



BILLET D'ÉTAT

TUESDAY, 6th MARCH 2012

V
2012

Volume 3

16. Public Accounts Committee, Scrutiny Committee, States Assembly and Constitution Committee - Improving Governance in The States of Guernsey, p. 1449
17. Public Accounts Committee - Rescinding Resolution Re Walters Requête – Construction of the New Airport Terminal Building, p. 1569
18. Scrutiny Committee – Managing Disruptive Behaviour and School Exclusions Review, p. 1574
19. States Assembly and Constitution Committee - Declaration of Members' Interests, p. 1725
20. Review Boards - Panel of Members - Report of the Review Board for 2011, p. 1767
21. Requête - Governance in The States of Guernsey: Proposal for a Comprehensive Review of the Structure and Functions of the Legislature and the Government in Guernsey, p. 1770

Ordinances laid before the States

The Burma / Myanmar (Restrictive Measures) (Guernsey) Ordinance, 2012, p. 1783
The Eritrea (Restrictive Measures) (Guernsey) Ordinance, 2012, p. 1783
The Republic of Guinea (Restrictive Measures) (Guernsey) Ordinance, 2012, p. 1783
The Somalia (Restrictive Measures) (Guernsey) Ordinance, 2012, p. 1783

Statutory Instruments laid before the States

The Social Insurance (Classification) (Amendment) (Guernsey) Regulations, 2011, p. 1784
The Health Service (Medical Appliances) (Amendment) Regulations, 2011, p. 1784
The Social Insurance (Benefits) (Amendment No. 2) Regulations, 2011, p. 1785
The Health Service (Benefit) (Limited List) (Pharmaceutical Benefit) (Amendment No. 6) Regulations, 2011, p. 1785
The Income Tax (Standard Charge) (Amendment) Regulations, 2011, p. 1785
The States Housing (Rent And Rebate Scheme) (Guernsey) (Amendment) Regulations, 2011, p. 1786
Mooring Charges Regulations, 2011, p. 1786
The Harbour Dues And Facilities Charges Regulations, 2011, p. 1787

**PUBLIC ACCOUNTS COMMITTEE
SCRUTINY COMMITTEE
STATES ASSEMBLY AND CONSTITUTION COMMITTEE**

IMPROVING GOVERNANCE IN THE STATES OF GUERNSEY

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

9th January 2012

Dear Sir

Executive Summary

This States report – pursuant to Resolutions of the States of Deliberation in March, 2011 after consideration of Billet d'État IV of that year – is submitted jointly by three Parliamentary Committees: the Public Accounts Committee (PAC), the Scrutiny Committee and the States Assembly and Constitution Committee (SACC) (referred to herein as the Joint Committees).

It includes a package of proposals which, if approved and implemented, will enable the States of Guernsey to:

- meet the highest standards of good governance which they are reasonably able to deliver within the existing system of government by committees and consensus; and
- measure compliance with those standards of good governance.

The Joint Committees are pleased to submit their report for debate at the March 2012 meeting of the States of Deliberation.

Table of Contents

1	Introduction
2	Context
3	Clarity of Purpose
4	Organisation, Functions and Roles
5	Policy-making, Policy-planning and Decision-making
6	Capacity and Capability – Resources and Skills
7	Accountability and Oversight
8	Stakeholders, Consultation and Engagement
9	Operational Governance
10	Next Steps: Measuring Compliance & Governance in the 2012-16 term
11	The Joint Committees' View on Comments from the Policy Council
12	Recommendations to the States

References

Appendices

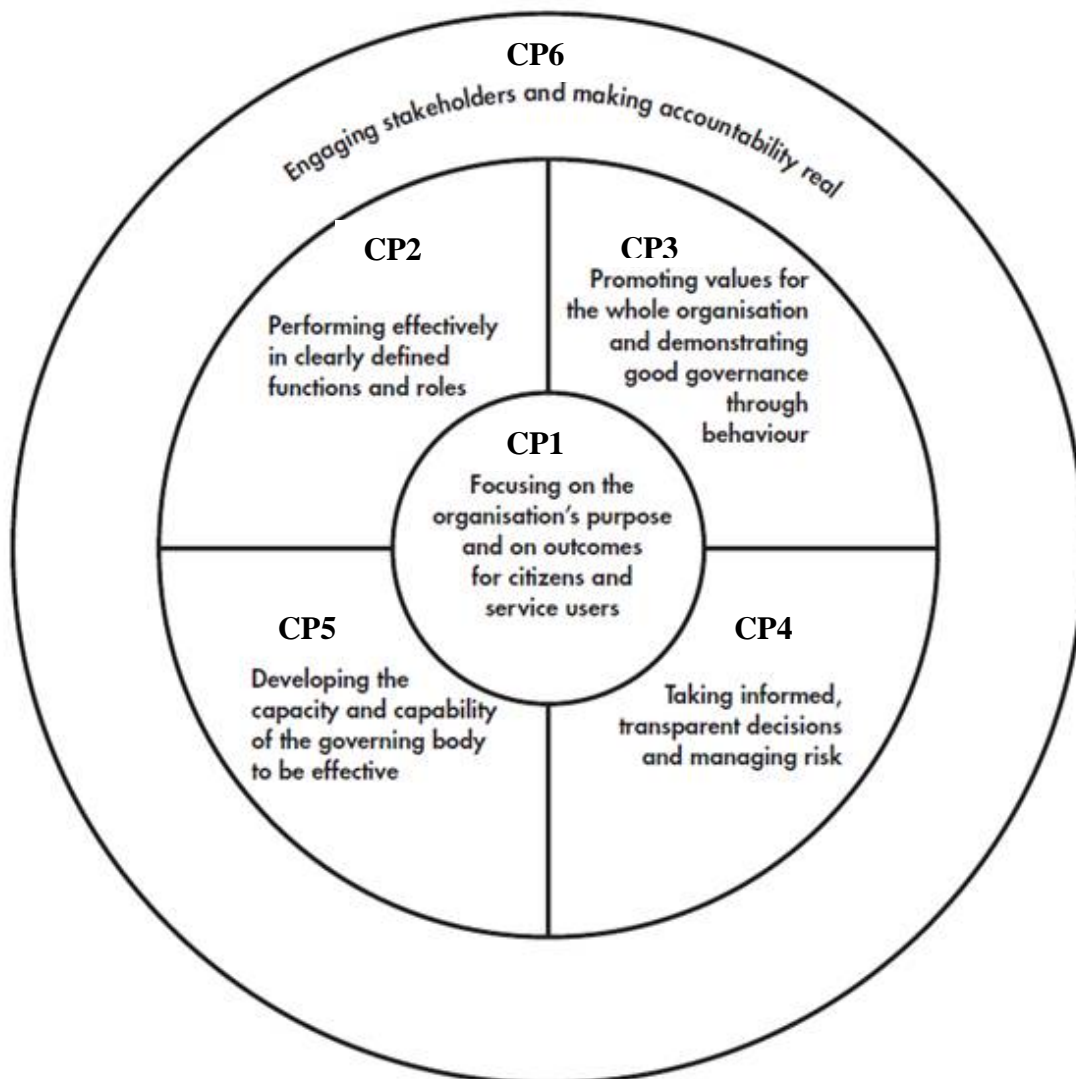
1	Cross-referencing of recommendations to the six Core Principles
2	March, 2011 States Resolutions
3	JCWP Terms of Reference
4	Comparison of UNDP and World Bank good governance indicators
5	Letter of comment from the Policy Council dated 23rd December, 2011

1. Introduction

States of Guernsey adopt Good Governance Core Principles

- 1.1 At the March, 2011 meeting, following consideration of a report by the PAC¹, the States of Deliberation resolved, inter alia, to adopt six Core Principles of good governance, as determined by the UK Independent Commission on Good Governance in Public Services.

Figure 1 The six Core Principles (The UK Independent Commission on Good Governance in Public Services, 2004)



¹ Public Accounts Committee (2011) *Governance in the States of Guernsey*, Billet d'État IV March 2011

- 1.2 Further to an amendment proposed by Deputy M J Fallaize and seconded by Deputy S L Langlois, the States of Deliberation also resolved:

“To direct the Public Accounts Committee, the Scrutiny Committee and the States Assembly and Constitution Committee, after consultation with the Policy Council, jointly to present to the March 2012 meeting of the States of Deliberation, or sooner if possible, a report containing detailed proposals on how in practical terms the six Core Principles of good governance can be applied, and how compliance with them can be measured, within the context of Guernsey’s system of government by committees and consensus.”²

- 1.3 The PAC, the Scrutiny Committee and SACC (collectively referred to as the Joint Committees for the purposes of this report) met on 18th April, 2011, to determine how they would undertake this work, which resulted in the formation of the Joint Committees’ Working Party (JCWP).

Joint Committees’ Working Party (JCWP)

- 1.4 The JCWP comprised two members from each of the three Committees:

- Chairman: Deputy M J Fallaize (Scrutiny Committee)
- Vice-Chairman: Deputy M M Lowe (SACC)
- Mr M E Best (PAC)
- Deputy L R Gallienne (PAC)
- Deputy S L Langlois (SACC)
- Deputy S J McManus (Scrutiny Committee)

- 1.5 Each Committee also nominated a 'first reserve' member to attend in the absence of one of its principal nominees:

- Deputy T M Le Pelley (SACC)
- Deputy R R Matthews (Scrutiny Committee)
- Deputy B J E Paint (PAC)

- 1.6 The JCWP was directed to report to the Joint Committees with detailed proposals on how the States Resolution might be fulfilled: namely to identify in practical terms how the six Core Principles of good governance can be applied,

² The States Resolutions are shown in full in Appendix 2

and how compliance with them can be measured, within the context of Guernsey's system of government by committees and consensus³.

- 1.7 Responsibility and accountability for this States report rests equally with the Public Accounts, Scrutiny and States Assembly and Constitution Committees. The Joint Committees are pleased to submit it for debate at the March, 2012 meeting of the States of Deliberation.

Methodology

- 1.8 The JCWP reviewed a significant body of material relating to governance with a view to establishing an appropriate base of evidence and a full understanding of the subject matter.
- 1.9 The JCWP wrote to all States members on 6th June providing an update on progress and to invite contributions to the review.
- 1.10 The JCWP identified areas of consensus among its members and areas which required further research and debate.
- 1.11 In September, the JCWP contacted all States members again in order to provide another update on progress and to invite their views. Also in September, Departments' Chief Officers and senior staff were provided with the opportunity to advise of initiatives which were already under way with a view to improving operational governance and to make suggestions for further reform in that regard. The Joint Committees are grateful to those who contributed.
- 1.12 JCWP members undertook to keep their parent Committees fully up to date concerning the work that was on-going and all members of the three parent Committees were invited to contribute points for consideration and specific proposals for reform which they considered appropriate. Minutes of the JCWP were circulated to each Committee.
- 1.13 The draft report was sent to the Policy Council for its comments, which are appended. The Joint Committees consideration of the points raised by the Policy Council is described in Section 11.
- 1.14 At three meetings late in 2011 and early in 2012, the Joint Committees discussed and amended their working party's report. Comments received from the Policy

³The terms of reference for the JCWP are shown in full in Appendix 3

Council and the advice of the Law Officers of the Crown were included in the discussions.

Resource implications

- 1.15 The specific recommendations in this report identify actions that those directed ‘should’ do or ‘should’ consider, rather than directing immediate action. This approach recognises that many of the proposals will have resource requirements that will need to be investigated by those responsible before the workstreams can be progressed. States members are being asked to consider the specific recommendations in principle (*Proposition 1*) and then, if they are approved, it is proposed that the Policy Council, in consultation with Departments and Committees, should present to the States of Deliberation by January, 2013 an implementation plan for the reforms (*Proposition 2*).

Legislative requirements

- 1.16 There are no legislative requirements arising from the propositions of this report. Any legislative requirements arising from the recommendations agreed in principle would be identified when devising an action plan for implementation.

Compliance with Core Principles

- 1.17 Appendix 1 demonstrates how the report recommendations seek to address the Core Principles.

Statement of Dissention

- 1.18 Throughout this report there are references to the views of the “Joint Committees”. This refers to a majority of the members of each of the Joint Committees (save for the exception noted below). Not all members support all of the proposals contained within this Report. Members have therefore indicated that they may speak and vote against some of the proposals in the States of Deliberation and, in respect of the PAC, Deputies may speak on behalf of the non-States Members on that Committee.
- 1.19 In respect of Propositions 1.15 and 1.16 and the relevant section of the report 4.64 – 4.74, relating to the role of non-States members, these matters are

presented only on behalf of the Scrutiny Committee and SACC as a majority of the PAC were opposed to these proposals.

2. Context

What is governance?

- 2.1 The term ‘governance’ has its origin in the Greek verb *kubernân*, which means ‘to pilot or steer’. It is an ancient concept stretching back over two thousand years.
- 2.2 The Joint Committees consider that the following definition of corporate governance as it applies to central government is a credible base upon which to present their report and proposals:

“Corporate governance is the way in which organisations are directed, controlled and led. It defines relationships and the distribution of rights and responsibilities among those who work with and in the organisation, determines the rules and procedures through which the organisation’s objectives are set, and provides the means of attaining those objectives and monitoring performance. Importantly, it defines where accountability lies throughout the organisation.” (Cabinet Office and HM Treasury, 2011)

- 2.3 Aspiring to, and ultimately delivering, good governance is paramount if government is to retain credibility, legitimacy and authority in arranging economic and social affairs⁴.
- 2.4 The Joint Committees noted the advice of the United Nations that “...good governance is an ideal which is difficult to achieve in its totality. Very few countries and societies have come close to achieving good governance in its totality. However, to ensure sustainable human development, actions must be taken to work towards this ideal with the aim of making it a reality⁵.” With this in mind, the Joint Committees have regarded their challenge as the presentation of proposals capable of enabling the States of Guernsey to meet the highest possible standards of good governance.
- 2.5 In 2009, the Wales Audit Office (WAO) contributed to the understanding of what may be achieved by improving governance arrangements. “Good

⁴ See Pierre, J and Peters, B.G, (2000) *Governance, Politics and the State*, Palgrave Macmillan

⁵ United Nations Economic and Social Commission for Asia and the Pacific (2011?) *What is Good Governance?*

governance is a prerequisite for every public body to deliver sustainable, value for money and quality services in a transparent manner. Good governance involves ensuring that the right things are done, in the right way, for the right people, in an open, honest, inclusive and timely manner⁶.

- 2.6 In March, 2011 the States of Deliberation resolved to express commitment to good governance by adopting six Core Principles, as determined by the UK Independent Commission on Good Governance in Public Services⁷, which are reproduced at the start of this report.
- 2.7 The Joint Committees, like the States of Deliberation at the meeting where these principles were approved, have taken into account conflicting views about the relevance and applicability of the principles to central governments such as the States of Guernsey.
- 2.8 On the one hand, by adopting these Core Principles, the States of Deliberation have clearly expressed a belief that they could be applied to the States of Guernsey acting as central government: on the other hand, the guidance issued by the UK Independent Commission on Good Governance in Public Services suggests that these principles were designed primarily to apply to public service organisations in receipt of public money and to the governors of such organisations. It is acknowledged that there are other equally relevant principles which the States may have adopted⁸, and therefore the use of the definite article in referring to *the* six principles of good governance should not be interpreted as implying that they are the only such principles available.
- 2.9 The Joint Committees were bound by States Resolution to present proposals capable of fulfilling these six principles, and in any event have found them a perfectly adequate set of simple and straightforward statements around which to construct their recommendations. Certainly the Joint Committees do not propose that the relevance of these principles should be revisited.
- 2.10 Appendix 1 is a table which illustrates how the proposals contained herein relate to the Core Principles.

⁶ Wales Audit Office, (2009), *Review of Good Governance – The States of Guernsey*, commissioned by the Public Accounts Committee and submitted as an appendix to the PAC's report *Governance in the States of Guernsey* Billet d'État XVI March 2011

⁷ The Independent Commission on Good Governance in Public Services, (2004), *The Good Governance Standard for Public Services*

⁸ Such as the UNDP and World Bank models, shown in Appendix 4

2.11 The Joint Committees' report is a package of proposals which, if approved and implemented, will enable the States of Guernsey to:

- meet the highest standards of governance which they are reasonably able to deliver within the existing system of government by committees and consensus; and
- measure compliance with those standards of governance.

Guernsey's system of government by committees and consensus

2.12 There are two predominant features of 'government by committees and consensus' which must be taken into account when trying to apply good governance in the States of Guernsey.

2.13 First, the right to change policy is retained by the parliament, the States of Deliberation, rather than being delegated to an executive in the form of a cabinet or Council of Ministers.

2.14 Second, policy formulation and implementation is mandated to several committees⁹ each comprising five People's Deputies, whereas in a cabinet system of government it is the Ministers who assume those responsibilities.

2.15 It should also be noted that there is no party political apparatus. Candidates almost always stand for election as independents.

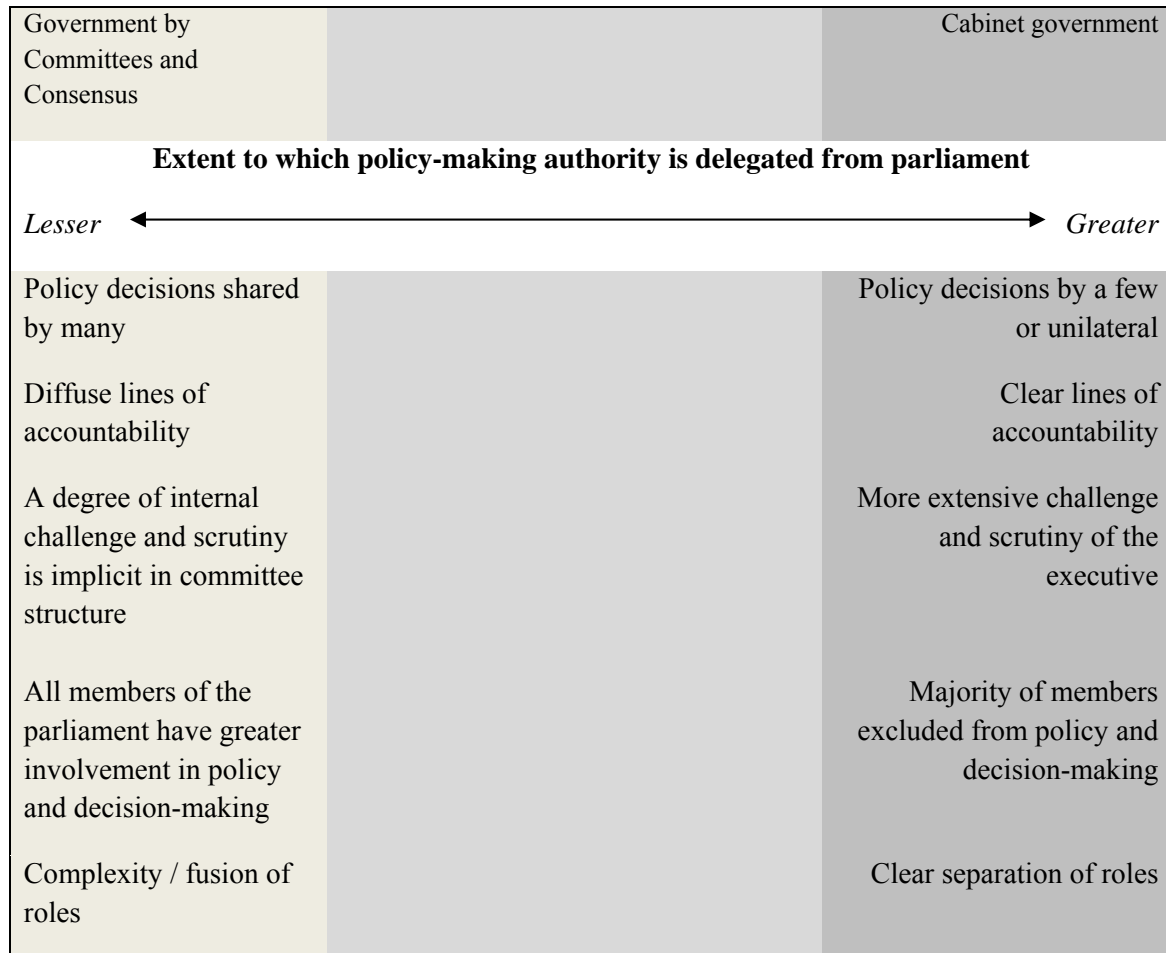
2.16 In parliamentary democracies with cabinet systems of government the parliament cedes a great deal of its power, certainly in terms of policy-making, to an executive which generally comprises members of the party¹⁰ which holds the most seats in parliament. This greater concentration of power is balanced by opposition parties and a comprehensive system of scrutiny and oversight. 'Cabinet government' and 'government by committees and consensus' can be thought of as opposite ends of a spectrum of parliamentary democracy. There are various models of government along that spectrum – for instance, Ministers in a cabinet system could be elected by the parliament; or committees could be reduced to just a Minister and a Deputy Minister.

⁹The term 'committees' is generic and includes States Departments

¹⁰References throughout this report to a governing party can be interpreted also to encompass parties of a coalition government

- 2.17 As directed by States Resolution, all of the Joint Committees' recommendations are fully compatible with the existing system of government by committees and consensus. References to alternative forms of government are for illustration to promote an understanding of the Guernsey system (as illustrated in Figure 2).

Figure 2 Features of government on spectrum of retained or delegated authority from parliament



3. Clarity of Purpose

- 3.1 The first part of Core Principle One of the six Core Principles of good governance adopted by the States of Deliberation in 2011 states: “*Good governance means focusing on the organisation’s purpose...*” Plainly, this commitment to focus on its purpose makes it essential that the States of Guernsey as an organisation should understand its purpose very clearly.

- 3.2 At present the States Strategic Plan¹¹ defines an aim as a broad statement of purpose. However, the Joint Committees believe that a distinction needs to be drawn between the purpose of an organisation and its aims and objectives. The aims and objectives of an organisation may describe its strategic direction or the outcomes its actions are intending to achieve at any one time. In contrast, the purpose of an organisation is the reason for its existence.

- 3.3 The aims and objectives of an organisation can be transient and may be contested, but its purpose is likely to be broadly, if not universally, accepted and, above all, enduring. The aims and objectives of an organisation may be challenged or amended without undermining its purpose.

- 3.4 In some jurisdictions a government’s statement of purpose is part of a written constitution, which sets out the inalienable rights of its citizens and the government’s responsibility to secure them. Guernsey, like many other jurisdictions, has adopted a number of International Conventions which secure those fundamental rights for its inhabitants.

- 3.5 The UK Independent Commission’s guidance on the application of the Core Principles is clearly intended to result in a clear purpose at departmental level rather than referring to the constitution. Whilst an understanding of the purpose of government is essential, for the purpose of the practical application of these Core Principles the Joint Committees have focused on the government’s statement of aims and objectives.

¹¹ Policy Council (2011) *States Strategic Plan* Billet d’État XVI October, 2011

Aims and objectives

- 3.6 A government implements its aims and objectives primarily through the legislation or policies it introduces, amends or repeals, in order to confer or withdraw ‘non-fundamental’ rights and freedoms, for example the right to a minimum wage or pre-school education. Below these ‘non-fundamental’ rights there is a range of actions and initiatives which together form a government’s programme.
- 3.7 In most democracies debate on the extent of these ‘non-fundamental’ rights, the competing methods of securing them and other policies takes place, in the main, at party level. The electorate determines through the ballot box which party it wishes to elect to government on the basis of the manifesto it prefers. Governance is concerned with what a government does and how it does it. Therefore it is something which begins once the government has been elected or appointed and commences the implementation of its policies. In Guernsey, in the absence of a party of government, the States of Deliberation have much more flexibility in making policy choices on behalf of the electorate. Governance assumes a broader role incorporating, for example, the process of policy formulation and the allocation of governmental responsibilities.
- 3.8 It is not surprising, therefore, that, unlike in almost all other jurisdictions, political debate in Guernsey is frequently focused on how the States might best arrange the planning, formulation and co-ordination of policy and the allocation of the functions of government.
- 3.9 In recent times the States of Deliberation have developed several corporate policy planning regimes intended to provide unifying aims and objectives for government, including: the Policy and Resource Planning report; the Policy and Resource Plan; the Government Business Plan; and more recently the States Strategic Plan. Section 5 addresses this further.
- 3.10 No discussion of clarity of purpose would be complete without recognising that the term ‘the States’ tends to be used when describing different layers of the States which in practice have quite distinct and diverse functions. ‘The States’ in its most general form is the legitimate governing authority of the island. In order to deliver higher standards of governance, it is important that greater clarity should be established between the functions of the States of Deliberation as

parliament and the States as government¹². The next Section *Organisation, Functions and Roles* seeks to provide greater clarity.

- 3.11 Several of the recommendations contained in this report seek to fulfil Core Principle One, especially those which provide greater clarity of functions and roles and those which address the relationship between government and its stakeholders.

¹²Please note, whilst these are separate functions they are not completely separate entities under Guernsey's system of government. The term 'States of Guernsey' (often referred to as 'the States') can be understood to include members of the States of Deliberation

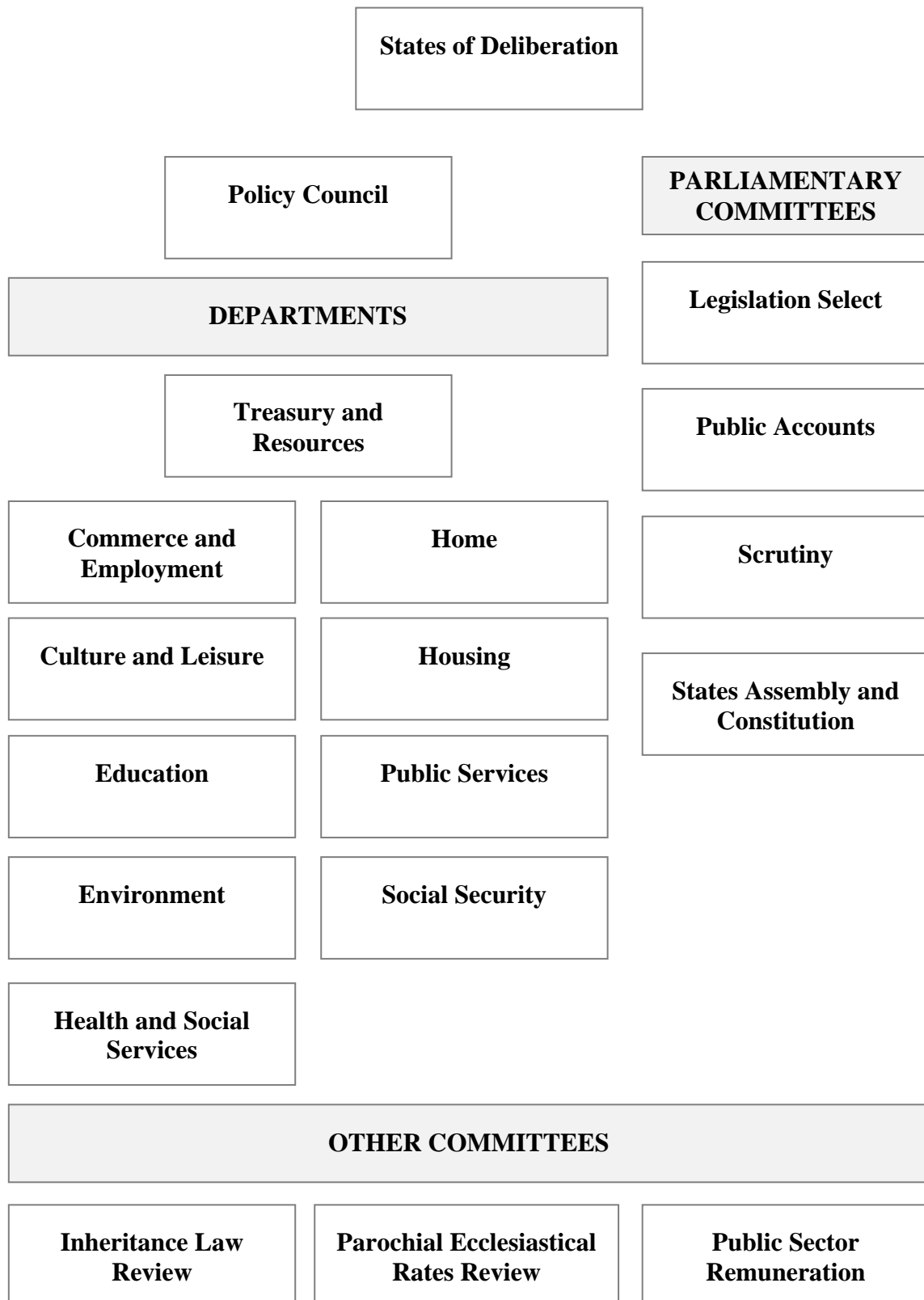
4. Organisation, Functions and Roles

- 4.1 Core Principle Two states that “*good governance means performing effectively in clearly defined functions and roles*”.

“Being clear about one’s own role, and how it relates to that of others, increases the chance of performing the role well. Clarity about roles also helps all stakeholders to understand how the governance system works and who is accountable for what.”
(The UK Independent Commission on Good Governance in Public Services, 2004)

- 4.2 The organisation, functions and roles of, and within, the States of Guernsey are principally organised in accordance with Resolutions of the States of Deliberation made in 2002 and 2003 following debate on the machinery of government. Furthermore, some, but not all, functions and roles, as determined by the States of Deliberation, are codified in a book entitled *Mandates and memberships*, which is issued by the States Assembly and Constitution Committee.
- 4.3 The WAO, having gathered evidence from, among others, politicians and staff within the public sector concluded that functions and roles within the States of Guernsey are often unclear.
- 4.4 There is certainly very little definitive explanation of the organisation, functions and roles of, and within, the States of Guernsey (*Proposition a*). This Section of the States report is not an exhaustive description of every function and role in the States. Rather it seeks to explain the purpose and context of certain key functions and roles and outlines reforms to them which, if approved and applied, would in the opinion of the Joint Committees significantly improve the governance arrangements underpinning public administration in the island.

Figure 3 Government Structure



The States of Deliberation - legislature and executive

- 4.5 The States of Deliberation are first and foremost the island's parliament. They are the legislature. They are also, unusually among parliamentary democracies, a fundamental part of the island's government or executive. Indeed, in Guernsey, in effect the legislature is the government and the government is the legislature. When candidates are successful at a General Election they are elected to the legislature, but in the process they are also elected to the government.
- 4.6 This creates a fusion of powers and responsibilities which is perceived by some people as enabling more democratic control of government and by others as reducing the likelihood of individuals fully understanding their very different roles and fulfilling them effectively. This arrangement can certainly create many overlapping lines of accountability, which can make it less than straightforward to establish precisely who is responsible for what.
- 4.7 As in other parliamentary democracies, the States of Deliberation have acquired the functions of government formerly exercised by other bodies, for example by the Bailiff, the Royal Court and the parishes. Deciding which of those functions to retain, which to allocate and to whom - that is arranging the functions of government - is one of the primary purposes of a parliament. Notwithstanding the points made in 4.5 this applies to the States of Deliberation.
- 4.8 In most democracies the parliament usually allocates the functions of government to representatives of the party which holds the most seats and confers the necessary authority for the formation of an executive. In Guernsey's system of government by committees and consensus, the States of Deliberation allocate, by mandate and legislation, some of the functions of government to a series of Departments and Committees but, crucially, they also retain many of the functions of government. For example, the States of Deliberation control very prescriptively the overall number of States Departments and Committees, their titles and membership.
- 4.9 Of course, the States of Deliberation still carry out functions which are common to parliaments in all parliamentary democracies: for example, to debate, approve or reject proposals to enact, amend or repeal legislation; to debate, approve or reject proposals for taxation and expenditure; to represent the interests of the public; and to scrutinise and hold to account the policies, decisions and administration of those functions of government which they have delegated.

