Sorry, why have you not introduced it by now?' – in fact, they are critical the other way. This is what is routinely done. This is a routine insurance aspect and I think we should go ahead with it and see. I would not say they would like it, but they accept it. It is part of normal practice, but if you have got insurance in relation to motorised accidents, then it is expected that if there are medical costs, then they will be covered by that insurance. That has been going on at least ten or fifteen years in the UK. It is, as I say, a routine thing. I ask this Assembly to support these measures and this legislation, which should be introduced and should give us a *small* benefit. I accept that 150,000 may not be a lot, but shall we say: every penny counts.

Thank you, sir.

Deputy Tasker: Excuse me, sir.

The Bailiff: As to the extent it is material, Deputy Adam, in relation to the Motor Insurance Bureau, I was just thinking it does also cover situations where you find the driver is uninsured, either because he never took out insurance, or because he was insured, but he had done something to void the policy. That is a clarification.

Deputy Tasker.

Deputy Tasker: Yes, sir, I did comment that there were no up-to-date figures, but perhaps that can be dropped.

However, I did want to know whether the generic term 'vehicle' also covered ships and aircraft and if, in future, that is what we should understand.

The Minister: Sir, I ask for legal advice. I assume it will be clearly stated in the law what motorised aspects are.

The Bailiff: Comptroller, that is rather a fast ball at you, are you able to assist?

The Comptroller: Page 23 of the Brochure in the Executive Summary says that ‘the term “Motorised Vehicle” includes any motorised means of transportation’ so it is not in the usual sense of a motor vehicle that travels on roads but a ‘motorised vehicle’ that travels in any circumstances. My understanding is that legislation is being prepared [*Inaudible*]

The Bailiff: Thank you.
Deputy Lainé.

Deputy Lainé: I have a question related to the question that Deputy Tasker asked, that Dr Adam did not answer.

I am supportive and I just need clarification and I am sure that I am wrong, but 7, bullet point 1, says that:

‘there would be no risk of causing hardship to persons whose insurance did not cover them; the liability would always be borne by a party who was able to pay.’

That is not saying that the person who is uninsured and it is their fault, and the person who was insured and was not at fault, their insurance would have to pay. That is not what it is saying, is it? It sounds like it, but I do not believe it is.

The Bailiff: I think that is a question that could have been asked before the Minister

Deputy Lainé: Well, it was the question that.

The Bailiff: Minister, if you are able to answer it?

The Minister: I suggested that the Scheme is going to be modelled on the 2003 England and Wales Act. What that Act does, it requires a certificate to be issued by the NHS entity in question. That certificate then raises a charge which is liable to be paid by the insurer or, if there is no insurer to pay it, by the Motor Insurance Bureau, which stands behind an uninsured driver or an untraceable driver. So it will always be the commercial entity which has the liability under Statute to pay that charge, rather than the driver.

The Bailiff: Thank you.
Deputy Collins.

Deputy Collins: I am surprised that Deputy Hunter Adam has ignored my suggestion for an income stream of £150k for Health and Social Security without doing very little else, except by charging people about £4 per car on the roads.

Thank you, sir.

The Bailiff: This sounds like new debate. I am afraid that it is new debate. Did you have a question that had not been answered?

Deputy Collins: I made that point and he did not mention it in his summing up and I think it is an important aspect.

Thank you, sir.

The Bailiff: That is up to him. That is a matter of political judgement. If you ask a question, you ask a question. If you make a point and the Minister does not choose to answer it, you can press him for an answer but if you have made a point and he chooses not to reflect on that point, that is for him and for his political judgement.

Deputy Lowe.

Deputy Lowe: Could we have a recorded vote please, sir?

The Bailiff: Right. We have two propositions.

We are going to go to the vote on proposition 1, are we not? The second proposition is dealing with legislation. So we are going to the vote on proposition 1, with a Recorded Vote, Greffier.

The Greffier: The voting this month begins with the parish of Castel.

There was a Recorded Vote.

The Bailiff: So I note that that was carried, that proposition.

We will have the official record in due course, but we then go to the vote on proposition 2, which is the Direction and Preparation of Legislation, as may be necessary. Those in favour; against.

Members voted Pour

The Bailiff: I declare that carried.

Holocaust Memorial service

The Bailiff: Now we have set aside from our minds that particular debate. You will have seen Deputy Matthews rising at about noon. I thought it better not to deal with the matter while our mind was cluttered with debate.

What he and other Members have drawn to my attention, either by notes this morning or by approaching me prior to entering the Chamber, was to note that the Dean of Guernsey, the Very Rev. Canon Paul Mellor, was officiating at a service at the Holocaust Memorial at noon today and he has suggested that we might rise for a minute to just observe the enormity and horror of the Holocaust in respect of those who died and some who are traumatised and have very bad memories as a result, as indeed do other members of their families. This is not a matter to debate. I think it is appropriate that we should now rise and reflect on the horror of the Holocaust.

Members observed a minute's silence

Article XII
Ladies College Board of Governors
Deputy Gillson elected Chairman

The Bailiff: Thank you. Members.

Before we deal with the next item, I have the result of the election for a chairman for the Ladies' College Board of Governors. The result of the election was as follows: Deputy Gillson 34 votes; Deputy Honeybill 10 votes; one spoilt paper.

I therefore declare Deputy Gillson elected as Chairman of the Ladies' College Board of Governors. I will return the voting slip to the Greffier.

Greffier, we will now move on to the next item.

Article XVII
Commerce and Employment Department
Changes to Financial Services Regulatory Legislation
Propositions carried

The Greffier: Article 17, Commerce and Employment Department, Changes to Financial Services Regulatory Legislation

The States are asked to decide:-

XVII.- Whether, after consideration of the Report dated 24th May, 2006 of the Health and Social Services Department, they are of the opinion:-

1. To amend the States Resolution (Billet d'État XXI, November, 1983) Section 2, item 3, (b) from-

“persons who receive treatment following a road traffic accident where the fees could be recovered under the terms of a motor insurance policy.”

to

“persons who receive treatment following a motor vehicle accident where the fees could be recovered under the terms of a motor insurance policy or where the person is not insured, through the courts.”

2. To amend the States Resolution (Billet d'État XI, May, 1986) page 529, Section 4, (c) from

“charges may be made for such examinations to persons who receive treatment following a road traffic accident where the fees could be recovered under the terms of a motor insurance policy.”

to

“charges may be made for such examinations to persons who receive treatment following a motor vehicle accident where the fees could be recovered under the terms of a motor insurance policy or where the person is not insured, through the courts.”

3. To authorise the Health and Social Services Department to make a charge for the

use of the Accident and Emergency and Outpatient Department facilities to:-

a. Persons who receive treatment following a motor vehicle accident where the fees can be recovered under the terms of a motor vehicle insurance policy or where the person is not insured, through the courts.

4. To authorise the Health and Social Services Department to determine, and annually review, a scale of charges for treatment of people following a motor vehicle accident, in consultation with the insurance companies, these charges being no higher than those in the NHS scale of charges.

5. That the resolutions apply to all motorised vehicle users, as determined by the Health and Social Services Department and are not purely related to Road Traffic Accidents.

The Bailiff: I call Deputy McNulty Bauer, Minister of the Commerce and Employment Department to address the Assembly.

The Minister of the Commerce and Employment Department (Deputy McNulty Bauer): Thank you, sir. The Commerce and Employment Department is introducing these changes at the request of the Guernsey Financial Services Commission. The changes are designed to improve efficiency at the GFSC and reduce costs; to widen the ability of the Commission to make rules, which will reduce the need for the Commission to impose conditions on licensees; will amend the confidentiality provisions in the insurance regulatory laws to enable the Commission to exchange information with European regulators; and it will help clarify the provisions on minimum capital requirements to ensure that it applies to insurance managers, as well as insurance intermediaries.

So, improving efficiency. Well, firstly, the Commission is obliged to publish the names of all licensees in *La Gazette Officielle* on an annual basis. The Commission already updates its licensees on its website monthly and the obligation to publish in *La Gazette Officielle* provides no additional protection to consumers.

Secondly, the Commissioners wish to be able to delegate more decisions to the Commission's staff, to enable the Commissioners to focus on more important decisions and strategic direction. So both of these changes will allow the Commission to operate more efficiently and is consistent with current regulatory practice.

Widening the law-making powers: although the Commission currently imposes a number of conditions on its licences, concerning changes in the business of the licensee and establishing branches and subsidiaries, these conditions are included in licences as a matter of course. Breaching of licence conditions is a criminal offence.

The Commission proposes that these matters are best dealt with in rules issued by the Commission, where there is more flexibility in how those rules can be enforced and interpreted, as opposed to a breach of a licence condition.

I also made reference to breach of confidentiality conditions. The European Union is currently establishing pan-European regulatory authorities for financial services. Given this decision has been taken, European regulation is going to become increasingly important on the international stage. The GFSC presently can exchange information with national regulators, but also needs to be able to exchange information with the future European regulators and these changes are necessary to meet the different standards of confidentiality which are required by European regulators.

As far as consultation is concerned, the GFSC has consulted with the financial services industry and a copy of all those responses was given to the Commerce and Employment Department. The Department and the Commission continue to work closely on emerging international issues and the Commission has reiterated its commitment to consulting with the industry over regulatory changes.

In conclusion, the Department believes that these recommendations are appropriate and that they are a reasonable and proportionate response to the issues facing the industry.

The Bailiff: Any debate?
Deputy Gollop.

Deputy Gollop: Sir, we have already reviewed much of this legislation and I agree with the Minister that it is necessary and it is part, I think, of a new regime of corporate government that the new Director General of the Financial Services Commission considers vital for strengthening Guernsey's position. Of course, it would not make life for the smaller businesses in some case any easier and that is a consideration: we have not heard from the more minor figures in the industry, their position. There has been a degree of consultation but we will see the effect as it comes out because there is always a trade-off. With regulation comes additional duties on organisations.

The one item that I would perhaps pick out is causing him to abandon too readily the commitment to publish certain technical matters in *La Gazette Officielle*, because I think that is a useful matter of record. I do appreciate that an online publication on the worldwide web will, in fact, widen the communication base significantly, but we know we cannot always rely on websites to be up to date and accurate. I think safeguards in that respect are important but I do support the measures, as put across.

The Bailiff: Deputy Lainé.

Deputy Lainé: Yes, sir, I do feel it is important to provide some reassurances to some parts of the industry.

On page 44 in the Executive Summary, (d) relates to the amending two insurance supervisory laws in order to comply with international standards on disclosure and confidential information. Really, what that amounts to is the adoption of something called Solvency II, which is about equivalence of business standards and something called CEIOPS. It all sounds very technical but the captive insurance industry were concerned about this legislation, in that there are a number of captives – un-quantified – who potentially would not be able to be domiciled here if we adopted Solvency II and there are a number of captives who could not be here if we did not. So, either way, there is the potential to lose some business.

Commerce and Employment did look into this. We have had extensive discussions with GITMA, particularly myself, and the Finance Sector Development Team. What I want to provide are assurances that this is structured in such a way that the Financial Services Commission can engage with Europe and help try to shape what Solvency II looks like because it is fluid at the moment, but only after consultation with Commerce and Employment and, ultimately, this House, because any legislation would have to come to this House. It would be a Government decision as to whether we adopt it or not

and, of course, as a Government we will look at the pros and cons. So just because we are doing this does not automatically mean that we are adopting Solvency II. We are doing the research now and it is a prudent thing that we are doing.

Thank you.

The Bailiff: Deputy De Lisle.

Deputy De Lisle: Sir, I appreciate that the GFSC has consulted the industry, but some feel, like the Foresters, saying, that it is vital still to publish in *The Gazette* to inform people of persons holding banking and fiduciary licences; there is also the insurance list. The publication of the lists... in that not everyone has access to the website and it seems to me that an annual listing, a once-a-year snapshot, is quite useful, as we had in the press this week.

The list is of interest to depositors and there was information of interest, for example, to Landsbanki depositors in the footnote to the list in Monday's newspaper.

The Commission is proposing publishing notices also, I note, in *La Gazette Officielle*, directing persons to its website, anyway. So it seems to me that perhaps the additional cost in this particular area will be minimal, in terms of the fact that they are already going to use *La Gazette Officielle* in order to direct persons into an area that many of the depositors are not able to access because they do not have the facilities. So the Commission may want to reconsider this.

Could this Article also be taken separately on voting, perhaps, on this policy later today.

Thank you, sir.

The Bailiff: Is there anyone else wishing to address the Assembly? If not, I am going to call upon the Minister to reply to the short debate.

Minister, Deputy McNulty Bauer.

The Minister of Commerce and Employment: Thank you, sir.

I thank Deputy Gollop for his support and recognising the importance of the proposed legislation we have in front of us, and also the importance of good corporate governance. He and Deputy De Lisle have made reference to *La Gazette Officielle*. One of the reasons why we would support the GFSC on their request to stop publishing in *La Gazette Officielle* is that the Company Registry, indeed, publishes all information on its website and the Department sees no reason why the Commission should not also move to online publication.

I thank Deputy Lainé for raising the topic of Solvency II and I can confirm that the Department, in consultation, intends to carry out a review on the adoption, or non adoption, of Solvency II in the future.

The Bailiff: Thank you.

So we find two propositions at page 52. I am going to go to the vote now on propositions 1 and 2.

Those in favour. (**Members:** Pour.) Those against.

Members voted Pour

The Bailiff: I declare both propositions carried.
We now adjourn for lunch.

Item XVI
Health and Social Services Department
Vote on implementation of charges for Motorised Vehicle Accidents

The Bailiff: We were awaiting the outcome of the vote on implementing charges for vehicle accidents. Remember, we have a recorded vote on proposition 1.

I declare the record of the vote as follows: The vote is for 42; against, 3. Therefore, proposition 1 is duly carried.

I return that voting slip to the Greffier.

Carried – Pour 42, Contre 3, Abstained 0, Not Present 2

POUR

Deputy Brehaut
Deputy McNulty Bauer

CONTRE

Deputy Gollop
Deputy Collins
Deputy Tasker

ABSTAINED

Deputy Lowe

NOT PRESENT

Deputy Domaille
Deputy Maindonald

Deputy Langlois
Deputy Kuttelwascher
Deputy Matthews
Deputy Steere
Deputy Storey
Deputy Honeybill
Deputy Gallienne
Deputy Gillson
Deputy Ogier
Deputy Rihoy
Deputy Trott
Deputy Stephens
Deputy Fallaize
Deputy Mahy
Deputy Spruce
Deputy Guille
Deputy Jones
Deputy Le Lièvre
Deputy Dorey
Deputy Adam
Deputy Le Pelley
Deputy McManus
Deputy Paint
Deputy Flouquet
Deputy Garrett
Deputy Brouard
Deputy De Lisle
Deputy Lainé
Deputy Langlois
Deputy Sirett
Deputy Dudley-Owen
Deputy Parkinson
Deputy Quin
Deputy O'Hara
Deputy Sillars
Deputy Le Sauvage
Deputy Hadley

Alderney Representative Willmott
Alderney Representative Walden

*The States adjourned at 12.29 p.m.
and resumed the sitting at 2.32 p.m.*

Article XVIII
Inheritance Law Review Committee
Testamentary Freedom accompanied by Family Provision and Consequential
Issues
Propositions carried

The Greffier: Article 18, Inheritance Law Review Committee – Testamentary Freedom accompanied by Family Provision and Consequential Issues.

The States are asked to decide:-

XVIII.- Whether, after consideration of the Report dated 5th November, 2009, of the Inheritance Law Review Committee, they are of the opinion:-

- 1. (1) That the current system of forced heirship in Guernsey be replaced by testamentary freedom which will enable an individual to leave, by will, the whole of his or her immoveable (real) and moveable (personal) property to such person or persons, and in such proportions, as he or she chooses: and*
- (2) that such testamentary freedom be accompanied by family provision similar to that which applies in England and Wales (under the Inheritance (Provision for Family and Dependants) Act, 1975) as set out in part A of that Report.*
- 2. To introduce new rules on intestacy, including the abolition of the distinction between “propres” and “acquêts”, as set out in Part B of that Report.*
- 3. That the legislation should contain provisions –*
 - (1) preserving the effect of forced heirship in relation to wills executed before the effective date of the legislation introducing freedom of testamentary disposition (to protect those testators who have made a will in the context of forced heirship but who are unable or unwilling to make a new will); and*
 - (2) preserving the effect of any marriage or other contracts made before the effective date, for the same reasons.*
- 4. To abolish the effect of the ruling in the case of In Re Davis.*
- 5. That legislative provision be made clarifying the order of inheritance where two or more persons have died in circumstances rendering it uncertain which of them survived the other or others, along the lines of the Law of Property Act, 1925.*
- 6. To direct the preparation of such legislation as may be necessary to give effect to their above decisions.*

The Bailiff: I call upon Deputy Lowe, the Chairman of the Inheritance Law Review Committee.

Deputy Lowe.

The Chairman of the Inheritance Law Review Committee (Deputy Lowe): Sir, before I start, I wish to declare an interest, inasmuch as I have a son-in-law who is an advocate, with no financial interest to me whatsoever... sadly! (*Laughter*)

In April 2009 the States overwhelmingly approved the principle of replacing forced heirship with testamentary freedom and, most importantly, accompanied by family provision. Following that decision the Committee, with the assistance of Advocate Simon Howitt, who is a member of the Committee, met with some of the practising advocates who work in this field to help us come forward with this Report before you today.

The Inheritance Law Review Committee is now reporting back to the States, recommending that legislation be enacted which would implement that decision and a number of consequential changes to Guernsey's inheritance law. In particular, the Report proposes a restatement of the rules of intestate succession, to take account of the abolition of forced heirship.

So what will Guernsey's inheritance law look like once this legislation is enacted?

First and foremost, people will be able to leave, by will, both their real property and their personal property to whoever they wish; that is testamentary freedom. Alongside that, if anybody wishes to continue with the old system as it is now and they want to leave a third and a third, there is nothing to stop them. This States' Report gives people the choice.

Importantly, existing roles and marriage contracts will remain in force. However, if someone is unhappy that, because of forced heirship, he or she has had to leave property by will in a way that does not meet their wishes, he or she will be able to make a new will that does meet their wishes.

Secondly, and just as importantly, the Royal Court will have power to make an award from the estate of a deceased person to compensate dependants who have not been fairly treated, either in a will or through the rules of intestate succession, that is family provision, which is briefly explained in paragraphs 47, on pages 67 and 68 of the Billet.

The persons who will be able to apply to the Royal Court, under family provision, are a spouse, a former spouse who has not remarried, a civil partner, or someone who has cohabited for two years: equally, a child of the deceased or other person who has been maintained either wholly or partly by the deceased at the time of death.

The third major change recommended by the Committee is a restatement of the rules of intestate succession. This is needed as a direct result of the abolition of forced heirship. The Committee's proposals are intended to achieve consistency between the rules which apply to real property and personal property, but retain a provision which would give a spouse the right to continue to occupy the marital home, but not the other real property, during his or her lifetime, or until he or she remarries.

The Committee also proposes removing the distinction between *propres* and *acquêts* and I do not intend to try to explain the difference in this speech here because they are explained in paragraphs 32 to 37 of the Report, on pages 59 and 60. Some would simply say that because it is becoming increasingly rare for the family home to be retained down the generations, the rationale for distinction is disappearing. Furthermore, the Committee considers that any benefits of the distinction are far outweighed by the complexities and anomalies which result. The Committee proposes that the restated rules on intestate succession treat all real property in the same way, whatever its origin.

Although it is currently not possible to register civil partnerships in Guernsey, the Committee intends that civil partners registered in another jurisdiction should be covered by the rules of intestate succession. Should it become possible to register civil

partnerships in Guernsey in the future, the Committee believes these should also be covered by the rules of intestate succession.

The Committee has not proposed that cohabittees be specifically covered by the rules of intestate succession. Under testamentary freedom, a person would be free to leave both real and personal property to a cohabitee and, as mentioned, both civil partners and persons who have cohabited for two years will be able to make use of the family provisions if they feel that they have not been fairly treated, either in a will or by the rules of intestate succession. So what will the new rules of intestate succession say?

If a person leaves a spouse and children, the spouse will inherit half of the deceased's property and the children will share the other half. The spouse also has full life enjoyment of the marital home. If there is a spouse, but no children, the spouse will inherit all the property. Likewise, if there is no spouse, but children, they will share the property. In relation to intestate succession, I include a civil partner when I refer to a spouse.

I should also explain that where a child has predeceased his or her parent, his or her share of the estate is shared by his or her children. Incidentally, it is also proposed to make statutory provision that, in order to benefit from an intestate estate, a spouse or civil partner must survive for a period of at least 28 days.

Where there is no spouse or children, the estate will be inherited by the deceased's brothers and sisters. Where there are no brothers and sisters, the parents inherit. Where the parents have died, the grandparents inherit and thence to cousins up to the sixth degree of a relationship. Where there are no relatives who can inherit, the estate goes to the Crown.

It seems to the Committee that their proposed arrangements are sensible and straightforward and it is what most people would expect to happen to their property if they die without leaving a will. However, I would take this opportunity, once again, to stress the importance of making a will. Certainly, speaking to some of you over the last few days, there is this great myth that you have to go to an advocate to make a will and it is going to cost you a lot of money. Let's stop right there. You do not have to go to an advocate to make a will. Anyone can make a will, providing it is witnessed by two independent people. These are the Committee's main proposals introducing testamentary freedom, accompanied by family provision and restating the rules of intestate succession. There are, however, a few consequential matters which I would like to briefly mention.

The Committee has reviewed the issue of joint accounts and jointly held assets, as indicated in its previous report, that has concluded that no amendments are required. In September 2006, the States amended the Committee's mandate to review the use of trusts, whether testamentary or *inter vivos*, for the purpose of estate protection and planning. By recommending the introduction of testamentary freedom, the Committee has made it unnecessary to pursue this issue. However, the Committee is recommending that, in order to achieve full testamentary freedom, the rule in *Henry Davis* should be abolished so that it is possible for the testator, if he or she so wishes, to direct that his or her real property be placed in trust, whether or not he or she has descendants.

Finally, the Committee is recommending some further technical changes in Guernsey's inheritance law relating to dying together. These changes are intended to remove any doubt as to how an estate should be distributed. Experience suggests that such circumstances do not happen very often, but it is better to be prepared in case they do.

Sir, nearly 60 years ago this came to the States of Guernsey and, indeed, it was brought by the Martel Committee, as it was known at the time: they proposed having testamentary freedom. Then, the States felt that it was a step too far, but things have changed considerably in the last 60 years. However, our Committee takes comfort that such distinguished statesmen of their generation believe that full testamentary freedom is the ultimate end towards which public opinion has been tending for many years. That was 60 years ago. How much more is that the case today?

The Martel Committee, even in the language of the time in which they reported, would be very different today. They then stated no reason to suggest that the average Guernseyman would use such powers – that is, testamentary freedom – irresponsibly.

'All the evidence available, as to how the average Guernseyman arranges his affairs, shows that he is concerned to make the best possible provision for his widow and children. In the rare cases where he or she wishes to exclude some member of the near family, there is usually ample justification for such action.'

So, sir, I would like to advise States' members that not only did we come back with the April Billet following a consultation document, that the advice on the day from HM Procureur – Mr van Leuven said as such – that what is clear is that retaining forced heirship in its current form is not going to be an option for very much longer.

I commend these proposals to the States, sir.

The Bailiff: Deputy Jones.

Deputy Jones: Thank you, sir.

I apologise to States' members and Mr Bailiff, if this speech is a little long, but I think this is such an important issue for the Island of Guernsey that it needs to be laid out in the way that I have. My view is that this policy report should be rejected and the Committee sent back to look at the whole thing again. Advice to me from the legal community suggests that the statutes need clarification and to be combined into a single piece of legislation, but the Billet fails to make its case convincingly for wholesale change.

It might have started, for instance, by listing the pros and cons of why we are being asked to scrap another 800 year-old piece of our legal history. Some would have you believe it will make the whole issue of inheritance law easier to administer. I do not believe that will be the case.

Why is this Committee so keen, without any public demand, to set about trashing another part of our heritage that sets us apart from the UK? An important difference that, in my view, is a deep-rooted part of centuries of this Island's culture and its community. Our laws and customs are the cornerstone of our democracy. They define who we are and what sort of society we want to live in: Laws that have been structured by generations of learned Guernsey counsel to protect the rights of Guernsey families.

In this Billet it tells us that back in the April meeting of 2009, no significant issues were raised during that debate. I think that is a fair comment. I think the reason for that, though, is very simple. It is very difficult for States' members, who are not trained lawyers, to take an informed view on matters such as this. Unless the Billet lays out in layman's terms – in layman's language, rather – the advantages or disadvantages for our community of changing our laws, it is challenging, I suggest, for any States' member to measure what the effects might be on this community.

The problem in this Assembly is that, despite the presence of our learned Bailiff and two Law Officers, we no longer have the added benefit of Deputies who are also serving advocates. The benefit in the past of having Deputies, who were also local lawyers, was that they could forensically examine proposed legislation and question the wisdom or validity of what was being put forward with some professional authority and challenge, if necessary, even the views of St James Chambers.

Laws, in my view, should only be changed, if there is to be a clearly defined benefit to the community. No longer having the benefit of having advocates as serving Deputies and being unable to gauge whether what we are doing is in the best interests of Guernsey, I look to others who deal with these matters, for advice. This is what one of Guernsey's experienced local advocates, Nick Le Poidevin, a former Deputy of this House, said about these proposals and as you are aware, he has extended that advice by a letter that was published in the Guernsey press and I think he wrote to all Deputies. I quote from that correspondence, if you have no objection, sir? (**The Bailiff:** No.)

'Nothing identifies a community more than its laws, and in particular, its laws of property. Our Island and its landscape is what it is because of our laws. If we lose our laws, we lose our identity and our reason for independence. The law of inheritance is an aspect of the law of property and these together make our community what it is and help fashion our landscape. I accept that times and social attitudes are changing –'

- a point that is definitely well made –

'but I suspect that any wish for change has come, not from the bulk of the population, but from public and private sector professionals, including perhaps, the Committee's legal advisers. It is change for change's sake, without any demonstrable benefits.

The Statutes certainly need consolidation and clarification. That is very different from changing the law of property that has formed our Island's society down through the ages.'

He further goes on with criticism of this particular Billet, by saying:

'Instead of providing one report, setting out the arguments for and against change, and more importantly, the consequences of accepting or rejecting proposals, it presents proposals in parts, so that the States, having accepted one part, it is forced into accepting the next.'

That is a clear reference to the 2009 debate – the April debate – and I myself may not have appreciated that point back in April last year. Nonetheless, it is a ratchet effect that slowly erodes the things that make us different.

Another local advocate has pointed out to me that we only have to look at the lack of historic disputes regarding succession to come before the courts, to see that these changes are unnecessary. We have a raft of specific laws that have served this community very well through time, laws that are created, as I said before, to protect the rights of Guernsey families.

Where are the queues of people at the steps of our courts, demanding that our present legislation is scrapped? In any event, have we not recently agreed to a report that every change to our laws ought to be evidence based? These are Guernsey inheritance laws and are mirrored in many other jurisdictions, much more aligned to our own in such matters, our nearest neighbour France being one example. Scotland also has different inheritance laws from England and these have helped to shape Scottish society and, undoubtedly, helped to preserve its national identity. There have been opposing letters in the press, but I do not think they have come from serving advocates, merely somebody, perhaps, who draws up wills.

My biggest worry about this... once again we are ridding Guernsey of its Norman laws in favour of English law. Why do we keep feeling the need to do this? We are not part of Great Britain or the UK. These differences are important because they are part of Guernsey's identity.

Advocate Le Poidevin, again, went on to say and he made this point:

'Our present laws of property inheritance stem from Norman and other systems of law that see the family as the basic unit of society and seek to preserve property and assets within the family. Do we intend to keep the family as the basic unit of our society and frame our laws to support this? Or do we encourage people to act as individuals, who neither provide for their children, nor be cared for by them in their old age.

I urge you not to belittle our laws of property inheritance as something unusual or quaint. Our law of inheritance is similar to that found in most of Europe, other than England. It begs the question of whether the English system of property inheritance is the best model for Guernsey, given the alarming breakdown of family life there, as compared with much of Europe.'

This anglicisation of Guernsey was one of the fierce criticisms of the States of Guernsey that Advocate Roger Perrot referred to in his recent debate on preserving Guernsey's independence. To me it is little more than cultural vandalism in many ways. The Island's heritage and culture are held in trust by us and we should not surrender any of it, unless there is an overwhelming demand from our people to do so and, as I said, in this matter, this is certainly not the case. We are, after all, the custodians of these laws for future generations.

The Island's laws define a society because those control the relationship between individuals. The spirit of this law has developed over many generations, in a manner best suited to this community, not somebody else's. To sweep all that away and introduce English inheritance law, piecemeal, is to turn our back on the very core of our cultural individuality.

The more we make ourselves like England, the harder it will be to resist being absorbed by it. You may believe that is not possible, but do not doubt this. The European Union would dearly love us to be annexed – I bet you were wondering when I would get round to this (*Laughter*) – by the UK, as it would remove our independence and close us down as a legitimate low-tax jurisdiction. The very reason for having the Royal Court – this building – is for Islanders to maintain their own laws in a manner best suited to this Island and not to be subject to English courts for matters arising within the Island.

If we sit back and simply allow our laws to be replaced by those of England, in the misguided belief that this is just somehow easier, or that our own laws are just too difficult and should be put into the 'too hard' tray, then the need to have our own separate Court diminishes. And that is an important point.

As you may have gathered I am not a lawyer, but I do listen to what they say when it comes to issues that could possibly threaten our independence. I go back to Le Poidevin, again:

'An immediate consequence of accepting the previous set of proposals, has been to make it necessary for people to make wills, where previously this was not needed and it has increased the cost of winding up an estate. The present Billet glosses over the consequences of abolishing enforced heirship. It suggests adopting an English Act of 1975 that permits overlooked heirs to ask the court to adjust the Will to give them financial provision. As in many family disputes, the winners are always the lawyers; the losers, the family, both in terms of cash and of stress. Older people can be very unpredictable, while retaining their mental faculties. Any family lawyer knows how wills can be used as a weapon, how they can be changed or torn up on a whim, and how difficult it is to prove that the person doing so was of unsound mind or under duress.

As example, an elderly widow living in a large house with, and cared for by, her middle-aged children, decided to leave all her assets to a perfectly reputable charity. Her offspring become homeless and now have to fight that charity in the courts. Maybe they are not eligible either for Social Security benefit or assisted housing, or Legal Aid for that matter. Understandably, the charity will use all its resources to fight that claim.

This scenario could not happen under the present law. The policy letter is strangely silent about the consequences for Guernsey of adopting its proposals. The issue is not whether they work in England, but whether they would be best for Guernsey. Ultimately, the independence of any community depends, not upon Charters, Treaties or Letters of Understanding, anything other than the community having both a separate cultural identity and a separate legal system.

One has only to look within the Bailiwick, to see that Sark and Alderney remain independent from Guernsey for these reasons. Our relationship with the United Kingdom generally fails the first test and the adoption of English law of inheritance leads it closer to failing the second. The principal reason why Guernsey lawyers study Franco-Norman law at Caen University is to understand our laws of inheritance and property. Once Guernsey adopts English style laws of inheritance, there will be little need for Guernsey lawyers to study at Caen and, indeed, little reason to prevent English lawyers from practising law in Guernsey, or for Guernsey to maintain a separate Bar.

By adopting English laws of inheritance Guernsey risks selling out its claim to have an independent government. Bringing the laws which define our society in line with those of England, makes the argument for retaining Guernsey's independence grow weaker.

The issue is not whether the abolition of forced heirship is right or wrong, the issue is whether by adopting English laws of property that essentially govern relationships between individuals, we are making our society more like England and therefore more difficult to resist integration with England.'

Protecting our independence is, for me, the most important part of our job, while we are in office for, without it, everything else is gone. It is not for us here-today-gone-tomorrow politicians to tear up large chunks of our Norman law, just because somebody decides it would be a good idea and, besides, that is what is happening in England! It is time we showed some backbone in this Assembly and defended more vigorously the things that make us different, not surrender everything because we fail to understand the complexities, or long-term consequences, of what we are doing, or allow our advisers to take the easy way and just parachute English law into our jurisdiction.

Remember that, once lost – thank you Deputy – these customary laws will be gone forever. Laws are developed in sympathy with the legal framework in which they operate, Laws which are understood by the people of this Island and which are not the unnatural result of a change for change's sake, with little real thought as to the consequences. As a member of the External Relations Group, I know how hard that Group is working at maintaining our autonomy and preserving this Island's rights and freedoms and its independence.

I ask you to reject this Billet and continue to defend these differences.

I just want to finish with one final quote from Advocate Le Poidevin..

'The more our culture and law become like that of England, the harder would it be to resist. Scotland united to England in 1707

That date is actually disputed by the person on my left, but we will stick with it.

'- partly as a result of financial problems and because its independence was seen as a threat to England. By retaining its own cultural identity and its own education and legal systems, including forced heirship, Scotland has preserved much of its national pride and independence. By adopting English laws of inheritance, Guernsey risks selling out its claim to have an independent government.'

I ask States' Members to think very carefully before voting this through on the nod. We discard these differences at our peril and if we continue in this reckless fashion, then it will only be a matter of time before we end up with a Hampshire postcode.

I have one question for Deputy Lowe. We changed the law a while back to allow illegitimate children to inherit. It seems to me that what is being proposed here might allow those to revert back to the previous system and to disinherit them. I put that forward as a question, if she is able to answer.

Thank you.

The Bailiff: Deputy De Lisle, I think you were trying to attract my attention. Then, Deputy Storey, then Deputy Parkinson.

Deputy De Lisle: Yes, thank you.

Under the proposed changes to the laws of inheritance through a will, testimonial freedom would enable an individual to leave, by will, their real and personal property to whomever he or she chooses, but the unfortunate widow and children are compelled to go to the courts for provision, at the risk of getting nothing out of the estate.

Our current law prevents Guernsey persons from disinheriting their spouse and their children. I consider that the rights of the surviving spouse and descendants must be protected. Testators and their families have certainty currently in the existing law and our current law ensures that the surviving spouse and children shall not be disinherited at the whim of a testator.

Many countries have forced heirship rules like us, including France, Jersey, Scotland and the Scandinavian countries: all believe that the family unit should be given special consideration. The position against change was put by the Inheritance Law Review Committee, the current committee, in the April report in the following way. They made it very clear to everyone in the following words:

‘Guernsey’s forced heirship regime simplifies the choices which people have to make and often achieves the result which they require. It is also probably the case that, in the event that testamentary freedom was introduced, then the necessity for family provision would involve the creation of a new jurisdiction in the Royal Court and could potentially lead to a great deal of litigation, particularly in cases where a person who would have benefited under the existing rules, was disinherited and naturally felt aggrieved.’

That was the point that the current committee made to the States in the April Billet. The necessity for family provision weakens the case for change in testimonial freedom. It involves the creation of a new jurisdiction of the Royal Court, more bureaucracy and more litigation.

Turning to the situation where there is not a will, under the intestate provisions – and about a third do not make a will – if the law changes along the lines suggested here, the confusion will force many to make wills who would have been quite happy to rely on the law they understood. There will be uncertainty. It will force many on fixed incomes and pensions to go to lawyers for advice.

The intestate law being suggested here under testimonial freedom is much more complicated than the current law. Under the present law, the spouse secures at least half of all the property through life enjoyment and the total is then distributed to the heirs after death or remarriage. This ensures that the property remains in the family. The intestate law is far more complicated than the current law. There are different rules for the matrimonial home and for any property outside the matrimonial home – outside the outflow, if you like.

Heirs will do worse under the proposals as half goes to the spouse absolute now whereas, under the present law, the spouse secures at least half of all the property through life enjoyment and the total is distributed to the heirs after death or marriage.

There will be disagreements, of course, over which half is which and where the other half goes to spouse absolute and half to the descendants, so you can imagine the concerns as to what half goes where. There will be questions with land that comes down with *partage*: are there to be problems with this situation in the new proposals? Where

there are no direct descendants and where there is no will, the property reverts to brothers and sisters essentially or other classes of relatives after the brothers and sisters, but notwithstanding the family line; whereas, under the present law of *propres* and *acquêts*, which is still appropriate and relevant today – not as indicated in the Report that you have got in front of you – it ensures that the property stays in the same line of the family. That is important, that the property transfers down the same line from which it originates, and is not deflected and shared, as the testimonial freedom law is suggesting, amongst all, on both sides of the family, the two families.

Deputy Lowe says that the family home is not now regularly passed down. That is not the case at all in Guernsey. Property is passed down the line from father to son and children, and other property the same. So I do not think we should be getting rid of *propres* and *acquêts* because those are important principles and they were brought in force not arbitrarily but for a purpose. So this is another reconsideration and a consideration that needs to be made by the Committee and they need to look at that a lot harder.

Deputy Lowe spoke, in the last session that we had, of the present Law as a complicated law, but the law today is quite clear. It is stated in a paragraph in the Billet. What are unclear are the amendments to it that she is bringing forward and how these will interrelate with the existing law and how the whole is to be untangled in the confusion that is being created. That is seen very readily in this Billet where, rather than just one paragraph to explain the current law, you have loads of paragraphs that go on several pages to explain what this change is going to mean.

We need to know a lot more about the consequences for Guernsey through introducing testimonial freedom laws of inheritance. The consequences are far reaching and impact on our independent legal system, our cultural identity, our national pride – and independence is of great concern, I would think, to most Guernsey people.

It all runs counter, actually, to the very declared intention of this House, of the States, to strengthen the Island's identity. Here, we are deliberately eroding the Island's identity. How dare you? We need to know what is in the best interests for Guernsey and we need to know more about the litigation that results in the English courts. There are no guarantees through family provision, as we find out, in the English system, no guarantees of the family home. In fact, in many cases in the UK and England, the family does not win: the charities do. Why change the law of inheritance? Why introduce uncertainty? Why put us through the courts in order to claim our birthright? Why expel spouses and children from their homes when the existing law protects spouses and children? This can be done at a whim in terms of an individual, caused perhaps by wickedness or other issues, in many cases, in families.

So this is far more complex a change to put through on the basis of a short 10 to 12-page policy letter. In fact, the previous Inheritance Law Review Committee – the one before the existing Committee – wished to keep forced heirship, our heritage rights. Why change now? How are you going to protect the family? It is a serious issue, because you are breaking, actually, through this means, the family bond.

It is necessary to emphasise that there has been no public demand for change. The published consultation document in 2007 was largely ignored and needs to be looked into again before any decision is reached by the States. It needs more thought. Only 48 people answered the public consultation, and of the six Guernsey advocates who replied, all favoured retaining the current arrangements.

So we need to look much more carefully at this. The existing law is still appropriate to our needs and I call on the States to reject this policy proposal to change our inheritance laws.

Thank you, sir.

The Bailiff: Deputy Storey, and then Deputy Parkinson.

Deputy Storey: Thank you, sir.

First of all, I have to say that I am not a lawyer, and when I first received the Billet I just looked at this policy letter – mildly interested, ‘I’ll have a read through it, see what’s in it’ – and I must admit that I do not understand all the ramifications that these proposals might bring into train. But when I first read it, ‘testamentary freedom’ – sounds good, doesn’t it, freedom? – forced heirship: that sounds bad, all about coercion, not the sort of thing that one ought to do in a civilised society.

However, having read the policy letter, I have to say that I do not find the arguments convincing – certainly not convincing enough to change the *status quo*. In fact, on re-reading the Billet, I feel that it suggests to me that the decision on the recommendations was made first and the arguments were rehearsed at a later date to fit the case.

I do believe, sir, that these proposals will ignore this Island’s historic roots. I think that has been covered adequately by a previous speaker so I will not delve into that cul-de-sac, but what I will say is that, in my view, Guernsey’s inheritance law is more akin to what applies in most of Europe and obviously not to what applies in the UK.

Like Deputy Jones, I agree, we do not have to assume that what the UK does is best. These amendments seem to me to be about increasing the rights of an individual and it smacks to me of the problems that we have had on Human Rights issues. What we have got in our law is too much about people’s rights and not enough about their responsibilities and obligations. It seems to me that our predecessors on the Island saw that it was fair for persons to provide for their dependants after their death. Not only fair to their dependants, but also to the small community on this Island who would otherwise have to support those dependants from the public purse, and I suspect that both those arguments drove the formulation of that law at that time. But under this proposed testamentary freedom, it is going to be open to a surviving partner or spouse to change their will, if they wish, against the previous wishes of the deceased spouse.

This proposal to provide testamentary freedom seems to me to provide in law a person’s right to avoid their responsibilities or obligations with regard to their dependants at the possible cost to this community. I do not think that that is right and on those grounds I do not think that these proposals have been properly thought out. In addition, under these proposals, dependants will only have recourse via the courts, but the courts are not available to those on limited means unless, of course, this is going to be a further charge on the public purse. It seems to me that these proposals will only introduce time delays in obtaining probate, uncertainty for people in very fraught circumstances, and additional cost, and I do not see that there has been a sufficiently convincing argument for the need for these changes.

Further, sir, could I say that I feel it is unfortunate that the Committee did not seize the opportunity to address what I consider to be two significant problems with the existing law, and that is they have done nothing about processes to speed up the probate process, which is always a problem, and they have done nothing to address the

problems that are still surrounding the outstanding matters relating to illegitimate children. Both of those matters are problems which they could have addressed in this Billet and they chose not to. I think that is unfortunate.

So I do not think that the proposed amendments help the people in Guernsey. I am open to persuasion by this debate because, as I said at the beginning, I am not fully conversant with all the legal repercussions, but at present I do feel that I must vote against these proposals and vote for the *status quo*.

Thank you, sir.

The Bailiff: Deputy Parkinson.

Deputy Parkinson: Thank you, sir.

This debate amuses me because I spent a large part of my professional career advising people, generally from the Anglo Saxon world, who were moving to France, which has the continental forced heirship rules, and very often they... My advice was centred around tax, but tax included inheritance tax and the impact of it was very often affected by the application of the forced heirship rules.

Basically, people moving from the United States, Australia, the rest of the world... Some of the people in this debate have talked about testamentary freedom as though it was a peculiarly English phenomenon. Of course, it actually pervades the Anglo Saxon world. People coming from this background and entering into a culture with forced heirship rules found the whole concept terribly alien and struggled and planned to avoid the effects of the rules. The reason they did so was fundamentally this: in the English tradition – and I use that broadly because, as I say, it applies broadly across the Anglo Saxon world – people tend to leave their property to the surviving spouse and then on to the children, and in the continental system the children have a right to a share of the estate. So it is just a different cultural background and people moving from the Anglo Saxon testamentary freedom regime into the continental system would suddenly find... and they were often people on second marriages and generally later on in life with adult children who were 30 or 40 years old themselves, and the prospect that their adult children – who, in many cases, were fully independent, perfectly capable of standing on their own feet and, indeed, often very much wealthier than the parents – would have a right to a share of the estate, and the surviving spouse would lose that money, was just simply a nonsense to them.

The continental model in its modern form was essentially Napoleonic in origin and was created by the revolutionaries who, of course, were very interested in seizing their parents' property and chopping their heads off, if necessary, to accelerate the process! (*Laughter*) It was all about their birthright, the right to inherit.

This is an interesting concept, isn't it, a birthright: you have a right to a share of your parents' estate. Do people in England and do people in Guernsey actually believe that? I do not think so. You do not have a right to a share of your parents' estate. So the tradition in England is different and I submit that that is actually more in keeping with the needs of our age. People in Napoleon's time were living to be 30 or 40 years old and they did not have, in general, long periods of dependence in old age when they would have to live off their savings or their spouse's savings. We now enjoy much longer lives and people expect to live a long time after retirement and to have the years – which are talked about as 'years of dependency' – when they are basically living off their savings

and the surviving spouse needs all the money to get through, to reach the age of 90, or whatever they eventually end up at.

I think it is actually just more sensible, in the current circumstances of life, to allow the surviving spouse to keep the lot and then, of course, to pass it on, if there is anything left and they want to, but I do not believe that, in general, children have a birthright. In English law, as proposed here, of course there is provision for dependants – people who actually depend upon the deceased for living, either because they are minor children or they are a surviving spouse, or perhaps because they are incapacitated – and in English law a dependant can make a claim against the estate. Provision is made in the law for them to obtain a share of the estate if they have been cut out of the will. But for an adult child, of perhaps 55 years old, earning a decent living, there is no birthright, there is no right to a share of a parent's estate.

The continental rules are so unpopular with people moving to the continent from the Anglo Saxon world that they, and indeed many people who are native to the continent, spend a lot of time subverting the rules because, of course, during someone's lifetime it is very difficult to stop them disposing of their own property and, consequently, people make arrangements to get round the rules in various ways.

I will not bore you with a technical analysis of all the options for getting round the rules, but I can tell you there was a powerful motive to do it and loads of people spent loads of time – and, fortunately, some professional fees (*Laughter*) – on arranging their affairs so that they did not get caught. That is not a sensible use of resources. Even as a beneficiary of the system I would have to say that.

I believe that testamentary freedom, coupled with adequate family provision rules, is the practical answer for our age. The continental system may have been very appropriate to Napoleon and his cohorts and that may have spread around the continent, but it is simply alien to the Anglo Saxon – the English and throughout the Anglo Saxon world – way of doing things. You have to look after the surviving spouse first. There is no sense, in my view, in giving children a right to a share of the estate on the first death.

I would urge Members to support this report. I think it is a sensible reform. It will move Guernsey forward and make our rules more appropriate to our age.

The Bailiff: Deputy Gollop.

Deputy Gollop: Sir, thank you.

I actually, listening to the debate, would agree with much of the logical analysis of Deputy Parkinson, but I am still going to vote against this, for a number of reasons, (*Laughter*), and I will explain why.

I do not know if Deputy Parkinson is correct on Napoleon because, of course, the Bourbon monarchs lived to be a long time in that era and this, of course, is based upon Norman law, which predates the Code Napoléon and goes right back to the mists of continental history. But I think, if you analysed the issue completely, you would realise that the laws we have inherited are based around an agrarian society in which a farmer or smallholder or landowner, presumably male – on the assumption the male died first, although that was by no means the case perhaps when you had heiresses who died in childbirth – but we will say, for the sake of argument, a male farmer dies at a particular age and the sons – and it would be the sons in most instances – would have the right of inheritance.

It is, in a sense, ironical that we have here a very learned piece by Advocate Gordon Dawes, opposing the changes, when of course he put an opposite view in Sark not so long ago. But I think there is a material difference, because Sark very much transgressed modern thinking on Human Rights and equality, and the Guernsey law does not – and that point has to be made. Deputy Lowe mentioned that one of the Law Officers had question marks about how long it would survive, but I think we need to know more about those reservations because, presumably, if they apply in Guernsey they apply in France as well and that is a point that needs to be put into context.

As I was saying, these laws were designed for an agrarian society and, bearing in mind Deputy Parkinson's point about Anglo Saxon residents on the continent who sought manoeuvres to get around those laws, I could imagine that part of the cultural difference... English law developed in a different way from continental law, for a start, but another reason would be England was one of the first countries to join full bloodedly into the industrial revolution. So, consequently, England, dare I say, became a suburban society rather than a rural society. Guernsey, in a way, never had an industrial revolution in that sense, and so maintained more of a continental ambience. But the point is: where are we now?

Ironically, both sides are correct, because when I listen to western Deputies like Deputy De Lisle and maybe Deputy Dudley-Owen, who might speak later, there is out there a real sense of continuing history, with farming families inheriting outstandingly nice farmhouses and going through the generations and serving on the Douzaines and so on. I am not so sure that is true for the north and the east of the Island because those parts have had a different history in the last 200 years.

The problem that we have is where do we go? Actually, the irony is, if we do vote for this and the subsequent legislation, we will be contradicting our own policy because I remember a rather awkward debate in 2001 when the States finally decided to grasp the nettle of community care, going further than the United Kingdom has so far done. It was based upon some of the work of Ozanne's partner, Advocate Perrot, and Deputy Laurie Morgan and others, who were very keen that the Guernsey family home should be preserved and a worry was, as people live to more and more geriatric ages, that that was being lost to expensive residential home nursing fees. You have to sell the family home in order to sustain yourself. We brought in what, in a way, was an addition to the Social Insurance Scheme and, in a way, was a new form of taxation, precisely so that generations of family would not have to sell their properties. So we brought into our political culture continued heirship and this, of course, goes in a different direction, it seems to me.

My reason for supporting this, fundamentally, is that yet again the consultation process has failed. I actually think we will probably end up reforming the law, not necessarily along English lines, but under a course between. Where it has gone wrong this time is we have not had a lot of meetings and we have not had many presentations. There have been some misgivings in the community but we are always being told on many areas, from waste management to taxation, that the one thing we should do is listen to the experts, who are not necessarily States' Members because you could not have experts in every conceivable specialism sitting here as Deputies. They have not got the time, for one thing, and yet we know Dr Nick Le Poidevin, we know advocate Alison Ozanne, we now know Advocate Gordon Dawes who has written... or reported to... a piece in the... concern about the 'europeanisation' of Guernsey law. They are all

opposed to it.

So we are having experts opposed, lots of question marks over how it will be implemented and there is also – from what I heard again at the Douzaine meeting the other night – a degree of muddle about its implementation because, even if we change the rules, it will only apply to wills made after that point. So a will made by a twenty-year-old today, that is never amended over the next eighty years, will be based upon a different system than what might be changed. That is messy and I agree with Deputy De Lisle there when he said that it would actually increase the fog in the legislation, rather than make it clearer.

Deputy Jones, too, has a point in saying that we are in danger of losing what our context in Norman-French law is. So the solution, I think, is to have more Rencontres – if I have got the pronunciation – more conferences on how we evolve Norman-French law for Guernsey and Jersey jurisdictions as they are today and look to continue ways in which these laws can be made fairer, but not necessarily go to the point of just effectively emulating English law because, for many local people, there is a sacred heart trust in the current arrangement. I am sure there are also many people out there who do not know that we are even having this debate and will come to the realisation a long time later when they are sitting in an advocate's office.

So my advice is to be agnostic about some aspects of the changes, but for the Committee to go away again and look at what they are doing. I do not – and I have to be fair here – blame the Committee altogether for this because, if you set up a body called the Inheritance Law Review Committee, it implies that you are going to review the law quite substantially. Therefore, a lot of the people who have made points, again at the eleventh hour, arguably should have put their views in the public arena earlier but now is not the right time to make the change. I would say leave it for six months and continue with the consultation process to see which way the community really wants to go on this.

The Bailiff: Deputy Paint.

Deputy Paint: Sir, and Members of the Assembly, I have been really interested in this debate today, particularly in what the Deputy Parkinson has said.

Guernsey has never been Anglo-Saxon, it has been Norman, which is much older than the Napoleonic era. Guernsey was under the Duchy of Normandy before 1066. Our law is actually... we go from that time.

There is a saying that when you go to live in another man's country, you should abide by that country's laws (**Members:** Hear, hear.) and not bring the laws of the place you have just come from or try to change the original laws. So I feel that I have to vote against this, simply because of what has been said this afternoon.

Thank you, sir.

The Bailiff: Chief Minister.

The Chief Minister: Thank you, sir.

Sir, Deputy Parkinson's words resonate with me: 'laws more appropriate to our age'.

Having read Deputy Alison Ozanne's comments in the press, I took the trouble to speak with her. There is no question she feels very strongly about this matter and I

respect her views, but there is something in her article which struck me and it was touched upon by Deputy Parkinson and elaborated upon by Deputy Gollop.

She says:

‘Forced heirship laws continue to thrive in France today, so it cannot be argued that forced heirship is an outdated or outmoded idea.’

Well, sir, this is certainly not my view, but it is a view of others, that France remains a nation of peasants, a nation of peasant farmers (*Interjections*) and there is – (*Interjections*)

That is the view of others, sir, not mine. (*Laughter*) There is no doubt that the issues of forced heirship have their basis, have their foundation, in the requirement to keep the smallholding, the farmhouse, in protected ownership in order to ensure that the size of the smallholding was of critical mass. There is a certain irony for me in the sense that our longhouses, our farmhouses, are almost exclusively owned by the legal profession in the Island today (*Laughter*) and are almost certainly no longer functioning as farms. That is why Deputy Parkinson’s comments about ‘laws more appropriate to our age’ are important.

There has been another letter published, other than the one today, this time from another eminent advocate, Dr Le Poidevin, and in it he says:

‘... a reason for having our Royal Court is to allow Islanders to maintain their own laws and not to be subject to the English courts.’

Of course, he is right, sir, that is the reason why we have a Royal Court. The reason we have a legislature is so that we can amend those laws, should we deem it appropriate.

In that letter, sir, he goes on to say:

‘By adopting English laws of inheritance, Guernsey risks selling out its claim to have an independent Government.’

I have to say that that paragraph is absolute nonsense. It is for this legislature to decide what is appropriate for this Island and I am of the view, having given this matter very serious consideration, that the Inheritance Law Review Committee have got this right.

The Bailiff: Deputy Dorey.

Deputy Dorey: Thank you, sir.

I am also in favour of the proposals in front of us.

Much has been made of Deputy Ozanne’s letter in the paper. I find the most amazing part of it was where she said:

‘I am greatly concerned about what I understand is being proposed by the root and branch reform of the laws...’

But, she says, before that:

‘I have not yet had the opportunity to read the policy letter.’

I find it quite amazing that somebody puts their opinion in the paper and then they start off by saying that they have not read the policy letter. Perhaps that is the problem because, if you go back to the 2009 Report, it tells us that there were advocates who were asked for their views and only six of them actually came forward with their views. So there was plenty of opportunity for people to put their views forward.

I very much agree with everything that Deputy Parkinson said on this but, what I would add to it – he says that people try to go around the laws and he has given advice to that and people who are moving to France – I understand that there is also good business done in Guernsey about advising people to go around the current law: and they do.

I have spoken to people in the legal profession and they say there are ways that people go around the laws and they are paying the legal profession to help them do that because they do not accept these current laws. I think we have to move ahead. We are in 2010 and I think that, as Deputy Lowe says, they looked at it in 1950 and concluded that it was no longer right then. I think it is now time to move away from forced heirship. There is, importantly, as has been mentioned, the family provision and people can go to court if nobody has taken the family provision into consideration when they draw up their will. People will be advised, ‘Look, if you are going to draw up a will and you have got no family provision in it, there is a good chance it is going to be challenged.’ Surely, nobody wants to draw up a will that then is going to be challenged. So people will be sensible and make sure that there is family provision in their wills and I actually think it will strengthen families.

We often hear about the arguments within families. Perhaps if there was not enforced heirship, families will actually stay together more because they know there isn’t the safety that they will benefit from the will because of forced heirship, because if you do not have forced heirship then, potentially, family members will not get anything. So perhaps it will help families to actually stay together and be stronger.

Deputy Gollop mentioned about the 2001 long-term care. That was more about fairness but, again, people were... because then some people had to sell their house, some did not and some deliberately disinvested them of their property so that they did not have to sell them. So it is more about fairness, where everybody contributes and everyone can benefit from long-term care. So I do not think it is different from what was then. I think it is actually another step forward and so I would ask States’ Members to support the propositions.

Thank you.

The Bailiff: Deputy Brehaut.

Deputy Brehaut: Thank you, sir.

I suppose the irony is that most people would do the same voluntarily as what would be applicable under forced heirship because there is a time when people do want to leave things to their family, to assist them.

Incidentally, I do not want to trash our old Norman laws. My mother’s maiden name was Norman, so there is something of history there! Sadly, they wanted to give the wood away. The other side of the family thought there might be money in selling it, so we know they got that.

The thing that interests me in this is the... I think I was just elected around that time.

There was a case in particular where a woman's partner had died and the woman was in the property – I know we all had representations at that time – and there was no recognition of the common law marriage or the cohabitee.

I think where society has not moved on and the law, possibly, has not moved on, is that when a relationship is clearly defined, is clearly understood, by society, that someone can... a situation whereby, for example, the couple could be living together for 45, even 50 years. The husband dies. The woman may be pressured to get out of the property – and I do not like the term 'illegitimate' – but the illegitimate child discovered, courtesy of a holiday 45 years ago in Greece, is entitled to property that a woman feels that she, or the surviving partner, has every right to.

So, hopefully, with this ongoing rolling review of inheritance, we can have a tighter definition of what we all understand in society these days is a relationship *without*, because not everyone wants a civil partnership when a relationship within a community is clearly defined and understood.

Thank you.

The Bailiff: Deputy Sirett.

Deputy Sirett: Yes, sir, very briefly, I think there have been some very good speeches today.

Deputy Jones, as usual, gave us good value for money. He says that he did not appreciate a lot of these facts when we voted earlier on this, back in 2009, but there was a consultation document that went out and Deputy Gollop, I think it was, suggested we needed more information. We had a meeting where we called all States' Members to come along to meet the Committee and discuss these proposals and I can tell you, because I have got the minutes in front of me, that Deputy Tasker, Deputy Paint, Deputy De Lisle, Deputy Mahy, Deputy Hadley, Kuttelwascher, Matthews, Langlois, and Deputy Steere – who arrived late but was very welcome all the same (*Laughter*) – were the only Members of the House who attended that meeting. So I would suggest that people at that time must have been fairly happy with what they were being presented with, or they would have come along to find out a bit more about it.

The responses that we had have already been mentioned by somebody. We had five States' Members who made responses and some of those were relating to specific problems that they saw in relation to sexual relationships. We had one Douzaine that was in favour, two were in favour of the current arrangements and three had no views at all on the testamentary freedom.

The Bar Council made one comment: they had no view on it and they suggested that individual advocates would respond accordingly and, of course, six of them did. The point I want to make is that the six who did respond some time ago, in fact a couple of years ago... the same people – with the exception of the advocate mentioned by Deputy Dorey – responded in virtually the same terms that they have written in their letters to the paper in the last few days. So we are well aware of their concerns. Those were reflected in our original document which this House accepted in April 2009, so it is nothing new.

I agree entirely with the comments that Deputy Dorey made in connection with the advocate who makes a critique of a Billet that they have not even read. I thought that was quite amazing. The part of the consultation that interested me is that we had

responses from 26 ordinary members of the population and most of those letters were handwritten – they were not typed, they were handwritten – from people who had experienced the difficulties that forced heirship had put on them. Some of those made very sad reading.

If you listened to the words of Deputy Parkinson, I think he put it far more eloquently than anybody in this House has managed to do. We need to move into the 21st century. We have not got a law that is fit for purpose today. People do not have a birthright to their parents' house or their parents' property. Their parents should be allowed to do with it as they wish and I think that is the salient point: people nowadays are living a lot longer. By the time they die, their children are well established, they have got all they need in life and what they get is early retirement, basically.

So I believe we have got it right. I believe that the comments that have been made from the legal profession... I agree. I supported our culture in my previous existence that now Deputy O'Hara has. I supported the culture of this Island very strongly and I still do, but I believe that when you reach a situation where something is possibly not working in the best interests of the people of the Island, then you have to look to changes. There is no point in living on with it just because it is part of our culture. We have to move on. So I would urge Members to support this Report and let us move forward.

I think one of the most interesting points from Deputy Dorey is the one that... for me – somebody like Deputy Dorey comes from an old Guernsey family and I fully expected, when Deputy Dorey stood up, for him to support the *status quo* – I think it was a very interesting fact that he actually came out very strongly in favour of change and I am grateful to him for that. So, please, Members, support the propositions.

Deputy Jones: Sir, can I just have a point of clarification from the Deputy. Are you saying that the law is being changed on the strength of 26 letters?

Deputy Sirett: No. I am saying that the population of the Island were asked for their opinions on it and everybody was asked equally. Those 26 people made representations to us and I believe that you could take virtually anybody on this Island and you could transpose them into the position of those people.

I know of several people who have had the same sort of problems that those people have got and I am convinced that there is a requirement for change. I think that is evidenced by what Deputy Parkinson said and the advice that he has given to Anglo Saxons moving into the continental system. There is a need to change and I support that change.

The Bailiff: Deputy Le Pelley.

Deputy Le Pelley: Thank you, sir.

As a member of a long established Guernsey farming family, I have supported the views expressed mainly by Deputies Jones and De Lisle, but I was prepared to concede that ownership of farm properties and land was a matter of importance for a very few members of our population for whom continuity of ownership is essential to the viability of Island farms.

Therefore, resisting this change could be a futile gesture if there was a popular

clamour for the proposals, but I have not heard that popular call and therefore feel that the *status quo* should remain. It has been said this afternoon that it would be right to allow the surviving spouse to have full ownership and this should not necessarily be allocated in any degree to the children: but so often, these days, the surviving spouse could be the second wife, possibly even the third wife and your natural children might then be, if single transfer was the order of the day, disenfranchised by your surviving spouse having ownership.

There are, as has been pointed out, ways and means that we can adapt to the laws of the land, whether they are traditional ones or new ones, and I think as we have learnt to live with the old laws far more easily, I would urge that we do not change at this stage and perhaps spend a little more time refining and defining where we want to go from here. My feeling is that we are not yet ready for that change.

Thank you, sir.

The Bailiff: Deputy Kuttelwascher.

Deputy Kuttelwascher: Thank you, sir.

I just wish to focus on one issue, which was touched on by Deputy Storey. It relates to Human Rights.

Deputy Lowe did mention in his speech that a former Procureur had mentioned that it is unlikely that our current inheritance laws would be in their current form for much longer. That to me is an important issue and I wonder if HM Comptroller could, as a matter of assistance to us, pass a view as to whether they are, in fact, comfortably Human Rights compliant or can we expect some pressure to change, (*Laughter*) whether we want to do this or not? I presume that is what the indication was, so it is just that question simply.

The Bailiff: Is there anyone else wishing to address the Assembly, before I call upon the Comptroller.

Deputy Guille.

Deputy Guille: Much of what I was going to say has already been said, so I will not bore the House with repeating it. Just a couple of points, if I may. I am fully behind those who say we should not just, willy nilly, sweep away years of tradition that have served this Island well. I think it is important that we remember why we are different. We are not special, we are just different and I think that is of real value.

The area that gives me some concern is that, once you do away with the certainty we have at the moment, we could be putting some of our least able, elderly, disabled and sick residents at some degree of risk, because many people in that situation are vulnerable, where their trust can be abused. So once the certainty is gone, be sure we are not opening the door to something we are unable to control.

I came here today – I said even at the Douzaine meeting on Monday – prepared to come and listen to the arguments and make a judgement, based on the strength of the arguments, but I have to say, listening to what I have heard today, I cannot in all consciousness support this change, so I will be voting against this proposition.

The Bailiff: Deputy Steere.

Deputy Steere: Thank you, sir. I have listened carefully and must say I am quite surprised at some of the speeches that I have heard today. I really thought that I was living in 2010 and not in a far-back century.

For me, I did not believe I had a birthright to what my parents had. It was up to my parents to determine what they do with what they have hard earned; it was for them to decide what they wanted to do with that. My father has died, my mother still survives; it will be down to her. I hope she lives a very long life and I hope there is no money left because she has had a really good life and enjoyed it.

I am not sitting around waiting and hoping there might be something left for me. I believe that I have a responsibility for my life and I am going to take care of my life. I do have children. I love them dearly. They are not a disappointment to me. They are wonderful children. They have not yet settled down and married. I have sons: they could marry and their partner may not like me at all. They may take my sons away from me. They might not want anything to do with me in life. I pray that will never happen, but it *could* happen. And as I approach the end of my life and find myself without the support of my children, that they are not there, for whatever reason, but my very best friend, who has supported me and stayed with me in my last days and lived with me – and I have one asset – I might want to be able to reward that person who has stayed with me towards the end of my days... and my children who have ignored me for 30 or 40 years, or whatever it is. I cannot then leave that property to the person that I believe perhaps deserves it, because it has to go to one – I could leave it to one of my children, and is that really fair? What about the others? I really think that, in this day and age, we really should be able to determine – as we do in life – what we do with our assets. Why should it be any different as we come to our death? That we are forced to leave things in a particular way. I really do not see how that fits squarely.

We heard from Deputy Brehaut about situations where people are in a relationship and who, for whatever reason, find that when their partner dies, they have nothing and the children from their partner's past then find that they have the property and they are not cared for, not supported at all. That is just wrong – it really is. I urge Members to consider that Guernsey has moved on, moved on dramatically, that society has moved on, that family and that family unit has moved on.

Family today is not about two people who are married and with children. It is so much wider than that and I really think that we need to start accepting that, considering that and putting into place laws that will ensure that there is fairness. I find it difficult to hear 'let's hold on to... let's hold on to our heritage' and all those kind of things. What I feel about society is that we do need to move with the times and do what is right for the society as it exists now. Not some idealistic view that we may have had of the past. We have to move with the times.

This moves with the times and I urge Members to fully support the Report in front of us today. I do believe the time is right. I find it quite interesting to hear from Deputy Lowe that, 60 years ago we had a committee that was actually quite forward thinking and I sit here now in 2010 thinking, perhaps now we have got an Assembly which might be backward looking. I find that a little strange.

The Bailiff: Deputy De Lisle, you have some points?

Deputy De Lisle: Sir, just for a point of clarification. I think it is important to point out to the Minister that a lot of property in Guernsey continues to be handed down from generation to generation. I know that she has been away for a while from the Island. *(Laughter)*

The Bailiff: Deputy Lowe, I think the time has come for you to reply on the debate.

The Chairman of the Inheritance Law Review Committee: Thank you, sir.

And as expected, I expected emotions. That is understandable and that is the time when the emotions and the upset materialise, once someone has died and that is why just even listening today, it is so important that people do make wills, because you can bet your life it will bring out the worst in the closest family member that you have got, if there is no will. That is when the fights start.

A cracking speech from Deputy Steere, which I thank her for and many other good speeches there, but I just – while I was listening to her – want to say about one of the phone calls that I had – I have had many phone calls – I have had women phoning up, crying on the phone, saying please, please, get this through, it is long overdue and I have had some very emotive phone calls received.

But there was *one* who was against the proposal, sir – actually three that were against the proposals, all the rest were for. But one of those and I will expand on it, because I was actually quite taken aback by it: a lady phoned me up and she said, ‘Well, I can tell where you are coming from. You are trying to get this through, because obviously you don’t want to lose your money and your property to your children, so you are going to wreck Guernsey because of how you feel about your family.’ That actually hurt, because I am very close to my family and for somebody to be that small minded to think that I was actually bringing this... The States, actually, last April after us bringing a report, asked us to bring this forward. The majority of the States asked us to bring this forward and we have done exactly that.

We are here today under your instructions, no more, no less. You had the opportunity, back in April, to bring out a lot of these concerns for us to take on board.

Deputy Jones is shaking his head. This is Deputy Jones who did not respond to the consultation process. He did not attend the presentation put on for States Members. He did not make those views in April last year and he is making an excuse now. That’s democracy! But please don’t criticise when we have done the job that the States have asked us to do.

We have brought it here and, as I said earlier on at the beginning of my speech, once the States made that decision, the Inheritance Law Review Committee were very mindful of the complex issues within our States’ Report. We have been continuously supported by the previous Procureur and, indeed, the law officer and we have got the support of the Law Officers’ Chambers still, right up to yesterday.

Once that report was approved in April, as I said earlier, we were conscious to make sure we got it right. We were conscious that we were listening to the people who are working and dealing in this, day in and day out. We actually got in touch with, and encouraged some advocates from different practices, so we had a breadth of practices who worked with an advocate on our Committee to make sure that we followed through the right way for Guernsey and this is what we have here before us today.

There have been comments on the retention of heritage – our system of law. This is a

red herring. If the States consider, as they did in April, that the abolition of forced heirship is desirable, it should not be retained for the sake of some fanciful idea that it would jeopardise Guernsey's independence. The same could be said for any amendments to our customary law that have been made over the centuries.

I was quite surprised, as well, because only about 12 o'clock today, when there were only three of us voted against the insurance principle for claiming for accidents, it was said quite clearly in this Chamber that we were copying the English and Welsh system and putting the same into Guernsey. Hypocrites? Maybe. I will leave that to you to judge. When it suits, we cannot copy, when it does suit, we can. (*sic*) The question is what is right and proper for the population now and that is the important one, Members.

The abolition of forced heirship is nothing to do with bringing our laws into line with English legislation. Nothing at all to do with the English legislation. It has been considered on its own merits, without reference to any other jurisdiction and the laws of intestacy that have been devised are quite different

I accept that there are a number of people who deeply and honestly disagree with changes to the inheritance law, which are being proposed today, because they wish to retain forced heirship. The Committee is aware of these views but does not agree with them. The Committee believes that the inheritance law should be reformed to cope with changing circumstances in the 21st century. Arrangements which no longer reflect the way in which society operates should not be retained because of their historical or cultural background, but they do need to be updated.

Families have changed because of divorce and remarriage, cohabitation, civil partnerships, the list goes on. Inheritance law needs to change to reflect this. Further, the idea of keeping the family home within the family applies in relatively few cases these days, as children leave the family home and set up their own homes. It is fundamental to the Committee's current proposals that forced heirship be replaced by testamentary freedom. The consultation it carried out in 2007 suggested that most people agreed with the Committee's view. These days, most people are offended, and rightly so, by the idea that they are restricted in what they can do with their property after they die, in a way that they are not restricted when they are still alive today.

I could go now – I could actually stand in this Assembly and be very generous and say, okay, I am going to share out everything I have got with all of you. Dream on, it is not happening! But I *could* say I would share my property, you could have a share of my assets I have got at home, money. You could say, 'That's all right, Mary'. I would say I am going to go and formalise it across the road at Court Row – and they will say, no chance. I can do what I like with it today, but when I want to legalise it, to look after whoever I want to look after, after I die, the law tells me I cannot, because the law is a dictatorship (*Laughter*) to how I want to deal with my assets, and it is wrong. That is wrong. I have worked hard for what I have got and I would give it, in my view, like many others who have contacted me, to whom they want to do.

It was a perfect speech from Deputy Parkinson, which I really thank him for, because as I mentioned before, the late Paul Matthews, who was a member of our Committee – and a valued member of our Committee – actually dealt with the situation exactly as Deputy Parkinson was talking about. He dealt with trusts regularly to avoid the current inheritance law and he gave us numbers – which I have not got now – and all of us around that table were shocked at the number of people who are bypassing the current inheritance laws, at huge cost, by a trust and that was expressed to members of the

Inheritance Law Review Committee.

So it happens here in Guernsey, exactly what was being said before, that that does happen. It is not simply about importing English legislation, it is about inheritance law that suits Guernsey in the 21st century. Why should people not be able to leave their property to whoever they like? Why should they not be able to do something by will, that they could do while they are alive? Why assume that people will not behave in the best interests of their loved ones?

We had that consultation process and I have got some of the letters here. I am not going to read them all, but there are some parts here that, I think, will bring it home to you. One of them said:

'We very, very *much* want to be able to do what we want with all our money, property etc. Currently, we are handcuffed by the current Guernsey system. We think we should be able to whatever we want with our money.'

Another one said:

'The Norman law that is still in place is now totally outdated in today's society: marriages ending in divorce, children from previous marriages, couples living together.'

And then this one:

'It is our firm belief that it is the right of every individual to dispose of his or her wealth as he or she deems appropriate. The present laws invoking the interference of the State in this matter is intolerable. It infers that their judgement, from a position of profound ignorance in a family's personal affairs, is superior to those intimately involved in that family and is an arrogant assumption that citizens cannot behave responsibly to dispose of their wealth intellectually and fairly... the involvement of the State in these matters is intrusive and oversteps the margin of acceptability in how far the State may intervene in private affairs of the individual.'

They round it off by saying:

'Being the originators of our own wealth, allowing our own families and other deserving beneficiaries, we feel that disposal of our wealth is more fairly and appropriately dealt with by ourselves.'

And that was replicated in many of the letters that we actually had and, indeed, by the many phone calls I have had during the time of bringing this to the States.

So, sir, the advocates we have spoken to, regularly face people who are upset because the law dictates how people must make their wills. There is no doubt about that. I have not really got anything more to add.

I thank some cracking speeches from those in support and I would ask Members to support the States' report.

Thank you.

Deputy Jones: So could I ask you to answer the question I posed on... We changed the law some time ago about illegitimate children to inherit. Does not what we are proposing here today allow those who might wish to disinherit those children under this legislation?

Deputy Lowe: You will not be taking anything away from that original law.

The Bailiff: Deputy De Lisle, or was it Deputy Kuttelwascher? You asked a question about Human Rights and I hadn't called the Comptroller. The Comptroller has probably

been waiting patiently to answer the question.

The Comptroller: I do not know whether I'll answer the question – but I'll say something! (*Laughter*)

The Bailiff: You're supposed to be a Law Officer rather than a politician!

The Comptroller: I will give Members of the Assembly an un-researched opinion on what has been raised.

If it had been suggested that the existing inheritance law was not Convention compliant, I imagine that the authors of the Committee's Report would have said as much. Therefore, I am not going to suggest to the Assembly that there is a requirement in law to accept the proposals that are advanced on behalf of the Committee in order to render the Island's inheritance laws Human Rights compliant. Therefore, I do not think, at the moment, that they are necessarily not Convention compliant, but I imagine that the former Procureur was advancing the view that, in the 21st century, people expect to have a peaceful enjoyment of their possessions under Article 1 of Protocol 1 of the Convention and that would include the way in which they might dispose of them on their death.

I am not so sure that I subscribe to that view 100% but it is inevitable that that will become a challenge to the existing laws. It is quite possible that the challenge will be mounted and that the court will have to determine whether or not the laws, as they stand today, are Convention compliant.

So that is what I think was being said, that it may well be that a challenge will be mounted, but I would not like to say which way that challenge would be likely to be determined by you or your colleagues, sir, and my opinion at the moment is that I do not think [Inaudible]

The Bailiff: Thank you.

We are now going to go to the vote and I have had a request for a Recorded Vote from Deputy Jones so, Greffier, we now proceed to a Recorded Vote on Article 18.

Deputy Jones: Is this on Proposition 1.1, sir?

The Bailiff: Well, let's just have a look and see, Deputy Jones. We are turning to page 70.

Is anyone wishing to vote separately on any of the propositions? I see no-one rising, so I think, Deputy Jones, you have requested that what we do is we go to the vote on Propositions 1, 2, 3, 4, 5 and 6 in their entirety. That is what the vote will be about.
Greffier.

There was a Recorded Vote.

The Bailiff: I declare all of the Propositions – that is six Propositions – carried. I think the outcome of the vote was 33-11, but we will wait for the official record.

Carried – Pour 33, Contre 11, Abstained 1, Not Present 2.

POUR	CONTRE	ABSTAINED	NOT PRESENT
Deputy Brehaut	Deputy Gollop	Alderney Representative Willmott	Deputy Domaille
Deputy McNulty Bauer	Deputy Storey		Deputy Maindonald
	Deputy Tasker	Deputy Guille	
	Deputy A H Langlois	Deputy Jones	
	Deputy Kuttelwascher	Deputy Adam	
	Deputy Matthews	Deputy Le Pelley	
	Deputy Steere	Deputy Paint	
	Deputy Honeybill	Deputy de G. De Lisle	
	Deputy Gallienne	Deputy S. Lainé	
	Deputy Collins	Deputy S L Langlois	
	Deputy Gillson	Deputy Dudley-Owen	
	Deputy Ogier		
	Deputy Rihoy		
	Deputy Trott		
	Deputy Stephens		
	Deputy Fallaize		
	Deputy Mahy		
	Deputy Spruce		
	Deputy Lowe		
	Deputy Le Lièvre		
	Deputy Dorey		
	Deputy McManus		
	Deputy Flouquet		
	Deputy Garrett		
	Deputy Brouard		
	Deputy Sirett		
	Deputy Parkinson		
	Deputy Quin		
	Deputy O'Hara		
	Deputy Sillars		
	Deputy Le Sauvage		
	Deputy Hadley		
	Alderney Representative Walden		

The Bailiff: Members, I have received the record of the vote. The votes for the propositions 33, and against, 11, so I formally declare all six Propositions carried and return the voting slips to the Greffier.

Article XIX
Public Sector Remuneration Committee
Annual Pensions Review, Sex Discrimination and Qualifying Overseas Pension
Scheme Status
Rules approved

The Greffier: Article 19 – Public Sector Remuneration Committee, Annual Pensions Review, Sex Discrimination and Qualifying Overseas Pension Scheme Status.

The States are asked to decide:-

XIX.- Whether, after consideration of the Report dated 27th November, 2009, of the Public Sector Remuneration Committee, they are of the opinion:-

To approve the States of Guernsey (Public Servants) (Pensions and Other Benefits) (Amendment) Rules, 2010, which are attached as an appendix to that Report.

The Bailiff: Members of the Assembly, in a moment I am going to call the Chairman

of the Public Sector Remuneration Committee, Deputy Alistair Langlois, to open the debate.

I note in the body of the Report that Deputy Stephens, as a retired States' employee, had declared an interest and abstained from discussions and that alerts us to the fact that it may be that there are Members who will need to declare an interest.

If you declare an interest, of course, you can still speak and you can still vote. In terms of interest, it is whether a Member has have direct or special financial interest in the subject matter of a proposition submitted to a meeting, 'or is aware that his spouse, cohabiting partner or infant child has such an interest', so please bear that in mind.

Deputy Mahy.

Deputy Mahy: Can I actually declare an interest at the beginning, if I may, sir? I wish not to take part in it.

The Bailiff: You are not going to take part at all?

Deputy Lowe: Excuse me, sir. I think we need to remember that these are ex civil servants, but most of the States' Members have a pension scheme with the States.

The Bailiff: They do not come within this one, though, do they, Deputy?

What I think we will do is this: we will now call Deputy Langlois and, Deputy Langlois, when you are on your feet you can just remind us which bodies of persons come within the framework of this debate. It certainly is not all; I know there can be some misunderstandings sometimes. So perhaps you will help us and then Members can pick up on it after you have spoken.

Thank you. I now call you.

Deputy A H Langlois: Thank you, sir.

In many ways I would prefer to handle that one first because of Deputy Lowe's intervention there. This is not about pensions for ex-Members of the States of Deliberation. It has got nothing to do with it. We have done that, we have dealt with that, you voted on that last year, but we do not always remember what we voted on last year...

The Bailiff: So, broadly, who does it embrace?

The Chairman of the Public Sector Review Committee (Deputy A H Langlois): It embraces the Public Servants' Pension Scheme – anybody who has worked for the States and has built up a pension pot in the past.

If we start off with that assumption, then what I am going to say will make more sense.

I also would proffer an opinion, and maybe inappropriately at the moment, but I would proffer an opinion that I think if everybody in receipt of a public servant's pension were to not take part in the debate we would perhaps bias the thing the whole wrong way. (*Interjection*) It is because we are talking about very small amounts here; that is what I am saying. Any possible benefit is tiny indeed.

I am very pleased to present my Committee's Report on aspects of the Public

Servants' Pension Scheme. The Report covers three technical matters, two of which will develop and modernise the Scheme and a third which will simply correct a much earlier drafting error. The Report is one small aspect of our Committee's attention to making the Public Servants' Pension Scheme fit for purpose in a changing economic and employment environment.

Firstly, our Report recommends some adjustments to the rates of pension payments, and dealing with that one, one of the rules of the Scheme provides for an annual review of pensions that takes inflation into account. My Committee has the authority to determine an increase in line with inflation without reference to this Assembly. So, effectively, year by year, we approve the increase of pensions in line with the Retail Price Index. However, there has never previously been an occasion when the relevant inflation index has been negative at the point of review and, in considering this issue, the Committee has taken two factors into account. Firstly, the purpose of index linking is to maintain the value of pensions in real terms so, logically, it must be appropriate to include a reduction in pension payments when the price index falls, as well as an increase when prices are rising. A pension should surely be all about maintaining purchasing power for pensioners, wherever possible. However, we believe it is unreasonable to actually reduce pensions because of a small reduction in the relevant price index, which is almost certain to be temporary and, in fact, as we stand here today, has already been reversed if we look at the last quarter. Some costs that are most relevant to pensioners will, indeed, have risen in the last year, while the index has fallen. The Committee has therefore agreed with Scheme members, through their representatives, that there should be no adjustment of pensions in 2010, despite a 1.2% fall in the Retail Price Index. When this blip is reversed, probably before the 2011 change that we will be making, any adjustment will take account of the negative price index of 2009 and the positive index of 2010. This will mean that, over the two-year period and as we enter 2011, public sector pension benefits will have increased by no more and no less than the change in retail prices. You should also remember that the payments of these benefits come from the Public Servants' Pension Fund and not from general States' revenue.

Sir, States Members have already been made aware that the Treasury and Resources Department adopted this approach in respect of pensions for retired Members of this Assembly.

Let me now turn to the second issue in the Report, which is one of indirect sex discrimination. From time to time, the Public Servants' Pension Scheme should be amended to reflect changing social and political attitudes and to comply with relevant legislation. It has recently become apparent that one minor aspect of the Scheme may be in breach of Guernsey sex discrimination legislation introduced in 2005. This relates to part-time employees.

This is because part-time employees are not currently permitted to join the Scheme until they have been employed for three months. By way of contrast, full-time employees can join from day one of their appointment. A significant majority of our part-time employees are female, so this provision of the rules amounts to indirect sex discrimination, in breach of Island legislation. My Committee further believes that this discrimination against part-time employees is no longer appropriate in modern employment practices. The PSRC is, therefore, proposing to amend the rules so that part-time employees, like full-time employees, can choose to join the Scheme from day

one of their employment. Again, this proposal has the full support of Scheme members through their representatives.

The third and final item covered in this Report is simply the correction of an earlier error. In implementing the rules following a major review of the Pension Scheme between two and four years ago, an important rule was inadvertently omitted. This rule, which is necessary to facilitate transfer values to and from UK occupational pension schemes, is being repositioned into our Scheme.

These changes reflect a recognition that pension schemes must, from time to time, move on whilst, at the same time, defending the interests of all stakeholders, thus both current members and current pensioners.

Sir, I ask all Members of the Assembly to support the States' Report which will give effect to these incremental changes in the Public Servants' Pension Scheme.

The Bailiff: Thank you. So going back to the matter of declaration of interests – Members should declare an interest, but that does not preclude you from speaking or voting and the Chairman of the Public Sector Remuneration Committee urges you not to take the conservative view that because I have got an interest I won't speak, and won't vote. As he says the impact on any one of you will be quite minimal. You can declare an interest when you rise to speak, or if you don't speak but want to vote then before voting.

Right – I think Deputy Lainé rose to speak.

Deputy Lainé: Thank you, sir.

Both the PSRC and, it would seem, the PCC, accept that, in their own words:

'The Island is in economic circumstances unprecedented since the introduction of a contributory public pension scheme in 1972.'

In other words, they appreciate the States is in a jam, financially. The lack of Government funding is evident by the tough measures recently announced by HSSD. So, at first glance, when it comes to increases in benefits, the decision to defer any increase this year and look back over two years in 2011 sounds reasonable.

However, I do have an issue with the sex discrimination item. There is an anomaly, as Deputy Langlois has said, where part-time workers, who are predominantly women, are discriminated against as, unlike full-time entrants, they are not entitled to join the scheme until they have passed a three-month probation period. In normal times, the obvious answer was to get public employees, whether part time or full time new entrants, to all have to complete a three-month probation period before entering the pension scheme. In the economic circumstances that the Committee outlined, to me this was the blatantly obvious step. But, no, as you will see on page 73, bullet point 14 of the Billet, the PCC thought that to abolish the three-month waiting period would be, I quote:

'... the simplest and most appropriate means of removing this discrimination'.

That is a bit like me replacing all my car tyres when I have only got one puncture and, just remember, that making it the same for all new employees will not change the position for existing employees, or at least not those having completed three months and

passed probation. We have got to wake up and smell the coffee. How bad does it have to get before we scrutinise every action for cost versus benefit? It is not just about the savings, either. Opposing these changes is putting a stake in the ground and saying we will tackle the public pension issues to achieve a sustainable liability. We will not be dragged into some of this.

I would also like Deputy Langlois, in summing up, to explain to the Assembly who sits on the Pension Consultative Committee, – the PCC – and what powers do they have. Are they the gatekeepers of the pension scheme? Are they the tail that is wagging the dog? I would like some explanation of exactly who the PCC is and where they stand.

Back on subject, how can we have serious conversations with employers, or even the people of Guernsey, if we do not demonstrate that we intend to ensure that we have a public pension scheme that is sustainable? Where would you start? The obvious first place to make changes is for new entrants, which is where we draw the line in the sand. If you vote for this proposition, you are just confirming what has become a stereotypical view of politicians. This is not to say that I am critical of the new PSRC. We all know they have been rather busy lately and I am very happy to wait to see what the actual package is that they have provided the airport firemen with, rather than speculate.

This Assembly is sovereign in these matters and I believe we will be assisting the PSRC by providing evidence to the PCC that the States is committed to ensuring that the States' public pension scheme, in which I am not a participant, is sustainable and does not become an impossible burden. And don't forget, this is about new entrants to the service only. This is not a fight for existing commitments; this is about new employees.

I had considered bringing an amendment, but given the proposition is a combined one, I decided not to and I think the proper way forward is to reject this proposition. Consider the practicalities of new employees going straight into the pension scheme. In private business – certainly in mine and most private businesses that I have spoken to – a fair percentage of new employees fail to pass probation and there is less of an administration burden when these people leave the business. Why waste time on those who just pass through the business? It makes one wonder if anyone has ever failed in their probationary period.

In this term of office, I have become aware of what can best be described as 'Spanish practices' in some areas: huge impediments to make staff accountable, and contracts of employment that have been poorly thought out. These things exist in some quarters and the relevant Departments and the PSRC are chipping away, constrained by statutory obligations and a lack of power. Just like anybody, we must operate within the law and respect people's rights, even when it is not expedient. This is not a shot across the bow in a confrontational sense; this is a line in the sand that makes it clear, from today onwards, that the needs of the community will be balanced against those of our Service employees.

Having said that, it would be wrong to think that my comments typify the Civil Service, because they do not. We have many superb, dedicated staff doing difficult jobs under immense pressure, working extended hours, often unpaid. I seriously worry about the health effects that the stress, induced by the lack of cash, puts on some of our employees. Many Departments are at breaking strain, due to staff shortages, and you ain't seen nothing yet. Our law enforcement and associated services are under acute

strain in some areas.

But it is also a betrayal of new staff to provide them with a benefit that we may not actually be able to make good on. Unless the PSRC seek to amend this proposition, I ask you to reject this and send a clear message.

Thank you.

The Bailiff: We will now consider the policy document before us [Inaudible] this area.

Deputy Lainé.

Deputy Lainé: Page 73, item 14:

‘The issue has been discussed within the forum of the PCC and there is agreement that the simplest and most appropriate means of removing this discrimination is to abolish the three-month waiting period.’

The Bailiff [Inaudible]

Deputy Lainé: Yes, and unfortunately –

The Bailiff: I thought you were going to [Inaudible]

Deputy Lainé: No, but there is not an opportunity to vote just against that part in the way it is put together. If they were split, then I would vote for two and not the other.

Deputy De Lisle: Sorry, I just wanted to declare an interest as a former employee of the Education Department.

The Bailiff: Deputy McManus.

Deputy McManus: Thank you, sir.

I, too, declare an interest and I am going to encourage the States to support this wholeheartedly. I refer particularly to the second section of Deputy Langlois’ speech with regard to sex discrimination. I welcome their recognition of the importance of part-time, mainly female labour, and I would just say to Deputy Lainé that I suspect the PSRC’s attention has been drawn to this by Commerce and Employment’s employment section because they are fully aware of the sex discrimination law and the consequences of it.

It was drawn to our attention, as union officials, some time ago. We did have occasion to bring the Education Department to book over one particular issue in respect of female staff. I am very, very pleased to see the States is now living up to that, so thank you for that, Deputy Langlois.

We have one concern still. There is an ongoing concern and some people will recall that when the pensions arrangements were put in place... Although it extends now, hopefully, if this is passed, to part-time workers, it does not extend to what we refer to in Education as supply teachers – I suspect probably not to bank nurses either – so there are other grades of employees who are not yet covered and I regard that as an area to which I hope the PSRC will return in due course.

Nevertheless, this is an improvement. It does bring things up to date and, notwithstanding the concerns that Deputy Lainé has addressed so far, I think it behoves the House to support it.

Thank you.

Deputy Gollop: Sir, I am in receipt, one day maybe, of a political States' pension, but apart from that I have no interest to declare.

I would support this policy letter, especially the piece relating to indirect discrimination, because I think it is good to see the Public Sector Remuneration Committee moving forward on that. I would urge that other Departments and organs of the state, like perhaps Commerce and Employment, will look again at the whole package (*Interjection*) – I know they are – of employment laws, because at least PSRC are keeping up to step and recognising, within our structure, indirect discrimination as well as direct discrimination and righting a wrong.

I have some sympathy, though, for what Deputy Lainé was perhaps trying to do to broaden this debate, because I think a more fundamental root and branch reconstruction of the States' pensions is needed.

Advocate Peter Ferbrache, at a recent Question Time organised by Mr Henry Le Tissier, did say that the States have dragged their feet on looking at these issues, and I think that we have, and my personal wish would be to see perhaps, dare I say, a pay increase to some of our decent, hardworking civil servants now in return for negotiation of pension provision. That might be a way forward to change the rules relating to the current rather generous Civil Service pension structure.

Deputy Lainé: Sir, will you permit me a clarification? The last two Deputies, I think, have misconstrued something that I said and I can deal with it very succinctly.

I, too, agree on the sex discrimination issue. My point was there are two options: allow part-timers to go onto the pension scheme immediately they start; or say to all new employees, part-time or full-time, that they all wait three months. The discrimination ends either way.

A Member: Hear, hear.

The Bailiff: The next speaker, please.
Deputy Tasker.

Deputy Tasker: Thank you, sir.

I, too, declare an interest as I am in receipt of a pension from the Education Department and, of course, from the States of Guernsey.

I am very pleased to see the discrimination aspect of this being put right. It was only in the early 1970s, I suppose, in England, that part-time teachers were allowed to pay into the superannuation scheme *per se*, and that meant that anyone who was taking maternity leave, perhaps returning for part-time work, missed out and would never ever, therefore – as I have not – receive a full pension because you were not allowed to pay into it.

I see this as a way forward and I do not necessarily believe that both groups, whether they are full time or part time, should wait the three months' period. If you are working

for a number of companies, that option does not always apply. It might for some that Deputy Lainé knows, but it does not for all.

The other point that I just wanted to make was that the thing that pleased me here in Guernsey was that the superannuation fund is an actual fund. It is not a notional sum, as it is in the UK, which is paid for by current people rather than those who have put into it in the past. So I welcome this and hope that the Assembly will support it.

Thank you, sir.

The Bailiff: Deputy Langlois, as Chairman of the Committee to reply to the debate.

The Chairman of the Public Sector Remuneration Committee: Yes, thank you, sir.

Can I, if I may, deal with Deputy Lainé's comments first because – particularly after the clarification, thank you, Deputy Lainé – I do understand a bit more where you are coming from. The business of the sex discrimination issue... I understand that you are saying that we could either do away with the discrimination by adding one group in, or we could do away with the discrimination by taking another lot out. My big concern about this relates to, again, a slightly different area of comment that you made, and that is that you would, in my view, be then opening the door to comments about whether, or when, we should be reviewing the whole Public Servants' Pension Scheme. Comments have already been made in this Assembly and various places outside of this place about a review of that sort.

Can I just clarify the position on that and, in doing so, answer your question about the Pensions Consultative Committee. The PCC consists of members of the PSRC plus representatives of the Scheme members. Remember that a pension scheme, and particularly a funded pension scheme with a fund running in the order of £800 million, which would normally be run, for example, in the UK and in the private sector with a trustee set-up – and the trustee set-up is through T & R (Treasury and Resources) in our case at the moment – questions are asked always about the way in which that operates, compared with private schemes. Any scheme of that sort has to have a representation of members. Members include the people who have stood up and declared an interest today. They are members, but so are members who are elsewhere in this room who are currently employed by the States and are contributing to their future pensions. You can see... where I think I am going is that you simply have to take one or two steps in that direction to reach a point where the possibility of a total change in the Public Servants' Pension Scheme opens a can of worms. It is a very, very complex issue and I know that there have been various public statements, particularly outside of this Chamber, to the effect of, 'Well, you can simply close it to new entrants overnight.' I can assure you that the advice we are getting is that that is not the case.

Can I take it one step further in clarification, and that is that the whole pension scheme and the pension benefits we offer are part of the overall package that we offer in the many labour markets that we operate. We have a huge number of labour markets in which we are operating and some are extremely competitive. Therefore, to make a change of the sort that you are suggesting at this stage I think would be inappropriate because it has become clear, and the PCC has agreed to this, that more research is needed as a result of the major economic events of the last couple of years, about where our pension scheme stands, how it compares with other people's, and we have already

commissioned that sort of work to be done during this year. That may or may not then lead to a request for a total review of the Scheme and, therefore, at this stage, in order to avoid the States breaking the law, we felt that this was the best proposal to bring to this House, but Deputy Lainé's comments have been noted on a whole range of the broader issues that he has raised.

Deputy McManus, thank you for your support and if you have specific examples of - I was between trying to prepare this response and listening to you. If there are specific examples of other employees that we should be considering, can you make sure that our Committee actually finds out whom you are referring to in some detail.

Deputy Gollop, again, thank you for your support on this. I take your comment about the external view that we have dragged our feet and I thank you for your recognition that, certainly during the term of the current Committee, we have been a bit busy on one thing and another.

Can I also, just as we go past that, for the sake of public record at this stage, point out that the last review of the pension scheme, which ran between two years ago and four years ago, came back to the States and this Assembly made a resolution that the public sector pension arrangements should offer benefits that are broadly comparable with those of similar workers in the UK. That is a vital piece of market positioning for us to do with recruitment and, therefore, that is what we are working on at the moment. Any review that might happen in the future would have to tackle that.

Deputy Tasker, again, thank you for your support.

Overall, I would just ask Members to give us the support we need to see these particular small steps through.

The Bailiff: Deputy Le Lièvre, you wish to declare an interest?

Deputy Le Lièvre: Before I vote, sir, I should declare a small interest as well.

Deputy McNulty-Bauer: And likewise, sir, I declare an interest.

Deputy Stephens: Likewise, sir.

The Bailiff: Deputy Stephens, Deputy Guille. Anyone else?

I draw your attention to the fact that on page 75 through to part way down on page 77 we have the draft rules. It is that that we are focusing on because the proposition is to approve the States of Guernsey (Public Servants) (Pensions and Other Benefits) (Amendment) Rules, 2010, which are attached as an appendix to that Report.

We are therefore, going to go to the vote.

Those in favour; those against.

Members voted Pour

The Bailiff: I declare that carried.

It is now a quarter to five. That, I think, completes Billet d'État 1 – is that correct?

The Greffier: Yes, sir.

Statement by Deputy Gallienne

The Bailiff: So now we are going to move to the other Billet. I was given notice yesterday by Deputy Gallienne that he wished to make a Statement before we debate it. The Statement is really anticipatory of the debate on the Requête. I reminded him that he can make a Statement at any time, with my permission.

I now call on Deputy Gallienne, to make his Statement.

Deputy Gallienne: Thank you, sir, for giving me permission and the opportunity to make a Statement.

May I start by saying this Statement has been agreed by all members of the Public Accounts Committee, both those who are Members of this Assembly and the non States members who are voted into office by this Assembly.

Sir, the essence of our work is to ascertain whether the activities of Government provide value for money for the people of Guernsey. As all aspects of Government involve cost, the scope of our work is far reaching, but it is defined clearly by our mandate which we have been given.

We believe that, since we were set up in 2004, all our work has been related to our mandate and it is our intention to continue to act in that way.

We were set up as part of the States of Guernsey but, to be effective, we must act in an independent manner. Our work must not be political in nature and in this we are helped by having four out of our nine members, who are not Deputies. We will instigate investigations when we think they are needed in an objective manner. We consider that it is good, both for the States and for the people of Guernsey, that we have the capacity to act in this way. May I assure this Assembly that it has not been the intention of my Committee to start a process leading to the change in machinery of government or to start a discussion on that topic. Our sole purpose was to examine whether the processes and procedures of governance within the States, were delivered in a cost-effective way. That work has been progressed by broad consultation with interested parties, with a full programme of meetings in three days starting on 13th January.

The Committee would like to thank everyone who contributed to that process. Sir, 30 Deputies took part and a further four gave apologies due to holidays or other commitments. Over 150 people attended meetings which encompassed Deputies, senior civil servants, trade unions, the business community, the Douzaine Council and members of the public. A further 102 contributions were made on line and a number of letters have been received.

The five political members of the Public Accounts Committee have agreed that, apart from this Statement, they will take no further part in the debate on this Requête. This seems to be the right response, given our intention to act in a non-political manner. We shall, however, take note of points made in this debate and will treat these as contributions to the consultation exercise that we have initiated.

May I conclude by saying, in view of the importance of the issues raised, it is our intention to complete our work and present a report as quickly as possible.

Thank you, sir.

Billet d'État III

Requête Governance in the States of Guernsey Debate commenced

The Greffier: Billet d'État III of 2010 – Requête – Governance in the States of Guernsey.

The States are asked to decide:-

Whether, after consideration of the Requête dated 7th December 2009, signed by Deputy M J Fallaize and thirteen other Members of the States, they are of the opinion:-

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 Bailiff: Members, we will now embark on debate of this Requête. I ask you to note the Prayer of the Requête.

I am sure that the lead person in the Requête, Deputy Fallaize, will be pointing out to you that the focus of it relates to what will be the recommendations made by the Public Accounts Committee. The focus is on how they should shape their recommendations. It seems to me, not so much what terrain they might cover, or what they might include in their report but the focus of their recommendations.

Comptroller, are you able to assist with that? Is that how you see it?

The Comptroller: Yes sir, absolutely. My construction of the Prayer is that the direction of the Public Accounts Committee will relate to the recommendations at the end of the report rather than the body of the report.

The Bailiff: Yes, so we focus on the recommendations. Having noted that, Deputy Fallaize to now open the debate.

Deputy Fallaize: Thank you, sir.

It is because the Public Accounts Committee did not originally give the Wales Audit Office (WAO) tighter and more focused terms of reference that its review of governance has become inextricably linked with our system of government by committees and consensus. It is evident by the responses from a very wide range of people to the WAO Report, many of which I have collected in this pile of papers that I have collected from politicians, the media, people in the business community and the

general public that, in process terms, the Public Accounts Committee has allowed its review to be perceived in terms of this consensus cabinet debate. So if any Member questions that – and I am aware that a member of the Public Accounts Committee has accused me of trying to turn this into a debate about consensus or cabinet government – I would ask the States to consider three areas that the Public Accounts Committee wanted Members to explore in workshops they organised a couple of weeks ago.

The first was whether the Policy Council should be given more executive authority, rather than remaining as a largely co-ordinating council. Well, that only happens if you move to a system of executive government.

The second was whether boards and committees should operate with collective responsibility. Now, that does not mean that we all accept responsibility for the decisions we make. It means that, publicly, boards and committees have to adopt a united position, so if a member of a board disagrees with his colleagues, he can disagree in private, but he must not disagree in public and that is always in force by ministerial patronage, basically, where the person in charge, the Minister in charge or the Chief Minister, has the power to sack the individual Member who has taken a minority position. So there is no point exploring this issue of collective responsibility in that context, unless we have a system of executive government.

The third item which PAC asked us to consider was whether there should be a very clear difference between scrutiny and executive functions of government. There is no example anywhere in the world of a firm line between being either a member of scrutiny or a member of the executive without a cabinet or fully executive system of government. So all that territory covered by the Public Accounts Committee can only relate to machinery of government and that demonstrates that it is the Public Accounts Committee that has pushed this into a debate on the foundations of the machinery of government and that is why the direction in this Requête is necessary.

In submitting this Requête, I am asking the States to decide whether it wishes the Public Accounts Committee to continue raking over the foundations of our machinery of government or whether we want them to come back with more focused narrow recommendations to improve the governance arrangements within the existing structure of government by committees and consensus. Obviously, that is the course of action favoured by the signatories to the Requête.

So I have in writing from the Public Accounts Committee an assurance that, once the Wales Audit Office had reported, the Committee would ask the States for appropriate policy direction. Yet, we have had this Report for five months. We have had plenty of time to digest it. It has been debated everywhere apart from within this House. This Requête holds the Public Accounts Committee to their commitment to seek direction from the States and proposes that the appropriate and pragmatic policy response from the States is the Prayer of the Requête for the Public Accounts Committee to work within the existing structure of government and, importantly, within their mandate.

I am pleased that Deputy Gallienne brought up the question of the PAC's mandate in the Statement that he just made, because I wish to refer to it – and I hope Members will bear this in mind as we debate this Requête. PAC's mandate gives them the responsibility of ensuring proper scrutiny is given to the States' assets, expenditure and revenues, to ensure that the States' bodies operate to the highest standards in the management of their financial affairs and to examine whether public funds have been used for the purposes for which they were intended – and I also have a role to ensure

that any extravagance in government is eradicated.

It is very clear, if you go back to the States' reports or policy letters at the time of the proposals to change the machinery of government that the reason the Public Accounts Committee was established, was all about proper financial management of the States, about probity and value for money. Interestingly, there is an incidental to that argument. When KPMG, a few years ago, produced a study on how expensive various governments were, including Jersey and the Isle of Man's executive system, Guernsey, of the six jurisdictions studied, was found to be the least expensive. So quite how the Public Accounts Committee, which is concerned with value for money, has established any evidence that it should be carrying out a report, which includes covering its territory over the machinery of government, is confusing.

But on 6th November I wrote to Deputy Gallienne and I asked his Committee for a very simple assurance, and I quote from that letter:

'that any further work on this matter undertaken or commissioned by your Committee will remain wholly within your mandate, as determined by States resolution.'

Three weeks later, sir, I was astounded to receive a response from the Public Accounts Committee and I quote again:

'The Committee feels it is inappropriate to give the assurances requested in your letter.'

And I had asked them whether they were going to stay within their mandate!

But, on reflection, when I tracked back the correspondence and traced the history of this review, it really was not very much of a surprise at all, because in September and this is where Deputy Gallienne's statement today conflicts with other things the Public Accounts Committee has said, in September when the Wales Audit Office Report was produced – and this quote is still on the Public Accounts Committee section of the Government website – Deputy Gallienne was quoted as saying:

'The nature of the findings takes the WAO Report beyond the remit of the Public Accounts Committee.'

– but he has just told us that the Public Accounts Committee has always operated within its mandate.

I am disappointed he is not going to take any further part in the debate, because I was hoping he would explain, how can he reconcile the quote in September where he says the WAO Report goes beyond the Public Accounts Committee's mandate with this claim today that the Public Accounts Committee has stayed within its mandate. So I believe it would be unhealthy for us to allow that to persist beyond today.

The Committee has gone beyond its mandate – that has not changed since September – and we must take the opportunity that this Requête provides to offer PAC a firm policy direction. So that more or less explains why I think the PAC needs a policy direction, but why this particular direction to operate within the existing system of government?

Sir, it took six years to reform the machinery of government up to 2004. To try again, unquestionably, so soon after, would consume the States. When you consider all the other initiatives the States has to get on with; developing the States' Strategic Plan, the fundamental spending review is probably the biggest single initiative the States has ever

undertaken. We have to completely rebuild the company tax regime. Deputy Parkinson's Department has led us through into the most ambitious programme of capital investment approved by one States, certainly in decades, if not in more than a hundred years, and we know that we have to address some of the governance deficiencies identified, as well. It would be ludicrous for us to try and bite off all the sensitivity and controversy that goes with the foundations of the machinery of government, while we are trying to do all of that.

Sir, Deputy Gallienne talked about his Committee being apolitical and it says that in PAC's letter of comment. I think we have to make it very clear that the Public Accounts Committee should not be tampered with, or directed, by the Department acting as the executive arm of government or by Policy Council, but they can be directed by this Assembly. They are a parliamentary committee and they are answerable to this parliament. They are not independent from the States, they are independent from Departments and the Policy Council. It is perfectly legitimate for this parliament to give the Policy Council a policy direction. It is also true – although they have four non-States members – they also have five States' members. The majority of their Committee is made up of politicians, so to claim that they are apolitical, or politically neutral, really does not make any sense.

Sir, this Requête wants PAC to come back with recommendations that are really within a very simple framework. We make policy through Department boards in this form of government, we do not have an all-powerful central cabinet. That is the government by committee bit. Government by consensus means that we have candidates elected as independents, rather than as members of parties. Well, that is not controversial, that is just a fact of political life in Guernsey. All this Requête requires is for the PAC to stay within this system of government by committees and consensus. Either their recommendations are going to fit within our existing system or they are not going to fit within our existing system. It seems to me that it is unwise and a complete waste of time for them to prepare a report and come back here with recommendations that cannot be applied to our existing system of government.

So, there is also evidence – overwhelming evidence – of the fatal flaws of imposing a cabinet system on a non-party political culture and the choice is between government by committees or government by cabinet. If anybody else can tell me of a different system that operates anywhere in a parliamentary democracy in the western world, I would be pleased to see the evidence, but there is no example.

There is certainly enough evidence for us to commit, in the first instance, to making improvements broadly within the existing system. The Auditor General for Wales, when he published his Report in September, said that he was not advocating changing the system of government. He was quoted as saying it is possible to have good governance arrangements within any democratic system of government and, two weeks ago, those who attended a public meeting would have heard him say that Guernsey's system of government was not an obstacle to establishing good governance.

I think it is true that the Guernseyman has an instinctive resistance to the accumulation of too much power in too few hands. Deputy Gallienne talks about the responses to his Committee's review – 50 responses from the public. Before the machinery of government reforms in 2004, the States commissioned MORI, the UK based polling organisation, to come to the Island and carry out a very comprehensive study of the views of Islanders – 2,000 people as a representative sample across two

polls – and only one in four favoured cabinet government. That is a scientific poll of public opinion, far more so than any of the evidence collected by Deputy Gallienne's Committee.

So in the UK, the Local Government Act 2000 saw the central government try to impose a cabinet model on all local authorities, but that attempt failed. They managed to do it with some councils, but not all, so there is a mixture of arrangements in the UK. Some local authorities are operating broadly under a system like ours, a committee system and some have been forced to change to a cabinet system. There have been several studies carried out that have compared the audited performances of various local authorities and they demonstrate that those with a committee-based model are performing *at least* as well, and in some cases better than those with an executive or cabinet model. The moves to cabinet government in the UK amongst local authorities was investigated by a Commons select committee at Westminster, which found evidence that cabinet government in small authorities – and small means anything with a population of less than 100,000 – they found evidence of less transparency, less public participation in politics and less accountability. This is a conclusion taken from their report:

'A great deal of time, money and effort has gone into changing the political management arrangements with apparently little change to the overall quality and credibility of local government. The government's stated intention to restore the self confidence of local government has been lost in the focus on internal change.'

And there is no reason to believe the same thing would not happen over here. Huge amounts of money, time and effort would be spent attempting to change our machinery of government and it would make *very little* practical improvement in the way Guernsey is governed.

So for anyone still labouring under the misapprehension that cabinet or ministerial government provides more joined-up government, I would refer them to a year-long study, published recently, of cabinet government in the UK carried out by the Institute for Government and their conclusions were, and again these are quotes from their report:

'Governance within Departments remains variable. Many Departments have yet to develop a clear leadership and oversight role. Mechanisms for co-ordinating policy and delivery between Departments are still dominated by silo thinking, making it difficult to manage cross-cutting policy issues. People will form their own views about whether those are characteristics of politics in Guernsey but one thing is very clear: you will not eradicate those things by moving away from the basic foundations of our machinery of government.'

There is also no doubt that a party system would emerge if we abandoned our system. We would have a dozen or so elite politicians sat on a Council of Ministers, with huge executive authority, making policy, and everybody else down in this section of the Assembly would be shovelled off into an endless stream of scrutiny committees, basically just to find them jobs to do. And what would happen? Exactly what is happening in Jersey. They would crystallise themselves into an opposition and politics in that environment becomes very divisive. That kind of oppositional, hostile model may work where you have a party system, but it does not work where you have independent Members. It would be a nonsense, but that is exactly what would happen if we shifted away from our present system.

Sir, a non-cabinet system is right for Guernsey because it retains an appropriate

balance between the occasionally competing demands of leadership and democracy, of decisiveness and collaboration. Our committee system ensures that all those elected as representatives have a roughly equal opportunity to shape policy. As I say, in a cabinet system the development of policy is in the hands of only a few politicians.

Cabinet government may, from time to time, appear to be neater and more orderly, but one thing that has been demonstrated time and time again is that it is more likely to favour the interests of the few; whereas our system, which is more balanced, is more likely to favour the interests of the many. Balance is critical in our constitution. We have to have a constitution that balances.

When I hear some of the business organisations talking – and some of them favour cabinet government – their idea of balance is that their type of people are in charge and the balance is that everybody else is kept in opposition, but that is not the balance that is required in a community, where we are here to represent the interests of everybody.

I also get a bit fed up – and I think the Public Accounts Committee should take some responsibility for this. We read in the press that we were scored zero out of ten. The Auditor General for Wales at a public meeting said, ‘I wouldn’t have scored Guernsey. I did not score them out of ten, anyway; it would have been out of six but it wouldn’t have been zero out of six.’ *(Laughter)*

Yet, the press has, as the press will – *(Interjection)* Well, the thing about the press... We know that the press has, for ten years, run a rather obsessive campaign to destroy our system of government. **(A Member:** Hear, hear.) There was absolutely no doubt about the way in which they would interpret the Wales Audit Office Report, but they stuck this zero out of ten on the front of the press and they have done nearly every day since, but the Public Accounts Committee has never clarified the situation. The Public Accounts Committee has never tried once to defend the record of this government or this system of government.

I think the Public Accounts Committee has to take some responsibility for what has happened, generally, over the years. As I observe it, there has been a kind of draining of self confidence away from this government, not just this system of government but government generally. We are in danger almost of being paralysed by fear of what the media might say and that paralysis does not lead to effective policy making. The fact is whatever weaknesses there might be in our machinery of government – and there are weaknesses in all forms of government – this is a system of government that has helped to deliver many of the things this community should be proud of: relative prosperity; a fairly cohesive community; and, political stability. Even Tribal? and the Wales Audit Office say we have public services that are very commendable for a community of our size.

I do not doubt that the culture and operation of the States could, and should, be reformed. We have an underdeveloped policy plan in the process – although the States’ Strategic Plan under Deputy Parkinson’s leadership is certainly improving things in that respect. I think we could have a stronger role for scrutiny. The lines of delegated authority plainly are not clear. There are grey areas between what the Policy Council is responsible for, what Departments are responsible for, what should be referred to the States and what Departments should decide without being referred to the States. Communication between Departments is sometimes not good enough and communication between Government and the public is sometimes not good enough.

I would even accept that there may be room to review whether our provision for

dealing with emergencies – genuine crises – is any longer appropriate because the legislation does date back many, many years – decades – but all of this can be achieved. All of this speaks to the heart of governance and it can all be achieved within the existing form of government by committees and consensus.

The six principles of good governance outlined by the Wales Audit Office are not in any way being questioned by the signatories to this Requête. In fact, the signatories to this Requête, sir, are giving the States the first opportunity to sign up to these six principles. We are asking that the Public Accounts Committee comes back with recommendations that fit within the existing structure, but that use as a benchmark six recognised principles of good governance. This Requête actually gives the States a chance today to sign up to these six principles of good governance for the first time.

It is true that this Requête is not, of itself, a blueprint for good governance. It is for the Public Accounts Committee, in collaboration with all Members, to hammer out the exact details of any reform in due course. This is definitely one very significant step along the way of improving the operation and culture of the States.

What we should be certain of at this stage is that it is not in the interests of our community, nor is it likely to lead to better governance, to tear up the foundations of our system of government by committees and consensus, to be replaced with a far inferior structure of cabinet government.

I hope Members are prepared to commit collectively to improving our governance arrangements and to do it quickly and together within the existing system, as proposed in the Prayer of this Requête.

Thank you, sir.

The Bailiff: The Chief Minister and the Ministers of Departments can speak, as can chairpersons of Committees, who have been consulted. Is the Chief Minister going to speak on behalf of the Policy Council? I need to establish in a moment whether he will speak and I need to establish whether any other of the committees who have been consulted will speak. We have heard that PAC are not going to speak. It seemed to me, going down through the list, that Culture and Leisure Department were leaving it to their Members, as were Health and Social Services Department, Education Department, the Home Department, Social Security Department, Commerce and Employment, Housing Department and States Assembly and Constitution Committee. Only Scrutiny Committee have put in a full response, if I can call it that.

So, apart from the Chief Minister, to whom I will turn in a moment and the Scrutiny Committee, is there any other Minister, wearing a ministerial hat, wanting to avail himself or herself of the right to speak at the opening and, indeed, then sequentially in closing?

No. I see no one else attracting my attention.

Chief Minister, are you wishing to speak on behalf of the Policy Council?

The Chief Minister: No, sir. I cannot speak on behalf of the Policy Council because the Policy Council has not reached consensus on this matter. So I shall forego that right, sir. I will be intending to speak as an individual Member.

The Bailiff: That will not, of itself, preclude you. You could say that some said this and some said that; therefore there is not much more to say. What I am understanding is

that you do not want to avail yourself of that ministerial opportunity. You will speak in debate, as it were, as a private individual –

The Chief Minister: Indeed, sir.

The Bailiff: – as and when it suits.

The Chief Minister: For the reasons I have given. Whilst I am on my feet, can I direct a question –

The Bailiff: Sorry, if you could just pause for a moment. Deputy Fallaize.

Deputy Fallaize: Sir, before Deputy Trott does, can I just ask... I just wanted to seek clarification in the... because Deputy Trott is not speaking on behalf of the Policy Council, will he be speaking in the winding-up phase of the debate as well?

The Bailiff: No, he can speak when he wishes to speak. He will be speaking as an individual. He may come in early. He may come in late. That is how I am understanding –

A Member?: So the two things are distinct.

The Bailiff: Yes.

The Chief Minister: Sir, I cannot speak on behalf of the Policy Council at this stage because it has not reached consensus. I can, however, fulfil the duty on behalf of the Policy Council in summing up, having listened to debate. Why, sir? Because that is the normal course of action. There is no opportunity to consult with the Policy Council in the normal state of events.

(**The Bailiff** Yes.) I do have an issue that I would like to direct to Her Majesty's Comptroller, regarding the accuracy of the press. I think it is possibly a legal matter.

I have in front of me this Green Book which advises that these are the Rules relating to the constitutional operation of States' Departments and Committees. The Prayer refers to the existing structure of government by committees and consensus. It seems to me that the word 'Department' is missing and I am particularly cognisant of that. I look on page 11 of the Wales Audit Office Report that advises us that the current system – the one we are operating at the moment – is an executive form of government, albeit not with a single cabinet or presidential style executive but with 10 departmental executives. So I wonder if it is a careless omission or possibly a deliberate omission, that the word 'Department' is missing from the Prayer?

The Bailiff: Well, that may or may not be. We can only take, it seems to me, Comptroller, the Requête as we see it.

The Comptroller: Well, sir, the distinction, if there is one, is between the fact that

the Rules tend to capitalise ‘Committee’ when it is referring to one of the committees that has been established by this Assembly [Inaudible] in accordance with its mandate, whereas in the Prayer of the Requête and also the body of the Requête it is with a small ‘c’.

The Bailiff: So it means that anyone who –

The Comptroller: [Inaudible]

The Bailiff: Yes. Thank you.

Who wishes, then, to speak first in the debate?

Deputy Brehaut, are you exercising your right as the Chairman of the Scrutiny Committee?

Deputy Brehaut: Yes, sir, I am. I will be brief.

I just wanted to... because I know the Scrutiny response is a fairly lengthy letter, but just the context.

The Scrutiny Committee from the very off, bearing in mind the context is governance... The Scrutiny Committee generally were concerned that the Wales Audit Report was being referred to the Policy Council, which the parliamentary committee select committees report to this Assembly, sir, through your Office. So the Scrutiny Committee at that time felt that perhaps they could afford some guidance and assistance with our colleagues at PAC in assuring that the protocols, the mandates, were observed. We would assist them in bringing a report to this Assembly and assist them with recommendations because the Scrutiny Committee felt that the Wales Audit Report was something of an open book and did not have resolutions... or guidance would have been useful. Rather than speak anymore, if I could just read two brief paragraphs to give you a flavour of where the Committee is.

‘The Wales Audit Office Review Report on Good Governance has implications for all States’ Departments and committees, but it is currently without any recommendations, sense of direction or clear route map for action by which progress can be monitored and practitioners can be held to account. The Requête is in line with the view of the Scrutiny Committee – as expressed in previous correspondence – and the Public Accounts Committee, in seeking to place the responsibility for moving forward with this Governance Review firmly with the Public Accounts Committee, as the body that commissioned the Report.’

Can I just stress at this point because the makeup of Scrutiny is... In fact, it is an issue within the body of the Report but we have overlap between the two – PAC and Scrutiny – and I want to point out that Deputy Fallaize has been excluded during the process and is taking no part.

‘The Scrutiny Committee also believes that it is incumbent on every Department and committee to commit to improving governance with immediate effect. This would be the case, regardless of what system of government may be in place. Therefore, the Committee would be supportive of the Requête’s Prayer to focus efforts on applying the principles of good governance within the current consensus committee model of the Government.’

That is all I will say at this stage, but I would like to contribute later in the debate.’

Thank you.

The Bailiff: Who would like to make a brief speech now, perhaps lasting no more than five or six minutes?

Deputy Guille.

Deputy Guille: Thank you, sir.

I have been a little bit perplexed by this whole process because, in common with Deputy Fallaize, it seems to me, for reasons best known to itself, Public Accounts decided to commission a major review of the governance of this Island and it just seems to me that it went completely beyond its remit and its mandate. (**A Member:** Hear, hear.) So I am very disappointed that Deputy Gallienne is not intending to speak because, had he done so, I would have liked to have heard him take this Assembly slowly through the mandate of his Committee. I would have liked to have heard him explain how he concluded that he had the authority to commission a review of our system of government – because, make no mistake, that is exactly what he has done. I was also going to ask him, if he could not do that, would he consider his position as Chairman on that Committee. (**A Member:** Hear, hear.)

The WAO Report is long on comment, it is long on opinion, much of it uninformed, but it is totally derelict of any recommendations. Whether or not you believe this Report should ever have been commissioned – and I, for one, do not – in terms of value for money, the very *raison d'être* of Public Accounts, I think we have been short changed.

So I am going to support this Requête because it gives the opportunity to try and salvage something positive from the £50,000 this Committee has paid for this document. It seems to require the Committee to finish the job they started and to provide solutions for the many supposed problems the Report alleges that this Government suffers from – well, I wish them well. Many of the issues raised in the Report are already being addressed under the Tribal review. Other supposed problems seem to have been the result of an imperfect understanding of how our system of government actually works. I would like to cite, if I could, just a couple of examples.

On item 1.6 of the Wales Audit Office Report, the writer noted that he failed to find any clear corporate identity. As he is probably more familiar with the political party model of government, we should not find this too surprising. In the UK parliamentary model, following a General Election, members of the winning party hold all of the significant government posts and this is what creates the corporate identity of any government. In the absence of the party structure, this 'golden thread', as he calls it, is missing. No surprise to me he could not find it. Our system, of course, does have the golden thread, and it is the Government Business Plan that Deputy Parkinson and his team have been working on. (**A Member:** Hear, hear.)

Another example of the confusion can be found on page 19, where the Report speaks of lack of accountability within Government. The Report, however, is apparently quite happy with four voting but non-accountable non-States members who serve on his own Committee, so clearly some committees are more accountable than others.

When he was asked if he had ever reviewed a government with a political system based on consensus, I was not present but I am reliably informed that he admitted he had not, and I think herein lies much of the explanation for the WAO document. The writer did not fully understand our political structure and appears to have concluded that it must be faulty, principally because he did not understand it. One could be forgiven for thinking that the WAO Report was either written by somebody who did not recognise what he was looking at, or, more worryingly, had been talking to the wrong people.

Perhaps I am wrong in my assessment. If I am wrong, then Public Accounts will

have no difficulty in returning to this Assembly with a complete list of workable solutions to put right all of the perceived shortcomings. The WAO said the problems are not within the consensus system, therefore that should help focus the Committee's minds. It will indeed be an interesting report.

Members, I urge you to support this Requête. Let's put this episode behind us and get on with the serious business of governing this Island. We have got enough problems facing us without inventing more to deal with. In my view, we have been distracted far too long trying to find a fix for things that are not broken.

Several Members: Hear, hear.

The Bailiff: Is there anyone else who proposes to make a brief speech?
Deputy Spruce.

Deputy Spruce: Thank you, sir.

Members, I doubt there is a single person in this Assembly who does not support the need for good governance. This is something we should all seek to achieve. However, that can easily be achieved under the current consensus form of government.

This Requête serves only to guide the Public Accounts Committee. It does not stop the work stream, but what it does do is give the Public Accounts Committee a clear steer from this Assembly about the way we wish to govern the Island. It would be quite ridiculous for the PAC to recommend a cabinet style of government, especially if this Assembly did not want that. Our current system does, at times, move slowly. It is, on occasion, frustrating, but it is, without doubt, as democratic as it can be. It is essential, in a community the size of Guernsey, that everyone's opinion is taken into account.

Coming from a business background, many people would expect me to be wholeheartedly in favour of executive government. I certainly am in favour of clear, decisive decisions and wish that, once a decision was made, Members would accept it and move forward. If anything is wrong with the current system, it is the method used by some Members who refuse to accept a democratically made decision. (**A Member:** Hear, hear.)

In my opinion, cabinet government is a step too far for Guernsey. We are just too small. I am concerned that executive government could place too much power in the hands of too few. The influence of lobby groups could be far too great. In my opinion, we need to guard against the possibility that a relatively small group of Ministers could move the direction of this Assembly too far to the left or too far to the right. Neither would be good for this Island. At least with our current system we have a better than average chance of making a balanced decision.

I have no doubt in my mind that the current consensus form of government remains the best for Guernsey. So, Members, I urge you, please support this Requête.

The Bailiff: That, Members, takes us neatly to just past 5.30. We will now adjourn until tomorrow morning.

The States adjourned at 5.30 p.m.

(N.B The Treasury and Resources Department supports the proposals, subject to funding being prioritised within the 2011 States Strategic Plan.)

(N.B The Policy Council supports the proposals and unanimously agree to include these proposals in its recommended list of New Service Development bids under the States Strategic Plan process.)

The States are asked to decide:-

XXIII.- Whether, after consideration of the Report dated 18 July, 2011, of the States Assembly and Constitution Committee , they are of the opinion:-

1. To agree to the introduction of an official report of the proceedings of the States of Deliberation to commence in 2012.
2. To authorise the States Assembly and Constitution Committee to negotiate appropriate terms and conditions for the production of the said official reports.
3. To note that the additional funding requirements arising from the proposals set out in this report will be subject to prioritisation as part of the States Strategic Plan.

ORDINANCE LAID BEFORE THE STATES

THE POLICE POWERS AND CRIMINAL EVIDENCE (BAILIWICK OF 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 Police Powers and Criminal Evidence (Bailiwick of Guernsey) (Amendment) Ordinance, 2011, made by the Legislation Select Committee on 25th July 2011 and came into force on 25th July 2011, are laid before the States.

STATUTORY INSTRUMENTS LAID BEFORE THE STATES

THE HEALTH SERVICE (BENEFIT) (LIMITED LIST) (PHARMACEUTICAL BENEFIT) (AMENDMENT NO.3) REGULATIONS, 2011

In pursuance of Section 35 of The Health Service (Benefit) (Guernsey) Law, 1990, The Health Service (Benefit) (Limited List) (Pharmaceutical Benefit) (Amendment No.3) Regulations, 2011 made by the Social Security Department on 1 June 2011, are laid before the States.

EXPLANATORY NOTE

These Regulations add to the limited list of drugs and medicines available as pharmaceutical benefit which may be ordered to be supplied by medical prescriptions issued by medical practitioners. These Regulations came into force on 1 June 2011.

THE TERRORISM AND CRIME (BAILIWICK OF GUERNSEY) (AMENDMENT) REGULATIONS, 2011

In pursuance of the Terrorism and Crime (Bailiwick Of Guernsey) Law, 2002, The Terrorism and Crime (Bailiwick Of Guernsey) (Amendment) Regulations, 2011 made by the Home Department on 15th June 2011, are laid before the States.

EXPLANATORY NOTE

These Regulations amend the Terrorism and Crime (Bailiwick of Guernsey) Regulations, 2007 as amended ("the 2007 Regulations").

In particular they provide that as from the coming into force of the Regulations, disclosures under section 12, 15 or 15C of the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002 should be made using the online reporting facility available on the website of the Financial Investigation Unit. They also amend the form of disclosure under the 2007 Regulations and provide for such disclosures to be made by means of

that form with the consent of an authorised officer. An authorised officer is defined as the head of the Financial Investigation Unit or other member of the Financial Investigation Unit of the rank of Senior Investigation Officer or above.

These Regulations came into force on the 15th June 2011.

THE DISCLOSURE (BAILIWICK OF GUERNSEY) REGULATIONS, 2011

In pursuance of the Disclosure (Bailiwick Of Guernsey) Law, 2007, The Disclosure (Bailiwick Of Guernsey) Regulations, 2011 made by the Home Department on 13th May 2011, are laid before the States.

EXPLANATORY NOTE

These Regulations amend the Disclosure (Bailiwick of Guernsey) Regulations, 2007 as amended ("the 2007 Regulations").

In particular they provide that as from the coming into force of the Regulations, disclosures under section 1, 2 or 3 of the Disclosure (Bailiwick of Guernsey) Law, 2007 should be made using the online reporting facility available on the website of the Financial Investigation Unit. They also amend the form of disclosure set out in the Schedule to the 2007 Regulations and provide for disclosures to be made by means of that form with the consent of an authorised officer. An authorised officer is defined as the head of the Financial Investigation Unit or other member of the Financial Investigation Unit of the rank of Senior Investigation Officer or above.

These Regulations came into force on the 13th June 2011.

Guernsey Quarterly Inflation Bulletin

30th June 2011 - Issue date 22nd July 2011



POLICY COUNCIL

THE STATES OF GUERNSEY

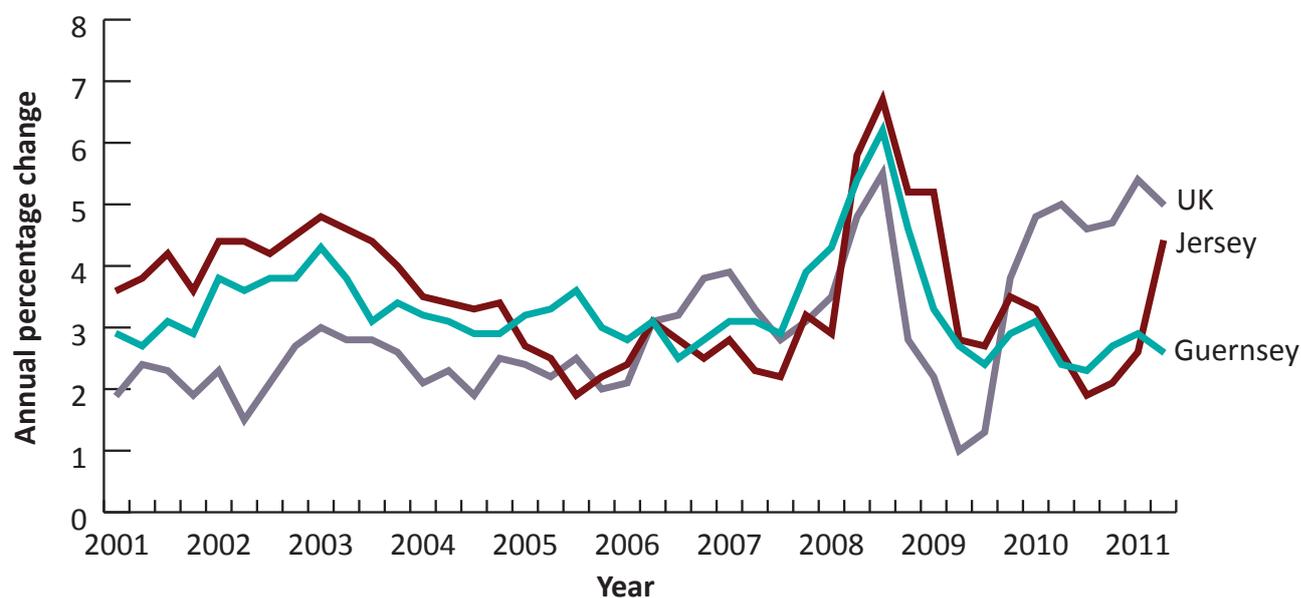
1.1 Introduction

The Guernsey RPIX and RPI are measures of inflation used in Guernsey. They measure the change in the prices of goods and services bought for the purpose of consumption or use by households in Guernsey. The indices are published quarterly by the States of Guernsey Policy and Research Unit. The calculation of the RPIX and RPI are based on the price change of items within a 'shopping basket'. Whilst some prices rise over time, others will fall or fluctuate and the indices represent the average change in these prices. More detailed information on the calculation of these indices can be found at the end of this handout.

1.2 Headlines

- Guernsey's annual inflation as measured by RPIX ('core' inflation excluding mortgage interest payments) was 2.6% in the year ending June 2011, compared to 2.9% in the year ending March 2011 and 2.4% in the year ending June 2010.
- In the UK and Jersey the equivalent RPIX figures for the year ending June 2011 were 5.0% and 4.4% respectively (see [Figure 1.2.1](#)).
- Eleven of the fourteen RPIX groups increased in the year ending June 2011.
- The housing group made the largest contribution to the annual change in RPIX in June 2011, contributing 0.7 percentage points. The motoring and fuel, light and power groups each contributed 0.5 percentage points to the annual change.
- The 'all items' RPI inflation rate was 3.0% in the year ending June 2011, compared to 2.9% in the year ending March 2011 and 2.3% in the year ending June 2010.

Figure 1.2.1: Annual percentage change in RPIX



HOME DEPARTMENT**2010 DATA PROTECTION ANNUAL REPORT**

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

16th June 2011

Dear Sir

I enclose the Annual Report from the Data Protection Commissioner setting out the activities of his office for the year ended 31 December 2010.

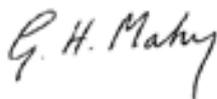
The Report is prepared in accordance with the Commissioner's responsibilities under paragraph 5 of Schedule 5 of the Data Protection (Bailiwick of Guernsey) Law, 2001.

The Report also includes a statement of accounts as required by paragraph 3(b) of the above Schedule to the Law.

The Home Department notes that this is the final Report which will be prepared by the current Commissioner. The Department is pleased to commend the work of the Commissioner and his office and recognises the high standards which have been implemented over the last ten years. The Commissioner has been closely involved with senior staff in the planning and arrangements for the appointment of a successor and the Department is confident a smooth transition of responsibilities will take place in September.

Section 52(b) of the Law requires the report to be laid before the States. I should therefore be grateful if you would arrange for its publication as an Appendix to the September 2011 Billet d'État.

Yours faithfully



G H Mahy
Minister

Enc

BAILIWICK OF GUERNSEY



**DATA PROTECTION COMMISSIONER
REPORT FOR 2010**



MISSION STATEMENT

The Data Protection Office will encourage respect for the private lives of individuals by:

- promoting good information handling practice,*
- enforcing data protection legislation and*
- seeking to influence national and international thinking on privacy issues.*

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FOREWORD

I am pleased to present my tenth and final report to the States of Guernsey, covering the calendar year 2010. I should like to preface my remarks by recalling some significant events of the past 10 years.

The Data Protection (Bailiwick of Guernsey) Law, 2001 was commenced in August 2002, following which the European Commission published a declaration of the adequacy of the data protection régime within the Bailiwick in 2003. By facilitating the transfer of personal data from within the European Union to the Bailiwick, this provided a competitive trading opportunity over other similar territories.