The functions of the States of Deliberation can be summarised as:

- To allocate the functions of government;
- To discharge the functions of government which they have decided to retain;
- To debate and vote upon proposals to enact, amend or repeal legislation;
- To debate and vote upon proposals for taxation and expenditure;
- To scrutinise and hold to account the policies, decisions and administration of those functions of government which they have allocated to States Departments and Committees;
- To represent the interests of the people.

- 4.10 It is a prerequisite for good governance that the States of Deliberation must be absolutely clear which functions of government they have retained, which functions are delegated and to whom, and by what means they expect to scrutinise and hold to account those delegated responsibilities.
- 4.11 The legislation, rules and procedures which govern the business and operation of the States in its various forms are currently set out in separate documents and in a somewhat disparate manner, for example in: the Reform (Guernsey) Law, 1948, as amended; the Rules of Procedure of the States of Deliberation; the Constitution and Operation of States Departments and Committees; Mandates and Membership of the Policy Council, Departments and Committees etc. The Joint Committees are of the opinion that these should be drawn together in two documents: a single enactment which would set out the framework for the organisation of the legislature and the machinery of government and, sitting beneath that, one set of standing orders which would lay down the detailed operation of the legislature and government. This is the approach in Jersey with a 2005 States of Jersey Law and then, secondary to that, standing orders of the States (*Proposition b*).

The agenda of the States of Deliberation

- 4.12 The States of Deliberation must also be clear about the role they are expected to fulfil at every stage of their deliberations (*Proposition c*).

- 4.13 The States of Deliberation recently approved proposals from the States Assembly and Constitution Committee to amend Rule 9 of their Rules of Procedure in order to lay down more prescriptively the order of proceedings in the Assembly. The Joint Committees are of the opinion that Rule 9 should be further amended to provide for a clearer distinction between the different roles the States of Deliberation are required to fulfil each month, e.g. as parliament, legislature, and overarching executive (*Proposition d*).

Policy co-ordination and development

The role of the Policy Council

- 4.14 The Policy Council has two distinct roles. It acts as a quasi-department, assuming responsibility for, inter alia, external relations, overseas aid and corporate human resources. However, the primary purpose envisaged for the Policy Council at the time of its inception in 2004 was overseeing the development of strategic policy and co-ordinating the development of policies between States Departments. Its membership - the Chief Minister and the Ministers of each of the ten Departments - emphasises this strategic, co-ordinating role.

- 4.15 Addressing the matter of the co-ordination of policies between States Departments, the 2003 Machinery of Government report (Billet d'État VII, 2003) stated: *"The Policy Council would be responsible for co-ordinating the work of the departments to ensure their principal focus was on the priorities of the States as a whole."* The intention was that States Departments would present the Policy Council with their policy proposals, other than the most minor, and if necessary those proposals would be debated inside the Policy Council. *"In this way, the departments would be apprised of the Policy Council's views which would enable, if necessary, those departments to further reflect on their policy proposals and where appropriate to reconsider and/or develop them".*

"The principal intention would be to see a move towards a more corporate approach to the business of government within a stronger, more focused, policy based system" (Billet d'État VII, 2003)

- 4.16 Addressing the matter of the development of strategic policy, the 2003 report stated: *"...the Policy Council, comprising all of the departments' Ministers and*

under the leadership of the Chief Minister, would be able to...effectively influence and oversee the development of...cross-cutting strategic policy issues.”

An example given in the report was the development of a strategic policy on tourism which might have included external transport links, the airport, harbours and internal transport, all delivered by different Departments.

- 4.17 The Policy Council’s mandate allows it to “*requir[e] a Department or Committee to examine and report to the States or to the Policy Council on any matter which falls within the mandate of such a Department or Committee*”. The Policy Council’s predecessor as the senior committee of the States, the Advisory and Finance Committee, was similarly empowered, but it is clear that the authors of the machinery of government reforms which took effect in 2004 envisaged that the Policy Council, comprising Ministers of all Departments, would be able to discharge this key co-ordinating function more effectively.
- 4.18 In the event of a Department or Committee failing to comply satisfactorily with a direction from Ministers to examine an area of policy, the Policy Council, as was the case with the Advisory and Finance Committee, has no recourse other than to take the matter to the States of Deliberation.

Change to mandates

- 4.19 The mandate of the Policy Council was changed in 2008 by a States Resolution arising out of a debate on transferring the Government Business Plan from one States term to another¹³. Until then the Council’s mandate had required it to develop strategic and corporate policy “*together with the relevant department(s)...*” whereas today, that clause in its mandate having been removed, the Policy Council is required to develop strategic and corporate policy via the States Strategic Plan “*through a process of direct consultation with States members and consultation with departments and committees*”.
- 4.20 Each Department’s mandate lists the areas of policy where it is expected “*to advise*” the States. Prior to March, 2008 those lists were followed by a clause stating: “*To develop, present to the States for approval as appropriate, and implement policies on the above matters for the provision of services, introduction of legislation and other measures which contribute to the achievement of strategic and corporate objectives.*”. However, the States approved a change to the mandates in March, 2008 (Billet d’État III) to replace this clause with:

¹³Billet d’État III, 2008, *Government Business Plan – Preparing for the New States Term 2008-2012*, Policy Council, p313

“To contribute to the achievement of strategic and corporate objectives, both departmentally and as part of the wider States organisation, by:

- (i) developing and implementing policies and legislation, as approved by the States, for the provision of services in accordance with this mandate; and*
- (ii) actively supporting and participating in cross-departmental working as part of the Government Business Plan¹⁴ process and ensuring that public resources are used to best advantage, through co-operative and flexible working practices.”*

- 4.21 The inference of these changes is that Departments have less responsibility than they once did for developing policies to be presented to the States of Deliberation, a task undertaken instead by the Policy Council through the States Strategic Plan. It might be interpreted from Department mandates as they read at present that the work of Department Boards should now be restricted to the implementation of policy at an operational level.

Policy Council sub-groups

- 4.22 Policy Council sub-groups have come to play an increasing role in the administration of government. In its March, 2008 States report the Policy Council emphasised the role of its sub-groups as the predominant vehicle for cross-departmental working: *“Since 2004, the Policy Council has used policy steering groups as the main drivers for developing corporate strategy. If the structure of the GBP is further developed during the next States term as envisaged in this report, the role of policy steering groups and other forms of interdepartmental working will become more, rather than less, important and necessary.”*(Billet d’État III, 2008)
- 4.23 It was anticipated by those who designed the present machinery of government that the Policy Council would establish sub-groups to co-ordinate the development of strategic and corporate (i.e. cross-departmental) policy¹⁵.
- 4.24 No attempt was made at the time of the machinery of government reforms to define with any clarity what constituted policy that was ‘strategic and corporate’ as opposed to a subsidiary level of policy for which Departments could be left to

¹⁴In 2011 all references in the mandates to the Government Business Plan (GBP) were amended to refer to the States Strategic Plan (Billet d’État XVI 2011)

¹⁵ Billet d’État VII, 2003

assume responsibility within their mandates. The lack of clarity in the distinction between the two levels of policy is not conducive to good governance.

- 4.25 The 2003 Machinery of Government report envisaged that the Policy Council would establish such cross-departmental sub-groups on a short-term basis where it had identified the need to develop and propose to the States of Deliberation a strategic policy which crossed the mandates of more than one Department, i.e. ‘task and finish’ groups. The intention was that such cross-departmental sub-groups, or working parties, would comprise the Ministers of Departments which had a relevant interest in the area of policy under development and would also, if appropriate, co-opt representatives from outside the public sector. *“The outcome of the work of the Sub-Group would be referred to the Policy Council for discussion and if agreed for inclusion in the Policy and Resource Planning report for debate by the States. The implementation of the strategic...policy, once agreed by the States, would then rest with the lead department although the Chief Minister may reconvene the Sub-Group periodically to monitor progress and revalidate the policy and to recommend any changes.”*
- 4.26 In practice, none of the Policy Council sub-groups include representatives from outside the public sector. In the case of some, membership is delegated to members who are not Ministers, and there is a lack of clarity about their specific task and the timeframe for the completion of their work. Policy Council sub-groups appear to have become permanent features of the machinery of government: virtually standing committees in their own right with a remit to develop strategic policy but without clear lines of accountability.
- 4.27 The Policy Council currently operates eight sub-groups:
- External Relations Group
 - Fiscal and Economic Policy Group
 - Population Policy Group
 - States Strategic Plan Team
 - Strategic Threats Group
 - Energy Policy Group
 - Environmental Policy Group
 - Social Policy Group
- 4.28 These bodies fall into two very distinct categories. The first five referred to in 4.27 are effectively sub-committees operating in areas of policy which have been delegated by the States of Deliberation to the Policy Council. They are no different to the sub-committees established by some States Departments to

concentrate on a specific area of their mandate, e.g. the Treasury and Resources Department has sub-committees for, inter alia, property management and ICT. However, the last three referred to in 4.27 are concerned with the co-ordination of areas of policy which cut across the mandates of two or more States Departments.

- 4.29 The Joint Committees are of the opinion that there should be greater clarity between bodies which are sub-committees of the Policy Council and bodies which are set up to facilitate cross-departmental co-operation.

- 4.30 The Joint Committees are of the view that the Policy Council should consider introducing a few relatively minor reforms which would establish much greater clarity regarding the status, purpose and accountability of those parts of government concerned with the development of cross-departmental or cross-cutting policy.

- 4.31 Early in the next term the Policy Council should draw an explicit distinction between the two separate categories identified in 4.28 (*Proposition e*).

- 4.32 Its sub-committees should be designated as such and operate according to Rule 16 (2) of The Constitution and Operation of States Departments and Committees.

- 4.33 The Policy Council should fully exercise its right to require Departments to examine areas of policy, but where the Policy Council identifies a need to form a body to address an area of policy which is explicitly or implicitly mandated to more than one States Department (i.e. a cross-cutting issue) that body should be designated as a cross-departmental working party and operate broadly as envisaged in the package of reforms made to the machinery of government in 2004. The working party should comprise members (usually Ministers) of the Departments which have a relevant interest in the area of policy under development and, if appropriate, individuals from outside the public sector with relevant skills and experience. The working party should have clear terms of reference, at least an approximate timeframe for completing its work and very clear lines of accountability, i.e. for what and to whom it is accountable. Each working party should have an identifiable lead Department. Having directed the relevant Departments to form a working party, the Policy Council should assume responsibility for ensuring that the working party's terms of reference and membership etc. are made readily available and kept up to date.

Insufficient focus on policy co-ordination

- 4.34 The WAO concluded that the Policy Council did not provide effective co-ordination of the activities of government, which is of concern to the Joint Committees given that this is the Policy Council's primary role.
- 4.35 The Joint Committees recommend that the Policy Council should consider ways of strengthening its focus on its policy co-ordination function, for example: discharging as many of its executive functions as possible through sub-committees and reserving its regular meetings predominantly to fulfil its policy co-ordinating function; and separation of the agenda into a clear delineation of policy co-ordination issues and its executive functions, or even separate meetings (*Proposition f*).

The Role of Chief Minister and Deputy Chief Minister

- 4.36 The Chief Minister is chairman of, and spokesman for, the Policy Council. It was envisaged that: *"a most important part of his/her role and responsibilities would be encouraging and engendering, both within the Council and the departments, a corporate approach to the work of the States."* It was also considered that the Chief Minister would have a role *"to negotiate and speak politically for the Island, with the authority of the Policy Council, as mandated by the States."* (Billet d'État VII, 2003)
- 4.37 These two primary functions of the Chief Minister - domestic policy co-ordination and representing Guernsey in external affairs - may quite conceivably require very different skills which are difficult to find embodied in one individual. Depending on the personality, experience and skills of the Chief Minister, it is quite possible that one or other of the functions may become his or her main focus and the other may suffer as a result. In no way is this meant as criticism of the incumbent or his predecessors; on the contrary, it is perhaps an unintended consequence of the way in which the present machinery of government was designed.
- 4.38 The Joint Committees note that at staff level the wisdom of separating these functions, at least to some extent, has been recognised: the Chief Executive focuses on external relations and the Deputy Chief Executive more so on the domestic policy agenda.
- 4.39 The Joint Committees are of the opinion that the internal and external duties which are currently expected of the Chief Minister might be discharged more

effectively by reforming the office of Deputy Chief Minister, specifically by removing the need for the Deputy Chief Minister also to hold a departmental Ministerial portfolio.

- 4.40 The Joint Committees do not seek to prescribe which of the Chief Minister or the Deputy Chief Minister should assume responsibility for external relations and which for the domestic policy agenda. Indeed, it may be appropriate for the two individuals concerned, with the support of the Policy Council but without requiring the prescriptive interference of the States of Deliberation, to allocate the dual functions as they see fit. The essential purpose of the reform would simply be to ensure that one of them had the authority of the Policy Council to represent the island in external affairs and the other had the authority of the Policy Council to lead the co-ordination of the domestic policy agenda across government. The Policy Council should review each of the roles to consider the case for their separation (*Proposition g*).
- 4.41 Irrespective of whether such reform is pursued, at the very least the roles, responsibilities and lines of accountability of the Policy Council, Chief Minister and Deputy Chief Minister should be clarified (*Proposition h*).

Clarity of Department mandates

- 4.42 The Joint Committees have identified potential inconsistencies in the mandates of States Departments, for example:
- The Environment Department is legally responsible for recommendations relating to a Waste Disposal Plan, but the States of Deliberation have tasked the Public Services Department to draw up a waste strategy;
 - The Home Department mandate includes responsibility for broadcasting services; however, recent technological advances and other developments have meant that broadcasting matters have to be for all intents and purposes considered jointly with telecommunications matters which are the responsibility of the Commerce and Employment Department and the Office of Utility Regulation. This is exacerbated by the need to work closely with Jersey as a geographical area and the fact that in Jersey all Broadcasting and Telecommunication matters are dealt with by one Department, Economic Development;

- The Home Department currently has mandated responsibility for the compilation of the Electoral Roll, whilst SACC is responsible for the Reform Law and the actual election process.
- 4.43 It has been nine years since the mandates of the Departments were created. The Joint Committees suggest that it would be timely to review these based on experience.
- 4.44 It has already been noted that there is an absence of clarity in the mandates of States Departments in respect of their relationship to the Policy Council and its sub-groups (4.21 refers). Changes which may have had the intention of strengthening the strategic planning process have had an unintended consequence of creating uncertainties about precisely what the States of Deliberation have delegated and to whom, making it difficult for policy development and decision-making to be held to account (*Proposition i*).
- 4.45 There are also inconsistencies in how different Departments interpret the extent of the authority conferred upon them in determining which decisions can be made without reference to the States of Deliberation and which require them to seek direction via a States report. The Joint Committees are of the opinion that this might best be resolved by establishing straightforward schemes of delegation (*Proposition j*).
- 4.46 There is a lack of clarity about precisely which articles of legislation and which States Resolutions confer authority upon Departments, as referenced by the following words in each of their mandates: "*To exercise the powers and duties conferred on it by extant legislation and States resolutions*". The pursuit of better governance requires greater transparency, which could be achieved by the publication of a schedule of extant legislation and States Resolutions which confer authority upon, or further define and explain the mandates of, Departments (*Proposition k*).

Departments - policy and operations

- 4.47 The mandates of States Departments are generally much broader and more policy-focused than the mandates of their predecessor committees. This reflected an intention of the reforms: to introduce a greater measure of separation between policy development and operational delivery, with the former being the responsibility of politicians and the latter the domain of the administrative staff. However, there remains no formal distinction between each Department's Board of members and its administrative bureaucracy (*Proposition l*).

- 4.48 The WAO report identified a lack of clarity between political and administrative roles and a perception that political members can become too involved in operational matters. It explained the risks of this blurring of responsibilities thus:

- a There is a lack of accountability.*
- b Tensions are created as [people's] deputies and senior civil servants are both involved in operational matters. On the part of civil servants this can lead to a perception of political interference. From [people's] deputies this can lead to a perception of bureaucratic obstructiveness.*
- c [People's] deputies are rarely involved effectively in a strategic context.*
- d Effort is duplicated."*

- 4.49 Conversely, it must be recognised that there are also risks in political members becoming too far removed from operational matters. Members of Departments retain ultimate responsibility for the financial administration and performance of their Departments not least because they are mandated *"To be accountable to the States for the management and safeguarding of public funds and other resources entrusted to the Department."*

- 4.50 Good governance demands a more formal distinction between political and operational functions, specifically by recognising the separate identities of the political Board of a Department and the administrative bureaucracy of a Department. The former is referred to in this report as 'Board' and the latter 'Department'. The Joint Committees propose that the duties of the Board and the duties of the Department, and the relationship between the two, should be codified by the adoption of operating frameworks which should take account, inter alia, of the need to balance the contrasting risks in the interaction between policy and operational delivery referred to above (4.48 - 4.49) (*Proposition m*).

The role of People's Deputies

- 4.51 The WAO concluded that many People's Deputies were not entirely clear about their various and very different roles. They expressed it thus: *"Whilst many regard their primary role as being to represent islanders within their parishes, [people's] deputies strive to reconcile this with their other roles which may include:*

- a executive roles on departmental Boards and within the States of Deliberation;*
- b scrutiny and challenge roles either on Public Accounts and/or Scrutiny Committees;*

- c membership of the Policy Council; and*
- d collectively determining the strategic direction and corporate priorities of the States.”*

- 4.52 The Joint Committees do not underestimate the considerable challenges which emerge from the diverse responsibilities which the States requires of most members as a result of the fusion of powers between the various functions of public administration, as addressed in 4.5 and 4.6. However, they consider that it would be inappropriate to attempt to codify precisely how members should balance their constituency, parliamentary, scrutiny and executive roles. These are matters for each member to judge, mindful of course that should they seek re-election they will be held to account by their electorate.
- 4.53 The Joint Committees propose that governance arrangements would be strengthened by identifying more clearly the nature of the different roles which States members are required to undertake (*Proposition n*).
- 4.54 In addition, Section 6 considers the support available to members in performing these roles.

The role of Ministers

- 4.55 Until the reforms of 2004, the chairmen of committees were known as ‘Presidents’, e.g. the President of the Board of Administration and the President of the Housing Authority.
- 4.56 Despite rejecting proposals for a Ministerial form of government, the States of Deliberation decided that from 2004 the chairmen of States’ Departments should be known as ‘Ministers’.
- 4.57 Although Ministers chair meetings of their Department Board, they have no formal authority over other members of their Department. They have an original but no casting vote at meetings. Ministers are sometimes given delegated authority by their Board to act on specific issues, for example: speaking publicly on behalf of the Department, approving agendas for meetings, signing correspondence and meeting with staff to make determinations on important operational issues, although the latter are not infrequently put before the full membership of the Department Board.
- 4.58 The Joint Committees believe the titles of ‘Minister’, and indeed ‘Chief Minister’, are not compatible with Guernsey’s system of government. The titles

give the impression that the office carries at least some degree of executive authority. The WAO advised that misleading titles, specifically that of Minister, impair clarity of functions and roles and, therefore, do not further the pursuit of good governance.

- 4.59 However, twice since 2004 the States of Deliberation have debated Ministerial titles and on both occasions has rejected changing them. The Joint Committees respect those decisions of the Assembly.

- 4.60 The ten Department Ministers, together with the Chief Minister, form the Policy Council. Thus a Minister has sectoral responsibilities at a departmental level and corporate responsibilities at the Policy Council level. There is a lack of clarity in the relationship between those two, and on occasion arguably competing, responsibilities.

- 4.61 Read together, the constitution and mandate of the Policy Council could be interpreted as inferring that the role of the Minister when sitting as a member of the Policy Council is not to represent his Department, but the very opposite: to contribute to the development of a corporate approach and then to attempt to ensure that it is promulgated at the level of his Department. The case for this interpretation would be compelling if, for example, the States of Deliberation elected members to the Policy Council but afforded the Chief Minister, or possibly the Policy Council collectively, the right to allocate the various departmental portfolios between the Ministers.

- 4.62 However, the internal election process is quite different: the States of Deliberation elect Ministers to each of the departmental portfolios in turn and those so elected then effectively become ex-officio members of the Policy Council. Ministers can be removed only by the States of Deliberation and so owe no allegiance to the Policy Council, nor does the Policy Council collectively have any formal authority over any Minister. An additional factor to take into account is that when a Minister cannot attend a meeting of the Policy Council, the Department of which he is Minister is required to send an alternate member of its political Board. Rule 3 (5) of the Constitution and Operation of States Departments and Committees states: "Other than in unforeseen circumstances, when a Minister is unable to attend a meeting of the Policy Council, or when there is a vacancy in that office, the Department concerned shall be represented by the Deputy Minister or, if he is unable to attend, or when there is a vacancy in that office, by one of the other voting members of the Department..." These factors tend to conflict with the interpretation proffered in

4.61 and could encourage the opposite interpretation: a Minister's first responsibility within the Policy Council is to represent his Department.

- 4.63 The Joint Committees believe that the Policy Council should report to the States of Deliberation to propose the issuing of written guidance about the dual role of Minister in order to resolve the potential conflicts set out above (*Proposition h*).

The role of non-States members

- 4.64 The precise role of the non-States member is not codified. However, it can be assumed that States Departments who wish to recruit the services of a non-States member are desirous of a degree of experience and expertise from outside the public sector. Non-States members often, although certainly not always, have a background in industry and commerce.

- 4.65 Rule 4(2) of the Constitution and Operation of States Departments and Committees provides that each States Department may be served by up to two non-States members. They do not have a vote at meetings, but in all other respects they are full members of the Department: they are entitled to receive agendas, minutes and other papers, they are entitled to attend all meetings and they are entitled to claim payment for each meeting they attend. Like political members of Departments, non-States members serve for a fixed term of four years and can be removed from office only by Resolution of the States of Deliberation.

- 4.66 The former House Committee, predecessor of the States Assembly and Constitution Committee, considered the discontinuation of the role of non-States member in its 2006 States report entitled *Review of the new system of government - procedural matters* (Billet d'État VII). The Committee raised concerns that it had received from States members, most notably about the criteria for the appointment of some non-States members (at that time Departments could appoint them without the approval of the Assembly) and, moreover, about the accountability of holders of that office. After debate on that report, the States resolved that henceforth non-States members should be elected (or, in effect, ratified) by the Assembly on the nomination of the Department or Committee which wishes to recruit the service of such a member. Unlike in elections for other Department and Committee seats, States members cannot propose alternative candidates to those proposed by the Department or Committee itself.

- 4.67 Currently, one Department has two non-States members, three Departments have one non-States member and the majority of Departments, the other six, have no non-States members.
- 4.68 The States Assembly and Constitution Committee and Scrutiny Committee are not permitted to have non-States members. The Legislation Select Committee and the Public Sector Remuneration Committees each have two such members. The Parochial Ecclesiastical Rates Review Committee has none, although it is permitted to have them.
- 4.69 The status of the non-States members on the PAC and the Inheritance Law Review Committee is different to those of the others: those Committees are required by States Resolution to have non-States members and those non-States members have full voting rights.
- 4.70 The Joint Committees acknowledge the contribution which many non-States members have made, and continue to make, to the public administration of the island. Nonetheless, they are of the opinion that there is a lack of clarity concerning the responsibilities and expectations of those holding the office of non-States member. In addition, the minor reforms of 2006 to the process of electing non-States members have scarcely addressed perceptions of a deficit of accountability. On balance, the Joint Committees take the view that the role of non-States member on Departments of the ‘executive’ as it is presently conceived should be discontinued (*Proposition o*).
- 4.71 This proposal, if approved, does not mean that States Departments should be precluded from engaging the skills and advice of individuals from outside the public sector. On the contrary, Departments would be free to take advice, hear representations or solicit views whenever they consider it appropriate. That may include inviting persons from outside the Department to attend meetings. Such persons would not have the “right” to receive Department papers although Departments would be free to make them available should they wish. The terms of the invitation would be at the discretion of the Department: persons may be invited to attend single or multiple meetings, for a fixed or open period, for specific items in respect of a particular area of the Department’s business, or they may even be invited, should the Department so wish, to attend for the full duration of every meeting held during the Department’s four-year term. Departments may wish to remunerate the individual(s) whose skills and advice they would have sought in accordance with established States’ rules and guidelines governing procurement of services.

- 4.72 Importantly, persons whose skills and advice had been recruited in this way would be directly accountable to the Department Board which had appointed them, in the same way that Department Boards are accountable for all other external advisors and consultants they choose to recruit. Of course, Departments would need to be clear about the terms of appointment of such persons.
- 4.73 The Joint Committees consider that the Policy Council, in consultation with States Departments, should co-ordinate a corporate approach to engaging at Board level skills and expertise from outside the public sector. This should include developing clear written specifications, terms of engagement and lines of accountability for persons whose advice, guidance and skills are recruited. (*Proposition p*).
- 4.74 In respect of the membership of Special States Committees as defined in Rule 18 of the Constitution and Operation of States Departments and Committees, the Joint Committees suggest that the case for change is less strong: unlike Departments, by definition their mandates cover very specific areas of policy and they are effectively ‘task and finish’ bodies rather than permanent or standing features of government. In addition, the Joint Committees consider that the PAC, Public Sector Remuneration Committee and Legislation Select Committee require particular expertise and skills on a permanent basis.

Recommendations

In respect of ‘Organisation, Functions and Roles’, the Joint Committees set out the following recommendations to enable the application in practical terms of the six Core Principles of good governance adopted by the States in March, 2011:

- The **Policy Council** and the **States Assembly and Constitution Committee** should provide a guide to the governance arrangements of the States of Guernsey to serve as an overview of the functions and roles of all aspects of public administration, including explaining the relationship between the activities of the legislature and those of the executive (4.4; *Proposition a*);
- The **Policy Council** and the **States Assembly and Constitution Committee** should consider the case for setting out the framework for the organisation of the legislature and the machinery of government in one article of legislation supported by one set of standing orders (4.11; *Proposition b*);
- The **Policy Council** and the **States Assembly and Constitution Committee** should develop proposals to categorise States reports more clearly and have them include a statement of purpose and a statement clarifying the role that the States of Deliberation are being asked to fulfil in debating and approving the propositions (4.12; *Proposition c*);
- The **States Assembly and Constitution Committee** should propose amendments to Rule 9 of the Rules of Procedure of the States of Deliberation to provide for a clearer distinction in Billets d’État and at meetings of the States of Deliberation between the functions of the States of Deliberation as parliament, legislature and overarching executive (4.13; *Proposition d*);
- The **Policy Council** should make an explicit distinction between: a) sub-committees to which it has resolved to delegate particular activities which fall wholly within its mandate, and b) cross-departmental working parties which it has resolved to establish in accordance with its responsibility to co-ordinate the policy development of the States. The Policy Council should ensure that cross-departmental working parties have clear terms of reference, at least an approximate timeframe for completing their work and very clear lines of accountability (4.31 – 4.33; *Proposition e*);
- The **Policy Council** should consider ways of strengthening its focus on its policy co-ordination function (4.34 – 4.35; *Proposition f*);

- The **Policy Council** should consider the case for removing the requirement for the Deputy Chief Minister also to hold a departmental portfolio and the case for dividing external and domestic policy functions between the Chief Minister and the Deputy Chief Minister (4.40; *Proposition g*);
- The **Policy Council** should clarify the roles, responsibilities and lines of accountability of the Policy Council, Chief Minister and Deputy Chief Minister, including clarifying the relationship between the role of Ministers in heading States Departments and their role in sitting as members of the Policy Council (4.41 and 4.63; *Proposition h*);
- The **Policy Council**, in conjunction with **States Departments**, should review the layout and content of the mandates of the Policy Council itself and States Departments to ensure that they are as precise, clear and coherent as possible and to ensure that they articulate adequately the relationship between the Policy Council and the Departments (4.44; *Proposition i*);
- The **Policy Council**, in conjunction with **States Departments**, should examine the case for developing schemes of delegation which would clarify the criteria governing which decisions may be taken without, and which decisions require, the approval of the States of Deliberation (4.45; *Proposition j*);
- The **Policy Council**, in conjunction with **States Departments**, should publish a schedule of extant legislation and States Resolutions which confer authority upon, or further define and explain the mandates of, the Policy Council and Departments (4.46; *Proposition k*);
- The **States Assembly and Constitution Committee** should make proposals to amend the Rules of Procedure of the States of Deliberation and the Constitution and Operation of States Departments and Committees to provide for a distinction to be made between political Boards of Departments and the administrative staff of the Departments (4.47; *Proposition l*);
- The **Policy Council**, in conjunction with **States Departments**, should develop operating frameworks for political Boards of Departments, which should include setting out the relationship between the policy and the operation of the Department (4.50; *Proposition m*);
- The **States Assembly and Constitution Committee**, in conjunction with the **Policy Council**, should consider publishing guidance clearly to identify the different roles which States members may be required to undertake as members

of the legislature, members of the executive, members of scrutiny and oversight bodies and representatives of their electorate (4.53; *Proposition n*);

- The **States Assembly and Constitution Committee** should make proposals to provide for the discontinuation of the role of non-States member of Departments as it is presently conceived in Rule 4(2) of the Rules relating to the *Constitution and Operation of States Departments and Committees* (4.70; *Proposition o*);
- The **Policy Council**, in consultation with **States Departments**, should co-ordinate a corporate approach to engaging at Board level skills and expertise from outside the public sector. This should include developing clear written specifications, terms of engagement and lines of accountability for persons whose advice, guidance and skills are recruited (4.73; *Proposition p*).

5. Policy-making, Policy-planning and Decision-making

5.1 In this Section of their report, the Joint Committees set out their thoughts on how the States approaches, and in the future might be able to improve its approach, to:

- Policy making: the discipline of generating and developing policy in order to convert political objectives into actions and outcomes;
- Policy planning: the integration of policies across different sections of government and the reconciliation of policy objectives with the allocation of resources to provide a co-ordinated programme for government;
- Decision making: the processes by which competing options are evaluated and then judgements made, communicated and implemented.

Policy Making

5.2 Policy making can be defined as: *“The process by which governments translate their political vision into programmes and actions to deliver outcomes – desired changes in the real world”* (UK Government’s 1999 *Modernising Government* White Paper).

5.3 As noted in 3.7, in other jurisdictions a great deal of the generation and development of policy is carried out inside political parties whereas in Guernsey, in the absence of political parties, the vast bulk of policy is developed only after the legislature and the government have been elected. In the absence of special advisors, party researchers, party managers etc. this role is carried out either by States members, working as Board members or independents, senior civil servants or by the two working in conjunction. In Section 4 of this report the Joint Committees propose that the States should endeavour to clarify the relationship between politicians and their administrative staff.

5.4 The Joint Committees are of the view that as a consequence of these circumstances, in Guernsey the institutions of government have an obligation to

ensure that politicians have the tools necessary to act as responsive, practical and competent policy-makers.

- 5.5 There are useful precedents from elsewhere of governments reviewing, and as a consequence changing, the processes and culture of policy-making. For example, in 1999 the UK government published a ‘Modernising Government White Paper’ which set out the case for changing the approach to policy-making in the 21st century. A follow-up report by the Cabinet Office aimed to “*examine what professional modernised policy making should look like, provide a snapshot of current good practice as a high-level indication of areas where policy making is, and suggest possible levers for change to help bring about the White Paper vision for policy making*”¹⁶.
- 5.6 The Cabinet Office report concluded that a combination of changes in working practices and the development of skills among policy makers were the factors which would contribute to ‘modernising’ policy development. It set out the characteristics of ‘modernised’ policy as being:
- Strategic – looks ahead and contributes to long term government goals;
 - Outcomes focused – aims to deliver desired changes in the real world;
 - Joined up (if necessary) – works across organisational boundaries;
 - Inclusive – is fair and takes account of the interests of all;
 - Flexible and innovative – tackles causes, not symptoms and is not afraid of experimentation;
 - Robust – stands the test of time and works in practice from the start.
- 5.7 It is perhaps inevitable that in a relatively small community the process of policy-making and the dynamics between elected officials and professional staff will be quite different to what is expected in much larger, more populous jurisdictions.
- 5.8 Nonetheless, policy-making is at the root of politics everywhere and in a sense, along with service delivery, it is what a government ‘does’. Therefore, the Joint Committees are of the opinion that there would be merit in examining more closely, perhaps with the assistance of an external agency with relevant experience of policy-making in the public sector elsewhere, the way in which policy is generated, developed and promulgated across the States of Guernsey. Such a review should include an assessment of the role played in policy-making by both elected politicians and professional administrators in order to understand

¹⁶ Cabinet Office (September, 1999)

better whether the two sides are contributing in the right way and at the right time (*Proposition q*).

- 5.9 The purpose of such a review, and the motivation for implementing any recommended changes arising from it, would be to ensure that policy-making in Guernsey was as professional as possible: a key ingredient in establishing the best possible governance arrangements in the States of Guernsey.
- 5.10 Section 6 *Capacity and Capability* considers further the capacity of the States of Guernsey to support policy-making.

Policy Planning

- 5.11 Good governance demands that a government should articulate its vision and objectives and a series of actions and initiatives to deliver them (the government's programme).
- 5.12 The Harwood Panel¹⁷ suggested that, if a committee system was to be retained, one of the recommended amendments would be to require "*each of the Strategic States Committees to submit for debate within a stated period of time after each General Election, a statement of policy which must first be endorsed by the Advisory and Finance Committee and which, once adopted, must be adhered to for the term of that States. Once adopted that statement of policy would then form part of the Island's Strategic Plan*"
- 5.13 In practice, the responsibility for presentation of strategic policy to the States of Deliberation rests with the Policy Council, delivered through its policy sub-groups (as described in Section 4). Strategic policies are incorporated into the States Strategic Plan rather than being developed by departments for separate debate.
- 5.14 The WAO report found that "*the States of Guernsey does not have a clear strategic direction or agreement on its strategic objectives and desired outcomes*" and that they are "*...lacking a clear corporate identity and an overall strategic approach.*" It concluded that States members are unclear about the outcomes that the States are trying to achieve.

¹⁷ Section 8 32(vii) of the report produced by the Harwood Panel on the review of the machinery of government in Guernsey (2000).

- 5.15 The WAO also identified a lack “*of mechanism to determine priorities and allocate resources...there are no effective mechanisms in place to determine corporate priorities and to allocate resources accordingly*” and “[t]here is no effective corporate prioritisation of the use of resources...”
- 5.16 The States Strategic Plan has sought to address this deficit and produce a co-ordinated programme for government that would “*express the political consensus within the States in a form that would set a clearer direction for government action.*”¹⁸:

“The objective has been to create a line of authority or “golden thread” from the definition of the corporate objectives of the States, through long-term Policy and Resource planning, to a costed and prioritised work programme, to performance monitoring to ensure that the States is achieving its goals.”

Deputy C N K Parkinson, Chairman, States Strategic Plan Team

- 5.17 The PAC acknowledged in its March, 2011 report that the States Strategic Plan was still a work in progress and, if successful, could address the perceived weaknesses in strategic policy planning identified by the WAO. The Committee did not therefore make any specific recommendations for improvement, instead recognising that the development of the States Strategic Plan would need to be monitored and its effectiveness assessed at a later date.
- 5.18 The Joint Committees note that, at the time of writing, the remaining sections of the States Strategic Plan yet to be delivered, namely the Population Management Plan and Energy Plan, are intended to be submitted for debate by the States of Deliberation before the end of this term of office (i.e. by March, 2012)¹⁹.
- 5.19 The Joint Committees welcome the intention to move to a longer planning cycle, with interim debates on progress made against the Plan.
- 5.20 The States Strategic Plan needs to evolve further to build upon the good work of the past three years. The Joint Committees recognise that the States Strategic Plan is a living process and in its current form, if adapted in the light of recognised weaknesses, can continue to improve the planning and delivery of government for the benefit of the island.

¹⁸ States Strategic Plan 2011, Billet d’État XVI

¹⁹ The Policy Council report *Guiding Principles for the Development of a Population Management Regime* was published in Billet d’État XXIV 2011 for debate on 25th January 2012

5.21 The Joint Committees consider that the States Strategic Plan and the planning process have yet to resolve the following deficiencies:

- a) The disconnect between policy planning and the allocation of resources;
- b) The disconnect between policy making at the corporate and departmental levels;
- c) The lack of ownership and ‘buy in’ to the policy planning process among States members;
- d) The lack of public engagement with the government’s programme.

5.22 The Joint Committees do not consider the States Strategic Plan and policy planning process have yet achieved the stated objectives of delivering a co-ordinated programme for government. They are pleased to note the Policy Council has recognised the weaknesses that will need to be addressed²⁰.

Policy planning and resource allocation

5.23 The headline strategic objectives and policy priorities should be the drivers of public sector expenditure. It is paramount therefore that the focus should be on debating and determining those priorities and how effectively services relate to them.

5.24 Instead, debate has tended to focus on how to spend previously unallocated money which has been anticipated (but by no means certain) to arise as savings out of the Fundamental Spending Review (in 2010 this was £1.7m; in 2011 it was £1.8m).

5.25 The corporate policy planning process should be inseparable from the corporate financial planning process. Policy and financial planning at the departmental level should be similarly co-ordinated and integrated and Departments could be afforded greater scope to manage their finances over a full term of government instead of annually via the traditional budget process.

5.26 The Policy Council clearly intends to resolve this issue and create a unified and co-ordinated process:

“...the SSP[States Strategic Plan] has introduced the concept of rolling 5-year financial plans, which in due course will lead to multi-year as opposed to annual budgets and the financial prioritisation techniques pioneered, in

²⁰ Billet d’État XVI October 2011 *States Strategic Plan*, Policy Council, p1879

Guernsey, in the first Capital Programme have been refined and applied to choices about revenue spending. These same techniques can be applied across the whole of the States' expenditure, and will therefore pave the way for zero-cost-base budgeting"²¹.

Link between corporate and departmental policy-making

- 5.27 The September, 2011 iteration of the States Strategic Plan noted the concerns the Policy Council had been made aware of regarding a perceived disconnect between strategic and departmental policy and the inability adequately to debate the latter. Rather than proceeding with the original suggestion of having a series of policy planning debates each spring which, on reflection, was seen as "*unduly time-consuming and cumbersome*", the Policy Council recommended that Department and Committee Policy Plan Summaries should in future be published in an appendix to the States Strategic Plan Billet.
- 5.28 The Joint Committees consider that appending departmental plans to the States Strategic Plan does not create the desired link between corporate and departmental policy-making. While the departmental plans have been re-titled 'Policy Plans', instead of the 'Operational Plans' that formed an appendix to the 2010 States Strategic Plan, they are no clearer on the division of responsibility for strategic policy, departmental policy and operational delivery or the 'golden thread' between the three.
- 5.29 The need to develop ownership and accountability for the States Strategic Plan has been recognised: "*For the future, the principal issues that remain to be addressed are the clarity of States corporate objectives as an expression of what the majority of States members want government to achieve; the development of political accountability for the objectives and of public sector responsibility for efficient, cost-effective delivery.*"²²
- 5.30 The WAO commented that: "*Many States' [members] told us that they felt little or no ownership of the Strategic Plan and considered that it was remote from their responsibilities....*"
- 5.31 As the WAO report identifies, "*lack of clear strategic direction has led to [people's] deputies attempting to create meaningful roles for themselves at the departmental level*", but the majority of the Department Board are not included on Policy Council sub-groups and consequently take less ownership of strategic

²¹ Billet d'État XVI October 2011 *States Strategic Plan*, Policy Council, p1879

²² Billet d'État XVI October 2011 *States Strategic Plan*, Policy Council, p1880

policy. Responsibility also remains at arm's length from the Policy Council, which makes it harder for the States of Deliberation to hold to account those responsible for the development of key strategic policies. Much responsibility rests with sub-groups which are not directly accountable to the States of Deliberation (4.22- 4.33). This is very unsatisfactory and clearly impedes the pursuit of good governance.

- 5.32 The Joint Committees concur with the conclusion of the PAC that *“it will be valuable if the States hold structured debates to discuss and secure greater ownership and support for the SSP from States members.”*²³
- 5.33 The primary executive role carried out by Deputies is sitting on Department Boards. Therefore, until Department Boards are afforded more opportunity to shape the content of the States Strategic Plan, it is unlikely that there will be a strong sense of ownership of policy development across the States.

Public choice of policy

- 5.34 Policy formulation in most jurisdictions is developed by parties (or in small jurisdictions imported by parties from party counterparts elsewhere and adapted to the local context) and therefore the electorate has a voice in choosing what manifesto of policy proposals they wish to vote for. The party of government can then be held to account against its manifesto commitments. In Guernsey, in the absence of political parties, there is arguably a lack of democratic voice in choosing between competing policy proposals, which are developed after elections and not before. Once policies are developed, responsibility for them is diffuse and there is no clear mechanism for the electorate to hold to account elected representatives or, through voting, to have any influence on policy direction.
- 5.35 As the States Strategic Plan cycle becomes more established, it should seek to incorporate mechanisms for public engagement on policy objectives and their implementation. This may be facilitated through the scrutiny process, which would encourage debate and challenge of the government's programme in a public forum (*Proposition r*).
- 5.36 The Joint Committees consider that the Policy Council should report to the States of Deliberation as soon as possible setting out proposals for how in the 2012 – 16 term the States' corporate policy planning process will address the

²³ Billet d'État March 2011, *Governance in the States of Guernsey*, Public Accounts Committee, p253

challenges outlined above, having taken into account the observations and suggestions contained herein (*Propositions*).

Decision Making

- 5.37 The WAO concluded that: “*decision making...often...lacks transparency*”. They noted that stakeholders, including staff and especially the public, find it difficult to find out what decisions have been made and under what criteria, and who is making them. The WAO warned of the potential for reputational damage to the States as a result of this lack of transparency, as stakeholders and observers could conclude that decisions are not made on an objective basis.
- 5.38 Some of the recommendations contained in other Sections of this report respond to the above observations made by the WAO:
- The communication of decisions and activities of the States is discussed in Section 8 *Stakeholders, Consultation and Engagement*;
 - Developing capacity and capability in respect of decision-making is considered in Section 6;
 - Establishing clearer lines of accountability for decisions is considered in Sections 4 *Organisation, Functions and Roles* and 7 *Accountability and Oversight*;
 - The development of a co-ordinated programme for government, as discussed above, would provide transparency of the strategic context for decision-making (5.11 - 5.36).

Decisions of the States of Deliberation

- 5.39 The decisions of the States of Deliberation and the reasons for making them should be apparent from the States reports contained within the Billets d’État and the resulting States Resolutions. However, the wording of propositions contained in States reports is not always clear.
- 5.40 The Scrutiny Committee has identified and commented upon occasions when it felt propositions in States reports would not result in a clear direction. In early 2012, the Committee will be drafting a specification and costs for a centralised record of Resolutions of the States of Deliberation, which would provide a

public searchable database of States Resolutions, including progress reports on their implementation. The Committee intends to publish a ‘Monitoring States Resolutions’ interim report by late March, 2012 which will provide a summary of the research gathered to date by the Committee.

- 5.41 A key ‘test’ of the standard of governance in the parliament is the reliability, breadth and cogency of the information made available to members when they are required to make decisions. Much has been done already to improve the quality of information underpinning many of the more substantive proposals put before the Assembly and, if approved, some of the recommendations contained in this report will assist further. Making political choices is not an exact science and decision-making in a parliament cannot be made formulaic; however, the better the quality of information contained in States reports, the more likely it is that decisions will be rational and objective. States reports should include all of the information necessary for a decision to be made and Departments should not rely on presentations or communications with States members outside of the Assembly to impart any new information that might inform decisions.

Green papers

- 5.42 It has been suggested in more than one report presented to the States that establishing additional stages in the Assembly’s decision-making process would provide better governance. For example, the WAO suggested “*[t]o speed up the decision-making process whilst allowing enough time to consider the information, the States could implement a system of green and white papers to introduce more discipline to the decision-making process, allowing full consideration of information in two formal stages before final decisions are taken.*” Consequently, the PAC suggested that “*the States Assembly and Constitution Committee should give serious consideration to a process not dissimilar to the use of ‘white’ and ‘green’ papers in the United Kingdom, thereby dividing decision making into two formal stages. This would provide the opportunity to explore and challenge decisions at an early stage, could reduce the need for Requêtees and could prove cost effective by reducing abortive work in preparing detailed proposals, which are subsequently rejected by the States.*”
- 5.43 A series of ‘green papers’ were also used during the capital prioritisation process starting in 2009. Such reports are submitted under Rule 12(4) of the Rules of Procedure and by convention are used to gain acceptance in principle for particular proposals. The provision of this rule gives discretion to the Department to determine if a staged debate is appropriate and was created in response to the intent signalled in the States reports on the machinery of

government to encourage States Departments to issue consultation papers and ‘green papers’ in advance of major policy items while not being too prescriptive.

- 5.44 Potentially there are two material disadvantages of compelling policy proposals from States Departments and Committees to pass through additional stages of the decision-making process of the States of Deliberation. First, it could make decision-making more protracted and cumbersome and as a consequence cause additional expenditure. Second, it could result in the Assembly endorsing proposals ‘in principle’ at the first stage of the process when they may not be in receipt of comprehensive information about the implications of such proposals, only for the detailed proposals which emerge at the second stage of the process to be scrutinised inadequately because of the assumption that they had already been approved ‘in principle’.
- 5.45 However, the Joint Committees do not wish to dismiss the potential advantages (as set out by the machinery of government reports, WAO and PAC) of adding another stage to the decision-making process. The Joint Committees consider that it may be possible to draft a reasonable framework which guards against incurring the potential disadvantages explored above in the case of major or particularly expensive policy proposals put before the States of Deliberation. The Joint Committees recommend that the States Assembly and Constitution Committee report to the States of Deliberation setting out the advantages and disadvantages of requiring major policy proposals from States Departments and Committees to pass through an additional decision-making stage in the States of Deliberation (*Proposition t*).
- 5.46 Irrespective of whether a more formal two-stage process is considered, the Joint Committees are of the opinion that Rule 12 (4) requires reform.
- 5.47 The two key elements of Rule 12 (4) are: a) that a Department or Committee is of the opinion that its proposals concern general policy, and b) that such proposals cannot be amended by the States of Deliberation. However, there is nothing in the Rules of Procedure which qualifies what is meant by ‘general policy’. Therefore there is the possibility that Departments and Committees could submit propositions to the States of Deliberation which are quite far-reaching without the Assembly having any opportunity to consider amendments.
- 5.48 The Joint Committees consider that Rule 12 (4) should be revised to prevent the risk of it being misapplied.

- 5.49 The Joint Committees also note the concerns raised by the Policy Council to the States Assembly and Constitution Committee about the limitations of Rule 12 (4) in enabling Departments to establish States members' views.
- 5.50 The Joint Committees support the suggestion of the Policy Council in a letter to the States Assembly and Constitution Committee that the latter should present proposals for the revision of Rule 12 (4) to enable Departments and Committees to obtain a clearer direction from the States in progressing policy matters, whilst retaining flexibility to make adjustments to detailed proposals at a subsequent date (*Proposition u*).

Reversing decisions

- 5.51 The WAO had suggested amendments should be passed only if approved by a $\frac{3}{4}$ majority of the States of Deliberation. If decisions had far reaching implications it was considered problematic that they could be overturned, perhaps by a narrow majority.
- 5.52 However, under Rule 13 of the Rules of Procedure, proposed amendments must be considered to be within the scope of the proposition being debated. It is reasonable to assume that a Department bringing forward proposals should be prepared with the information required to evidence the case for or against the proposed amendment. Or, if an amendment is challenged and considered to be outside of the scope of the propositions, it will not be debated unless debate is supported by two-thirds of the members of the States of Deliberation.
- 5.53 Furthermore, as noted by the PAC²⁴, a new Rule of Procedure, 15(2), was introduced in September, 2010 to deter new service developments being proposed in isolation in a way which might divert resources from agreed priorities without proper consideration of how they would be funded. This has meant that such amendments are now less likely.

Decisions of Departments or other States' agencies

- 5.54 Decisions which are delegated from the States of Deliberation to States Departments are predominantly taken in private meetings and so therefore may lack transparency. The Joint Committees have recommended adopting schemes of delegation which would set out the criteria which permit the Policy Council and States Departments to make decisions and take actions without requiring the approval of the States of Deliberation (*Proposition j*) and supports publication of

²⁴ Billet d'État March 2011, p251

the criteria which permit staff to make decisions and take actions without requiring the approval of their Board members (8.6).

- 5.55 The Joint Committees further recommend that where policy decisions are taken at a level beneath the States of Deliberation they should be published in a timely and accessible manner in a ‘decisions list’. Examples might include the Education Department changing criteria for out of catchment area placements or the Commerce and Employment Department changing details of the Farm Loan Scheme. These should explain the decision, including setting out the criteria or guidance against which the decision was made (*Proposition v*).

Recommendations

In respect of ‘Policy-making, Policy-planning and Decision-making’, the Joint Committees set out the following recommendations to enable the application in practical terms of the six Core Principles of good governance adopted by the States in March, 2011:

- The **Policy Council** should consider the formation of a joint political/staff level steering group, if necessary having engaged the advice of an external agency with relevant experience, to examine the way in which policy is generated, developed and promulgated across the States of Guernsey, with a view to producing guidance for Departments on effective policy-making (5.8 - 5.9; *Proposition q*);
- The **Public Accounts Committee** and **Scrutiny Committee** should encourage the development of processes within the corporate policy planning cycle to assess performance and hold the Policy Council and Departments to account more effectively (5.35; *Proposition r*);
- The **Policy Council** should report to the States of Deliberation setting out proposals for how in the 2012-16 term the States’ corporate policy planning process will address the following challenges, having taken into account in particular the observations and suggestions contained in paragraphs 5.11 to 5.36 of this report:
 - i. The disconnect between policy planning and the allocation of resources;
 - ii. The disconnect between policy making at the corporate and departmental levels;
 - iii. The lack of ownership and ‘buy in’ to the policy planning process among States members;
 - iv. The lack of public engagement with the government’s programme (5.36; *Proposition s*);
- The **States Assembly and Constitution Committee** should report to the States of Deliberation setting out the advantages and disadvantages of requiring major policy proposals from States Departments and Committees to pass through an additional decision-making stage in the States of Deliberation (5.45; *Proposition t*);
- The **States Assembly and Constitution Committee** should bring proposals for the revision of Rule 12 (4) to enable Departments and Committees to obtain a

clearer direction from the States in progressing policy matters, whilst retaining flexibility to make adjustments to detailed proposals at a subsequent date (5.50; *Proposition u*);

- **States Departments** should publish in a timely and accessible manner a ‘decisions list’ in respect of policy decisions, explaining each decision and setting out the criteria or guidance against which the decision was made (5.55 *Proposition v*).

6. Capacity and Capability – Resources and Skills

- 6.1 Core Principle Five of the six Core Principles of good governance adopted by the States of Deliberation in 2011 states: “*Good governance means developing the capacity and capability of the governing body to be effective.*”

- 6.2 The Joint Committees have sought to identify, and make recommendations to put right, deficiencies in the capacity and capability of the States of Guernsey, which at least to some extent at present impair the effectiveness and credibility of the organisation as the governing body or governing authority of the island. This Section addresses these perceived deficiencies at a political level. Operational issues are further considered in Section 9.

- 6.3 Inevitably, this section of the States report relates very closely to other sections of the report. For example, the values, behaviour and culture of individuals and various parts of the organisation are likely to have an impact on their actual and perceived capability and capacity (Section 6). The way in which people, as a resource, are arranged and expected to carry out their roles will have an impact on the capacity and capability of the organisation (Section 4 *Organisation, Functions and Roles*).

- 6.4 The Joint Committees reached the view that in this context the term ‘capacity’ was related to the organisation as a whole whereas the term ‘capability’ was related more to the individuals operating within it.

- 6.5 The UK Independent Commission on Good Governance in Public Services makes a range of suggestions about how a governing body might develop its capacity and capability. Where possible, the Joint Committees have set such suggestions in the local context and made recommendations for reform accordingly, or else have explained why not.

Capability

Quality and diversity of States members

- 6.6 The quality and diversity of members of the States of Deliberation are a frequent feature of political discourse in Guernsey. That is hardly surprising given that the strength of any organisation is, at least in part, dependent on the skills and commitment of its people. Any efforts to improve the quality and diversity of membership of the States are to be commended.
- 6.7 In most jurisdictions the existence of political parties provides a significant ‘filter’ between individuals who wish to become politicians and those individuals having a realistic chance of being elected to parliament. A political party, and especially those with significant national support, will endeavour to field only candidates whom they consider sufficiently capable of representing their causes and interests in a persuasive and professional manner.
- 6.8 In modern times Guernsey has no tradition of political parties and, although there is nothing to preclude any group of individuals from forming a party, it is outside of the scope of this report to consider the merits and demerits of a party political system. And even if the case were made that such a system would invariably improve the quality and diversity of the States, it is not for a government or a parliament to establish competing political parties; rather, they would need to be developed organically by groups of individuals with common political interests who choose of their own volition to form a party or parties.
- 6.9 Indeed, the Joint Committees agreed that their making proposals concerning the quality and diversity of membership of the States would inevitably be perceived as unhealthy interference in the democratic right of citizens to stand for election and of the electorate freely to determine its parliamentary representatives.

Performance Review

- 6.10 States members are elected by, and directly accountable to, their electorate. Members who wish to remain in office must submit every four years to the definitive performance review: a General Election. Indeed, an election is the only credible mechanism available for the performance of a politician to be reviewed by his or her public.

- 6.11 Of course, the performance of government – in Guernsey’s case, Departments of the States – is reviewed by the parliament, or States of Deliberation, and their various bodies, such as scrutiny committees. Third parties, such as the media, also play a role.
- 6.12 The Joint Committees have given considerable attention to the question of how to strengthen the capacity of the States of Deliberation and their members to oversee, challenge and hold to account the performance of States Departments in a more transparent manner on behalf of the electorate. This is considered in more detail below in terms of the support available to States members in their parliamentary roles and is developed further in Section 7.

Developing States members’ skills

- 6.13 In its March, 2011 report on governance, the PAC proposed that Core Principle Five could be fulfilled in part by improving the programme of induction for States members. The States Assembly and Constitution Committee is mandated, inter alia, to *“review and bring forward proposals for the States to consider in connection with induction training and ongoing support for States members”*, although it is recognised that the Committee does not necessarily have the responsibility, nor indeed the resources, to deliver such support.
- 6.14 In the summer of 2011, the Committee established the 2012 Induction Working Party to develop a more extensive and coherent induction programme for People’s Deputies elected at the 2012 General Election.
- 6.15 It is intended to deliver a series of events in the period from election to the first States meeting with the aim of introducing members to their new roles and responsibilities. The Working Party is co-ordinating and directing the appropriate content of the induction programme with support from the Presiding Officer, the Law Officers of the Crown, the Policy Council and Departmental staff. Events will include introduction to the Rules of Procedure and the operation of the States of Deliberation, the Code of Conduct, policy planning process, the roles of States Departments and Committees, the internal election process, the machinery of government and governance arrangements etc. There will be a briefing for deputies with representation from all Departments and Committees to assist members’ understanding of their roles and functions and an opportunity for one-to-one meetings with Chief Officers.
- 6.16 It may also be possible for the programme to incorporate some thoughts about policy development in the States and effecting continuity or change in policies,

the evolving relationship between the Assembly and government in its various forms and ongoing training and support for members throughout the States term 2012-16. It is not expected to end up with a perfect or finished product in time for the 2012 elections, but it is intended to serve as a new model for induction programmes to follow General Elections of the future.

- 6.17 The Joint Committees welcome the initiative being taken to improve the induction of States members and would like to see this extended in due course to include the production of guidance material to accompany the induction programme and the structured provision of ongoing training and support.
- 6.18 There is currently no coherent, published programme of ongoing training or guidance. At the discretion of the States Assembly and Constitution Committee, this might include things such as media training; public speaking in different forums; diversity and equality training; and the policy and financial planning processes. The Joint Committees are of the opinion that in every States term, the States Assembly and Constitution Committee should publish within nine months of the General Election, after consultation with States members, a report to include:
 - a) A review of the induction programme incorporating an analysis of the success or otherwise of each part of that programme and any changes to the programme which it would be considered desirable to put into effect for the following States term; and
 - b) Details of a programme of ongoing training which shall be offered to all States members during that States term (*Proposition w*).
- 6.19 A reasonable period of time before each General Election, the States Assembly and Constitution Committee, in conjunction with the Policy Council, should publish for the assistance of potential candidates for election a guide to the States to include an explanation of: the General Election process; the various roles and responsibilities of a States member, such as the constituency, parliamentary, executive and scrutiny functions; the internal election process; and the functions of the different layers of the legislature and the government. If considered necessary, the Policy Council should propose a minor extension to the mandate of the States Assembly and Constitution Committee to incorporate this matter (*Proposition x*).

Capacity

Parliamentary support

- 6.20 Challenging the policies and holding to account the performance of States Departments are important aspects of the parliamentary role of a People's Deputy. However, traditionally they have been expected to discharge these duties without additional resources or support, such as research or administrative assistance. A potential strength of this tradition is that it may encourage some States members to make a significant commitment of effort and time to their parliamentary role. However, it may also mean that there are occasions when policy is not challenged as robustly as it may deserve, for example due to the absence of sufficient supporting evidence. Invariably, relatively well-resourced States Departments start with a considerable advantage when being challenged or scrutinised by independent and under-resourced States members. This imbalance arguably impairs the capacity of States members as individuals, in their parliamentary role, to hold to account States Departments as the executive.
- 6.21 The Joint Committees wish to draw attention again to Rule 15(2) of the Rules of Procedure of the States of Deliberation. This obliges States Departments and Committees to provide information and assistance to States members in respect of the preparation of a formal proposition which may increase expenditure. The Joint Committees believe that the equivalent support should also be provided in respect of any matter which might properly interest a States member, irrespective of whether or not it has resource implications. However, it is recognised that there would need to be safeguards in place to prevent spurious requests and provide for proportionate use of resources (*Proposition y*).
- 6.22 Some of the recommendations contained in Section 7 in support of accountability and oversight would also help to improve the capacity of States members to undertake the parliamentary aspect of their role.
- 6.23 In addition, the Joint Committees believe that there is potentially a need for States members to have access to dedicated secretarial and research assistance in support of their parliamentary and constituency roles. The general facilities available to States members are also in need of review (*Proposition z*).
- 6.24 Part of the solution may be to establish a distinct office of Parliamentary Secretariat, which would be concerned exclusively with supporting Parliamentary Committees and the activities of the States of Deliberation,

including the publication of agendas, motions and Resolutions etc. (*Proposition aa*).

Communications to States members

- 6.25 States members were asked for their views in late 2010 on their preference between being sent all press releases from all Departments; or to ask Departments to use their discretion to issue only those press releases that have political significance, are strategically important or may contain controversial information with the proviso that all releases can be found on the States website. The majority of respondents opted for the latter.

- 6.26 The Policy Council decided that States members should be able to choose their preferred communications and created two separate distribution lists for those members who opted to receive all press releases and those who opted only to receive those deemed to have political significance. This was in respect of Policy Council press releases only, although it was suggested that other Departments may wish to take the same approach.

- 6.27 The Joint Committees consider that there should be a corporate approach to ensuring that States members are adequately informed about significant government initiatives. When Departments know it is likely that announcements concerning policy will appear in the media, they should provide an explanatory note to States members. Furthermore, when Departments reply to media queries which concern matters of policy they should copy responses to all States members (*Proposition bb*).

Supporting policy-making and decision-making

- 6.28 The Joint Committees consider that there may be a gap in the resources available to support politicians in policy-making and decision-making.

- 6.29 The Joint Committees believe that there may be insufficient resources available to Departments for the development of policy under their mandates, thus impairing their capacity to prioritise development of strategic issues alongside the demands and pressures of providing operational services. For example, the Environment Department has little resource for the development of environmental policy.

- 6.30 Resources might be located permanently within specific Departments, ‘on loan’ to Departments from a central resource, or outsourced, or there could be a combination of such options. However, the Joint Committees consider that the capacity for policy development should be assessed and any deficiencies addressed (*Proposition cc*).
- 6.31 There is little consistency in the approach to information presented to political members as a basis for decision-making. It was considered desirable that there should be guidance on the production of effective political briefings, for example these should always include adequate appraisal of options and assessment of risks.
- 6.32 In particular, the Joint Committees noted variations in the approach of Department Boards to monitoring performance. Some political Boards receive a wealth of management information, while some receive hardly any. While performance information will be Department specific, the Joint Committees consider that there should be more consistency and guidance provided on the content and frequency of reporting on performance information and statistics (*Proposition dd*).
- 6.33 There is a training course and some guidance available to civil servants on how to write effective States reports, for example in order to provide consistency of appearance. However, the Joint Committees consider this could be expanded to provide a ‘writing for government’ course and guidance material provided on political briefings in the form of a ‘toolkit’ (*Proposition ee*).
- 6.34 It is noted that the inconsistent approach to measuring performance is likely to indicate a problem with the capacity of the States of Guernsey to collect a full range of data and information rather than it simply not being presented appropriately to policymakers. The Joint Committees note that the recently approved project to enhance the SAP system should make data more accessible and manageable. The Joint Committees recommend that during the next term the Policy Council should demonstrate that there is adequate capacity and capability to provide all information necessary to support decision-making (*Proposition ff*).

Continuity and Renewal of Membership

- 6.35 Continuity or change of membership of the States of Deliberation is put into effect by General Election every four years. Immediately after a General Election, Boards of States Departments and Committees are elected by the States of Deliberation, also for a term of four years.

- 6.36 In 2006 the States of Deliberation considered whether to introduce a mechanism (most likely mid-term elections two years into the present four-year term or biennial General Elections) that would enable States members to move between Departments and Committees during each term and, moreover, afford the Assembly an opportunity to substitute all or some members of Boards and Committees if it considered that their performance warranted such action. The States of Deliberation concurred with a recommendation of the then House Committee (the predecessor of the States Assembly and Constitution Committee) that such a mechanism should not be introduced at that time because it may not provide for sufficient stability and continuity within Departments and Committees, but that in the spring of the second year following every General Election the Committee should write to States members in order to ascertain whether members wished to relinquish any offices.
- 6.37 The Joint Committees tend to the view that a more frequent turnover of members would likely inhibit the capacity of a political Board to take ownership of the agenda of their Department or Committee. On balance, the Joint Committees concur with the view taken by the States of Deliberation in 2006 that there is no compelling case for introducing additional provisions to address the need to balance continuity and renewal within the membership of the States and its Departments and Committees.