The Privacy and Electronic Communications Regulations came into force in Guernsey in 2004 (somewhat later in Sark and Alderney) and inter alia ensured that the Bailiwick could not be used as a source of spam email or nuisance phone calls.

In 2006, the States approved a number of amendments to the 2001 Law, which, together with other changes approved in 2009, were implemented by an amending Ordinance, Statutory Instruments and Orders in 2010.

The scope of the work of this office has changed dramatically over the years. Initially, regulatory activities were primarily concerned with the compliance of relatively large organisations (including government departments), where personal data was processed in monolithic databases for discrete and identifiable purposes. The emphasis was on lawfulness of processing and the rights of individuals to be informed about, and if necessary complain about, the processing of their data.

Whilst ensuring the compliance of large organisations remains a priority, technology has advanced to the point where large and small organisations employ information and communications technology on a routine basis for a much broader range of applications, raising the possibility that personal information might be widely disclosed and used for a multitude of purposes.

The advent of sophisticated search engines revolutionised the usefulness of the Internet, but the downside of using freely available search engines can be the resulting proliferation of behavioural advertising targeted at individual users.

Technology has become commonplace not just in the workplace but also in the home and the use of email has given way to social networking as a prime means of communication; however, the users of social networks, especially younger people, may not be aware of the need to adjust their privacy settings to minimise the potentially invasive processing of personal information that they intend to share only with close friends.



The more recent development of “smart phones” and other mobile devices with location intelligence pose further problems as the wide availability of free “apps” can mean that individuals run the risk of being tracked and divulging their location without even realising it.

Technological developments have dominated much of the debate and discussion at data protection conferences in recent years; I have been honoured to have been invited to present papers and chair sessions at many of these international conferences.

In 2010 I was invited to participate in the inaugural meetings of the Global Privacy Enforcement Network (GPEN), which has been formed on the initiative of the US Federal Trade Commission to improve communication and cooperation between privacy and data protection authorities worldwide. This liaison is vitally important because of the growing trend of globalisation and the difficulty of identifying the location where unlawful processing may be occurring.

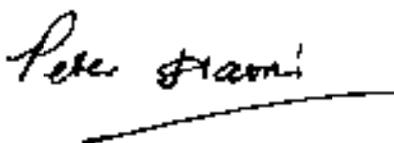
It is clear that the challenges for data protection regulators will continue to increase as technology becomes more sophisticated and ubiquitous. Close co-operation will become essential in order to meet the threats posed by unlawful processing on a global scale. Harmonisation of legislation and the development of international standards are important steps towards countering such threats.

The States have shown in the past an appreciation of the need for effective legislation in this arena. Inevitably there will be a need to keep the legislation in step with international standards of regulation and the support of the States in giving this legislation due priority in future will be most beneficial.

I have been extremely fortunate to have had the support of my two colleagues who have ensured the smooth running of the Data Protection Office throughout my two five-year terms of office and I have enjoyed an excellent working relationship with the Law Officers, in respect of legal advice, legislative drafting and dealing with offenders. Administrative assistance has always been promptly forthcoming from the staff of the Home Department and technical assistance from the Information Technology Unit.

My second five-year term of office terminates in September, 2011 and I am confident that my successor will benefit from this high level of support and assistance.

I wish my successor and colleagues bonne chance!



Data Protection Commissioner, April 2011.



DATA PROTECTION ISSUES

Amendments to the Law

The Data Protection (Bailiwick of Guernsey) (Amendment) Ordinance, 2010¹, together with associated Statutory Instruments² and Orders, commenced on March 1st, 2010.

Amongst its provisions, this Ordinance increased the penalties for unlawful disclosure of personal data to provide for custodial sentences of up to 2 years in the most serious cases and gave the Commissioner statutory power to obtain information from any person in relation to alleged breaches of the Privacy and Electronic Communications Regulations (previously it had only been possible to obtain information from an offending controller).

This power should be of particular value during the investigation of alleged email breaches, such as spam, phishing, etc., where it should now be possible to obtain details of the alleged offender from the Internet Service Provider and should provide the means of obtaining relevant information without the need to resort to a warrant.

In addition, Notification fees were increased to £50, except for bona fide registered charities, who are now able to notify free of charge.

In May, the Home Department made an Order under Schedule 2 to the Law³ legitimising the disclosure by the Environment Department of the name and address of the registered keeper of an apparently abandoned vehicle on private land. This Order was designed to facilitate the provision of personal information to expedite the disposal of the vehicle.

In June, an Order was made by the Home Department⁴ increasing the maximum fee which may be levied for subject access to medical information. This Order was designed to maintain the ability of an individual to have access to their own limited medical information for a nominal fee of £10, whilst permitting a higher fee to be charged for access to the more extensive medical records that are often requested for the purpose of litigation.

¹ <http://www.guernseylegalresources.gg/ccm/legal-resources/ordinances/data-protection/data-protection-bailiwick-of-guernsey-amendment-ordinance-2010.en>

² See the Annual Report for 2009 for full details of these amendments to the Law, which are also available as SI's 7,8,9 & 10 of 2010 from the Guernsey legal resources website at: <http://www.guernseylegalresources.gg/ccm/navigation/statutory-instruments/guernsey---bailiwick/2010/1---50/>.

³ SI 51 of 2010 ; available from the Guernsey legal resources website as above: .../51-100/

⁴ SI 59 of 2010 ; available from the Guernsey legal resources website as above : .../51-100/



European Union Developments

In January 2010, the European Commission published preliminary proposals for a future EU-US international agreement on personal data protection and information sharing for law enforcement purposes.⁵

These proposals were the subject of much discussion and comment, but on 9 December, European Union and United States officials were able to commence detailed talks in Washington on a personal data protection agreement when cooperating to fight terrorism or crime.⁶

“The aim was to ensure a high level of protection of personal data such as passenger data or financial information that is transferred as part of transatlantic cooperation in criminal matters. Once in place, the agreement would enhance EU and US citizens’ right to access, rectify or delete data when it is processed with the aim to prevent, investigate, detect or prosecute criminal offences, including terrorism. For the EU, effective judicial review and a more proportionate use of data by public authorities are key objectives of the agreement.”

In June, the European Commission formally requested to the UK to strengthen the powers of its data protection authority to ensure better compliance with the EU Data Protection Directive (95/46/EC).

Some of these criticisms had already been addressed following the commencement an amendment to the UK legislation in April which gave the Information Commissioner power to conduct audits of data controllers and issue monetary penalties of up to £500,000 for serious breaches of the data protection principles. Other criticisms, if accepted by the UK, might result in the need for amendments to legislation.

Imposition of the first monetary penalties (of £100,000 and £60,000) on a private company and a county council respectively, for serious security breaches was announced by the ICO in November.⁷

In July 2010, as a follow up to the public consultation launched in 2009 on the review of the data protection regulatory framework, the European Commission organized a consultation meeting with key stakeholders. The purpose of this meeting was to consult non-public sector stakeholders on a range of issues pertaining to existing data protection rules, identify problems and discuss possible solutions.

⁵ http://ec.europa.eu/justice/news/consulting_public/news_consulting_0005_en.htm

⁶ <http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/10/661&format=HTML&aged=0&language=EN>

⁷ http://www.ico.gov.uk/~media/documents/pressreleases/2010/first_monetary_penalties_press_release_24112010.ashx



In November, the Commission published: "A comprehensive approach on personal data protection in the European Union"⁸. Building on the responses to the earlier consultations, a number of specific challenges were identified:

- *Addressing the impact of new technologies*
- *Enhancing the internal market dimension of data protection*
- *Addressing globalisation and improving international data transfers*
- *Providing a stronger institutional arrangement for the effective enforcement of data protection rules*
- *Improving the coherence of the data protection legal framework*

It is anticipated that the development of this new regulatory framework will take at least a further two years to complete.

European Directive 2009/136/EC⁹, which amends the Privacy and Electronic Communications Directive, comes into force in 2011. The provisions of relevance concern the notification of security breaches and the tightening of the rules on unsolicited communications.

It is expected that there will be amendments to the UK legislation flowing from this Directive, which may result in recommendations to make corresponding amendments to the local Privacy and Electronic Communications Regulations in due course.

Rolling Census

In July, 2010, the States resolved not to undertake a traditional census of the population on 27th March 2011, which is when the census was conducted throughout the remainder of the British Isles.

Instead, the States agreed to the establishment of a corporate database containing basic personal data relating to citizens. This database should provide the means for personal data, held by separate government departments, to be linked for statistical purposes using confidentially maintained keys.

It is understood that basic personal data assembled in this way will be supplemented by sample surveys on a continuous basis to complete the data that would normally be gathered by a census. The system is being designed to ensure that confidential personal data held by government departments will be accessible only by the census unit via these confidential keys, will be used purely for statistical purposes and will not be accessible by other departments.

⁸ http://ec.europa.eu/justice/news/consulting_public/0006/com_2010_609_en.pdf

⁹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:337:0011:0036:EN:PDF>



The Commissioner will continue to liaise with the census office over the means being used to ensure the confidentiality and security of the information in the corporate database.

Mobile Number Portability (MNP)

MNP was introduced to Guernsey in 2008; from that date any subscriber to one of the three competing mobile service providers was able to 'port' their whole number (including the dialling prefix) to either of the other providers.

Under the provisions of the voluntary MNP Code of Practice agreed by the three mobile telephone operators, the transmission of any marketing information to a former customer in an attempt to 'win back' custom is prohibited for a period of 60 days following the porting of that customer's number [referred to below as the "Prohibition Period"].

The mobile operators asked for a ruling on what should happen at the end of the Prohibition Period. The Commissioner interpreted the Privacy and Electronic Communications Regulations to mean that any consent for direct marketing which may have been obtained from a former customer who had subsequently ported their number should be considered to have lapsed at the end of the Prohibition Period.

Accordingly, the Commissioner ruled that mobile telephone operators should not send marketing communications [by email or SMS] to former customers who had not subsequently provided their express consent to the receipt of such marketing communications.

Google Street View

Google commenced collecting "Street View" imagery in Jersey and the Isle of Man in May 2010, but following the concern throughout Europe over allegations of unauthorised collection of personal data from domestic wi-fi routers, suspended their operations in the Islands.

Subsequently, following joint action by the authorities of all three jurisdictions, Google agreed to:

- notify its processing of personal data in each jurisdiction,
- not to collect data from private roads,
- not to collect any wi-fi data in the Islands and
- to provide advance publicity of future collection activities.



Collection of Street View imagery in Guernsey and Alderney commenced in August, 2010 but it transpired that Google did not have accurate information to identify private roads and, following preliminary enforcement action by the Commissioner, suspended their collection operations and agreed to destroy any images that had been collected from those private roads.

Google did not return to complete its photographic survey in 2010 and there is no information available as to when this work might be completed.

The company agreed to mount further publicity should it plan to return to collect more imagery and whenever any processed images are about to be published on Street View, to give residents an opportunity to report any images which they believe might invade their privacy.

E-borders and the Crown Dependencies

Data Protection Commissioners and immigration officials from the Crown Dependencies, together with the Information Commissioner and his staff were invited to the National Border Targeting Centre in July to witness the progress that had been made by the UK Borders Agency and its partners in implementing measures to increase the security of the "UK Border".

It was evident that the final objective was to be able to record all inward and outward passenger movements across the border in order to identify any suspicious activity that might pose a threat. It was demonstrated that the analysis of passenger movements was highly automated such that only those events which were assessed as suspicious were highlighted and brought to the attention of the staff.

It was made clear that the requirement to collect passenger data would ultimately extend to all passenger movements to and from outside the Common Travel Area and so would involve data collection at the ports in the Crown Dependencies.

It was emphasised by the Borders Agency that the system was being developed with due regard for data protection requirements and a single point of contact had been established to deal with subject access requests and enquiries from individuals in relation to the E-Borders system.



NOTIFICATION

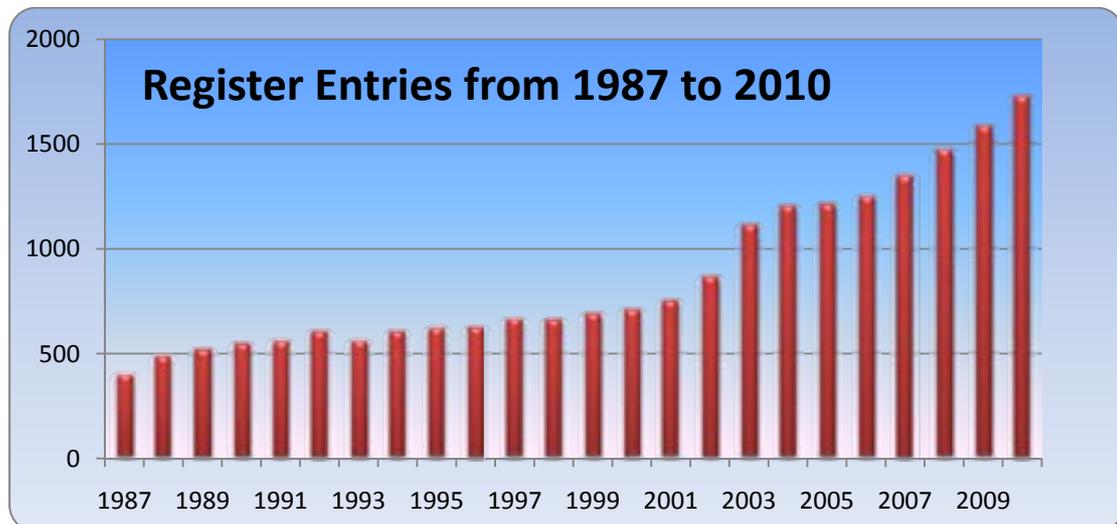
Section 17 of the Law requires most Data Controllers to “Notify” the Commissioner of their processing of personal data. This Notification is on an annually renewable basis and covers all processing that is not exempt.

Exemptions from Notification exist where processing is restricted to manual data, for processing by not-for-profit organisations and for the processing of data associated with the core business purposes of accounts, staff administration and marketing. However, exemption from Notification does not relieve any organisation from the requirement to conform to the data protection principles and the remainder of the Law.

The annual fee for Notification increased from £35 to £50 on 1st March 2010, but at the same time the notification fee for registered charities was reduced to zero.

Register Entries

The chart shows the sustained increase in the number of Register entries that has been maintained since the commencement of the previous Law in 1987. This number is now more than four times the initial figure of 400 registrations in 1987 and more than twice the number at the commencement of the current Law in 2002.



By the end of December 2010, there were 1732 Notifications on the register, compared with 1586 at the end of 2009. This number included 34 free of charge notifications by elected members and 40 by registered non-profit and charitable organisations.

There were 241 new Notifications and 95 closures during 2010 - a net increase of 146, (compared with 186 new and 79 closures in 2009 - a net increase of 107).



Hosting Service

The hosting service provided by Digimap operated without significant problems during the year.

The web pages were updated in March to reflect the change of notification fee and some problems with the sending of automatic email reminders were corrected.

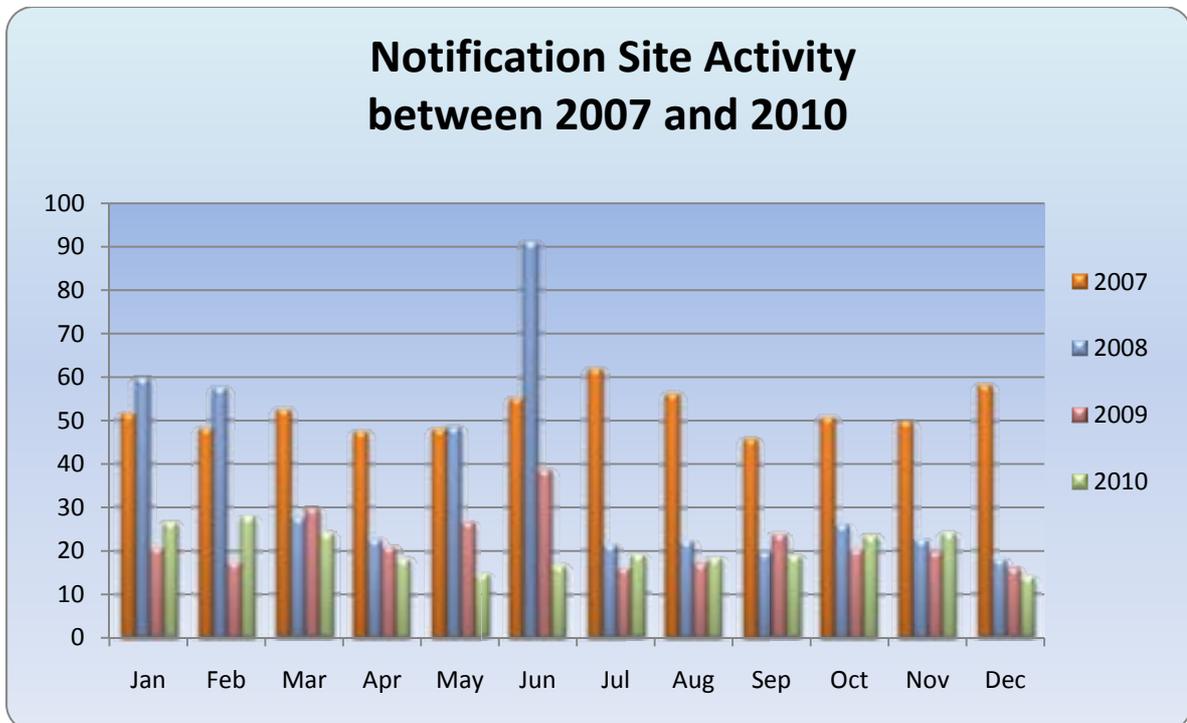
The system was upgraded in the autumn to incorporate use of the States of Guernsey Corporate Address File (CAF) for local addresses and the UK Postal Address File for any UK addresses. This welcome enhancement was designed to improve the accuracy of address information and also to simplify the entry of addresses during the online notification process.

Subsequently, the CAF address search algorithm needed to be amended to cater for the new "GY10" postcodes introduced for Sark.

Internet Statistics

The Google Analytics statistics revealed that the site usage varied between a minimum of 14 and maximum of 27 visits per day, broadly similar to the figures for the second half of 2009, when monitoring using Google Analytics had commenced.

Figures from earlier years were collected on a different basis and so are not strictly comparable to the Google-based statistics.

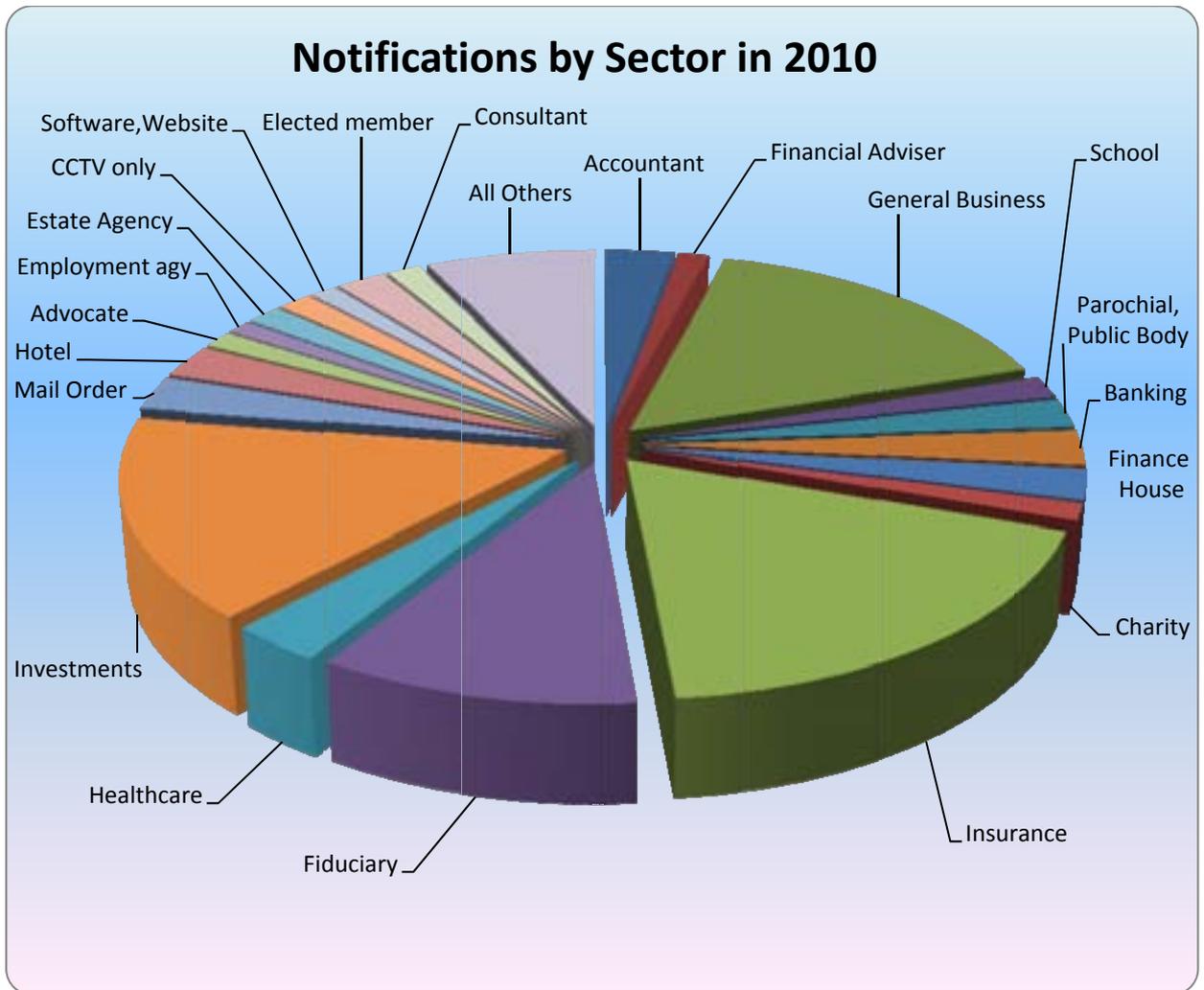




Notifications by Sector

The Notification process encourages data controllers to indicate the nature of their business activity. This not only simplifies the process, as it allows for the generation of a standardised draft Notification based on a template, but also enables an indicative record to be maintained of the number of Notifications by industry sector.

The pie chart below represents the breakdown of notification templates for 2010 by industry sector; there has been little change in individual percentages since 2009.





Exemptions

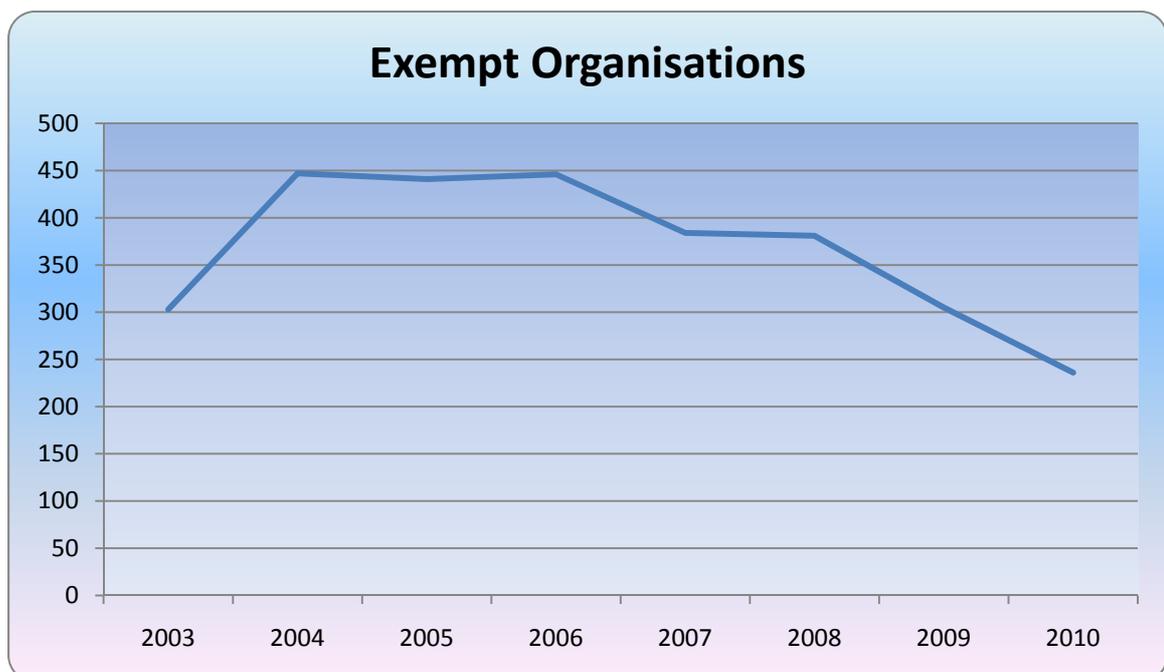
Exemptions from the need to Notify may be claimed by those whose processing is limited to the core business purposes of accounts & records, staff administration and a limited amount of marketing to existing clients.

An exemption is also available to most voluntary organisations, charities and to those whose processing is limited to manual data. However, once CCTV is used by an organisation for the prevention and detection of crime, these exemptions from Notification are lost, but a non-profit organisation remains exempt from the payment of a fee.

Organisations that are exempt may choose to Notify voluntarily, thereby relieving themselves of a responsibility to provide information on request under section 24 of the Law. The number of voluntary Notifications rose by 17 to 60 (3.5% of the total).

The trend in the number of organisations that have claimed exemption from Notification is shown below. Of the 236 organisations who claimed an exemption in 2010, 111 (47%) were for the core business purposes, 53 (23%) were for both core business purposes and processing manual data. 37 (16%) processed manual data only, 27 (11%) were not for profit organisations, the remaining 8 (3%) claimed an exemption for various reasons including only having corporate clients.

The fall in exemptions has been partially due to an increase in notification by charities, following the cessation of the notification fee.

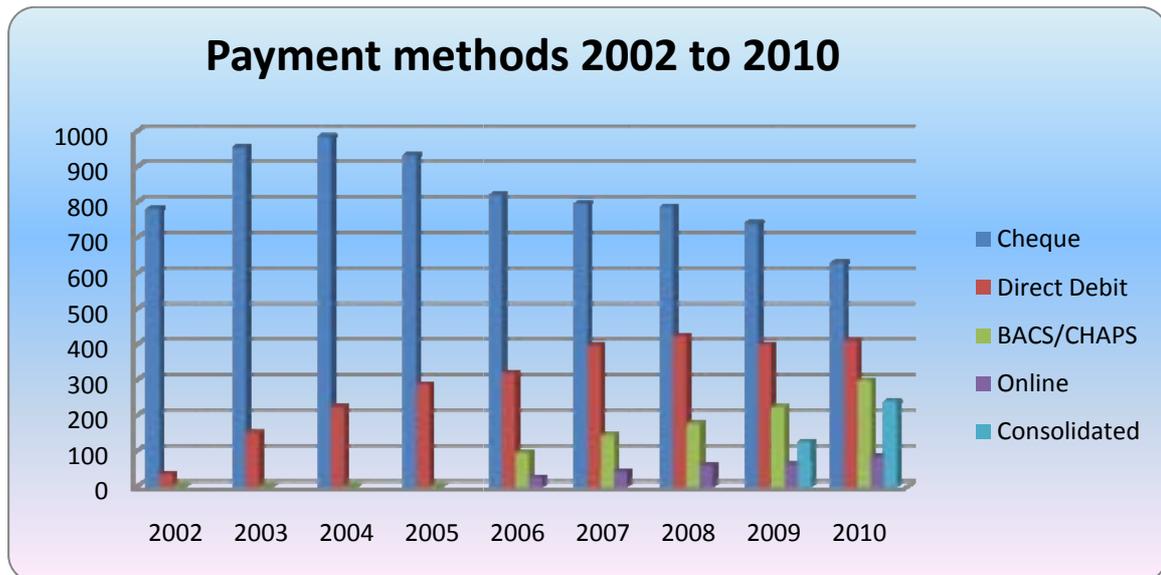




Payment and communications methods

The Notification fee may be paid by cash, cheque, direct debit, bank transfer (BACS/CHAPS) or Online using the States payment portal. Some organisations which are responsible for the administration of a large number of notifications have taken the opportunity, (which was originally offered in 2009) to renew them by means of a single consolidated payment.

The trend in payment methods between 2002 and 2010 is shown below.



For the first time, fewer than half of the renewals were paid by cheque, with the number of BACS and online payments continuing to rise. The number of individual Direct Debit payments saw little change. The number of consolidated payments nearly doubled.

506 renewals were made before 1st March at the lower fee of £35, whilst 1,159 were made thereafter at £50; 36 notifications (from non-profit organisations or elected members) were at a zero fee; 238 notifications were paid for using consolidated payments (216 by cheque and 22 by BACS).

1,367 notifications (78%) included an email address for communication purposes, compared with 1,234 (also 78%) in 2009.

Where possible, receipts were sent electronically to those who had provided a valid email address.

Second reminders were issued to 166 controllers (175 in 2009). It was necessary to resort to final reminders in 45 (60) cases; this resulted in some payments being overdue.

There were 2 referrals to the Law Officers (2 in 2009) for cases of non-renewal which resulted in the overdue fees being paid and 2 (0) Police Cautions being issued.



STAFFING AND STAFF DEVELOPMENT

Schedule 5 to the Law provides that:

“2. (1) The Committee [the Home Department] must make available to the Commissioner such number and descriptions of staff as he may reasonably require for the proper and effectual discharge of his functions.”

There was no change to the staff complement during 2010. The Commissioner is a statutory public appointment, but members of his staff are seconded from the Home Department of the Civil Service and are wholly responsible to him.

The Assistant Commissioner devotes the majority of her time to compliance activities, responding to enquiries from individuals and organisations and delivering training to the public and private sectors.

The Personal Assistant, who works part time, undertakes all of the administrative activities for the office including the processing of Notifications, payment of bills and the reconciliation of the accounts.

The Commissioner is keen to encourage the academic, technical, administrative and professional development of his staff and to that end supports their attendance at training courses, relevant conferences and other forms of personal development.

The Commissioner himself remains a member of the E-commerce and IT Advisory Group of the GTA University Centre and of the Guernsey Digimap Management Board and attends relevant seminars and workshops organised by the GTA University Centre and the Guernsey International Section of the British Computer Society. He continues to work as a member of the International Standards Organisation Working Group and the BCS Information Privacy Expert Panel.

During 2010 the Assistant Commissioner actively participated in case handling workshops in Brussels and London where she chaired sessions and gave presentations. These workshops discuss and explore different approaches to the assessment and handling of complaints. As real cases are used as the basis for analysis these workshops prove to be of great value in influencing and enhancing the management of complaints.

Discussions with the Home Department over planning the successor to the Commissioner commenced in the autumn of 2010.



RAISING AWARENESS

There is a continual need to ensure that individuals are made aware of their rights under the Law and organisations that process personal data are made aware of their responsibilities.

The Awareness campaign for 2010 included the following activities:-

- Delivering presentations and training
- Involvement in working groups
- Making use of the media.
- Giving compliance advice
- Developing the Internet web site

Delivering presentations and training

The Commissioner and Assistant Commissioner delivered talks and presentations throughout the year to a total of 28 professional associations and organisations in the public and private sectors. These included: States departments, nursing homes, finance institutions, retail businesses and voluntary organisations.

The total audience reached in this way in 2010 was 360 compared with 390 in 2009.

In addition to partaking of formal training, any organisation may obtain a copy of a training DVD entitled: "The Lights are On", produced by the UK Information Commissioner. 34 copies of this DVD, which are obtainable free of charge from the Commissioner's Office, were distributed in 2010.

Involvement in Working Groups

The Commissioner and Assistant Commissioner continued to liaise with the States Data Guardians Group. The activities of the group have initially been involved with the establishment of data sharing protocols between various departments and sections within the government.

In addition, the Commissioner provided specific data protection advice in his capacity as a co-opted member of the Land Registry Steering Group and the Criminal Justice IT Working Group and through his attendance at meetings of the Digimap Management Board.



Making use of the media

10 articles or letters relating to Data Protection were published in the local media during 2010, (the same number as in 2009). Topics covered included:

- Amendments to the law and the increase in fees;
- Personal privacy on Social networking sites;
- Google street view;
- Electronic census;
- Access to medical records;
- "Pubwatch" compliance issues;
- Publication of local paedophiles' details by an individual in the UK;
- Taking pictures at nativity plays.

The Commissioner is appreciative of the positive support he receives from all sections of the media to his awareness campaigns.

Guidance Notes

The Code of Practice on Criminal Records checks was revised to take account of the establishment of the Guernsey Vetting Bureau. This meant that 3 guidance booklets were replaced with one.

A full list of the 30 available publications is given overleaf. These are available in hardcopy as leaflets or booklets and are published on the Commissioners website¹⁰.

Approximately 1,051 hard copies of the literature were distributed to individuals and organisations during 2010, compared with 630 copies in 2009.

These figures are in addition to the unknown number of electronic copies of these guidance notes that were viewed or downloaded from the website.

¹⁰ www.gov.gg/dataprotection then navigate to: Guidance Notes, selecting General Guidance, Guidance for Organisations, Guidance for States Members and Departments, or Guidance for Individuals.



Guidance Notes published by the Data Protection Office

Baby Mailing Preference Service: <i>How to stop the receipt of unwanted mail about baby products</i>
Be Open...with the way you handle information: <i>How to obtain information fairly and lawfully</i>
CCTV Guidance and Checklist <i>Explains how to comply with the law in relation to the use of CCTV</i>
Charities / Not-for-Profit Organisations
Data Controllers: <i>How to comply with the rules of good information handling</i>
Dealing with Subject Access Requests
Direct Marketing - A Guidance for Businesses
Disclosure of Medical Data to the GMC
Disclosures of vehicle keeper details <i>Explains when vehicle keeper details can be disclosed</i>
Exporting Personal Data
Facebook - How to protect your Privacy
Financial Institutions
Health Records - Subject Access
Individuals - Your rights under the Law
Mail, telephone, fax and e-mail preference service <i>How to stop the receipt of unsolicited messages.</i>
No Credit: <i>How to find out what credit references agencies hold about you and how you can correct mistakes</i>
Notification - Simple Guide - Complete Guide - Exemptions
Personal Data & Filing Systems <i>what makes information "personal" and explains what manual records are covered by the Law</i>
Privacy Statements on Websites - a Guidance
Respecting the Privacy of Telephone Subscribers
Rehabilitation of Offenders : <i>Code of Practice - Criminal Records Check</i>
The Data Protection Law and You: <i>A Guide for Small Businesses</i>
Spam - How to deal with spam
States Departments - Guidance
Transparency Policy
Trusts and Wills - Guidance
Violent warning markers: use in the public sector <i>How to achieve data protection compliance in setting up and maintaining databases of potentially violent persons</i>
Work References



Developing the Internet Web Site

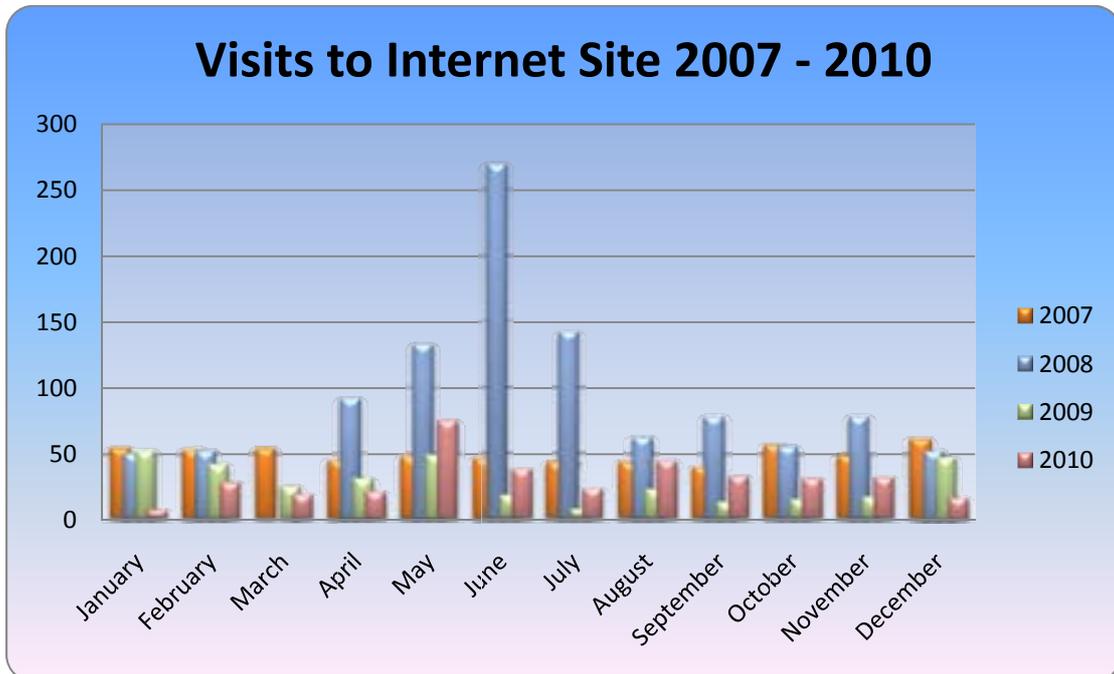
Work continued throughout the year to keep the information on the official website www.dataprotection.gov.gg up to date.

The chart below includes statistics collected for the years 2007 to 2010 and shows that 2008 was a particularly active year for the website, possibly on account of the interest that was generated in the website breach.

These figures exclude accesses to the Notification site www.dpr.gov.gg, which are counted separately.

Currently, it would appear that between 7 and 75 unique pages were accessed each month in 2010. This compares with a long term average of about 50 pages. The most accessed pages are those relating to the Law and the Guidance Notes.

Whilst the number of accesses is at a lower level than in the past, it is clear that the provision of information on the website reduces the number of routine enquiries that would otherwise be dealt with over the telephone or by letter. The website also provides the facility for specific enquiries to be submitted via email.





Registrations with the Preference Services

The Telephone Preference Service (TPS)¹¹ allows individuals to opt-out of the receipt of unsolicited telephone marketing calls, whereas the Corporate Telephone Preference Service (CTPS) offers a similar service for use by commercial organisations.

The Fax Preference Service (FPS)¹² allows any individual or business with a fax machine to opt out of the receipt of unsolicited marketing faxes.

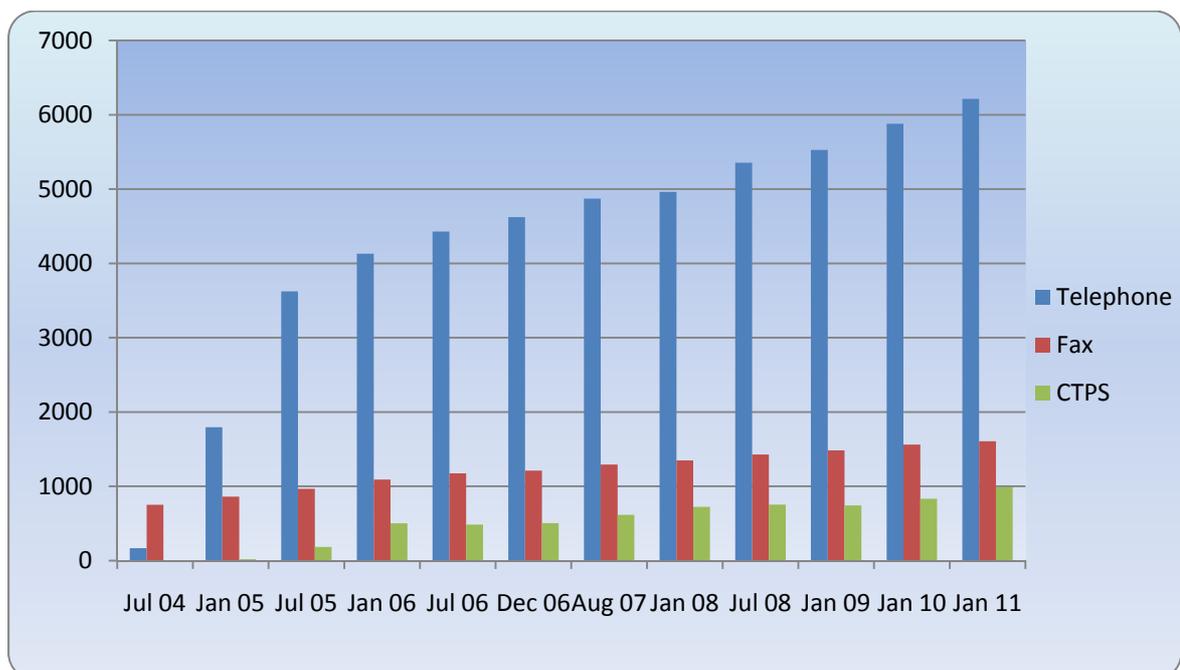
Since 2004, the Office has assisted 488 individuals to register with the TPS and FPS services, but nowadays most people register for themselves by telephone or online.

Registration does not entirely prevent calls which originate from abroad and the office continues to receive complaint from subscribers who receive such calls. Where possible, these complaints are forwarded to the authorities in the originating country.

The chart below, derived from data kindly provided by the Direct Marketing Association, shows that overall registrations for TPS continue to show a small increase, with 6,213 numbers having been registered at the end of 2010, compared with 5,878 at the end of 2009.

Registrations for FPS have increased from 1,561 to 1,607 and those for CTPS have risen from 833 to 987.

Registrations with the Preference Services



¹¹ www.tpsonline.org.uk

¹² www.fpsonline.org.uk



ENFORCEMENT

The Law provides for a number of offences:-

- a) Failure to notify or to notify changes to an entry;
- b) Unauthorised disclosure of data, selling of data or obtaining of data;
- c) Failure to comply with a Notice issued by the Commissioner.

Notices

The Commissioner may serve an Enforcement Notice where he has assessed that a controller is not complying with the principles or an Information Notice where he needs more information in order to complete an assessment. With the advent of the Privacy in Electronic Communications Regulations, the Commissioner's power to issue Notices was expanded to cover non-compliance with those Regulations.

No Information or Enforcement Notices were served during 2010.

Police Cautions

A small number of data controllers habitually ignore final reminders to renew their Notifications, resulting in the need for follow-up action.

In 2008 two Police Cautions were administered for this reason, the same number as in 2007. There were no Cautions administered during 2009, but in 2010 two Cautions were issued in relation to late renewals, which resulted in the late renewals finally being completed.

Dealing with Requests for Assistance

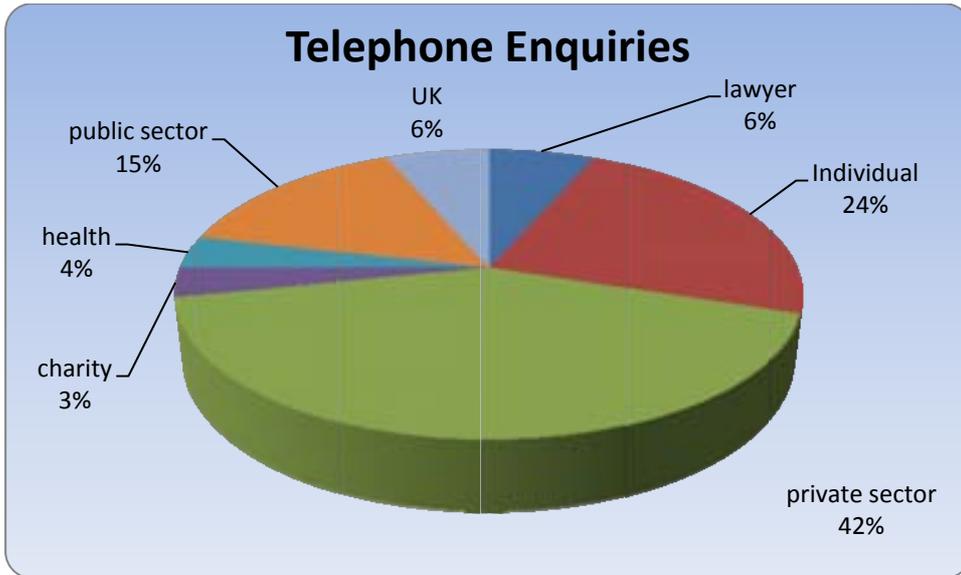
The Office deals with numerous general enquiries and requests for assistance each year.

The source of these requests can be letters, telephone enquiries, emails (directly and via the websites) and personal callers to the office.

A record was kept of substantive telephone enquiries and it can be seen from the chart that 42% of the telephone enquiries were received from private sector organisations, with 24% coming from individuals, 15% from the public sector and 6% from the UK.

The majority of enquiries and requests were resolved on the same day, with just a small number resulting in more detailed investigations.

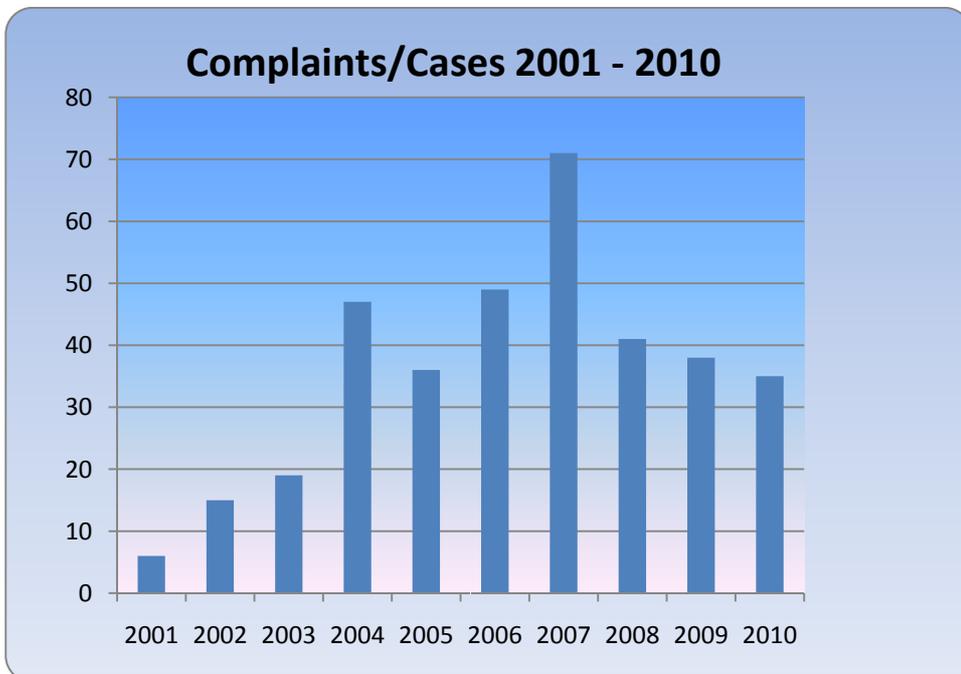
Those cases which resulted in formal complaints, requests for assessment or other actions are dealt with in the following section.



Complaints / Cases

Section 42 of the Law provides that a request may be made to the Commissioner for an assessment as to whether the processing of personal data is compliant with the Law.

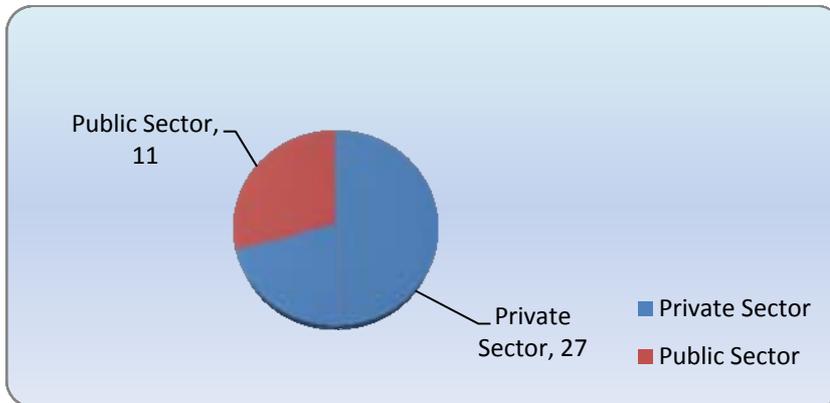
There were 35 complaints dealt with by the Commissioner during 2010, 2 of which were brought forward from 2009 and another 2 carried forward to 2011.



The chart above shows the variation in the number of complaints / cases received over the last 9 years.



This chart below shows that, of the 35 cases, dealt with in 2010, 24 related to the private sector and 11 to the public sector.



Of those 24 private sector complaints, 3 were referred to the UK.

21 complaints were upheld, 11 were not upheld, 1 was not progressed by the complainant and 2 have been carried forward into 2011.

Case Studies

Case Study 1 – Disclosure of Personal Data

An insurance company disclosed a copy of an insurance policy to an advocate without informing the policy holder. There was no court order. The policy was presented in court to prove that the defendant was permitted to drive under cover of the policy.

The policy stated it covered any person who drove with the consent of the policy holder. The company informed the advocate that it did not know if consent had been given to her client.

The policy holder stated in court that he had not given the necessary consent, but the court ruled in the defendant's favour.

This resulted in the policy holder suffering distress and illness and time off work.

Section 35 of the Data Protection Law permits the disclosure of personal information for the purpose of legal proceedings. However it must be emphasised that such disclosure is permissible but not obligatory. Organisations have certain obligations to their clients and any processing of personal information must be compliant with data protection principles.



The first data protection principle states that the processing of personal information must not only be lawful but also fair.

Whilst the disclosure in this case was lawful it was unfair to the policy holder. He had an expectation that the insurance company would maintain and respect his confidentiality. He should have been informed that the advocate had asked for a copy of his policy and his consent should have been sought.

Disclosure of personal information may occur without consent if it would be in the interest of the organisation or any third party as long as it is not unduly prejudicial to the data subject. In this case the policy holder suffered distress and illness as a result of the disclosure. Not being believed in court had a negative impact on him.

Where the information is necessary for the prosecution of offenders then, under section 29 of the Law, information relating to the data subject may be disclosed without informing him. In this case as the data subject (the policy holder) was not being prosecuted the section 29 exemption did not apply.

The Commissioner advises organisations to give careful consideration to the use of the section 35 exemption. In disclosing personal information about clients or staff without informing them and obtaining their consent trust and confidence is very likely to be lost. If the requested information is absolutely necessary for the purpose of court proceedings then it is preferable for a court order to be issued particularly in cases such as this.

The company in this case gave an undertaking to the Commissioner that no disclosures would in future be made under section 35 unless the policy holder consented or where a court order was issued.

*Case Study 2 –Payment Card Security*

When paying by cheque, a person was asked by the merchant to produce her debit card. The merchant then entered the card details including the CVV number (from the back of the card) on to a form which the person was asked to sign. The person protested about the storage of the CVV number, but as she needed the product immediately, she reluctantly signed the form. She contacted the Commissioner about her concerns.

The merchant when contacted explained that cheques of any value were accepted provided that a customer signed a form and provided their debit card details as back up in the event of a problem with the cheque. The form was retained by the merchant for a period of 30 days so, for instance, payment could be obtained when a cheque bounced.

According to the Payment Card Industry (PCI) Regulations, the CVV number must only be used to authenticate the card in non-face to face transactions. Its purpose is not as an alternative form of payment. The retention of CVV numbers by merchants creates a significant risk to the security of personal data as card details may be used to fraudulently purchase goods on-line or by telephone.

The merchant was informed of the PCI Regulations and was referred to advice which the Commissioner has issued in media releases on this issue. The merchant ceased the practice and stated that other methods of payment guarantee would be considered.

*Case Study 3 – Itemisation of Combined Telephone Billing*

An individual complained to the Commissioner that a local telecommunications company had breached her data protection rights, had unlawfully shared her personal data with another party and had caused her considerable distress in the process.

On wishing to swap over to a new blackberry contract, she was informed by a staff member that for the transfer to be compliant with data protection the consent of her husband was necessary. She had held a contract in her own name for some years.

Apparently, the company had decided some weeks before this incident to amalgamate mobile phone billing with landline billing of customers living in the same household.

The company explained that it had notified its customers by text that it would change its billing process. There was an assumption that subscribers who did not wish this to happen would inform the company if they did not want their bill merged with the bill of any member of their household.

This complaint was investigated in conjunction with the Director of the Office of Utility Regulation (OUR).

Subsequently the company sent letters to all customers affected by the merging project to inform them they could revert to individual billing if they wanted to. They were given a choice to have either an individual or joint account.

In addition, the Commissioner and the Director of OUR invited all the local telecommunications companies to help in developing guidelines on the processes that should be followed when customer bills are merged.

These guidelines are now in operation and followed by all local companies. Every customer has the right to request a personally addressed bill from a telecommunications service provider.

In addition to the Data Protection Law, the Commissioner is also responsible for the enforcement of the Privacy and Electronic Regulations. These regulations prohibit unsolicited e-mail /SMS marketing to individuals unless they have given prior consent.

*Case Study 4 – Disclosure of Email Addresses*

A company sent a newsletter by e-mail to a customer but included his e-mail address in a list of 1,170 other recipients. He had not wanted his personal e-mail address disclosed to such a vast number of other people. Moreover he stated that he had not given his e-mail address to the company. He complained to the Commissioner that there had been an invasion of his privacy and confidentiality.

The Commissioner wrote to the company and informed them that this practice appeared to contravene the European Communities (Implementation of Council Directive on Privacy and Electronic Communications) (Guernsey) Ordinance, 2004, in particular paragraphs 4 (confidentiality of communications) and 20 (use of e-mail for marketing purposes).

He advised the company that the correct way to send out mass mailings by email was to use the “bcc” facility which ensures that the address of each recipient is revealed only to that recipient.

Subsequently, the company:

- . Issued an apology to all the recipients;*
- . Offered assistance to anyone who needed to change their e-mail address as a result of this breach;*
- . Deleted information from its marketing database and included only those people who explicitly had consented to be communicated with by email; and*
- . Adjusted its E-mailing procedures to ensure the “BCC” option was used at all times.*

*Case Study 5 – Insurance Policy Requirements*

A person, when taking out a policy for a second vehicle, was asked to produce a copy of his driving licence. He queried the need for this and was informed that it was the company's policy to do so. Upon further enquiry he was informed that it was to ensure he was covered to drive the particular vehicle.

He raised certain data protection concerns such as the licence containing other information not relevant to a motor insurance policy and that once scanned onto a computer system the information would stay there and not be updated. If this was correct there would be a likelihood of a breach of the 3rd and 4th data protection principles.

Upon enquiry the insurance company explained that it acts as an intermediary to arrange policies for its customers. The purpose of the scanning procedure was to ensure that the individual holds a valid driving licence for the vehicle for which they require insurance cover and also to check for details of any relevant convictions. Asking to see a driving licence when customers take out new policies or when adding new drivers to existing policies is essential in ensuring that the policies which are arranged are valid. This is the main reason why driving licences are inspected and scanned on to the computer. As the original licence is scanned the accuracy of the information is assured.

It was therefore concluded that the practice of scanning driving licences on to computer was in the customers' best interests in that it ensures that the terms quoted for insurance are correct and that the policies which are arranged are not likely to be invalidated.

*Case Study 6 – Conduct of Telephone Surveys*

Two complaints were received from elderly people who thought that a telephone survey was a hoax, as they were asked about their income and any benefits which they received. This caused them a certain amount of worry. The situation was compounded as questions were asked about child care, a subject which was of no relevance to them. Both complainants reported that the interviewer persisted in asking them questions even when they said that they had no interest in child care.

On investigation it was found that this was a genuine research survey. Unlike telephone calls made for direct marketing purposes and which are governed by data protection rules telephone calls made for the purpose of research are covered by an exemption in the law. This basically means that researchers may legitimately make “cold” calls.

However, due to concerns about the conduct of the survey, the organisation responsible was approached. It was explained that the provision of child care was being reviewed in Guernsey and a telephone research campaign was conducted to obtain the views and perceptions of Guernsey residents on child care needs. It was aimed at all sections of the community, those with young children and those who have either grown up or no children.

A UK company was contracted to carry out the research. Press releases were issued to inform the public of the campaign as well as an information statement on the States of Guernsey website.

As a result of the complaints, another press release was issued and the conductors of the research were asked to give clearer explanations when doing interviews. They also agreed to give out their own direct telephone numbers rather than the generic number of the research society which employed them.



INTERNATIONAL LIAISON

International Conference of Data Protection Authorities

The Commissioner attended the 32nd International Conference of Data Protection and Privacy Commissioners, which was held in the historic city of Jerusalem from 27-29th October, 2010.

The theme of the conference was “Privacy: generations” and the full programme is available on the conference website¹³

The Commissioner attended the closed session for accredited authorities, at which the Federal Trade Commission of the United States was officially admitted, together with authorities from Albania, Bulgaria, Nova Scotia, Mexico and Moldavia.

The conference unanimously resolved to encourage the adoption of the foundation principles of “Privacy by Design”:

- Proactive not Reactive
- Preventative not Remedial
- Privacy as the Default
- Privacy Embedded into Design
- Full Functionality: Positive-Sum, not Zero-Sum
- End-to-End Lifecycle Protection
- Visibility and Transparency
- Respect for User Privacy

The 33rd Conference will be held in Mexico in November, 2011.

European Spring Conference

The European Conference was held in Prague on the 29th and 30th April, 2010. The Assistant Commissioner was one of the 200 delegates who attended.

The conference discussed the challenges which data protection authorities face from the use of new information technologies and the increasing demand for the secondary use of personal data, namely in relation to combating serious crime and terrorism. To this end the need for data protection arrangements guaranteeing a high and equivalent standard of data protection were identified and a resolution was formulated.

Presentations and discussions centred on striking a fair balance between the effectiveness and necessity of new technological devices and their impact on the privacy of individuals.

Topics of interest included cloud computing, privacy by design, use of body scanners at airports, ethnic profiling and children’s social networking. The next conference will be in Brussels in April, 2011.

¹³ <http://www.justice.gov.il/PrivacyGenerations>



International Working Group on Data Protection in Telecommunications

The Commissioner attended the two meetings of this International Working Group that were held in 2010.

The 47th meeting was held in Granada on 12th and 13th March.

The major outcome of the Granada meeting was:

“The Granada Charter of Privacy in a Digital World”¹⁴

The 48th meeting was held in Berlin on 7th and 8th September.

Both Working Group meetings discussed the production of working papers and draft recommendations addressing the following issues:

- Vehicle Event Recorders;
- Deep Packet inspection;
- Privacy and email heritage;
- Privacy and Road pricing;
- Storage of SMS messages for Law enforcement;
- Social networking;
- Use of location information;
- Geospatial data;
- International standardisation.

The papers adopted by the Working Group are published on its website¹⁵.

Many of the adopted papers are subsequently submitted to the annual International Conference as draft resolutions for debate during the closed session.

The 49th meeting of the Working Group will be held in Montréal, Canada in the spring and the 50th meeting will be held in Berlin in the autumn.

British, Irish and Islands' Data Protection Authorities

The Commissioner and Assistant Commissioner joined 12 other representatives of the authorities from the UK, Ireland, Cyprus, Jersey, Isle of Man, Gibraltar and Bermuda at the “BIIDPA” meeting held on 25th June 2010 in Jersey.

The discussions at these meetings are informal in nature, but help to ensure a consistent approach to the treatment of issues which are of common interest.

¹⁴ [Granada](#) Charter of Digital Data Protection and Freedom of information.

¹⁵ www.berlin-privacy-group.org



The delegates learnt how the Information Commissioner was using his new powers to impose monetary penalties, discussed the issues raised by some active cases in each jurisdiction, were updated on developments within the EU and on forthcoming issues to be raised at the international conference.

Liaison with the UK Government

The annual liaison meeting was held between the Commissioners from the Crown Dependencies and senior staff from the Ministry of Justice in London on 4th May 2010.

The meeting included discussion of the following topics:

- recent legislative changes in the UK;
- the forthcoming review of the EU Directive on Data Protection;
- other international data protection issues; and
- Freedom of Information policy.

Data Protection Forum

The Assistant Commissioner attended three meetings of the Data Protection Forum that were held in London during 2010; the topics covered in the meetings included:

- Updates from the Information Commissioner's Office (ICO) which included the Commissioner's new powers to impose civil penalties, to carry out audit and inspection visits and his right to do government spot checks;
- The Code of Practice on Assessment Notices (*these Notices apply when the ICO identifies a risk and the organisation is unwilling to participate in a data protection audit*);
- How the Freedom of Information Act has impacted on the definition of personal data;
- Data Security;
- Challenges and legal obligations of organisations in safeguarding personal data when using the services of contractors;
- Data Protection in the HR context;
- Measuring the success of data protection training.



Information Privacy Expert Panel

The Commissioner attended the three meetings of the British Computer Society [BCS] Information Privacy Expert Panel [IPEP], which were held in London during the year.

One of the functions of IPEP is to provide expert input to inform official responses by the BCS to UK Government consultations on matters relating to privacy and data protection policy.

The IPEP includes members from academia, the public and private sectors and has considered various topics, including drafting responses to UK Government proposals for increased enforcement powers for the Information Commissioner.

The IPEP contributed to the BCS response to the EU Consultation on the future of the Data Protection Directive.

Copies of the BCS responses to consultations may be viewed on its website¹⁶

The cost of attendance at these meetings of the IPEP and at any related meetings is borne by the BCS.

International Standards Organisation

The Commissioner attended two meetings of Panel 5 of the SC27 Working Group of the International Standards Organisation, in London. Remaining work was conducted by email.

This Panel is concerned with the development of International Standards in the ISO 29100 series on information management and privacy. The majority of the work was conducted by email and comprised comments on committee drafts of individual proposed standards. It is expected that the first of this series of standards will be published in 2011.

¹⁶ <http://www.bcs.org/server.php?show=nav.5853>



OBJECTIVES FOR 2011

The objectives for 2011 remain as follows:-

- ***Legislation***

Detailed work on any proposed amendments to the Data Protection legislation will continue as and when appropriate.

- ***Adequacy and International Transfers***

Work will continue to ensure that the European Commission's adequacy finding for the Data Protection régime in the Bailiwick is respected and that international data transfers comply with the eighth Data Protection principle.

- ***British Isles and International Liaison***

Participation in relevant UK, European and international conferences will continue as a means of enhancing the international recognition of the independent status and regulatory prowess of the Bailiwick and ensuring that local knowledge of international developments remains up to date.

- ***Raising Awareness***

The media will be used to continue the awareness campaign and a further series of seminars and talks for the public and private sectors will be mounted.

Collaboration with the Training Agency will continue over the organisation of courses leading to formal qualifications in data protection, such as the ISEB Certificate.

Promotion of relevant training using UK specialists will be done, with training being targeted separately to financial sector organisations, other private sector organisations and the public sector.

The publication of new literature and the review and revision of existing literature will be undertaken as the need arises.

- ***Compliance***

The programme of targeted compliance activities will continue with the aim of increasing the number of Notifications. Rigorous enforcement will continue, including consideration of prosecution of non-compliant organisations.

The monitoring of websites and periodic surveys to assess compliance with data protection legislation and the privacy regulations will continue.



- **Government**

Close liaison with the States of Guernsey Government departments will continue with the aim of promoting data sharing protocols, incorporating Privacy Impact Assessments into project planning and the further development of subject access procedures.

- **Administration**

Further paper files relating to past assessments, complaints and financial transaction will be archived to electronic media. The filing space released will be exploited for the better storage of other documents (such as contracts and administration records) that need to be kept on paper.

A review of the communications infrastructure will be carried out with the aim of improving both voice and data communications and enhancing their security.

- **Succession Planning**

The contract of the present Commissioner terminates at the end of September 2011.

Discussions with the Home Department will continue in order to plan the appointment of a successor and ensure an orderly transfer of functions in 2011.



FINANCIAL REPORT

The Data Protection Office is funded by a grant from the States of Guernsey administered by the Home Department in accordance with Schedule 5 to the Law and based on an annual estimate of expenditure prepared by the Commissioner.

In accordance with Section 3 of Schedule 5 of the Law, all fees received are repaid into the General Revenue Account.

The Income and Expenditure, which are included within the published accounts for the Home Department, have been as follows:

<u>INCOME</u>	2010	2009
	£	£
Data Protection Fees ¹	63,611	52,760
<u>EXPENDITURE</u>		
Rent ²	16,460	13,030
Salaries and Allowances ³	166,355	166,996
Travel and Subsistence	9,119	11,171
Furniture and Equipment	12,278	17,940
Publications	3,035	2,623
Post, Stationery, Telephone	3,592	4,177
Heat Light, Cleaning	7,232	6,918
TOTAL EXPENDITURE	£218,071	£222,855
EXCESS OF EXPENDITURE OVER INCOME	£154,460	£170,095

NOTES

¹Fees increased from £35 to £50 per notification or renewal of a notification on 1st March 2010.

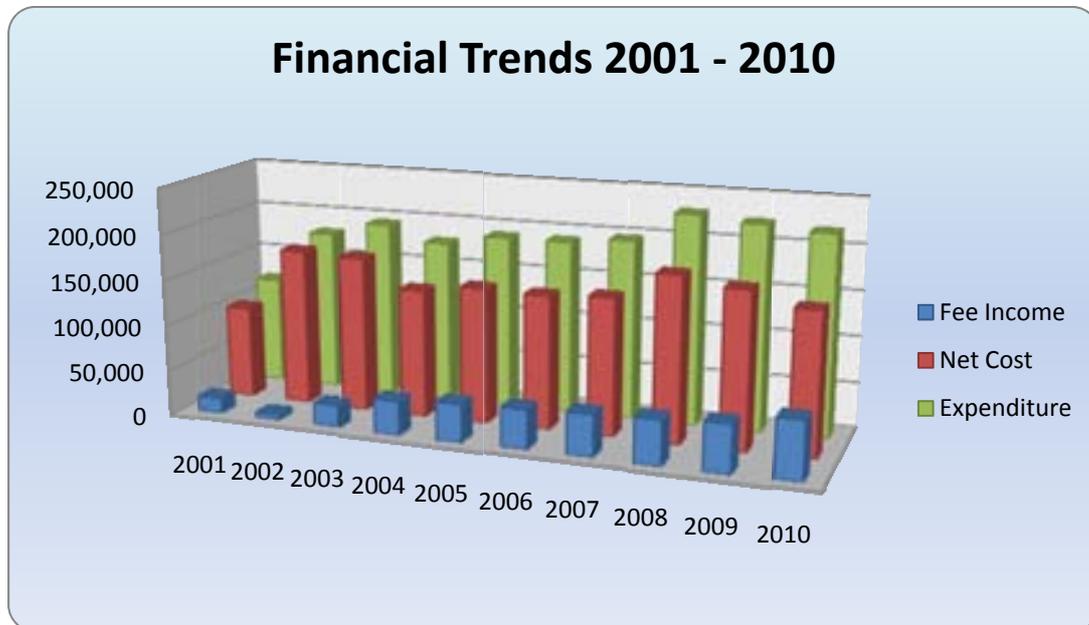
The cash received for notifications in 2010 was £75,658 (£54,460 in 2009) representing the 1,701 (1,556) annual notifications and renewals that were processed during the year.