The relationship between the public and private sectors

- 6.38 Whilst the Treasury and Resources Department has developed comprehensive directives and guidance on the procurement of contracts, there is little corporate governance guidance in place for the performance monitoring of third parties providing government services.
- 6.39 It should be noted that where external agencies are used directly to provide services, the role of the States changes to that of overseer/regulator rather than service provider. The relationship with those private partners must provide for good governance.
- 6.40 The Joint Committees consider that it would be useful to develop overarching principles and guidance on the circumstances in which it might be appropriate to engage the private or third sectors and when it might be appropriate to develop capacity internally. It is understood that there is an intention to address this within the Financial Transformation Programme (*Proposition gg.*)

Recommendations

In respect of ‘Capacity and Capability – Resources and Skills’, the Joint Committees set out the following recommendations to enable the application in practical terms of the six Core Principles of good governance adopted by the States in March, 2011:

- In every States term, the **States Assembly and Constitution Committee** should publish within nine months of the General Election, after consultation with States members, a report to include:
 - i. A review of the induction programme incorporating an analysis of the success or otherwise of each part of that programme and any changes to the programme which it would be considered desirable to put into effect for the following States term; and
 - ii. Details of a programme of ongoing training which shall be offered to all States members during that States term (*6.18; Proposition w*);
- A reasonable period of time before each General Election the **States Assembly and Constitution Committee**, in conjunction with the **Policy Council**, should publish for the assistance of potential candidates for election a guide to the States to include an explanation of: the General Election process; the various roles and responsibilities of a States member, such as the constituency, parliamentary, executive and scrutiny functions; the internal election process; and the functions of the different layers of the legislature and the government. If it is considered necessary, the **Policy Council** should propose a minor extension to the mandate of the States Assembly and Constitution Committee to incorporate this matter (*6.19; Proposition x*);
- The **States Assembly and Constitution Committee** should make proposals to ensure that States members have a right to obtain information and assistance, equivalent to that provided for in 15(2) of the Rules of Procedure of the States of Deliberation, whether or not that member is seeking it in the preparation of a formal proposition which may increase expenditure. The States Assembly and Constitution Committee should take into account the need to have in place safeguards to prevent requests which would place excessive or disproportionate demands on the resources of Departments and Committees (*6.21; Proposition y*);

- The **States Assembly and Constitution Committee** should give consideration to assessing the need for research and administrative assistance for States members to enable them to discharge their parliamentary and constituency duties as effectively as possible. The **States Assembly and Constitution Committee** should also review and, if considered necessary, make recommendations to improve, the facilities available to States members in the discharge of their parliamentary and constituency duties (6.23; *Proposition z*);
- The **States Assembly and Constitution Committee** in conjunction with the Presiding Officer and HM Greffier, should examine the case to establish a distinct office of Parliamentary Secretariat, which would be concerned exclusively with supporting Parliamentary Committees and the activities of the States of Deliberation, including the publication of agendas, motions and Resolutions etc. (6.24; *Proposition aa*);
- The **Policy Council** and **States Departments** should consider a corporate approach to ensuring that People's Deputies are adequately informed about significant government initiatives and media interest. When Departments know it is likely that announcements concerning policy will appear in the media, they should provide an explanatory note to States members. Furthermore, when Departments reply to media queries they should copy responses to all States members (6.27; *Proposition bb*);
- The **Policy Council**, in conjunction with **States Departments**, should review the capacity of the States as an organisation to develop policy in response to the needs of the community and the objectives of government (6.30; *Proposition cc*);
- The **Policy Council** should review what measures could be put in place to ensure that there is greater uniformity and consistency of approach across all parts of government in respect of how information and evidence is presented to policy-makers and decision-makers (6.32; *Proposition dd*);
- The **Policy Council** should ensure that best practice in the briefing of politicians and the writing of policy options and recommendations for the consideration of politicians is included as an integral part of the professional development offered to senior staff across government (6.33; *Proposition ee*);
- The **Policy Council** should demonstrate that there is adequate capacity and capability in the availability of performance information to support decision-making. (6.34; *Proposition ff*);

- The **Treasury and Resources Department** should publish guidance criteria to enable States Departments and Committees and States members to understand better when it might be appropriate to engage the private or third sector and alternatively when it might be better to develop capacity internally to assist in the development of policy or the delivery of services (6.40; *Proposition gg*).

7. Accountability and Oversight

7.1 In this Section the Joint Committees are concerned primarily with:

- the accountability of politicians and the government to the electorate;
- the accountability of Departments of the government to the parliament;
- ethical accountability, which concerns the behaviour of elected officials.

7.2 In its 2011 report on governance, the PAC stated that: *“It should be clear to all those involved in the States to whom they are accountable and for what.”* Section 4 seeks to address clarity of roles and responsibilities. Section 5 sets out recommendations concerning the policy-making and decision-making. Section 8 adds recommendations for increasing transparency and improving communication.

7.3 Accountability is described by The World Bank in the following terms: *“Accountability exists when there is a relationship where an individual or body, and the performance of tasks or functions by that individual or body, are subject to another’s oversight, direction or request that they provide information or justification for their actions. Therefore, the concept of accountability involves two distinct stages: answerability and enforcement. Answerability refers to the obligation of the government, its agencies and public officials to provide information about their decisions and actions and to justify them to the public and those institutions of accountability tasked with providing oversight. Enforcement suggests that the public or the institution responsible for accountability can sanction the offending party or remedy the contravening behaviour. As such, different institutions of accountability might be responsible for either or both of these stages.”*²⁵

Accountability to the electorate

7.4 As in all parliamentary democracies, People’s Deputies who wish to remain members of the legislature submit themselves to the ultimate form of political accountability when they seek re-election in their electoral district at a General Election.

²⁵ World Bank *Accountability in Governance*

- 7.5 In one sense, there is a considerable degree of accountability in Guernsey's electoral system because it is based on multi-member electoral districts. Each elector in Guernsey can vote for almost 15% of the total number of members of the legislature, the States of Deliberation. In the UK's electoral system of single-member constituencies, each elector can vote for only one representative among 650 members of the House of Commons, around 0.15% of the total.
- 7.6 On the other hand, whereas in jurisdictions with political parties a General Election provides an opportunity for the public to hold to account the party of government, in Guernsey's non-party system there can be no such direct link between the performance of the government and its fortunes at the ballot box.
- 7.7 Between General Elections the public have means of questioning and challenging their elected representatives and a free media can also make a contribution to that form of scrutiny.

Accountability to parliament

- 7.8 In almost all other parliamentary democracies, following a General Election those whom the public have elected to the legislature are almost immediately divided between those who sit in the executive (the government) and those who do not. The executive is scrutinised, challenged and held to account by those members of the legislature who sit outside the executive.
- 7.9 In his evidence to the Chuter-Ede Committee in 1946, Sir John Leale, speaking on behalf of the States, said: "...*The governing body of the island is the States itself. It is in that Assembly that major decisions are taken, and that policy is laid down...The government in this island indeed cannot be defeated, for the government is the States, which cannot defeat itself.*"²⁶ His description of the nature of government in Guernsey remains as valid in 2012 as it was in 1946.
- 7.10 In Guernsey, because in practice there is no distinction between the legislature and the executive, the scrutiny of government relies on one part of the executive holding to account other parts of the executive. This in turn depends upon the independence of States members and features of the system of government such as the absence of collective responsibility within Department Boards and the freedom of members to lay amendments, sursis and requêtes.

²⁶ As quoted in Section 8, Harwood Panel Report, November 2000

- 7.11 If the principles of good governance are to be fulfilled while retaining the considerable fusion of powers between the legislature and the government, the formal scrutiny of States Departments must be especially rigorous and seen to be, if not wholly independent of government, at least open, transparent and credible.
- 7.12 The States of Deliberation has established two Committees specifically responsible for providing co-ordinated political scrutiny, primarily of, although in the case of the PAC not limited to, States Departments:
- The PAC investigates whether the management of States assets, expenditure and revenue is economic, efficient and effective;
 - The Scrutiny Committee investigates whether policy development, implementation and service delivery is appropriate and effective.
- 7.13 There are generally two models for parliamentary scrutiny committees: a series of permanent committees, or a single permanent committee with the right to set up temporary committees to investigate and report on particular issues. Guernsey has a hybrid model: the Committees are permanent but are generalist rather than shadowing specific Departments or scrutinising, and developing expertise in, distinct areas of policy.
- 7.14 Political members elected to these Committees may also sit as members of States Departments as well as fulfilling their executive responsibilities as members of the island's overarching executive, the States of Deliberation. Both Committees work on the basis that a members absent himself when the Committees scrutinise matters relating to a Department of which he is a member.
- 7.15 It should also be noted that many people hold the view that within Guernsey's system of government there is an element of scrutiny 'built-in' to policy development and decision-making on States Departments. Political members of Departments are not bound by collective responsibility and may represent alternative views within the Department and publicly if their views are in conflict with their departmental colleagues.
- 7.16 Nonetheless, the Joint Committees acknowledge that permitting members to sit on States Departments and scrutiny committees at the same time may create the impression that scrutiny and oversight is insufficiently robust.

- 7.17 An apparently straightforward solution might be to preclude members of States Departments from sitting as members of the scrutiny committees. Of course, such members would remain part of the overarching executive, that is the States of Deliberation, and therefore arguably complete separation between the executive and scrutiny is not possible. However, there may be particular risks in pursuing this apparently straightforward solution while the basic structure of government remains unaltered with 50 departmental seats and 14 scrutiny seats to be allocated among 47 States members.
- 7.18 There is an enduring perception that membership of a Department is superior to membership of a scrutiny committee. Eliminating the possibility of dual membership of a States Department and a scrutiny committee may further discourage States members from serving on the scrutiny committees and therefore paradoxically weaken the credibility and competence of scrutiny and oversight in the States. It would also mean that, in effect, two-thirds of States members would be in the executive and only one third outside of the executive, creating an inappropriate balance in favour of the executive.
- 7.19 An alternative option may be to reduce the number of members of the Scrutiny Committee to, say, three but allow the Committee temporarily to recruit any other members of the States to form ad hoc ‘task and finish’ committees of inquiry to investigate specific areas of policy or service delivery. The PAC could be retained in its present form or merged with the smaller, more focused Scrutiny Committee (which might be renamed the Scrutiny Management Committee with ‘task and finish’ scrutiny committees in support). Either way the States would be free to appoint an Auditor General who potentially could bring additional independence and professional expertise to the scrutiny of States’ financial matters.
- 7.20 Under this option, the Joint Committees are of the opinion that the chairman, and possibly all of the members, of a Scrutiny Management Committee (given that there would be three of them only) could be precluded from sitting on States Departments, and therefore at least to some extent separated from the executive, without necessarily further diminishing the status of the scrutiny function or undermining the system of government by committees and consensus, or further strengthening the relative power of the executive departments at the expense of scrutiny and oversight.
- 7.21 Concurrent with the Joint Committees’ review of governance, the Policy Council has commissioned a review of scrutiny in the States in order to re-examine the constitution, powers, resources and mandates of the Public Accounts,

Legislation Select and Scrutiny Committees and “*make recommendations for improving the formal scrutiny processes available to the States of Deliberation to hold its departments, committees and other government service providers to account for their performance in providing effective legislation, value for money, service delivery, policy formulation and implementation*”. That review is due to be published ahead of the 2012 General Election but not in time for it to be submitted for debate by the current States of Deliberation.

- 7.22 As the scrutiny committees have now been operating in their present form for eight years, the Joint Committees agree that a review of their effectiveness is required and look forward to the publication of the review report. The Joint Committees hope that the reviewer will take the above observations into account (*Proposition hh*).
- 7.23 The Joint Committees are of the opinion that irrespective of the outcome of the review referred to in 7.21, some changes to the working practices of the scrutiny committees would assist them in holding States Departments to account.
- 7.24 The scrutiny committees should ensure that they provide co-ordinated scrutiny of every Department on a regular basis and hold public hearings. Ideally each Department should appear before such a hearing several times and as a minimum at least once during the four-year States’ term (*Proposition ii and kk*).
- 7.25 The States of Deliberation expresses its decisions by means of States Resolutions. Frequently, States Resolutions are in effect directions for the Policy Council or a States Department or Committee to take a particular action or adopt a certain policy. It is a key task of both the States of Deliberation and the scrutiny committees on their behalf to hold to account the Policy Council, Departments and Committees for actions taken pursuant to States Resolutions. However, initial research undertaken by the Scrutiny Committee during this term of the States has suggested that there is no readily-accessible database of extant States Resolutions nor any mechanism in place for Departments and Committees to inform the scrutiny committees or the public of progress against States Resolutions.
- 7.26 The Joint Committees are of the opinion that the absence of a credible framework for monitoring States Resolutions impairs the capacity of the States of Deliberation, their scrutiny committees and the public to hold to account States Departments and Committees. The Joint Committees recommend that as soon as possible in the next term of the States the Scrutiny Committee should submit to the Assembly a review on their monitoring of States Resolutions (see

paragraph 5.40) and make proposals which will enable the States of Deliberation, their scrutiny committees and the public more easily to monitor progress against States Resolutions (*Proposition jj*).

- 7.27 The PAC currently holds its hearings in private. In the interest of providing public, transparent challenge to government performance, the Joint Committees recommend that the Committee give consideration, where appropriate, to holding review hearings in a public forum (*Proposition kk*).

Publication of Rule 5 and 6 Questions

- 7.28 Rule 5 and 6 of the Rules of Procedure of the States of Deliberation provides that States members may submit questions to Ministers or Chairmen and require them to be answered orally in the Assembly or in writing respectively. The Joint Committees recommend that, to improve transparency, these questions and responses should be published on the States website and the notice board at the Royal Court (*Proposition ll*).

Scrutiny of legislation

- 7.29 Very little time is spent by the States of Deliberation considering proposals to enact, amend or repeal legislation. For example, for the approval of legislation, in 2010 15 Projets de Loi and 48 Ordinances were put before the States of Deliberation: the total length of time spent debating the 57 items was 2 hours 45 minutes and only four amendments were proposed. Only 1.9% of the time of the States of Deliberation was dedicated to debating legislation in 2010.
- 7.30 Frequently the Assembly is required to debate and vote upon changes to legislation months or even years after taking the in-principle policy decisions which initially provoked the requirement for those legislative changes. On occasion the two stages of this process occur during different States terms. In addition, Billets d'État, together with the brochure of proposed changes to legislation which usually accompany them, tend not to apprise the Assembly of the reasons that changes to legislation are considered necessary or explain clearly how the proposed changes fit into the context of the legislation overall.
- 7.31 The Joint Committees recommend that proposals to enact, amend or repeal legislation which are put before the States of Deliberation should be accompanied by an explanatory memorandum which sets out in clear and simple terms the effect of the legislation (*Proposition mm*).

- 7.32 The Joint Committees would also wish legislation, wherever practicable, to be put to the Assembly in sections rather than en bloc, other than perhaps in the case of the most minor proposals to change legislation (*Proposition nn*).
- 7.33 The scrutiny provided by the Legislation Select Committee is limited to “*review and revise*” every *Projet de Loi* “*for the purpose of ensuring that the same is in accordance with and will effectually carry into effect any Resolution of the States designed to be implemented thereby*”.
- 7.34 The Joint Committees do not consider that sufficient scrutiny is currently afforded to legislation. It is suggested consideration be given to the introduction of a formal series of reading debates, possibly authorising the Legislation Select Committee to carry out a stage. States members should be provided with the opportunity to make representations to the Committee and possibly to attend at the meeting of the Legislation Select Committee when the *Projet* is considered (*Proposition oo*).

Individual behaviour – values and culture

- 7.35 The Joint Committees acknowledge that values, behaviour and culture are crucial to good governance. The Joint Committees are aware that when most people are asked about governance, or failures in governance, they will tend to refer to examples of particular behaviours and organisational culture to which earlier parts of this Section refer. The Joint Committees would suggest that the principal underlying concern is one of ensuring appropriate accountability.
- 7.36 There is significant crossover between all of the Core Principles, but Core Principle Three, ‘*Good governance means promoting values for the whole organisation and demonstrating the values of good governance through behaviour*’, in particular is both an outcome (demonstrating behaviour) and an enabler (promoting values) of the other Core Principles, rather than a stand-alone principle. The Joint Committees consider that implementation of the package of proposals contained within this report would serve to give life to this principle by encouraging and reinforcing a culture of adherence to good governance.

Individual Behaviour - Code of Conduct²⁷

- 7.37 The States Assembly and Constitution Committee is responsible for advising the States of Deliberation on, amongst other things, “*matters relating to the propriety and conduct of States members*”. The Committee is the keeper of a mandatory code of conduct for States members and an associated mechanism for investigating complaints regarding behaviour against the code.
- 7.38 The UK Independent Commission suggests that the conduct of members should be based on the Nolan Principles. These are already set out in extenso in paragraph 6 of the Code. Sanctions currently available through the Code of Conduct are caution, reprimand, suspension and expulsion.
- 7.39 The States Assembly and Constitution Committee is in the process of reviewing the Code of Conduct. This is currently on hold pending the outcome of a substantial review of the Westminster Code of Conduct currently under way. At the time of writing it was intended that the UK review would be published imminently, after which the Committee will continue with its review locally.
- 7.40 It is not the intention of the Joint Committees to duplicate work already in train or to pre-empt the results of that review. However, the Joint Committees would like to offer the following comments for the States Assembly and Constitution Committee to take into account as part of its review.
- 7.41 The Joint Committees contend that the perceived weaknesses in the States’ ability to deal effectively with poor conduct are not through the absence of an appropriate mechanism but through a reluctance to impose discipline and sanctions. Furthermore, the research carried out by the WAO suggested a lack of awareness of the Code of Conduct and its provisions. Therefore, the States Assembly and Constitution Committee should give consideration to how the Code of Conduct might be promoted to ensure that it is understood, easily accessible and transparent (*Proposition ppi*).
- 7.42 In particular, the Joint Committees believe that all complaints referred to the States Members’ Conduct Panel, including those dismissed by the Chairman or not upheld by the Panel, should be reported to the States Assembly and Constitution Committee and made a matter of public record (*Proposition ppb*).

²⁷ approved by Resolution of the States on the 28th September, 2006, 30th September 2009 and 27th May 2011, pursuant to article 20F(1) of The Reform (Guernsey) Law, 1948, as amended

Recommendations

In respect of ‘Accountability and Oversight’, the Joint Committees set out the following recommendations to enable the application in practical terms of the six Core Principles of good governance adopted by the States in March, 2011:

- When considering the findings of the review of the scrutiny function it has commissioned, the **Policy Council** should also take account of the observations made in this report in paragraphs 7.12 to 7.34 (7.22; *Proposition hh*);
- The **Scrutiny Committee** should hold regular public hearings and ensure that each Department appears before such hearings at least once during the four-year States term (7.24; *Proposition ii*);
- The **Scrutiny Committee** should make proposals for the introduction of mechanisms which would enable the States of Deliberation, their scrutiny committees and the public to monitor more easily progress against States Resolutions (7.26; *Proposition jj*);
- The **Public Accounts Committee** should consider, where appropriate, holding its review hearings in a public forum (7.24 and 7.27; *Propositions ii and kk*);
- The **States Assembly and Constitution Committee** should make proposals for the publication of Rule 5 and 6 questions on the States website and on the notice board at the Royal Court (7.28; *Proposition ll*);
- The **States Assembly and Constitution Committee** should propose amendments to the Rules of Procedure of the States of Deliberation to provide that proposals to enact, amend or repeal legislation which are put before the States of Deliberation should be accompanied by an explanatory memorandum which sets out in clear and simple terms the effect of the legislation (7.31; *Proposition mm*);
- The **States Assembly and Constitution Committee** should discuss with the Presiding Officer the desirability of legislation being put to the States of Deliberation, in sections rather than en bloc, other than perhaps in the case of the most minor proposals to change legislation (7.32; *Proposition nn*);

- The **Policy Council** and the **States Assembly and Constitution Committee**, in consultation with the **Legislation Select Committee**, should give consideration to the introduction of a formal series of reading debates, possibly authorising the Legislation Select Committee to carry out a stage, and should give consideration to affording States members an opportunity to make representations to, and attend meetings of, the Legislation Select Committee when it is considering legislation (7.34; *Proposition oo*);
- The **States Assembly and Constitution Committee**, as part of its review of the Code of Conduct provisions, to consider:
 - i. How the Code of Conduct might better be promoted to ensure that it is easily accessible and transparent (7.41);
 - ii. Whether the Code of Conduct Panel should report to the Committee on all complaints referred to the Panel, including those dismissed by the Chairman or not upheld by the Panel, and for such reports to be made a matter of public record (7.42; *Proposition pp*).

8. Stakeholders, Consultation and Engagement

- 8.1 Core Principle One connects purpose with outcomes for citizens and service users. As the WAO stated: *“The States of Guernsey exists to serve islanders. The States should therefore have the needs of Islanders at the heart of its decision-making processes.”*²⁸ Core Principle Six states that *“good governance means engaging stakeholders and making accountability real.”*
- 8.2 A definition of a stakeholder might be *“any group or individual who can affect or is affected by the achievement of the organization's objectives”* (Freeman 1984, p.46). Core Principle One identifies the core ‘customers’ of government, whereas Core Principle Six encompasses other external stakeholders and internal stakeholders. Failure adequately to address stakeholders’ needs risks incurring reputational damage and the loss of effectiveness and political legitimacy.
- 8.3 The WAO found a perceived lack of transparency of States’ decisions and poor communications with the public. It concluded that *“the arrangements to engage and involve others in the decision-making process are limited.”*
- 8.4 The Joint Committees noted the following developments in support of improving engagement with stakeholders:
- **Development of Information Strategy**
Further to a States Resolution directing it to set out *“options for improving open government and transparency and establishing a corporate policy on freedom of information and open government”*²⁹, the Policy Council commissioned a review, the aim of which was to develop an Information Strategy for the States of Guernsey. A discussion paper outlining options and recommendations for the development of the strategy was published in September, 2011. This paper intended to set out *“a potential direction of travel for the States in order to further increase the openness and accountability of Guernsey’s public bodies. It sets out high level principles and considers information from the perspective of government with its responsibility as custodians of the information; Guernsey residents, who need knowledge and information to access services, engage with*

²⁸ Wales Audit Office, *Review of Good Governance The States of Guernsey*, 4 September 2009

²⁹ Billet d’État XIX, September 2010

*government and hold it to account; and the staff working in public authorities who need the right information at the right time to deliver efficient and effective services. It does not set out to transpose the UK freedom of information model into Guernsey.”*³⁰ The Policy Council is drafting a more detailed States report on how to take the Information Strategy forward based on the findings of the discussion paper. As part of this work, the Policy Council staff is seeking to develop and promote best practices in communications.

- **Hansard**

The States of Deliberation approved proposals for the introduction of Hansard, which is due to be implemented by 1st May, 2012³¹.

- **New Website**

The States of Guernsey website www.gov.gg is being updated and re-designed with the intention of making it more user-friendly. At the same time, those developing the new website are seeking to unify corporate branding and identity.

- **Scrutiny Public Engagement Review**

The Scrutiny Committee has developed its own Public Engagement Strategy, which has been published and is available to other Departments and Committees to adapt for their own use. At the time of writing it is finalising a report on public engagement across the States.

8.5 Measures to improve transparency of decision-making and strengthen accountability are considered further in Sections 5 and 7.

8.6 The Joint Committees support:

- The development of an Information Strategy which should be adopted by all States Departments and Committees;
- The development of resources, co-ordinated centrally, to provide a consistent approach to government communication;
- A standard framework for public consultation on major policy issues;
- The introduction of shared services, for example to: maintain lists of stakeholders and contacts; provide expertise in designing and undertaking

³⁰ <http://www.gov.gg/ccm/general/information-strategy-discussion-paper-published.en>

³¹ Billet d'État XVI October 2011 *States Strategic Plan*, Policy Council, p1879

engagement/consultation exercises; provide facilitators; and centrally co-ordinate the administration and analysis of results of engagement/consultation exercises;

- The publication by States Departments of schemes of delegated authority for material administrative decisions made under their mandates in order to provide for greater transparency (a good example is the Environment Department's Approved Scheme of Delegation).

8.7 The Joint Committees consider that, when developing an Information Strategy for the States of Guernsey, the Policy Council should take into account the findings and recommendations of this report and the report from the Scrutiny Committee on Public Engagement (*Proposition qq*).

Complaints and appeals against Departments' decisions

8.8 In 2005, the Scrutiny Committee identified that many Departments did not have in place well-developed arrangements for handling complaints against them from members of the public. In 2007, the Committee produced a follow-up report which indicated little improvement from the position two years earlier. There remains no corporate approach to the handling of complaints, and while that is the case standards between Departments are likely to vary considerably, which is not satisfactory.

8.9 The legality, reasonableness and procedural propriety of States Departments may be subject to Judicial Review by the Royal Court. For administrative decisions where there is no formal appeals provisions contained in legislation administered by specific Departments and where departmental complaints procedures have been exhausted by a complainant, decisions may be referred to a Review Board established under the Administrative Decisions (Review) (Guernsey) Law, 1986.

8.10 After consideration of the Advisory and Finance Committee's Policy and Resource Plan of 2002, the States of Deliberation resolved: "*To approve the establishment of a Tribunals Service, as set out in Sections 2.3.20 - 2.3.26 of that report, and to direct the preparation of such legislation as may be necessary to give effect to this proposition.*"

8.11 The Joint Committees noted that this Resolution remains unfulfilled. The Policy Council has stated that it is undertaking work to assess the appeals tribunals in operation across the States of Guernsey, including how they are governed, how often they occur and how they are resourced in order to obtain an up-to-date

picture of current practice and assess the merits of a Centralised Tribunal Service.

- 8.12 In light of the limited use of the Administrative Decisions Review Board and the need already identified for a formal body to investigate complaints made against those to whom the States of Deliberation has delegated executive decision-making functions, the Joint Committees believe that it is imperative that the work undertaken on whether to create a Centralised Tribunal Service should be concluded promptly.
- 8.13 The Joint Committees believe that this workstream should also revisit creating the role of an Ombudsman to adjudicate any complaints that government Departments or agencies have not acted properly or fairly or have provided a poor service. The merits of both options (a Centralised Tribunal Service and an Ombudsman) could then be assessed and the most cost-effective and appropriate body introduced (*Proposition rr*).

Recommendations

In respect of ‘Stakeholders, Consultation and Engagement’, the Joint Committees set out the following recommendations to enable the application in practical terms of the six Core Principles of good governance adopted by the States in March, 2011:

- The **Policy Council** should take into account the findings and recommendations of this report and the report from the Scrutiny Committee on *Public Engagement*, in taking forward the development and implementation of an Information Strategy for the States of Guernsey (8.7; *Proposition qq*);
- The **Policy Council** should redouble its efforts to present proposals for the establishment of appropriate processes for hearing complaints and appeals against States Departments and Committees, having set out the merits or otherwise of a Centralised Tribunal Service and an Ombudsman (8.12 - 8.13; *Proposition rr*).

9. Operational Governance

- 9.1 The Joint Committees have focused primarily on how the core principles of good governance can be applied at a political level. However, they recognise that good governance is no less important at the administrative level. Indeed, ‘political’ and ‘operational’ governance are inter-dependent. For example, the quality of decision-making in government and the effective implementation of those decisions depend in part upon the capacity and capability of the civil service and public sector as a whole.
- 9.2 As noted in 4.49, ultimately political members of Departments and Committees are accountable for day-to-day operational performance. As identified by the WAO, inadequate governance arrangements at the operational level are likely to create strategic, financial and reputational risks to the States of Guernsey.
- 9.3 The distinction between political and operational governance is not always entirely clear. That is especially the case in Guernsey, where, as identified previously in this report, a fusion of roles and responsibilities is a prevailing characteristic of the system of government. But in this brief section of the report, operational governance is assumed to mean the areas of governance where the role of political members is typically limited to overseeing the public sector.
- 9.4 Substantial efforts are already under way (and indeed have been for some time) to strengthen the capacity and capability of the public sector, most especially, though not exclusively, through the Financial Transformation Programme. For example, there is an FTP project to address the lack of corporate purpose and identity across the organisation. There is another to centralise basic administrative functions of government, including human resources, finance, information technology, procurement and asset management, with the intention of spreading best practice and reducing duplication.
- 9.5 However, the Joint Committees note that there is scope to improve corporate direction, rules and procedures in several areas of administration.
- 9.6 Departments have considerable autonomy in risk management. This disparate approach itself presents risk. Good practice needs to be identified and then adopted across all Departments. The Joint Committees are pleased to note that the Public Accounts Committee has commissioned a follow-up review of risk management across Departments. It is hoped that any recommendations for reform emerging from that review will be addressed as a priority.

- 9.7 There is limited internal guidance on arrangements for protecting data, in addition to that provided by the Data Protection Commissioner. It is likely that a more uniform approach across Departments would become essential in the event of the introduction of an information strategy.
- 9.8 There is no central guidance available on taking minutes and notes of meetings and discussions. The Joint Committees are aware that practices differ considerably between Departments and Committees and believe there would be merit in all parts of the States taking and presenting minutes in a more consistent manner.
- 9.9 The WAO identified that inter- and intra-departmental communication was too often weak. It is clear that good governance demands effective communication between all parts of the States and the Joint Committees would suggest that the matter be addressed with some urgency, albeit while acknowledging that recent developments in the intranet and implementing some of the proposals in this report concerning the identification of stakeholders may improve communication considerably.
- 9.10 As noted in Sections 5 and 6, there are weaknesses in the performance information available to support decision-makers. This may be improved by better co-ordination between Departments in the production and monitoring of meaningful data and its integration with the States Strategic Monitoring Report. If not, other means of improvement will need to be pursued. Much may be learned from initiatives taken by Departments in the absence of a States-wide approach. For example, the Home Department has implemented a corporate management tool for developing and monitoring key performance indicators associated with the criminal justice strategy.

Proposal for a Code of Operational Governance

- 9.11 The Joint Committees are of the opinion that there should be a Code of Operational Governance which would outline what is expected across the public sector. It should be compulsory for Departments to adhere to the provisions of such a Code (*Proposition ss*).
- 9.12 The Code should sit beneath the States Strategic Plan and enable the public sector to achieve the objectives and policies determined by elected politicians. The Code, taken in its entirety, would be expected to address the shortcomings identified in this Report and other weaknesses identified elsewhere as well as

being flexible enough to adapt as the expectations and demands of good governance evolve.

- 9.13 The Chief Executive of the States should have responsibility for the Code. It should be reviewed at least annually. Responsibilities for implementing provisions of the Code should be delegated very clearly and those persons with delegated authority should be held to account through performance appraisals and internal audit and possibly externally (i.e. publicly) through scrutiny review.
- 9.14 The Code and underlying guidance may include, inter alia:
- Management of the programme of change;
 - Financial planning;
 - Human resource planning;
 - Corporate risk management;
 - Inter- and intra-departmental projects;
 - Communications;
 - Emerging issues.
- 9.15 Any corporate directives and guidance issued would need to be consistent with achieving the objectives of the Code and would need to be co-ordinated centrally (*Proposition tt*).
- 9.16 At present, improvements in operational governance are being driven largely as by-products of the FTP, which is time-limited, essentially a temporary ‘bolt-on’ to the public sector. It is envisaged that establishing a Code across the States, and committing resources to the implementation of such a Code, would form the basis of a well-resourced and permanent programme of continuous improvement in operational governance within the public sector.

Accountability of Civil Servants

- 9.17 There are now clearer lines of accountability between departmental Chief Officers and the Chief Executive of the States. The performance of Chief Officers can now be meaningfully appraised by the Chief Executive as their line manager. A ‘Balanced Scorecard’ approach has been adopted recently to assess the performance of Chief Officers. In addition, senior officers, including the Chief Executive and Deputy Chief Executive, are undergoing a development

programme which includes 360 degree feedback³². However, the Joint Committees consider that there needs to be a more formal mechanism to review the performance of the Chief Executive (*Proposition uu*).

- 9.18 The Joint Committees see no particular reason for the lines of accountability in the administrative side of the States to mirror those of the political structure. For example, Guernsey's more de-centralised, bottom-up political structure could be served by a bureaucracy with stronger direction centrally. Certainly, given that it is within the Policy Council's mandate to fulfil the role of employer of established staff and to appoint Chief Officers and other senior civil servants, it is appropriate that the Chief Executive should assume responsibility for managing their performance. However, the lines of accountability remain blurred: for example, there is uncertainty about the extent to which Chief Officers are accountable, if at all, to their Department's political board. The Joint Committees consider that all such lines of accountability need to be clarified and understood more widely across the organisation (*Proposition vv*).

³² 360 degree feedback is gathering anonymous feedback on the person's performance from a range of stakeholders including subordinates, peers and supervisors and sometimes external suppliers or customers ("360" refers to the [360 degrees](#) in a circle with an individual figuratively in the centre of the circle.)

Recommendations

In respect of ‘Operational Governance’, the Joint Committees set out the following recommendations to enable the application in practical terms of the six Core Principles of good governance adopted by the States in March, 2011:

- The **Policy Council** should develop a Code of Operational Governance, under the leadership of the Chief Executive of the States of Guernsey, which would outline what is expected across the public sector. The Code should sit beneath the States Strategic Plan and enable the public sector to achieve the objectives and policies determined by elected politicians. The Code, taken in its entirety, would be expected to address the shortcomings identified in this report and other weaknesses identified elsewhere as well as being flexible enough to adapt as the expectations and demands of good governance evolve (9.11; *Proposition ss*);
- The **Policy Council** should centrally co-ordinate corporate directives and guidance in line with achieving the objectives of the Governance Code. Consideration should be given to establishing a dedicated resource with corporate governance expertise to co-ordinate and oversee the development, delivery and monitoring of corporate governance initiatives including, among other things, developing corporate guidance on the retention of data, minute-taking, and risk management (9.15; *Proposition tt*);
- The **Policy Council** should give consideration to the introduction of a more formal mechanism to review the performance of the States Chief Executive (9.17; *Proposition uu*);
- The **Policy Council** should clarify lines of accountability between Chief Officers of States Departments and Boards and the States Chief Executive (9.18; *Proposition vv*).

10.Next Steps:

Measuring Compliance & Governance in the 2012-16 term

- 10.1 The WAO report of 2009, *Review of Good Governance - The States of Guernsey*, commissioned by the PAC, began a discussion on how governance arrangements might be improved. This was further promoted in the PAC's report of March, 2011 the result of which was the States of Deliberation adopting six Core Principles of Good Governance and resolving to consider further how these might best be implemented in practical terms. The Joint Committees were directed by States Resolution to make recommendations which would enable the six Core Principles to be applied in practical terms within Guernsey's existing system of government. This report fulfils that Resolution and represents another significant step on the journey of improving governance in the States of Guernsey. The pursuit of good governance is not a one-off initiative, but a continuous programme of improvement. The recommendations contained in this report should enable the States to pursue further improvements in the 2012-16 term and beyond.
- 10.2 In its role as the coordinator of strategic policy, the Policy Council is entitled to consider every States Report submitted for debate by a States Department and to append to such reports letters of comment advising the States of Deliberation on, inter alia, the extent to which the Department's proposals comply with the corporate policies of the States. In addition, in March, 2011, the States of Deliberation resolved that: "*the Policy Council shall include in its statement appended to each Report submitted by a States Department or Committee or group of members in the case of a Requête for inclusion in a Billet D'État in accordance with Rule 2(1)(a) of the Rules of Procedure of the States of Deliberation such assessment as the Policy Council considers necessary relating to the extent to which the Report conforms to the six Core Principles of good governance.*" This additional obligation was to remain in place until the States of Deliberation had considered the Joint Committees' report (i.e. this report). The Joint Committees are of the opinion that this States Resolution should be modified to require the Policy Council to assess, as necessary, the extent to which a Report does not conform to the six Core Principles of good governance (*Propositions ww and xx*).

- 10.3 The Joint Committees are inviting the States of Deliberation to consider each of their recommendations separately and at this stage in principle. Reforms contained in any recommendations which are rejected will, of course, not be pursued. In respect of those recommendations which the States of Deliberation approves, the Joint Committees propose that early in the life of the next States term the Policy Council should draw up a plan of action in order to ensure that such recommendations for reform are implemented in a timely and appropriate manner (*Proposition 2*). It is recognised that the implementation of such reforms will be influenced by, inter alia, the resources available and the priorities determined by the next government. For that reason, the Joint Committees are of the opinion that the implementation plan should be drawn up only after widespread consultation and then debated by the States of Deliberation.
- 10.4 The Joint Committees, mindful of the direction to them to consider how compliance with the principles of good governance might be measured, also propose that:
- During the second half of the next term of government, the Public Accounts and Scrutiny Committees should report to the States of Deliberation setting out the extent to which by that stage the States is complying with the principles of good governance (*Proposition 3*);
 - The Policy Council should propose an amendment to the mandates of the Public Accounts and Scrutiny Committees to make them explicitly responsible for “the promotion and monitoring of good governance” (*Proposition 4*);
 - In the first six months of the 2016-20 term of government, the Policy Council should commission an independent review of the standards of governance in the States of Guernsey (*Proposition 5*).

Recommendations

In respect of ‘Next Steps: Measuring Compliance & Governance in the 2012-16 term’ the Joint Committees set out the following recommendations to enable the application in practical terms of the six Core Principles of good governance adopted by the States in March, 2011:

- The **Policy Council** should include in its statement appended to each States report from Departments an assessment, as necessary, the extent to which a Report does not conform to the six Core Principles of good governance (10.2; *Proposition ww*);
- The **Policy Council** should provide Departments with guidance on how States reports will be judged to comply or otherwise with the Core Principles (10.2; *Proposition xx*);
- The **Policy Council**, after consultation with States Departments and Committees, should present to the States of Deliberation by no later than January, 2013 a plan of action for the implementation of the recommendations approved in principle (10.3; *Proposition 2*);
- The **Public Accounts Committee** and **Scrutiny Committee** should report to the States of Deliberation during 2015 setting out the extent to which by that stage the States is complying with the principles of good governance (10.4; *Proposition 3*);
- The **Policy Council** should propose an amendment to the mandates of the Public Accounts Committee and Scrutiny Committee to make them explicitly responsible for “the promotion and monitoring of good governance” (10.4 *Proposition 4*);
- In the first six months of the 2016-20 term of government, the **Policy Council** should commission an independent review of the standards of governance in the States of Guernsey (10.4; *Proposition 5*).

11.The Joint Committees' View on Comments from the Policy Council

- 11.1 The Policy Council were sent a draft report on 29th November, 2011 and a further draft report on 14th December with a request for formal comments by 30th December.

- 11.2 The Policy Council, in a letter appended to this report, expresses concerns regarding the length of time which it was afforded to consider the recommendations contained herein. Although the intention had been to engage with the Policy Council over a longer period of time, and while the Joint Committees regret that this was not achieved, it is hoped that members will appreciate that producing a report of this nature and obtaining consensus for the recommendations from among the members of three separate Committees was very time-consuming. The Joint Committees were mindful throughout of the tight timeline which the States of Deliberation had set them for reporting back.

- 11.3 However – especially since the States of Deliberation is being invited to approve the recommendations in principle with the intention that the next States will draw up a plan of action for implementing what has been approved – the Joint Committees consider that the Policy Council has been afforded a reasonable opportunity to comment upon the report and inform the framing of the recommendations.

- 11.4 In addition, the recommendations set out a generous timeframe for the Policy Council, in conjunction with others, identifying which reforms can realistically be progressed over the next term of the States and beyond.

- 11.5 Deputy Fallaize and 21 other members of the States have submitted a Requête entitled: *Proposal for a Comprehensive Review of the Structure and Functions of the Legislature and the Government in Guernsey*. The prayer of the Requête proposes, inter alia, the establishment of a States Review Committee “...to examine the extent to which the structure and functions of the legislature and the government in Guernsey are capable of fulfilling expectations of good governance...and, if considered necessary, to make recommendations on any reforms of the structure and functions of the legislature and the government in

Guernsey which would be likely better to provide for the highest possible standards of good governance...”.

- 11.6 The Requête is scheduled to be debated by the States of Deliberation after, but at the same meeting as, this report from the Joint Committees is debated.
- 11.7 Essentially the difference between this report and any report provoked by the Requête, if it is approved, would be that whereas the Joint Committees were limited to considering how governance arrangements could be improved within the present system of government, the States Review Committee proposed in the Requête would have no such limitation placed upon it.
- 11.8 Deputy Fallaize is the Vice-Chairman of the Scrutiny Committee and a member of the States Assembly and Constitution Committee, two of the three Committees which formed the Joint Committees which have produced this report. He also chaired the working party which the Joint Committees set up to undertake the review of governance which has culminated in this report. In addition, four of the five political members of the working party, 10 of the 17 political members of the three Committees and a majority of both the Scrutiny Committee and the States Assembly and Constitution Committee are signatories to the Requête, albeit they have submitted it as independent members and not on behalf of Committees of which they are members. It is not surprising, therefore, that although the Joint Committees formally take no view on the prayer of the Requête, they are adamant that their report and the Requête are not mutually exclusive.
- 11.9 This report makes recommendations for improving governance which, if approved, in many cases would be implemented in the next term of the States (2012-16) whereas any recommendations arising from the Requête would almost certainly not take effect until the 2016-20 term at the earliest. In addition, while all of the recommendations in this report are strictly compatible with the present system of government, many of them would be equally applicable to other systems of government, and therefore they would not become redundant should the States at some point determine to make changes to the island's system of government.
- 11.10 The Joint Committees also wish to re-emphasise that they are proposing that the reforms contained in this report, if agreed in principle by the States of Deliberation, should then be included in an implementation plan. Clearly, if the Fallaize Requête is approved, that would be taken into account when producing the implementation plan for the reforms contained in this report.

- 11.11 Therefore, while recognising the relationship between this report and the Requête, the Joint Committees are of the opinion that it would be perfectly viable for the States of Deliberation to reject both, approve one and not the other, or approve both.

12. Recommendations to the States

1. To approve in principle that:
 - a. The **Policy Council** and the **States Assembly and Constitution Committee** should provide a guide to the governance arrangements of the States of Guernsey to serve as an overview of the functions and roles of all aspects of public administration, including explaining the relationship between the activities of the legislature and those of the executive (refers to paragraph 4.4);
 - b. The **Policy Council** and the **States Assembly and Constitution Committee** should consider the case for setting out the framework for the organisation of the legislature and the machinery of government in one article of legislation supported by one set of standing orders (4.11);
 - c. The **Policy Council** and the **States Assembly and Constitution Committee** should develop proposals to categorise States reports more clearly and have them include a statement of purpose and a statement clarifying the role that the States of Deliberation are being asked to fulfil in debating and approving the propositions (4.12);
 - d. The **States Assembly and Constitution Committee** should propose amendments to Rule 9 of the Rules of Procedure of the States of Deliberation to provide for a clearer distinction in Billets d'État and at meetings of the States of Deliberation between the functions of the States of Deliberation as parliament, legislature and overarching executive (4.13);
 - e. The **Policy Council** should make an explicit distinction between: a) sub-committees to which it has resolved to delegate particular activities which fall wholly within its mandate, and b) cross-departmental working parties which it has resolved to establish in accordance with its responsibility to co-ordinate the policy development of the States. The Policy Council should ensure that cross-departmental working parties have clear terms of reference, at least an approximate timeframe for completing their work and very clear lines of accountability (4.31);

- f. The **Policy Council** should consider ways of strengthening its focus on its policy co-ordination function. (4.35 – 4.35);
- g. The **Policy Council** should consider the case for removing the requirement for the Deputy Chief Minister also to hold a departmental portfolio and the case for dividing external and domestic policy functions between the Chief Minister and the Deputy Chief Minister (4.40);
- h. The **Policy Council** should clarify the roles, responsibilities and lines of accountability of members of the Policy Council, Chief Minister and Deputy Chief Minister, including clarifying the relationship between the role of ministers in heading States Departments and their role in sitting as members of the Policy Council (4.41 and 4.63);
- i. The **Policy Council**, in conjunction with **States Departments**, should review the layout and content of the mandates of the Policy Council itself and States Departments to ensure that they are as precise, clear and coherent as possible and to ensure that they articulate adequately the relationship between the Policy Council and the Departments (4.43);
- j. The **Policy Council**, in conjunction with **States Departments**, should examine the case for developing schemes of delegation which would clarify the criteria governing which decisions may be taken without, and which decisions require, the approval of the States of Deliberation (4.44);
- k. The **Policy Council**, in conjunction with **States Departments**, should publish a schedule of extant legislation and States Resolutions which confer authority upon, or further define and explain the mandates of, the Policy Council and Departments (4.46);
- l. The **States Assembly and Constitution Committee** should make proposals to amend the Rules of Procedure of the States of Deliberation and the Constitution and Operation of States Departments and Committees to provide for a distinction to be made between political Boards of Departments and the administrative staff of the Departments (4.47);
- m. The **Policy Council**, in conjunction with **States Departments**, should develop operating frameworks for political Boards of Departments, which should include setting out the relationship between the policy and the operation of the Department (4.50);

- n. The **States Assembly and Constitution Committee**, in conjunction with the **Policy Council**, should consider publishing guidance clearly to identify the different roles which States members may be required to undertake as members of the legislature, members of the executive, members of scrutiny and oversight bodies and representatives of their electorate (4.53);
- o. The **States Assembly and Constitution Committee** should make proposals to provide for the discontinuation of the role of non-States member of Departments as it is presently conceived in Rule 4(2) of the *Rules relating to the Constitution and Operation of States Departments and Committees* (4.70);
- p. The **Policy Council**, in consultation with **States Departments**, should co-ordinate a corporate approach to engaging at Board level skills and expertise from outside the public sector. This should include developing clear written specifications, terms of engagement and lines of accountability for persons whose advice, guidance and skills are recruited (4.72);
- q. The **Policy Council** should consider the formation of a joint political/staff level steering group, if necessary having engaged the advice of an external agency with relevant experience, to examine the way in which policy is generated, developed and promulgated across the States of Guernsey with a view to producing guidance for Departments on effective policy-making (5.8 - 5.9);
- r. The **Public Accounts Committee** and **Scrutiny Committee** should encourage the development of processes within the corporate policy planning cycle to assess performance and hold the Policy Council and Departments to account more effectively (5.35);
- s. The **Policy Council** should report to the States of Deliberation setting out proposals for how in the 2012-16 term the States' corporate policy planning process will address the following challenges, having taken into account in particular the observations and suggestions contained in paragraphs 5.11 to 5.36 of this report:
 - i. The disconnect between policy planning and the allocation of resources;

- ii. The disconnect between policy making at the corporate and departmental levels;
 - iii. The lack of ownership and ‘buy in’ to the policy planning process among States members;
 - iv. The lack of public engagement with the government’s programme (5.36);
- t. The **States Assembly and Constitution Committee** should report to the States of Deliberation setting out the advantages and disadvantages of requiring major policy proposals from States Departments and Committees to pass through an additional decision-making stage in the States of Deliberation (5.45);
- u. The **States Assembly and Constitution Committee** should bring proposals for the revision of Rule 12 (4) to enable Departments and Committees to obtain a clearer direction from the States in progressing policy matters, whilst retaining flexibility to make adjustments to detailed proposals at a subsequent date (5.50);
- v. **States Departments** should publish in a timely and accessible manner a ‘decisions list’ in respect of policy decisions, explaining each decision and setting out the criteria or guidance against which the decision was made (5.55);
- w. In every States term, the **States Assembly and Constitution Committee** should publish within nine months of the General Election, after consultation with States members, a report to include;
 - i. A review of the induction programme incorporating an analysis of the success or otherwise of each part of that programme and any changes to the programme which it would be considered desirable to put into effect for the following States term; and
 - ii. Details of a programme of ongoing training which shall be offered to all States members during that States term (6.18);
- x. A reasonable period of time before each General Election, the **States Assembly and Constitution Committee**, in conjunction with the **Policy Council**, should publish for the assistance of potential candidates for election a guide to the States to include an explanation of: the General

Election process; the various roles and responsibilities of a States member, such as the constituency, parliamentary, executive and scrutiny functions; the internal election process; and the functions of the different layers of the legislature and the government. If considered necessary, the **Policy Council** should propose a minor extension to the mandate of the States Assembly and Constitution Committee to incorporate this matter (6.19);

- y. The **States Assembly and Constitution Committee** should make proposals to ensure that States members have a right to obtain information and assistance, equivalent to that provided for in 15(2) of the Rules of Procedure of the States of Deliberation, whether or not that member is seeking it in the preparation of a formal proposition which may increase expenditure. The States Assembly and Constitution Committee should take into account the need to have in place safeguards to prevent requests which would place excessive or disproportionate demands on the resources of Departments and Committees (6.21);
- z. The **States Assembly and Constitution Committee** should give consideration to assessing the need for research and administrative assistance for States members to enable them to discharge their parliamentary and constituency duties as effectively as possible. The **States Assembly and Constitution Committee** should also review and, if considered necessary, make recommendations to improve the facilities available to States members in the discharge of their parliamentary and constituency duties (6.23);
- aa. The **States Assembly and Constitution Committee**, in conjunction with the Presiding Officer and HM Greffier, should examine the case to establish a distinct Parliamentary Secretariat, which would be concerned exclusively with supporting Parliamentary Committees and the activities of the States of Deliberation, including the publication of agendas, motions and Resolutions etc. (6.24);
- bb. The **Policy Council** and **States Departments** should consider a corporate approach to ensuring that People's Deputies are adequately informed about significant government initiatives and media interest. When Departments know it is likely that announcements concerning policy will appear in the media, they should provide an explanatory note to States members. Furthermore, when Departments reply to media queries they should copy responses to all States members (6.27);

- cc. The **Policy Council**, in conjunction with **States Departments**, should review the capacity of the States as an organisation to develop policy in response to the needs of the community and the objectives of government (6.30);
- dd. The **Policy Council** should review what measures could be put in place to ensure that there is greater uniformity and consistency of approach across all parts of government in respect of how information and evidence is presented to policy-makers and decision-makers (6.32);
- ee. The **Policy Council** should ensure that best practice in the briefing of politicians and the writing of policy options and recommendations for the consideration of politicians is included as an integral part of the professional development offered to senior staff across government (6.33);
- ff. The **Policy Council** should demonstrate that there is adequate capacity and capability in the availability of performance information to support decision-making (6.34);
- gg. The **Treasury and Resources Department** should publish guidance criteria to enable States Departments and Committees and States Members to understand better when it might be appropriate to engage the private or third sector and alternatively when it might be better to develop capacity internally to assist in the development of policy or the delivery of services (6.39);
- hh. When considering the findings of the review of the scrutiny function it has commissioned, the **Policy Council** should also take account of the observations made in this report in paragraphs 7.2 to 7.29 (7.21);
- ii. The **Scrutiny Committee** should hold regular public hearings and ensure that each Department appears before such hearings at least once during the four-year States term (7.24);
- jj. The **Scrutiny Committee** should make proposals for the introduction of mechanisms which would enable the States of Deliberation, their scrutiny committees and the public to monitor more easily progress against States Resolutions (7.26);
- kk. The **Public Accounts Committee** should consider, where appropriate, holding its review hearings in a public forum (7.24; 7.27);

- ll. The **States Assembly and Constitution Committee** should make proposals for the publication of Rule 5 and 6 questions on the States website and on the notice board at the Royal Court (7.28);
- mm. The **States Assembly and Constitution Committee** should propose amendments to the Rules of Procedure of the States of Deliberation to provide that proposals to enact, amend or repeal legislation which are put before the States of Deliberation should be accompanied by an explanatory memorandum which sets out in clear and simple terms the effect of the legislation (7.31);
- nn. The **States Assembly and Constitution Committee** should discuss with the Presiding Officer the desirability of legislation being put to the States of Deliberation in sections rather than en bloc, other than perhaps in the case of the most minor proposals to change legislation (7.32);
- oo. The **Policy Council** and the **States Assembly and Constitution Committee**, in consultation with the **Legislation Select Committee**, should give consideration to the introduction of a series of reading debates, possibly authorising the Legislation Select Committee to carry out a stage, and should give consideration to affording States members an opportunity to make representations to, and attend meetings of, the Legislation Select Committee when it is considering legislation (7.34);
- pp. The **States Assembly and Constitution Committee**, as part of its review of the Code of Conduct, should consider:
 - i. How the Code of Conduct might better be promoted to ensure that it is easily accessible and transparent (7.41);
 - ii. Whether the Code of Conduct Panel should report to the Committee on all complaints referred to the Panel, including those dismissed by the Chairman or not upheld by the Panel, and for such reports to be made a matter of public record (7.42);
- qq. The **Policy Council** should take into account the findings and recommendations of this report, and the report from the Scrutiny Committee on *Public Engagement*, in taking forward the development and implementation of an Information Strategy for the States of Guernsey (8.6);

- rr. The **Policy Council** should redouble its efforts to present proposals for the establishment of appropriate processes for hearing complaints and appeals against States Departments and Committees, having set out the merits or otherwise of a Centralised Tribunal Service and an Ombudsman (8.12 - 8.13);
 - ss. The **Policy Council** should develop a Code of Operational Governance, under the leadership of the Chief Executive of the States of Guernsey, which would outline what is expected across the public sector. The Code should sit beneath the States Strategic Plan and enable the public sector to achieve the objectives and policies determined by elected politicians. The Code, taken in its entirety, would be expected to address the shortcomings identified in this report and other weaknesses identified elsewhere as well as being flexible enough to adapt as the expectations and demands of good governance evolve (9.9 – 9.12);
 - tt. The **Policy Council** should centrally co-ordinate corporate directives and guidance in line with achieving the objectives of the Governance Code. Consideration should be given to establishing a dedicated resource with corporate governance expertise to co-ordinate and oversee the development, delivery and monitoring of corporate governance initiatives including, among other things, developing corporate guidance on the retention of data, minute-taking, and risk management (9.13 – 9.15);
 - uu. The Policy Council should give consideration to the introduction of a more formal mechanism to review the performance of the States Chief Executive (9.18);
 - vv. The Policy Council should clarify lines of accountability between Chief Officers of States Departments and Boards and the States Chief Executive (9.19);
 - ww. In its statement appended to each States report from Departments, the **Policy Council** should assess as necessary the extent to which the report does not conform to the six Core Principles of good governance (10.2).
 - xx. The **Policy Council** should provide Departments with guidance on how States reports will be judged to comply or otherwise with the Core Principles (10.2);
2. The **Policy Council**, after consultation with States Departments and Committees, should present to the States of Deliberation by no later than

January, 2013 a plan of action for the implementation of the recommendations approved above (10.3);

3. The **Public Accounts Committee** and **Scrutiny Committee** should report to the States of Deliberation during 2015 setting out the extent to which by that stage the States is complying with the principles of good governance (10.4);
4. The **Policy Council** should propose an amendment to the mandates of the Public Accounts Committee and Scrutiny Committee to make them explicitly responsible for “the promotion and monitoring of good governance (10.4);
5. In the first six months of the 2016-20 term of government, the **Policy Council** should commission an independent review of the standards of governance in the States of Guernsey (10.4).

Yours faithfully

Deputy L R Gallienne
Chairman
Public Accounts
Committee

Deputy B L Brehaut
Chairman
Scrutiny Committee

Deputy I F Rihoy
Chairman
States Assembly and
Constitution Committee

Other Members of the Committees are:

Public Accounts Committee

Deputy B J E Paint (Vice Chairman)
Deputy M G G Garrett
Deputy T J Stephens
Deputy M J Storey
Mr M E Best
Mr C H Bradshaw
Advocate M A J Helyar
Mr J E Thomas

Scrutiny Committee

Deputy M J Fallaize (Vice Chairman)
Deputy M G G Garrett
Deputy J A B Gollop
Deputy J Kuttelwascher
Deputy R R Matthews
Deputy S J McManus
Deputy M P J Hadley

Deputy D de G De Lisle

States Assembly and Constitution Committee

Deputy M M Lowe (Vice Chairman)

Deputy M J Fallaize

Deputy S L Langlois

Deputy T M Le Pelley

13. References

Advisory & Finance Committee and States Procedures and Constitution Committee (2002) *The Machinery of Government in Guernsey*, Billet D'Etat VII May 2002

Cabinet Office and HM Treasury, (2011) *Corporate governance in central government departments: Code of good practice 2011*, July, 2011

Cabinet Office and HM Treasury, (2011) *Corporate governance in central government departments: Code of good practice 2011 – Guidance Note*, July, 2011

Cabinet Office, Strategic Policy Making Team (September, 1999) *Professional policy making for the twenty first century*
<http://www.nationalschool.gov.uk/policyhub/docs/profpolicymaking.pdf>

The Constitution and Operation of States Departments and Committees
<http://www.gov.gg/ccm/navigation/government/states-members-and-committees/department-rules/>

Freeman (1984) *Strategic Management: A Stakeholder Approach* Boston: Pitman

Harwood Panel Report (2000) *Review of the machinery of government in Guernsey*

The Independent Commission on Good Governance in Public Services, (2004), *The Good Governance Standard for Public Services*

List of members of the States of Deliberation; Mandates and membership of the Policy Council, Departments and Committees
<http://www.gov.gg/ccm/navigation/government/states-members-and-committees/mandates-and-memberships/>

Pierre, J and Peters, B.G, (2000) *Governance, Politics and the State*, Palgrave Macmillan

Policy Council (2011) *States Strategic Plan* Billet d'État XVI October, 2011

Public Accounts Committee (2011) *Governance in the States of Guernsey*, Billet d'État IV March, 2011

The Rules of Procedure of the States of Deliberation
<http://www.gov.gg/ccm/navigation/government/states-members-and-committees/rules-of-procedure/>

States Advisory and Finance Committee (2003) *The Future Machinery of Government in Guernsey*, Billet d'Etat VII 2003

States Procedures and Constitution Committee (2003) - *Machinery of Government Reforms*, Billet d'Etat VII 2003

UK Government White Paper (1999) *Modernising Government*

<http://www.archive.official-documents.co.uk/document/cm43/4310/4310.htm>

United Nations Economic and Social Commission for Asia and the Pacific
What is Good Governance?

<http://www.unescap.org/pdd/prs/ProjectActivities/Ongoing/gg/governance.pdf> (as viewed at 9th January, 2012)

Wales Audit Office, (WAO) (2009), *Review of Good Governance – The States of Guernsey*, 4 September 2009 and published in Billet d'État XVI March 2011

World Bank *Accountability in Governance*

<http://siteresources.worldbank.org/PUBLICSECTORANDGOVERNANCE/Resources/AccountabilityGovernance.pdf> (as viewed at 9th January, 2012)

14. Appendices

1	Cross-referencing of recommendations to the six Core Principles
2	March, 2011 States Resolutions
3	JCWP Terms of Reference
4	Comparison of UNDP and World Bank good governance indicators
5	Letter of comment from the Policy Council dated 23 rd December, 2011

Appendix 1: Cross-referencing of recommendations to the Six Core Principles

Prop	CP1 Purpose and Outcomes	CP2 Functions and Roles	CP3 Values and Behaviour	CP4 Decision-making	CP5 Capacity and Capability	CP6 Engaging Stakeholders and Accountability
Organisation, Functions and Roles						
a.	✓	✓	✓	✓	✓	✓
b.		✓				
c.	✓	✓		✓		
d.		✓				
e.	✓	✓				✓
f.	✓	✓				
g.		✓			✓	
h.		✓				
i.	✓	✓				✓
j.	✓	✓		✓		✓
k.	✓	✓				✓

Prop	CP1 Purpose and Outcomes	CP2 Functions and Roles	CP3 Values and Behaviour	CP4 Decision-making	CP5 Capacity and Capability	CP6 Engaging Stakeholders and Accountability
l.		✓				
m.	✓	✓				
n.	✓	✓	✓	✓	✓	✓
o.		✓				✓
p.		✓			✓	
Policy-making, Policy-planning and Decision-making						
q.		✓		✓	✓	
r.						✓
s.	✓	✓	✓	✓		✓
t.	✓	✓		✓		✓
u.		✓		✓		
v.				✓		✓

Capacity and Capability – Resources and Skills							
w.						✓	
x.	✓	✓	✓		✓	✓	✓
y.						✓	
z.						✓	
aa.						✓	
bb.						✓	✓
cc.	✓				✓	✓	✓
dd.					✓	✓	✓
ee.					✓	✓	
ff.					✓	✓	
gg.		✓			✓		✓
Accountability and Oversight							
hh.							✓

ii.								✓
jj.							✓	✓
kk.				✓				✓
ll.				✓				✓
mm.							✓	
nn.						✓	✓	
oo.						✓		
pp.				✓				
Stakeholders, Consultation and Engagement								
qq.								✓
rr.				✓				✓
Operational Governance								
ss.	✓		✓				✓	✓
tt.			✓	✓			✓	
uu.			✓	✓			✓	✓

vv.		✓	✓				✓
Next Steps: Measuring Compliance & Governance in the 2012-16 term							
ww.	✓	✓					✓
xx.		✓	✓				

Appendix 2: March 2011 States Resolutions

IN THE STATES OF THE ISLAND OF GUERNSEY ON THE 31ST DAY OF MARCH, 2011

(Meeting adjourned from 30th March, 2011)

**The States resolved as follows concerning Billet d'État No IV
dated 18th February 2011**

PUBLIC ACCOUNTS COMMITTEE

GOVERNANCE IN THE STATES OF GUERNSEY

VI.- After consideration of the Report, dated 24th January, 2011, of the Public Accounts Committee:-

1. To adopt the six Core Principles of good governance as determined by the UK Independent Commission on Good Governance in Public Services.
2. To note the content of Appendices 1 to 5 of that Report.
3. To direct the Public Accounts Committee, the Scrutiny Committee and the States Assembly & Constitution Committee, after consultation with the Policy Council, jointly to present to the March, 2012 meeting of the States of Deliberation, or sooner if possible, a report containing detailed proposals on how in practical terms the six Core Principles of good governance can be applied, and how compliance with them can be measured, within the context of Guernsey's system of government by committees and consensus.
4. [To direct that until consideration by the States of Deliberation of the report referred to in proposition 3 above:
 - (a) the Policy Council and Departments and Committees of the States shall give consideration to the suggestions set out in the sections in that Report headed 'Way Forward' in respect of each of the six Core Principles of good governance as they relate to them respectively; and
 - (b) the Policy Council shall include in its statement appended to each Report submitted by a States Department or Committee or group of members in the case of a Requête for inclusion in a Billet d'État in accordance with Rule 2(1)(a) of the Rules of Procedure of the States of Deliberation such assessment as the Policy Council considers necessary relating to the extent to which the Report conforms to the six Core Principles of good governance.
5. To direct the Policy Council to incorporate into the States Strategic Plan clear references to the six Core Principles of good governance and the ways in which they are being, or are to be, developed and given effect in order to support the States objectives and the underlying Plans.

Appendix 3: JCWP Terms of Reference

JOINT COMMITTEES' WORKING PARTY ON GOVERNANCE

Established by the Public Accounts, Scrutiny and States Assembly and Constitution Committees ("the Joint Committees") at their meeting held on 18th April, 2011

At its March, 2011 meeting, the States of Deliberation resolved, inter alia:

"To adopt the six Core Principles of good governance as determined by the UK Independent Commission on Good Governance in Public Services...

"To direct the Public Accounts Committee, the Scrutiny Committee and the States Assembly & Constitution Committee, after consultation with the Policy Council, jointly to present to the March, 2012 meeting of the States of Deliberation, or sooner if possible, a report containing detailed proposals on how in practical terms the six Core Principles of good governance can be applied, and how compliance with them can be measured, within the context of Guernsey's system of government by committees and consensus."

On 18th April, 2011, and in order to fulfil the States Resolutions above, the Public Accounts, Scrutiny and States Assembly and Constitution Committees established a working party ["the Joint Committees' Working Party on Governance"] to draft a report containing detailed proposals on how in practical terms the six Core Principles of good governance can be applied, and how compliance with them can be measured, within the context of Guernsey's system of government by committees and consensus. Their report shall be presented to the three full Committees in good time for it to be considered by those Committees in order that they can jointly present a States Report by no later than the March, 2012 meeting of the States of Deliberation.

The Joint Committees' Working Party shall draw its legitimacy exclusively from the three full Committees. It shall at all times remain accountable to the three full Committees. The three full Committees shall at all times retain ultimate political ownership of the work being undertaken while respecting that the Joint Committees' Working Party must be afforded a reasonable degree of space and independence to write their report and formulate their detailed proposals. The Joint Committees' Working Party shall regularly provide the three full Committees with updates on their work, including minutes of all of their meetings.