² The rent was reviewed upwards in the autumn of 2009, with effect from 2010, but because of accruals, the rental accounted for in 2009 was artificially low.

³ This includes an amount of £500 (£7,210 in 2009) for consultancy fees.



The financial trends in income and expenditure since 2001 are shown graphically below.

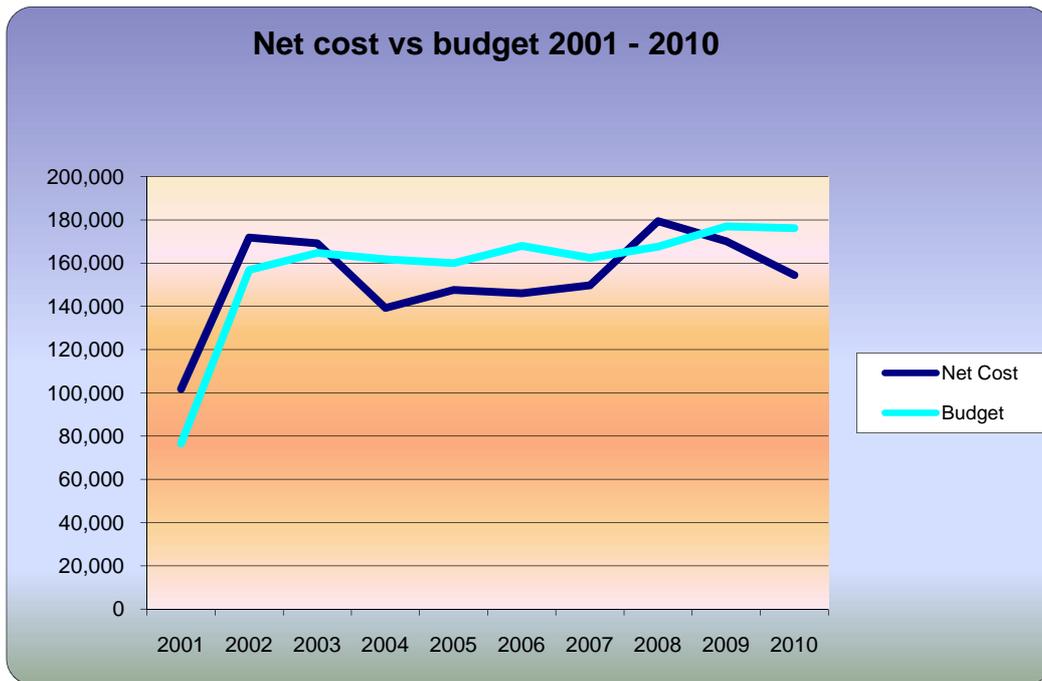


Expenditure for 2010 fell by £4,784 (2.1%), primarily due to reduced consultancy costs and travelling expenses. Income from notification fees rose by £10,851 (20%) as a result of the increased notification fee of £50 and a small increase in the number of notifications.

Hence, as a result of these measures, the net cost of the Office to the taxpayer fell by £15,635 (9.2%).

Detailed accounts were submitted to the Home Department in accordance with established practice and as required by paragraph 3 of Schedule 5 to the Law.

The chart below depicts the net cost against budget for the years from 2001 to 2010. The combined effect of a reduction in expenditure and an increase in income has enabled the cost to fall to a similar level as in 2007.



The Commissioner appreciates the continued administrative support that has been forthcoming from the Home Department and is grateful for the continued technical support provided by the ITU.

In accordance with the reporting standards contained within the Internal Audit report, the Commissioner hereby confirms that no gifts or hospitality were received by him or his staff during 2010.



Appendix A -

THE DATA PROTECTION PRINCIPLES

1. Personal data shall be processed fairly and lawfully and special conditions apply to the processing of sensitive personal data.
2. Personal data shall be obtained for one or more specified and lawful purposes.
3. Personal data shall be adequate, relevant and not excessive in relation to the purposes for which they are processed.
4. Personal data shall be accurate and kept up to date.
5. Personal data shall not be kept for longer than necessary.
6. Personal data shall be processed in accordance with the rights of data subjects.
7. Technical and organisational measures shall be taken against unauthorised or unlawful processing and against accidental loss or damage to personal data.
8. Personal data shall not be transferred to a country or territory outside the Bailiwick unless the destination ensures an adequate level of protection for the data.



THE PRIVACY AND ELECTRONIC COMMUNICATIONS REGULATIONS

1. Telecommunications services must be secure and information processed within such services must be kept confidential.
2. Traffic data should not be retained for longer than necessary and the detail of itemised billing should be under subscriber control.
3. Facilities should be provided for the suppression of calling line and connected line information.
4. Information on the subscriber's location should not generally be processed without consent.
5. Subscribers may choose not to appear in directories.
6. Automated calling systems may not be used for direct marketing to subscribers unless they have opted in.
7. Unsolicited faxes may not be sent to private subscribers unless they have opted in or to business subscribers who have opted out.
8. Unsolicited marketing calls may not be made to subscribers who have opted out.
9. Unsolicited email marketing may not be sent to private subscribers and must never be sent where the identity of the sender has been disguised or concealed.
10. The Data Protection Commissioner may use enforcement powers to deal with any alleged contraventions of the Regulations.

Further information about compliance with the Data Protection (Bailiwick of Guernsey) Law 2001 and the Privacy and Electronic Communications Regulations in Guernsey, Alderney and Sark, can be obtained from:



Data Protection Commissioner's Office
P.O. Box 642
Frances House
Sir William Place
St. Peter Port
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GY1 3JE

E-mail address: dataprotection@gov.gg
Internet: www.dataprotection.gov.gg
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 Email enquiry@ssd.gov.gg
 www.gov.gg

Deputy L S Trott
 Chief Minister
 Policy Council
 Sir Charles Frossard House
 PO Box 43, St Peter Port
 Guernsey
 GY1 1FH

Our Ref:

Your Ref:

Date: 13 July 2011

Dear Deputy Trott

Actuarial Reviews of the Social Insurance Law, Health Service Law and Long-term Care Insurance Law

Section 102 of the Social Insurance (Guernsey) Law, Section 20 of the Health Service (Benefit) (Guernsey) Law, 1990, and Section 26 of the Long-term Care Insurance (Guernsey) Law, 2002 require there to be actuarial reviews of the operation of those Laws at intervals not exceeding five years and for the Actuary's reports of those reviews to be laid before the States as soon as is practicable.

I attach a copy of a report by the Government Actuary on the operation of the Social Insurance Law covering the five year period from 1 January 2004 to 31 December 2008. At the request of the Department, the review also takes account of events in the year after the effective date and so addresses the requirement of the Law as at an effective date of 31 December 2009. Attached to that report is a copy of a memorandum, dated 24 June 2011, from the Government Actuary's Department showing updated estimates of the increases in the employers' contribution rate necessary for the long-term financial sustainability of the Fund.

I also attach copies of reports by the Government Actuary on the operation of the Health Service Law and the Long-term Care Insurance Law covering the four year period from 1 January 2006 to 31 December 2009.

I should be grateful if you would arrange for these reports to appear as appendices to the September Billet d'État, as they are referred to in the Department's annual report on the rates of contributions and benefits.

Yours sincerely

M H Dorey
 Minister

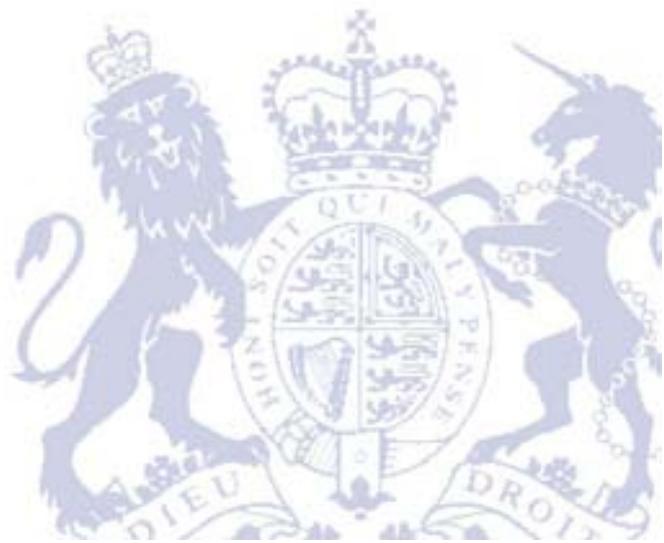
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Social Insurance (Guernsey) Law 1978
Report on the operation of the Social Insurance (Guernsey) Law in
the period 1 January 2004 to 31 December 2009

Date: June 2011

Author: Trevor Llanwarne



Review of the Guernsey Insurance Fund as at 31 December 2009

THE SOCIAL INSURANCE (GUERNSEY) LAW 1978

REPORT BY THE GOVERNMENT ACTUARY ON THE OPERATION OF THE SOCIAL INSURANCE (GUERNSEY) LAW IN THE PERIOD 1 JANUARY 2004 TO 31 DECEMBER 2009

To the Minister and Members of the Social Security Department:

Section 102 of the Social Insurance (Guernsey) Law 1978 (as amended) provides for a review of the operation of the Social Insurance Law at intervals not exceeding five years. The Government Actuary's previous review covered the period of five years up to 31 December 2003. At the request of the Social Security Department, I have carried out a review covering the five year period from 1 January 2004 to 31 December 2008. As further requested by the Department my review takes account of events in the year after the effective date, and so also addresses the requirement of the Law as at an effective date of 31 December 2009. I submit the following report on the financial condition of the Guernsey Insurance Fund and on the adequacy of the present contribution rates. All the references to Guernsey in this report are to be taken to include also the islands of Alderney, Herm and Jethou, whose residents are covered by the Social Insurance Law.



Trevor Llanwarne FIA
Government Actuary

June 2011

Review of the Guernsey Insurance Fund as at 31 December 2009

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1 Executive summary

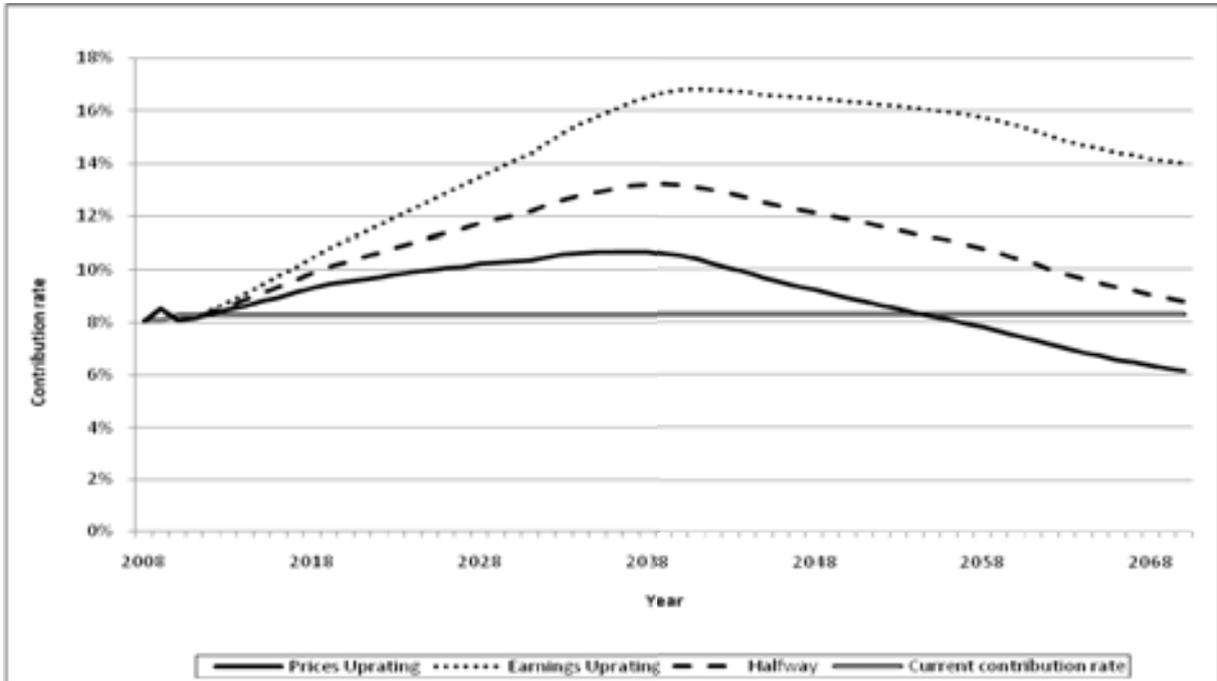
- 1.1 This report has been prepared for the Minister and Members of the Social Security Department.
- 1.2 Section 102 of the Social Insurance (Guernsey) Law 1978 (as amended) requires an actuary to review the operation of the Social Insurance Law at intervals not exceeding five years. The previous review was as at 31 December 2003. This report addresses this requirement as at an effective date of 31 December 2008. As requested by the Department on 18 May 2010, it takes account of events in the year after the effective date, and so also addresses the requirement of the Law as at an effective date of 31 December 2009. The next report will be due as at an effective date no later than 31 December 2014.
- 1.3 The aim of this report is to review the financial condition of the Guernsey Insurance Fund ("the Fund") and the adequacy of the contributions payable. It includes projections over the period from 2010 to 2070 for:
- > the contributions required to balance projected benefit payments
 - > the progress of the Fund if the current contribution rates were maintained
- 1.4 This review allows for changes made to the Fund since the previous review as at 31 December 2003, including the planned increase in pension age between 2020 and 2031 agreed as part of the Pensions Puzzle exercise.
- 1.5 The projections suggest that the current contribution rate is likely to remain adequate if benefits and earnings limits are up-rated in line with prices. Up-rating of benefits and earnings limits by more than prices would require an increase in contribution rates or increased net immigration.
- 1.6 The following sections show the key projection results on which this conclusion is based.

Break-even contributions

- 1.7 The chart below shows how the projected "break-even joint contribution rate" - that is, the combined Class 1 contribution rate from employers and employees required to balance benefit expenditure - is expected to change over time. Projections are shown assuming benefits and earnings limits are up-rated in line with prices or earnings, or halfway between the two, based on a real earnings growth assumption of 2% a year. For example, the projected break-even contribution rate in 2020 assuming earnings up-rating is 11.1% a year of relevant band earnings.
- 1.8 The projected break-even contribution rate is generally higher than at the last review. This is because the ratio of contributors to pensioners in future years is projected to be lower than at the previous review, reflecting the greater longevity projected at this review and an increase in the assumed number of overseas pensioners. The projected future path of the break-even contribution rate is different to that at the previous review due to the different assumed migration pattern. These projections assume variable future migration set to be sufficient to maintain the total population at the April 2007 level.

Review of the Guernsey Insurance Fund as at 31 December 2009

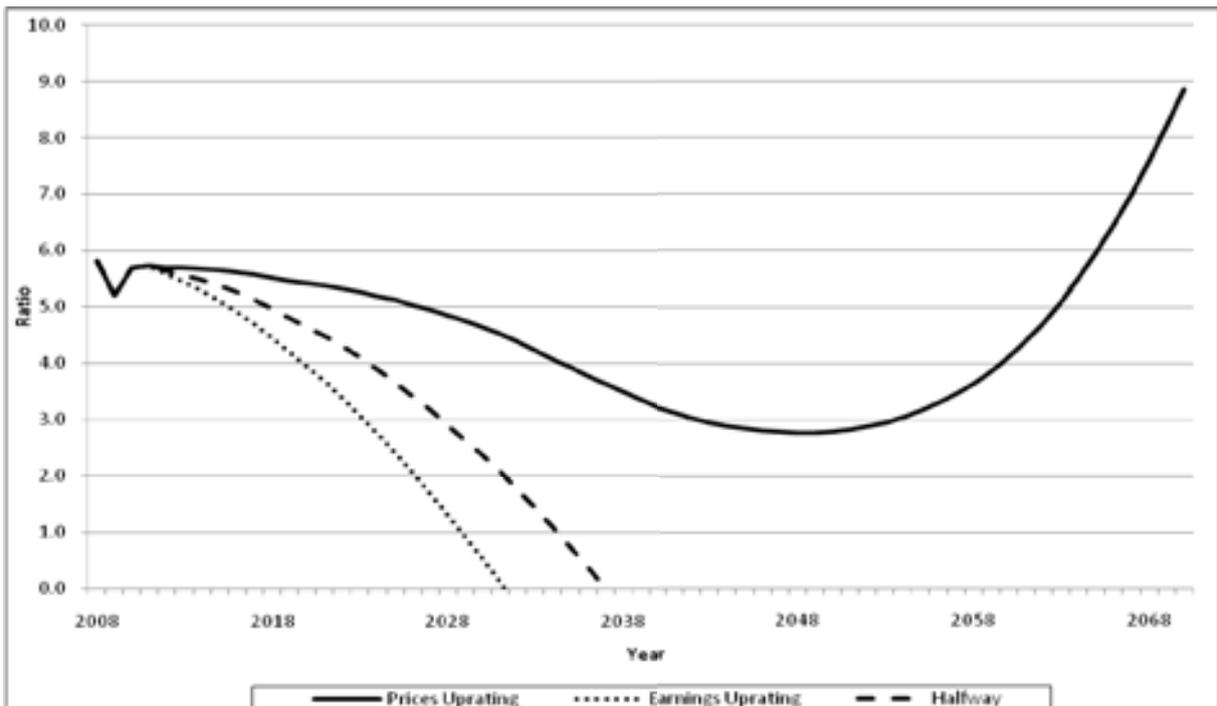
Figure 1.1: Break-even contribution rate based on migration set to be sufficient to maintain the total population at the April 2007 level



Fund progress if contributions remain the same

1.9 Figure 1.2 below shows the progress of the fund under different up-rating scenarios, assuming the current joint employer and employee contribution rate of 8.3% is unchanged and assuming variable future migration, set to be sufficient to maintain the total population at the April 2007 level.

Figure 1.2: Progression of Fund based on migration set to be sufficient to maintain the total population at the April 2007 level



Review of the Guernsey Insurance Fund as at 31 December 2009

- 1.10 Assuming up-rating in line with prices, the Fund's balance is projected to be relatively stable until about 2018 before gradually declining. It increases again from about 2049 as the number of contributors for each pensioner starts to increase, in line with the projected increase in the working-age population. Assuming up-rating in line with earnings, the Fund is projected to fall to below one year's expenditure by 2029.
- 1.11 This is a worsening in comparison to the last review where the fund was projected to fall below one year's expenditure by 2038 assuming net immigration of 200 a year and up-rating in line with earnings. The reasons for this worsening are the different assumed migration pattern, with fewer working age contributors, and greater longevity than was assumed at the previous review.

Assumptions

- 1.12 The figures illustrated above are projections and depend on assumptions made about the future. The principal assumptions adopted in carrying out the current Fund review are summarised in Table 1.3 below.

Table 1.3: Summary of principal assumptions used in the current Fund Review

Factors	Principal assumption
General population	Population projections for Guernsey based on ONS 2008-based projections for England and Wales, adjusted having regard to population count data for Guernsey for the years 2007 to 2009
Migration	Migration set to be sufficient to maintain the total population constant at the April 2007 level
States grant	States grant will continue to be 15% of contributions
Labour market participation	Constant subject to unemployment assumption
Unemployment	Constant at 250
Price inflation	3% a year
Earnings increases	2% a year net of price inflation
Investment return	3.5% a year net of price inflation
Up-rating of benefits and earnings limits	In line with prices or earnings or halfway between the two

- 1.13 The projections are very sensitive to the approach used to up-rate benefit rates and earnings limits, and to the future population profile of Guernsey. This report provides results for four migration scenarios with the principal assumption adopted being chosen as requested to align with the States Population and Migration Policy Statement.
- 1.14 There is considerable uncertainty about the future progress of the Fund and therefore caution is needed when using the projections in this report. Users should read the main body of this report to understand the uncertainty and limitations surrounding these projections.
- 1.15 In our opinion the range of assumptions underlying the projections in this report cover a reasonable range and the methodology used in preparing these projections is appropriate for its purpose and consistent with actuarial principles.

2 Introduction and scope of the review

- 2.1 This report has been prepared for the Minister and Members of the Social Security Department. The Department is required to lay a copy before the States as soon as is practicable after receiving it.
- 2.2 The Guernsey Insurance Fund is financed broadly on the pay-as-you-go principle. The cash flows into and out of the Fund are contributions paid each year by individuals and employers, and benefits paid to individuals according to their entitlement. Under the pay-as-you-go approach, contribution income in a year is intended to cover expenditure in the year, and no significant fund of assets would be built up out of which to finance future expenditure. This means contribution rates may change significantly over time owing to changes in the benefit structure, population or economic activity. The long-term objective is to maintain a Fund balance approximately equal to two years' outgo, while keeping the contribution rate relatively stable.
- 2.3 Section 102 of the Social Insurance (Guernsey) Law 1978 (as amended) requires an actuary to review the operation of the Social Insurance Law at intervals not exceeding five years, and "on each such review, make a report to the Department on the financial condition of the Guernsey Insurance Fund and the adequacy or otherwise of the contributions payable under this Law to support the benefits payable thereunder having regard to its liabilities under this Law."
- 2.4 This report addresses this requirement as at an effective date of 31 December 2008. As requested by the Department on 18 May 2010, it takes account of events in the year after the effective date, and so also addresses the requirement as at an effective date of 31 December 2009. The previous report, issued in October 2004, was prepared as at an effective date of 31 December 2003. The next report will be due as at an effective date no later than 31 December 2014.
- 2.5 To meet the legislative requirement above, this report includes projections over the period from 2010 to 2070 for:
- > the contributions needed to balance projected benefit payments
 - > the progress of the Fund if the current contribution rates were maintained.
- 2.6 The projections are dependent on the data, methodology and assumptions used. They are particularly sensitive to the approach used to up-rate benefit rates and earnings limits, and to the future population profile of Guernsey.
- 2.7 There is considerable uncertainty about the future progress of the Fund and actual experience could differ materially from the projections. Sections 6 and 7 provide further comments on this.
- 2.8 It is anticipated that the results in this report will be used by the Social Security Department for information purposes and for considering possible changes to contributions or benefits payable. However, before deciding on any changes, further actuarial advice should be sought in order to confirm the likely impact on the finances of the Fund. Furthermore, in making decisions about the Fund, it will also be appropriate to take into account non-actuarial matters, such as legal, administrative and policy issues.
- 2.9 This report complies with the 'Guidelines of Actuarial Practice for Social Security Programs' issued by the International Actuarial Association and effective from 1 January 2003.

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2.10 This report is not subject to, and does not therefore need to comply with, the Technical Standard on Reporting Actuarial Information (TAS R), Data (TAS D) and Modelling (TAS M) issued by the UK Board for Actuarial Standards. Nevertheless in producing this report we have followed the principles of TAS R, TAS D and TAS M to a sensible and practical extent.

Reliances and limitations

2.11 This report has been prepared for the Minister and Members of the Social Security Department. We understand that the information in this report may be made available to others. However GAD does not accept any liability to third parties in relation to this report.

2.12 This review relies on the accuracy of data and information provided by the Social Security Department. GAD does not accept responsibility for advice based on wrong or incomplete data or information provided.

2.13 The advice provided must be taken in context. Advice is intended to be read and used as a whole and not in parts. GAD does not accept responsibility for advice that is altered or used selectively.

2.14 Clarification should be sought if there is any doubt about the intention or scope of advice provided in this report. GAD is not responsible for any decision taken by the Social Security Department, except to the extent that the decision has been made in accordance with specific advice provided.

2.15 All references to Guernsey in this report are to be taken to include also the islands of Alderney, Herm and Jethou.

3 How the Fund works

- 3.1 The Fund is a contributory social security scheme providing a range of benefits including old age, sickness, and unemployment benefits.
- 3.2 The Fund is financed broadly on the pay-as-you-go principle. Under this approach, contribution income in a year is intended to cover expenditure in the year, and no significant fund of assets would be built up out of which to finance future expenditure. This means contribution rates may change significantly over time owing to changes in the benefit structure, population or economic activity.
- 3.3 However, notwithstanding the pay-as-you-go principle, a fund is maintained to act as a reserve to meet unforeseen contingencies in the operation of the Fund. As at 31 December 2009, the balance of the fund held was in excess of £500 million.
- 3.4 Appendix A provides a summary of the contributions payable and the benefits provided. It is not a requirement to be a Guernsey resident in order to receive a benefit from the Fund and, in practice, the old age pension is paid to many individuals who do not remain on the Island in retirement.
- 3.5 Contributions are paid by employers, employees, the self-employed and the non-employed. Employees and their employer pay a total of 8.3% of earnings up to the upper earnings limit, subject to a lower earnings limit. (This does not include contributions payable to the Guernsey Health Service Fund or the Long-term Care Insurance Fund.) Similar contributions are paid by self-employed and non-employed persons unless they are exempt. The States also provide central funding to the Fund. The States grant is defined as a percentage of total contributions and is currently paid at a rate of 15%.
- 3.6 There have been a number of changes to the Fund since the previous review, including reductions in the States grant and increases in the contribution rates payable by employers, employees and the self-employed. The Social Security Department also carried out a consultation process since the previous review, known as the 'Pension Puzzle' exercise to consider potential changes to the Fund with the aim of securing its future financial sustainability. The most significant change resulting from this review is an increase in the pension age from 65 to 67 over the period 2020 to 2031, with pension age increasing by two months every year.
- 3.7 Appendix B provides details of income and expenditure in the Fund since the previous review as at 31 December 2003 and Section 5 of this report provides details of all the changes to the Fund since the previous review. The projections provided in this report make allowance for these changes.

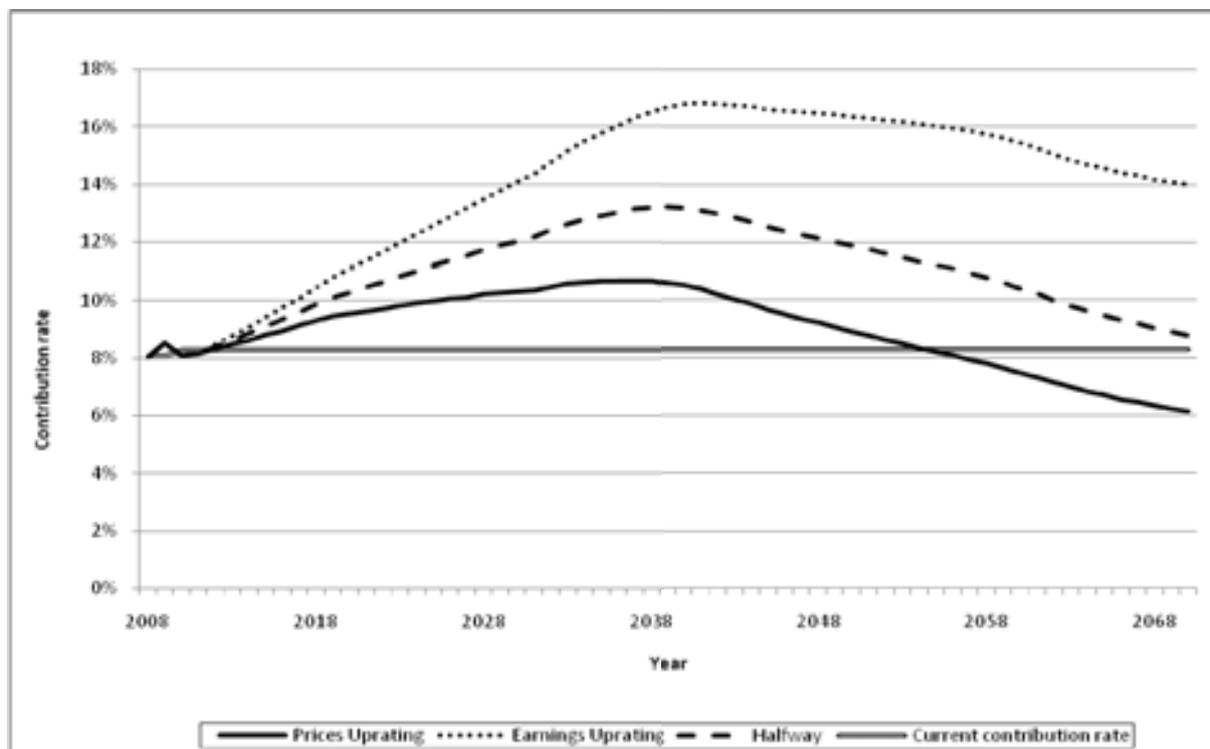
4 Results based on the principal assumptions

- 4.1 This report provides projections over the period from 2010 to 2070 for:
- > the projected “break-even” contribution rate
 - > the projected average Fund balance expressed as a proportion of annual expenditure assuming current contribution rates are maintained.
- 4.2 These projections assume variable migration such that the total population remains constant at the April 2007 level and real earnings growth of 2% a year. More details of the assumptions underlying these projections are provided in Section 6. The effect of varying these assumptions is shown in Section 7.
- 4.3 Appendix C provides a summary of the data used for these projections.

Break-even contribution rate

- 4.4 The contributions required to balance projected benefit payments are shown in terms of the Class 1 “break-even” contribution rate. This is the contribution rate required to exactly balance contribution income with expenditure on benefits and administration costs. It is determined based on contribution income and expenditure on a pay-as-you-go basis. It does not include any allowance for returns on investments. The “break-even” contribution rate is assessed in terms of the joint Class 1 contribution rate, that is, it is the combined Class 1 contribution rate from employers and employees. It is assumed that contribution rates for self-employed and non-employed contributors would be changed pro rata to the Class 1 rate.
- 4.5 Figure 4.1 below shows how the projected joint Class 1 break-even contribution rate is expected to change over time, based on an assumption of variable migration such that the total population remains constant at the April 2007 level. Projections are shown assuming benefits and earnings limits are up-rated in line with prices or earnings, or halfway between the two, based on a real earnings growth assumption of 2% a year. The contribution rates are expressed as a percentage of relevant band earnings and the projections allow for the convergence of the employees’ and employers’ upper earnings limit over the period to 2014.
- 4.6 The chart also shows the current contribution rate payable, including the increase in the joint Class 1 contribution rate from 1 January 2010. The break-even contribution rates for 2008 and 2009 are based on actual contributions and benefit expenditure in those years. The increased expenditure as a result of relatively high unemployment in 2009 resulted in a higher break-even contribution rate in that year.

Figure 4.1: Break-even contribution rate based on migration set to be sufficient to maintain the total population at the April 2007 level



- 4.7 The chart shows that up-rating benefits and earnings limits in line with earnings results in a higher break-even contribution rate than is the case under a price up-rating assumption.
- 4.8 In all three up-rating scenarios there is a point of inflection around 2040 where the break-even contribution rate starts to reduce. This is due to increases in the working age population from about 2040 and a corresponding change in the ratio of contributors to beneficiaries. The variable migration underlying these projections results in net emigration being projected until the 2020s and net immigration thereafter, with a maximum net immigration assumption of just over 300 in the 2050s.
- 4.9 Based on up-rating of benefits and earnings limits in line with earnings, the required break-even contribution rate increases to a maximum of 16.9% of earnings around 2041. The required break-even contribution rate based on up-rating of benefits and contribution limits in line with prices is driven by changes in the population profile and also the relative difference between price and earnings inflation. Based on up-rating in line with prices, the required break-even contribution rates increases to a maximum of 10.7% of earnings around 2037.
- 4.10 Appendix D shows the projected joint Class 1 break-even contribution rate at 10-year intervals for each up-rating scenario.
- 4.11 The projected break-even contribution rates are generally higher than at the last review. This is because the ratio of contributors to pensioners in future years is projected to be lower than at the previous review, reflecting the greater longevity projected at this review and an increase in the assumed number of overseas pensioners. The previous review projected there to be 1.2 contributors to each pensioner by 2063, whereas this has reduced to 1.1 contributors to each pensioner by 2063 in the current review. The different assumed migration pattern for the current

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review means that the number of contributors to each pensioner falls to 1.0 in 2049 before increasing again.

- 4.12 The projected future path of the break-even contribution rate is different to that at the previous review, again, due to the different assumed migration pattern.
- 4.13 Details of projected break-even contribution rates assuming up-rating in line with earnings at the 2003 review, based on a 200 net immigration assumption, and the current review, based on the variable migration assumption, are set out in the table below.

Table 4.2: Break-even contribution rates

Projection Year	2003 Review	2009 Review
2008	6.4%	8.0%
2063	13.1%	14.9%

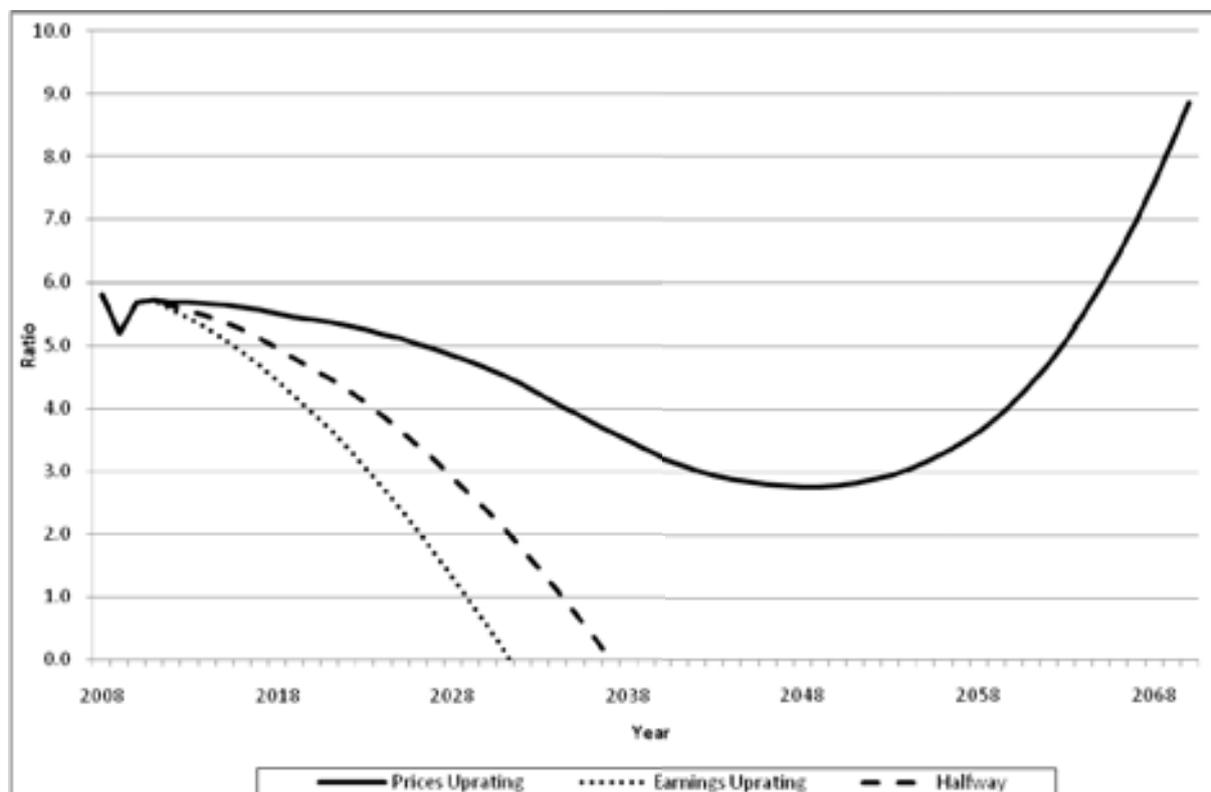
- 4.14 The current joint Class 1 contribution rate is 8.3% of relevant band earnings. The projections suggest that this contribution rate may remain adequate over the long-term if benefits and earnings limits are up-rated in line with prices. However this would be subject to there being a sufficient fund balance and sufficient investment income to support the fund in years when benefit expenditure exceeds contribution income.

Fund progress if contribution rate remains the same

- 4.15 The progress of the Fund is shown in terms of the projected average Fund balance in a year expressed as a proportion of the annual expenditure on benefits and administration costs, assuming current contribution rates are maintained. Unlike the projections of break-even contribution rates, the projections of the progress of the Fund allow for investment returns, including re-investment of investment income, at an assumed real rate of return of 3.5% a year in excess of RPIX price inflation.
- 4.16 In 2009, the average balance of the Fund was 5.2 times expenditure in the year. It was slightly higher in 2008 at 5.8 times expenditure in that year. The lower average fund to expenditure in 2009 reflects a lower average Fund balance due to an unrealised investment loss in 2008 and higher benefit expenditure in 2009, due in part to relatively high unemployment in the year. The current average Fund balance is comparable to that observed at the time of the previous review as at 31 December 2003 of 5.25 times expenditure.
- 4.17 Figure 4.3 below shows how the average Fund balance, as a proportion of annual expenditure, is expected to change over time, assuming the current Class 1 joint employer and employee contribution rate of 8.3% is unchanged. Projections are shown assuming benefits and earnings limits are up-rated in line with prices or earnings, or halfway between the two, based on a real earnings growth assumption of 2% a year.

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Figure 4.3: Progression of Fund based on migration set to be sufficient to maintain the total population at the April 2007 level



- 4.18 The Fund is projected to remain positive over the long-term based on up-rating of benefits and earnings limits in line with prices.
- 4.19 The chart shows that, based on up-rating in line with prices, the Fund's balance is projected to be relatively stable until about 2018 before gradually declining. It increases again from about 2049 as the number of contributors for each pensioner starts to increase, in line with the projected increase in the working-age population.
- 4.20 Assuming up-rating of benefits and earnings limits in line with earnings, the Fund is projected to decline as a multiple of annual expenditure, falling below one year's expenditure by 2029 and is projected to be extinguished by 2031.
- 4.21 Appendix E shows the projected progress of the Fund at 10-year intervals for each up-rating scenario.
- 4.22 At the 2003 review the fund was projected to increase over time, reaching about 18 times annual expenditure by 2063 assuming up-rating in line with prices. Based on up-rating in line with earnings, the fund was projected to fall below one year's expenditure by 2038.
- 4.23 The results of this review are not directly comparable with the results of the 2003 review due to the different assumed migration pattern. The 2003 review assumed net immigration of 200 a year whereas the variable migration underlying these projections results in net emigration being projected until the 2020s and net immigration thereafter. However, the projections are generally less favourable compared to those at the 2003 review due to the fewer working age contributors projected, and greater longevity than was assumed at the previous review.

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- 4.24 The projections suggest that the current joint Class 1 contribution rate of 8.3% of relevant band earnings is likely to remain adequate if benefit and earnings limits are up-rated in line with prices.
- 4.25 Appendix F provides detailed projections of income and expenditure, in constant 2009 earnings terms, at 10 year intervals for both price up-rating and earnings up-rating scenarios.
- 4.26 Appendix H provides charts showing the projected future population of Guernsey. Appendix I provides details of the projected future population by age and sex, based on the assumption of variable migration, such that the total population remains constant at the April 2007 level.

5 Changes since the previous review

Pension Puzzle exercise

- 5.1 During 2008 the Social Security Department carried out a consultation process, known as the 'Pension Puzzle' exercise, to consider potential changes to the Guernsey Insurance Fund with the aim of securing the future financial sustainability of the Fund.
- 5.2 The Pension Puzzle exercise resulted in the following changes being made to the Fund:
- > an increase in the pension age from 65 to 67 over the period 2020 to 2031, with pension age increasing by two months every year
 - > an increase in the upper earnings limit for employees' contributions to align with that for employers' contributions over a 5 year period starting in 2010
 - > an income allowance on which contributions are not payable by the non-employed from 2010.
- 5.3 This review makes allowance for all these changes.
- 5.4 The Pension Puzzle exercise suggested some variation in the allocation of contributions between the Guernsey Insurance Fund, the Guernsey Health Service Fund and the Long-term Care Insurance Fund. This review assumes that contribution income to the Guernsey Insurance Fund is in line with published contribution rates and no allowance is made for potential re-allocations between the three Funds.

Demographic assumptions

- 5.5 The principal population assumptions underlying the projections allow for greater future longevity and higher future fertility than was the case at the 2003 review. The principal migration assumption, allowing variable migration such that the total population remains constant at the April 2007 level, is different to that assumed for the 2003 review. The 2003 review assumed future net immigration of 200 a year. The assumption adopted is in line with States Population and Migration Policy Statement.

Contribution rates and earnings limits

- 5.6 Contributions are paid by employers, employees, the self-employed and non-employed. Contributions are paid by, and on behalf of, those earning above the lower earnings limit, with contributions payable on total earnings up to the upper earnings limit. Further details on contributions payable are provided in Appendix A. Since the 2003 review both contribution rates and earnings limits have changed.
- 5.7 The employer contribution rate increased from 4.1% to 4.9% from January 2008 and the employee contribution rate increased from 3.2% to 3.4% from January 2010. The self-employed contribution rate also increased from 6.3% to 6.5% from January 2010. The non-employed contribution rate is unchanged at 5.7%.
- 5.8 There were significant increases in the upper earnings limit (UEL) for both employers and employees in 2007 and 2008. Further increases in the employee UEL are planned in future years, in line with the outcome of the Pension Puzzle exercise.
- 5.9 The projections provided in this report allow for all these increases, including those that come into force after the effective date of the review of 31 December 2009.

States grant

5.10 The States grant is the amount of central funding paid into the Fund. It is defined as a percentage of total contributions. The amount of the States grant has reduced since the 2003 review. From January 2007 the States grant reduced from 50% to 36%. It was further reduced to 15% with effect from January 2008. The States grant has been unchanged since January 2008. This review assumes that the States grant will remain unchanged at 15%.

Fund experience

5.11 The balance of the Fund has generally increased steadily over the period since the last review, although there was a fall in the balance of the Fund at the end of 2008. This fall was primarily a result of a large unrealised investment loss in the year, reflecting turmoil in global financial markets at that time.

5.12 Total contribution income continued to increase, despite the reduction in the States grant in 2007 and 2008, partly as a result of the increases in the upper earnings limits in 2007 and 2008 and the increase in the employer's contribution rate in 2008. However expenditure has increased at a faster rate than total contributions resulting in the operating surplus reducing in 2008 and with an operating deficit emerging in 2009.

5.13 Increases in benefit expenditure are largely driven by increases in old age pension benefits. Benefits have increased on average by about 5% each year. There was large increase in Travelling Allowance Grants in 2009, with costs increasing by £0.5 million from £1.6 million in 2008 due to greater expenditure on emergency flights, and expenditure on unemployment benefits more than doubled, from £0.6 million in 2008 to £1.3 million in 2009.

Gender equality legislation

5.14 Gender equality legislation became effective from 1 January 2004 with all women paying full rate contribution rate from this date, where previously married women had the option to pay reduced rate contributions. Similarly, greater proportions of women are receiving pension benefits based on their own contribution record, rather than based on their husband's contributions record. The review as at 31 December 2003 made allowance for the expected changes in benefits and contributions. Some data are now available to consider how actual experience compares with the assumptions made at the previous review. As such, the allowance made for the transitional arrangements at the 2003 review has been modified for the 2009 review.

6 Assumptions used

- 6.1 The results provided in this report are projections and depend on assumptions made about the future. The assumptions adopted are based on data and information provided by the Social Security Department. We have relied on the accuracy of these data and GAD does not accept responsibility for advice based on wrong or incomplete data or information provided.
- 6.2 The demographic and economic assumptions underlying these projections are inevitably subject to a considerable degree of uncertainty, particularly for the more distant future. Therefore there is considerable uncertainty about the future progress of the Fund and actual experience could differ materially from the projections.
- 6.3 Details of the principal assumptions underlying the projections results provided in Section 4 are provided below. The projections in Section 4 are provided for three up-rating scenarios as the results are very sensitive to the approach used to up-rate benefit rates and earnings limits.
- 6.4 The projections are also sensitive to changes in the future population profile of Guernsey or economic activity. Section 7 provides projections based on variant migration assumptions to demonstrate how varying assumptions can affect the projected progress of the Fund. Section 7 also provides projections for a variant real earnings growth assumption.
- 6.5 The projections are also sensitive to the assumptions underlying the estimates of Old Age Pension benefits, which account for around 80% of Fund expenditure. In future reviews it may be helpful to consider additional variant scenarios, for example, assuming continued increases in the proportions of the population assumed to receive old age pension benefits.
- 6.6 Details of the technical assumptions used in projecting each element of benefit expenditure and contribution income and how these have been derived are provided in Appendix G.

Principal assumptions

Population assumptions

- 6.7 Population projections for Guernsey are based on ONS 2008-based principal population projections prepared by the Office for National Statistics (ONS) for England and Wales, adjusted having regard to population count data for Guernsey for the years 2007 to 2009.
- 6.8 The relatively small population size and the relatively few years of data mean it is not statistically credible to project population birth and death rates solely from the Guernsey information. Actual experience for Guernsey from 2007 to 2009 was compared with England and Wales rates for the same period to derive age and sex-related factors which have been applied to the birth and death rates for England and Wales to obtain birth and death rates for Guernsey.
- 6.9 It is assumed that future improvements in life expectancy in Guernsey will be consistent with the principal projections prepared by ONS for England and Wales. It is also assumed that the distribution of birth rates by mother's age derived for Guernsey, that is, the numbers of births expected at child-bearing ages, will persist throughout the projection period.

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6.10 The tables below illustrate the assumptions adopted for life expectancy and fertility as at 2009 for Guernsey, together with the figures from the previous review and the comparable figures for England and Wales based on the ONS projections. For life expectancy, we have shown figures for current 60-year-olds, in 2009, as well as future 60-year-olds, in 2029, to illustrate the effect of assumed future improvements in longevity.

Table 6.1: Life expectancy for males and females aged 60 in 2009 and 2029

		2003 review	Current review	England & Wales (ONS 2008-based Population Projections)
Males –	2009	23.7	27.6	25.8
Age 60 in	2029	25.7	29.5	27.9
Females –	2009	26.3	30.0	28.7
Age 60 in	2029	27.4	31.9	30.8

Table 6.2: Age specific fertility rates: number of births per 1,000 women in 2009

Mother's Age	2003 review	Current review	England & Wales (ONS 2008-based Population Projections)
15	2.5	3.4	3.4
20	34.5	43.5	62.2
25	54.3	77.1	90.7
30	79.2	106.2	118.0
35	73.1	78.9	83.0
40	20.3	23.9	23.9
45	1.2	1.6	1.6

Migration assumption

6.11 In line with States Population and Migration Policy Statement, the principal migration assumption is to assume variable migration such that the total population remains constant at the April 2007 level. Given the States' intention to exercise increased migration control, we are content that this is within a reasonable range of plausible outcomes and so is not an unreasonable assumption over the long-term. Nevertheless, consideration should be given to other reasonable assumptions, such as those shown in Section 7.

6.12 The assumed distribution of migrants by age and sex reflects recent Guernsey experience. In the period from 2007 to 2009, net immigration has averaged around 450 a year, with net immigration concentrated around the 20s and 30s age groups, and small amounts of net emigration at child ages and pension ages. The variable migration underlying a constant population scenario results in net emigration being projected until the 2020s and net immigration thereafter, with a maximum net immigration assumption of just over 300 in the 2050s. The table overleaf illustrates the assumptions adopted.

Table 6.3: Number of immigrants assuming migration set to be sufficient to maintain the total population at the April 2007 level

Age	2009	2010	2020	2030	2040	2050	2060	2070
Under 15	-7	-7	-2	5	9	11	12	9
15-64	-178	-165	-50	122	223	269	290	212
65+	0	0	0	0	0	0	0	0
Total	-185	-172	-52	128	232	280	302	220

Price inflation

- 6.13 The rate of price inflation is assumed to be 3% a year. This is consistent with the States of Guernsey's Fiscal and Economic Plan which sets a target RPIX inflation rate of 3% a year. The States of Guernsey adopted the RPIX as the preferred measure of inflation in 2009.
- 6.14 At the time of the previous review, the relevant price inflation measure was the RPI, the Retail Price Index. The RPIX excludes mortgage interest costs and is therefore usually less volatile than the RPI. However, over the long term average RPI inflation is expected to be similar to average RPIX inflation. In the six years to December 2009 RPI inflation averaged around 3.5% a year and RPIX inflation around 3.4% a year.

Real earnings growth

- 6.15 The rate of real earnings growth is assumed to be 2% a year net of RPIX price inflation.
- 6.16 Real earnings growth is typically expected to move in a consistent way to real GDP growth. The 2009 Guernsey Annual Economic Overview showed that over the five years ending 2008, real earnings growth averaged around 1.9% a year and real GDP growth averaged around 1.8% a year in the 10 years ending 2008.

Real investment return

- 6.17 As at 31 December 2008 the Fund held about 70% of its assets in equity investments, with a combination of fixed income, cash, property and alternative investments making up the balance. The Fund appointed new investment advisors in 2009 and reviewed its investment strategy, increasing bonds and alternative assets holdings in place of equity holdings to provide equity-like returns but with a reduced risk profile.
- 6.18 Based on the asset allocation as at 31 December 2008, the rate of real investment return is assumed to be 3.5% a year net of RPIX price inflation. This assumption is expected to remain reasonable in light of the Fund's revised investment strategy.

Labour market assumptions

- 6.19 A distribution of the proportion of the projected working-age population making contributions, by age and sex and for each contribution class, based on data on the number of contributors in Guernsey in the years 2004 to 2009 has been adopted. It is assumed that these proportions will persist throughout the projection period, adjusted for the planned increase in State Pension Age from 65 to 67 between 2020 and 2031.
- 6.20 At the request of the Social Security Department, it is assumed that the number of unemployed will be 250. The Guernsey Labour Market Bulletin provides the number of unemployed from 1998 and shows a rise in the number of unemployed in the most recent years. However, unemployment numbers are affected by a range of factors including economic cycles and it is not necessarily appropriate to assume that recent

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trends will continue. In the absence of further information on which to form a view on this assumption, we are content to adopt the assumption of 250 unemployed as requested.

Contribution and benefit specific assumptions

6.21 A large number of additional assumptions are required to project contribution income and expenditure on individual benefits. Appendix G provides details of the assumptions adopted and the methodology underlying the projections.

Variant assumptions

6.22 Projections based on variant assumptions are provided in Section 7.

Migration assumptions

6.23 The variant migration assumptions adopted are:

- > Zero net migration
- > 200 net immigration
- > 300 net immigration

6.24 These variant migration assumptions have been chosen to demonstrate the effect migration has on the projected population profile, the required break-even contribution rate and the future progress of the Fund. They should not be regarded as predictions of the future levels of migration.

6.25 For the avoidance of doubt, the principal migration assumption of variable migration such that the total population remains constant at the April 2007 level is not consistent with a 'forever young' population, whereby the balance of immigration and emigration acts to maintain the working-age population as a constant proportion of the pensioner population.

6.26 The same distribution of migrants by age and sex is assumed for all scenarios, including the principal scenario allowing for variable migration.

Real earnings growth assumption

6.27 Long-term analysis of UK data suggests real earnings growth averaging between about 1.5% and 2% a year net of price inflation. A variant real earnings growth assumption of 1.5% a year has been adopted to demonstrate how varying this assumption can affect the required break-even contribution rate and the projected progress of the Fund.

7 The effects of varying assumptions

- 7.1 The pay-as-you-go nature of the Fund means that contribution rates and the future progress of the Fund may change significantly over time owing to changes in the benefit structure, population or economic activity.
- 7.2 The demographic and economic assumptions underlying the projections are inevitably subject to a considerable degree of uncertainty, particularly for the more distant future.
- 7.3 This section provides projections based on variant migration and economic assumptions to demonstrate how varying assumptions can affect the projected progress of the Fund.
- 7.4 The variant projections shown in this section have been chosen to demonstrate the effect of different assumptions on the future progress of the Fund. They should not be regarded as predictions. There are a range of other factors that could significantly affect the future progress of the Fund, such as changes in the States grant, investment performance, the proportions receiving old age pension benefits and increasing longevity. Some factors, such as the number unemployed, impact both contribution income and benefit expenditure and therefore a differences in experience, from the assumptions adopted, could result in a considerable change in the required break-even contribution rate and the future progress of the Fund.

Variant migration assumptions

- 7.5 Projections are provided for the following variant migration assumptions:
- > Zero net migration
 - > 200 net immigration
 - > 300 net immigration
- 7.6 Charts showing the projected future population of Guernsey for each of these variant scenarios are provided in Appendix H.

Break-even contributions

- 7.7 The following charts show how the projected joint Class 1 break-even contribution rate is expected to change over time depending on the assumed level of migration. The first chart shows the projected break-even contribution rate based on up-rating of benefits and earnings limits in line with halfway between prices and earnings for the three variant migration assumptions and the principal migration assumption. The second chart shows how the projected joint Class 1 break-even contribution rate is expected to change over time, based on an assumption of net immigration of 200 a year. Projections are shown assuming benefits and earnings limits are up-rated in line with prices or earnings, or halfway between the two.
- 7.8 Consistent with the projections shown in Section 4, the projections are based on a real earnings growth assumption of 2% a year and contribution rates are expressed as a percentage of relevant band earnings. The projections also allow for the convergence of the employees' and employers' upper earnings limit over the period to 2014.

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Figure 7.1: Break-even contribution rate based on up-rating of benefit rates and earnings limits in line with halfway between prices and earnings

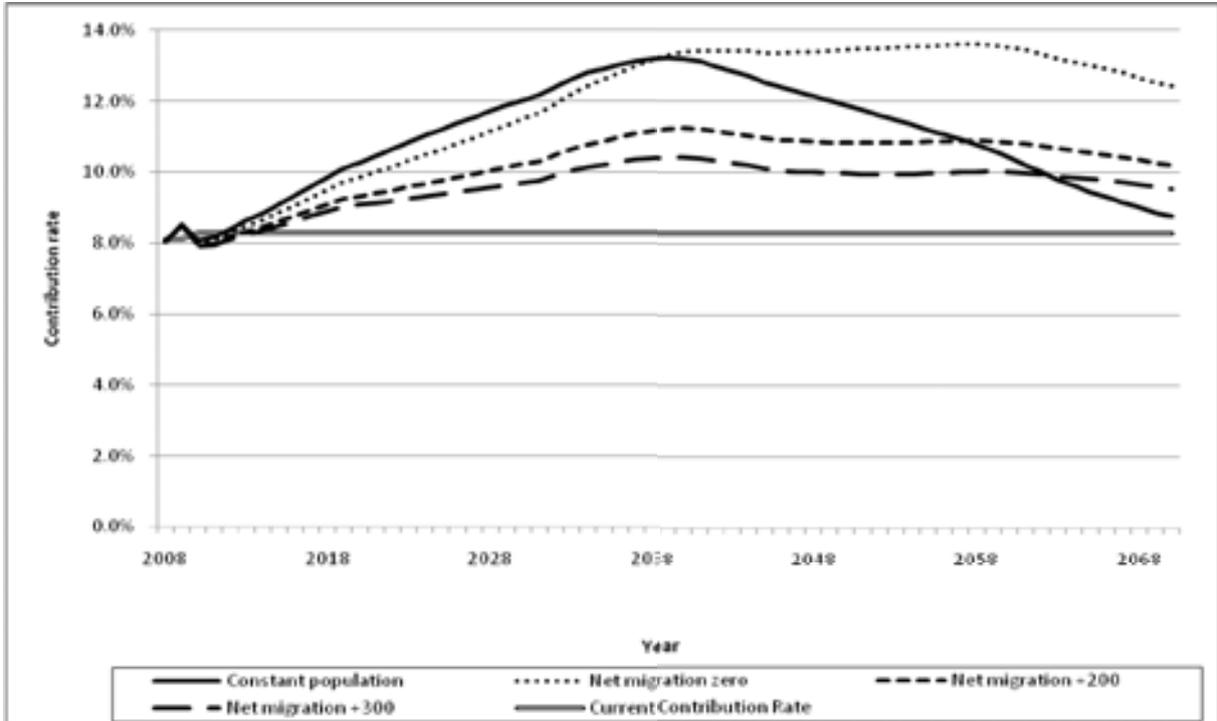
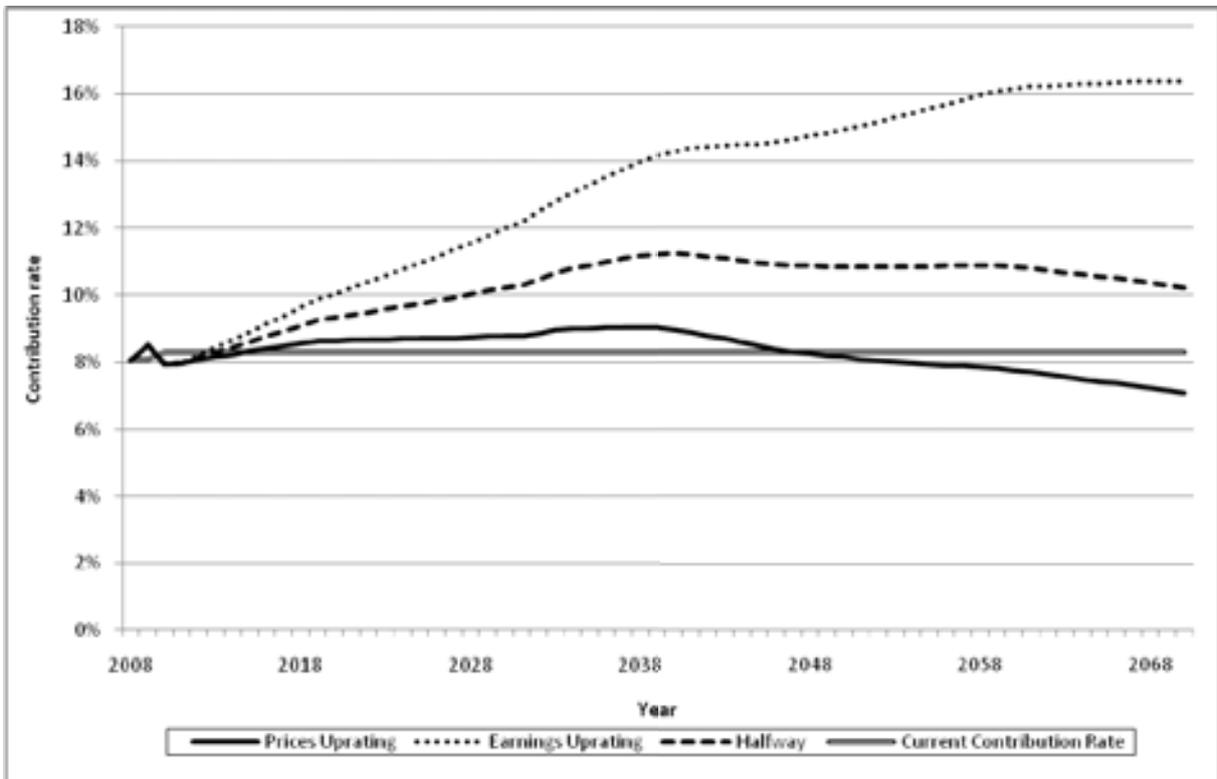


Figure 7.2: Break-even contribution rate based on net immigration of 200 a year



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- 7.9 In all cases there is a point of inflection around 2040 where the break-even contribution rate either starts to reduce or the rate of increase slows down, at least temporarily. This is due to how the size of the working age population changes in absolute terms and relative to the number of children and pensioners. It also reflects the differences between assumed halfway inflation, used to pay benefits, and assumed increases in earnings on which contributions are paid.
- 7.10 The changes in the required break-even contribution rate over time vary with the underlying migration assumptions. In general, a lower contribution rate is required where there is greater migration, reflecting a larger working-age population and a larger ratio of contributors to pensioners.
- 7.11 Based on up-rating of benefits and earnings limits in line with halfway between prices and earnings, the break-even contribution rate increases until around 2040 under the three variant migration assumptions. Up until 2040 the contribution rate under the principal migration assumption increases faster than the zero migration scenario due to emigration during this period reducing the working age population. After 2040 the contribution rate under the principal migration assumption falls due to a combination of an increasing working-age population due to immigration and a smaller projected pensioner population as a result of the earlier emigration.
- 7.12 In the zero migration scenario, the required break-even contribution rate increases to a maximum of 13.6% of earnings around 2058. In the 200 net immigration scenario a maximum rate of 11.2% is reached around 2040 and in the 300 net immigration scenario a maximum of 10.4% is reached around 2039.
- 7.13 The second chart shows the required break-even contribution rate assuming net immigration of 200 a year for each of the three up-rating scenarios. This can be compared to the results shown in Figure 4.1, based on migration set to be sufficient to maintain the total population at the April 2007 level.
- 7.14 In the 200 net immigration scenario, the required break-even contribution rate, assuming up-rating in line with earnings, increases for most of the projection period. Under the principal migration assumption, the required break-even contribution rate assuming up-rating in line with earnings increases more rapidly in earlier years but starts to decline from about 2040. This reflects differences in the underlying migration assumptions, whereby there is an increase in the working-age population from around 2040 in the constant population scenario but a decline in the working-age population in the 200 net immigration scenario. The break-even contribution rate in the 200 net immigration scenario is lower in earlier years reflecting the larger working-age populations during this period.
- 7.15 The required break-even contribution rate based on up-rating of benefits and contribution limits in line with prices is driven by changes in the population profile and also the relative difference between price and earnings inflation. The decline in the required break-even contribution rate in later years, assuming up-rating in line with prices, reflects the differences between assumed price inflation, used to pay benefits, and assumed increases in earnings on which contributions are paid.
- 7.16 The previous review of the Fund, as at 31 December 2003, disclosed break-even contribution rates based on population projections assuming zero net migration and 200 net immigration. The projected behaviour in the break-even contribution rate over time, by migration scenario and up-rating assumption, are broadly similar at the current review to those projected at the previous review but the level of the break-even contribution rates is higher.

Review of the Guernsey Insurance Fund as at 31 December 2009

7.17 The table below shows the projected break-even contribution rates assuming up-rating in line with earnings at the 2003 review, based on a 200 net immigration assumption, and the current review, based on 200 net immigration and the principal variable migration assumption. The comparison is shown assuming up-rating in line with earnings as break-even contribution rates based on up-rating in line with halfway between prices and earnings were not provided at the 2003 review.

Table 7.3: Break-even contribution rates

Projection Year	2003 Review 200 net immigration	2009 Review 200 net immigration	2009 Review Variable migration to maintain April 2007 population
2008	6.4%	8.0%	8.0%
2063	13.1%	16.3%	14.9%

7.18 The greater increase in the projected break-even contribution rate over time reflects the greater longevity projected at this review and an increase in the assumed number of overseas pensioners. This means that the ratio of contributors to pensioners in future years is projected to be lower. Based on the 200 net immigration assumption, the previous review projected a ratio of 1.2 contributors to each pensioner by 2063, whereas the current review projects a reduced ratio of 1.0 contributor to each pensioner by 2063.

Fund progress if contribution rate remains the same

7.19 The charts below show how the average Fund balance, as a proportion of annual expenditure, is expected to change over time, under the different migration scenarios, assuming the current Class 1 joint employer and employee contribution rate of 8.3% is unchanged. The first chart shows the projected fund progress based on up-rating of benefits and earnings limits in line with halfway between prices and earnings for the three variant migration assumptions and the principal migration assumption. The second chart shows the projected fund progress based on an assumption of net immigration of 200 a year, assuming benefits and earnings limits are up-rated in line with prices or earnings, or halfway between the two.

7.20 Consistent with projections shown in Section 4, the projections are based on a real earnings growth assumption of 2% a year and allow for expected investment returns, including re-investment of investment income, at an assumed real rate of return of 3.5% a year.