The Joint Committees' Working Party shall comprise six members – two from each of the Public Accounts, Scrutiny and States Assembly and Constitution Committee. Each of those three Committees shall also appoint a reserve member who shall attend meetings in the absence of one of that Committee's sitting members. In the event that one or both of a Committee's sitting members and reserve member are unavailable to attend a meeting, that

Committee shall have the right to send to the meeting one of their other members. One member of the Joint Committees shall be elected chairman.

It is fully accepted that each of the three Committees must be afforded an equal opportunity to shape the report and formulate the policy proposals contained therein. Therefore, the Joint Committees' Working Party shall have a quorum of four members, to include at least one from each of the three full Committees.

The work of the Joint Committees' Working Party shall be capable of fulfilling all parts of the States Resolutions above, including consultation with the Policy Council. The scope of their work shall not extend beyond the matters addressed by the States Resolutions above and the Joint Committees' Working Party shall be dissolved upon the final submission of the States Report to be considered at or before the March, 2012 meeting of the States of Deliberation.

The Joint Committees' Working Party must demonstrate consistent observation of the six Core Principles of good governance adopted by the States of Deliberation at its March, 2011 meeting.

Appendix 4: Comparison of UNDP and World Bank good governance indicators

ICGGPS SIX CORE PRINCIPLES OF GOOD GOVERNANCE (as adopted by the States of Guernsey, March 2011)		UNITED NATIONS CHARACTERISTICS³³	8	WORLD BANK INDICATORS³⁴
				<ul style="list-style-type: none"> • Political Stability and Absence of Violence
		<ul style="list-style-type: none"> • Following the Rule of Law 		<ul style="list-style-type: none"> • Rule of Law
CP1	Good governance means focusing on the organisation's purpose and on outcomes for citizens and service users	<ul style="list-style-type: none"> • Responsive 		
CP2	Good governance means performing effectively in clearly defined functions and roles			
CP3	Good governance means promoting good values for the whole organisation and demonstrating the values of good governance through behaviour			<ul style="list-style-type: none"> • Control of Corruption
CP4	Good governance means taking informed, transparent decisions and managing risk	<ul style="list-style-type: none"> • Transparent 		
CP5	Good governance means developing the capacity and capability of the governing body to be effective	<ul style="list-style-type: none"> • Effective and Efficient 		<ul style="list-style-type: none"> • Government Effectiveness
CP6	Good governance means engaging stakeholders and making accountability real	<ul style="list-style-type: none"> • Consensus Oriented • Participatory • Accountable • Equitable and Inclusive 		<ul style="list-style-type: none"> • Voice and Accountability • Regulatory Quality

³³ <http://www.unescap.org/pdd/prs/ProjectActivities/Ongoing/gg/governance.asp>

³⁴ <http://info.worldbank.org/governance/wgi/index.asp>

Appendix 5: Letter of comment from the Policy Council dated 23rd December 2011



Policy Council
 Sir Charles Prossard House
 PO Box 43, La Charroterie
 St Peter Port, Guernsey
 GY1 1FH
 Telephone +44 (0) 1481 717000
 Facsimile +44 (0) 1481 713787
 www.gov.gg

Deputy M Fallaize
 Chairman, Joint Committees Working Party
 C/o Scrutiny Committee
 Sir Charles Frossard House
 La Charroterie
 St Peter Port
 GUERNSEY
 GY1 1FH

23 December 2011

Dear Deputy Fallaize

DRAFT REPORT IMPROVING GOVERNANCE IN THE STATES OF GUERNSEY

Thank you for your letter of the 29th November 2011 enclosing a draft report on the above subject and the further revised draft sent to the Policy Council on the 14th December.

The report was considered by the Policy Council at its meeting held on the 19th December 2011 when Ministers recognised the considerable energy and effort that has gone into its preparation. However, the Policy Council is extremely disappointed that although the Working Party has been preparing its recommendations for some nine months it is only now at the eleventh hour, and close to the submission deadlines for the March 2012 Billet, that Policy Council comments are sought on a substantial and far reaching report in order to fulfil the States requirements that the Joint Committees conclude their work "*after consultation with the Policy Council*".

In these circumstances Ministers do not believe that they have been given sufficient time to properly digest the proposals and to comment in detail on some fifty recommendations. It is against this background that the Policy Council will restrict its comments to:

- Setting this report in a wider context.
- Expressing a view about the relative priority of the proposed follow on work if the report is accepted, and

Setting the report in a wider context

The Policy Council fully appreciates that the Joint Committees have been obliged by the Terms of Reference to work "within the context of Guernsey's system of Government by Committees and consensus". As such the Committees have to assume that the status quo remains.

The Policy Council also recognises that essentially governance is about the relationships between the constituent parts of government and between individuals whether Politicians, public servants or members of the public. It follows therefore, that if significant changes are likely to take place to the structure or machinery of government then it may well be that the governance arrangements set out in the report may no longer be appropriate.

In this respect the Policy Council is mindful that:

- Work has just commenced on the Independent Review of the scrutiny committees which could propose a new approach and structure.
- A review of financial scrutiny commissioned by the PAC could also prompt change but, in particular
- The Requête signed by twenty two Members seeking a “comprehensive review of the structure and functions of the legislature and the government in Guernsey” may well, if approved, have implications for governance.

In this respect while the Policy Council cannot anticipate the outcome of the debate on the Requête with any certainty, nevertheless, it believes that the concept of creating a Special States Committee to undertake such a review might well receive majority support. While a number of the suggestions that the Joint Committees have made could be developed regardless of any changes to the machinery of government, the Policy Council would not wish to devote scarce resources to following through some fifty detailed recommendations before the Special Review Committee has reported.

Prioritising resources

There can be no doubt that in these times of financial restraint where Departments are making every effort to achieve savings and to reduce staff, resources for new initiatives are at a premium.

If accepted by the States the Joint Committees proposals could ultimately require the Policy Council to lead some thirty workstreams and engage in a number of others. It will require dedicated resources to spend substantial amounts of time producing codes and guidelines, working with external agencies (which come at a cost), and reforming our approach to policy development. It will require additional resources on the strategic communications front, an expectation that the Policy Council will fast track the review of the Tribunal Services.

Having said this, the Policy Council recognises that many of the workstreams proposed, if taken through to their conclusion, will undoubtedly add value to the way in which governance is exercised in the States of Guernsey. However, at this time the Policy Council is acutely conscious that it, and Departments, have other calls on the very limited number of policy and advisory staff at our disposal.

Currently the Policy Council’s priorities are to:

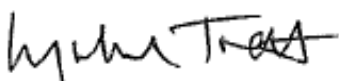
- Resource the ongoing work on developing a Population Management Regime which, subject to States approval of a report at the January 2012 meeting will intensify in order to meet an ambitious timetable for reporting to the States early in 2013
- Respond to the ongoing challenges to the economy in a very uncertain world
- Develop the corporate tax strategy
- Progress critical fiscal, social and economic policies and so on.

Unless and until the States signals that pursuing the above agenda should take second place to the proposals contained in the Joint Working Parties report, the Policy Council does not see itself able to prioritise work on the Joint Committees ambitious work programme at this stage.

Conclusion

The Policy Council, while recognising the amount of work that has gone into this report and acknowledging that it contains a number of recommendations that could in time lead to improved governance, nevertheless for all the reasons set out above believes that it would be premature for the States to debate and vote on the report at this time.

Yours sincerely



L.S. Trott
Chief Minister

(NB The Treasury and Resources Department supports improving governance in the States of Guernsey. Such additional resources as will be required to investigate and implement the recommendations contained in this Report will need to be considered within the existing corporate governance framework, through the mechanism of the States Strategic Plan, for prioritising service developments.)

The States are asked to decide:-

XVI.- Whether, after consideration of the joint Report dated 9th January 2011, of the Public Accounts Committee, Scrutiny Committee, States Assembly and Constitution Committee, they are of the opinion:-

1. To approve in principle that:
 - a. The Policy Council and the States Assembly and Constitution Committee should provide a guide to the governance arrangements of the States of Guernsey to serve as an overview of the functions and roles of all aspects of public administration, including explaining the relationship between the activities of the legislature and those of the executive;
 - b. The Policy Council and the States Assembly and Constitution Committee should consider the case for setting out the framework for the organisation of the legislature and the machinery of government in one article of legislation supported by one set of standing orders;
 - c. The Policy Council and the States Assembly and Constitution Committee should develop proposals to categorise States reports more clearly and have them include a statement of purpose and a statement clarifying the role that the States of Deliberation are being asked to fulfil in debating and approving the propositions;
 - d. The States Assembly and Constitution Committee should propose amendments to Rule 9 of the Rules of Procedure of the States of Deliberation to provide for a clearer distinction in Billets d'État and at meetings of the States of Deliberation between the functions of the States of Deliberation as parliament, legislature and overarching executive;
 - e. The Policy Council should make an explicit distinction between: a) sub-committees to which it has resolved to delegate particular activities which fall wholly within its mandate, and b) cross-departmental working parties which it has resolved to establish in accordance with its responsibility to co-ordinate the policy development of the States. The Policy Council should ensure that cross-departmental working parties have clear terms of reference, at least an approximate timeframe for completing their work and very clear lines of accountability;

- f. The Policy Council should consider ways of strengthening its focus on its policy co-ordination function;
- g. The Policy Council should consider the case for removing the requirement for the Deputy Chief Minister also to hold a departmental portfolio and the case for dividing external and domestic policy functions between the Chief Minister and the Deputy Chief Minister;
- h. The Policy Council should clarify the roles, responsibilities and lines of accountability of members of the Policy Council, Chief Minister and Deputy Chief Minister, including clarifying the relationship between the role of ministers in heading States Departments and their role in sitting as members of the Policy Council;
- i. The Policy Council, in conjunction with States Departments, should review the layout and content of the mandates of the Policy Council itself and States Departments to ensure that they are as precise, clear and coherent as possible and to ensure that they articulate adequately the relationship between the Policy Council and the Departments;
- j. The Policy Council, in conjunction with States Departments, should examine the case for developing schemes of delegation which would clarify the criteria governing which decisions may be taken without, and which decisions require, the approval of the States of Deliberation;
- k. The Policy Council, in conjunction with States Departments, should publish a schedule of extant legislation and States Resolutions which confer authority upon, or further define and explain the mandates of, the Policy Council and Departments;
- l. The States Assembly and Constitution Committee should make proposals to amend the Rules of Procedure of the States of Deliberation and the Constitution and Operation of States Departments and Committees to provide for a distinction to be made between political Boards of Departments and the administrative staff of the Departments;

- m. The Policy Council, in conjunction with States Departments, should develop operating frameworks for political Boards of Departments, which should include setting out the relationship between the policy and the operation of the Department;
- n. The States Assembly and Constitution Committee, in conjunction with the Policy Council, should consider publishing guidance clearly to identify the different roles which States members may be required to undertake as members of the legislature, members of the executive, members of scrutiny and oversight bodies and representatives of their electorate;
- o. The States Assembly and Constitution Committee should make proposals to provide for the discontinuation of the role of non-States member of Departments as it is presently conceived in Rule 4(2) of the Rules relating to the Constitution and Operation of States Departments and Committees;
- p. The Policy Council, in consultation with States Departments, should co-ordinate a corporate approach to engaging at Board level skills and expertise from outside the public sector. This should include developing clear written specifications, terms of engagement and lines of accountability for persons whose advice, guidance and skills are recruited;
- q. The Policy Council should consider the formation of a joint political/staff level steering group, if necessary having engaged the advice of an external agency with relevant experience, to examine the way in which policy is generated, developed and promulgated across the States of Guernsey with a view to producing guidance for Departments on effective policy-making;
- r. The Public Accounts Committee and Scrutiny Committee should encourage the development of processes within the corporate policy planning cycle to assess performance and hold the Policy Council and Departments to account more effectively;
- s. The Policy Council should report to the States of Deliberation setting out proposals for how in the 2012-16 term the States' corporate policy planning process will address the following challenges, having taken into account in particular the observations and suggestions contained in paragraphs 5.11 to 5.36 of that report:

- i. The disconnect between policy planning and the allocation of resources;
 - ii. The disconnect between policy making at the corporate and departmental levels;
 - iii. The lack of ownership and ‘buy in’ to the policy planning process among States members;
 - iv. The lack of public engagement with the government’s programme;
- t. The States Assembly and Constitution Committee should report to the States of Deliberation setting out the advantages and disadvantages of requiring major policy proposals from States Departments and Committees to pass through an additional decision-making stage in the States of Deliberation;
- u. The States Assembly and Constitution Committee should bring proposals for the revision of Rule 12 (4) to enable Departments and Committees to obtain a clearer direction from the States in progressing policy matters, whilst retaining flexibility to make adjustments to detailed proposals at a subsequent date;
- v. States Departments should publish in a timely and accessible manner a ‘decisions list’ in respect of policy decisions, explaining each decision and setting out the criteria or guidance against which the decision was made;
- w. In every States term, the States Assembly and Constitution Committee should publish within nine months of the General Election, after consultation with States members, a report to include;
 - i. A review of the induction programme incorporating an analysis of the success or otherwise of each part of that programme and any changes to the programme which it would be considered desirable to put into effect for the following States term; and

- ii. Details of a programme of ongoing training which shall be offered to all States members during that States term (6.18);
- x. A reasonable period of time before each General Election, the States Assembly and Constitution Committee, in conjunction with the Policy Council, should publish for the assistance of potential candidates for election a guide to the States to include an explanation of: the General Election process; the various roles and responsibilities of a States member, such as the constituency, parliamentary, executive and scrutiny functions; the internal election process; and the functions of the different layers of the legislature and the government. If considered necessary, the Policy Council should propose a minor extension to the mandate of the States Assembly and Constitution Committee to incorporate this matter;
- y. The States Assembly and Constitution Committee should make proposals to ensure that States members have a right to obtain information and assistance, equivalent to that provided for in 15(2) of the Rules of Procedure of the States of Deliberation, whether or not that member is seeking it in the preparation of a formal proposition which may increase expenditure. The States Assembly and Constitution Committee should take into account the need to have in place safeguards to prevent requests which would place excessive or disproportionate demands on the resources of Departments and Committees;
- z. The States Assembly and Constitution Committee should give consideration to assessing the need for research and administrative assistance for States members to enable them to discharge their parliamentary and constituency duties as effectively as possible. The States Assembly and Constitution Committee should also review and, if considered necessary, make recommendations to improve the facilities available to States members in the discharge of their parliamentary and constituency duties;
- aa. The States Assembly and Constitution Committee, in conjunction with the Presiding Officer and HM Greffier, should examine the case to establish a distinct Parliamentary Secretariat, which would be concerned exclusively with supporting Parliamentary Committees and the activities of the States of Deliberation, including the publication of agendas, motions and Resolutions etc.;

- bb. The Policy Council and States Departments should consider a corporate approach to ensuring that People's Deputies are adequately informed about significant government initiatives and media interest. When Departments know it is likely that announcements concerning policy will appear in the media, they should provide an explanatory note to States members. Furthermore, when Departments reply to media queries they should copy responses to all States members;
- cc. The Policy Council, in conjunction with States Departments, should review the capacity of the States as an organisation to develop policy in response to the needs of the community and the objectives of government;
- dd. The Policy Council should review what measures could be put in place to ensure that there is greater uniformity and consistency of approach across all parts of government in respect of how information and evidence is presented to policy-makers and decision-makers;
- ee. The Policy Council should ensure that best practice in the briefing of politicians and the writing of policy options and recommendations for the consideration of politicians is included as an integral part of the professional development offered to senior staff across government;
- ff. The Policy Council should demonstrate that there is adequate capacity and capability in the availability of performance information to support decision-making;
- gg. The Treasury and Resources Department should publish guidance criteria to enable States Departments and Committees and States Members to understand better when it might be appropriate to engage the private or third sector and alternatively when it might be better to develop capacity internally to assist in the development of policy or the delivery of services;
- hh. When considering the findings of the review of the scrutiny function it has commissioned, the Policy Council should also take account of the observations made in this report in paragraphs 7.2 to 7.29;

- ii. The Scrutiny Committee should hold regular public hearings and ensure that each Department appears before such hearings at least once during the four-year States term;
- jj. The Scrutiny Committee should make proposals for the introduction of mechanisms which would enable the States of Deliberation, their scrutiny committees and the public to monitor more easily progress against States Resolutions;
- kk. The Public Accounts Committee should consider, where appropriate, holding its review hearings in a public forum;
- ll. The States Assembly and Constitution Committee should make proposals for the publication of Rule 5 and 6 questions on the States website and on the notice board at the Royal Court;
- mm. The States Assembly and Constitution Committee should propose amendments to the Rules of Procedure of the States of Deliberation to provide that proposals to enact, amend or repeal legislation which are put before the States of Deliberation should be accompanied by an explanatory memorandum which sets out in clear and simple terms the effect of the legislation;
- nn. The States Assembly and Constitution Committee should discuss with the Presiding Officer the desirability of legislation being put to the States of Deliberation in sections rather than en bloc, other than perhaps in the case of the most minor proposals to change legislation;
- oo. The Policy Council and the States Assembly and Constitution Committee, in consultation with the Legislation Select Committee, should give consideration to the introduction of a series of reading debates, possibly authorising the Legislation Select Committee to carry out a stage, and should give consideration to affording States members an opportunity to make representations to, and attend meetings of, the Legislation Select Committee when it is considering legislation;
- pp. The States Assembly and Constitution Committee, as part of its review of the Code of Conduct, should consider:

- i. How the Code of Conduct might better be promoted to ensure that it is easily accessible and transparent;
 - ii. Whether the Code of Conduct Panel should report to the Committee on all complaints referred to the Panel, including those dismissed by the Chairman or not upheld by the Panel, and for such reports to be made a matter of public record;
- qq. The Policy Council should take into account the findings and recommendations of this report, and the report from the Scrutiny Committee on Public Engagement, in taking forward the development and implementation of an Information Strategy for the States of Guernsey;
- rr. The Policy Council should redouble its efforts to present proposals for the establishment of appropriate processes for hearing complaints and appeals against States Departments and Committees, having set out the merits or otherwise of a Centralised Tribunal Service and an Ombudsman;
- ss. The Policy Council should develop a Code of Operational Governance, under the leadership of the Chief Executive of the States of Guernsey, which would outline what is expected across the public sector. The Code should sit beneath the States Strategic Plan and enable the public sector to achieve the objectives and policies determined by elected politicians. The Code, taken in its entirety, would be expected to address the shortcomings identified in this report and other weaknesses identified elsewhere as well as being flexible enough to adapt as the expectations and demands of good governance evolve;
- tt. The Policy Council should centrally co-ordinate corporate directives and guidance in line with achieving the objectives of the Governance Code. Consideration should be given to establishing a dedicated resource with corporate governance expertise to co-ordinate and oversee the development, delivery and monitoring of corporate governance initiatives including, among other things, developing corporate guidance on the retention of data, minute-taking, and risk management;
- uu. The Policy Council should give consideration to the introduction of a more formal mechanism to review the performance of the States Chief Executive;

- vv. The Policy Council should clarify lines of accountability between Chief Officers of States Departments and Boards and the States Chief Executive;
 - ww. In its statement appended to each States report from Departments, the Policy Council should assess as necessary the extent to which the report does not conform to the six Core Principles of good governance;
 - xx. The Policy Council should provide Departments with guidance on how States reports will be judged to comply or otherwise with the Core Principles.
2. That the Policy Council, after consultation with States Departments and Committees, present to the States of Deliberation by no later than January, 2013 a plan of action for the implementation of the recommendations approved above.
 3. That the Public Accounts Committee and Scrutiny Committee report to the States of Deliberation during 2015 setting out the extent to which by that stage the States is complying with the principles of good governance.
 4. That the Policy Council proposes an amendment to the mandates of the Public Accounts Committee and Scrutiny Committee to make them explicitly responsible for “the promotion and monitoring of good governance.
 5. That in the first six months of the 2016-20 term of government, the Policy Council commissions an independent review of the standards of governance in the States of Guernsey.

THE PUBLIC ACCOUNTS COMMITTEE

RESCINDING RESOLUTION RE WALTERS REQUETE – CONSTRUCTION OF THE NEW AIRPORT TERMINAL BUILDING

The Presiding Officer
The States of Guernsey
Royal Court House
St Peter Port
GY1 2PB

16 December 2011

Dear Sir

1. Executive Summary

- 1.1 The purpose of this Report is to seek agreement to rescind a 2004¹ Resolution of the States of Deliberation that requested the Public Accounts Committee (“the Committee”) to review the process leading to the award of the contract for construction of the new Airport Terminal Building.

2. Background

- 2.1 During the construction of the new Airport Terminal Building it was reported that some local firms were experiencing serious financial difficulties as a result of not being paid for work undertaken or services/materials supplied.
- 2.2 One of the subcontractors to the States appointed main contractor which was responsible for making the payments, itself experienced financial problems and later went into administration.
- 2.3 It was felt by a few States Members that as this was a States project, the Board responsible for the project ought to have ensured that the works were carried out by solvent contractors.
- 2.4 The States had a contract with a main contractor, which in turn had contracts with the subcontractors it appointed. Those subcontractors also then appointed secondary subcontractors where they deemed necessary. The States had no contractual arrangements with any of the subcontractors. Had the States

¹ Billet d’État III, February 2004, pages 457-467.

interfered with the contractual arrangements between the main contractor and its subcontractors, or between those subcontractors and any of their subcontractors, the States could well have incurred legal problems.

- 2.5 In order to ensure that future States projects were carried out under strict financial regulation, in February 2004² the late former Deputy E.W. Walters and seven other Members submitted a Requête which proposed a review of the existing contract and changes to the financial conditions of contracts.

- 2.6 The States of Deliberation considered the Requête and resolved:

“to request the Public Accounts Committee (having taken advice from the Law Officers on the risk of prejudice to the States in any litigation or arbitration which may arise out of the project) to review, together with the States Treasurer, the process leading to the award by the States of the contract for construction of the new terminal building at the States Airport to Hochtief, with particular attention to the adequacy of any financial checks carried out on Hochtief on behalf of the States, and to report to the States thereon.”

- 2.6 At that time, the National Audit Office (“NAO”) was under contract to the Committee to conduct all reviews on its behalf. Although the NAO reviewed the historical files in order to commence a review, no report was forthcoming as any documents generated could have been ‘discoverable’ (ie, used in evidence) in any litigation that may have followed.
- 2.7 Settlement was reached with the contractors on 16 March 2007, at which time the NAO were in place to complete their work. However, on the advice of HM Procureur, because of possible action against the consultants directly employed by the States, this work was not carried out.

3. Review Update

- 3.1 The Committee has reported regularly since its first Annual Report in 2005³ that it would investigate further the overspend.
- 3.2 To date the Committee has been advised against carrying out this investigation due to the possible litigation, initially in relation to the contractors until settlement with them was reached in 2007 and, subsequently with the consultants involved in the contract.
- 3.3 Although communication between the Committee and the Public Services Department on this matter has continued, the Committee has been informed that there has been no further progress on the litigation/ mediation process. However,

² Billet d’État III, Resolution 1 on Article XXI, March 2004.

³ Billet d’États XI, July 2005; XIII, July 2006; XX September 2007; VII May 2008; XXI Vol 2, July 2009; and XXI, December 2011.

the matter remains ongoing and still is subject to confidentiality constraints arising from possible Court proceedings.

4. Developments

4.1 Since 2004, many lessons have been learnt from other projects and indeed the Committee itself has reviewed a substantial number of States capital projects including:

- *Beau Sejour redevelopment*
- *St Sampson's Pumping Station and Fire main*
- *PEH Clinical Block*
- *Guernsey Integrated Social Security System*
- *Education Development Plan 1*

4.2 In June⁴ and September⁵ 2009 the States of Deliberation considered the capital programme and prioritisation process which introduced three gateway reviews (business justification, strategic fit and achievability and award decision).

4.3 The introduction of mandatory financial and resource management rules in November 2009⁶ encapsulated procedures for capital projects. Full financial checks, gateway and post implementation reviews now form part of the Construction Codes of Practices as mandatory directives accompanying the rules. Such a rigorous process means that it is not possible to progress to the next stage of a project unless a satisfactory standard of project and financial management has been reached.

4.4 It has become apparent to the Committee that the improvements in capital project and financial management already in place mean that to carry out this specific review as previously requested by the States would not provide value for money even when the legal constraints have been removed.

5. Conclusion

5.1 Pending conclusion of all legal action and with eight years already having passed since the Walters Requête was debated, the Committee still finds itself in the position of being unable to complete this review.

5.2 As a result of the progress made since the implementation of the States approved mandatory rules for the procurement of capital (and other) assets, the concerns raised by the Requête have lessened however, as with any project, a post

⁴ Billet d'État IX, May 2009

⁵ Billet d'État XXVI, September 2009

⁶ Billet d'État XXXI, November 2009

implementation review will be required once the legal issues have been concluded.

- 5.3 The Committee's proposal to be relieved from the obligation to conduct the review requested in 2004 does not necessarily preclude a fuller review of the Airport Terminal Building development being undertaken by the Committee in the future should this thought to be of worth.
- 5.4 **Therefore, the Committee requests that the States rescind their earlier resolution that requested the Committee to review the process leading to the award of the contract for construction of the new Airport Terminal Building, with particular attention to the adequacy of any financial checks.**

6. 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'État IV 2011, particularly Principle 4 "*taking informed, transparent decisions and managing risk*".

7. Consultation with the Chief Accountant and the Law Officers of the Crown

The contents of this report have been discussed and agreed with the Chief Accountant (as successor to the former office of States Treasurer) and the Law Officers of the Crown.

8. Need for Legislation

There is no requirement for legislation arising from this Report.

9. Recommendation

- 9.1 The Committee recommends the States:
 "To rescind Resolution 1 on Article XXI of Billet d'État III of 2004".

Yours faithfully

Barry Paint
 Vice Chairman

Public Accounts Committee:

Deputy Leon Gallienne (Chairman)
 Deputy Barry Paint (Vice Chairman)
 Deputy Mrs Jane Stephens
 Deputy Martin Storey
 Deputy Mike Garrett
 Mr Michael Best
 Mr Eifion Thomas
 Mr Chris Bradshaw
 Advocate Mark Helyar

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

Deputy Leon Gallienne	Reason: Signatory of the original Requête
Mr Michael Best	Reason: Former Vice President, Board of
Administration	

The States are asked to decide:-

XVII.- Whether, after consideration of the Report dated 16th December 2011, of the Public Accounts Committee, they are of the opinion to rescind Resolution 1 on Article XXI of Billet d'État III of 2004.

SCRUTINY COMMITTEE**MANAGING DISRUPTIVE BEHAVIOUR AND SCHOOL EXCLUSIONS REVIEW**

The Presiding Officer
States of Deliberation
Royal Court House
St Peter Port
Guernsey
GY1 2PB

9th January 2012

Dear Sir

1. Executive Summary

- 1.1 This States report presents the findings of the Scrutiny Committee's "Managing Disruptive Behaviour and School Exclusions Review". The full review report is set out in Appendix A.

2. Background

- 2.1. In 2006 the previous Scrutiny Committee considered school exclusions as a potential review topic and sought information from the Education Department on the policies it has in place for managing school exclusions. The Committee was provided with the relevant policies; however it resolved not to pursue a formal review at that time.
- 2.2. In December 2007, the Secretary of State of the Department for Children, Schools and Families asked Sir Alan Steer to conduct a review into the progress made in raising standards of behaviour and discipline in school; in April 2009 Sir Alan Steer published "*Learning Behaviour: Lessons Learned. A Review of Behaviour Standards and Practices in our Schools*".
- 2.3. Following this report's publication, a Member of the Committee asked the Department for details on how it would be considering the recommendations made in the report and for updated statistics on the use of exclusion locally.
- 2.4. The Department provided the Committee with the latest exclusion statistics and advised that the Steer report's recommendations would be considered by senior officers and headteachers as part of a previously planned review of the Department's "*Guidance and Procedures for Managing Exclusions*" policy.

- 2.5. In formulating its Forward Work Programme in 2009, the Committee agreed there would be merit in examining how well the current policies and strategies for dealing with school exclusions and disruptive behaviour worked in practice, and how the Department measures the performance of both.
- 2.6. The Committee's findings are based on its consideration of the statistics, policies and procedures provided by the Department, the evidence collated at two hearing meetings with the Department and an extensive consultation process. The consultation process included seeking the views of headteachers, teachers, parents, pupils, members of the public, relevant States of Guernsey departments, teaching unions and pre-schools. The consultation ran from October 2010 to March 2011.
- 2.7. Deputy David De Lisle and Deputy Matt Fallaize absented themselves, in accordance with the Committee's guidelines on special interest, and did not participate in the formulation or consideration of this review report due to their membership, at the time of the review, of the Education Board.

3. The Scrutiny Review Report

3.1 Overview of the Review Report

- 3.1.1. The Committee's review report focuses on the role of the Department in providing policies, procedures, support and training to schools to manage disruptive behaviour. It also considers how the Department monitors the effectiveness of the implementation of its policies and procedures. It has not reviewed every method of behaviour management utilised in schools and, in particular, has not reviewed the individual skills of teachers at managing disruptive behaviour in their classroom.
- 3.1.2. The issues the Committee focused its review on are:
 - The Behaviour Toolkit and schools' behaviour management policies;
 - The training and support provided to teachers;
 - The role of the SEN¹ Co-ordinator, Behaviour Co-ordinator and nurture groups;
 - The use of internal and external exclusions.
- 3.1.3. Throughout the course of this review, the Committee has been mindful of the various other avenues that could be explored as a result of considering the topic. For example, the review did not seek to assess or define the socio-economic factors which may contribute to disruptive behaviour within schools, or what causes disruptive behaviour; it focuses on assessing how disruptive behaviour is dealt with by the Department.

¹ Special Educational Needs

- 3.1.4. As a result of its consultation, three other issues were brought to the Committee's attention which, while not falling directly within the Terms of Reference² of the review, were deemed worthy of comment and inclusion. These were the procedures in place in Alderney, the provisions for pupils with ADHD and the pre-school referral process and links to the Department's schools.
- 3.1.5. The Committee concluded that the Department has a number of detailed policies, procedures and support provisions in place to assist the management of disruptive behaviour within the schools under its control.
- 3.1.6. However, it believes there are areas of improvement that could be made to increase the effectiveness of the implementation of these policies, and the oversight provided by the Department, and therefore resolved to make ten recommendations – with relevant subsections - to be considered by the Education Department.
- 3.1.7. This States Report will outline the recommendations contained in the review report, together with a summary of the information it received that led the Committee to make its conclusions and recommendations.

3.2 The Behaviour Toolkit and Schools' Behaviour Management Policies

- 3.2.1 Each headteacher is responsible for writing, reviewing and communicating their school's individual behaviour management policy, which sets out the behaviour expectations for that school and how any disruptive behaviour will be managed.
- 3.2.2 The Department produced a Behaviour Toolkit as a resource for schools to refer to when writing and reviewing their behaviour management policy and to provide guidance to teaching staff on how disruptive behaviour could be monitored and managed within a school.
- 3.2.3 The Committee, along with most headteachers, found the Behaviour Toolkit to be a useful guide. To ensure the ongoing effectiveness of this Toolkit it believes it should be regularly reviewed to ensure it remains in line with best practice.
- 3.2.4 The Committee was unclear from its review how widely the Behaviour Toolkit is distributed within schools, as no teacher commented on the support and training resources provided within it. In order to guarantee this useful resource is accessible to all teaching staff, the Committee believes the Behaviour Toolkit should be published on the teachers' intranet.

[Recommendation 1A] *The Education Department to regularly review the Behaviour Toolkit within a specified timescale, say every two years, and publish it on the teachers' intranet.*

² See Section 1 of the appended review report for the review's Terms of Reference.

- 3.2.5 The Behaviour Toolkit sets out five content areas that schools “*should*” include in their behaviour management policy.
- 3.2.6 While the Committee supports the Department’s view that each school is best placed to adapt its behaviour management policy to meet its needs, it believes it essential that every policy is consistent in containing content on these five stated areas.
- 3.2.7 The Committee found the level of detail contained within schools’ policies against these content areas to vary greatly; some schools’ policies do not even include content on all five areas.
- 3.2.8 In addition, the Committee found schools’ behaviour management policies lacked information on the use of ‘internal exclusions’ (see section 3.5).

[Recommendation 2A] *The Education Department to monitor every school’s behaviour management policy to ensure, as a minimum, they all set out detailed and clear content on:*

- i) The School’s expectations of good behaviour and how this will be supported;*
- ii) The boundaries of acceptable behaviour;*
- iii) The disciplinary and supportive actions the school will establish;*
- iv) The administrative and recording systems in place to monitor behaviour.*
- v) The briefing and training for staff to ensure consistency in the approach to managing behaviour.*

[Recommendation 2C] *The Education Department to ensure every school’s behaviour management policy is clear on how internal exclusions may be used so teachers, parents and pupils are aware of their purpose.*

- 3.2.9 Due to the importance of a school’s behaviour management policy in setting the behaviour standards for a school, the Committee believes they should be regularly reviewed and updated, at least every 2 years, to ensure they continue to meet the evolving needs of the school. The Committee’s research showed that some policies give no indication of when they were last reviewed or when they are due for review.
- 3.2.10 The Committee supports Sir Alan Steer’s view that schools need an appropriate evidence base to assess the level of disruptive behaviour against, which should be considered as part of their review of their behaviour management policy. The Behaviour Toolkit makes provision for this³ but there is no requirement for schools to undertake these audit procedures and the Committee is unclear to what extent schools actually utilise them.

³ Provision for this is set out in Unit 1 of the Behaviour Toolkit.

- 3.2.11 The Committee also believes it vital that a school's behaviour management policy is communicated effectively to all interested parties so they know what the school's expectations of behaviour are.
- 3.2.12 Respondents to the Committee's questionnaire collectively outlined a number of different communication methods used for this, which differed both across and within schools, with varying effectiveness. The Committee considers one of the most cost effective and wide reaching communication methods available to schools to be the internet; almost all schools have a website, but the Committee was surprised that only four schools have their full behaviour management policy published on their website.

[Recommendation 2B] *The Education Department to ensure every school's behaviour management policy:*

- i) *Is reviewed every two years using the audits set out in Unit 1 of the Behaviour Toolkit;*
- ii) *Contains the date of its last review and be formally signed off by the Department.*
- iii) *Is published in full on the school's website.*

3.3 Supporting Provisions: Training and Supporting Teachers

- 3.3.1 Teachers are at the "front line" when implementing their school's behaviour management policy and the Committee considers it essential they have access to appropriate training and support to assist them in managing disruptive behaviour.
- 3.3.2 Training and support in behaviour management is provided to teachers both centrally by the Department and by the individual headteacher/school.
- 3.3.3 The key support provisions the Department has in place include the Advisory and Outreach Service⁴, the Behaviour Toolkit and the bi-annual support "Allocation Panel" meetings⁵, all of which the Committee believes are valuable tools in providing support to teachers.
- 3.3.4 Approximately half of respondent teachers to the Committee's questionnaire rated the support and training provided by the Department in relation to disruptive behaviour as either poor or very poor, which indicates teachers either do not consider the provisions in place to be sufficient to meet their needs, or they are not fully aware of the resources available.
- 3.3.5 The Committee believes the latter may be true, particularly in relation to the support provisions as no teacher made reference to any of these in their

⁴ The Education Development Centre is an internal central resource responsible for organising and coordinating training, with the Advisory and Outreach Service providing training to teaching staff specifically on matters relating to managing pupils with behavioural difficulties.

⁵ The Department has a bi-annual multi-agency meeting to determine the allocation of additional support resources to schools. See section 6.2 of the review report for additional detail.

questionnaire returns and, when directly asked during the consultation focus group, the three teachers were unclear of the role and function of the Advisory and Outreach Service. The Committee believes the Department should ensure all teachers have access to information on the behaviour management support provisions available to them and on the purpose of the Allocation Panel meetings.

- 3.3.6 The Advisory and Outreach Service's training course schedule is circulated to all teaching staff directly and is also published in the Education Development Centre's training schedule on the Department's website. It appears that information on training is easily accessible to teachers, however the reasons for the dissatisfaction expressed by some teachers is unclear and merits further consideration.
- 3.3.7 Although not to the same degree, a level of dissatisfaction was also expressed by some respondent teachers on the behaviour management training and support provided by their school/headteacher.
- 3.3.8 The Committee understands that a bi-annual headteachers' conference takes place and believes the training and support provided by schools/headteachers in behaviour management should be discussed at this meeting to determine how it might be improved.
- 3.3.9 In light of the importance of providing teachers with sufficient behaviour management training and support, and in support of the above conclusions, the Committee believes increased regular communication and consultation with teachers on what improvements they would like to see in this area would be a valuable initiative.

[Recommendation 3] The Education Department to:

- i) *Extend the existing SEN Criteria to include detail on the function and decision making role of the Allocation Panel meeting and the Link Centre Nurture Group. [see also paragraph 3.4.7]*
- ii) *Ensure in-school training and support provided to teachers is discussed at the next bi-annual headteachers' conference to determine where improvements might be made.*
- iii) *Consult all teachers to ascertain what improvements they would like made to the behaviour management training and support available to them.*

3.4 Support Provisions: SENCOs, BECOs and Nurture Groups

- 3.4.1 Other support mechanisms in place for teachers are the advice and support provided by their school's Special Educational Needs Co-ordinator (SENCO) and either their school's Behaviour Coordinator (BECO) or nurture group.
- 3.4.2 Each school has one named SENCO and their role is to coordinate the SEN provisions within their school and offer advice and support to teachers to assist them in managing and providing for pupils with special educational needs.

- 3.4.3 Secondary schools, and Le Rondin Primary School, also have one BECO who is responsible for coordinating the management of pupils with behavioural problems, particularly those who have social, emotional and behavioural difficulties. The BECO's role is to implement strategies to support teachers manage disruptive behaviour, which includes providing direct teaching and support for these pupils.
- 3.4.4 Primary schools do not have a BECO provision; instead pupils in Key Stage 1⁶ have access to nurture group facilities, which provide support to pupils who have missed out on early learning experiences and lack foundation skills for further learning. At present only Amherst Primary School⁷ and St Martin's Primary School have dedicated, and operating, nurture group facilities on site⁸, with all other primary schools having access to the nurture group facility at the Link Centre.
- 3.4.5 The consultation results highlighted that respondent teachers from the three High Schools – La Mare De Carteret High School, Les Beaucamps High School and St Sampson's High School – do not feel their school has sufficient SENCO or BECO resources, leading the Committee to conclude that the Department needs to review these provisions within these schools.
- [Recommendation 4] The Education Department to:**
- i) Review the SENCO provision in the three high schools to ensure it is adequately resourced.*
 - ii) Review the current provision of BECO resources, in consultation with the headteachers and teachers, to identify any resource issues.*
- 3.4.6 In relation to nurture groups, the Committee fully supports their introduction and found the feedback on their provision to be positive. While the Committee notes the Department's long-term aspiration of providing a nurture group facility in every primary school, it is mindful of both the accommodation and resource constraints facing schools, and so supports the availability of the central Link Centre nurture group.
- 3.4.7 However, it appears that some primary school teachers are unclear on their school's access to this shared nurture group and the Committee believes its role requires clarification to all teachers.
- 3.4.8 The Committee believes there is a need to consistently provide behaviour management support throughout a pupil's schooling, however, the Committee has identified a gap in additional support provisions for pupils of Key Stage 2⁹

⁶ Pupils in Year 1 and Year 2 i.e. children aged 5 to 7.

⁷ Amherst Primary School nurture group is specifically dedicated to pupils in the Foundation Stage i.e. children aged 3 – 5 years old.

⁸ La Mare De Carteret Primary School had a nurture group facility but the headteacher does not feel there is currently demand to operate a dedicated facility.

⁹ Pupils in Years 3, 4, 5 and 6 i.e. children aged 7 to 11.

age. While it acknowledges that Key Stage 2 pupils, like other age groups, have access to general behaviour support mechanisms, they do not have additional dedicated behaviour management provisions as the other key stages do; Key Stage 1 have access to nurture group facilities; Key Stage 3 and 4 have access to the BECO support but no equivalent additional provision is in place for teachers and pupils in Key Stage 2.

- 3.4.9 Some teachers suggested that a BECO provision or an extension to nurture groups could be implemented in Key Stage 2. The Committee believes there is merit in the Department investigating whether the existing provisions are adequate for Key Stage 2 pupils.

[Recommendation 5] *The Education Department to consult with interested parties to determine whether the current behaviour management support in Key Stage 2 is sufficient.*

3.5 Internal Exclusions

- 3.5.1 At times disruptive behaviour may occur at such a level that behaviour management techniques are required beyond those available within the classroom setting; this is when a form of exclusion may occur.
- 3.5.2 One option available to schools is to internally exclude a pupil, which is the temporary removal of a pupil from their class, lunch/break time or extra-curricular activity for a set period of time.
- 3.5.3 The Committee believes that for the use of internal exclusions to be an effective behaviour management tool it is essential the Department monitors their use, including their frequency and duration, how they are resourced and how their use is communicated to parents.
- 3.5.4 The Committee was concerned that while 13 headteachers confirmed they use internal exclusions, only four have a dedicated “time-out” room to send pupils to. The Committee believes schools should have both a dedicated room to send pupils to and sufficient staff time to provide supervision.
- 3.5.5 A child exhibiting behaviour which leads to a teacher excluding them from the classroom is a serious enough sanction to lead the Committee to believe that parents should be informed of every incident when their child is internally excluded. It also believes the communication procedures for doing so should be formalised, rather than the inconsistent methods currently used across schools.

[Recommendation 6A] *The Education Department to review the resources available to schools when using internal exclusions, to assess whether there is adequate time-out and supervision resources.*

- 3.5.6 The Department’s “Guidance and Procedures for Managing Exclusions” makes provision for “special circumstances” where a headteacher may deem it

necessary for a pupil to be removed from class and have time away from the school site for the remainder of the school day, for what is often termed a “cooling off” period. The Committee believes that, together with internal exclusion, when this approach is considered necessary the pupil’s behaviour should be formally discussed with them in an attempt to address the reasons behind it and so reducing the likelihood of the disruptive behaviour being repeated.

- 3.5.7 The Committee found there to be an absence of detail on the processes in place to achieve this following either internal exclusions or “cooling off” days and therefore believes central procedures should be established to address this.

[Recommendation 6B] *The Education Department to ensure that schools have clear procedures for discussing and addressing the reasons for a pupil behaving disruptively when it results in an internal exclusion or a “cooling-off” period.*

- 3.5.8 While there is a requirement for schools to inform the Department on the use of “cooling-off” periods, there is currently no requirement to report the use of internal exclusions. Therefore, the Committee believes schools should be required to prepare a termly report to the Department setting out:

- The number of internal exclusions issued.
- The reasons for each case.
- The occurrence of repeat internal exclusions.

- 3.5.9 To increase the transparency on the use of both internal exclusions and “cooling-off” days, the Committee believes the Department should include statistics on the use of both within its annual exclusions report.

[Recommendation 6C] *The Education Department to:*

- i) *Set up a formal requirement for schools to report the number, and details, of the internal exclusions that have been issued each school term.*
- ii) *Ensure that statistics on the use of internal exclusions and “cooling-off” periods are published in the Department’s Exclusion Statistics Report.*

3.6 External Exclusions

- 3.6.1 The most severe behaviour management sanction available to headteachers in managing disruptive behaviour is external exclusion (“exclusion”), which is the temporary removal of a pupil from their registered school premises for a time-limited period. It is considered to be “the last resort” and only used when the school has exhausted all other behaviour management strategies available to it. Exclusions fall into one of three categories:

- Category 1 exclusion – up to five school days.
- Category 2 exclusion – between five and twenty school days.
- Category 3 exclusion – for periods over twenty school days.

The category of exclusion is dependent on the gravity of the disruptive behaviour.

- 3.6.2 The Committee supports the use of exclusion, in the right circumstances, but considers it essential that the stages of the exclusion process are implemented effectively, and without exception, so any negative impact on the excluded pupil is minimised.
- 3.6.3 The stages in the exclusion process are set out in the Department's "*Guidance and Procedures for Managing Exclusions*". The Committee believes this document clearly sets out the roles and responsibilities of those involved in the exclusion process and believes it would be of interest to the public, and can identify no reason why it should not be published on the Department's website to assist understanding of the process.

[Recommendation 7Cii] *The Education Department to publish its "Guidance and Procedures for Managing Exclusions" on its website.*

External Exclusion Statistics

- 3.6.4 Schools are required to notify the Department as soon as a pupil is excluded and an annual exclusion data report is compiled setting out:
- The number of exclusions.
 - The number of exclusions by category.
 - The number of exclusions by month.
 - The number of exclusions by school year group.
- 3.6.5 This report is not published but the Department confirmed it is available upon request¹⁰. In order to increase transparency and understanding on the use of exclusion locally, the Committee believes this report should be published on the Department's website.
- 3.6.6 An exclusion data report is also provided to both the Education Board and headteachers, but the Committee is unclear what statistics these reports contain. To enable the Board to accurately assess the use of exclusion locally, while also allowing it to provide political oversight on the consistency in the use of exclusion across schools, the Committee believes that, in addition to the information provided in the published document, the Department's Board should be provided with data on:
- The use of exclusion within each school.
 - The reasoning behind each of these exclusions.
 - The number of days a child is excluded in each exclusion period.

¹⁰ Section 7.3 of the appended review report sets out detail on the use of exclusions locally over the past 5 school years.

- 3.6.7 To enable headteachers to gauge whether their use of exclusion is consistent with other schools, the Committee believes their exclusion report should include information on the reasoning behind exclusions in other schools.
- 3.6.8 When undertaking its research, the Committee considered there to be an absence of data on the progress of excluded pupils after school and the potential impact exclusion can have on a person's life. The Committee recommends that in the development of Guernsey's NEET Strategy, consideration be given to collecting relevant statistics in this area.

[Recommendation 7A] *The Education Department to:*

- i) Publish an annual report on exclusions on its website.*
- ii) Ensure the Board receives statistics, in its Annual Exclusion Data Report, on:*
 - The use of exclusion in each school;*
 - The reasoning behind each exclusion;*
 - The exact length of each exclusion period.*
- iii) Include the reasons for exclusion within the exclusion statistic report provided to headteachers.*
- iv) Ensure that statistics on excluded pupils after school are included within the development of Guernsey's NEET Strategy.*

The Reasons for Exclusion

- 3.6.9 The decision to exclude a pupil can only be made by the headteacher, or their designate, and it is their responsibility to determine the category and length of exclusion in response to the severity of the disruptive behaviour.
- 3.6.10 The Department does not set out a prescriptive list of which behaviours warrant each category of exclusion, but does monitor the reasons for exclusions.
- 3.6.11 The consultation results highlight concern with the consistency in the reasons for exclusion across schools; 57% of respondent headteachers did not feel there was a consistent approach in the use of exclusion across schools. Some respondent teachers also felt there was inconsistency in the use of exclusion within their school.
- 3.6.12 These concerns led the Committee to conclude that it could be beneficial for the Department to publish guidelines, in principle, on the disruptive behaviours that could warrant each of the three categories of exclusion, to increase consistency of use.

[Recommendation 7Ciii] *The Education Department to give consideration to preparing central guidelines for headteachers to refer to on what behaviour could warrant each of the three categories of exclusion.*

Education during the Exclusion Period

- 3.6.13 A pupil who is excluded from school is not excluded from receiving education. In order to avoid a pupil's education being negatively impacted during their exclusion period, the Committee considers it essential for the Department to have robust processes in place to ensure the continuation of education.
- 3.6.14 A pupil remains at home for days one to five of their exclusion and during this time the school sets work for the pupil to complete and it is the parents' responsibility to collect and return this work to/from the school.
- 3.6.15 From day 6 of exclusion, the pupil attends the Link Centre until the expiration of their exclusion. Work is set by the school for completion at the Link Centre, which should then be returned for marking and returned back to the pupil.
- 3.6.16 The Department, schools, parents and pupils all have a role to play in ensuring the continuation of education during an exclusion period. However, the consultation results indicate that some doubt the effectiveness of education provision during exclusion, with the following reasons given:
- Teacher respondents believe the main problem is that work set by them is not completed by the pupil, or returned for marking.
 - Link Centre teachers do not feel sufficient work is set by a school for a pupil to complete during their exclusion time at the Link Centre and that the work set can be inconsistent with the curriculum the pupil is missing.
 - Public respondents believe the main problem is that insufficient work is set by the school for the pupil to complete.
- 3.6.17 In order to address and alleviate these concerns, the Committee believes the Department should review the procedures for setting, completing and returning work during exclusion periods.

[Recommendation 7D(ii) and (iii)] *The Education Department to:*

- ii) Review its procedures in the setting and completion of work during exclusion and produce more detailed guidelines for teachers and parents to follow to ensure appropriate work is set and returned from day 1 of a pupil's exclusion.*
- iii) Work with schools and the Link Centre to set mutually agreed procedures for the setting and return of work during an excluded pupil's attendance at the Link Centre.*

Addressing the Reasons behind Pupils' Disruptive Behaviour and the Reintegration Procedures Following Exclusion

- 3.6.18 There was a common view among questionnaire respondents that without getting to the root cause of a pupil's disruptive behaviour, and seeking to solve it, exclusion becomes a cycle and is unfair on the school and the pupil.

- 3.6.19 The Committee strongly believes that if exclusion is to be effective then addressing the reasons behind a pupil's disruptive behaviour and successfully reintegrating them into their mainstream school are essential elements of the process.
- 3.6.20 The concerns expressed by some respondents on the effectiveness of the procedures that seek to address the reasons behind a pupil's disruptive behaviour are evidenced by the Department's exclusion statistics which show a number of repeat exclusions each year¹¹; the Committee believes if the reasons behind a pupil's disruptive behaviour are successfully addressed during exclusion, repeat exclusions should be minimised.
- 3.6.21 The Committee could find no evidence in the "*Guidance and Procedures for Managing Exclusions*" that indicates a "trigger point" for the Department to consider more serious intervention and involvement with a pupil following repeat exclusion. In an attempt to reduce repeat exclusions, the Committee believes the Department should review its procedures and prepare detailed guidelines, for all categories of exclusion, on how the reasons behind a pupil's disruptive behaviour are addressed.
- [Recommendation 7B]** *The Education Department to provide detail in the "Guidance and Procedures for Managing Exclusions" on the monitoring it conducts, and the action it can take, for repeat exclusions.*
- [Recommendation 7Eii]** *The Education Department to review the procedures in place for addressing the reasons behind all excluded pupils' disruptive behaviour, particularly while they are attending the Link Centre, and publish clear guidelines in the "Guidance and Procedures for Managing Exclusions".*
- 3.6.22 Some respondents expressed concern at how pupils spend their time during their exclusion period and suggested it be adapted so it is perceived as a more severe sanction, rather than just a "day off" school. The Home Department suggested the ethos of "community service" could be incorporated to form an additional sanction against disruptive behaviour.
- 3.6.23 While the Committee acknowledges the Department's administrative procedures in arranging an excluded pupil's attendance at the Link Centre, the Committee questions whether excluded pupils could attend the Link Centre sooner than day 6 of their exclusion to ensure a more formal provision earlier in the exclusion period.

[Recommendation 7Ei] *The Education Department to consider the Home Department's suggestion of a community service approach for excluded pupils as part of the exclusion period.*

¹¹ See Figure 5 in the appended review report.

[Recommendation 7Di] *The Education Department to review its current procedure to ascertain whether pupils can attend the Link Centre sooner than day 6 of their exclusion.*

3.6.24 In relation to the reintegration procedures following exclusion, the Committee believes the Department has clear and detailed provisions in place with the re-entry meetings, the Professionals Meeting and the Education Placement meetings¹². However, the public and teacher respondents' satisfaction on this aspect of the process was limited, which the Committee believes could be due to a lack of knowledge on the processes in place due to limited information being publicly available or provided in the "*Guidance and Procedures for Managing Exclusions*".

3.6.25 The Committee also questions the monitoring that takes place following a pupil's reintegration into school. Some detail was obtained on the reintegration monitoring undertaken for excluded pupils who attend the Link Centre, but it is unclear if any reintegration monitoring guidelines exist for headteachers to follow.

[Recommendation 7F] *The Education Department to:*

- i) *Set out further detail in the "Guidance and Procedures for Managing Exclusions" on the reintegration procedures it has in place.*
- ii) *Publish guidelines for headteachers on the monitoring of excluded pupils following reintegration.*

The Exclusion Appeals Procedure

3.6.26 Parents have the right of appeal against a decision to exclude their child for either category 2 or category 3 exclusions.

3.6.27 The Appeals Panel comprises a member of the Board of Education, an officer from the Health and Social Services Department's Services for Children and Young People and an educational professional who is independent from the school.

3.6.28 Limited evidence was collected on the effectiveness of the appeals procedure, however, upon review the Committee considers complete independence from the Education Department to be key within this process and feels this is an area the Department could look to review.

[Recommendation 7G] *The Education Department to review the Appeals Panel membership with the aim of making it fully independent.*

¹² Please see section 7.3 of the appended Scrutiny Review Report for detail on these meetings.

Parental Involvement in the Exclusion Process

- 3.6.29 The necessity of a partnership approach between schools and parents is frequently emphasised by the Department. The Committee believes this to be particularly essential during the exclusion process.
- 3.6.30 Parents play a key role in supporting their child during the exclusion process, especially during days one to five, before their attendance at the Link Centre, and in the reintegration process; the success of these aspects of the exclusion process is reliant on their cooperation.
- 3.6.31 In order for them to undertake their role effectively, they need to be aware of the requirements expected of them; these are set out in “*A Parents’ Guide to the Exclusion of Pupils from School*” booklet.
- 3.6.32 While the Committee supports the provision of this Guide, it believes insufficient detail is contained on the role expected of parents in ensuring their child’s education is continued during days one to five of the exclusion.
- 3.6.33 In addition to this, the Committee believes more information should be provided on the Link Centre’s role in the exclusion process on the Department’s website, so parents can better understand its function in this regard.

[Recommendation 7H] *The Education Department to provide greater detail in the “A Parents’ Guide to Exclusion of Pupils from School” on the roles expected of parents in the education of their child during their exclusion period.*

[Recommendation 7Ci] *The Education Department to publish more detailed information on its website on the role of the Link Centre in the exclusion process.*

3.7 Alderney

- 3.7.1 The Committee received a good response rate to its public consultation from members of the public in Alderney, who highlighted two issues linked to the management of disruptive behaviour in schools.
- 3.7.2 The first was in relation to St Anne’s School having one teacher undertaking both the SENCO and BECO role. A number of consultees expressed a level of dissatisfaction with having a shared, rather than separate, provision. This led the Committee to conclude that the Department should review whether these two roles could be more effectively undertaken separately.
- 3.7.3 The second was in relation to provisions for pupils with SEN in Alderney. Alderney consultees expressed concern at the lack of a local dedicated provision for pupils with SEN, commenting that pupils with SEN were educated alongside their peer pupils, in mainstream classes, due to the absence of a dedicated SEN facility. However, in contrast, following the consultation period the Department

provided details of a SEN Base¹³ that had been in operation within St Anne's School since September 2009.

- 3.7.4 No comment was made by any respondent on the SEN Base at St Anne's School; instead, Alderney consultees, including St Anne's School's headteacher and teacher respondents, recommended the introduction of a dedicated "*SEN/SEBD referral unit/base*" for pupils with SEN in Alderney.
- 3.7.5 In light of these contrasting opinions, the Committee believes there is a disparity in the SEN Base provision meeting the consultees' expectations and believes the Department should review the provision available, how it is used in practice and what improvements could be made to ensure it is meeting the needs of St Anne's School.

[Recommendation 8] The Education Department to:

- i) Review the joint SENCO and BECO role at St Anne's School.*
- ii) Review the implementation of the SEN Base provision at St Anne's School, following consultation with all interested parties.*

3.8 Pupils with ADHD

- 3.8.1 A number of parents of pupils with ADHD¹⁴ contacted the Committee to express their frustration at the provisions available within schools to support pupils with ADHD.
- 3.8.2 Concern was expressed at both the gap in provision between the CAMHS¹⁵ assessment and the resulting resource provisions implemented by schools, and the level of training provided to teachers in managing pupils with ADHD.
- 3.8.3 The Committee accepts that due to resource constraints, additional classroom support resources have to be prioritised, with supply often not meeting demand. However, it is concerned that some parents of children with ADHD felt the assessment provisions for their child were not put in place at schools and consequently felt their child's education was being adversely affected. In order to limit any areas of concern, the Committee believes both the Education Department and the Health and Social Services Department should liaise with the parents, pupils and each other, regarding the support available to children with ADHD.
- 3.8.4 Some parents of pupils with ADHD and ADHD Guernsey raised concern with the training provided to teachers in managing pupils with ADHD. ADHD training is provided to teachers upon request, however, the Committee believes

¹³ The SEN Base is primarily for pupils with identified SEN living in Alderney who would meet the criteria to access specialist provisions, such as a special school, Communication Base or SEBD Centre were they residing in Guernsey.

¹⁴ Attention deficit hyperactivity disorder

¹⁵ Child and Adolescent Mental Health Service, Health and Social Services Department

this training provision could be reviewed by the Department to assess how it might be improved.

[Recommendation 9]

- i) *The Education Department and the Health and Social Services Department to review, in partnership, how assessments by CAMHS are communicated and where improvements could be made.*
- ii) *The Education Department, in consultation with headteachers and teachers, to assess the current training provided to teachers to ascertain the capacity and capability of schools to deal with children with ADHD. This should include examining the training, support and resources available to teachers to assist with the behaviour management of children with ADHD.*

3.9 Pre-Schools

- 3.9.1 The first formal education environment a child can experience is at pre-school. Therefore, pre-schools can play an important role in the early identification of behavioural difficulties.
- 3.9.2 The Pre-School Learning Alliance highlighted dissatisfaction with the referral process from pre-schools to relevant health professionals and felt this could hinder a pupil's behavioural difficulties being appropriately addressed and provided for in their early development years.
- 3.9.3 The Committee believes there is merit in the Health and Social Services Department consulting with pre-schools and the Pre-School Learning Alliance to seek clarity on the concerns expressed, and for them to work together to determine how the current arrangements could be improved.
- 3.9.4 In addition to this, the Pre-School Learning Alliance would like the referral process between pre-schools and recipient primary schools to be formalised with a requirement for pre-schools to complete Pre-School Assessment Forms on each pupil, identifying any needs pupils may have, and for these to be passed to the recipient school in advance of a pupil's start date.
- 3.9.5 The Committee supports the completion of the Pre-School Assessment Forms and believes there is merit in the Department and the Pre-School Learning Alliance working together to formalise the transition procedures between pre-schools and primary schools.

[Recommendation 10]

- i) *The Health and Social Services Department to consult with the Pre-School Learning Alliance to discuss how the current provisions for referrals could be improved.*

- ii) *The Education Department to consult with the Pre-School Learning Alliance to formalise the transition arrangements between pre-schools and primary schools.*

4. Conclusions

- 4.1. The Committee is pleased to report, from its research and consultation, that the Education Department's view that disruptive behaviour within schools is caused by a minority of pupils is consistent with the views shared by those headteachers, teachers and members of the public who responded to the Committee's questionnaire. From the information received, the Committee has concluded that the level of disruptive behaviour within most schools is likely to be at a level that one might expect it to be, and not a large or very large problem.
- 4.2. However, a common theme across all respondent groups was that while disruptive behaviour can be regarded as "low level", any level of disruptive behaviour can be detrimental to the learning of pupils who are affected by it.
- 4.3. The Committee acknowledges that all schools, in all jurisdictions, will experience some level of disruptive behaviour. It is inevitable there will always be pupils who behave disruptively within a class and it is the degree, and management, of this disruptive behaviour that is important. Therefore, it is imperative the Department has appropriate policies, procedures and support resources available in schools to manage this effectively.
- 4.4. The appended review report aims to provide a comprehensive overview of the Department's central policies and procedures for managing disruptive behaviour within schools. The Committee believes the Department has a number of useful policies, processes and support procedures in place for schools to follow, but believes the service delivery of aspects of these provisions could be improved.
- 4.5. The Committee believes the implementation of the recommendations made within its review report should improve the effectiveness of the policies, increase user satisfaction and ensure the Education Board is updated with sufficient detail to provide effective oversight of the management of disruptive behaviour and school exclusions within its schools.

5. Six Principles of Good Governance

- 5.1 The Scrutiny Committee believes its review and proposals comply with the six principles of good governance:

<p>Core Principle 1: <i>Good Governance means focusing on the organisation's purpose and on outcomes for citizens and service users.</i></p>	<p>This review topic falls directly within the Committee's mandate and seeks to determine and assess the performance of the Education Department in managing disruptive behaviour, while identifying service delivery areas that</p>
---	--

	<p>require amendment. Disruptive behaviour can impact negatively on the learning of all pupils in a class and therefore it is imperative the Department manages it effectively. Focus on the purpose of the review was achieved by defining the Terms of Reference ahead of the review. Focus on outcomes for citizens and service users was given particular prominence by extending the consultation period and including in the scope areas of particular concern raised by consultees.</p>
<p>Core Principle 2: <i>Good Governance means performing effectively in clearly defined functions and roles.</i></p>	<p>In undertaking this review, the Committee operated within its mandate and ‘Guide to Scrutiny’, which clearly sets out its role and function. The Terms of Reference for the review were published at the commencement of the review and adhered to throughout.</p>
<p>Core Principle 3: <i>Good governance means promoting good values for the whole organisation and demonstrating the values of good governance through behaviour.</i></p>	<p>Throughout the review, the Committee followed its guidance and principles published in its ‘Guide to Scrutiny’, ‘Special Interest Guidelines’ and its guidelines for the submission of evidence to reviews.</p>
<p>Core Principle 4: <i>Good governance means taking informed, transparent decisions and managing risk.</i></p>	<p>The report’s recommendations are based on analysis of information gathered from meetings with the Education Department, headteacher, teacher, public and departmental consultations and the procedures in place in other jurisdictions. These analyses are published and the conclusions reached by the Committee explained in its review report and supported by the published information. The Committee considers possible risks and how they might be mitigated before embarking on a review.</p>
<p>Core Principle 5: <i>Good governance means developing the capacity and capability of the governing body to be effective.</i></p>	<p>The Committee is mandated to subject departments and committees to regular reviews and this report makes recommendations to improve the effectiveness of the policies and processes of the Education Department in how it oversees and manages disruptive behaviour in the schools under its control.</p>

<p>Core Principle 6: <i>Good governance means engaging stakeholders and making accountability real.</i></p>	<p>The Committee has sought to engage stakeholders throughout this review via the use of public hearings, questionnaires, public drop-in sessions, one-to-one meetings, Facebook, a focus group and a visit to the Link Centre and Alderney. The results of this engagement were analysed and considered in the Committee's decision making when determining the review's recommendations.</p>
--	--

6. Letter of comment from the Education Department

- 6.1. The Scrutiny Committee approved the final review report at its meeting on 23rd November 2011 and a copy was sent to the Education Department for comment on 25th November 2011.
- 6.2. The Department's comments were received on 21st December 2011 and a copy of the Department's letter of comment is provided in Appendix 5 of the review report.
- 6.3. The Committee considered the Department's comments at its meeting on 4th January 2012 and adds the following comments in response to those raised:

Consultation Process

- 6.4. The Committee acknowledged in the 'Methodology' section of its review report that the 13.8% response rate from teachers limited the Committee's ability to draw conclusions on the views of 'teachers' as a collective. Therefore, the Committee carefully reported these results within its report to show that the percentages were from 'respondent teachers', not 'all teachers'. In undertaking analysis of the consultation results, it has properly considered the weighting of respondent teachers' comments in forming any conclusions.
- 6.5. While providing this caveat to the consultation results, it would be improper for the Committee to dismiss the valuable contribution to the review made by respondent teachers. Levels of dissatisfaction or satisfaction expressed by some teachers are still worthy of consideration and must be taken into account in the Committee's deliberations. Any comments put forward by any teacher have been considered in line with other information collected by the Committee and all the conclusions reached are a result of the evaluation of the information as a whole.