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Figure 7.4: Progression of Fund based on up-rating of benefit rates and earnings limits in line with halfway between prices and earnings

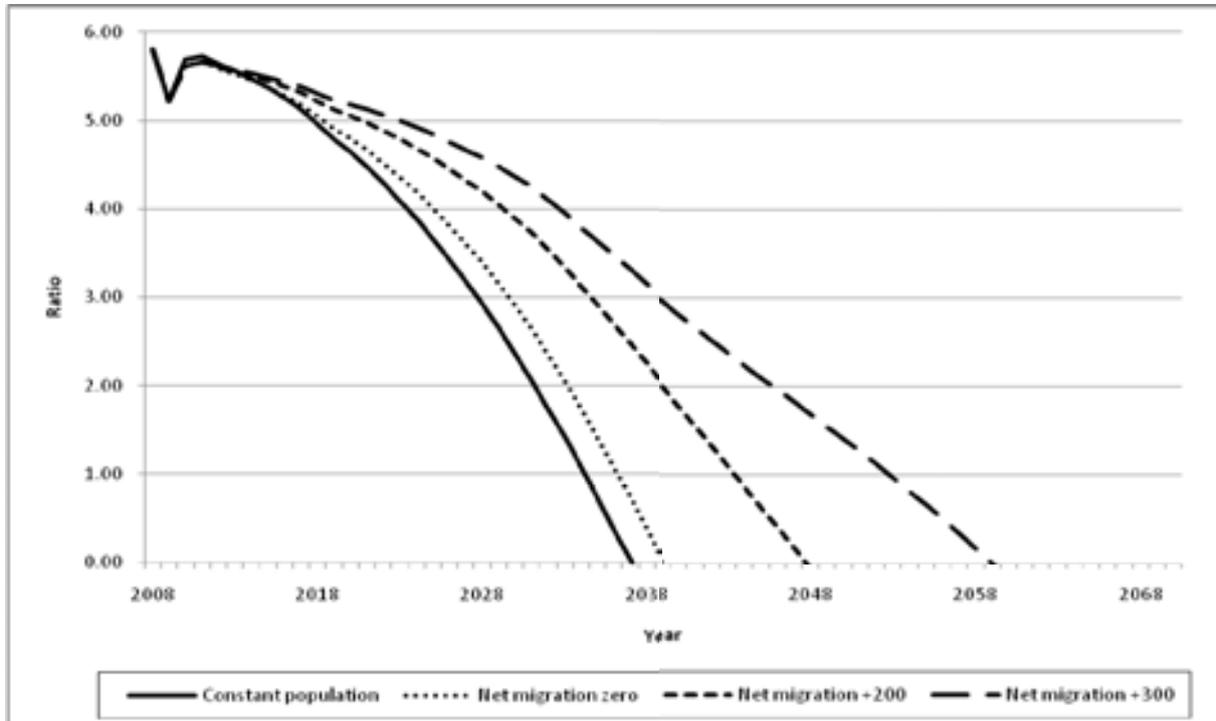
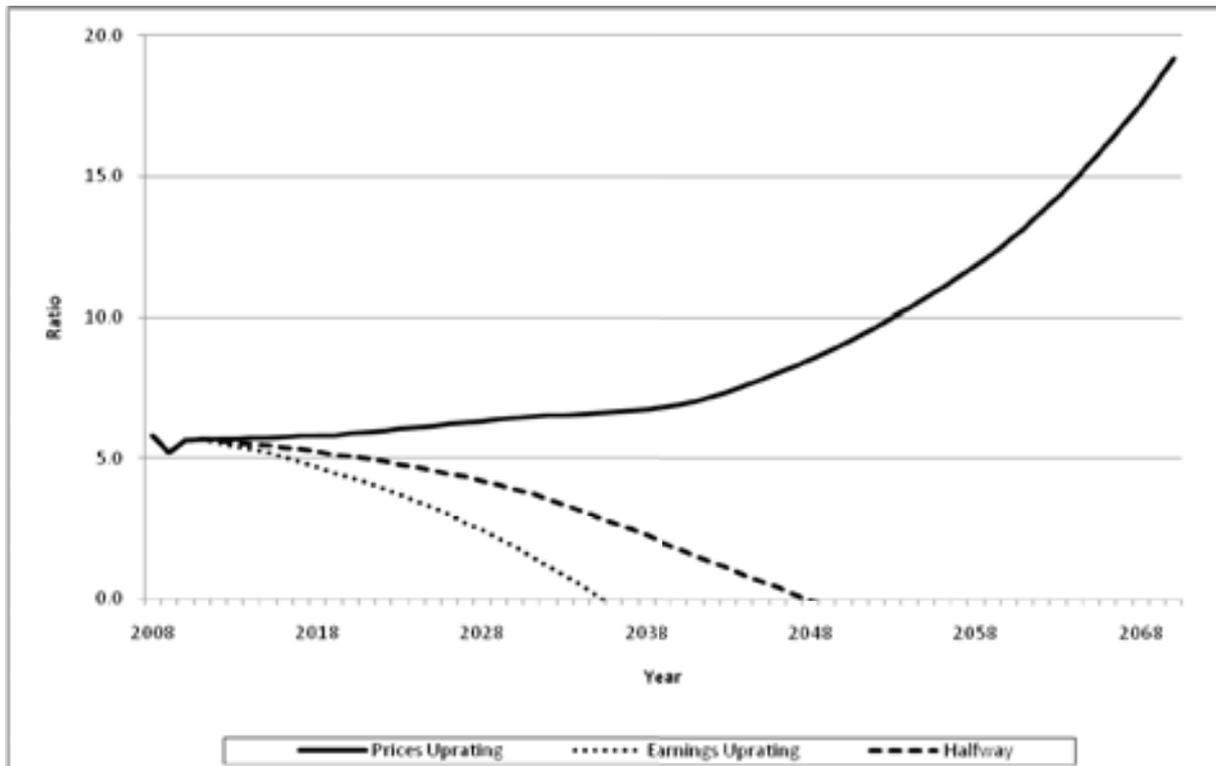


Figure 7.5: Progression of Fund based on net immigration of 200 a year



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- 7.21 In all cases, the Fund is projected to be extinguished during the projection period, based on up-rating of benefits and earnings limits in line with halfway between prices and earnings. The projected size of the Fund balance and the likely time until it is extinguished varies with the underlying migration assumptions.
- 7.22 The table below provides details of when the Fund is projected to be extinguished for each of the four migration assumptions, assuming up-rating of benefits and earnings limits in line with halfway between prices and earnings.

Table 7.6: Projected date of fund being extinguished based on up-rating in line with halfway between prices and earnings

Migration assumption	Fund projected to be extinguished
Variable migration	2037
Zero net migration	2039
200 net immigration	2048
300 net immigration	2059

- 7.23 The second chart shows the projected fund progress assuming net immigration of 200 a year for each of the three up-rating scenarios.
- 7.24 As for the principal migration scenario, the Fund is projected to remain positive over the long-term assuming 200 net immigration and up-rating of benefits and earnings limits in line with prices. However, unlike the principal migration scenario whereby the Fund is projected to decline before increasing again, based on 200 net immigration the Fund is projected to increase throughout the projection period, to around 19 times expenditure by 2070.
- 7.25 The projected progress of the Fund over time, by migration scenario and up-rating assumption, are similar at the current review to those projected at the previous review, as at 31 December 2003. However the current review projects more rapid declines in the Fund, such that the Fund is not expected to remain positive based on up-rating at halfway between prices and earnings. This more rapid decline of the Fund reflects the greater longevity projected at this review and an increase in the assumed number of overseas pensioners.

Variant real earnings growth assumption

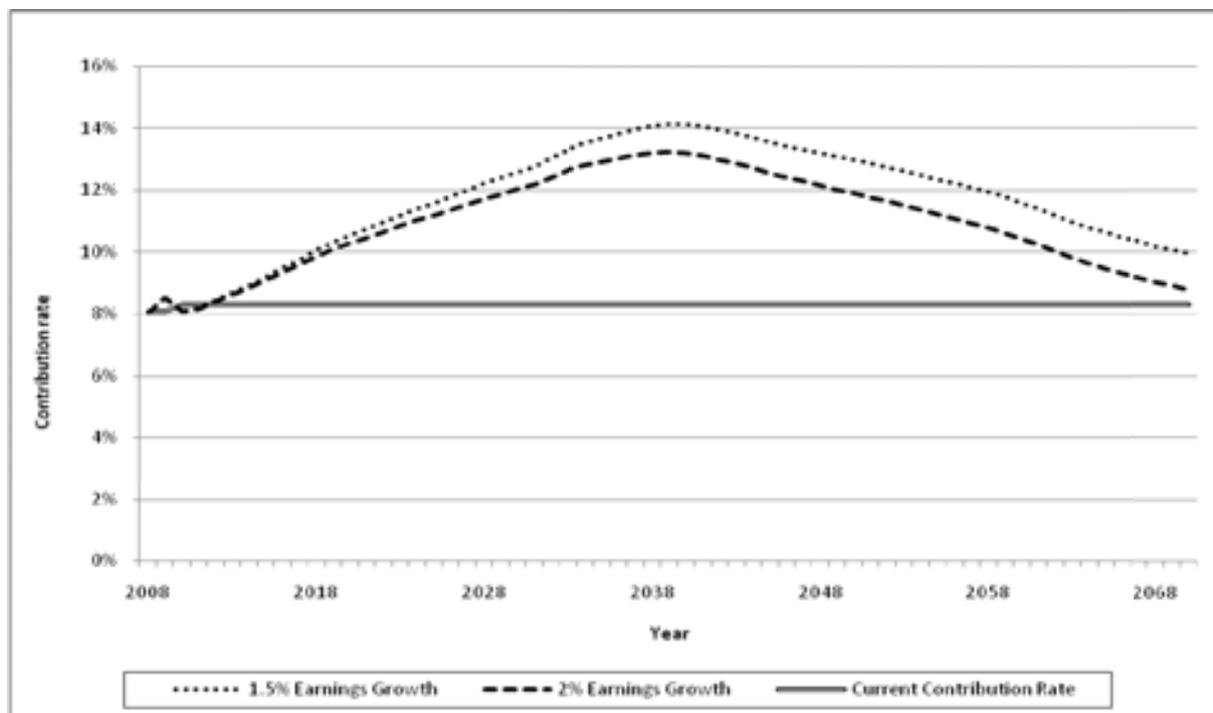
- 7.26 Projections are provided for a variant real earnings growth assumption of 1.5% a year to demonstrate how changes in real earnings growth can affect the projected progress of the Fund.

Break-even contributions

- 7.27 The chart below shows how the projected joint Class 1 break-even contribution rate is expected to change over time depending on the assumption adopted for real earnings growth of either 1.5% a year or 2% a year, assuming benefits and earnings limits are up-rated in line with halfway between prices and earnings.
- 7.28 Consistent with the projections shown in Section 4, the contribution rates are expressed as a percentage of relevant band earnings and they allow for the convergence of the employees' and employers' upper earnings limit over the period to 2014.

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Figure 7.7: Break-even contribution rate based on migration set to be sufficient to maintain the total population at the April 2007 level and assuming up-rating of benefit rates and earnings limits in line with halfway between prices and earnings



7.29 Based on up-rating of benefits and contribution limits in line with halfway between prices and earnings, the required break-even contribution rate is higher based on an assumption of real earnings growth of 1.5% a year, increasing to a maximum of 14.1% of earnings around 2040. This compares with a maximum break-even contribution rate of 13.2% of earnings around 2039 assuming real earnings growth of 2% a year.

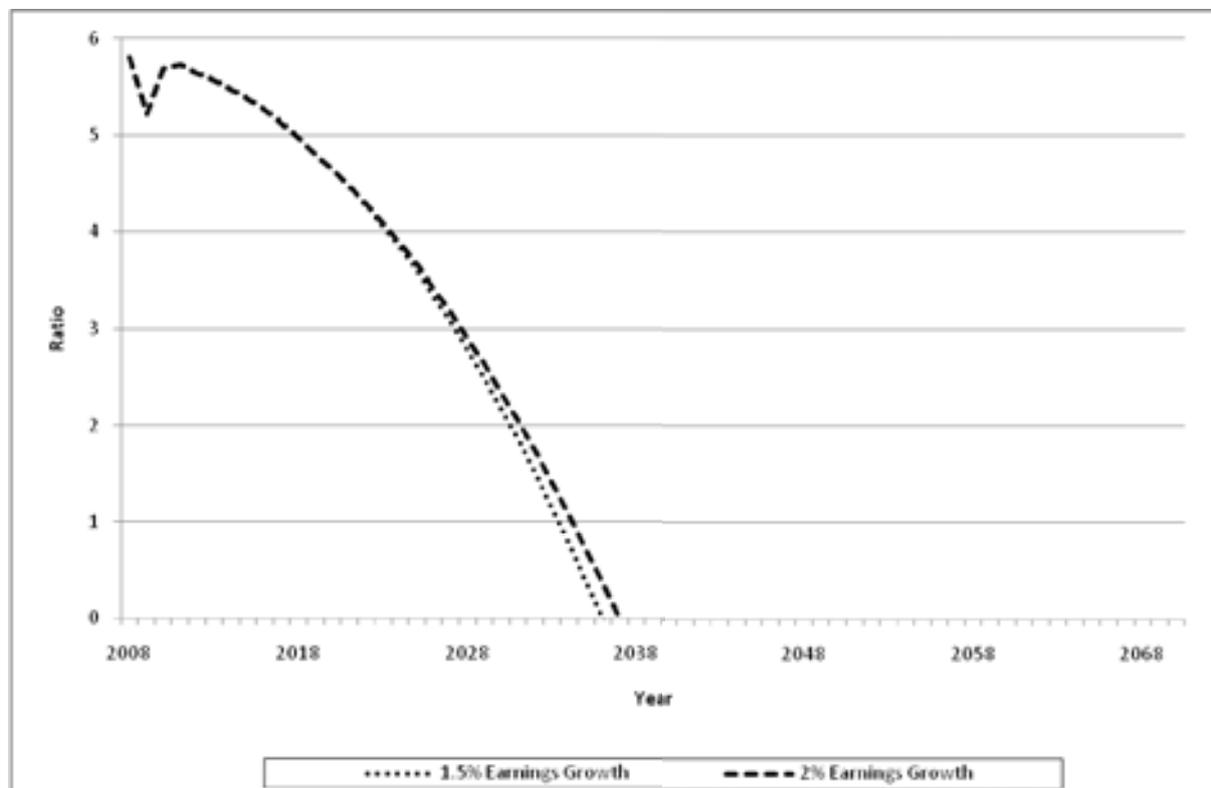
7.30 The higher required break-even contribution rate is a result of the smaller difference between assumed halfway inflation, used to pay benefits, and assumed increases in earnings, on which contributions are paid.

Fund progress if contribution rate remains the same

7.31 The chart below shows how the average Fund balance, as a proportion of annual expenditure, is expected to change over time, for each of the earnings growth assumptions, assuming the current Class 1 joint employer and employee contribution rate of 8.3% is unchanged. The projections are shown assuming benefits and earnings limits are up-rated in line with halfway between prices and earnings.

7.32 The projection shown below allows for expected investment returns, including re-investment of investment income, at an assumed real rate of return of 3.5% a year, consistent with those provided in Section 4.

Figure 7.8: Progression of fund based on migration set to be sufficient to maintain the total population at the April 2007 level and assuming up-rating of benefit rates and earnings limits in line with halfway between prices and earnings



7.33 As shown in Section 4, based on up-rating of benefits and contribution limits in line with halfway between prices and earnings, and assuming real earnings growth of 2% a year, the balance of the Fund is projected to be extinguished by 2037. Based on real earnings growth of 1.5% a year, the balance of the Fund declines more rapidly and is projected to be extinguished by around 2036.

7.34 The more rapid decline in the balance of the Fund based on real earnings growth of 1.5% a year reflects the smaller difference between assumed halfway inflation, used to pay benefits, and assumed increases in earnings, on which contributions are paid.

Labour market assumptions

7.35 Projections have not been produced for variant labour market assumptions. At the request of the Social Security Department, it is assumed that the number of unemployed will be 250. However it is important to note that the number of unemployed is potentially very variable and higher unemployment could significantly increase the required break-even contribution rate and lead to a decline in the Fund. Higher unemployment increases benefit expenditure but more significantly, it reduces the proportion of the working-age population making contributions.

8 Comparison of projections with those from the previous actuarial review

8.1 Table 8.1 below provides details of changes since 2003 that have resulted in changes in the projected break-even contribution rate between the 2003 review and the current review. It shows the changes in the projected break-even contribution rate based on up-rating of benefits and earnings limit in line with earnings. It includes the change in the migration assumption from 200 net immigration, adopted at the 2003 review, to variable migration set to be sufficient to maintain the total population at the April 2007 level, adopted at this review.

Table 8.1: Comparison of projected break-even contribution rate at current review with those at the previous actuarial review (% of relevant earnings)

	2010	2020	2030	2040	2050	2060	2070
Last review	6.6%	8.3%	10.4%	12.1%	12.3%	13.0%	13.1%
Reduction in States grant	1.5%	1.9%	2.4%	2.8%	2.9%	3.0%	3.1%
Increases in UEL	-1.1%	-1.4%	-1.7%	-2.0%	-2.0%	-2.1%	-2.2%
Change in population projections	-0.4%	-0.3%	0.2%	0.5%	0.9%	1.6%	1.5%
Change in migration assumption	0.1%	1.0%	2.1%	2.5%	1.4%	-0.7%	-2.4%
Other changes	1.4%	1.5%	0.7%	0.9%	0.9%	0.7%	0.9%
This review¹	8.1%	11.1%	14.1%	16.8%	16.4%	15.5%	14.1%

¹ Figures may not sum to totals due to rounding.

8.2 There have been a number of changes to the Fund since the 2003 review. The required break-even contribution rates projected at the current review are higher than those projected at the 2003 review. This is broadly a result of a fall in the number of contributors for each pensioner, which is partially a reflection of the assumed increase in longevity in the underlying population projections, and the change in the principal migration assumption. The reduction in the States grant since the 2003 review increases the required break-even contribution rate but this is offset to an extent by the increases in the upper earnings limit for employers, employees and the self-employed.

8.3 Table 8.2 below show the ratio of contributors to pension beneficiaries projected at the 2003 review and this review. The change in this ratio reflects the assumed increase in the number of overseas pensioners and the planned increase in pension age between 2020 and 2031 as well as the greater longevity assumed in the population projections.

Table 8.2: Ratio of contributors to pension beneficiaries

Year	2010	2020	2030	2040	2050	2060	2070
2003 Review	2.50	1.91	1.49	1.29	1.28	1.22	1.20
2009 Review	2.36	1.52	1.21	1.00	1.01	1.05	1.17

8.4 The 'other changes' in Table 8.1 which increase the required break-even contribution rate include changes in assumptions, for example, the higher assumed proportion of overseas pensioners, higher assumed incidence and duration for sickness benefits as well as the introduction of the allowance for non-employed persons from 2010 below which contributions are not payable.

Appendix A: Summary of contributions and benefits as at 31 December 2009

1. The Guernsey Insurance Fund is a contributory social security scheme providing a range of benefits including old age, sickness, and unemployment benefits.
2. A brief overview of the contributions payable, the benefits provided and the qualifying conditions is provided below. Guernsey has Reciprocal Social Security Agreements with a number of countries, whereby individuals who have contributed to a social security scheme in another country may receive small, part benefits from that country. This review does not allow for any impact from possible new agreements. Further information on contributions and benefits is available from the Social Security Department.

Contributions

3. Contributions are paid by employers, employees, the self-employed and the non-employed under pension age. Contributions are paid by, and on behalf of, employees earning above the lower earnings limit, with contributions payable on total earnings up to the upper earnings limit. Contributions are payable by the self-employed, subject to the same limits.
4. The upper earnings limit is currently higher for employers than employees. As a result of the 'Pensions Puzzle' exercise, the upper earnings limit for employees is being increased to align with that for employers over a 5 year period starting in 2010.
5. Contributions are paid by non-employed individuals with income above the lower income limit, with contributions payable on total income up to the upper earnings limit but subject to the non-employed income allowance. The income allowance was introduced in 2010.
6. The tables below provide details of the earnings limits and contribution rates applicable between 2004 and 2011.

Table A.1: Contribution limits and allowances

Year (£ / annual)	2004	2005	2006	2007	2008	2009	2010	2011
Lower Earnings Limit	4,524	4,836	5,044	5,200	5,460	5,824	5,928	6,084
Lower Income Limit	11,310	12,090	12,610	13,000	13,650	14,560	14,820	15,210
Employer Upper Earnings Limit	32,292	34,320	36,036	53,664	108,108	115,128	117,468	120,900
Employee, Self Employed and Non Employed Upper Earnings Limit	32,292	34,320	36,036	53,664	64,896	69,108	79,872	91,884
Non-employed income allowance	N/A	N/A	N/A	N/A	N/A	N/A	6,290	6,451

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Table A.2: Contribution rates payable

Year	2004	2005	2006	2007	2008	2009	2010	2011
Employer	4.1%	4.1%	4.1%	4.1%	4.9%	4.9%	4.9%	4.9%
Employee	3.2%	3.2%	3.2%	3.2%	3.2%	3.2%	3.4%	3.4%
Total Employed	7.3%	7.3%	7.3%	7.3%	8.1%	8.1%	8.3%	8.3%
Self Employed	6.3%	6.3%	6.3%	6.3%	6.3%	6.3%	6.5%	6.5%
Non-employed	5.7%	5.7%	5.7%	5.7%	5.7%	5.7%	5.7%	5.7%

7. Before 1 January 2004, married women could pay a reduced rate of contributions and in return receive benefits based on their husband's insurance. Since 1 January 2004, all women are assessed to pay full rate contributions under the new Gender Equality rules.
8. Employee contributions are payable until pension age. Employer contributions remain payable in respect of employees over pension age.
9. Central funding is provided to the Fund by way of the States grant. The States grant is defined as a percentage of total contributions. This percentage has reduced since the 2003 review. From January 2007 the States grant reduced from 50% to 36%. It was further reduced to 15% with effect from January 2008. The States grant has been unchanged since January 2008.
10. These contribution rates are in respect of the Guernsey Insurance Fund only. They do not include the contributions payable in respect of the Guernsey Health Service Fund or the Long-term Care Insurance Fund. This review assumes that contribution income to the Guernsey Insurance Fund is in line with published contribution rates and no allowance is made for potential re-allocations between the three Funds.

Benefits

11. Old age pension is the most significant benefit paid from the Guernsey Insurance Fund, accounting for 81% of total benefit expenditure in 2009, followed by the three incapacity benefits (sickness benefit, invalidity benefit and industrial injury benefit) which together accounted for around 11% of total benefit expenditure in 2009. All other benefits individually accounted for 2.5% or less of total benefit expenditure in 2009.

Old age pension

12. An old age pension is payable to both men and women when they reach pension age, subject to contribution conditions. To receive a pension at the full benefit rate, on average, at least 50 contributions must be paid each year over a 45 year period. A proportionately reduced benefit is paid where this condition is not met. However no pension is payable if the yearly average is less than 10.
13. Different rules applied for women married before 31 December 2003, with changes for gender equality effective from 1 January 2004. There remain some transitional arrangements whereby a woman married before 1 January 2004 may be able to use part of her husband's record to improve her rate of pension.
14. Pension age is currently age 65 but is due to increase to age 67 between 2020 and 2031.

Review of the Guernsey Insurance Fund as at 31 December 2009

Sickness benefit, invalidity benefit and industrial injury benefit

15. Sickness benefit, invalidity benefit and industrial injury benefit are weekly benefits that may be paid if an insured person is unable to work due to illness. No benefit is paid for the first three days of illness and partial weeks are paid proportionately.
16. Generally, sickness benefit or industrial injury benefit is payable for the first 6 months of an illness, after which invalidity benefit may be payable. Industrial injury benefit, rather than sickness benefit, may be payable if the incapacity is connected with an injury at work.
17. Payment of sickness benefit and invalidity benefit is subject to at least 26 contributions having been paid at any time and at least 26 contributions having been paid or credited in the relevant contribution year.

Bereavement benefits

18. Bereavement benefits are payable on the death of a spouse, with payment subject to the same contribution conditions as for old age pension, based on the late spouse's record and date of death, rather than age 65. Bereavement benefits include bereavement payment, widowed parent's allowance and bereavement allowance.
19. The provision of bereavement benefits changed with effect from 1 January 2004, with benefits available equally to men and women from this date. The 2003 review took account of the proposed changes. Different rules continue to apply to those widowed before 1 January 2004.
20. Bereavement payment is a lump sum payment payable to all widows and widowers. Widowed parent's allowance and bereavement allowance are weekly benefits. Widowed parent's allowance is payable to widows and widowers with children. Bereavement allowance is payable for up to one year to widows and widowers aged 45-64 inclusive who do not have children. Widowed parent's allowance and bereavement allowance cannot be paid at the same time.

Travelling allowance grant

21. A Travelling Allowance Grant (TAG) payable to an insured person or their child to provide funding or reimbursement of travel expenses for patients travelling from Guernsey when medical treatment is not available locally, subject to medical certification.

Unemployment benefit

22. Unemployment benefit is a weekly benefit that may be paid to an insured person who is registered as unemployed and seeking work with an employer. Payment of this benefit is subject to at least 26 contributions having been paid at any time as an employed person and at least 26 contributions having been paid or credited as an employed person in the relevant contribution year. Generally, contributions paid as a self-employed person or non-employed person do not count for Unemployment Benefit.
23. Payment can generally be made for a maximum of 210 days in any one period of unemployment. To receive the full benefit rate, at least 50 contributions must be paid in the relevant contribution year. A proportionately reduced benefit is paid where this condition is not met.

Review of the Guernsey Insurance Fund as at 31 December 2009

Maternity benefit

24. There are two alternative forms of maternity benefit.
25. Maternity allowance is a weekly benefit payable to expectant mothers, subject to the same contribution conditions as for sickness benefit and invalidity benefit. It is payable for a maximum of 18 weeks beginning no earlier than 11 weeks before the week the baby is due. To receive the full benefit rate, at least 50 contributions must be paid in the relevant contribution year. A proportionately reduced benefit is paid where this condition is not met.
26. Maternity grant is a lump sum payment made to insured expectant mothers who are not entitled to Maternity Allowance or who opt for Maternity Grant instead.

Industrial disablement benefit

27. Industrial Disablement Benefit is a weekly benefit that may be paid to an insured person with a long-term disability which results directly from an accident at work or if the disability is the result of certain diseases or conditions contracted at work.
28. The amount of benefit paid depends on the degree of disability as assessed by a Medical Board. The degree of disability is expressed as a percentage and a proportionately reduced benefit is paid where this is less than 100%. No benefit is payable if the degree of disability is assessed to be less than 20%.

Death grant

29. Death Grant is a lump sum payment payable on the death of an insured person, their spouse or child, with payment subject to contribution conditions similar to those for old age pension, based on the deceased's record or the parent's record, in the case of a child.

Industrial Medical Benefit

30. Industrial Medical Benefit may be provided to meet the cost of treatment connected with accident at work or certain diseases or conditions contracted at work. It does not cover the cost of any benefits or treatment ordinarily provided by the Guernsey Health Service Fund.
31. The 2003 review of the Guernsey Insurance Fund included allowances for Limited Medical Benefit and Child Allowance. These benefits are no longer provided and there was no expenditure on these benefits in 2009. There is no allowance for these benefits in this review.

Review of the Guernsey Insurance Fund as at 31 December 2009

Appendix B: Fund accounts from 2004 to 2009

1. The table below provides details of income, expenditure and the balance of the Fund for the period 2004 to 2009.

Table B.1: Income, expenditure and fund balance from 2004 to 2009 (£000s)

Year	2004	2005	2006	2007	2008	2009
Balance at 01/01	364,635	405,492	489,897	547,227	586,876	485,571
Income						
Contributions	50,684	53,572	56,082	65,247	80,906	83,667
State Supplement	25,326	26,766	27,939	23,473	12,122	12,548
Total Income	76,010	80,338	84,021	88,720	93,029	96,215
Outgo						
Benefits	67,119	72,271	77,513	80,881	87,607	96,475
Administration Costs	2,900	3,232	3,660	4,605	4,702	4,899
Total Outgo	70,019	75,503	81,173	85,486	92,310	101,374
Operating Surplus	5,990	4,835	2,849	3,233	719	-5,160
Return on Investments	34,866	79,570	54,481	36,416	-102,024	90,930
Balance at 31/12	405,492	489,897	547,227	586,876	485,571	571,341

2. The table below provides details of expenditure on each benefit for the period 2004 to 2009.

Table B.2: Benefit expenditure from 2004 to 2009 (£000s)

Year	2004	2005	2006	2007	2008	2009
Old Age Pension	54,844	59,595	63,612	66,570	72,016	78,355
Sickness Benefit	1,977	2,201	2,617	2,769	3,010	3,490
Invalidity Benefit	4,266	4,364	5,043	5,470	5,999	6,724
Industrial Injuries Benefit	232	197	242	254	275	275
Bereavement Benefit	2,404	2,376	2,267	2,134	2,142	2,192
Travel Allowance Grant	1,455	1,401	1,363	1,453	1,588	2,060
Unemployment Benefit	377	472	597	489	635	1,269
Maternity Benefit	683	766	840	809	948	1,075
Industrial Disablement Benefit	572	597	568	590	642	651
Death Grant	160	153	183	179	197	242
Industrial Medical Benefit	149	147	181	163	155	143
Limited Medical Benefit	0	0	0	0	0	0
Childs Special Allowance	0	0	0	0	0	0
Total	67,119	72,271	77,513	80,881	87,607	96,475

Appendix C: Summary of data used

1. The accuracy of the projections provided for this review of the Guernsey Insurance Fund is fundamentally dependent on the data on which it is based. Where possible, we have made some checks on the data. The data appear to be of generally good quality, and are adequate for the purposes of the review. Nevertheless, it should be noted that if any of the data used for the calculations are materially incorrect or incomplete, this could have a significant effect on the results.
2. Data are used in three main areas:
 - > as the starting point of the projections
 - > to help determine appropriate assumptions about the future
 - > in validating the projection methodology.
3. Data for this review have been provided by the Social Security Department. Details of the data provided are set out below.

Data used as the starting point of the projections

4. The principal population projections are based on a total population in line with the April 2007 total. The population projections for the variant migration scenarios are based on population data as at 30 June 2008.
5. The projections of the balance in the Fund are based on the market value of the assets as at 31 December 2009 as shown in the 2009 accounts. The results for the projection of the fund balance should be seen in the context of the general volatility of market values of some classes of investment.

Data used to help determine appropriate assumptions about the future

6. Guernsey population count data and the 2008-based principal population projections for England and Wales have been used to determine appropriate mortality and fertility assumptions, including allowance for future mortality improvement.
7. Projections of contributions and benefits are based on data including the number of contributors and their earnings and the number of beneficiaries and the amount of benefit paid. Information was also provided on current contribution rates, earnings limits and benefit rates.
8. Economic assumptions have been based on information provided in the Guernsey Annual Economic Overview (2009) and the Guernsey Labour Market Bulletin, as well as the asset data provided in the accounts.
9. This review also takes account of expected future trends, such as the proposed changes resulting from the 'Pension Puzzle' exercise, including the planned increase in pension age and increases in the employees' upper earnings limit.

Data used in validating the projection methodology

10. Projections were compared with actual out-turn data in 2009 to help ensure the projections are robust.
11. In some cases, the format of the data was different to that provided for the previous review and this has limited the degree of analysis that it was possible to carry out. This has greatest potential significance for projections of old age pension benefits, which account for about 80% of Fund expenditure, where it was necessary to make assumptions regarding the average proportions of full benefit paid.

Appendix D: Projections of future Class 1 break-even contribution rates

- The tables below show the projected joint Class 1 break-even contribution rate, that is, the combined Class 1 contribution rate from employers and employees required to balance expenditure on benefits and administration costs. Results are provided at 10-year intervals for each migration assumption and for each up-rating scenario.

Table D.1: Break-even contribution rate based on migration set to be sufficient to maintain the total population at the April 2007 level

Year	2009	2010	2020	2030	2040	2050	2060	2070
Prices up-rating	8.5%	8.1%	9.5%	10.3%	10.5%	8.9%	7.5%	6.1%
Halfway up-rating	8.5%	8.1%	10.3%	12.0%	13.2%	11.9%	10.4%	8.8%
Earnings up-rating	8.5%	8.1%	11.1%	14.1%	16.8%	16.4%	15.5%	14.1%

Table D.2: Break-even contribution rate based on migration set at zero for each year

Year	2009	2010	2020	2030	2040	2050	2060	2070
Prices up-rating	8.5%	8.0%	9.2%	9.9%	10.7%	10.1%	9.7%	8.6%
Halfway up-rating	8.5%	8.0%	9.9%	11.5%	13.4%	13.5%	13.6%	12.4%
Earnings up-rating	8.5%	8.0%	10.6%	13.5%	17.1%	18.6%	20.2%	20.0%

Table D.3: Break-even contribution rate based on migration set at 200 net immigrants a year

Year	2009	2010	2020	2030	2040	2050	2060	2070
Prices up-rating	8.5%	8.0%	8.7%	8.8%	9.0%	8.1%	7.8%	7.1%
Halfway up-rating	8.5%	8.0%	9.3%	10.2%	11.3%	10.9%	10.9%	10.2%
Earnings up-rating	8.5%	8.0%	10.1%	12.0%	14.3%	15.0%	16.2%	16.4%

Table D.4: Break-even contribution rate based on migration set at 300 net immigrants a year

Year	2009	2010	2020	2030	2040	2050	2060	2070
Prices up-rating	8.5%	7.9%	8.4%	8.3%	8.3%	7.5%	7.2%	6.6%
Halfway up-rating	8.5%	7.9%	9.1%	9.7%	10.4%	10.0%	10.0%	9.6%
Earnings up-rating	8.5%	7.9%	9.8%	11.4%	13.3%	13.7%	14.9%	15.4%

Appendix E: Projected Fund progress if contribution rate remains the same

1. The tables below show the projected progress of the Fund, in terms of the projected average Fund balance in a year expressed as a proportion of the annual expenditure on benefits and administration costs, assuming current contribution rates are maintained. Results are provided at 10-year intervals for each migration assumption and for each up-rating scenario.
2. Where the Fund has been extinguished, it has been treated as though it is a debt and the interest has been treated as a payment instead of a receipt for illustration purposes. It is recognised that, in practice, the Fund would not be allowed to do this.

Table E.1: Progression of the Fund based on migration set to be sufficient to maintain the total population at the April 2007 level

Year	2009	2010	2020	2030	2040	2050	2060	2070
Prices up-rating	5.21	5.69	5.43	4.64	3.23	2.80	4.10	8.86
Halfway up-rating	5.21	5.69	4.64	2.35	0.00	0.00	0.00	0.00
Earnings up-rating	5.21	5.69	3.93	0.50	0.00	0.00	0.00	0.00

Table E.2: Progression of the Fund based on migration set at zero for each year

Year	2009	2010	2020	2030	2040	2050	2060	2070
Prices up-rating	5.21	5.62	5.59	5.28	4.17	3.46	2.94	3.23
Halfway up-rating	5.21	5.62	4.79	2.89	0.00	0.00	0.00	0.00
Earnings up-rating	5.21	5.62	4.07	0.96	0.00	0.00	0.00	0.00

Table E.3: Progression of the Fund based on migration set at 200 net immigrants a year

Year	2009	2010	2020	2030	2040	2050	2060	2070
Prices up-rating	5.21	5.62	5.87	6.44	6.91	9.08	12.69	19.20
Halfway up-rating	5.21	5.62	5.05	3.88	1.76	0.00	0.00	0.00
Earnings up-rating	5.21	5.62	4.31	1.80	0.00	0.00	0.00	0.00

Table E.4: Progression of the Fund based on migration set at 300 net immigrants a year

Year	2009	2010	2020	2030	2040	2050	2060	2070
Prices up-rating	5.21	5.62	6.01	7.01	8.24	11.72	16.95	25.50
Halfway up-rating	5.21	5.62	5.18	4.37	2.81	1.41	0.00	0.00
Earnings up-rating	5.21	5.62	4.43	2.21	0.00	0.00	0.00	0.00

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Appendix F: Detailed projections of income and expenditure
Table F.1: Projected fund balance based on migration set to be sufficient to maintain the total population at the April 2007 level and real earnings growth of 2%, assuming benefit rates and earnings limits are increased in line with prices (£000s)

Year	2009	2010	2020	2030	2040	2050	2060	2070
Balance at 01/01	485,571	571,341	995,371	1,367,758	1,502,053	1,714,610	3,245,502	8,916,490
Income								
Contributions	83,667	92,929	141,450	208,427	318,637	506,363	798,898	1,247,562
State Supplement	12,548	13,939	21,218	31,264	47,796	75,954	119,835	187,134
Total Income	96,215	106,869	162,668	239,691	366,433	582,317	918,733	1,434,697
Outgo								
Benefits	96,475	98,794	178,971	285,381	444,588	593,964	779,424	985,656
Admin Costs	4,899	5,134	8,168	12,896	20,237	31,597	49,126	76,109
Total Outgo	101,374	103,928	187,139	298,276	464,825	625,560	828,549	1,061,765
Operating surplus	-5,160	2,940	-24,471	-58,586	-98,392	-43,243	90,184	372,932
Investment Income	90,930	37,834	64,936	88,406	95,961	111,822	217,344	601,250
Balance at 31/12	571,341	612,116	1,035,837	1,397,577	1,499,622	1,783,189	3,553,030	9,890,672

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Table F.2: Projected fund balance based on migration set to be sufficient to maintain the total population at the April 2007 level and real earnings growth of 2%, assuming benefit rates and earnings limits are increased in line with earnings (£000s)

Year	2009	2010	2020	2030	2040	2050	2060	2070
Balance at 01/01	485,571	571,341	873,286	295,803	0	0	0	0
Income								
Contributions	83,667	92,929	144,546	219,301	347,170	579,415	980,478	1,666,931
State Supplement	12,548	13,939	21,682	32,895	52,075	86,912	147,072	250,040
Total Income	96,215	106,869	166,228	252,196	399,245	666,327	1,127,550	1,916,970
Outgo								
Benefits	96,475	98,840	214,036	415,988	789,916	1,286,428	2,057,815	3,172,302
Admin Costs	4,899	5,134	8,168	12,896	20,237	31,597	49,126	76,109
Total Outgo	101,374	103,974	222,203	428,884	810,152	1,318,025	2,106,941	3,248,411
Operating surplus	-5,160	2,894	-55,975	-176,688	-410,907	-651,698	-979,391	-1,331,440
Investment Income	90,930	37,833	55,832	13,703	0	0	0	0
Balance at 31/12	571,341	612,068	873,143	132,818	0	0	0	0

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Table F.3: The estimated future expenditure based on migration set to be sufficient to maintain the total population at the April 2007 level and real earnings growth of 2%, assuming benefit rates and earnings limits are increased in line with prices (£000s)

Year	2009	2010	2020	2030	2040	2050	2060	2070
Old Age Pension	77,260	81,174	157,336	258,227	409,821	547,349	716,923	899,684
Sickness Benefit	3,131	3,253	4,115	5,193	6,685	9,007	12,282	17,143
Incapacity Benefit	6,095	6,335	8,013	10,112	13,018	17,540	23,919	33,385
Industrial Injuries Benefit	264	275	348	439	565	761	1,038	1,448
Bereavement Benefit	2,192	2,279	2,160	2,371	2,268	2,777	3,244	4,457
Travel Allowance Grant	2,060	2,146	2,884	3,875	5,208	6,999	9,406	12,641
Unemployment Benefit	1,269	1,170	1,570	2,110	2,836	3,811	5,121	6,883
Maternity Benefit	1,075	1,133	1,331	1,520	2,150	2,994	3,870	5,278
Industrial Disablement Benefit	651	702	769	889	1,071	1,347	1,755	2,357
Death Grant	242	178	257	405	659	965	1,299	1,588
Industrial Medical Benefit	143	150	190	239	308	415	566	790
Total	94,382	98,794	178,971	285,381	444,588	593,964	779,424	985,656

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Table F.4: The estimated future expenditure based on migration set to be sufficient to maintain the total population at the April 2007 level and real earnings growth of 2%, assuming benefit rates and earnings limits are increased in line with earnings (£000s)

Year	2009	2010	2020	2030	2040	2050	2060	2070
Old Age Pension	77,260	81,174	188,031	376,188	727,778	1,184,870	1,891,825	2,894,012
Sickness Benefit	3,131	3,253	4,918	7,565	11,871	19,497	32,411	55,144
Incapacity Benefit	6,095	6,335	9,577	14,731	23,119	37,969	63,118	107,390
Industrial Injuries Benefit	264	275	415	639	1,003	1,647	2,738	4,659
Bereavement Benefit	2,192	2,279	2,581	3,455	4,027	6,011	8,560	14,338
Travel Allowance Grant	2,060	2,189	3,585	5,874	9,622	15,763	25,824	42,306
Unemployment Benefit	1,269	1,170	1,876	3,074	5,036	8,250	13,515	22,140
Maternity Benefit	1,075	1,133	1,591	2,214	3,818	6,480	10,212	16,978
Industrial Disablement Benefit	651	702	919	1,295	1,903	2,917	4,630	7,582
Death Grant	242	178	307	591	1,171	2,089	3,429	5,109
Industrial Medical Benefit	143	153	236	363	569	935	1,554	2,643
Total	94,382	98,840	214,036	415,988	789,916	1,286,428	2,057,815	3,172,302

Appendix G: Detailed assumptions used in projections

1. This appendix summarises the methods and assumptions used to project contribution income and benefit expenditure. The projections of both contributions and benefits are largely driven by future changes in the population. Details of the population projections are provided in Section 6 of the report and summarised below.

Population Projections

2. The projections of Guernsey's population are based on population data provided as at 30 June 2008 and allow for the interaction of demographic assumptions including mortality, fertility and migration. The constant population scenario assumes a total population in line with the April 2007 total.
3. Mortality and fertility assumptions are based on the ONS 2008-based principal population projections prepared by the Office for National Statistics (ONS) for England and Wales, adjusted by age and sex-related factors based on Guernsey experience from 2007 to 2009. The principal migration assumption assumes variable migration such that the total population remains constant at the April 2007 level, in line with the States Population and Migration Policy Statement.
4. The insured population refers to those making contributions, or being credited with contributions, and therefore eligible for certain benefits.

Contributions

5. The key assumptions underlying the contribution projections are:
 - > proportions of the population assumed to be paying contributions in future years
 - > future contribution rates and earnings limits
 - > the distribution of future earnings
6. The proportions of the working-age population paying contributions are based on data provided on the number of contributors in the years 2004 to 2009 and population data. Since 1 January 2004 all women have paid full rate contributions. (There was previously an option for married women to pay reduced rate contributions.) Contributor data were provided by age and sex and for each of the contribution classes, ie employed, self-employed and non-employed. The proportions have been fairly constant in recent years and it is assumed that these proportions will persist at a similar level throughout the projection period, adjusted for the planned increase in pension age from 65 to 67 between 2020 and 2031.
7. Contribution rates are assumed remain constant at the 2010 rates. The employee upper earnings limit is assumed to increase to align with that for employers over a 5 year period starting in 2010. Contribution earnings limits are assumed to increase in line with increases in benefit rates and results have been provided for three potential up-rating scenarios of increases in line with prices, earnings or half-way between the two.
8. Data on the distribution of earnings in Guernsey is provided to GAD on a quarterly basis. These provide information on earnings for Class 1 contributors (employed individuals) up to the employer upper earnings limit. Earnings information for other contributor classes (self-employed and non-employed) is provided up to the employee upper earnings limit. The earnings distributions are considered separately by contribution class, sex, and age band and are assumed to remain constant at the 2009 distribution in future allowing for earnings inflation. To align the earnings distributions of

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all three classes, it is assumed for the classes other than Class 1 that 50% of contributors earning in excess of the employee UEL earn in excess of the employer UEL and that the remaining 50% have earnings uniformly distributed between the employee and employer UEL.

9. Contribution income is projected by combining the future numbers of contributors, based on the relevant population projections, with the assumed earnings distribution allowing for the assumed up-rating of contribution limits.

Benefits

Old age pension

10. The key assumptions underlying the projections of old age pension expenditure are:
 - > proportions of the population assumed to be in receipt of pension in future years
 - > proportion of the full benefit rate expected to be paid on average
11. It is not a requirement to be a Guernsey resident in order to receive a benefit from the Fund and, in practice, the old age pension is paid to many individuals who do not remain on the Island in retirement. Based on recent experience it is assumed that pension benefits are paid to 152% of the resident population aged 65-69. This is higher than the assumption adopted at the 2003 review, where the proportion assumed to be in receipt of a pension was 141% of resident males aged 65-69 and 130% of resident females aged 65-69. The proportions of the resident population in receipt of pension for older cohorts are lower. It is assumed that the 152% proportion will apply to all future cohorts and the lower proportions for older cohorts will be run-off.
12. Due to the different rules for women married before 31 December 2003 and the transitional arrangements for gender equality, the proportions of women receiving a pension is split between women receiving benefits based on their husband's contribution record, women receiving benefits based on their own contribution record and widows receiving benefits based on their late husband's record. Different age splits also apply to these different female categories.
13. The splits between the different female categories are projected to change over time in line with the Great Britain 2008 marital status projections. This is consistent with the approach adopted for the 2003 review. The allowance made for the transitional arrangements at the 2003 review has been modified for the 2009 review, reflecting more recent data.
14. The proportion of the full pension benefit rate paid depends on individuals' contribution records. The data received for the 2009 review did not permit an analysis of the average proportion of the full benefit rate paid by age and sex. However data on the number of pension beneficiaries and expenditure on old age pensions since the 2003 review indicate that the assumptions adopted at that review have been broadly borne out and therefore these assumptions have been retained for the current review.
15. Expenditure on old age pension benefits is projected by combining the future numbers of beneficiaries, determined as proportions of the projected population, with the assumed average proportion of the full benefit rate payable, allowing for the assumed rate of benefit increases.

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Sickness benefit, invalidity benefit and industrial injury benefit

16. The key assumptions underlying the projections of expenditure on sickness, invalidity and industrial injury benefits are:
- > expected number of beneficiaries per insured
 - > average proportion of the full benefit rate expected to be paid, combined with the expected duration of payment
17. The table below details the assumptions adopted for the expected number of beneficiaries per insured and the average proportion of the full benefit rate payable, combined with the expected duration of payment for each of the three sickness benefits. These assumptions are based on data detailing the number of beneficiaries, current benefit rates and expenditure on these benefits since the previous review.

	Expected number of beneficiaries per insured	Average proportion of full benefit rate payable and expected duration of payment (days)
Sickness benefit	1 beneficiary per 3 insureds	14.5 days
Invalidity benefit	1 beneficiary per 33 insureds	255.0 days
Industrial injury benefit	1 beneficiary per 60 insureds	24.5 days

18. The assumptions adopted for the expected number of beneficiaries per insured has increased for sickness benefit and invalidity benefit, compared to those adopted at the 2003 review and reduced for industrial injury benefit compared to the 2003 review. For all three benefits, the combined average proportion of full benefit payable and the duration of payment have increased relative to the 2003 review.
19. Expenditure on sickness benefits is projected by combining the future numbers of beneficiaries, based on the projected insured population, with the assumed average proportion of the full benefit rate payable and the expected duration of payment, allowing for the assumed rate of benefit increases.

Bereavement benefits

20. The key assumptions underlying the projections of expenditure on bereavement payment, bereavement allowance and widowed parent's allowance are:
- > the proportion of the population assumed to be widowed in future years
 - > the proportion of those widowed receiving each bereavement benefit
 - > the average proportion of the full benefit rate expected to be paid
21. The proportion of the population assumed to be widowed in the future is based on the Great Britain 2008 marital status projections for the proportions of widows and widowers in the population. These proportions are age-specific and are projected to change over time. The equivalent 2002 marital status projections were used for the 2003 review. These proportions are applied to the assumed Guernsey population projections.
22. The 2003 review made allowance for the new bereavement benefits which became effective from 1 January 2004 but there were no experience data available at that time on the proportions receiving each of the bereavement benefits. The assumptions adopted were based on experience of the equivalent predecessor benefits, similar

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Great Britain experience and adjustments for expected future experience, for example, as a result of the gender equality legislation. The assumptions adopted for this review are based on 2008 and 2009 experience data.

23. The data received for the 2009 review did not permit an analysis of the average proportion of the full benefit rate expected to be paid for each benefit and by age and sex. However data on the number of beneficiaries and expenditure on bereavement benefits since the 2003 review indicate that the assumptions adopted at that review have been broadly borne out and therefore these assumptions have been retained for the current review.
24. Expenditure on bereavement benefits is projected by combining the future numbers of beneficiaries, based on the projected numbers widowed and proportions receiving benefits, with the assumed average proportion of the full benefit rate payable, allowing for the assumed rate of benefit increases.

Travelling allowance grant

25. The key assumptions underlying the projections of travelling allowance grant (TAG) expenditure are:
 - > expected number of grants per insured
 - > annual increase in cost per grant
26. Based on recent experience, it is assumed that 1 in 50 insured individuals will receive a travelling allowance grant, with grants being distributed equally between males and females. The recording of these grants changed in 2007 so these assumptions cannot be directly compared to the assumptions adopted for the 2003 review.
27. Expenditure on the travelling allowance grant is projected by combining the future numbers of grants, based on the projected insured population, allowing for the cost per grant to increase in line with prices, earnings or the mid-point of the two.

Unemployment benefit

28. The key assumptions underlying the projections of expenditure on unemployment benefit are:
 - > the number unemployed
 - > the average proportion of the full benefit rate expected to be paid
29. At the request of the Social Security Department, it is assumed that the number unemployed will be 250. This is slightly higher than the assumption of 200 adopted at the 2003 review. The 2003 assumption that the average proportion of the full benefit rate paid will be 70% has been retained.
30. Expenditure on unemployment benefit is projected by combining the number unemployed and the assumed average proportion of the full benefit rate paid, allowing for the assumed rate of benefit increases.

Maternity benefit

31. The key assumptions underlying the projections of expenditure on maternity benefits are:
- > the proportion of births giving rise to a maternity grant
 - > the proportion of births giving rise to a maternity allowance
 - > the average expected duration of payment for maternity allowance
32. It is assumed that 1 maternity grant will be awarded per 8.3 births and 1 maternity allowance will be awarded per 1.1 births. The average expected duration for maternity allowance is 14.3 weeks. The average expected duration has increased from 13.6 weeks assumed at the 2003 review. The proportion of births giving rise to a maternity allowance is unchanged and the proportion of births giving rise to maternity grant has reduced. The total number of awards is greater than the number births as the number of births reflects live births on the island. In some cases births will take place off the island but will be eligible for a relevant benefit.
33. Expenditure on maternity benefits is projected by combining the number of births, based on the population projections, the proportion giving rise to each of the benefits and the assumed duration of maternity allowance, allowing for the assumed rate of benefit increases.

Industrial disablement benefit

34. The key assumptions underlying the projections of industrial disablement expenditure are:
- > expected number of awards per insured
 - > the average proportion of the full benefit rate expected to be paid
 - > average termination rate
35. Based on recent experience, the 2003 assumptions that 1 in 3,375 insured individuals will receive an industrial disablement benefit and that, on average, 38% of the full benefit rate will be paid have been retained. It is assumed that the average termination rate will be 1 termination per 15 claims. This is an increase in terminations relative to the assumption adopted at the 2003 review of 1 termination per 23 claims.
36. Expenditure on industrial disablement benefit is projected by combining the number of awards, based on the insured population, the average proportion of the full benefit rate expected to be paid and allowing for assumed terminations and the assumed rate of benefit increases.

Death grant

37. The key assumptions underlying the projections of death grant expenditure are:
- > the proportion of deaths giving rise to a grant
 - > the average proportion of the full benefit rate expected to be paid
38. It is assumed that 3 in 4 deaths will give rise to the award of death grant and that, on average, 96.5% of the full benefit rate will be paid. These assumptions are unchanged from those adopted at the 2003 review.
39. Death grant expenditure is projected by combining the number of awards, based on the projected population and the proportion giving rise to a grant, and the average

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proportion of the full benefit rate expected to be paid, allowing for the assumed rate of benefit increases.

Industrial medical benefit

40. Expenditure on industrial medical benefits is projected allowing for increases in the insured population and general up-rating of benefits in line with prices, earnings or the mid-point of the two. This is consistent with the approach adopted at the 2003 review.

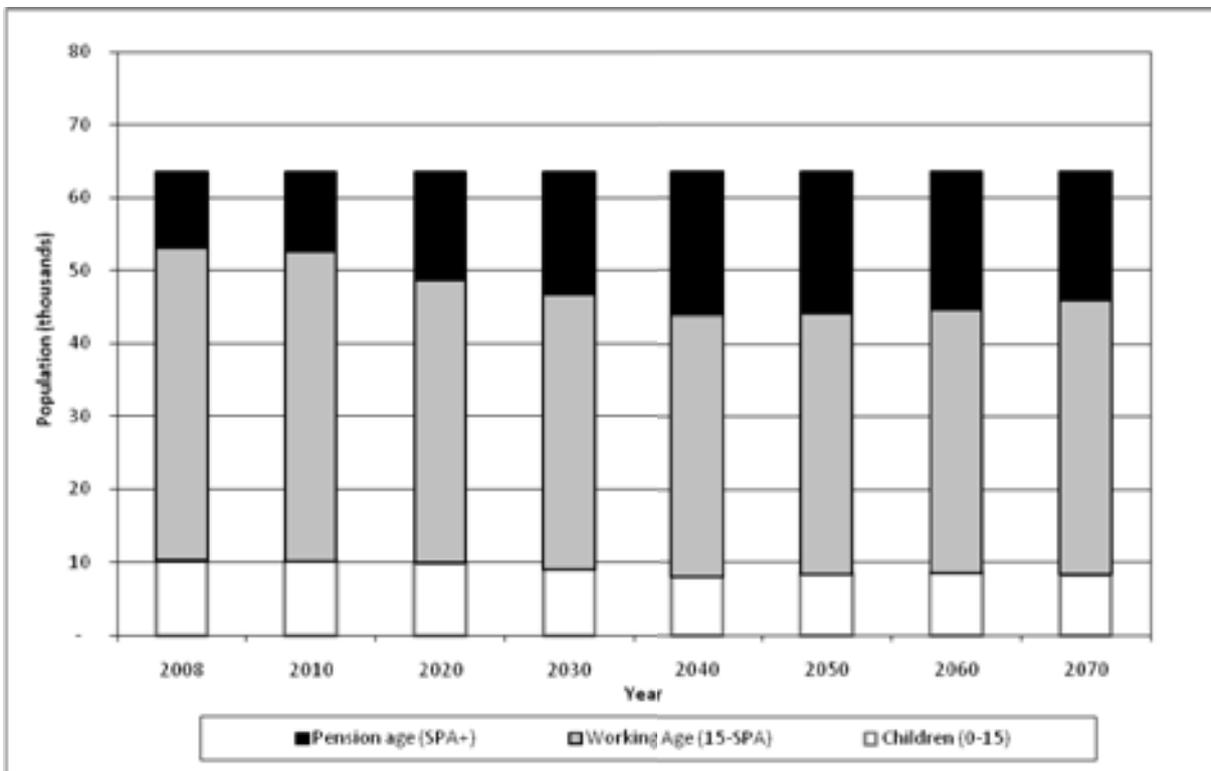
Administration costs

41. Salary-related costs are assumed to increase in line with earnings and other costs are assumed to increase in line with prices. This is consistent with the approach adopted for the 2003 review.

Appendix H: Alternative migration assumptions

1. The charts below show the projected future population of Guernsey at 10-year intervals for each of the four migration scenarios. The projections are based on population data as at 30 June 2008, with the constant population scenario assuming a total population in line with the April 2007 total.
2. The charts sub-divide the population into children (0-15 years), those of working age and pensioners (above pension age). For the purpose of preparing these charts, the planned increase in the pension age from 65 to 67 which is due to take effect between 2020 and 2031 is allowed for by assuming a pensioner group of 65+ in 2020 and 67+ from 2030 and thereafter.

Figure H.1: Projection of Guernsey population assuming migration is set to be sufficient to maintain the total population at the April 2007 level



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Figure H.2: Projection of Guernsey population assuming zero migration

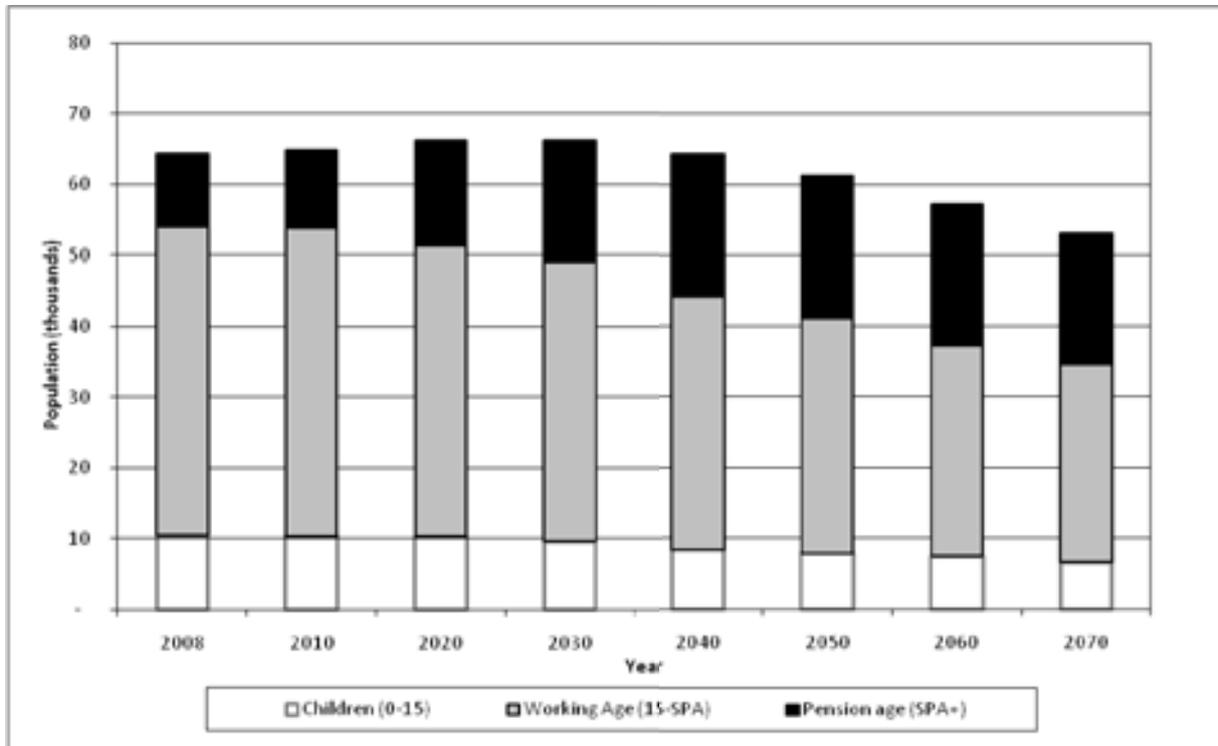
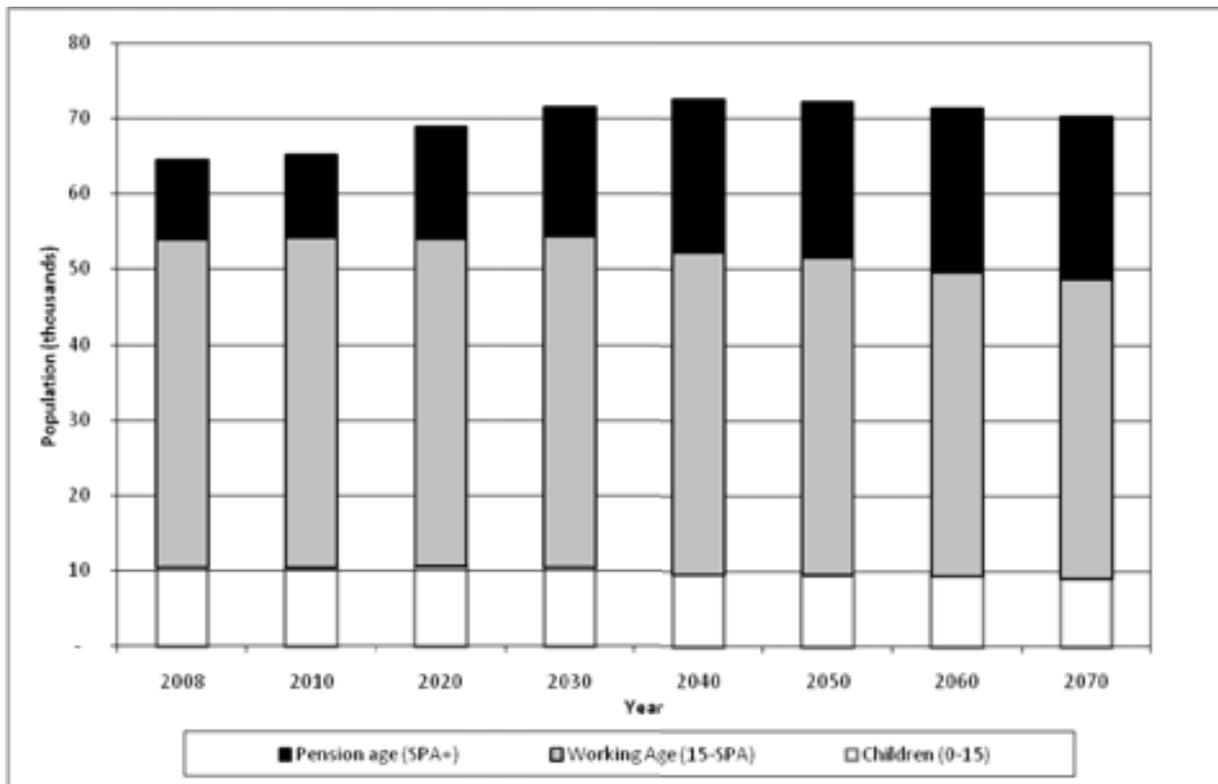
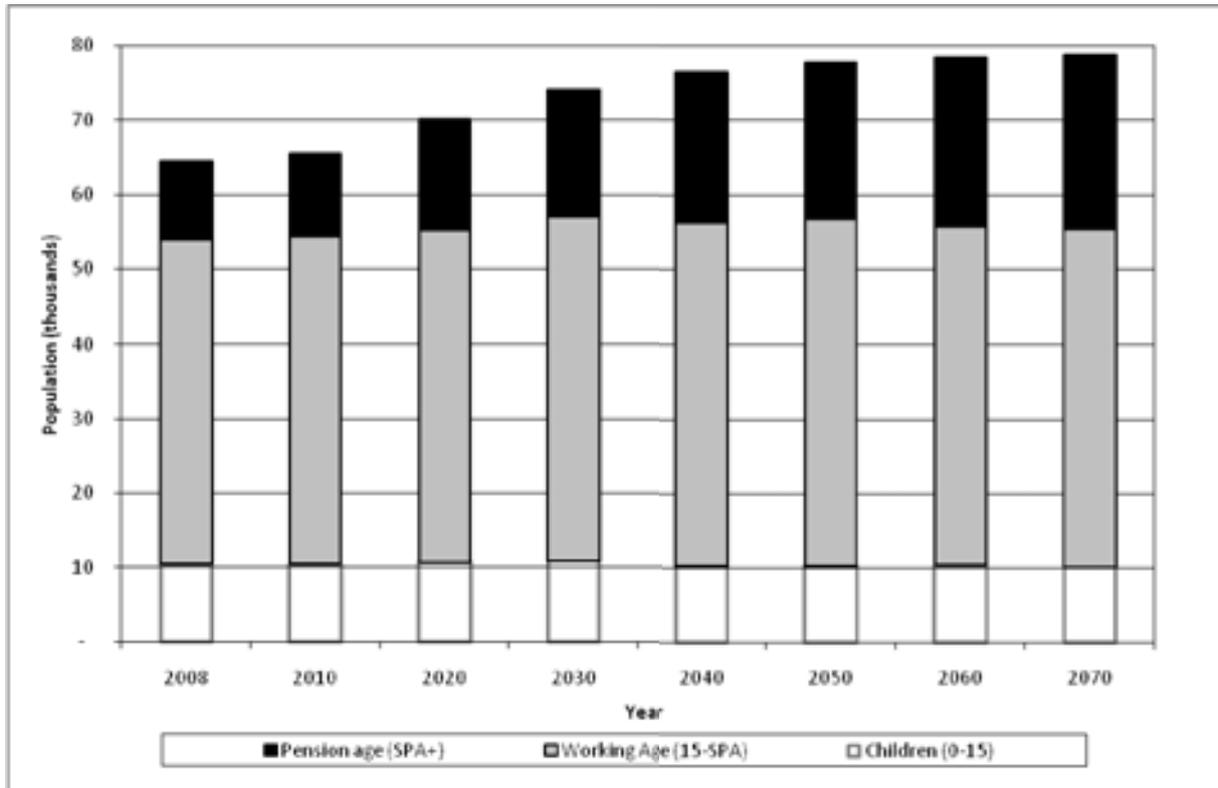


Figure H.3: Projection of Guernsey population assuming 200 net immigration



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Figure H.4: Projection of Guernsey population assuming 300 net immigration



Appendix I: Projected future population of Guernsey

1. The table below provides details of the projected future population of Guernsey by age and sex based on the principal migration assumption. This scenario assumes variable future migration set to be sufficient to maintain the total population at the April 2007 level.

Table I.1: Projected future population of Guernsey based on migration set to be sufficient to maintain the total population at the April 2007 level by age and sex

Year	2009	2010	2020	2030	2040	2050	2060	2070
Male								
0-9	3,190	3,196	3,187	2,715	2,513	2,695	2,656	2,621
10-19	3,676	3,574	3,161	3,226	2,803	2,623	2,819	2,752
20-29	4,246	4,183	3,240	3,263	3,740	3,519	3,455	3,568
30-39	4,186	4,074	3,880	3,267	3,633	4,281	4,158	4,057
40-49	4,901	4,920	3,899	3,868	3,426	3,875	4,567	4,426
50-59	4,317	4,341	4,756	3,826	3,871	3,476	3,943	4,625
60-69	3,471	3,598	4,122	4,535	3,662	3,722	3,353	3,824
70-79	2,201	2,248	3,165	3,664	4,058	3,295	3,383	3,071
80-89	984	1,012	1,521	2,324	2,748	3,116	2,586	2,724
90-99	120	140	327	640	1,095	1,333	1,590	1,387
100+	1	1	6	23	71	148	207	285
Female								
0-9	2,933	2,942	3,041	2,593	2,399	2,571	2,534	2,498
10-19	3,529	3,400	2,858	3,087	2,749	2,607	2,812	2,740
20-29	4,108	4,104	3,211	2,897	3,355	3,131	3,053	3,223
30-39	4,201	4,102	3,990	3,222	3,038	3,562	3,375	3,283
40-49	5,079	5,076	4,052	3,980	3,255	3,094	3,629	3,439
50-59	4,309	4,359	5,004	4,005	3,950	3,241	3,088	3,622
60-69	3,487	3,610	4,215	4,835	3,857	3,808	3,117	2,981
70-79	2,516	2,541	3,272	3,878	4,492	3,611	3,597	2,958
80-89	1,630	1,638	1,916	2,649	3,189	3,753	3,056	3,110
90-99	339	363	601	893	1,420	1,743	2,137	1,796
100+	18	18	18	51	119	236	328	453

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2. The table below sub-divides the projected future population of Guernsey population, based on the principal migration assumption, into children (0-15 years), those of working age and pensioners (above pension age). For the purpose of preparing these charts, the planned increase in the pension age from 65 to 67 which is due to take effect between 2020 and 2031 is allowed for by assuming a pensioner group of 65+ in 2020 and 67+ from 2030 and thereafter.

Table I.2: Projected future population of Guernsey based on migration set to be sufficient to maintain the total population at the April 2007 level by population category

Year	2009	2010	2020	2030	2040	2050	2060	2070
Male								
Children	5,258	5,241	5,139	4,583	4,082	4,218	4,292	4,201
Working age	21,340	21,200	19,135	18,775	18,360	18,866	19,633	20,671
Pension age	4,696	4,847	6,990	7,995	9,177	9,000	8,792	8,468
Total	31,294	31,288	31,264	31,352	31,619	32,084	32,718	33,340
Female								
Children	4,908	4,878	4,763	4,394	3,951	4,096	4,176	4,073
Working age	21,359	21,293	19,633	18,807	17,339	16,838	16,419	16,865
Pension age	5,882	5,983	7,782	8,889	10,533	10,424	10,129	9,164
Total	32,148	32,154	32,178	32,090	31,823	31,358	30,724	30,102
Total								
Children	10,166	10,119	9,902	8,976	8,033	8,314	8,468	8,274
Working age	42,698	42,493	38,768	37,582	35,699	35,704	36,053	37,536
Pension age	10,578	10,830	14,772	16,884	19,710	19,424	18,922	17,632
Total	63,442	63,442	63,442	63,442	63,442	63,442	63,442	63,442

Table I.3: Projected future ratio of resident working age population to pension age population based on migration set to be sufficient to maintain the total population at the April 2007 level

Year	2009	2010	2020	2030	2040	2050	2060	2070
Ratio of working age population to pension age population	4.14	3.92	2.62	2.23	1.81	1.84	1.91	2.13

Table I.4: Projected future ratio of contributors to old age pension beneficiaries based on migration set to be sufficient to maintain the total population at the April 2007 level

Year	2009	2010	2020	2030	2040	2050	2060	2070
Ratio of contributors to pension beneficiaries	2.34	2.36	1.52	1.21	1.00	1.01	1.05	1.17



MEMO

TO: Malcolm Nutley

COPIED TO: Guernsey Social Insurance 2009 File

FROM: Joanne McDaid

REF:

DATE: 24 June 2011

SUBJECT : Alternative employer contribution scenarios

This note provides charts showing the progress of the Guernsey Insurance Fund based on alternative employer contribution scenarios.

The progress of the Fund is shown in terms of the projected average Fund balance in a year expressed as a proportion of the annual expenditure on benefits and administration costs. The projections of the progress of the Fund allow for investment returns, including re-investment of investment income, at an assumed real rate of return of 3.5% a year in excess of RPIX price inflation.

The charts show how the average Fund balance, as a proportion of annual expenditure, is expected to change over time. Projections are shown assuming benefits and earnings limits are up-rated in line with prices or earnings, or halfway between the two, based on a real earnings growth assumption of 2% a year.

Figures 1 and 2 show how the Fund is projected to progress assuming the current employer contribution rate of 4.9% is maintained throughout the projection period.

Figures 3 and 4 show how the Fund is projected to progress assuming the current employer contribution rate of 4.9% increases to 5.4% from January 2012, based on two alternative migration scenarios.

For Figures 5 and 6 the employer contribution rate from January 2012 has been set, such that projected average Fund balance at the end of the projection period is twice the annual expenditure on benefits and administration costs based on up-rating of benefits rates and earnings limits in line with halfway between prices and earnings. Again, results are provided for two alternative migration scenarios.

In all cases the States' grant is assumed to be unchanged at 15% of contributions and employee, self-employed and non-employed contribution rates are assumed to remain unchanged.

Please note that the charts' axes are appropriate to the relevant projections and therefore the scales are not necessarily consistent between charts.



Figure 1: Progression of Fund based on migration set to be sufficient to maintain the total population at the April 2007 level and assuming an employer contribution rate of 4.9%

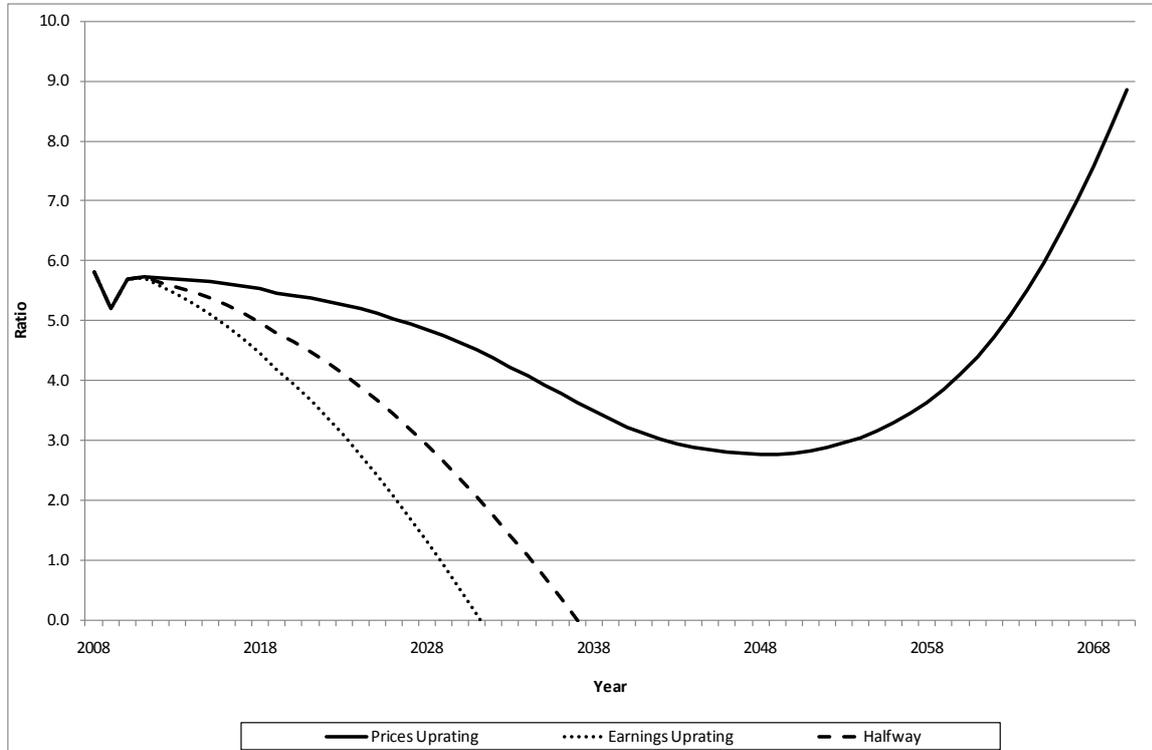


Figure 2: Progression of Fund based net immigration of 200 a year and assuming an employer contribution rate of 4.9%

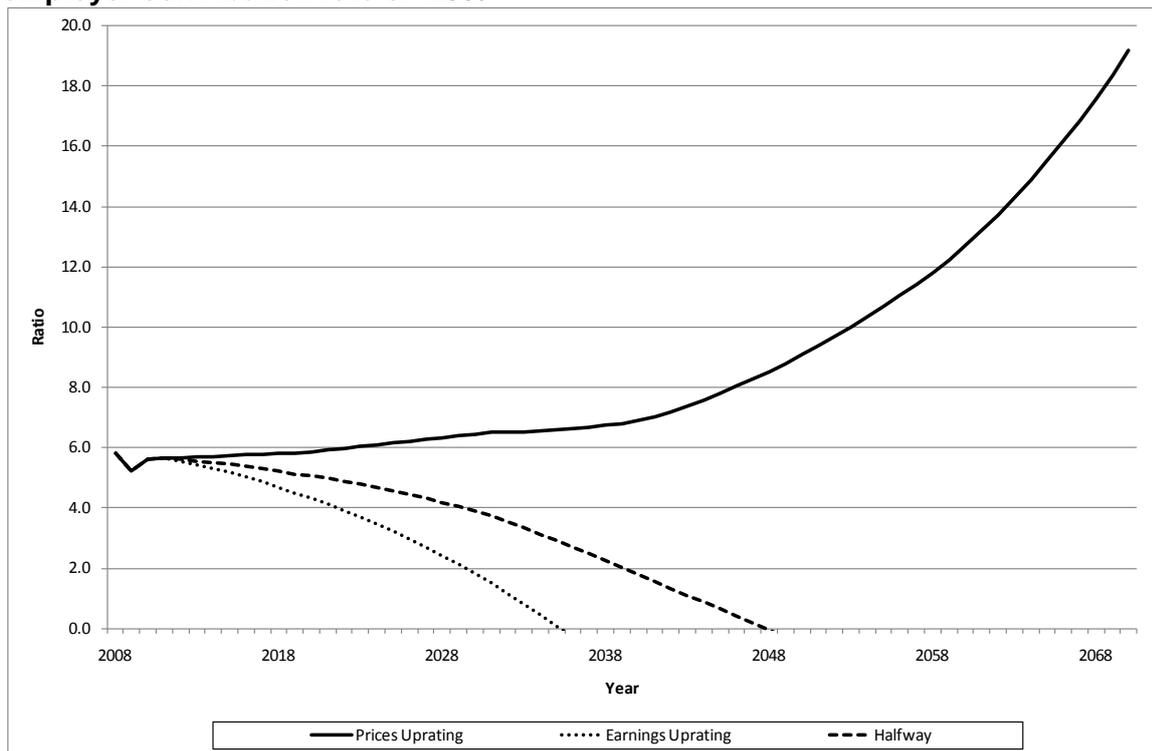




Figure 3: Progression of Fund based on migration set to be sufficient to maintain the total population at the April 2007 level and assuming an employer contribution rate of 5.4%

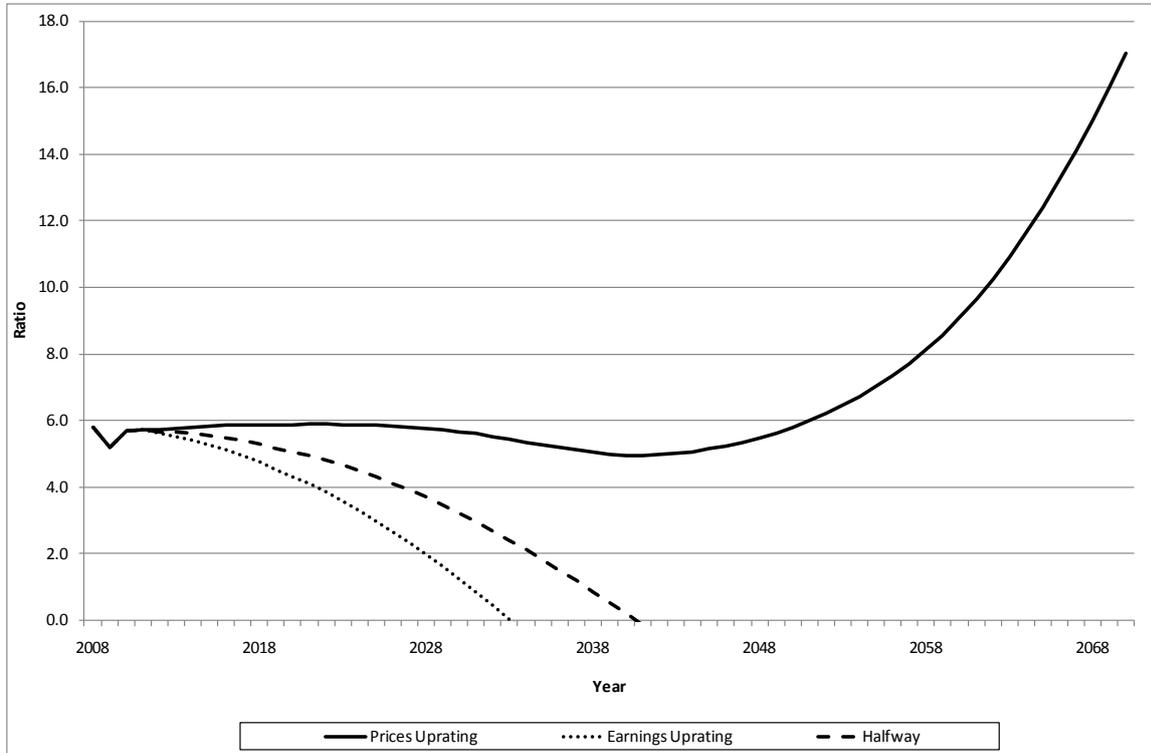


Figure 4: Progression of Fund based net immigration of 200 a year and assuming an employer contribution rate of 5.4%

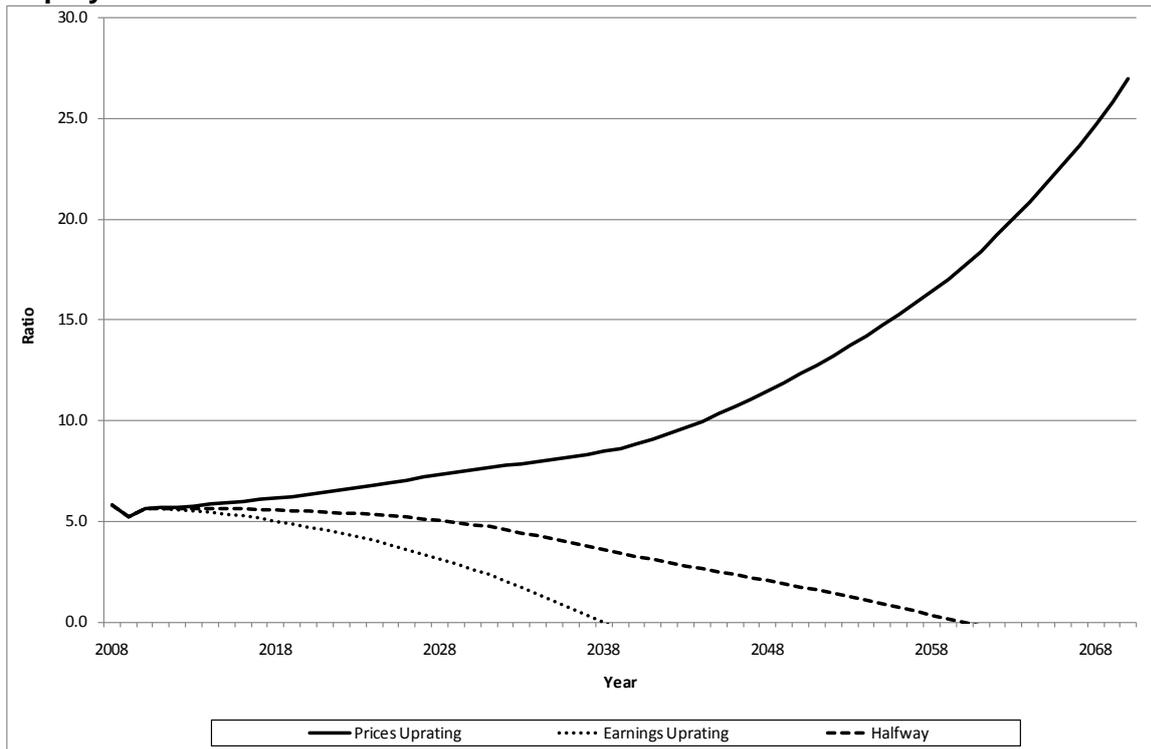




Figure 5: Progression of Fund based migration set to be sufficient to maintain the total population at the April 2007 level and assuming an employer contribution rate of 6.6%

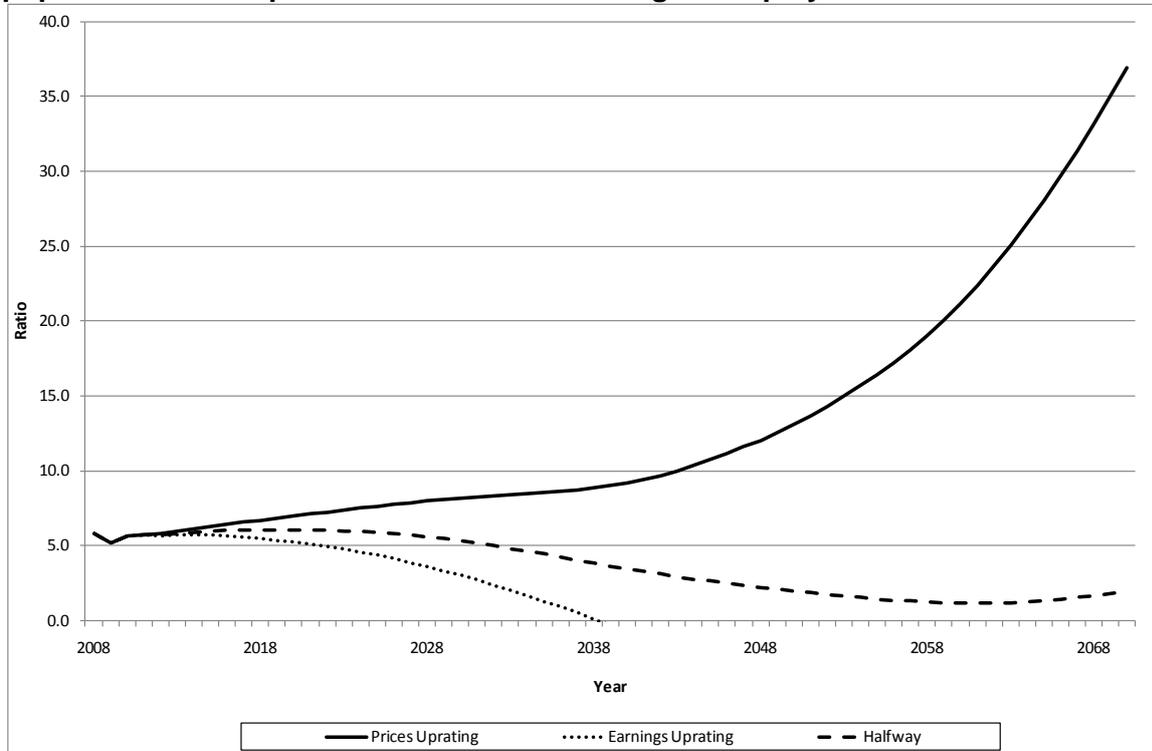
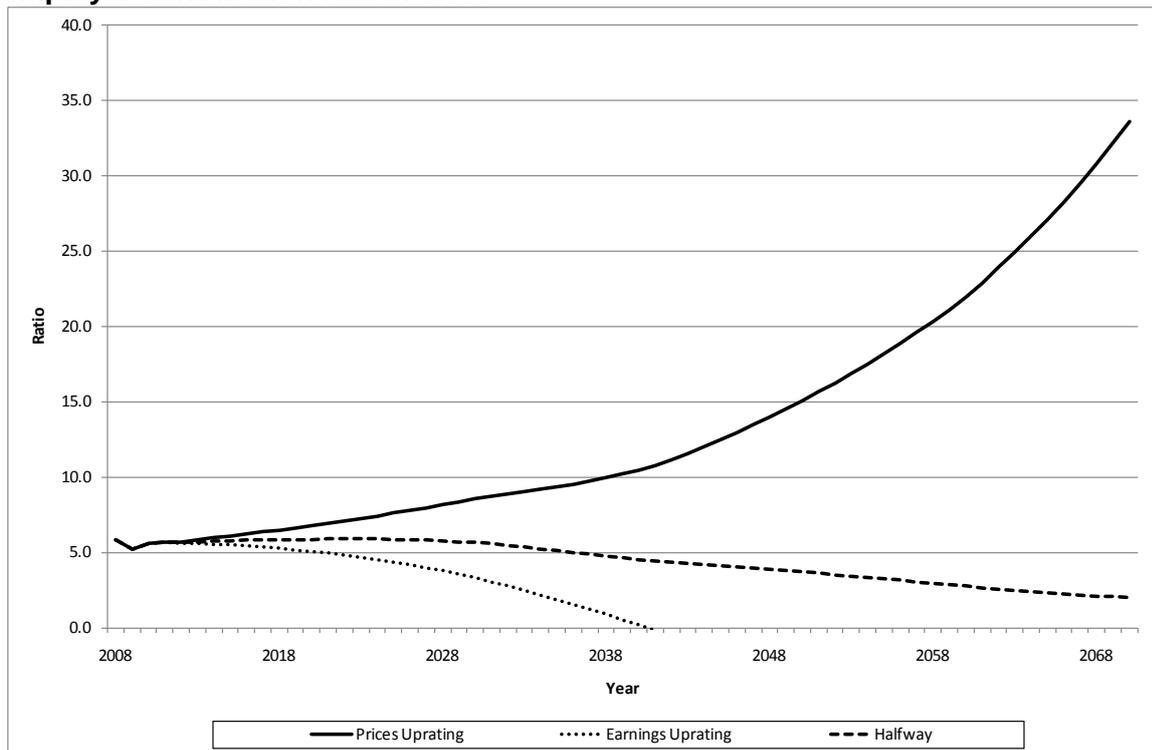


Figure 6: Progression of Fund based net immigration of 200 a year and assuming an employer contribution rate of 5.8%

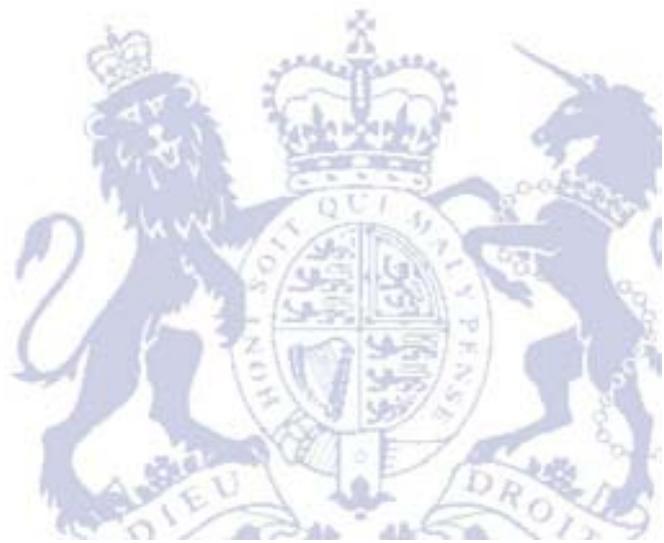




Health Service (Benefit) (Guernsey) Law 1990
Report on the operation of the Health Service (Benefit) (Guernsey)
Law in the period 1 January 2006 to 31 December 2009

Date: June 2011

Author: Trevor Llanwarne



Review of the Guernsey Health Service Fund as at 31 December 2009

THE HEALTH SERVICE (BENEFIT) (GUERNSEY) LAW 1990

REPORT BY THE GOVERNMENT ACTUARY ON THE OPERATION OF THE HEALTH SERVICE (BENEFIT) (GUERNSEY) LAW IN THE PERIOD 1 JANUARY 2006 TO 31 DECEMBER 2009

To the Minister and Members of the Social Security Department:

Section 20(1) of the Health Service (Benefit) (Guernsey) Law 1990 ("the Law") provides for a review of the operation of the Law at intervals not exceeding five years. The Government Actuary's previous review covered the period of five years up to 31 December 2005. At the request of the Social Security Department, I have carried out a review covering the four year period from 1 January 2006 to 31 December 2009. I submit the following report on the financial condition of the Guernsey Health Service Fund and on the adequacy of the present contribution rates and States Grant. All the references to Guernsey in this report are to be taken to include also the islands of Alderney, Herm and Jethou, whose residents we understand are covered by the Law.



Trevor Llanwarne FIA
Government Actuary

June 2011

Review of the Guernsey Health Service Fund as at 31 December 2009

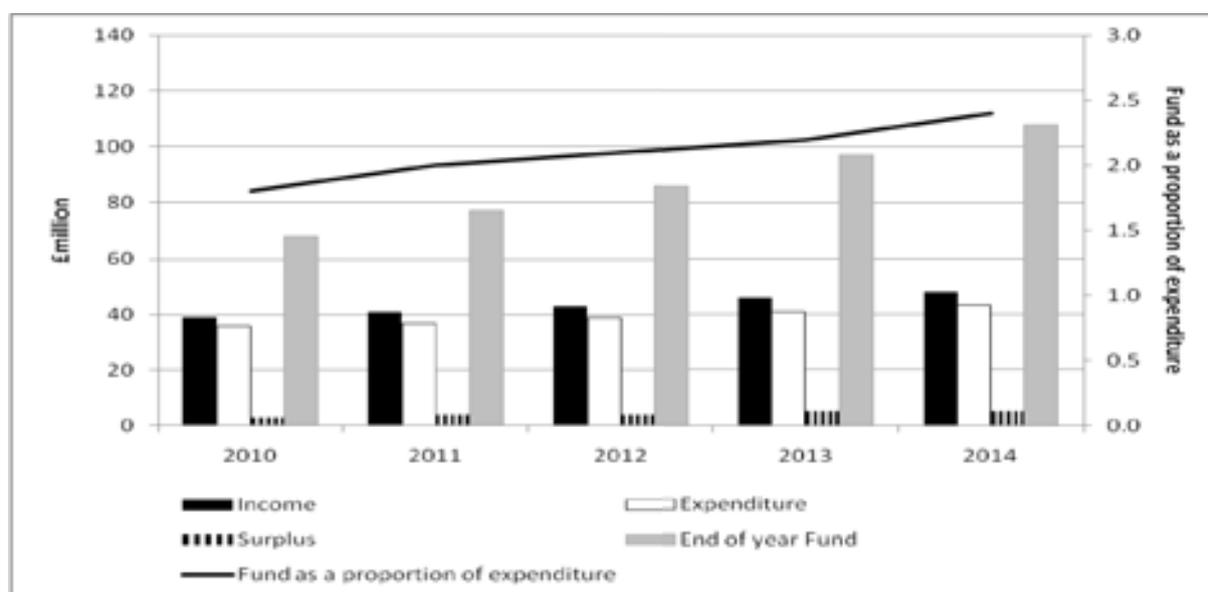
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1 Executive summary

- 1.1 This report has been prepared for the Minister and Members of the Social Security Department.
- 1.2 Section 20(1) of the Health Service (Benefit) (Guernsey) Law 1990 (“the Law”) provides for a review of the operation of the Law at intervals not exceeding five years. The Government Actuary’s previous review covered the period of five years up to 31 December 2005. At the request of the Social Security Department, I have carried out a review covering the four year period from 1 January 2006 to 31 December 2009. The next report will be due as at an effective date no later than 31 December 2014.
- 1.3 The aim of this report is to review the financial condition of the Guernsey Health Service Fund (“the Fund”) and the adequacy of the contributions and States Grant payable. It examines recent experience of the Fund and provides projections over the period from 2010 to 2014 for the progress of the Fund if the current contribution rates and States Grant are maintained.
- 1.4 This review allows for changes made to the Fund since the previous review as at 31 December 2005.
- 1.5 The Fund balance remained satisfactory over the period between the 2005 review and the 2009 review and is continuing to increase. Figure 1.1 below illustrates how the Fund’s finances might be expected to develop over time, should current contribution rates and States Grant continue, based on assumptions that up-rating of benefits and earnings limits increase halfway between prices and earnings, variable migration such that the total population remains constant at the April 2007 level and real earnings growth of 2% a year (please refer to Appendix D for details of the assumptions used). An increase in the ratio of the average fund balance to expenditure is projected, from the 2009 level of around 1.5 to approximately 2.4 by 2014. This reflects steady expected increases in contribution income of around 5% per annum (broadly in line with assumed future earnings increases) against maintained control of costs (assumed to increase at an average of around 3% per annum), compounded with investment returns of around 6.6% per annum (nominal).

Figure 1.1: An illustration of how the Fund’s finances might be expected to develop over time



Review of the Guernsey Health Service Fund as at 31 December 2009

- 1.6 In our opinion the range of assumptions underlying the projections in this report cover a reasonable range and the methodology used in preparing these projections is appropriate for its purpose and consistent with actuarial principles.
- 1.7 Although the Guernsey Health Service Fund projections are sensitive to the same types of drivers as for the other two Funds, as well as Guernsey Health Service Fund-specific assumptions, due to the short projection period addressed in this report differences that could be otherwise apparent in the accompanying reviews for the other two Funds would not have the opportunity to operate in a noticeable fashion in this particular context. However, over the 5-year projection period involved, uncertainties as regards future investment returns, fluctuations in market values and the potential for policy changes will be particularly relevant and caution is therefore needed when using the projections in this report, despite the short-term nature of the reporting horizon. Users should read the main body of this report to understand the uncertainty and limitations surrounding these projections.

2 Introduction and scope of the review

- 2.1 This report has been prepared for the Minister and Members of the Social Security Department (“the Department”). The Department is required to lay a copy before the States as soon as is practicable after receiving it.
- 2.2 Section 20(1) of the Health Service (Benefit) (Guernsey) Law 1990 (“the Law”) provides for a review of the operation of the Law at intervals not exceeding five years. The Government Actuary’s previous review covered the period of five years up to 31 December 2005. At the request of the Social Security Department, I have carried out a review covering the four year period from 1 January 2006 to 31 December 2009. The next report will be due as at an effective date no later than 31 December 2014.
- 2.3 The legislation governing the Fund requires regular reviews of the financial condition of the Fund and the adequacy of the contributions and States Grant payable. However, whereas the Guernsey Insurance Fund and the Long-term Care Insurance Fund take on long-term liabilities when they accept each year’s contributions and the long-term therefore needs to be considered when assessing sustainability, contributions to the Health Service Fund only secure treatment for healthcare in that year and do not give rise to any long-term liability. Reviews of the Health Service Fund therefore essentially function as budgeting exercises, alerting the Department to changes that might be needed in the contributions in the immediate future. As the governing legislation is not specific regarding the time horizon to be covered by this process, we have provided results for a five-year period, in line with the 2005 review. In practical terms, this means that we have examined recent experience of the Fund and provided projections over the period from 2010 to 2014 for the progress of the Fund if the current contribution rates and States Grant are maintained.
- 2.4 This review allows for changes made to the Fund since the previous review as at 31 December 2005.
- 2.5 It is anticipated that the results in this report will be used by the Social Security Department for information purposes and for considering possible changes to contributions or benefits payable. However, before deciding on any changes, further actuarial advice should be sought in order to confirm the likely impact on the finances of the Fund. Furthermore, in making decisions about the Fund, it will also be appropriate to take into account non-actuarial matters, such as legal, administrative and policy issues.
- 2.6 This report complies with the ‘Guidelines of Actuarial Practice for Social Security Programs’ issued by the International Actuarial Association and effective from 1 January 2003.
- 2.7 This report is not subject to, and does not therefore need to comply with, the Technical Standards on Reporting Actuarial Information (TAS R), Data (TAS D) and Modelling (TAS M) issued by the UK Board for Actuarial Standards. Nevertheless in producing this report we have followed the principles of TAS R, TAS D and TAS M to a sensible and practical extent.

Review of the Guernsey Health Service Fund as at 31 December 2009

Reliances and limitations

- 2.8 This report has been prepared for the Minister and Members of the Social Security Department. We understand that the information in this report may be made available to others. However GAD does not accept any liability to third parties in relation to this report.
- 2.9 This review relies on the accuracy of data and information provided by the Social Security Department. GAD does not accept responsibility for advice based on wrong or incomplete data or information provided.
- 2.10 The advice provided must be taken in context. Advice is intended to be read and used as a whole and not in parts. GAD does not accept responsibility for advice that is altered or used selectively.
- 2.11 Clarification should be sought if there is any doubt about the intention or scope of advice provided in this report. GAD is not responsible for any decision taken by the Social Security Department, except to the extent that the decision has been made in accordance with specific advice provided.
- 2.12 All references to Guernsey in this report are to be taken to include also the islands of Alderney, Herm and Jethou.

3 How the Fund works

- 3.1 The Fund is a contributory social security scheme providing a range of health-related benefits.
- 3.2 The Fund is financed broadly on the pay-as-you-go principle. Under this approach, contribution income in a year is intended to cover expenditure in the year, and no significant fund of assets would be built up out of which to finance future expenditure. This means contribution rates may change significantly over time owing to changes in the benefit structure, population or economic activity.
- 3.3 However, notwithstanding the pay-as-you-go principle, a fund is maintained to act as a reserve to meet unforeseen contingencies in the operation of the Fund. As at 31 December 2009, the balance of the fund held was in excess of £60 million.
- 3.4 Appendix A provides a summary of the contributions payable and the benefits provided.
- 3.5 Contributions are paid by employers, employees, the self-employed and the non-employed. Employees and their employer pay a total of 2.9% of earnings up to the upper earnings limit, subject to a lower earnings limit. (This does not include contributions payable to the Guernsey Insurance Fund or the Long-term Care Insurance Fund.) Similar contributions are paid by self-employed and non-employed persons unless they are exempt. The States also provide central funding to the Fund. The States Grant is defined as a percentage of total contributions and is currently paid at a rate of 12%.
- 3.6 There have been a number of changes to the Fund since the previous review, including reductions in the States Grant and increases in the contribution rates payable by employers, employees and the self-employed. The Social Security Department has also carried out a consultation process since the previous review, known as the 'Pension Puzzle' exercise, to consider potential changes to the Fund with the aim of securing its future financial sustainability.
- 3.7 Appendix B provides details of income and expenditure in the Fund since the previous review as at 31 December 2005 and Section 4 of this report examines recent Fund experience and provides details of all the changes to the Fund since the previous review. The projections provided in this report make allowance for these changes.

4 Recent experience of the Fund and changes since the previous review

Changes affecting all three Funds

- 4.1 Section 5 of our report on the 2009 review of the Guernsey Insurance Fund provides information about changes affecting all three of the Guernsey Insurance Fund, Guernsey Health Service Fund and the Long-term Care Insurance Fund, in particular, information regarding the Pensions Puzzle exercise and population assumptions.

Changes specific to the Guernsey Health Service Fund

Contribution rates and earnings limits

- 4.2 Since the 2005 review both contribution rates and earnings limits have changed. The projections provided in this report allow for all of these increases, including those increases of which we have been made aware that come into force after the effective date of the review of 31 December 2009.
- 4.3 The employer contribution rate increased from 1.4% to 1.6% from January 2008 and the employee contribution rate decreased from 1.4% to 1.3% from January 2010. The self-employed contribution rate also decreased, from 2.8% to 2.7% from January 2010. The standard non-employed contribution rate is unchanged at 2.8%, while the Guernsey Health Service Fund contribution rate for those non-employed cases contributing only to the Guernsey Health Service Fund and the Long-term Care Insurance Fund increased from 1.2% to 1.3% from January 2010.
- 4.4 There were significant increases in the upper earnings limit (UEL) for both employers and employees in 2007 and 2008. Further increases in the employee UEL are planned in future years, in line with the outcome of the Pension Puzzle exercise.

States grant

- 4.5 The States grant is the amount of central funding paid into the Fund. It is defined as a percentage of total contributions. The amount of the States grant has reduced since the 2005 review. From January 2007 the States grant reduced from 40% to 27%. It was further reduced to 12% with effect from January 2008 and has not altered again since then. This review consequently assumes that the States grant will remain unchanged at 12%.

Changes in contracts

- 4.6 The Social Security Department has fixed fee contracts in respect of specialist medical benefit, physiotherapy benefit and Alderney hospital benefit. All three contracts were reviewed in early 2008, resulting in a revision to contract pricing in each case and a revision to the maximum number of consultants under the contract with the Medical Specialist Group.

Benefits provided

- 4.7 As instructed, this review makes an allowance for the introduction of a primary care mental health benefit, providing cognitive behaviour therapies, from 2011. The assumptions that we have been directed to adopt for this purpose are disclosed in Appendix D.

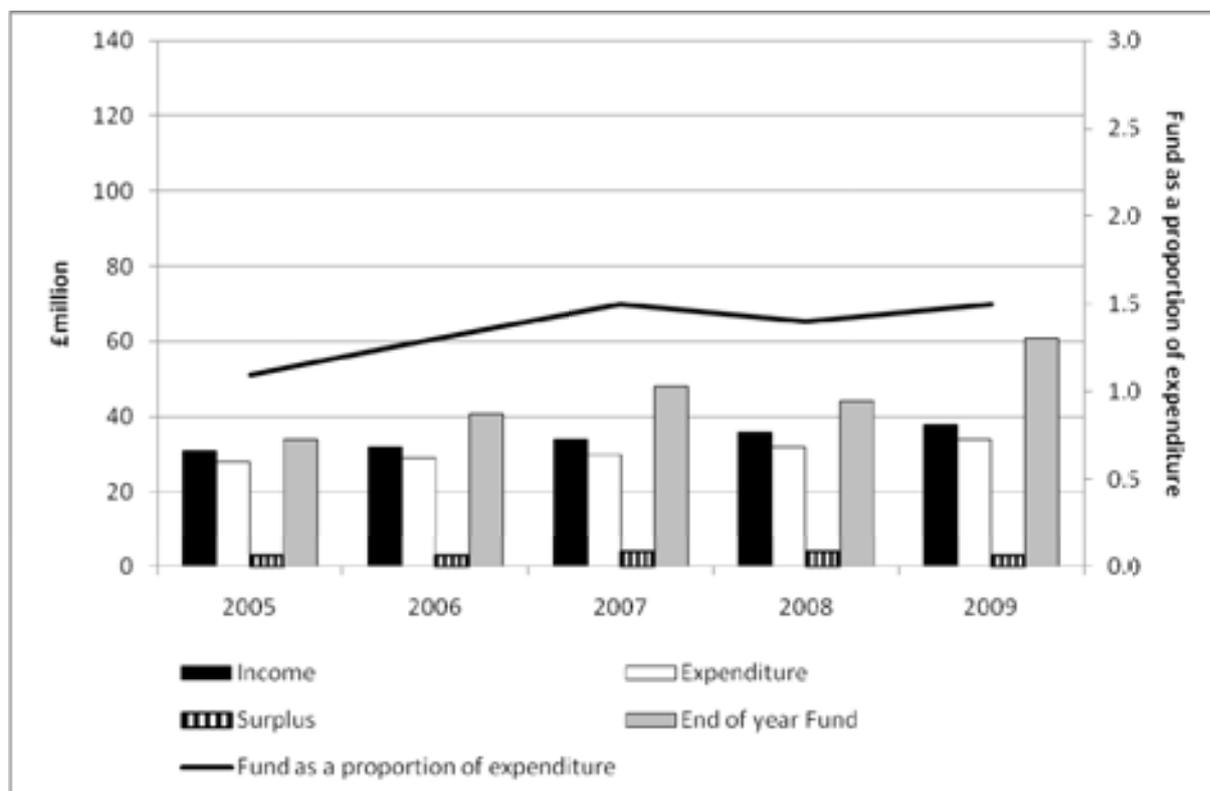
Fund experience

- 4.8 The Fund balance remained satisfactory over the period between the 2005 review and the 2009 review and is continuing to increase. The balance of the Fund has generally increased steadily over the period since the last review, although there was a reduction in the balance of the Fund at the end of 2008. This reduction was primarily a result of a

Review of the Guernsey Health Service Fund as at 31 December 2009

- large unrealised investment loss in the year, reflecting turmoil in global financial markets at that time.
- 4.9 Income has continued to grow, slightly exceeding the 2005 review's projections for each year, reflecting a combination of increases in earnings and the net impact of the 2007 and 2008 reductions in the States grant, the introduction of higher applicable upper earnings limits (especially in 2007 and 2008) and an increase in employer contribution rate in 2008.
- 4.10 Expenditure on all benefits has averaged around 5% a year, over the period from 2005 to 2009. Although initially lower than projected, expenditure exceeded projected levels in 2008 and 2009, driven mainly by the new contract prices for specialist medical and physiotherapy benefits. Expenditure also increased at a faster rate than total contributions in 2008 and 2009, resulting in the operating surplus reducing in these two years. However, aside from 2009, operating surpluses have been larger than was projected in the 2005 review.
- 4.11 At the time of the 2005 review, the ratio of the average fund balance (including reserves for realised and unrealised investment gains and losses) to expenditure was projected to increase steadily from 1.09 in 2005 to 1.66 by 2009. In terms of outturn, initially favourable investment returns coupled with the lower than expected expenditure in paragraph 4.10 resulted in this measure exceeding projections, to reach a level of around 1.5 by 2007, in comparison with the projected 1.37. Subsequently, though, with worsening expenditure and fund performance, it declined slightly in 2008, recovering to around the 1.5 level by 2009. By the close of the period the Fund had, though, grown from around £34 million at the end of 2005 to around £61 million by the end of 2009.
- 4.12 Figure 4.1 below summarises this recent experience, with Appendix B providing further detail, in tabulated form. Information is included for the year 2005 for comparison purposes.

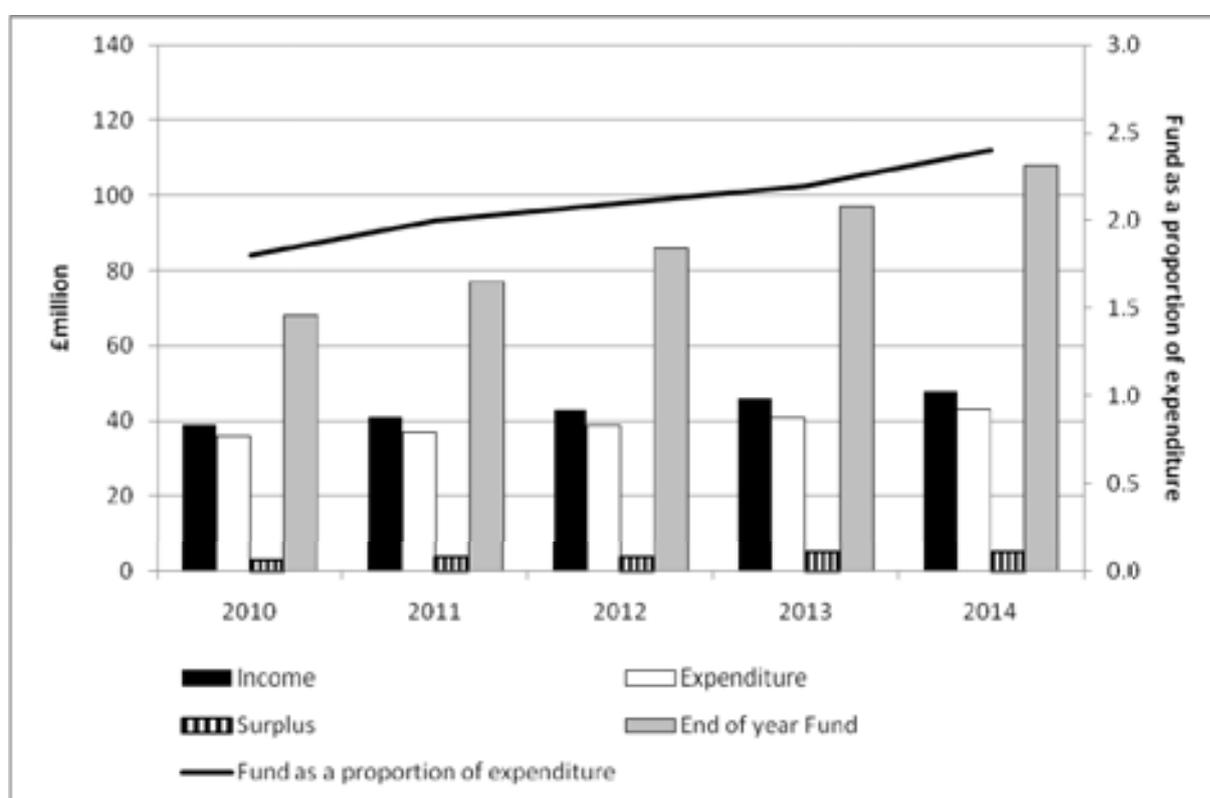
Figure 4.1: A graphical summary of the recent experience of the Fund



5 Results based on the principal assumptions

- 5.1 This Section provides projections over the period from 2010 to 2014 of the progress of the Fund if the current contribution rates and States Grant are maintained.
- 5.2 These projections assume variable migration such that the total population remains constant at the April 2007 level and real earnings growth of 2% a year. More details of the assumptions underlying these projections are provided in Appendix D. The effect of varying these assumptions is shown in Section 6.
- 5.3 Figure 5.1 below illustrates how the Fund's finances might be expected to develop over time, on the basis of up-rating of benefits and earnings limits halfway between prices and earnings. Appendix E provides further detail in tabulated form, including information for the year 2009, for comparison purposes.

Figure 5.1: An illustration of how the Fund's finances might be expected to develop over time



- 5.4 The review projects an increase in the ratio of the average fund balance to expenditure from the 2009 level of around 1.5 to approximately 2.4 by 2014. This reflects steady expected increases in contribution income of around 5% per annum (broadly in line with assumed future earnings increases) against maintained control of costs (assumed to increase at an average of around 3% per annum), compounded with investment returns of around 6.6% per annum (nominal).
- 5.5 For information about the data used for these projections, please refer to Appendix C.

6 The effects of varying assumptions

- 6.1 The results provided in this report are projections and depend on assumptions made about the future (detailed in Appendix D). These projections are not forecasts or predictions of the future progress of the Fund, but illustrations of what would happen on the basis of the stated assumptions. This Section provides projections based on the variant assumptions set out in Appendix D, to demonstrate how varying assumptions can affect the projected progress of the Fund. There are a range of other factors that could significantly affect the future progress of the Fund, however, such as future investment returns, fluctuations in market values and the potential for policy changes, and caution is therefore needed when using the projections in this report.
- 6.2 Over the longer-term, the pay-as-you-go nature of the Fund means that contribution rates and the future progress of the Fund may change significantly over time owing to changes in the benefit structure, population or economic activity. Although the Guernsey Health Service Fund projections are sensitive to the same types of drivers as for the other two funds, as well as Guernsey Health Service Fund-specific assumptions, due to the short projection period differences that could be otherwise apparent in the accompanying reviews for the other two Funds would not have the opportunity to operate in a noticeable fashion in this particular context.

Variant assumptions for migration and up-rating of benefits and earnings limits

- 6.3 To illustrate the potential uniformity of outcome over the short projection period involved, the table below contrasts the most conservative migration/up-rating combination (prices up-rating and zero net migration scenario) with the least conservative migration/up-rating combination (earnings up-rating and the 300 net immigration scenario).

Table 6.1 Headline results based on combination of prices up-rating and zero net migration

Figures in £m	2010	2011	2012	2013	2014
Income	40	42	45	47	50
Expenditure	36	38	40	42	44
Surplus	4	4	5	5	6
End of year Fund	69	78	88	100	113
Fund as proportion of expenditure	1.8	2.0	2.1	2.3	2.4

Table 6.2 Headline results based on combination of earnings up-rating and the 300 net immigration

Figures in £m	2010	2011	2012	2013	2014
Income	40	43	46	49	52
Expenditure	36	38	40	42	44
Surplus	4	5	6	7	8
End of year Fund	69	79	90	103	118
Fund as proportion of expenditure	1.8	2.0	2.1	2.3	2.5

- 6.4 These tables can also be compared with the main assumption results in Section 5 and Appendix E. It will be noted that differences are only starting to become apparent in earnest by 2014 in these projection scenario combinations.

Variant real earnings growth assumption

- 6.5 Projections are provided in Table 6.3 below on the main assumptions from Section 5 but using a variant real earnings growth assumption of 1.5% a year, to demonstrate (in comparison with the main assumption results in Section 5 and Appendix E) the relative inertia of the earnings growth effect over the projection period involved.

Table 6.3 Headline results based on main assumptions but with 1.5%pa real earnings growth

Figures in £m	2010	2011	2012	2013	2014
Income	39	41	43	45	47
Expenditure	36	37	39	41	43
Surplus	3	4	4	4	4
End of year Fund	68	77	86	96	106
Fund as proportion of expenditure	1.8	1.9	2.1	2.2	2.3

Variant assumption for projected consultation grants

- 6.6 The impact on projected Fund expenditure in Section 5/Appendix E, which assumes that consultation grants remain constant in future, of applying a variant assumption that consultation grants increase in line with local RPIX price inflation in future years from January 2012, is to potentially add around £100k to expenditure in 2012, £200k to expenditure in 2013 and £300k to expenditure in 2014.

Variant assumption for projected net ingredient costs

- 6.7 Tables 6.4 and 6.5 below compare the main results in Section 5/Appendix E, which assume that net ingredient costs increase in future in line with local RPIX price inflation, with results on the variant assumption that future net ingredient costs will remain constant.

Table 6.4 Results based on principal assumption that net ingredient costs increase in line with local RPIX price inflation

Figures in £m	2010	2011	2012	2013	2014
Net ingredient cost	13	14	15	16	17
Total fund expenditure	36	37	39	41	43

Table 6.5 Results based on variant assumption that net ingredient costs remain constant

Figures in £m	2010	2011	2012	2013	2014
Net ingredient cost	13	13	14	14	15
Total fund expenditure	35	36	38	39	41

- 6.8 As net ingredient costs account for approximately 40% of current total Fund expenditure, the level of future increases assumed to apply to this element has a material impact on the projected total Fund expenditure.

Appendix A: Summary of contributions and benefits as at 31 December 2009

1. The Guernsey Health Service Fund provides financing for, or grants towards, the costs of medical consultations, drugs and appliances and also provides cover for certain specialist medical benefits.
2. A brief overview of the contributions payable, the benefits provided and the qualifying conditions is provided below. Further information on contributions and benefits is available from the Social Security Department.

Contributions

3. Contributions are paid by employers, employees, the self-employed and the non-employed. Contributions are paid by, and on behalf of, employees earning above the lower earnings limit, with contributions payable on total earnings up to the upper earnings limit. Contributions are payable by the self-employed, subject to the same limits.
4. The upper earnings limit is currently higher for employers than employees. As a result of the 'Pensions Puzzle' exercise, the upper earnings limit for employees is being increased to align with that for employers over a 5 year period starting in 2010.
5. Contributions are paid by non-employed individuals with income above the lower income limit, with contributions payable on total income up to the upper earnings limit but subject to the non-employed income allowance. The income allowance was introduced in 2010 as part of the 'Pensions Puzzle' exercise.
6. Employee contributions are payable until pension age but contributions continue to be payable on a non-employed basis after pension age, based on personal income. Employer contributions remain payable in respect of employees over pension age.
7. Tables A.1 and A.2 below provide details of the earnings limits and contribution rates applicable between 2005 and 2011.

Table A.1: Contribution limits and allowances

Year (£ / annual)	2005	2006	2007	2008	2009	2010	2011
Lower Earnings Limit	4,836	5,044	5,200	5,460	5,824	5,928	6,084
Lower Income Limit	12,090	12,610	13,000	13,650	14,560	14,820	15,210
Employer Upper Earnings Limit	34,320	36,036	53,664	108,108	115,128	117,468	120,900
Employee, Self Employed and Non Employed Upper Earnings Limit	34,320	36,036	53,664	64,896	69,108	79,872	91,884
Non-employed income allowance	N/A	N/A	N/A	N/A	N/A	6,290	6,451

Review of the Guernsey Health Service Fund as at 31 December 2009

Table A.2: Contribution rates payable

Year	2005	2006	2007	2008	2009	2010	2011
Employer	1.4%	1.4%	1.4%	1.6%	1.6%	1.6%	1.6%
Employee	1.4%	1.4%	1.4%	1.4%	1.4%	1.3%	1.3%
Total Employed	2.8%	2.8%	2.8%	3.0%	3.0%	2.9%	2.9%
Self Employed	2.8%	2.8%	2.8%	2.8%	2.8%	2.7%	2.7%
Non-employed	2.8%	2.8%	2.8%	2.8%	2.8%	2.8%	2.8%
Non Employed Contribution Rate For Persons Aged 65 Or Over	1.2%	1.2%	1.2%	1.2%	1.2%	1.3%	1.3%

8. Central funding is provided to the Fund by way of the States grant. The States grant is defined as a percentage of total contributions. This percentage has reduced since the 2005 review. From January 2007 the States grant reduced from 40% to 27%. It was further reduced to 12% with effect from January 2008. The States grant has been unchanged since January 2008.
9. These contribution rates are in respect of the Guernsey Health Service Fund only. They do not include the contributions payable in respect of the Guernsey Insurance Fund or the Long-term Care Insurance Fund. This review assumes that contribution income to the Guernsey Health Service Fund is in line with published contribution rates and no allowance is made for potential re-allocations between the three Funds.

Benefits

10. Table A.3 below provides a summary of the benefits covered by the Fund. As may be noted from Appendix D, the most significant benefits paid from the Fund, each accounting for around 45% of total benefit expenditure in 2009, are those relating to drugs/medicines and those described as specialist medical benefits.

Table A.3: Contribution limits and allowances

Consultation grants	The Fund makes a grant towards the costs of consultations with doctors and nurses. At 2009, the grant was £12 for doctors and £6 for nurses. This grant is only payable for primary care consultations.
Drugs	The Fund finances the cost of certain drugs prescribed on an out-patient basis. However, unless the patient is exempt, he or she must pay a prescription charge to the Fund for the drugs; this charge stands at £2.80 per item in 2009.
Appliances	The Fund also finances the provision of a limited number of medical appliances, subject to payment of the prescription charge (except where the patient is exempted from paying this charge).
Oxygen	The Fund finances a scheme which provides home oxygen therapy and electric compressors for use by the patients at home for nebulising medicines.
Specialist health insurance scheme	Subject to certain conditions, the Fund provides cover for specialist medical services, physiotherapy and some treatment in Alderney.
Primary care mental health benefit	The Fund is expected to introduce a primary care mental health benefit, providing cognitive behaviour therapies, from 2011.

Review of the Guernsey Health Service Fund as at 31 December 2009

Appendix B: Fund accounts from 2005 to 2009
Table B.1: Income, expenditure and fund balance from 2005 to 2009

Figures in £000s	2005		2006		2007		2008		2009	
	(for comparison)	Outturn	(previous projection)	Outturn						
Fund at the beginning of the year	27,248	33,921	(33,921)	40,621	(38,968)	47,707	(44,670)	44,096	(51,222)	
INCOME										
Contributions	21,956	22,986	(22,863)	27,040	(26,399)	32,299	(27,782)	33,505	(29,227)	
States' grant	8,782	9,194	(9,145)	7,301	(7,128)	3,876	(7,501)	4,021	(7,891)	
Total income	30,738	32,180	(32,008)	34,341	(33,527)	36,175	(35,283)	37,525	(37,118)	
EXPENDITURE										
Consultation grant	3,256	3,403	(3,273)	3,396	(3,292)	3,470	(3,311)	3,533	(3,331)	
Total cost of drugs, medicines, appliances and oxygen service	14,375	14,732	(15,163)	15,231	(16,023)	15,647	(16,960)	16,515	(17,958)	
Prescription charges	1,220	1,314	(-1,296)	1,419	(-1,375)	1,539	(-1,456)	1,644	(-1,540)	
Specialist medical benefit	10,840	11,381	(11,320)	11,843	(11,686)	13,541	(12,064)	15,046	(12,455)	
Administration	791	812	(831)	855	(873)	847	(917)	871	(963)	
Total expenditure	28,042	29,013	(29,291)	29,906	(30,499)	31,965	(31,796)	34,321	(33,167)	
Operating surplus	2,696	3,167	(2,717)	4,435	(3,028)	4,210	(3,487)	3,204	(3,951)	
INVESTMENT INCOME										
Interest	928	1,124	(2,330)	1,166	(2,674)	1,219	(3,066)	1,027	(3,514)	
Realised and unrealised gain	3,049	2,409		1,485		-9,040		12,705		
Fund at the end of the year	33,921	40,621	(38,968)	47,707	(44,670)	44,096	(51,222)	61,032	(58,687)	
Fund as proportion of expenditure	1.09	1.28	(1.24)	1.48	(1.37)	1.44	(1.51)	1.53	(1.66)	

Appendix C: Summary of data used

1. The accuracy of the projections provided for this review of the Guernsey Health Service Fund is fundamentally dependent on the data on which it is based. Where possible, we have made some checks on the data. The data appear to be of generally good quality, and are adequate for the purposes of the review. Nevertheless, it should be noted that if any of the data used for the calculations are materially incorrect or incomplete, this could have a significant effect on the results.
2. Data for this review have been provided by the Social Security Department. Details of the data provided are set out below.

Data used as the starting point of the projections

3. The principal population projections are based on a total population in line with the April 2007 total. The population projections for the variant migration scenarios are based on population data as at 30 June 2008.
4. The projections of the balance in the Fund are based on the market value of the assets as at 31 December 2009 as shown in the 2009 accounts. The results for the projection of the fund balance should be seen in the context of the general volatility of market values of some classes of investment.

Data used to help determine appropriate assumptions about the future

5. Guernsey population count data and the 2008-based principal population projections for England and Wales have been used to determine appropriate mortality and fertility assumptions, including allowance for future mortality improvement.
6. Projections of contributions and benefits are based on data including the number of contributors and their earnings and the number of beneficiaries and the amount of benefit paid. Information was also provided on current contribution rates, earnings limits and benefit rates.
7. Economic assumptions have been based on information provided in the Guernsey Annual Economic Overview (2009) and the Guernsey Labour Market Bulletin, as well as the asset data provided in the accounts.
8. This review also takes account of expected future trends, such as the proposed changes resulting from the 'Pension Puzzle' exercise, including the planned increase in pension age and increases in the employees' upper earnings limit.
9. For further information regarding the data used in the setting the Guernsey Health Service Fund-specific assumptions, please refer to our Guernsey Health Service Fund-specific assumptions paper dated February 2011.

Data used in validating the projection methodology

10. Projections were compared with actual out-turn data in 2009 to help ensure the projections are robust.
11. In some cases, the format of the data was different to that provided for the previous review and this limited the degree of analysis that it was possible to carry out. One example of this was in connection with doctor and nurse consultation numbers. In this particular case, we were supplied with a subsequent additional tranche of data, however, this information did not impact on the assumptions for number of consultations per head to the extent that there was a material impact on total projected Fund expenditure and consequently this additional data does not form part of this report.

Appendix D: Assumptions and variants used

1. The table below provides an overview of the assumptions and variants we have adopted in Sections 5 and 6 of this report on the review of the Guernsey Health Service Fund as at 31 December 2009, together with those adopted for the previous review as at 31 December 2005. For further details, please refer to our note on specific assumptions for the Guernsey Health Service Fund dated February 2011 and Section 6 and Appendix G of our report on the review of the Guernsey Insurance Fund as at 31 December 2009. In our opinion the range of assumptions underlying the projections in this report cover a reasonable range and the methodology used in preparing these projections is appropriate for its purpose and consistent with actuarial principles.
2. The assumptions adopted are based on data and information provided by the Social Security Department. We have relied on the accuracy of these data and GAD does not accept responsibility for advice based on wrong or incomplete data or information provided.

Table C.1: Summary of assumptions used in the 2009 Guernsey Health Service Fund review

Factor	Principal assumption	Variant
General assumptions		
General population	Population projections for Guernsey have been based on ONS 2008-based projections for England and Wales, adjusted having regard to population count data for Guernsey for the years 2007 to 2009	-
Migration	Migration set to be sufficient to maintain the total population constant at the April 2007 level	Zero net migration Net immigration of 200 a year for all future years from 2010 Net immigration of 300 a year for all future years from 2010
States grant	States grant will continue to be 12% of contributions	-
Labour market participation	Constant, subject to unemployment assumption	-
Unemployment	Constant at 250	-
Local RPIX price inflation	3% a year	-
Earnings increases	2% a year net of price inflation	1.5% a year
Investment return	3.5% per cent a year net of price inflation (6.6% a year nominal)	-
Up-rating of earnings limits	In line with prices or earnings or halfway between the two	-
Doctor and nurse consultations		
Number of consultations	Doctor consultation proportions unchanged. Nurse consultation proportions increased by 6% for all ages and both sexes	-
Rates of consultation grants	Grants to remain constant at £12 for doctor consultations and £6 for nurse consultations	Grants increasing in line with local RPIX price inflation (first increase assumed in January 2012)

Review of the Guernsey Health Service Fund as at 31 December 2009

Factor	Principal assumption	Variant
Pharmaceutical benefit		
Increase in the number of prescriptions per primary care consultation	3% a year	-
Increase in cost of drugs and medicines	Average net ingredient costs to increase in line with local RPIX price inflation Average dispensing fees to increase in line with local RPIX price inflation each year	Average net ingredient costs to remain constant (zero increase assumed)
Prescription charges	Continuation of the 10p increase per item each year	-
Proportion exempt from prescription charges	Increasing by 1% a year from 2009 level of 58%	-
Appliances		
Increase in number of appliances per head of population	10% a year	-
Increase in cost of appliances	In line with local RPIX price inflation of 3% a year	-
Appliance charges	Continuation of the 10p increase per item each year	-
Proportion exempt from appliance charges	Constant at 80%	-
Oxygen service		
Increase in cost of service	In line with local RPIX price inflation	-
Specialist medical benefits		
Specialist medical benefit	In line with local RPIX price inflation Medical Specialist Group assumed to have a constant staffing level of 40 consultants	-
Physiotherapy benefit	In line with local RPIX price inflation plus increase in staffing to the maximum level by 2014	-
Alderney hospital benefit	In line with local RPIX price inflation	-
Primary care mental health benefit	£100,000 for 2011, £200,000 in 2012 and £200,000 plus RPIX going forward	-
Administration costs		
Increases in administration costs	In line with earnings	-

Review of the Guernsey Health Service Fund as at 31 December 2009

Appendix E: Projected Fund balance

This projection assumes that current contribution rates and States Grant continue and assumes up-rating of benefits and earnings limits increasing halfway between prices and earnings, variable migration such that the total population remains constant at the April 2007 level and real earnings growth of 2% a year

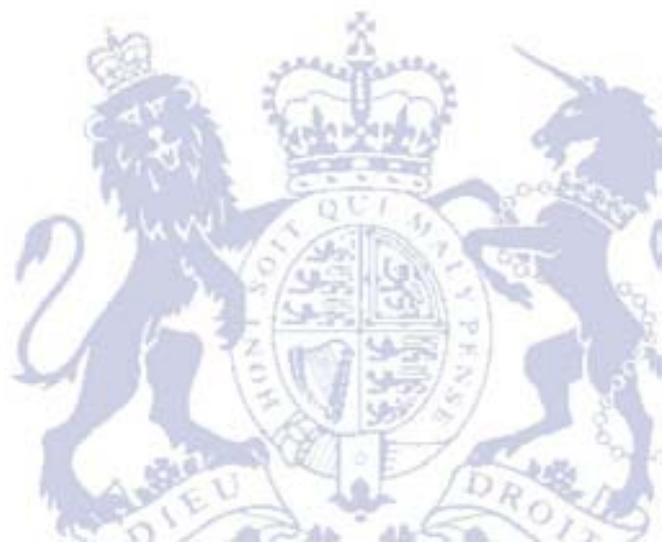
Figures in £000s	2009 (for comparison)					2010	2011	2012	2013	2014
Fund at the beginning of the year	44,096	61,032	68,492	76,911	86,331	96,794				
INCOME										
Contributions	33,505	34,670	36,650	38,707	40,769	42,875				
States' grant	4,021	4,160	4,398	4,645	4,892	5,145				
Total income	37,525	38,831	41,048	43,352	45,661	48,020				
EXPENDITURE										
Consultation grant	3,533	3,422	3,441	3,462	3,485	3,503				
Cost of drugs and medicines	15,663	15,833	16,883	18,008	19,226	20,491				
Cost of appliances	567	642	727	824	934	1,058				
Prescription and appliance charges	-1,644	-1,625	-1,716	-1,810	-1,909	-2,006				
Specialist medical benefit	15,046	16,030	16,677	17,342	17,933	18,543				
Oxygen service	287	296	304	314	323	333				
Administration	871	915	962	1,010	1,062	1,115				
Reciprocal treatment	-2									
Total expenditure	34,321	35,512	37,278	39,150	41,053	43,036				
Operating surplus	3,204	3,319	3,771	4,202	4,608	4,983				
INVESTMENT INCOME										
Interest	1,027	4,141	4,648	5,219	5,854	6,558				
Realised and unrealised gain	12,705									
Fund at the end of the year	61,032	68,492	76,911	86,331	96,794	108,335				
Fund as proportion of expenditure	1.53	1.82	1.95	2.08	2.23	2.38				



Long-term Care Insurance (Guernsey) Law 2002
Report on the operation of the Long-term Care Insurance
(Guernsey) Law in the period 1 January 2006 to 31 December 2009

Date: June 2011

Author: Trevor Llanwarne



Review of the Long-term Care Insurance Fund as at 31 December 2009

LONG-TERM CARE INSURANCE (GUERNSEY) LAW 2002

REPORT BY THE GOVERNMENT ACTUARY ON THE OPERATION OF THE LONG-TERM CARE INSURANCE (GUERNSEY) LAW 2002 IN THE PERIOD 1 JANUARY 2006 TO 31 DECEMBER 2009

To the Minister and Members of the Social Security Department:

Section 26 of the Long-term Care Insurance (Guernsey) Law 2002 provides for a review of the operation of the Long-term Care Insurance Fund within three years of it first coming into force and at periods not exceeding five year intervals thereafter. The previous review of the Long-term Care Insurance Fund was with respect to the period up to 31 December 2005. I now submit the following report on the financial condition of the Long-term Care Insurance Fund and on the adequacy of the Long-term Care Insurance Fund Allocation payable into the Fund under section 101A of the Social Insurance Law and the States Long-term Care Insurance Annual Grant payable into the Fund. This report covers the four years from 1 January 2006 to 31 December 2009. All the references to Guernsey in this report are to be taken to include also the islands of Alderney, Herm and Jethou, whose residents are covered by the Long-term Care Insurance Law.



Trevor Llanwarne FIA
Government Actuary

June 2011

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1 Executive summary

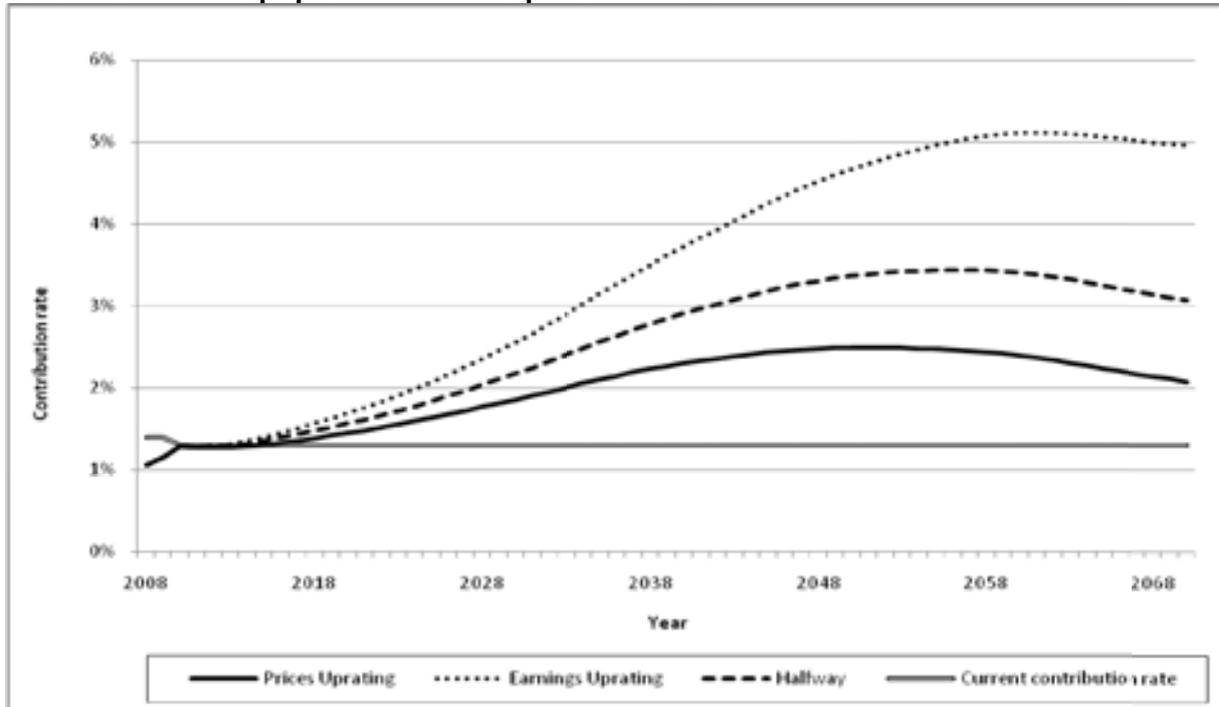
- 1.1 This report has been prepared for the Minister and Members of the Social Security Department.
- 1.2 Section 26 of the Long-term Care Insurance (Guernsey) Law 2002 requires an actuary to review the operation of the Long-term Care Insurance Law at intervals not exceeding five years. The previous review was as at 31 December 2005. This report addresses this requirement as at an effective date of 31 December 2009.
- 1.3 The aim of this report is to review the financial condition of the Guernsey Long-term Care Insurance Fund ("the Fund") and the adequacy of the contributions payable. It includes projections over the period from 2010 to 2070 for:
 - > the contributions required to balance projected benefit payments
 - > the progress of the Fund if the current contribution rate were maintained
- 1.4 This review allows for changes made to the Fund since the previous review as at 31 December 2005, including the planned increase in pension age between 2020 and 2031 agreed as part of the Pensions Puzzle exercise.
- 1.5 The projections suggest that the current Class 1 contribution rate of 1.3% of relevant band earnings is unlikely to remain adequate over the period to 2070.
- 1.6 The following sections show key projection results on which this conclusion is based.

Break-even contributions

- 1.7 The chart below shows how the projected "break-even contribution rate" - that is, the Class 1 contribution rate from employees required to balance benefit expenditure - is expected to change over time. Projections are shown assuming benefits and earnings limits are up-rated in line with prices or earnings, or halfway between the two, based on a real earnings growth assumption of 2% a year. For example, the projected break-even contribution rate in 2020 assuming earnings up-rating is 1.7% a year of relevant band earnings.
- 1.8 The projected break-even contribution rate is similar to that projected at the previous review for the first half of the projection period. This is because the greater longevity projected at this review is largely offset by increases in the upper earnings limit in early years. The projected future path of the break-even contribution in later years is different to that at the previous review due to the different assumed migration pattern. The projections in this review assume variable future migration, set to be sufficient to maintain the total population at the April 2007 level. The 2005 review assumed net immigration of 200 a year.

Review of the Long-term Care Insurance Fund as at 31 December 2009

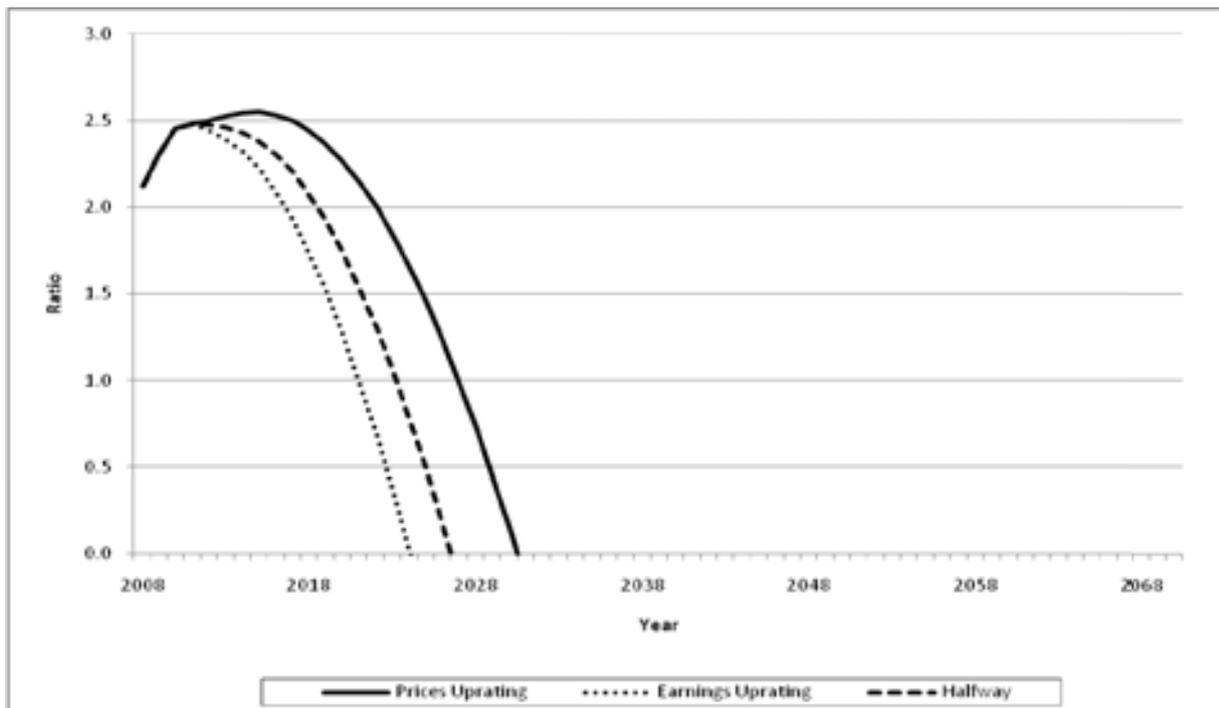
Figure 1.1: Break-even contribution rate based on migration set to be sufficient to maintain the total population at the April 2007 level



Fund progress if contributions remain the same

1.9 Figure 1.2 below shows the progress of the fund under different up-rating scenarios, assuming the current Class 1 contribution rate of 1.3% is unchanged and assuming variable future migration, set to be sufficient to maintain the total population at the April 2007 level.

Figure 1.2: Progression of Fund based on migration set to be sufficient to maintain the total population at the April 2007 level



Review of the Long-term Care Insurance Fund as at 31 December 2009

- 1.10 In all cases, the Fund is projected to decline quite rapidly, after some small increases, with the Fund projected to be extinguished in the 2020s, except in the case where benefits and earnings limits are assumed to increase in line with prices. Based on up-rating in line with prices, the Fund increases for a longer period but the Fund is still projected to be extinguished in the 2030s.
- 1.11 This is similar to the last review where the fund was projected to fall below one year's expenditure by 2026, assuming net immigration of 200 a year and up-rating in line with half-way between prices and earnings. The difference in the assumed migration pattern is not observable as the Fund is projected to be extinguished before the effects of this emerge.

Assumptions

- 1.12 The figures illustrated above are projections and depend on assumptions made about the future. The principal assumptions adopted in carrying out the current fund review are summarised in Table 1.3 below.

Table 1.3: Summary of main assumptions used in the current Fund Review

Factors	Principal assumption
General population	Population projections for Guernsey based on ONS 2008-based projections for England and Wales, adjusted having regard to population count data for Guernsey for the years 2007 to 2009
Migration	Migration set to be sufficient to maintain the total population constant at the April 2007 level
States grant	States grant will continue to be zero
Labour market participation	Constant subject to unemployment assumption
Unemployment	Constant at 250
Price inflation	3% a year
Earnings increases	2% a year net of price inflation
Investment return	3.5% a year net of price inflation
Up-rating of benefits and earnings limits	In line with prices or earnings or halfway between the two

- 1.13 The projections are sensitive to the approach used to up-rate benefit rates and earnings limits, to the future population profile of Guernsey and to the proportions of the population assumed to be awarded benefits in the future. This report provides results for four migration scenarios with the principal assumption adopted being chosen as requested to align with the States Population and Migration Policy Statement.
- 1.14 There is considerable uncertainty about the future progress of the Fund and therefore caution is needed when using the projections in this report. Users should read the main body of this report to understand the uncertainty and limitations surrounding these projections.
- 1.15 In our opinion the range of assumptions underlying the projections in this report cover a reasonable range and the methodology used in preparing these projections is appropriate for its purpose and consistent with actuarial principles.

2 Introduction and scope of the review

- 2.1 This report has been prepared for the Minister and Members of the Social Security Department. The Department is required to lay a copy before the States as soon as is practicable after receiving it.
- 2.2 The Guernsey Long-term Care Insurance Fund is financed broadly on the pay-as-you-go principle. The cash flows into and out of the Fund are contributions paid each year by individuals and benefits paid to individuals according to their entitlement. Under the pay-as-you-go approach, contribution income in a year is intended to cover expenditure in the year, and no significant fund of assets would be built up out of which to finance future expenditure. The contribution rate required to balance expenditure may change significantly over time owing to changes in the benefit structure, population or economic activity. However, we understand that when the scheme commenced in 2003 the intention was for a Fund to be built up which would enable a stable contribution rate to be charged for at least 15 years.
- 2.3 Section 26 of the Long-term Care Insurance (Guernsey) Law 2002 requires an actuary to review the operation of the Long-term Care Insurance Law at intervals not exceeding five years, and “on each such review, make a report to the Department on the financial condition of the Fund, and on the adequacy or otherwise of the Long-term Care Insurance Fund Allocation payable into the Fund under section 101A of the Social Insurance Law and the States Long-term Care Insurance Annual Grant payable into the Fund under section 2 to support payments to be made out of the Fund under the provisions of this Law.”
- 2.4 This report addresses this requirement as at an effective date of 31 December 2009. The previous report, issued in November 2006, was prepared as at an effective date of 31 December 2005. The next report will be due as at an effective date no later than 31 December 2014.
- 2.5 To meet the legislative requirement above, this report includes projections over the period from 2010 to 2070 for:
- > the contributions needed to balance projected benefit payments
 - > the progress of the Fund if the current contribution rates were maintained.
- 2.6 The projections are dependent on the data, methodology and assumptions used. They are particularly sensitive to the approach used to up-rate benefit rates and earnings limits, to the future population profile of Guernsey, and to proportions of the population assumed to be awarded benefits in future years.
- 2.7 There is considerable uncertainty about the future progress of the Fund and actual experience could differ materially from the projections. Sections 6 and 7 provide further comments on this.
- 2.8 It is anticipated that the results in this report will be used by the Social Security Department for information purposes and for considering possible changes to contributions or benefits payable. However, before deciding on any changes, further actuarial advice should be sought in order to confirm the likely impact on the finances of the Fund. Furthermore, in making decisions about the Fund, it will also be appropriate to take into account non-actuarial matters, such as legal, administrative and policy issues.
- 2.9 This report complies with the ‘Guidelines of Actuarial Practice for Social Security Programs’ issued by the International Actuarial Association and effective from 1 January 2003.

Review of the Long-term Care Insurance Fund as at 31 December 2009

2.10 This report is not subject to, and does not therefore need to comply with, the Technical Standard on Reporting Actuarial Information (TAS R), Data (TAS D) and Modelling (TAS M) issued by the UK Board for Actuarial Standards. Nevertheless in producing this report we have followed the principles of TAS R, TAS D and TAS M to a sensible and practical extent.

Reliances and limitations

- 2.11 This report has been prepared for the Minister and Members of the Social Security Department. We understand that the information in this report may be made available to others. However GAD does not accept any liability to third parties in relation to this report.
- 2.12 This review relies on the accuracy of data and information provided by the Social Security Department. GAD does not accept responsibility for advice based on wrong or incomplete data or information provided.
- 2.13 The advice provided must be taken in context. Advice is intended to be read and used as a whole and not in parts. GAD does not accept responsibility for advice that is altered or used selectively.
- 2.14 Clarification should be sought if there is any doubt about the intention or scope of advice provided in this report. GAD is not responsible for any decision taken by the Social Security Department, except to the extent that the decision has been made in accordance with specific advice provided.
- 2.15 All references to Guernsey in this report are to be taken to include also the islands of Alderney, Herm and Jethou.

3 How the Fund works

- 3.1 The Guernsey Long-term Care Insurance Fund provides weekly benefits towards the cost of private nursing or residential care on either a permanent or respite basis. The Fund started to receive contributions on 1 January 2003 and started to pay benefits from 4 April 2003.
- 3.2 The Fund is financed broadly on the pay-as-you-go principle. Under this approach, contribution income in a year is intended to cover expenditure in the year, and no significant fund of assets would be built up out of which to finance future expenditure. This means contribution rates may change significantly over time owing to changes in the benefit structure, population or economic activity.
- 3.3 However, notwithstanding the pay-as-you-go principle, a fund is maintained to act as a reserve to meet unforeseen contingencies in the operation of the Fund. As at 31 December 2009, the balance of the fund held was in excess of £30 million.
- 3.4 Appendix A provides a summary of the contributions payable and the benefits provided.
- 3.5 Contributions are paid by employees, the self-employed and the non-employed. There are no employer contributions payable. Employees currently contribute 1.3% of earnings up to the upper earnings limit, subject to a lower earnings limit. (This does not include contributions payable to the Guernsey Insurance Fund or the Guernsey Health Service Fund.) Similar contributions are paid by self-employed and non-employed persons unless they are exempt. Contributions remain payable beyond pension age. No central funding is provided to the Fund by way of a States grant.
- 3.6 There have been a number of changes to the Fund since the previous review, including the removal of the States grant and changes in the contribution rates payable. The Social Security Department also carried out a consultation process since the previous review, known as the 'Pension Puzzle' exercise to consider potential changes to the Guernsey Insurance Fund with the aim of securing its future financial sustainability. The changes resulting from that review also impact the Long-term Care Insurance Fund.
- 3.7 Appendix B provides details of income and expenditure in the Fund since the previous review and Section 5 of this report provides details of the changes to the Fund since the previous review. The projections provided in this report make allowance for these changes.

4 Results based on the principal assumptions

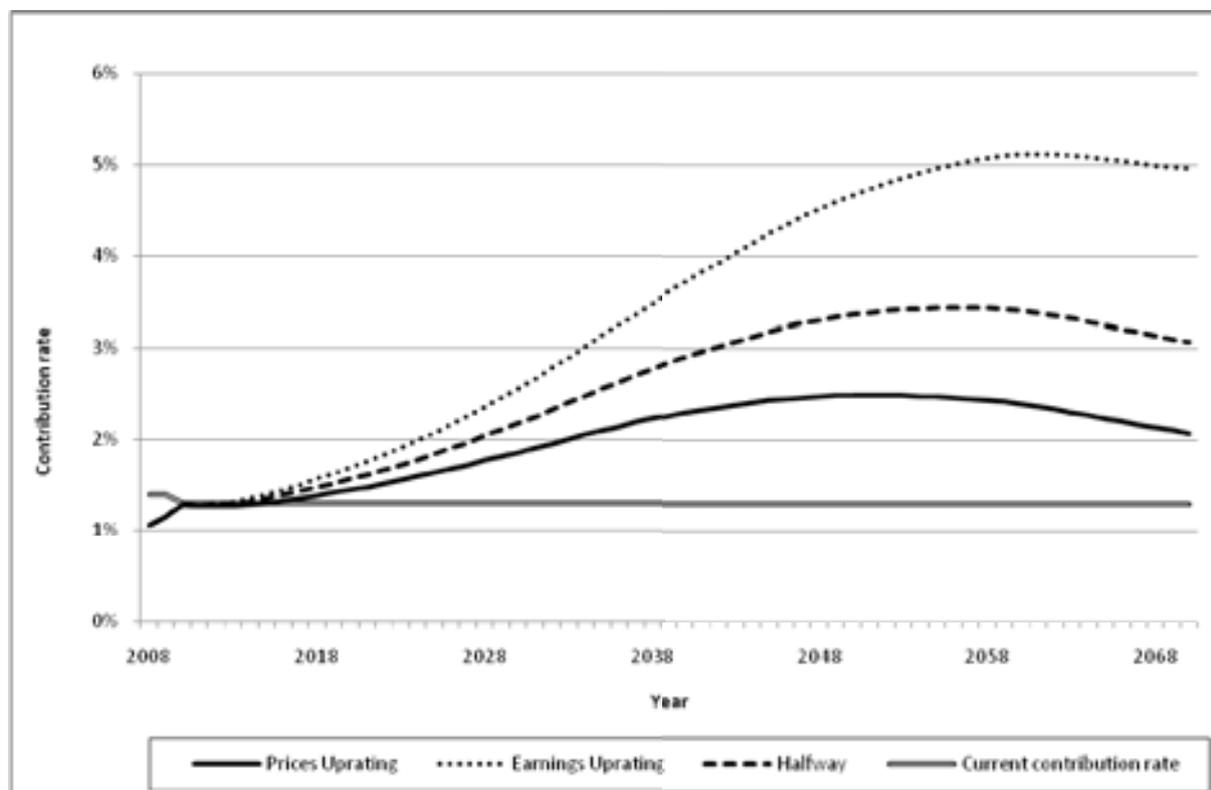
- 4.1 This report provides projections over the period from 2010 to 2070 for:
- > the projected “break-even” contribution rate
 - > the projected average Fund balance expressed as a proportion of annual expenditure assuming current contribution rates are maintained.
- 4.2 These projections assume variable migration such that the total population remains constant at the April 2007 level and real earnings growth of 2% a year. More details of the assumptions underlying these projections are provided in Section 6. The effect of varying these assumptions is shown in Section 7.
- 4.3 Appendix C provides a summary of the data used for these projections.

Break-even contribution rate

- 4.4 The contributions required to balance projected benefit payments are shown in terms of the Class 1 “break-even” contribution rate. This is the contribution rate required to exactly balance contribution income with expenditure on benefits and administration costs. It is determined based on contribution income and expenditure on a pay-as-you-go basis. It does not include any allowance for returns on investments. The “break-even” contribution rate is assessed in terms of the Class 1 contribution rate, that is, it is the contribution rate paid by employees. It is assumed that contribution rates for self-employed and non-employed contributors would be changed pro rata to the Class 1 rate.¹ Contributions remain payable beyond pension age. There are no employer contributions payable.
- 4.5 Figure 4.1 below shows how the projected Class 1 break-even contribution rate is expected to change over time, based on an assumption of variable migration such that the total population remains constant at the April 2007 level. This scenario results in net emigration being assumed until the 2020s and net immigration thereafter with maximum net immigration assumption of around 300 in the 2050s.
- 4.6 Projections are shown assuming benefits and earnings limits are up-rated in line with prices or earnings, or halfway between the two, based on a real earnings growth assumption of 2% a year. The contribution rates are expressed as a percentage of relevant band earnings and the projections allow for the increases in the upper earnings limit over the period to 2014.
- 4.7 The chart also shows the current contribution rate payable, including the reduction in the Class 1 contribution rate from 1 January 2010. The break-even contribution rates for 2008 and 2009 are based on actual contributions and benefit expenditure in those years. In 2009 benefit expenditure increased by more than contribution income, reflecting lower contribution receipts due to relatively high unemployment in the year, and therefore there is a higher break-even contribution rate in 2009.

¹ Details of non-employed individuals with income currently below the Lower Income Limit (LIL), and therefore currently not making contributions, were not available. Should their incomes increase at a faster rate than the LIL, for example where the LIL increases in line with prices but incomes increase in line with earnings, they would become liable for contributions. This could result in a slight understatement of contribution income in the latter years of the projection period. We consider that this would have a material effect on contribution income.

Figure 4.1: Break-even contribution rate based on migration set to be sufficient to maintain the total population at the April 2007 level



- 4.8 The chart shows that up-rating benefits and earnings limits in line with earnings results in a higher break-even contribution rate than is the case under a price up-rating assumption.
- 4.9 The reduction in the Class 1 contribution rate in 2010 from 1.4% to 1.3% reduces the amount of contribution income in that year and therefore increases the required break-even contribution rate in that year. There are small falls in the required break-even contribution rate in the following few years reflecting greater increases in contribution income relative to benefit expenditure as a result of the increases in the employee upper earnings limit over this period. After this, the required break-even contribution rate is projected to increase, with the required contribution rate expected to exceed the current rate before 2020. However, the required contribution rate is projected to fall later in the projection period, in the 2050s or 2060s, reflecting the projected increase in the working-age population in later years.
- 4.10 The required break-even contribution rate increases to a maximum of 5.1% of earnings around 2061, based on up-rating in line with earnings. Based on up-rating of benefits and earnings limits in line with prices, the required break-even contribution rate increases to a maximum of 2.5% of earnings around 2051. The required break-even contribution rate based on up-rating of benefits and contribution limits in line with prices, rather than earnings, is driven by changes in the population profile and also the relative difference between price and earnings inflation. The decline in the required break-even contribution rate in later years reflects the differences between assumed price inflation, used to pay benefits, and assumed increases in earnings on which contributions are paid.
- 4.11 Appendix D shows the projected Class 1 break-even contribution rate at 10-year intervals for each up-rating scenario.

Review of the Long-term Care Insurance Fund as at 31 December 2009

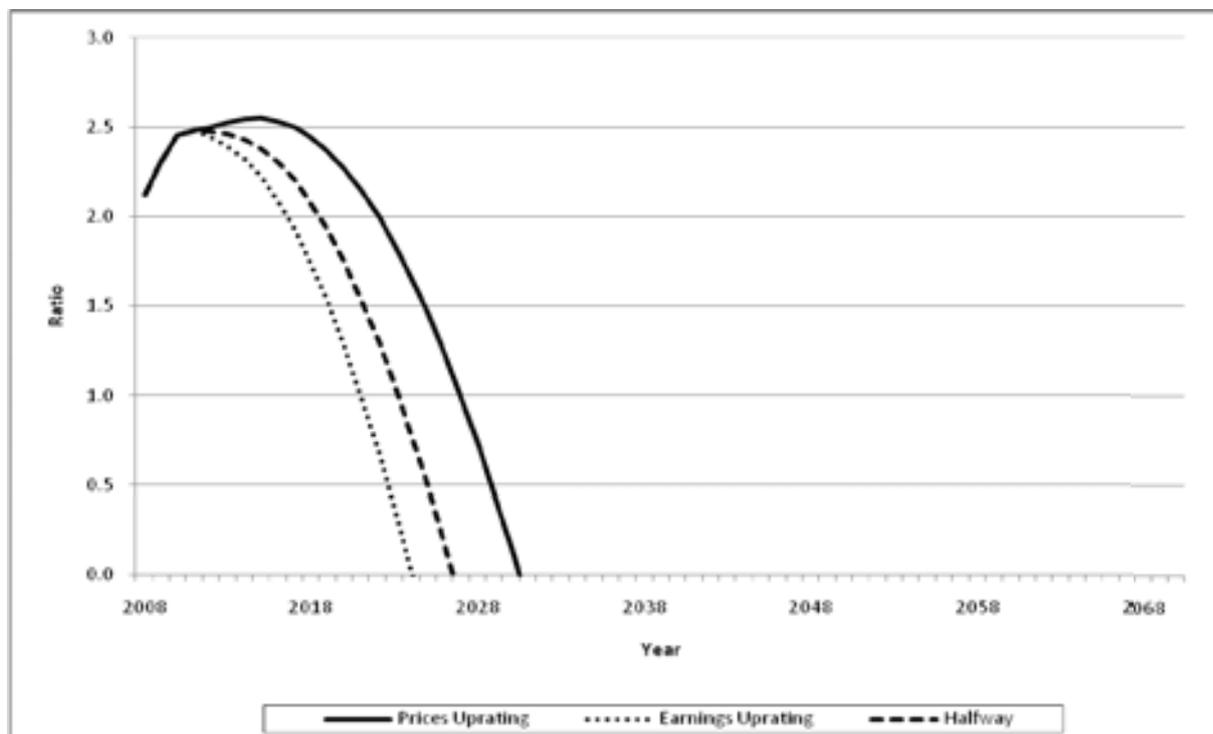
- 4.12 The projected break-even contribution rate is similar to that projected at the previous review for the first half of the projection period. This is because the greater longevity projected at this review is largely offset by increases in the upper earnings limit in early years. However at the previous review the break-even contribution rate was projected to continue to increase throughout the projection period. The different migration assumption underlying the projections at the current review means that increases in the working age population are expected from about 2040, with a corresponding change in the ratio of contributors to beneficiaries, resulting in projected falls in the break-even contribution rate.
- 4.13 The current Class 1 contribution rate is 1.3% of relevant band earnings. The projections suggest that this contribution rate is unlikely to remain adequate over the period to 2070.

Fund progress if contribution rate remains the same

- 4.14 The progress of the Fund is shown in terms of the projected average Fund balance in a year expressed as a proportion of the annual expenditure on benefits and administration costs, assuming current contribution rates are maintained. Unlike the projections of break-even contribution rates, the projections of the progress of the Fund allow for investment returns, including re-investment of investment income, at an assumed real rate of return of 3.5% a year in excess of RPIX price inflation.
- 4.15 In 2009, the average balance of the Fund was 2.3 times expenditure in the year. It was slightly lower in 2008 at 2.1 times expenditure in that year. This is somewhat higher than that observed at the time of the previous review as at 31 December 2005 of 1.5 times expenditure. The increase reflects the emergence of operating surpluses each year, with contribution income exceeding benefit outgo, and some significant positive investment returns over the review period which has increased the balance of the Fund.
- 4.16 Figure 4.3 below shows how the average Fund balance, as a proportion of annual expenditure, is expected to change over time, assuming the current Class 1 contribution rate of 1.3% is unchanged. Projections are shown assuming benefits and earnings limits are up-rated in line with prices or earnings, or halfway between the two, based on a real earnings growth assumption of 2% a year.

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Figure 4.3: Progression of Fund based on migration set to be sufficient to maintain the total population at the April 2007 level



- 4.17 In all cases, the Fund is projected to decline quite rapidly, after some small increases, with the Fund projected to be extinguished in the 2020s, except in the case where benefits and earnings limits are assumed to increase in line with prices. Based on up-rating in line with prices, the Fund increases for a longer period but it is still projected to be extinguished in the 2030s.
- 4.18 The decline in the Fund reflects the greater projected increases in benefit expenditure compared to contribution income beginning in the next few years. This corresponds with the projections for the break-even contribution rate, which show that the required contribution rate will exceed the current rate before 2020 and that the current Class 1 contribution rate of 1.3% of relevant band earnings is unlikely to remain adequate over the period to 2070.
- 4.19 Appendix E shows the projected progress of the Fund at 10-year intervals for each up-rating scenario.
- 4.20 The projected progress of the Fund is similar to that projected at the last review where the fund was projected to fall below one year's expenditure by 2026, assuming net immigration of 200 a year and up-rating in line with half-way between prices and earnings. The difference in the migration assumptions adopted at the current review is not observable as the Fund is projected to be extinguished before the effects of this emerge.
- 4.21 Appendix F provides detailed projections of income and expenditure, in constant 2009 earnings terms, at 10 year intervals for both price up-rating and earnings up-rating scenarios.
- 4.22 Charts showing the projected future population of Guernsey and details of the projected future population by age and sex, based on the assumption of variable migration, such that the total population remains constant at the April 2007 level are provided in

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Appendices H and I of the Report on the operation of the Social Insurance (Guernsey) Law in the period 1 January 2004 to 31 December 2009.

5 Changes since the previous review

Pension Puzzle exercise

- 5.1 During 2008 the Social Security Department carried out a consultation process, known as the 'Pension Puzzle' exercise to consider potential changes to the Guernsey Insurance Fund with the aim of securing its future financial sustainability. The changes resulting from that review also impact the Long-term Care Insurance Fund.
- 5.2 The Pension Puzzle exercise resulted in the following changes being made to the Guernsey Insurance Fund with corresponding changes to the Long-term Care Insurance Fund:
- > an increase in pension age from 65 to 67 over the period 2020 to 2031, with pension age increasing by two months every year
 - > an increase in the upper earnings limit for employees' contributions to align with that for employers' contributions over a 5 year period starting in 2010
 - > a deduction allowance from the income assessed for non-employed contributions from 2010.
- 5.3 This review makes allowance for all these changes.
- 5.4 The Pension Puzzle exercise suggested some variation in the allocation of contributions between the Guernsey Insurance Fund, the Guernsey Health Service Fund and the Long-term Care Insurance Fund. This review assumes that contribution income to the Long-term Care Insurance Fund is in line with published contribution rates and no allowance is made for potential re-allocations between the three Funds.

Demographic assumptions

- 5.5 The principal population assumptions underlying these projections allow for greater future longevity and higher future fertility than was the case at the 2005 review. The principal migration assumption, allowing variable migration such that the total population remains constant at the April 2007 level, is different to that assumed for the 2005 review. The 2005 review assumed future net immigration of 200 a year. The assumption adopted is in line with States Population and Migration Policy Statement.

Contribution rates

- 5.6 Contributions are paid by employees, the self-employed and the non-employed on earnings up to the upper earnings limit, subject to a lower earnings limit. There are no employer contributions payable. Further details on contributions payable are provided in Appendix A. Since the 2005 review both contribution rates and earnings limits have changed.
- 5.7 The employee contribution rate reduced from 1.4% to 1.3% from January 2010 and the non-employed contribution rate increased from 1.4% to 1.6% from January 2010. The self-employed contribution rate is unchanged at 1.4%.
- 5.8 There were significant increases in the upper earnings limit (UEL) in 2007 and 2008. Further increases in the employee UEL are planned between 2010 and 2014, in line with the outcome of the Pension Puzzle exercise.
- 5.9 The projections provided in this report allow for all these increases, including those that came into force after the effective date of the review of 31 December 2009.

States grant

5.10 The states grant was the amount of central funding paid into the Fund and it was defined as percentage of total contributions. The States grant was removed with effect from 1 January 2007. This change was known at the time of the previous review and was therefore allowed for in the previous review.

Fund experience

5.11 The balance of the Fund has generally increased steadily over the period since the last review, although there was a fall in the balance of the Fund at the end of 2008. This fall was primarily a result of a large unrealised investment loss in the year, reflecting turmoil in global financial markets at that time.

5.12 Total contribution income continued to increase, despite the removal of the States grant from 1 January 2007, due to increases in the upper earnings limit. Contribution income has exceeded benefit expenditure in each year, with some variability in the operating surpluses emerging over the period between 2006 and 2009. There have also been some significant positive investment returns over this period.

Older persons' strategy

5.13 Work is currently underway on the development on a strategy for older persons' housing, care and support which may potentially lead to changes to the Fund. However as the work is not yet complete and findings have not been published, this review of the Fund does not make any allowance for changes resulting from the Older persons' strategy.

6 Assumptions used

- 6.1 The results provided in this report are projections and depend on assumptions made about the future. The assumptions adopted are based on data and information provided by the Social Security Department. We have relied on the accuracy of these data and GAD does not accept responsibility for advice based on wrong or incomplete data or information provided.
- 6.2 The demographic and economic assumptions underlying these projections are inevitably subject to a considerable degree of uncertainty, particularly for the more distant future. Therefore there is considerable uncertainty about the future progress of the Fund and actual experience could differ materially from the projections.
- 6.3 Details of the principal assumptions underlying the projections results provided in Section 4 are provided below. The projections in Section 4 are provided for three up-rating scenarios as the results are very sensitive to the approach used to up-rate benefit rates and earnings limits.
- 6.4 The projections are also sensitive to changes in the future population profile of Guernsey or economic activity. Section 7 provides projections based on variant migration assumptions to demonstrate how varying assumptions can affect the projected progress of the Fund. Section 7 also provides projections for a variant real earnings growth assumption and variant up-rating scenarios.
- 6.5 The projections are also sensitive to the proportions of the population assumed to be awarded benefits in future years. It may be helpful to consider additional variant scenarios, for example, assuming increases in the proportions of the population which receive permanent benefits.
- 6.6 Details of the technical assumptions used in projecting benefit expenditure and contribution income and how these have been derived are provided in Appendix G.

Principal assumptions

Population assumptions

- 6.7 Population projections for Guernsey are based on ONS 2008-based principal population projections prepared by the Office for National Statistics (ONS) for England and Wales, adjusted having regard to population count data for Guernsey for the years 2007 to 2009.
- 6.8 The relatively small population size and the relatively few years of data mean it is not statistically credible to project population birth and death rates solely from the Guernsey information. Actual experience for Guernsey from 2007 to 2009 was compared with England and Wales rates for the same period to derive age and sex-related factors which have been applied to the birth and death rates for England and Wales to obtain birth and death rates for Guernsey.
- 6.9 It is assumed that future improvements in life expectancy in Guernsey will be consistent with the principal projections prepared by ONS for England and Wales. It is also assumed that the distribution of birth rates by mother's age derived for Guernsey, that is, the numbers of births expected at child-bearing ages, will persist throughout the projection period.

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6.10 The tables below illustrate the assumptions adopted for life expectancy and fertility as at 2009 for Guernsey, together with the figures from the previous review and the comparable figures for England and Wales based on the ONS projections. For life expectancy, we have shown figures for current 60-year-olds, in 2009, as well as future 60-year-olds, in 2029, to illustrate the effect of assumed future improvements in longevity.

Table 6.1: Life expectancy for males and females aged 60 in 2009 and 2029

		2003 review	Current review	England & Wales (ONS 2008-based Population Projections)
Males –	2009	23.7	27.6	25.8
Age 60 in	2029	25.7	29.5	27.9
Females –	2009	26.3	30.0	28.7
Age 60 in	2029	27.4	31.9	30.8

Table 6.2: Age specific fertility rates: number of births per 1,000 women in 2009

Mother's Age	2003 review	Current review	England & Wales (ONS 2008-based Population Projections)
15	2.5	3.4	3.4
20	34.5	43.5	62.2
25	54.3	77.1	90.7
30	79.2	106.2	118.0
35	73.1	78.9	83.0
40	20.3	23.9	23.9
45	1.2	1.6	1.6

Migration assumption

6.11 In line with States Population and Migration Policy Statement, the principal migration assumption is to assume variable migration such that the total population remains constant at the April 2007 level. Given the States' intention to exercise increased migration control, we are content that this is within a reasonable range of plausible outcomes and so is not an unreasonable assumption over the long-term. Nevertheless, consideration should be given to other reasonable assumptions, such as those shown in Section 7.

6.12 The assumed distribution of migrants by age and sex reflects recent Guernsey experience. In the period from 2007 to 2009, net immigration has averaged around 450 a year, with net immigration concentrated around the 20s and 30s age groups, and small amounts of net emigration at child ages and pension ages. The variable migration underlying a constant population scenario results in net emigration being projected until the 2020s and net immigration thereafter, with a maximum net immigration assumption of just over 300 in the 2050s. The table below illustrates the assumptions adopted.

Table 6.3: Number of immigrants assuming migration set to be sufficient to maintain the total population at the April 2007 level

Age	2009	2010	2020	2030	2040	2050	2060	2070
Under 15	-7	-7	-2	5	9	11	12	9
15-64	-178	-165	-50	122	223	269	290	212
65+	0	0	0	0	0	0	0	0
Total	-185	-172	-52	128	232	280	302	220

Price inflation

- 6.13 The rate of price inflation is assumed to be 3% a year. This is consistent with the States of Guernsey's Fiscal and Economic Plan which sets a target RPIX inflation rate of 3% a year. The States of Guernsey adopted the RPIX as the preferred measure of inflation in 2009.
- 6.14 At the time of the previous review, the relevant price inflation measure was the RPI, the Retail Price Index. The RPIX excludes mortgage interest costs and is therefore usually less volatile than the RPI. However, over the long term average RPI inflation is expected to be similar to average RPIX inflation. In the six years to December 2009 RPI inflation averaged around 3.5% a year and RPIX inflation around 3.4% a year.

Real earnings growth

- 6.15 The rate of real earnings growth is assumed to be 2% a year net of RPIX price inflation.
- 6.16 Real earnings growth is typically expected to move in a consistent way to real GDP growth. The 2009 Guernsey Annual Economic Overview showed that over the five years ending 2008, real earnings growth averaged around 1.9% a year and real GDP growth averaged around 1.8% a year in the 10 years ending 2008.

Real investment return

- 6.17 As at 31 December 2008 the Fund held about 70% of its assets in equity investments, with a combination of fixed income, cash, property and alternative investments making up the balance. The Fund appointed new investment advisors in 2009 and reviewed its investment strategy, increasing bonds and alternative assets holdings in place of equity holdings to provide equity-like returns but with a reduced risk profile.
- 6.18 Based on the asset allocation as at 31 December 2008, the rate of real investment return is assumed to be 3.5% a year net of RPIX price inflation. This assumption is expected to remain reasonable in light of the Fund's revised investment strategy.

Labour market assumptions

- 6.19 A distribution of the proportion of the projected working-age population making contributions, by age and sex and for each contribution class, based on data on the number of contributors in Guernsey in the years 2004 to 2009 has been adopted. It is assumed that these proportions will persist throughout the projection period, adjusted for the planned increase in State Pension Age from 65 to 67 between 2020 and 2031.
- 6.20 At the request of the Social Security Department, it is assumed that the number of unemployed will be 250. The Guernsey Labour Market Bulletin provides the number of unemployed from 1998 and shows a rise in the number of unemployed in the most recent years. However, unemployment numbers are affected by a range of factors

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including economic cycles and it is not necessarily appropriate to assume that recent trends will continue. In the absence of further information on which to form a view on this assumption, we are content to adopt the assumption of 250 unemployed as requested.

Contribution and benefit specific assumptions

6.21 A number of additional assumptions are required to project contribution income and expenditure on individual benefits. Appendix G provides details of the assumptions adopted and the methodology underlying the projections.

Variant assumptions

6.22 Projections based on variant assumptions are provided in Section 7.

Migration assumptions

6.23 The variant migration assumptions adopted are:

- > Zero net migration
- > 200 net immigration
- > 300 net immigration

6.24 These variant migration assumptions have been chosen to demonstrate the effect migration has on the projected population profile, the required break-even contribution rate and the future progress of the Fund. They should not be regarded as predictions of the future levels of migration.

6.25 For the avoidance of doubt, the principal migration assumption of variable migration such that the total population remains constant at the April 2007 level is not consistent with a 'forever young' population, whereby the balance of immigration and emigration acts to maintain the working-age population as a constant proportion of the pensioner population.

6.26 The same distribution of migrants by age and sex is assumed for all scenarios, including the principal scenario allowing for variable migration.

Real earnings growth

6.27 Long-term analysis of UK data suggests real earnings growth averaging between about 1.5% and 2% a year net of price inflation. A variant real earnings growth assumption of 1.5% a year has been adopted to demonstrate how varying this assumption can affect the required break-even contribution rate and the projected progress of the Fund.

Up-rating scenarios

6.28 The projections provided in Section 4 assume benefit rates and earnings limits for contributions are up-rated in a consistent manner, in line with prices, earnings or half-way between the two. This may not always be the case, for example, contribution limits may be increased in line with earnings and benefits increased in line with prices, or vice versa. Variant scenarios for up-rating benefits and earnings limits separately have been adopted, showing the alternative up-rating options for benefits while the earnings limits are assumed to follow the 'half-way' approach mentioned above, and the alternative up-rating options for earnings limits while benefits are assumed to follow the 'half-way' approach.

7 The effects of varying assumptions

- 7.1 The pay-as-you-go nature of the Fund means that contribution rates and the future progress of the Fund may change significantly over time owing to changes in the benefit structure, population or economic activity.
- 7.2 The demographic and economic assumptions underlying the projections are inevitably subject to a considerable degree of uncertainty, particularly for the more distant future.
- 7.3 This section provides projections based on variant migration, economic and up-rating assumptions to demonstrate how varying assumptions can affect the projected progress of the Fund.
- 7.4 The variant projections shown in this section have been chosen to demonstrate the effect of different assumptions on the future progress of the Fund. They should not be regarded as predictions. There are a range of other factors that could significantly affect the future progress of the Fund, such as changes in investment performance, the proportions receiving benefits and increasing longevity.

Variant migration assumptions

- 7.5 Projections are provided for the following variant migration assumptions:
- > Zero net migration
 - > 200 net immigration
 - > 300 net immigration
- 7.6 Charts showing the projected future population of Guernsey for each of these variant scenarios are provided in Appendix H of the Report on the operation of the Social Insurance (Guernsey) Law in the period 1 January 2004 to 31 December 2009.

Break-even contributions

- 7.7 The following charts show how the projected Class 1 break-even contribution rate is expected to change over time depending on the assumed level of migration. The first chart shows the projected break-even contribution rate based on up-rating of benefits and earnings limits in line with halfway between prices and earnings for the three variant migration assumptions and the principal migration assumption. The second chart shows how the projected joint Class 1 break-even contribution rate is expected to change over time, based on an assumption of net immigration of 200 a year. Projections are shown assuming benefits and earnings limits are up-rated in line with prices or earnings, or halfway between the two.
- 7.8 Consistent with the projections shown in Section 4, the projections are based on a real earnings growth assumption of 2% a year and contribution rates are expressed as a percentage of relevant band earnings. The projections also allow for the increases in the upper earnings limit between 2010 and 2014.

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Figure 7.1: Break-even contribution rate based on up-rating of benefit rates and earnings limits in line with halfway between prices and earnings

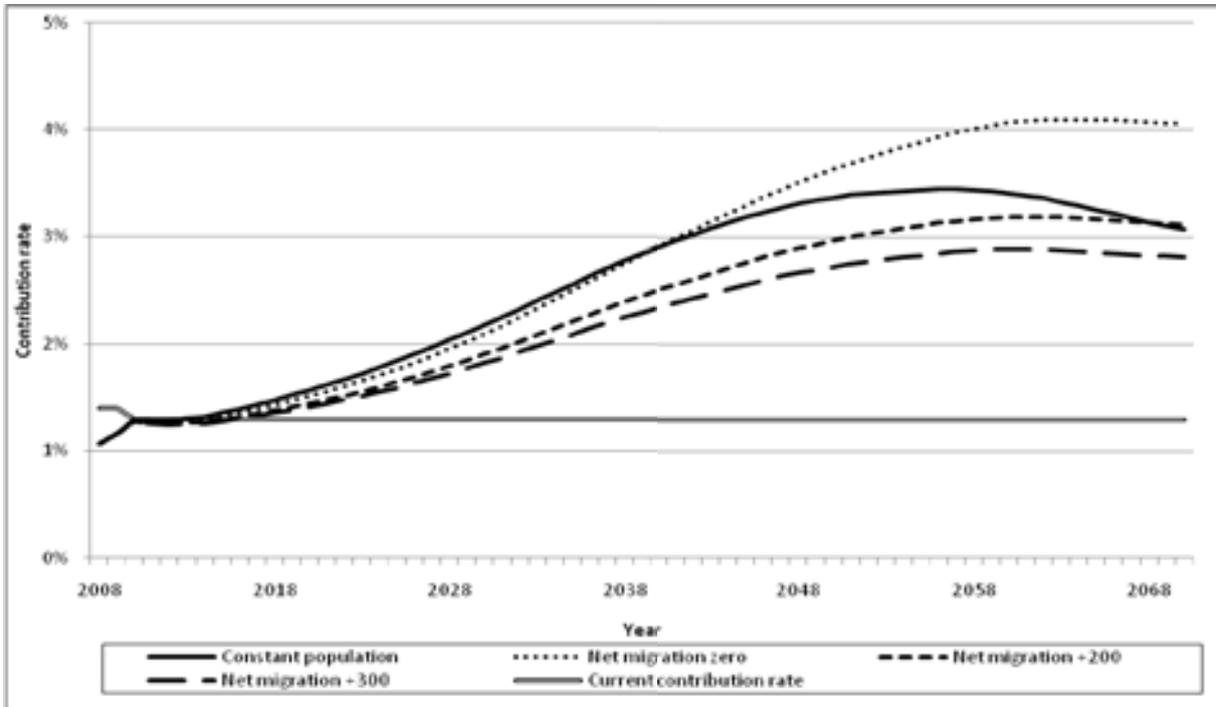
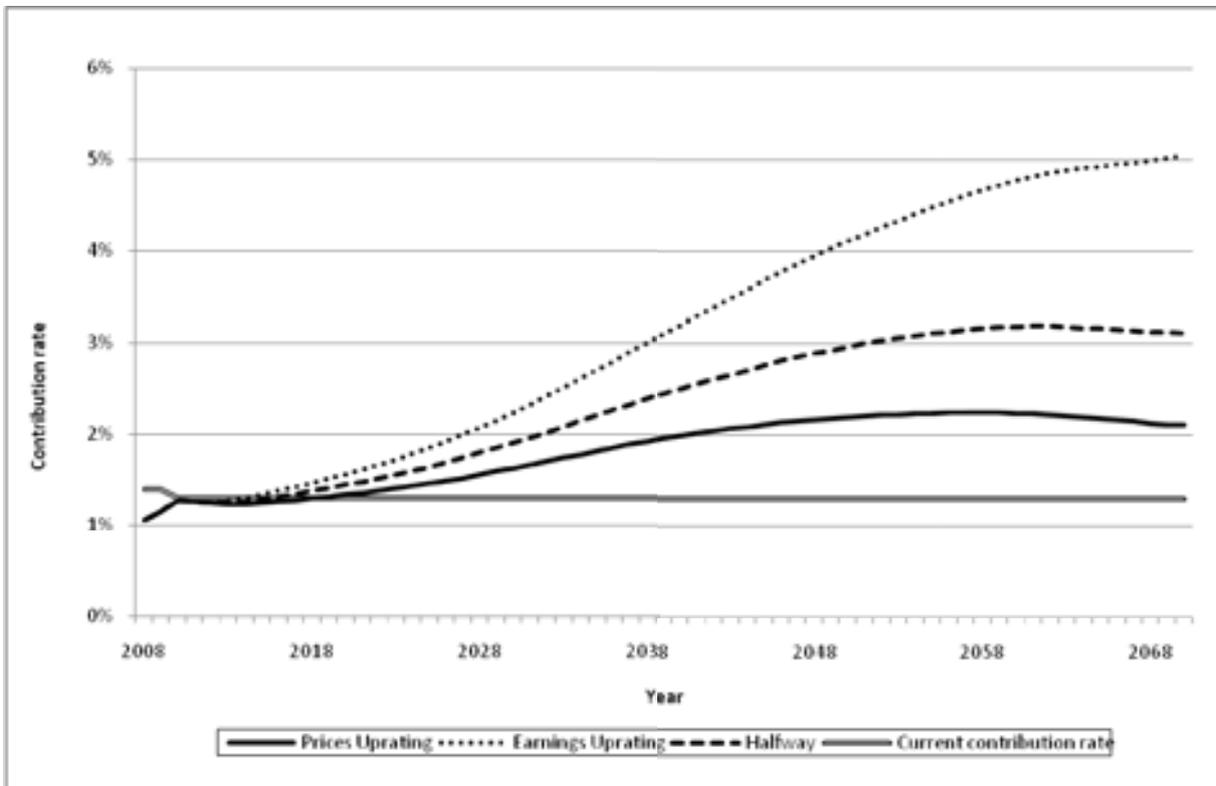


Figure 7.2: Break-even contribution rate based on net immigration of 200 a year



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- 7.9 In all cases rate of increase in the break-even contribution rate slows down in later years before starting to reduce. This is due to how the size of the working age population changes in absolute terms and relative to the population at older ages. It also reflects the differences between assumed halfway inflation, used to pay benefits, and assumed increases in earnings on which contributions are paid.
- 7.10 The changes in the required break-even contribution rate over time vary with the underlying migration assumptions. In general, a lower contribution rate is required where there is greater migration, reflecting a larger working-age population and a larger ratio of contributors to beneficiaries.
- 7.11 Based on up-rating of benefits and earnings limits in line with halfway between prices and earnings, the break-even contribution rate increases for most of the projection period under the three variant migration assumptions. Up until about 2040 the contribution rate under the principal migration assumption increases faster than the zero migration scenario due to emigration during this period reducing the working age population. After 2040 the increase in the contribution rate under the principal migration assumption slows, and later starts to fall, due to a combination of an increasing working-age population due to immigration and a smaller projected population at older ages as a result of the earlier emigration.
- 7.12 In the zero migration scenario, the required break-even contribution rate increases to a maximum of 4.1% of earnings around 2063. In the 200 net immigration scenario a maximum rate of 3.2% is reached around 2061 and in the 300 net immigration scenario a maximum of 2.9% is reached around 2061.
- 7.13 The second chart shows the required break-even contribution rate assuming net immigration of 200 a year for each of the three up-rating scenarios. This can be compared to the results shown in Figure 4.1, based on migration set to be sufficient to maintain the total population at the April 2007 level.
- 7.14 In the 200 net immigration scenario, the required break-even contribution rate, assuming up-rating in line with earnings, increases throughout the projection period. Under the principal migration assumption, the required break-even contribution rate assuming up-rating in line with earnings increases more rapidly in earlier years but starts to decline towards the end of the projection period. This reflects differences in the underlying migration assumptions, whereby there is an increase in the working-age population from around 2040 in the constant population scenario but a decline in the working-age population in the 200 net immigration scenario. The break-even contribution rate in the 200 net immigration scenario is lower in earlier years reflecting the larger working-age populations during this period.
- 7.15 The required break-even contribution rate based on up-rating of benefits and contribution limits in line with prices is driven by changes in the population profile and also the relative difference between price and earnings inflation. The decline in the required break-even contribution rate in later years, assuming up-rating in line with prices, reflects the differences between assumed price inflation, used to pay benefits, and assumed increases in earnings on which contributions are paid.
- 7.16 The previous review of the Fund, as at 31 December 2005, disclosed break-even contribution rates based on population projections assuming 200 net immigration, with variant results provided assuming zero net immigration. The projected behaviour in the break-even contribution rate over time, by migration scenario and up-rating assumption, are broadly similar at the current review to those projected at the previous review but the level of the break-even contribution rates is higher.

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7.17 The table below shows the projected break-even contribution rates assuming up-rating in line with halfway between earnings and prices.

Table 7.3: Break-even contribution rates

Projection Year	2005 Review 200 net immigration	2009 Review 200 net immigration	2009 Review Variable migration to maintain April 2007 population
2010	1.3%	1.3%	1.3%
2065	3.7%	3.2%	3.3%

7.18 The 2005 review adopted a different methodology for the projected break-even contribution rate, assuming up-rating in line with halfway between earnings and prices. Had the 2009 methodology been adopted at the 2005 review, the projected break-even rate for 2065 would have been lower than 3.2%. Based on a consistent methodology, the 2009 review projects a greater increase in the break-even contribution rate over time, reflecting the greater longevity assumed for this review.

Fund progress if contribution rate remains the same

7.19 The charts below show how the average Fund balance, as a proportion of annual expenditure, is expected to change over time, under the different migration scenarios, assuming the current Class 1 employee contribution rate of 1.3% is unchanged. The first chart shows the projected fund progress based on up-rating of benefits and earnings limits in line with halfway between prices and earnings for the three variant migration assumptions and the principal migration assumption. The second chart shows the projected fund progress based on an assumption of net immigration of 200 a year, assuming benefits and earnings limits are up-rated in line with prices or earnings, or halfway between the two.

7.20 Consistent with projections shown in Section 4, the projections are based on a real earnings growth assumption of 2% a year and allow for expected investment returns, including re-investment of investment income, at an assumed real rate of return of 3.5% a year.

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Figure 7.4: Progression of Fund based on up-rating of benefit rates and earnings limits in line with halfway between prices and earnings

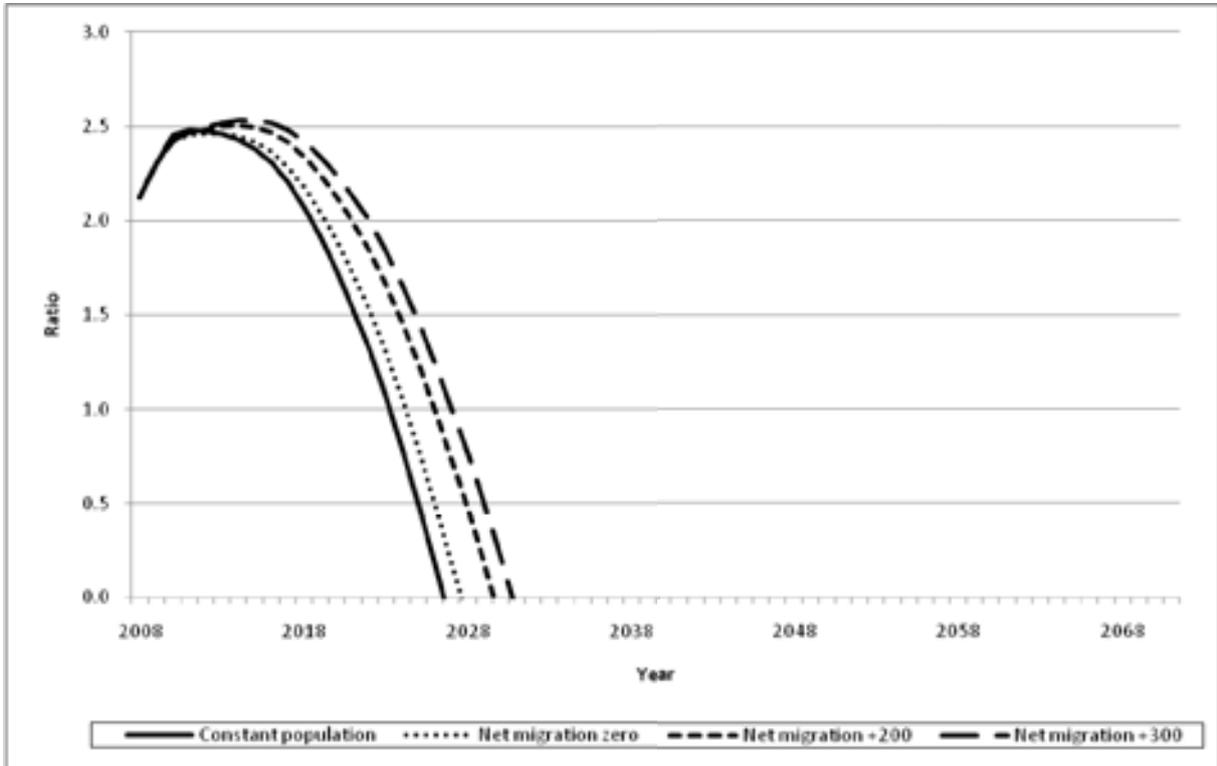
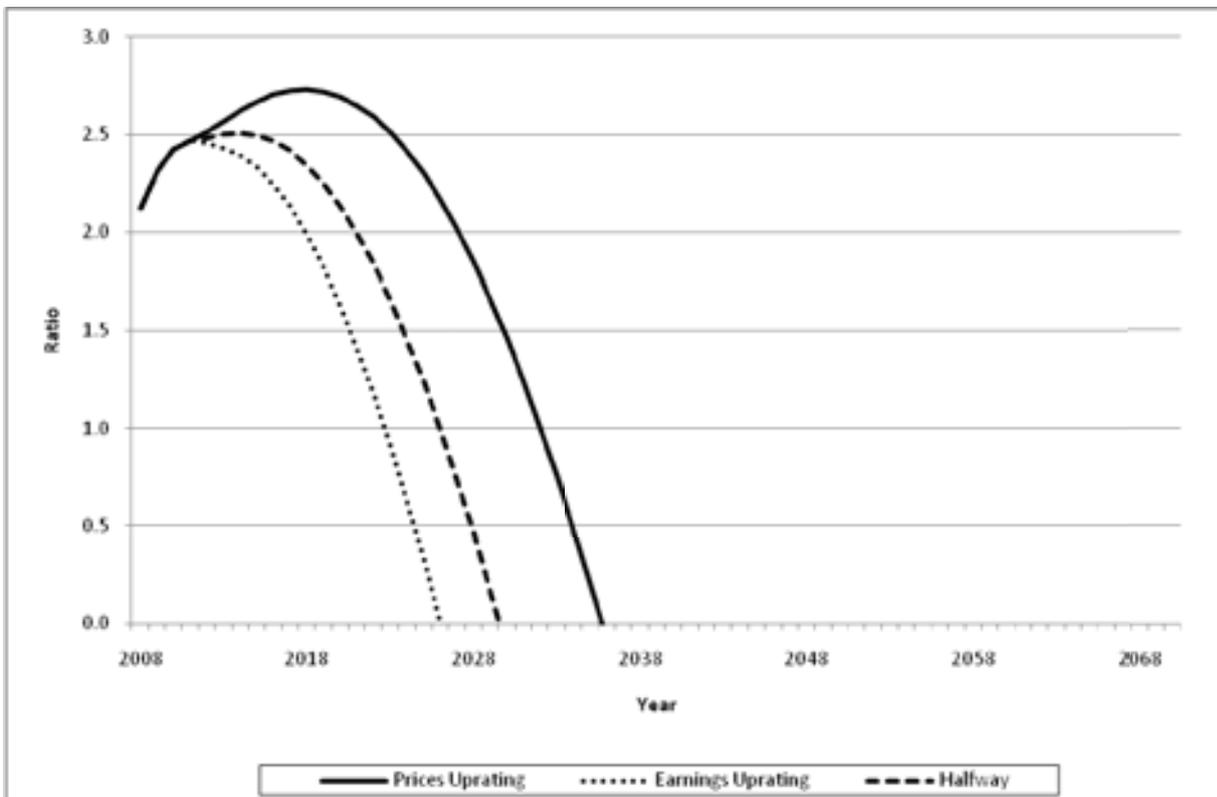


Figure 7.5: Progression of Fund based on net immigration of 200 a year



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- 7.21 In all cases, the Fund is projected to decline quite rapidly, after some small increases, with the Fund projected to be extinguished in the late 2020s or early 2030s based on up-rating of benefits and earnings limits in line with halfway between prices and earnings. The projected size of the Fund balance and the likely time until it is extinguished varies with the underlying migration assumptions, with the Fund declining more quickly, the lower the level of migration.
- 7.22 The table below provides details of when the Fund is projected to be extinguished for each of the four migration assumptions, assuming up-rating of benefits and earnings limits in line with halfway between prices and earnings.

Table 7.6: Projected date of fund being extinguished based on up-rating in line with halfway between prices and earnings

Migration assumption	Fund projected to be extinguished
Variable migration	2027
Zero net migration	2028
200 net immigration	2030
300 net immigration	2031

- 7.23 The different population projections underlying the principal migration assumption, whereby the working-age population increases from about 2040, are not observable as the Fund is projected to be extinguished before the effects of this difference emerge.
- 7.24 The second chart shows the projected fund progress assuming net immigration of 200 a year for each of the three up-rating scenarios.
- 7.25 As for the principal migration scenario, assuming 200 net immigration, the Fund is projected to decline quite rapidly with the Fund projected to be extinguished by around the middle of the projection period for each of the up-rating scenarios.
- 7.26 The projected progress of the Fund over time, by migration scenario and up-rating assumption, are similar at the current review to those projected at the previous review, as at 31 December 2003. However the current review projects more rapid declines in the Fund. This more rapid decline of the Fund reflects the greater longevity projected at this review.

Variant real earnings growth assumption

- 7.27 Projections are provided for a variant real earnings growth assumption of 1.5% a year to demonstrate how changes in real earnings growth can affect the projected progress of the Fund.

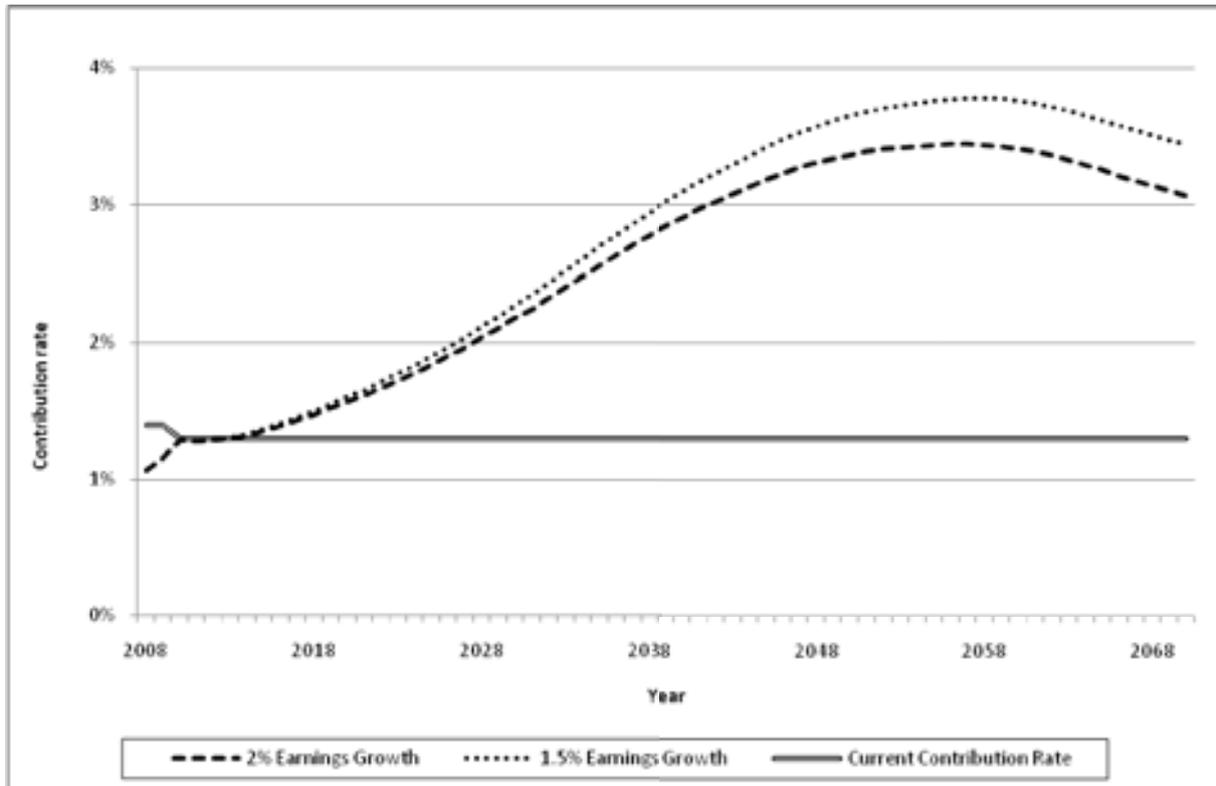
Break-even contributions

- 7.28 The chart below shows how the projected Class 1 break-even contribution rate is expected to change over time depending on the assumption adopted for real earnings growth of either 1.5% a year or 2% a year, assuming benefits and earnings limits are up-rated in line with halfway between prices and earnings.

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7.29 Consistent with the projections shown in Section 4, the contribution rates are expressed as a percentage of relevant band earnings and they allow for the increases in the upper earnings limit between 2010 and 2014.

Figure 7.7: Break-even contribution rate based on migration set to be sufficient to maintain the total population at the April 2007 level and assuming up-rating of benefit rates and earnings limits in line with halfway between prices and earnings



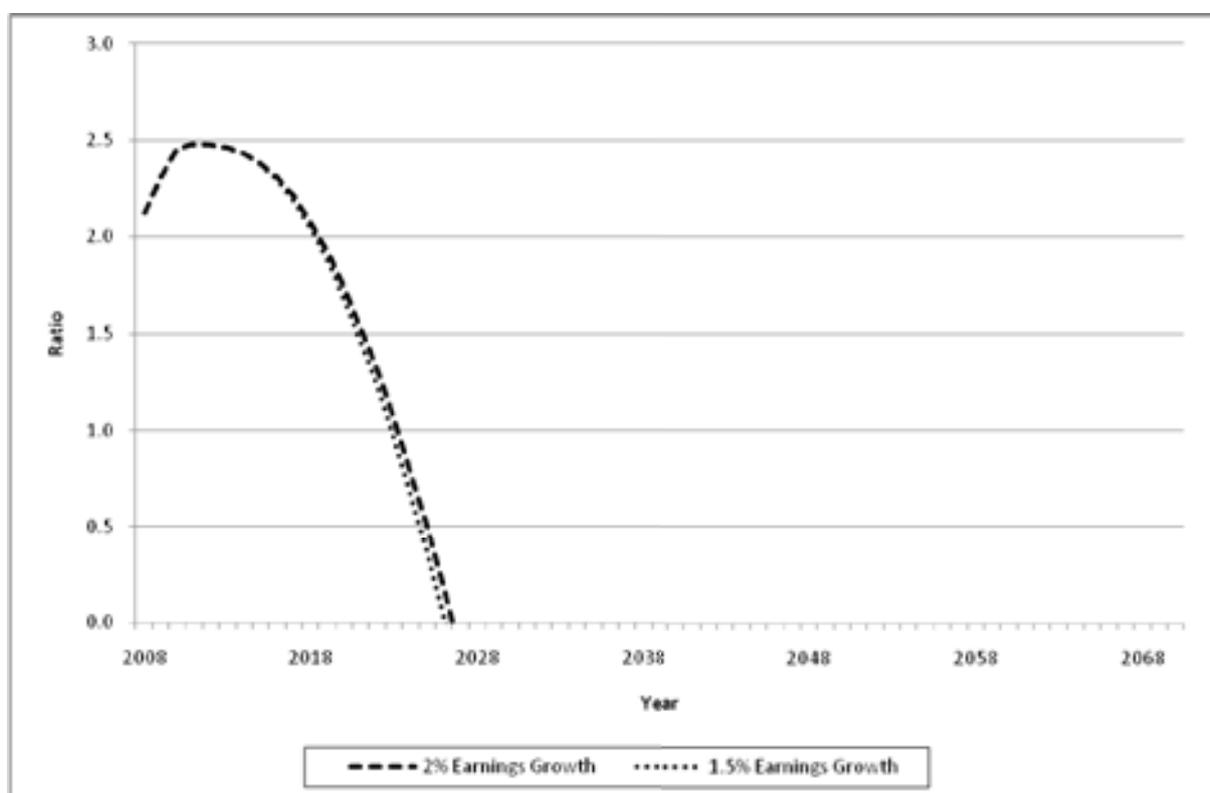
7.30 Based on up-rating of benefits and contribution limits in line with halfway between prices and earnings, the required break-even contribution rate is higher based on an assumption of real earnings growth of 1.5% a year, increasing to a maximum of 3.8% of earnings around 2058. This compares with a maximum break-even contribution rate of 3.4% of earnings around 2056 assuming real earnings growth of 2% a year.

7.31 The higher required break-even contribution rate based on real earnings growth of 1.5% a year is a result of the smaller difference between assumed halfway inflation, used to pay benefits, and assumed increases in earnings, on which contributions are paid.

Fund progress if contribution rate remains the same

- 7.32 The chart below shows how the average Fund balance, as a proportion of annual expenditure, is expected to change over time, for each of the earnings growth assumptions, assuming the current Class 1 employee contribution rate of 1.3% is unchanged. The projections are shown assuming benefits and earnings limits are up-rated in line with halfway between prices and earnings.
- 7.33 The projections shown below allow for expected investment returns, including re-investment of investment income, at an assumed real rate of return of 3.5% a year, consistent with those provided in Section 4.

Figure 7.8: Progression of fund based on migration set to be sufficient to maintain the total population at the April 2007 level and assuming up-rating of benefit rates and earnings limits in line with halfway between prices and earnings



- 7.34 As shown in Section 4, based on up-rating of benefits and contribution limits in line with halfway between prices and earnings, and assuming real earnings growth of 2% a year, the Fund is projected to decline quite rapidly, after some small increases and is projected to be extinguished by 2027. Based on real earnings growth of 1.5% a year, the balance of the Fund declines more rapidly and is projected to be extinguished by around 2026.
- 7.35 The more rapid decline in the balance of the Fund based on real earnings growth of 1.5% a year reflects the smaller difference between assumed halfway inflation, used to pay benefits, and assumed increases in earnings, on which contributions are paid.

Variant up-rating scenarios

7.36 Projections are provided for the following variant up-rating scenarios:

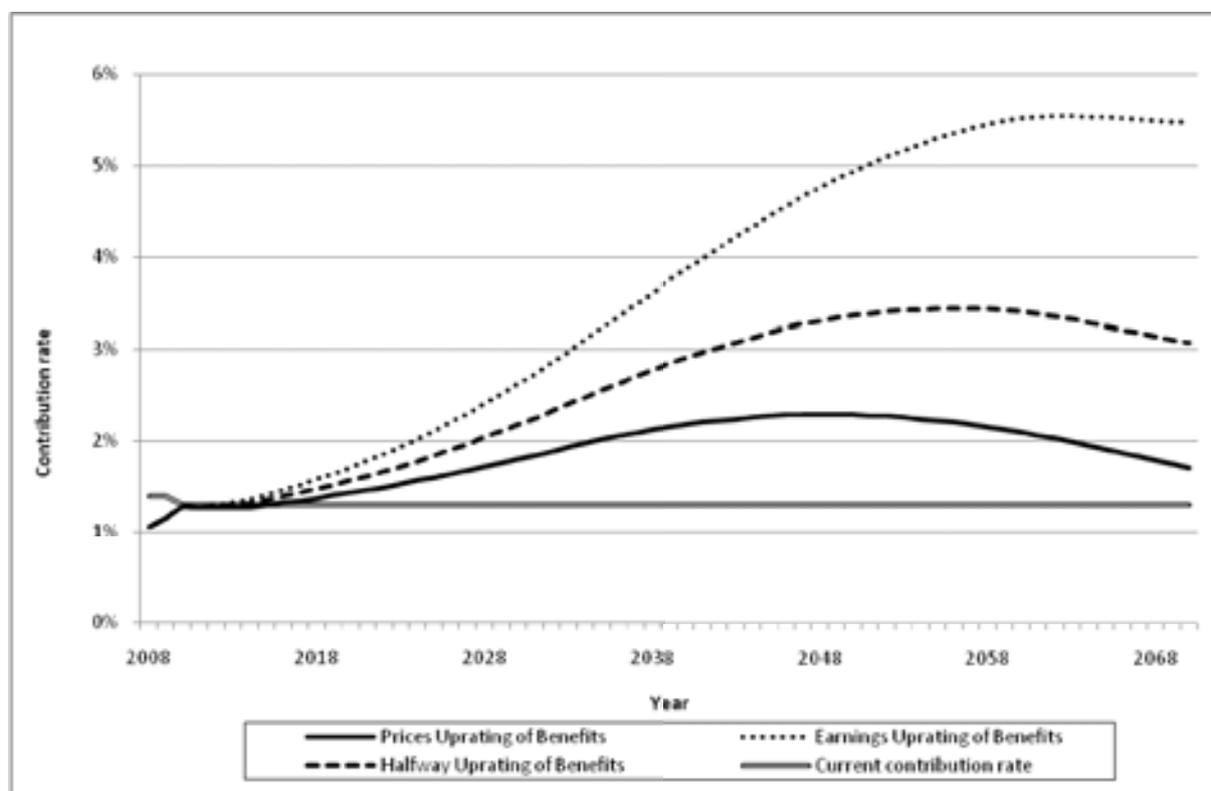
- > earnings limits assumed to increase at half-way between prices and earnings with benefits up-rated in line with prices, earnings or half-way between the two
- > benefits assumed to increase at half-way between prices and earnings with earnings limits up-rated in line with prices, earnings or half-way between the two.

Break-even contributions

7.37 The following charts show how the projected Class 1 break-even contribution rate is expected to change over time depending on the up-rating scenario adopted. The first chart shows the projected break-even contribution rate based on up-rating of earnings limits at half-way between prices and earnings with benefits up-rated in line with prices, earnings or half-way between the two. The second chart shows the projected break-even contribution rate based on up-rating of benefits at half-way between prices and earnings with earnings limits up-rated in line with prices, earnings or half-way between the two.

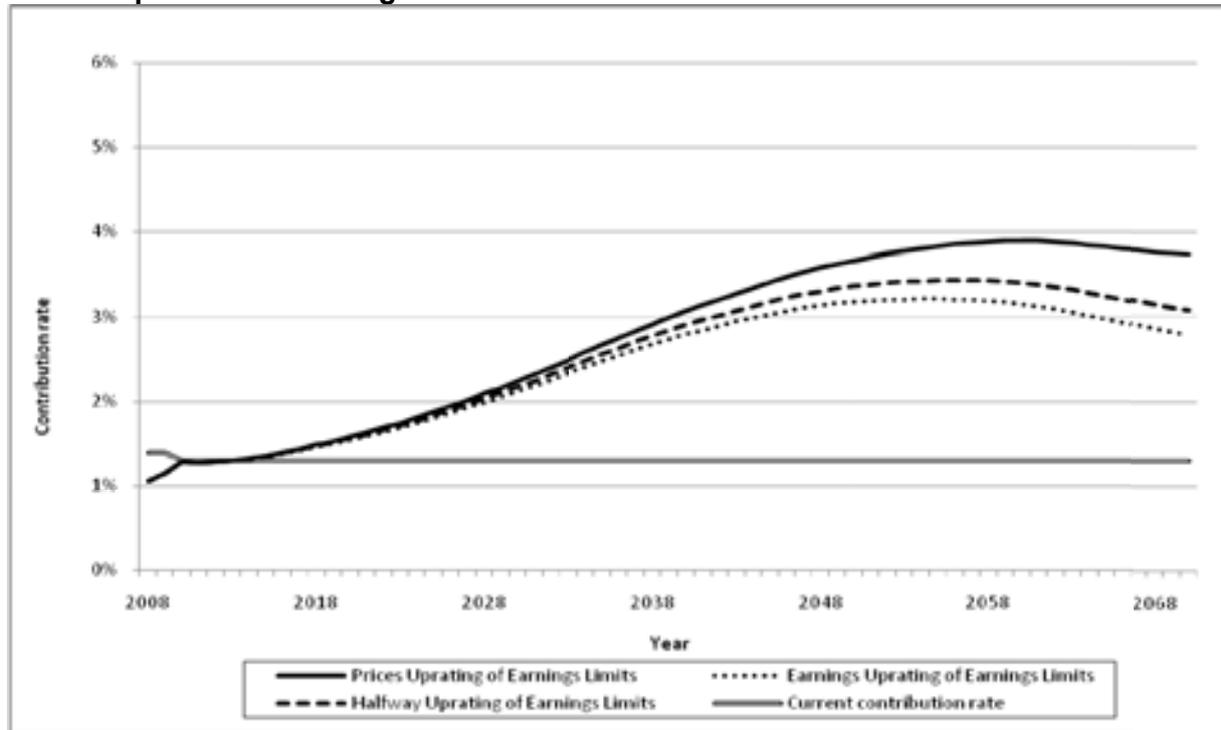
7.38 Consistent with the projections shown in Section 4, the projections are based on the principal migration assumption, a real earnings growth assumption of 2% a year and contribution rates are expressed as a percentage of relevant band earnings. The projections also allow for the increases in the upper earnings limit between 2010 and 2014.

7.39 **Figure 7.9: Break-even contribution rate based on up-rating of earnings limits at half-way between prices and earnings**



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Figure 7.10: Break-even contribution rate based on up-rating of benefits at half-way between prices and earnings



7.40 The first chart shows that the required break-even contribution rate increases more rapidly if benefits are increased in line with earnings, as increasing benefits at a higher rate than contribution earnings limits results in greater benefit expenditure relative to contribution income. Similarly, increasing benefits in line with prices, while earnings limits increase at a faster rate, results in greater contribution income relative to benefit expenditure and therefore a lower required break-even contribution rate.

7.41 The second chart shows corresponding results based on the reverse scenario whereby benefits are assumed to increase at half-way between prices and earnings and contribution limits are varied between increases in line with prices, earnings and half-way between the two. Increasing contribution limits in line with earnings, that is, at a faster rate than increases in benefit expenditure, results in greater contribution income relative to benefit expenditure and therefore a lower required break-even contribution rate. Similarly, increasing contribution limits in line with prices, while benefits increase at a faster rate, results in greater benefit expenditure relative to contribution income and a higher required break-even contribution rate.

Review of the Long-term Care Insurance Fund as at 31 December 2009

Fund progress if contribution rate remains the same

7.42 The charts below show how the average Fund balance, as a proportion of annual expenditure, is expected to change over time, depending on the up-rating scenario adopted, assuming the current Class 1 employee contribution rate of 1.3% is unchanged. The first chart shows the projected fund progress based on up-rating of earnings limits at half-way between prices and earnings with benefits up-rated in line with prices, earnings or half-way between the two. The second chart shows the projected fund progress based on up-rating of benefits at half-way between prices and earnings with earnings limits up-rated in line with prices, earnings or half-way between the two.

7.43 Consistent with projections shown in Section 4, the projections are based on the principal population projections, a real earnings growth assumption of 2% a year and allow for expected investment returns, including re-investment of investment income, at an assumed real rate of return of 3.5% a year.

Figure 7.11: Progression of Fund based on up-rating of earnings limits at half-way between prices and earnings

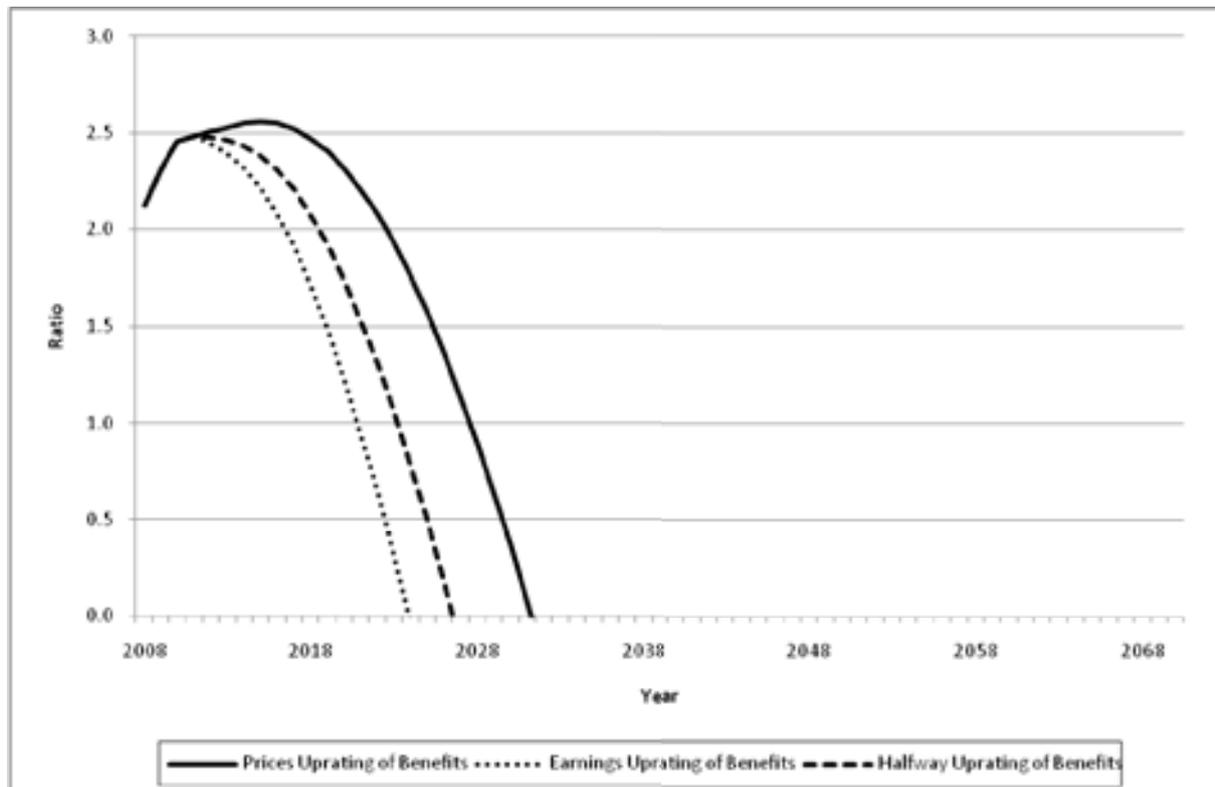
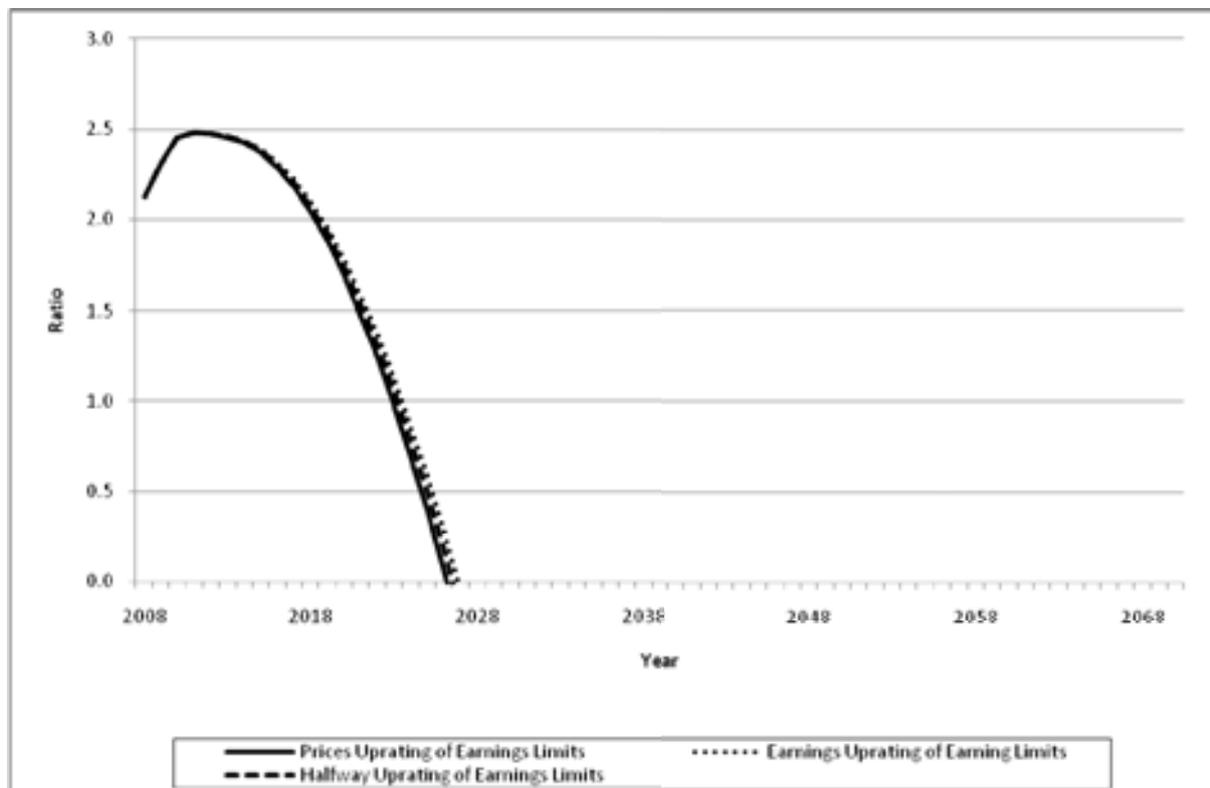


Figure 7.12: Progression of Fund based on up-rating of benefits at half-way between prices and earnings



7.44 Again, in all cases the Fund is projected to decline quite rapidly. Increasing benefits in line with prices, that is, with benefit expenditure increasing at a slower rate than contribution income, the decline in the Fund is slowed but it is still projected to be extinguished by around 2030. Consistent with the charts for the projected break-even rate, changes in the up-rating of benefits are more significant than changes in the up-rating of contribution limits.

Labour market assumptions

7.45 Projections have not been produced for variant labour market assumptions. At the request of the Social Security Department, it is assumed that the number of unemployed will be 250. However it is important to note that the number of unemployed is potentially very variable and higher unemployment could significantly increase the required break-even contribution rate and lead to a decline in the Fund due to the smaller proportion of the working-age population making contributions.

8 Comparison of projections with those from the previous actuarial review

8.1 Table 8.1 below compares the break-even contribution rate projected at the 2005 review with that projected at the current review. It includes the change in the migration assumption from 200 net immigration, adopted at the 2005 review, to variable migration set to be sufficient to maintain the total population at the April 2007 level, adopted at this review.

Table 8.1: Comparison of projected break-even contribution rate at current review with those at the previous actuarial review (% of relevant earnings)

	2010	2015	2025	2035	2045	2055	2065
Last review	1.3%	1.4%	1.8%	2.5%	3.1%	3.6%	3.7%
Up-rating in line with earnings	0.0%	0.1%	0.2%	0.4%	0.6%	0.8%	0.8%
Increases in UEL	-0.3%	-0.3%	-0.4%	-0.5%	-0.6%	-0.7%	-0.7%
Change in population projections	0.0%	0.1%	0.2%	0.5%	0.8%	1.2%	1.6%
Change in migration assumption	0.0%	0.1%	0.2%	0.4%	0.6%	0.5%	0.1%
Other changes	0.1%	0.0%	0.0%	-0.1%	-0.3%	-0.3%	-0.4%
This review ¹	1.3%	1.4%	2.1%	3.1%	4.2%	5.0%	5.1%

¹ Figures may not sum to totals due to rounding.

8.2 There have been a number of changes to the Fund since the 2005 review. The required break-even contribution rates projected at the current review are higher than those projected at the 2005 review. This is broadly a result of a fall in the number of contributors for each beneficiary, which is partially a reflection of the assumed increase in longevity in the underlying population projections, and the change in the principal migration assumption. The reduction in the States grant since the 2005 review is not included in this table as this was known, and accounted for, in the 2005 review. The change shown as a result of the increase in upper earnings limits takes account of the significant increases in 2007 and 2008 as well as the planned increases between 2010 and 2014.

8.3 The 'other changes' in Table 8.1 which affect the required break-even contribution rate include changes in assumptions, for example, the lower assumed duration for respite benefits as well as the introduction of the allowance for non-employed persons from 2010 below which contributions are not payable.

Appendix A: Summary of contributions and benefits as at 31 December 2009

1. The Guernsey Long-term Care Insurance Fund provides weekly benefits towards the cost of private nursing or residential care on either a permanent or respite basis.
2. A brief overview of the contributions payable, the benefits provided and the qualifying conditions is provided below. Further information on contributions and benefits is available from the Social Security Department.

Contributions

3. Contributions are paid by employees, the self-employed and the non-employed. There are no employer contributions payable. Contributions are paid by employees and self-employed individuals earning above the lower earnings limit, with contributions payable on total earnings up to an upper earnings limit. Contributions are paid by non-employed individuals with income above the lower income limit, with contributions payable on total income up to the upper earnings limit but subject to the non-employed income allowance. The income allowance was introduced in 2010.
4. As a result of the 'Pensions Puzzle' exercise carried out in 2008, the upper earnings limit for employees is being increased, by more than general up-rating, over a 5 year period starting in 2010.
5. Contributions continue to be payable after pension age, based on personal income.
6. The tables below provide details of the limits and contribution rates applicable between 2005 and 2011.

Table A.1: Contribution limits and allowances

Year (£ / annual)	2005	2006	2007	2008	2009	2010	2011
Lower Earnings Limit	4,836	5,044	5,200	5,460	5,824	5,928	6,084
Lower Income Limit	12,090	12,610	13,000	13,650	14,560	14,820	15,210
Employee, Self Employed and Non Employed Upper Earnings Limit	34,320	36,036	53,664	64,896	69,108	79,872	91,884
Non-employed income allowance	N/A	N/A	N/A	N/A	N/A	6,290*	6,451*

Table A.2: Contribution rates payable

Year	2005	2006	2007	2008	2009	2010	2011
Employee	1.4%	1.4%	1.4%	1.4%	1.4%	1.3%	1.3%
Self Employed	1.4%	1.4%	1.4%	1.4%	1.4%	1.3%	1.3%
Non-employed	1.4%	1.4%	1.4%	1.4%	1.4%	1.4%	1.4%
Non Employed Contribution Rate For Persons Aged 65 Or Over	1.4%	1.4%	1.4%	1.4%	1.4%	1.6%	1.6%

Review of the Long-term Care Insurance Fund as at 31 December 2009

7. There has been no central funding provided to the Fund by way of a States grant since January 2007.
8. These contribution rates are in respect of the Long-term Care Insurance Fund only. They do not include the contributions payable in respect of the Guernsey Insurance Fund or Guernsey Service Health Fund. This review assumes that contribution income to the Long-term Care Insurance Fund is in line with published contribution rates and no allowance is made for potential re-allocations between the three Funds.

Benefits

9. Benefits are payable on behalf of those assessed as being in need of care and who are currently being provided care in a private residential or nursing home. Benefits can be provided on either a permanent or respite basis. Normally respite benefits can be provided for up to four weeks a year.
10. Payments are made directly to the care home and benefit rates are the maximum amount provided. In practice, it appears that the vast majority of benefits are paid at the maximum level.
11. To receive a benefit, the individual must have lived in Guernsey for a continuous period of 5 years and have lived in Guernsey for at least 12 months immediately prior to claiming Long-term Care Benefit.
12. Individuals receiving permanent care are required to pay an additional 'co-payment' towards the cost of care from their own funds. The co-payment is provided from the Long-term Care Insurance Fund in respect of respite care. Where an individual cannot afford the co-payment, Supplementary Benefit may be provided. Supplementary Benefit is funded centrally and not from the Long-term Care Insurance Fund and is not considered as part of this review.
13. Benefits are not payable on behalf of those being cared for in a home run by the States.

Review of the Long-term Care Insurance Fund as at 31 December 2009

Appendix B: Fund accounts from 2006 to 2009

1. The table below provides details of income, expenditure and the balance of the Fund for the period 2006 to 2009.

Table B.1: Income, expenditure and fund balance from 2006 to 2009 (£000s)

Year	2006	2007	2008	2009
Balance at 01/01	16,597	21,737	26,319	25,952
Income				
Contributions	12,121	14,345	16,203	16,889
State Supplement	1,455	0	0	0
Total Income	13,576	14,345	16,203	16,889
Outgo				
Benefits	9,918	10,967	12,190	13,878
Administration Costs	126	124	122	137
Total Outgo	10,044	11,091	12,312	14,016
Operating Surplus	3,531	3,253	3,890	2,873
Return on Investments	1,608	1,329	-4,257	9,972
Balance at 31/12	21,737	26,319	25,952	38,798

2. The table below provides details of expenditure on each benefit for the period 2006 to 2009.

Table B.2: Benefit expenditure from 2006 to 2009 (£000s)

Year	2006	2007	2008	2009
Residential Benefits				
Permanent	4,841	4,997	5,372	5,989
Respite Care	135	85	89	116
Nursing Benefits				
Permanent	4,850	5,714	6,631	7,594
Respite Care	93	171	98	180
Total	9,918	10,967	12,190	13,878

Appendix C: Summary of data used

1. The accuracy of the projections provided for this review of the Guernsey Long-term Care Insurance Fund is fundamentally dependent on the data on which it is based. Where possible, we have made some checks on the data. The data appear to be of generally good quality, and are adequate for the purposes of the review. Nevertheless, it should be noted that if any of the data used for the calculations are materially incorrect or incomplete, this could have a significant effect on the results.
2. Data are used in three main areas:
 - > as the starting point of the projections
 - > to help determine appropriate assumptions about the future
 - > in validating the projection methodology.
3. Data for this review have been provided by the Social Security Department. Details of the data provided are set out below.

Data used as the starting point of the projections

4. The principal population projections are based on a total population in line with the April 2007 total. The population projections for the variant migration scenarios are based on population data as at 30 June 2008.
5. The projections of the balance in the Fund are based on the market value of the assets as at 31 December 2009 as shown in the 2009 accounts. The results for the projection of the fund balance should be seen in the context of the general volatility of market values of some classes of investment.

Data used to help determine appropriate assumptions about the future

6. Guernsey population count data and the 2008-based principal population projections for England and Wales have been used to determine appropriate mortality and fertility assumptions, including allowance for future mortality improvement.
7. Projections of contributions and benefits are based on data including the number of contributors and their earnings and the number of beneficiaries and the amount of benefit paid. It should be noted that the Fund is relatively new and therefore only small amounts of data on benefits paid are available. Information was also provided on current contribution rates, earnings limits and benefit rates.
8. Economic assumptions have been based on information provided in the Guernsey Annual Economic Overview (2009) and the Guernsey Labour Market Bulletin, as well as the asset data provided in the accounts.
9. This review also takes account of expected future trends, such as the proposed changes resulting from the 'Pension Puzzle' exercise, including the planned increase in pension age and increases in the employees' upper earnings limit.

Data used in validating the projection methodology

10. Projections were compared with actual out-turn data in 2009 to help ensure the projections are robust.

Appendix D: Projections of future Class 1 break-even contribution rates

- The tables below show the break-even Class 1 contribution rate, that is, the contribution rate payable by employees required to balance benefit expenditure. Results are provided at 10-year intervals for each migration assumption and for each up-rating scenario.

Table D.1: Break-even contribution rate based on migration set to be sufficient to maintain the total population at the April 2007 level

Year	2009	2010	2020	2030	2040	2050	2060	2070
Prices up-rating	1.2%	1.3%	1.5%	1.9%	2.3%	2.5%	2.4%	2.1%
Halfway up-rating	1.2%	1.3%	1.6%	2.2%	2.9%	3.4%	3.4%	3.1%
Earnings up-rating	1.2%	1.3%	1.7%	2.6%	3.7%	4.7%	5.1%	5.0%

Table D.2: Break-even contribution rate based on migration set at zero for each year

Year	2009	2010	2020	2030	2040	2050	2060	2070
Prices up-rating	1.2%	1.3%	1.4%	1.8%	2.3%	2.7%	2.9%	2.7%
Halfway up-rating	1.2%	1.3%	1.5%	2.1%	2.9%	3.6%	4.1%	4.1%
Earnings up-rating	1.2%	1.3%	1.6%	2.5%	3.7%	5.0%	6.1%	6.6%

Table D.3: Break-even contribution rate based on migration set at 200 net immigrants a year

Year	2009	2010	2020	2030	2040	2050	2060	2070
Prices up-rating	1.2%	1.3%	1.3%	1.6%	2.0%	2.2%	2.2%	2.1%
Halfway up-rating	1.2%	1.3%	1.4%	1.9%	2.5%	3.0%	3.2%	3.1%
Earnings up-rating	1.2%	1.3%	1.6%	2.2%	3.2%	4.1%	4.8%	5.0%

Table D.4: Break-even contribution rate based on migration set at 300 net immigrants a year

Year	2009	2010	2020	2030	2040	2050	2060	2070
Prices up-rating	1.2%	1.3%	1.3%	1.6%	1.9%	2.0%	2.0%	1.9%
Halfway up-rating	1.2%	1.3%	1.4%	1.8%	2.3%	2.7%	2.9%	2.8%
Earnings up-rating	1.2%	1.3%	1.5%	2.1%	3.0%	3.8%	4.3%	4.6%

Appendix E: Projected Fund progress if contribution rate remains the same

1. The tables below show the projected progress of the Fund, in terms of the projected average Fund balance in a year expressed as a proportion of the annual expenditure on benefits and administration costs, assuming current contribution rates are maintained. Results are provided at 10-year intervals for each migration assumption and for each up-rating scenario.
2. Where the Fund has been extinguished, it has been treated as though it is a debt and the interest has been treated as a payment instead of a receipt for illustration purposes. It is recognised that, in practice, the Fund would not be allowed to do this.

Table E.1: Progression of the Fund based on migration set to be sufficient to maintain the total population at the April 2007 level

Year	2009	2010	2020	2030	2040	2050	2060	2070
Prices up-rating	2.31	2.45	2.26	0.15	0.00	0.00	0.00	0.00
Halfway up-rating	2.31	2.45	1.74	0.00	0.00	0.00	0.00	0.00
Earnings up-rating	2.31	2.45	1.26	0.00	0.00	0.00	0.00	0.00

Table E.2: Progression of the Fund based on migration set at zero for each year

Year	2009	2010	2020	2030	2040	2050	2060	2070
Prices up-rating	2.31	2.42	2.44	0.63	0.00	0.00	0.00	0.00
Halfway up-rating	2.31	2.42	1.90	0.00	0.00	0.00	0.00	0.00
Earnings up-rating	2.31	2.42	1.41	0.00	0.00	0.00	0.00	0.00

Table E.3: Progression of the Fund based on migration set at 200 net immigrants a year

Year	2009	2010	2020	2030	2040	2050	2060	2070
Prices up-rating	2.31	2.43	2.69	1.46	0.00	0.00	0.00	0.00
Halfway up-rating	2.31	2.43	2.13	0.00	0.00	0.00	0.00	0.00
Earnings up-rating	2.31	2.43	1.63	0.00	0.00	0.00	0.00	0.00

Table E.4: Progression of the Fund based on migration set at 300 net immigrants a year

Year	2009	2010	2020	2030	2040	2050	2060	2070
Prices up-rating	2.31	2.43	2.82	1.87	0.00	0.00	0.00	0.00
Halfway up-rating	2.31	2.43	2.25	0.21	0.00	0.00	0.00	0.00
Earnings up-rating	2.31	2.43	1.73	0.00	0.00	0.00	0.00	0.00

Review of the Long-term Care Insurance Fund as at 31 December 2009

Appendix F: Detailed projections of income and expenditure
Table F.1: Projected fund balance based on migration set to be sufficient to maintain the total population at the April 2007 level and real earnings growth of 2%, assuming benefit rates and earnings limits are increased in line with prices (£000s)

Year	2009	2010	2020	2030	2040	2050	2060	2070
Balance at 01/01	25,952	38,798	68,651	18,066	0	0	0	0
Income								
Contributions	16,889	16,430	27,358	42,142	66,589	104,982	163,788	251,727
State Supplement	0	0	0	0	0	0	0	0
Total Income	16,889	16,430	27,358	42,142	66,589	104,982	163,788	251,727
Outgo								
Benefits	13,878	16,205	30,347	60,011	117,335	200,445	300,657	400,138
Admin Costs	137	144	236	387	634	1,039	1,701	2,787
Total Outgo	14,016	16,350	30,583	60,398	117,969	201,483	302,359	402,926
Operating surplus	2,873	80	-3,225	-18,256	-51,380	-96,501	-138,571	-151,198
Investment Income	9,972	2,565	4,428	590	0	0	0	0
Balance at 31/12	38,798	41,444	69,854	400	0	0	0	0

Review of the Long-term Care Insurance Fund as at 31 December 2009

Table F.2: Projected fund balance based on migration set to be sufficient to maintain the total population at the April 2007 level and real earnings growth of 2%, assuming benefit rates and earnings limits are increased in line with earnings (£000s)

Year	2009	2010	2020	2030	2040	2050	2060	2070
Balance at 01/01	25,952	38,798	48,958	0	0	0	0	0
Income								
Contributions	16,889	16,430	27,984	44,514	73,047	121,071	202,239	337,924
State Supplement	0	0	0	0	0	0	0	0
Total Income	16,889	16,430	27,984	44,514	73,047	121,071	202,239	337,924
Outgo								
Benefits	13,878	16,205	36,267	87,424	208,368	433,911	793,378	1,287,123
Admin Costs	137	144	236	387	634	1,039	1,701	2,787
Total Outgo	14,016	16,350	36,503	87,811	209,002	434,950	795,079	1,289,911
Operating surplus	2,873	80	-8,520	-43,297	-135,955	-313,879	-592,840	-951,987
Investment Income	9,972	2,565	2,952	0	0	0	0	0
Balance at 31/12	38,798	41,444	43,390	0	0	0	0	0

Review of the Long-term Care Insurance Fund as at 31 December 2009

Table F.3: The estimated future expenditure based on migration set to be sufficient to maintain the total population at the April 2007 level and real earnings growth of 2%, assuming benefit rates and earnings limits are increased in line with prices (£000s)

Year	2009	2010	2020	2030	2040	2050	2060	2070
Residential Benefits								
Permanent	5,989	6,895	12,991	25,859	50,851	87,635	132,826	176,412
Respite Care	116	158	286	533	957	1,419	1,859	2,259
Nursing Benefits								
Permanent	7,594	8,874	16,576	32,763	64,137	109,405	163,395	218,176
Respite Care	180	278	493	856	1,390	1,986	2,577	3,292
Total	13,878	16,205	30,347	60,011	117,335	200,445	300,657	400,138

1875

Table F.4: The estimated future expenditure based on migration set to be sufficient to maintain the total population at the April 2007 level and real earnings growth of 2%, assuming benefit rates and earnings limits are increased in line with earnings (£000s)

Year	2009	2010	2020	2030	2040	2050	2060	2070
Residential Benefits								
Permanent	5,989	6,895	15,526	37,671	90,303	189,706	350,503	567,463
Respite Care	116	158	342	777	1,700	3,072	4,905	7,266
Nursing Benefits								
Permanent	7,594	8,874	19,810	47,729	113,898	236,833	431,170	701,807
Respite Care	180	278	589	1,247	2,468	4,300	6,799	10,588
Total	13,878	16,205	36,267	87,424	208,368	433,911	793,378	1,287,123

Appendix G: Detailed assumptions used in projections

1. This appendix summarises the methods and assumptions used to project contribution income and benefit expenditure. The projections of both contributions and benefits are largely driven by future changes in the population. Details of the population projections are provided in Section 6 of the report and summarised below.

Population Projections

2. The projections of Guernsey's population are based on population data provided as at 30 June 2008 and allow for the interaction of demographic assumptions including mortality, fertility and migration. The constant population scenario assumes a total population in line with the April 2007 total.
3. Mortality and fertility assumptions are based on the ONS 2008-based principal population projections prepared by the Office for National Statistics (ONS) for England and Wales, adjusted by age and sex-related factors based on Guernsey experience from 2007 to 2009. The principal migration assumption assumes variable migration such that the total population remains constant at the April 2007 level, in line with the States Population and Migration Policy Statement.

Contributions

4. The key assumptions underlying projections of contribution income are:
 - > proportions of the population assumed to be paying contributions in future years
 - > future contribution rates and earnings limits
 - > the distribution of future earnings
5. The proportions of the working-age population paying contributions are based on data provided on the number of contributors in the years 2004 to 2009 and population data. Contributor data were provided by age and sex and for each of the contribution classes, ie employed, self-employed and non-employed. The proportions have been fairly constant in recent years and it is assumed that these proportions will persist at a similar level throughout the projection period, adjusted for the planned increase in pension age from 65 to 67 between 2020 and 2031.
6. Contribution rates are assumed remain constant at the 2010 rates. The employee upper earnings limit is assumed to increase over a 5 year period starting in 2010, in line with the Pensions Puzzle review. Contribution earnings limits are assumed to increase in line with increases in benefit rates and results have been provided for three potential up-rating scenarios of increases in line with prices, earnings or half-way between the two.
7. Data on the distribution of earnings in Guernsey is provided to GAD on a quarterly basis. These provide information on earnings for Class 1 contributors (employed individuals) up to the employer upper earnings limit. Earnings information for other contributor classes (self-employed and non-employed) is provided up to the employee upper earnings limit. The earnings distributions are considered separately by contribution class, sex, and age band and are assumed to remain constant at the 2009 distribution in future allowing for earnings inflation. To align the earnings distributions of all three classes, it is assumed for the classes other than Class 1 that 50% of contributors earning in excess of the employee UEL earn in excess of the employer UEL and that the remaining 50% have earnings uniformly distributed between the employee and employer UEL.

Review of the Long-term Care Insurance Fund as at 31 December 2009

8. Contribution income is projected by combining the future numbers of contributors, based on the relevant population projections, with the assumed earnings distribution allowing for the assumed up-rating of contribution limits.

Benefits

9. The key assumptions underlying projections of benefit expenditure are:
 - > the proportions of the population assumed to receive each of the benefits in future years
 - > the proportion of the full benefit rate expected to be paid on average
 - > the average expected duration of payment for respite benefits
10. Permanent care is the most significant element of expenditure, with a greater proportion relating to nursing care than residential care in recent years.
11. Based on the experience of the Fund since its inception in 2003 the age-specific proportions adopted for the 2005 review for permanent and respite care, both nursing and residential, have been retained for the current review. For permanent care benefits these proportions range from below 1% at age 80 to about 15% at age 100 for male nursing care and from about 1% at age 75 to over 40% at age 100 for male residential care. The proportions for females are slightly higher at all ages, for both benefits.
12. These assumptions are unavoidably rather speculative as the Fund is relatively new and there are only a few years of data and relatively small numbers of awards. Furthermore experience is quite variable, particularly at the oldest ages, beyond age 95.
13. Benefit rates are the maximum amounts provided. In practice it appears that the vast majority of benefits are paid at the maximum level. Therefore it has been assumed that all benefits are paid at the full benefit rate.
14. Respite benefits can normally be provided for four weeks a year. Based on recent experience, the average duration for respite care is assumed to be 2½ weeks, for both nursing and residential care.
15. Expenditure on benefits is projected by combining the future numbers of beneficiaries, determined as proportions of the projected population, with the benefit rate payable and the assumed duration of respite benefits, allowing for the assumed rate of benefit increases.

Administration costs

16. Administration expenses are assumed to increase in line with earnings. This is consistent with the approach adopted for the 2005 review.

**IN THE STATES OF THE ISLAND OF GUERNSEY
ON THE 26TH DAY OF OCTOBER, 2011**

(Meeting adjourned from 30th September 2011)

**The States resolved as follows concerning Billet d'État No XV
dated 19th August 2011**

STATES ASSEMBLY AND CONSTITUTION COMMITTEE

**RULES OF PROCEDURE OF THE STATES OF DELIBERATION
REVOCATION OF RULE 16**

XXII.- After consideration of the Report dated 18 July, 2011, of the States Assembly and Constitution Committee :-

That Rule 16 of the Rules of Procedure of the States of Deliberation be revoked with immediate effect.

STATES ASSEMBLY AND CONSTITUTION COMMITTEE

'HANSARD' REPORTS OF THE STATES OF DELIBERATION

XXIII.- After consideration of the Report dated 18 July, 2011, of the States Assembly and Constitution Committee:-

1. To agree to the introduction of an official report of the proceedings of the States of Deliberation to commence in 2012.
2. To authorise the States Assembly and Constitution Committee to negotiate appropriate terms and conditions for the production of the said official reports.
3. To note that the additional funding requirements arising from the proposals set out in this report will be subject to prioritisation as part of the States Strategic Plan.

**S M D ROSS
HER MAJESTY'S DEPUTY GREFFIER**

**IN THE STATES OF THE ISLAND OF GUERNSEY
ON THE 28TH DAY OF SEPTEMBER, 2011**

**The States resolved as follows concerning Billet d'État No XV
dated 19th August 2011**

**THE CUSTOMS AND EXCISE (GENERAL PROVISIONS) (BAILIWICK OF
GUERNSEY) (AMENDMENT) LAW, 2011**

I.- To approve the Projet de Loi entitled "The Customs and Excise (General Provisions) (Bailiwick of Guernsey) (Amendment) Law, 2011" and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

**THE CRIMINAL JUSTICE (MINIMUM TERMS FOR SENTENCES OF LIFE
IMPRISONMENT) (BAILIWICK OF GUERNSEY) LAW, 2011**

II.- To approve the Projet de Loi entitled "The Criminal Justice (Minimum Terms for Sentences of Life Imprisonment) (Bailiwick of 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.

**THE INCOME TAX (GUERNSEY) (APPROVAL OF AGREEMENTS WITH
INDONESIA AND MEXICO) ORDINANCE, 2011**

III. - To approve the draft Ordinance entitled "The Income Tax (Guernsey) (Approval of Agreements with Indonesia and Mexico) Ordinance, 2011" and to direct that the same shall have effect as an Ordinance of the States.

**THE MISUSE OF DRUGS (BAILIWICK OF GUERNSEY) LAW, 1974
(AMENDMENT) ORDINANCE, 2011**

IV. - To approve the draft Ordinance entitled "The Misuse of Drugs (Bailiwick of Guernsey) Law, 1974 (Amendment) Ordinance, 2011" and to direct that the same shall have effect as an Ordinance of the States.

**THE LAND PLANNING AND DEVELOPMENT (PLANNING COVENANTS)
ORDINANCE, 2011**

V. - To approve the draft Ordinance entitled "The Land Planning and Development (Planning Covenants) Ordinance, 2011" and to direct that the same shall have effect as an Ordinance of the States.

THE DOG TAX (AMENDMENT) (GUERNSEY) ORDINANCE, 2011

VI. - To approve the draft Ordinance entitled "The Dog Tax (Amendment) (Guernsey)

Ordinance, 2011” and to direct that the same shall have effect as an Ordinance of the States.

**THE PAROCHIAL TAXATION (RESERVE FUNDS) (AMENDMENT)
ORDINANCE, 2011**

VII. - To approve the draft Ordinance entitled “The Parochial Taxation (Reserve Funds) (Amendment) Ordinance, 2011” and to direct that the same shall have effect as an Ordinance of the States.

POLICY COUNCIL

**FINANCIAL TRANSFORMATION PROGRAMME – REVIEW OF COLLEGES GRANT
AID AND SUBSIDIES**

VIII. - After consideration of the Report dated 11th July, 2011, of the Policy Council:-

1. To approve the continuation of States funding for Elizabeth College, The Ladies’ College and Blanchelande College through a General Grant and full fees payment for Special Placeholders for a further seven years from 01 September 2012 as set out in this Report.
2. To approve the continuation of the existing provision in the funding formula for 23 special places per school year for both Elizabeth College and The Ladies’ College, and up to six special places per school year for Blanchelande College, subject to existing qualifying criteria.
3. To approve the principle that, adopting a phased approach over seven years along the lines set out in this Report, the amount of the States funding for the Colleges will reduce by £1.11 million/annum (2011 values) by year seven of the agreement (i.e. 2018).
4. To approve that the base figures to be used to achieve this level of saving will be 2012 (real term) figures, and that all amounts involved over the lifetime of the arrangements (both in terms of the grants and fees paid by the States and the savings to be accrued by the States) will be adjusted annually in line with any standard percentage budget increase or decrease awarded to the Education Department.
5. To approve that the Colleges’ Budget continues to be a separate Education Department Cash Limit and remains separate from the Education General Budget.
6. To direct the Treasury & Resources Department to take into account these proposals when recommending to the States revenue allocations for 2012 and subsequent years.
7. To approve the introduction of an annual reporting and review cycle as described in this Report, including monitoring against a set of agreed Key Performance Indicators and open inspection of the Colleges’ accounts, to be undertaken by the Treasury & Resources Department (in collaboration with the Education Department and the three Colleges); such work to be submitted to the Education Department for consideration and appropriate action under the terms of that Department’s mandate.

POLICY COUNCIL

PLANNING PANEL MEMBERSHIP

X.- After consideration of the Report dated 25th July, 2011, of the Policy Council:-

1. To appoint Mr. Patrick Russell to sit as a Professional Member of the Planning Panel until 5 April 2013, in accordance with the provisions of the Land Planning and Development (Guernsey) Law, 2005.
2. To appoint Mr. Stuart Fell to serve as the Deputy Chairman of the Planning Panel, in accordance with the provisions of the Land Planning and Development (Guernsey) Law, 2005.
3. To appoint Miss Julia White to sit as an Ordinary Member of the Planning Panel until 5 April 2013, in accordance with the provisions of the Land Planning and Development (Guernsey) Law, 2005.

TREASURY AND RESOURCES DEPARTMENT

APPOINTMENT OF NON-EXECUTIVE DIRECTORS GUERNSEY ELECTRICITY LIMITED

XII.- After consideration of the Report dated 13th July, 2011, of the Treasury and Resources Department:-

1. To appoint Robert Lawrence as a non-executive director of Guernsey Electricity Limited, in accordance with section 3 (1) of the States Trading Companies (Bailiwick of Guernsey) Ordinance, 2001.
2. To appoint Ian Hardman as a non-executive director of Guernsey Electricity Limited, in accordance with section 3 (1) of the States Trading Companies (Bailiwick of Guernsey) Ordinance, 2001.

HOME DEPARTMENT

CRIMINAL JUSTICE LEGISLATION – LIFE SENTENCES

XIX.- After consideration of the Report dated 28th June, 2011, of the Home Department:-

1. To agree that the Royal Court be given power to set the minimum term of mandatory and discretionary sentences of life imprisonment.
2. To agree that criteria be specified for setting a starting point and specifying the aggravating and mitigating factors in relation to mandatory sentences of life imprisonment.
3. To permit the amendment of the relevant provisions of the Law by Ordinance of the States.

4. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

HOME DEPARTMENT

PROPOSAL TO APPOINT A PAN-ISLAND DATA PROTECTION COMMISSIONER

XX.- After consideration of the Report dated 13th July, 2011, of the Home Department:-

1. (a) To approve that a Pan-Island Data Protection Commissioner should be appointed in cooperation with the Bailiwick of Jersey; and
- (b) To appoint Mrs Emma Martins as the Guernsey Data Protection Commissioner in accordance with Section 6(2) of the Data Protection (Bailiwick of Guernsey) Law, 2001, with effect from 1st October 2011 until 30th November 2015.

STATUTORY INSTRUMENTS LAID BEFORE THE STATES

THE HEALTH SERVICE (BENEFIT) (LIMITED LIST) (PHARMACEUTICAL BENEFIT) (AMENDMENT NO.3) REGULATIONS, 2011

In pursuance of Section 35 of The Health Service (Benefit) (Guernsey) Law, 1990, The Health Service (Benefit) (Limited List) (Pharmaceutical Benefit) (Amendment No.3) Regulations, 2011 made by the Social Security Department on 1 June 2011, were laid before the States.

THE TERRORISM AND CRIME (BAILIWICK OF GUERNSEY) (AMENDMENT) REGULATIONS, 2011

In pursuance of the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002, The Terrorism and Crime (Bailiwick Of Guernsey) (Amendment) Regulations, 2011 made by the Home Department on 15th June 2011, were laid before the States.

THE DISCLOSURE (BAILIWICK OF GUERNSEY) REGULATIONS, 2011

In pursuance of the Disclosure (Bailiwick of Guernsey) Law, 2007, The Disclosure (Bailiwick Of Guernsey) Regulations, 2011 made by the Home Department on 13th May 2011, were laid before the States.

IN THE STATES OF THE ISLAND OF GUERNSEY ON THE 29TH DAY OF SEPTEMBER, 2011

(Meeting adjourned from 28th September, 2011)

**The States resolved as follows concerning Billet d'État No XV
dated 19th August 2011**

POLICY COUNCIL

PROGRESS ON FULFILLING RECOMMENDATIONS MADE BY THE TRIBUNAL OF INQUIRY INTO INDUSTRIAL ACTION BY AIRPORT FIRE FIGHTERS AT GUERNSEY AIRPORT

IX. - After consideration of the Report dated 15th July, 2011, of the Policy Council:-

To note the actions which have been taken in response to recommendations made in the Report of the Tribunal of Inquiry into Industrial Action by Airport Firefighters at Guernsey Airport, a number of which will be the subject of separate reports to the States in future.

TREASURY & RESOURCES DEPARTMENT

PROPOSED REVISIONS TO INCOME TAX LEGISLATION

XI.- After consideration of the Report dated 13th July, 2011, of the Treasury and Resources Department:-

1. To revise section 48 of the Income Tax Law to make it clear that where a person in Guernsey makes a payment in connection with the provision, in Guernsey, of services by a non-resident who is liable to tax in respect of that payment then that person would be treated as "agent" for the non-resident for the purposes of section 48, notwithstanding that the payment was paid through a third party, or a series of third parties, unless the payment is otherwise exempted under the Income Tax Law.
2. To amend the 1989 Ordinance to ensure that any entity or legal arrangement which is a body for the purposes of the Income Tax Law and which is, or which is concerned with, a collective investment scheme be capable of gaining exemption from income tax, irrespective of its legal form, provided it is established for the purposes of undertaking collective investment, or is in the beneficial ownership of such a body, or has some other prescribed legal or economic connection with such a body (for example, the management of its assets).
3. To revise the Income Tax Law to make it clear that more than one Deputy Director of Income Tax may be appointed to assist the Director in carrying out his statutory functions, and that any reference in the Income Tax Law to "the Deputy Director of Income Tax" would include any such Deputy Director, so appointed.

4. To amend the Income Tax Law in order to provide for the automatic imposition of a penalty, in the circumstances described in paragraph 5.3 above.
5. To repeal section 75CA of the Income Tax Law and make consequential amendments.
6. To amend Part VIA of the Income Tax Law in order to make it clear that the provisions therein relating to the obtaining of information apply to collection, recovery and enforcement action taken by the Director.

SOCIAL SECURITY DEPARTMENT

BENEFIT AND CONTRIBUTION RATES FOR 2012

XIII.- After consideration of the Report dated 13th July, 2011, of the Social Security Department:-

1. That, from 2 January 2012, the standard rates of pension and contributory social insurance benefits shall be increased to the rates set out in this Report.

(paragraph 33)

2. That, for employed persons, the upper weekly earnings limit, the upper monthly earnings limit and the annual upper earnings limit, from 1 January 2012, shall be £2,022, £8,762 and £105,144 respectively.

(paragraph 37)

3. That, for employers, the upper weekly earnings limit, the upper monthly earnings limit and the annual upper earnings limit, from 1 January 2012, shall be £2,409, £10,439 and £125,268 respectively.

(paragraph 38)

4. That, for employed persons and employers, the lower weekly earnings limit and the lower monthly earnings limit, from 1 January 2012, shall be £121 and £524.33 respectively.

(paragraph 42)

5. That, for self-employed persons, the upper earnings limit and lower earnings limit, from 1 January 2012, shall be £105,144 per year and £6,292 per year, respectively.

(paragraphs 44 and 47)

6. That, for non-employed persons, the upper and lower annual income limits, from 1 January 2012, shall be £105,144 per year and £15,730 per year respectively.

(paragraphs 48 and 51)

7. That the allowance on income for non-employed people from 1 January 2012, shall be

£6,675 per year

(paragraph 52)

8. That the voluntary contribution from 1 January 2012, shall be £17.24 per week for non-employed people.

(paragraph 55)

9. That the overseas voluntary contribution from 1 January 2012, shall be £82.36 per week for non-employed people and £91.04 for self-employed people.

(paragraph 56)

10. That Resolution 6 on Article 16 of Billet D'Etat XVII of 2006 be rescinded and replaced with the permitted investment rules set out in Annex 1 of this report.

(paragraph 61)

11. That, from 1 January 2012, the prescription charge per item of pharmaceutical benefit shall be £3.10.

(paragraph 68)

12. That the Health Service (Benefit) (Guernsey) Law, 1990 and related subordinate legislation be amended to allow community nurses employed by the Health and Social Services Department, whose names are held on the Nursing and Midwifery Council's register, to be empowered to issue medical prescriptions for the supply of wound management products, as listed in section 13.13 of the Limited List.

(paragraph 72)

13. That, from 2 January 2012, the contribution (co-payment) required to be made by the claimant of care benefit, under the long-term care insurance scheme, shall be £176.61 per week.

(paragraph 88)

14. That, from 2 January 2012, nursing care benefit shall be a maximum of £730.73 per week for persons resident in a nursing home or the Guernsey Cheshire Home and residential care benefit shall be a maximum of £391.37 per week for persons resident in a residential home.

(paragraphs 90 to 91)

15. That, from 2 January 2012, elderly mentally infirm (EMI) care benefit shall be a maximum of £515.69 per week for qualifying persons resident in a residential home.

(paragraph 92)

16. That, from 2 January 2012, respite care benefit shall be a maximum of £907.27 per week for persons receiving respite care in a nursing home or the Guernsey Cheshire Home, an elderly mental infirm rate of £692.30 for persons receiving respite care in a

residential home and a maximum of £567.98 per week for persons receiving respite care in a residential home.

(paragraph 93)

17. That the First Schedule to the Supplementary Benefit (Implementation) Ordinance, 1971 be amended to allow the requirements of a child in respect of whom residence order allowance or adoption order allowance is payable, to be disregarded for the purposes of calculating the requirements of a person whom that child is living with under a residence order or adoption order, and to allow for residence order allowance and adoption order allowance to be disregarded for the purpose of calculating that person's resources.

(paragraph 119)

18. That, from 6 January 2012, the supplementary benefit requirement rates shall be as set out in paragraph 120 of this Report.

19. That, from 6 January 2012, the weekly benefit limitations for supplementary benefit shall be:

- (a) £450 for a person living in the community;
- (b) £486 for a person who is residing in a residential home; and
- (c) £698 for a person who is residing as a patient in a hospital, nursing home, the Guernsey Cheshire Home or as an elderly mental infirm resident of a residential home

(paragraphs 125 to 135)

20. That, from 6 January 2012, the amount of the personal allowance payable to persons in Guernsey and Alderney residential or nursing homes who are in receipt of supplementary benefit shall be £27.84 per week.

(paragraph 136)

21. That, from 6 January 2012, the amount of the personal allowance payable to persons in UK hospitals or care homes who are in receipt of supplementary benefit shall be £46.89 per week

(paragraph 139)

22. That a supplementary fuel allowance of £27.09 per week be paid to supplementary beneficiaries who are householders from 28 October 2011 to 26 April 2012.

(paragraph 141)

23. That, from 2 January 2012, family allowance shall be £15.40 per week.

(paragraph 145)

24. That, from 2 January 2012, the rates of attendance allowance and invalid care

allowance and the annual income limits shall be as set out in paragraph 148 of this Report.

25. Treasury and Resources Department be directed to take account of the 2012 estimates for Social Security Department Formula Led expenditure when recommending, as part of the 2012 Budget Report, Cash Limits for Departments and Committees.
26. To direct the preparation of such legislation as may be necessary to give effect to their above decisions.

IN THE STATES OF THE ISLAND OF GUERNSEY ON THE 30TH DAY OF SEPTEMBER, 2011

(Meeting adjourned from 29th September, 2011)

**The States resolved as follows concerning Billet d'État No XV
dated 19th August 2011**

COMMERCE AND EMPLOYMENT DEPARTMENT

REVIEW OF UTILITY REGULATION

XIV.- After consideration of the Report dated 8th July, 2011, of the Commerce and Employment Department:-

1. To direct the Director General of Utility Regulation, by Ordinance, to follow the six principles for economic regulation set out in paragraph 5.11 of this Report and to take them into account in performing his statutory duties.
2. To direct the Director General of Utility Regulation, by Ordinance, to prepare a Memorandum of Understanding setting out formally the approach, process, practice and procedure, objectives, deliverables and measurements of success for future regulation of each States-owned utility, as described in paragraphs 5.14 and 5.15 of this Report.
3. To direct the Treasury and Resources Department as shareholder, acting as their representative, to follow the six principles of corporate governance set out in paragraph 6.6 of this Report and to take them into account in performing the shareholder representative role and, in particular, to report to the States as soon as practicable and no later than the March 2012 meeting in respect of progress made on agreeing a dividend policy.
4. That paragraph 4 of the States Guidance to Shareholders with respect to Guernsey Electricity, and paragraph 2 with respect to Guernsey Post be amended to read as appropriate:
 - a) Deliver improved efficiency in fulfilling the requirements of the Public/Universal Supply Obligation imposed under the regulatory regime
 - b) Achieve as soon as practicable an appropriate commercial return on the resources employed in the provision of services.
5. To direct that the "shareholder resource" concept be explored by the Policy Council's External Relations Group in its ongoing dialogue with Jersey and that the Policy Council bring a Report before the States by the end of September 2012.
6. That the review of the powers, duties, mandates, and effectiveness of the Scrutiny and Public Accounts Committees referred to in paragraph 7.11 should include consideration of the most appropriate method of scrutinising the regulatory regime (including the responsibilities of the shareholder) on a regular basis.

7. To direct the Director General of Utility Regulation to produce and publish a three-year strategic plan along with an annual business plan detailing the actions proposed to be taken by the OUR in the subsequent year.
8. That the Post Office (Bailiwick of Guernsey) Law 2001 be amended to allow for the introduction of a Universal Service Fund, if it becomes necessary in future in order to fund the Universal Service Obligation for Postal Services.
9. That
 - a) the 2001 Direction to the Director General to review and revise the award of exclusive rights from time to time, with a view to opening up the Bailiwick postal services market to competition, provided that any such opening up does not prejudice the continued provision of the universal postal service, should be rescinded.
 - b) That the States of Guernsey should determine any revisions to the exclusive rights having taken into account any advice and comments from the Director General of Utility Regulation.
10. That the legislation be amended to require all postal operators with specified de minimis exceptions to obtain a licence from the Office of Utility Regulation.
11. To:
 - a) Issue a States Direction to the Director General of Utility Regulation that an exclusive licence be issued to Guernsey Electricity for supply activities subject to any exemptions granted by the Director General under Section 1 (2) of the Electricity (Guernsey) Law, 2001 for the period ending 31st January 2022.
 - b) Issue a States' Direction to the Director General of Utility Regulation to issue to Guernsey Electricity an exclusive licence for conveyance activities, subject to any exemptions granted by the Director General under Section 1 (2) of the Electricity (Guernsey) Law, 2001 for the period ending 31st January 2022.
 - c) Direct the Director General of Utility Regulation that the exclusive licences set out in Directions (a) and (b) above should be replaced with exclusive licences for retail and network activities respectively when new legislation is enacted amending the nomenclature.
 - d) Direct the Commerce and Employment Department to monitor the development of the energy sector in the Channel Islands and bring forward a review of these arrangements by 31st January 2022 or sooner in the event of any material changes to the structure of the sector.
12. That:
 - a) The Articles of Incorporation of both Guernsey Post and Guernsey Electricity are amended to require the written authority of the States Treasury and Resources Department before registering an appeal against a decision of the Director General of Utility Regulation.

- b) The time period for registering an Appeal against a decision by the Director General of Utility Regulation should be extended from 28 to 56 days (with power to the Courts to extend further in exceptional circumstances).
13. That:
- a) The Regulation of Utilities legislation be amended to alter the organisational structure of the OUR, thereby replacing the role of the Director General of Utility Regulation with an executive director and independent Board.
 - b) Subject to the agreement of the Jersey Authorities, the Boards of the JCRA and OUR should comprise the same people, who in practice would operate as a single Board, while administering two separate sets of laws.
 - c) Once the Board has been established that that part of Resolution XIV 1 (f), Billet d'Etat X, 2006 related to the establishment of an Audit and Remuneration Committee should be rescinded and the Audit and Remuneration Committee shall be abolished.
14. To direct the preparation or amendment of such legislation as may be necessary in order to give effect to their above decision.

COMMERCE AND EMPLOYMENT DEPARTMENT

IMAGE RIGHTS

XV.- After consideration of the Report dated 6th May, 2011, of the Commerce and Employment Department:-

- 1. To approve the introduction of specific Bailiwick of Guernsey legislation to protect image rights as set out in this report.
- 2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

COMMERCE AND EMPLOYMENT DEPARTMENT

AIRCRAFT REGISTRY

XVI.- After consideration of the Report dated 12th July, 2011, of the Commerce and Employment Department:-

- 1. To approve in principle the establishment of:-
 - a) a Channel Islands aircraft registry, subject to agreement with the relevant authorities in Jersey; or
 - b) in default of such agreement within such time frame as the Department considers reasonable, a Guernsey aircraft registry on the basis set out in this States Report.

2. To direct the Department to work with the Law Officers to identify the necessary legislative requirements for the establishment of a Registry and to report back to the States outlining the necessary legislation.
3. To direct the Department to appoint a commercial partner for the proposed Registry.
4. To delegate authority to the Treasury and Resources Department to approve the Full Business Case for the establishment of a Guernsey Aircraft Registry.

PUBLIC SERVICES DEPARTMENT

EXTENSION OF MERCHANT SHIPPING CONVENTIONS TO THE BAILIWICK

XVII.- After consideration of the Report dated 7th July 2011 of the Public Services Department:-

1. To approve the preparation of the legislation identified in section 2 of that Report to give domestic effect to the Bunkers Convention, together with such incidental and consequential provisions as are required.
2. To approve the preparation of the legislation identified in section 3 of that Report to give domestic effect to the LLMC Convention as amended by the 1996 Protocol, together with such incidental and consequential provisions as are required (including the commencement and repeal of legislation).
3. To approve the preparation of the legislation identified in section 4 of that Report to give domestic effect to the Athens Convention as amended by the 2002 Protocol, together with such incidental and consequential provisions as are required (including the commencement and repeal of legislation).
4. To approve the preparation of the legislation identified in section 5 of that Report to give domestic effect to the 1973 Protocol to the Intervention Convention, together with such incidental and consequential provisions as are required.
5. To approve the preparation of an Ordinance under section 149(1) of the Law to apply sections 144 to 148 of the Law to non-Guernsey ships in the circumstances described.
6. To direct the preparation of such legislation as may be necessary to give effect to their above decisions.

HOME DEPARTMENT

CRIMINAL JUSTICE LEGISLATION

XVIII.- After consideration of the Report dated 21st July, 2011, of the Home Department:-

1. To approve the clarification of the current position that any period on bail during the first 24 hour period of detention does not count towards the cumulative permitted total.
2. To approve the clarification that the "relevant time" for a person who is released on bail will be deemed to be the time of their subsequent surrender to custody, although any

period for which that person was detained prior to being released will be taken into account when considering the calculation of the cumulative time period.

ENVIRONMENT DEPARTMENT

WASTE DISPOSAL AT A PRIVATE SITE – WHISPERS VINERY, CASTEL

XXI.- After consideration of the Report dated 27th June, 2011, of the Environment Department:-

1. To authorise B R Langlois and Sons Ltd as a person to whom a licence may be issued, by the regulator, for carrying on of waste disposal operations comprising the combustion of waste wood at Whispers Vinery, Rue des Goddards, Castel, GY5 7BG.
2. To acknowledge, should the operations so authorised be licensed, that the monitoring, emission and noise standards for the operations are required under the Environmental Pollution (Guernsey) Law, 2004 to satisfy the Best Available Technique and that, in respect of the combustion of waste (ie, non-virgin) wood, the standards set out in Directive 2000/76/EC of the European Parliament and of the Council of 4 December 2000 on the incineration of waste (the Waste Incineration Directive) can be adopted as a minimum standard.

ORDINANCE LAID BEFORE THE STATES

THE POLICE POWERS AND CRIMINAL EVIDENCE (BAILIWICK OF 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 Police Powers and Criminal Evidence (Bailiwick of Guernsey) (Amendment) Ordinance, 2011, made by the Legislation Select Committee on 25th July 2011 and came into force on 25th July 2011, was laid before the States.

STATES ASSEMBLY AND CONSTITUTION COMMITTEE

RULES OF PROCEDURE OF THE STATES OF DELIBERATION REVOCATION OF RULE 16

XXII.- TO POSTPONE CONSIDERATION of this Article until Wednesday 26th October 2011.

STATES ASSEMBLY AND CONSTITUTION COMMITTEE

‘HANSARD’ REPORTS OF THE STATES OF DELIBERATION

XXIII.- TO POSTPONE CONSIDERATION of this Article until Wednesday 26th October 2011.

**S M D ROSS
HER MAJESTY’S DEPUTY GREFFIER**