Focus Group

- 6.6. As with respondent teachers' questionnaire results, the views collected at the focus group have also been weighted appropriately and considered with the same caution and in conjunction with other consultation results.

- 6.7. The focus group was open to all teachers. An invitation was sent directly to teachers who responded to the questionnaire and expressed an interest in discussing their views further with the Committee. It was also advertised via the National Union of Teachers with the request that they extend the invitation to their members. Due to the anonymity of the teachers' consultation, the Committee could not select the focus group attendees and had to rely on teachers proactively attending of their own volition.

Review Programme

- 6.8. The Committee acknowledges the comments made by the Department in respect of the length of time it has taken to complete this review. The predominant delay was the extension of the consultation period, in an attempt to gain as broad a range of views as possible. This subsequently generated a significant amount of data that required detailed analysis.
- 6.9. The timeline in Appendix B sets out the key stages of the review report's development.

Resources

- 6.10. The Committee understands the resource constraints facing all departments, and acknowledges the pressures on the Education Department are no different.
- 6.11. While the Committee notes the Department's penultimate comment, that headteachers are responsible for the internal organisation, management and control of their school, the focus of the Committee's review has been on how the Department oversees schools to ensure its policies and procedures are implemented effectively. The overarching responsibility for the management of disruptive behaviour within schools rests with the Education Board and it is the Department's policies and procedures that the Committee has focused on, not the implementation of these by individual headteachers/schools.

Recommendations

- 6.12. The Committee is pleased to note the Department will report on each of the recommendations set out in the review report.

7. Recommendations to the States

The Scrutiny Committee asks the States to:

- a) Note this States Report, and the Committee's review report in Appendix A;
- b) Direct the Education Department to report to the Scrutiny Committee by not later than September 2012, updating the Committee on whether they have accepted or rejected the recommendations directed to it within the review

report (as set out in section 3 of this report) and, where they have accepted the recommendations, outlining a timetable for their implementation.

- c) Direct the Health and Social Services Department to report to the Scrutiny Committee by not later than September 2012, updating the Committee on whether it has accepted or rejected the recommendations directed to it within the review report (as set out in section 3 of this report) and, where it has accepted the recommendations, outlining a timetable for their implementation.
- d) Direct the Scrutiny Committee to publish not later than April 2013 an update on actions taken by the Education Department and the Health and Social Services Department.

Yours faithfully

B L Brehaut
Chairman
Scrutiny Committee

Members of the Committee are:

Deputy B L Brehaut (Chairman)
Deputy M J Fallaize (Vice Chairman)
Deputy M G G Garrett
Deputy J A B Gollop
Deputy J Kuttelwascher
Deputy R R Matthews
Deputy S J McManus
Deputy M P J Hadley
Deputy D de G De Lisle



SCRUTINY COMMITTEE

THE STATES OF GUERNSEY

SCRUTINY REVIEW REPORT

MANAGEMENT OF DISRUPTIVE BEHAVIOUR AND SCHOOL EXCLUSIONS



JANUARY 2012

Contents:

1. Introduction
<ul style="list-style-type: none"> • Background to the Review <ul style="list-style-type: none"> ○ Terms of Reference and Scope of the Review • Schooling in Guernsey • Methodology • Structure of the Report • Further Information
2. Disruptive Behaviour Locally
<ul style="list-style-type: none"> • Disruptive Behaviour <ul style="list-style-type: none"> ○ The Department's Viewpoint ○ Consultees' Views ○ Statistical Evidence ○ Managing This Disruptive Behaviour • Conclusions
3. Roles and Responsibilities
<ul style="list-style-type: none"> • Introduction • The Education Department • The Schools • Parents • Committees for States' Schools • The Independent Inspection Process • Conclusions
4. Policies in Place
<ul style="list-style-type: none"> • Overview • The Behaviour Toolkit • Schools' Behaviour Management Policies • Guidance and Procedures for Managing Exclusions • Other Relevant Policies • Restorative Justice • Conclusions
5. Policies in Practice
<ul style="list-style-type: none"> • A School's Behaviour Management Policy • The Guidance and Support Provided to Headteachers in Writing their School's Behaviour Management Policy • The Content of the Behaviour Management Policies • Reviewing and Auditing a Behaviour Management Policy • Communication of Behaviour Management Policies • Conclusions
6. Supporting Provisions
<ul style="list-style-type: none"> • Supporting Behaviour Management Policies • Training and Supporting Teachers

<ul style="list-style-type: none"> ○ Behaviour Management Training and Support Provided by the Education Department ○ In-School Behaviour Management Training and Support • SENCOs, BECOs and Nurture Groups <ul style="list-style-type: none"> ○ The Role of the Special Education Needs Co-ordinator: SENCO ○ The Role of the Behaviour Co-ordinators: BECO ○ Nurture Groups ○ Key Stage 2 Pupils • Conclusions
7. Exclusion
<ul style="list-style-type: none"> • What is Exclusion? • Internal Exclusions <ul style="list-style-type: none"> ○ Use of Internal Exclusion ○ Internal Exclusion Resources ○ Monitoring the Use of Internal Exclusion ○ Communicating Internal Exclusions ○ Special Circumstances: “Cooling Off” Days • External Exclusions <ul style="list-style-type: none"> ○ Exclusion Statistics ○ Exclusion as a Form of Behaviour Management ○ The Exclusion Process: The Department’s Guidelines ○ The Exclusion Process: Reasons for Exclusion ○ The Exclusion Process: Education During Exclusion ○ The Exclusion Process: Addressing the Reasons Behind Disruptive Behaviour and the Reintegration Procedures ○ The Appeals Procedure ○ Parental Involvement in the Exclusion Process • Conclusions
8. Alderney
<ul style="list-style-type: none"> • Education in Alderney • Public Consultation • SENCO and BECO Provision • SEN Provisions • Provisions for Excluded Pupils • Conclusions
9. Pupils with ADHD
<ul style="list-style-type: none"> • Attention Deficit Hyperactivity Disorder: ADHD • Resource Provisions • Teacher Training • Conclusions
10. Pre-Schools and Early Intervention
<ul style="list-style-type: none"> • Early Intervention <ul style="list-style-type: none"> ○ The Pre-School referral Process ○ Transition from Pre-School to Primary School • Conclusions

11. Recommendations
• Table of Recommendations
Glossary of Terms
Appendices
<ul style="list-style-type: none"> • Appendix 1 – Analysis of the Publication of Full Behaviour Management Policy on Schools’ Websites and Policy Review Dates • Appendix 2 – The Advisory and Outreach Service Training Courses • Appendix 3 – The Education Department’s “Exclusions Statistics: Annual Report” • Appendix 4 – Procedures for Admitting Pupils on Exclusion Placements to the Link Centre • Appendix 5 – Letter of comment from the Education Department

1. INTRODUCTION

1.1 Background to the Review

“Poor behaviour in schools cannot be tolerated. To do so is to harm the interests of pupils, staff and the perpetrators of the bad behaviour. Children have a right to attend school in safety and to learn without disruption from others. Parents are entitled to expect that their children have the best possible learning experience and one that will allow them to fulfil their potential. Teachers have a right to work in an environment that allows them to use their skills to the full for the benefit of all their pupils.”

Sir Alan Steer, Learning Behaviour: Lessons Learned, April 2009

- 1.1.1 The importance of education is indisputable, both for the benefit of the individual involved and for the benefit of the wider community. It is widely accepted that disruptive behaviour within a classroom can impact negatively on not only the learning of the disruptive pupil, but also on other pupils in the class.
- 1.1.2 The Scrutiny Committee (“the Committee”) is mandated¹⁶, through a process of political scrutiny, to subject departments and committees to regular reviews to determine the effectiveness of government policies and services.
- 1.1.3 In 2006, the previous Committee had shown an interest in the topic of school exclusions as a potential scrutiny review, and had asked the Education Department (“the Department”) questions on the policies it has in place for excluding pupils from school. It was provided with copies of the relevant policies which were considered by the Committee; however it resolved not to pursue the matter further at that time.
- 1.1.4 In May 2009, a Member of the Committee asked the Department for statistics on the use of exclusions locally and for details on how it would be considering the recommendations made in Sir Alan Steer’s “*Learning Behaviour: Lessons Learned*” Report¹⁷. The Minister of the Department responded:

“The Steer Report makes a total of 47 recommendations and I can confirm that the report’s recommendations are being considered by the Senior Officers in the Schools and Educational Services Division. Later in the year the opinions of the Island’s headteachers will be sought regarding the Report’s contents as part of

¹⁶ The Scrutiny Committee’s mandate can be located at:
www.gov.gg/ccm/navigation/government/states-members-and-committees/mandates-and-memberships/

¹⁷ In December 2007, the Secretary of State of the Department for Children, Schools and Families asked Sir Alan Steer to conduct a review into the progress made in raising standards of behaviour and discipline in schools following the publication of the Learning Behaviour Report in 2005. As a result, in April 2009 Sir Alan Steer published “*Learning Behaviour: Lessons Learned. A Review of Behaviour Standards and Practices in our Schools.*”

a previously planned review of the Education Department's Exclusions Policy and Procedures".

- 1.1.5 In 2009, the Committee agreed there would be merit in examining how well the current policies and strategies for dealing with school exclusions and disruptive behaviour worked in practice, and how the Department measured the performance of both.
- 1.1.6 It informed the Department that it intended to investigate progress made on the management of school exclusions and disruptive behaviour and requested information on the latest policies, practices and monitoring in this area.
- 1.1.7 The revised "*Guidance and Procedures for Managing School Exclusions*", was published in August 2010, and has been taken into account by the Committee as part of this review.

Terms of Reference and Scope of the Review

- 1.1.8 As part of its Forward Work Programme, the Committee resolved to review the policies of the Department, and their application, in managing disruptive behaviour and school exclusions, with a view to assessing:
 - The current Departmental policies for managing disruptive behaviour and school exclusions to determine:
 - How they are applied across schools within the Bailiwick of Guernsey under its control
 - How the application of the policies is monitored by the Education Department
 - Whether the policies, and their application, are effective
 - The impact of school exclusions on:
 - Students (and their families)
 - Other students
 - Teachers
 - The school
 - Any other factors
 - How the education of students is supported during periods of exclusion.
 - The reintegration of students into mainstream education further to periods of exclusion.
 - How school exclusions and disruptive behaviour are managed in other jurisdictions.

1.1.9 The Committee has not reviewed every method of behaviour management utilised within the schools across Guernsey, Herm and Alderney. Instead it has focused on reviewing the specific policies and processes that the Department has in place for schools to follow to ensure that they are robust and implemented effectively. These procedures are:

- The Behaviour Toolkit and schools' behaviour management policies;
- The training and support provided to teachers;
- The role of the SENCO, BECO¹⁸ and nurture group resources;
- The use of internal and external exclusions.

1.1.10 Throughout the course of this review, the Committee has been mindful of the various other avenues that could be explored as a result of considering the topic. For example, the review and this report do not seek to assess or define the socio-economic factors which may contribute to disruptive behaviour within schools, or what causes disruptive behaviour; it focuses on assessing how disruptive behaviour is dealt with by the Department.

1.1.11 It is also important to note that when the Committee refers to an “exclusion” in this report, it is referring to a forced exclusion by the school as a result of disruptive behaviour, not a self-selected exclusion by the pupil i.e. truancy, which is a separate and distinct issue in itself.

1.2 Schooling in Guernsey

1.2.1 Under the *Education (Guernsey) Law, 1970*, the Education Department is responsible for providing education to all pupils of statutory school age (5 – 16 years old) in Guernsey, Alderney and Herm. The Law sets out that all children of statutory school age should attend school, unless other suitable arrangements have been made for them.

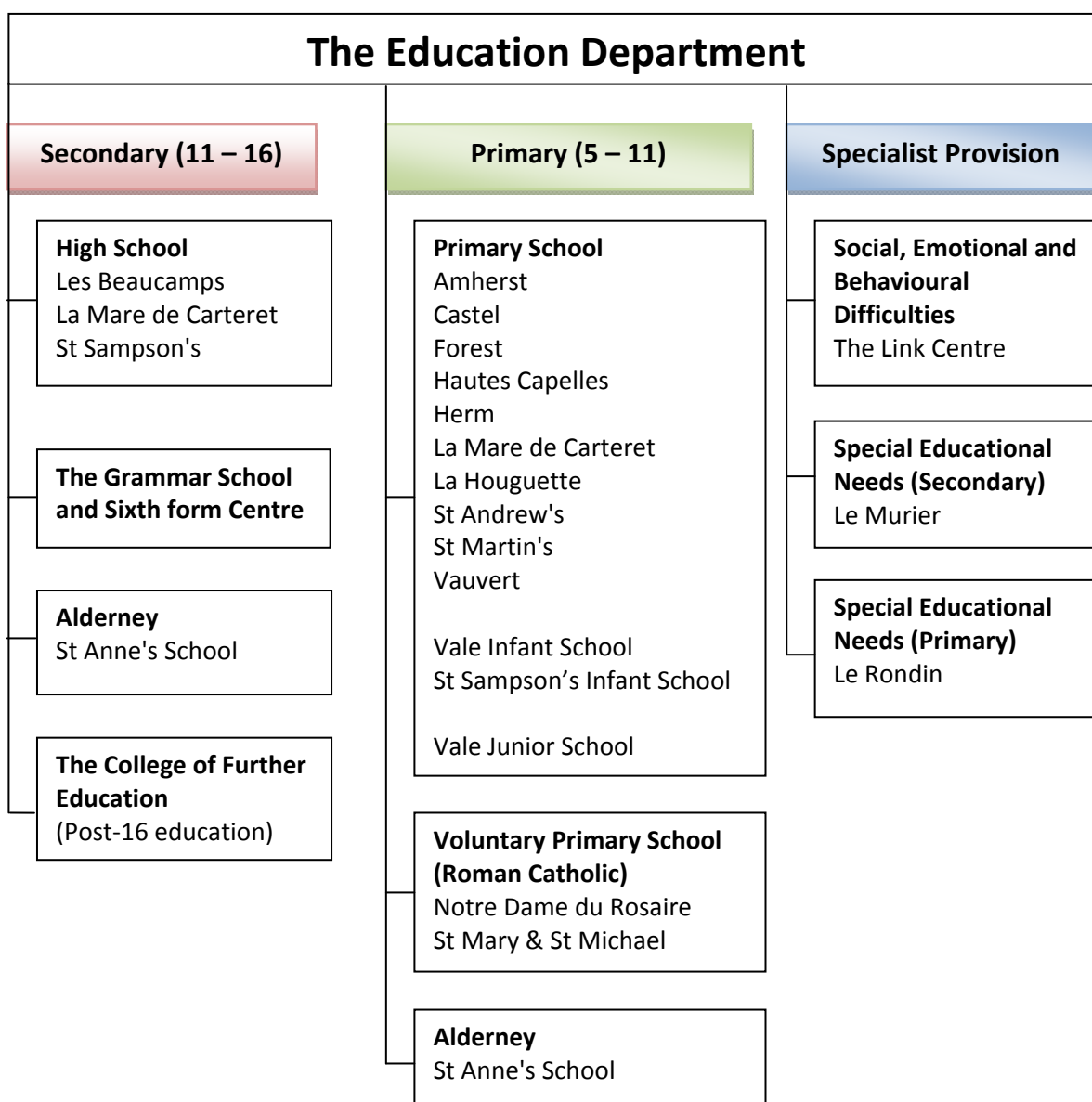
Mainstream schools

1.2.2 As shown in the following diagram, the Department's mainstream schools include two infant schools, one junior school, 12 primary schools, one all-aged school (in Alderney), three high schools and the Grammar School & Sixth Form Centre (“mainstream schools”).

1.2.3 For the purpose of this report, when using the collective term, “schools”, this refers to schools in Guernsey, Herm and Alderney under the Education Department's direct and full control i.e. the mainstream schools, the special education schools and the Link Centre.

¹⁸ See Glossary of Terms.

SCHOOLS UNDER THE MANAGEMENT OF THE EDUCATION DEPARTMENT



Specialist provision

- 1.2.4 The Department also operates two special needs schools in Guernsey for pupils who have been formally assessed as requiring more specialist provision to that available in mainstream schools. Le Rondin School is for pupils of primary school age and Le Murier School is for pupils of secondary school age. Pupils

attending these schools have been formally assessed as having an area of need in one of the following areas¹⁹:

- Moderate learning difficulties with additional needs, including:
 - Communication and interaction difficulties
 - Behavioural, emotional and social difficulties
 - Sensory, physical and medical difficulties
- Severe learning difficulties;
- Profound and multiple learning difficulties;

1.2.5 The Link Centre is a specialist educational provision in Guernsey for pupils with persistent or long term social, emotional and behavioural difficulties (SEBD), whose needs cannot be entirely met by their mainstream school. Following assessment, pupils of statutory school age can attend the Link Centre on a part time, time-limited placement or full time basis, but will remain on the register of their mainstream school. The aim is to reintegrate the pupil back to mainstream school whenever possible²⁰.

1.2.6 The Link Centre also plays a role in the provision for pupils who have been excluded on a category 2 or category 3 exclusion²¹. Excluded pupils may attend the Centre from day 6 of their exclusion. The Link Centre has a capacity for around 8 excluded pupils at any one time. The role of the Link Centre in relation to excluded pupils is explained in more detail in section 7.3.

Grant-aided / independent schools

1.2.7 In addition to these State-funded schools, Guernsey has three grant-aided schools - The Ladies' College, Elizabeth College and Blanchelande College. While these schools are grant-aided by the States of Guernsey, they are not bound by the Department's policies and have the autonomy to set their own behaviour management and exclusion policies. The Committee wished to give the headteachers of the grant-aided schools the opportunity to contribute to the review if they so wished, and the comments received have been taken into account where appropriate.

1.2.8 Alderney's Ormer House school and Sark's School are both fully independent from the States of Guernsey and, as such, have not been consulted as part of this review.

¹⁹ The Department also has specialist places attached to three of its mainstream schools called "Bases". These are for specific areas of SEN; Communication and Autism (1 Primary and 1 Secondary); and Hearing Impairment (1 Junior).

²⁰ The SEBD Service's Annual Report 2010 – 2011 shows that during this reporting period, 52 pupils attended the Link Centre on either a part time or full time basis with 46 of them also accessing mainstream schools for a percentage of their time; 1 primary aged pupil and 5 secondary aged pupils remain full time at the Link Centre, not accessing their mainstream schools.

²¹ See Section 4.4.2 for a definition of the three categories of exclusion.

1.3 Methodology

- 1.3.1 The Committee appointed a Panel (“the Panel”) comprising Deputies Mike Garrett (Lead Member), Barry Brehaut, and John Gollop to undertake the research for this review. The Terms of Reference were approved by the Committee at its meeting on 23rd June 2010.

Consultation Process

- 1.3.2 The Panel undertook an extensive consultation process to assist it in determining how the Department’s policies and provisions for managing disruptive behaviour and school exclusions work in practice.
- 1.3.3 The Panel commenced its research by considering information provided by the Department, following which meetings were held with the Department on 20th September 2010 and 27th September 2010 to gain clarity on its policies and procedures. The Panel also visited the Link Centre and met with the Centre Manager on 15th February 2011.

Consultation with members of the public

- 1.3.4 The public consultation process was launched using the media, together with an extensive leaflet drop and poster campaign in public areas, including supermarkets, doctor’s surgeries, youth clubs, the library and parish halls.
- 1.3.5 The Panel also advertised the consultation on the Scrutiny Committee’s website, Facebook page and the States of Guernsey’s website homepage.
- 1.3.6 Members of the public, be it pupils, ex-pupils, parents, ex-teachers or just general observers of the management of disruptive behaviour in schools, were encouraged to contact the Panel to share their experiences and views. Contact could be made with the Panel via email, telephone, letter, Facebook or one-to-one meetings.
- 1.3.7 The Panel held two drop-in afternoons in Guernsey on 27th September 2010 and 18th February 2011; these were held at Beau Sejour and gave members of the public the opportunity to discuss their views in detail with Panel members.
- 1.3.8 As part of its consultation, the Panel received a number of submissions from members of the public in Alderney. It was therefore agreed that it would be beneficial to visit Alderney to meet with the headteacher of St. Anne’s School and to also hold a public drop-in afternoon so that people in Alderney could express their views to the Panel in person.
- 1.3.9 37 members of the public contacted the Panel directly to set out their views on the management of disruptive behaviour locally.

- 1.3.10 In addition to these approaches, members of the public were encouraged to complete an electronic questionnaire published using SurveyMonkey²².
- 1.3.11 The questionnaire was launched on 6th December 2010 and was open until 14th February 2011; 89 members of the public completed the questionnaire.
- 1.3.12 Collectively the respondents had experience of all schools under the Department's direct control, except for St Mary and St Michael Primary School, the College of Further Education and Herm School.

Consultation with headteachers

- 1.3.13 The Panel wrote to every headteacher of mainstream and specialist provision schools in Guernsey, Alderney and Herm asking them to complete a questionnaire, which sought their views on the policies and procedures currently in place to manage disruptive behaviour.
- 1.3.14 Responses were received from 16 of the 23 headteachers (70%).
- 1.3.15 For completeness, the Panel also wrote to the three headteachers of the grant-aided schools to offer them the opportunity to comment on this topic. Responses were received from the headteachers of The Ladies' College and Blanchelande College.

Consultation with Teachers

Questionnaires

- 1.3.16 The Committee wrote to all teachers within mainstream and specialist schools in Guernsey, Alderney and Herm asking them to complete an anonymous questionnaire, with the only information recorded being the school that they taught at.
- 1.3.17 71 teachers completed the questionnaires, which is a response rate of 13.8%. The table below shows the number of respondent teachers from each school:

SCHOOL	Number of Teachers to Respond
Amherst Primary School	6
Castel Primary School	1
Forest Primary School	0
Hautes Capelles Primary School	0
La Houquette Primary School	4
St Andrew's School	0
St Anne's School, Alderney	2

²² SurveyMonkey is a private, internet based company that allows users to set up a survey that can be accessed by consultees via a private link.

La Mare De Carteret Primary School	0
St Martin's Primary School	19
St Mary & St Michael RC Primary School	0
Notre Dame du Rosaire RC Primary School	0
Le Rondin	6
St Sampson's Infant School	4
Vale Infant School	0
Vale Junior School	0
Vauvert Primary School	0
Les Beaucamps High School	3
St Sampson's High School	12
La Mare de Carteret High School	2
Grammar School and Sixth Form Centre	0
College of Further Education	6
Le Murier School	0
The Link Centre	5
School anonymised	1

1.3.18 The 13.8% response rate limits the Committee's ability to draw conclusions on the views of "teachers" as a collective. Not all schools are represented in the responses and St Martin's Primary School and St Sampson's High School submitted predominantly larger returns than others. It is therefore important to note that the results from these two schools will have had an effect on the overall results when the views of respondent teachers are outlined within the report.

1.3.19 Therefore, while the views of the teachers received are no less valuable, the weighting of these responses has been treated with caution throughout this report.

Focus Group

1.3.20 A focus group was held with three teachers on 17th February 2011 who kindly gave up their time to contribute detailed feedback on how disruptive behaviour is managed in practice.

Consultation with Departments

1.3.21 The management, consequences and impact of disruptive behaviour in schools are not only relevant to the Education Department, but can also link into the work of other States of Guernsey departments.

1.3.22 The Panel considered it necessary to seek the views of the following, from which responses were received:

- The Home Department;
- The Social Security Department;
- The Health and Social Services Department; and
- The Policy Council's Social Policy Group.

- 1.3.23 To support this information, the Panel also met with the Prison Learning and Skills Manager on 1st February 2011.

Other Consultations

- 1.3.24 In addition to the aforementioned consultations, the Panel also sought the views of:

- all nurseries and pre-schools in Guernsey;
- the Child Youth and Community Tribunal; and
- all the teaching unions;

Consultation Analysis

- 1.3.25 The Committee has not taken the collated consultation evidence as definitive, but it has used it as a base upon which to give further consideration of any issues that arose.

Conclusions and Recommendations

- 1.3.26 Based on the evidence provided by the Department, its own research and the extensive consultation results, the Committee has made a number of conclusions and recommendations for the Department to consider.
- 1.3.27 The Department was asked for its comments on the accuracy, conclusions and recommendations of the report on Friday 25th November 2011. The letter of comment provided by the Department was received on 21st December 2011 and is included in Appendix 5.
- 1.3.28 This report will be submitted to the States of Deliberation for debate at the 7th March 2012 States Meeting.

1.4 Structure of the Report

- 1.4.1 The report is structured into seven main sections, which cover a number of issues in relation to how disruptive behaviour is managed locally:
- **Section 2** sets the scene for the review and discusses the perceived levels of disruptive behaviour experienced in schools locally and whether consultees feel that, in general, adequate provisions are in place to manage disruptive behaviour.
 - **Section 3** clarifies the different bodies involved in the management of disruptive behaviour locally and provides an overview of the roles and responsibilities of each, including how they link together.

- **Section 4** gives an overview of the key policies and procedures the Department has in place to support schools in identifying and managing disruptive behaviour.
- **Section 5** focuses on the implementation of one of the key provisions in place to manage disruptive behaviour within schools: a school's individual behaviour management policy.
- **Section 6** outlines the training, support and advice resources available to teachers in managing disruptive behaviour within their classroom in line with their school's behaviour management policy.
- **Section 7** considers the use, and resources for, internal and external exclusions locally, which are the most severe sanctions that a school can apply when managing disruptive behaviour.
- **Section 8** focuses on the provisions in place in Alderney on two issues that have arisen as a result of the public consultation – the provisions for managing pupils with special educational need and for those that are excluded from school.

1.4.2 Two issues also arose from the consultation that do not fall directly within the Terms of Reference of this review, but which the Committee feels requires specific comment: the provisions in place to support teachers managing pupils with ADHD; and the referral process at pre-schools and the transition from pre-schools to mainstream schools. The Committee has commented on these in sections 9 and 10 of the report.

1.4.3 The recommendations that have arisen as part of the Panel's research are set out in section 11.

1.5 Further Information

1.5.1 A full copy of the Terms of Reference, an extended methodology, the transcripts from the meetings with the Department and a summary of the consultation responses and analyses are included as part of the supporting information to this review available on-line at www.gov.gg/scrutiny, 'Reviews'.

2. DISRUPTIVE BEHAVIOUR LOCALLY

2.1 Disruptive Behaviour

- 2.1.1 In conjunction with considering the policies and procedures in place to manage disruptive behaviour, the Committee wished to obtain the view of the Department and the views of headteachers, teachers and members of the public on the perceived levels of disruptive behaviour experienced in schools locally.

The Department's Viewpoint

- 2.1.2 The Department's Minister emphasises that while disruptive behaviour does exist in schools, it is down to a small minority of pupils and is not a widespread issue.

"I would like to stress that the majority of children and young people attend school regularly, behave well, enjoy and achieve. A small percentage present with disruptive, challenging and unacceptable behaviour, which seriously disrupts their learning and the learning of others."

Education Department Minister -
Public Hearing, 27th September 2010

Consultees' Views

- 2.1.3 When asked what their perceived level of disruptive behaviour was within their school/the school they had experience of, there was a shared consensus between respondent groups. The views expressed supported those of the Department; that disruptive behaviour is confined to a small group of pupils and that it varies by class and by year group.

Headteachers

- 2.1.4 All headteacher respondents viewed the level of disruptive behaviour within their school to be average or smaller, with nine of the respondents perceiving it to be small and one perceiving it to be very small.
- 2.1.5 Three headteachers made specific reference to the negative impact disruptive behaviour can have on pupils and their learning; one headteacher also commented that disruptive behaviour not only impacted on pupils but also on teachers, often causing stress and impacting on their health.

Teachers

- 2.1.6 The response from the 71 responding teachers was mixed: with the majority, 38%, rating the level of disruptive behaviour in their school as average, 32%

rating it as either large or very large and 30% rating it as either small or very small.

- 2.1.7 There appeared to be consensus amongst teachers responding from the same school regarding the perceived level of disruptive behaviour within their school. However, with the exception of two schools, for the most part the number of respondents was too low to identify any trends of this nature.
- 2.1.8 No consensus could be obtained on whether the level of disruptive behaviour was worse at primary or secondary school level, or in lower ability or higher ability classes, only that it varied by class and year group.
- 2.1.9 Five teachers specifically commented that regardless of the level of disruptive behaviour, when it does exist, it will impact the learning of other pupils in that class; *“one disruptive pupil in that class can ruin that group.”*

Public

- 2.1.10 Members of the public who responded to the questionnaire provided wide ranging views, with the most popular response (39%) being that they consider the disruptive behaviour within the school they have experience of to be average; 38% felt the problem was either large or very large; and 23% rated it as either small or very small.
- 2.1.11 A large number of the respondents cited their judgement based on more than one school (i.e. a primary school and a secondary school); therefore it is not possible to determine from these results whether respondents consider disruptive behaviour to be at a higher level in primary schools or secondary schools.
- 2.1.12 One respondent believed that occasional disruption is *“nothing out of the ordinary”*, with a parent, who rated the level of disruptive behaviour as average, stating that *“it may be as expected, but it is still unacceptable.”* In support of this, one respondent commented that *“often the level of disruptive behaviour would be classed as ‘low level’ so is not seen as enough of an issue to remove the student on a permanent basis. As a result, the learning of others in these classes is impacted upon for lengthy periods of time.”*

Statistical evidence

- 2.1.13 There is an absence of statistics available on the levels of disruptive behaviour within schools locally that can accurately confirm or challenge the perceptions made.
- 2.1.14 The Committee was provided with statistical evidence on the number of exclusions for each school year, which is discussed in detail in Section 7. However, an external exclusion is the most severe sanction available to a school, and is considered to be a last resort. It is impossible to deduce the overall level

of disruptive behaviour within a school by considering exclusion statistics in isolation.

Managing This Disruptive Behaviour

2.1.15 The views of headteachers, teachers and members of the public were sought on whether they felt the necessary policies and procedures are in place locally to address and manage disruptive behaviour:

- All but three respondent headteachers feel there are the necessary provisions in place to address disruptive behaviour in schools locally;
- Respondent teachers demonstrated an almost equal divide in opinion; and
- The majority of respondent members of the public, 71%, feel there are not adequate provisions in place.

2.1.16 The issues raised by respondents in response to this question, both in relation to provisions they support and those they feel are lacking, are considered in further detail throughout this report.

2.2 Conclusions

2.2.1 Perceptions of the level of disruptive behaviour within a school will vary from person to person in line with their own experience. The Department's view that the disruptive behaviour within schools is caused by a minority of pupils is consistent with the views shared by headteachers, teachers and members of the public.

2.2.2 The opinions of teachers are key in the assessment of the levels of disruptive behaviour experienced in schools; they are the "front line" people that are facing, and responsible for managing, disruptive behaviour when it occurs. The Committee is disappointed that the response rate to the teachers' questionnaire was only 13.8%, which limits the conclusions the Committee can accurately reach on the level of disruptive behaviour across schools. However, in the absence of information to the contrary, the Committee has concluded the level of disruptive behaviour within most schools is likely to be at a level that the majority of teachers would expect it to be, and not a large or very large problem.

2.2.3 A common theme across all respondents was that while disruptive behaviour can be regarded as 'low level' and no more than might be expected in any school, any level of disruptive behaviour can be detrimental to the learning of pupils who are affected by it.

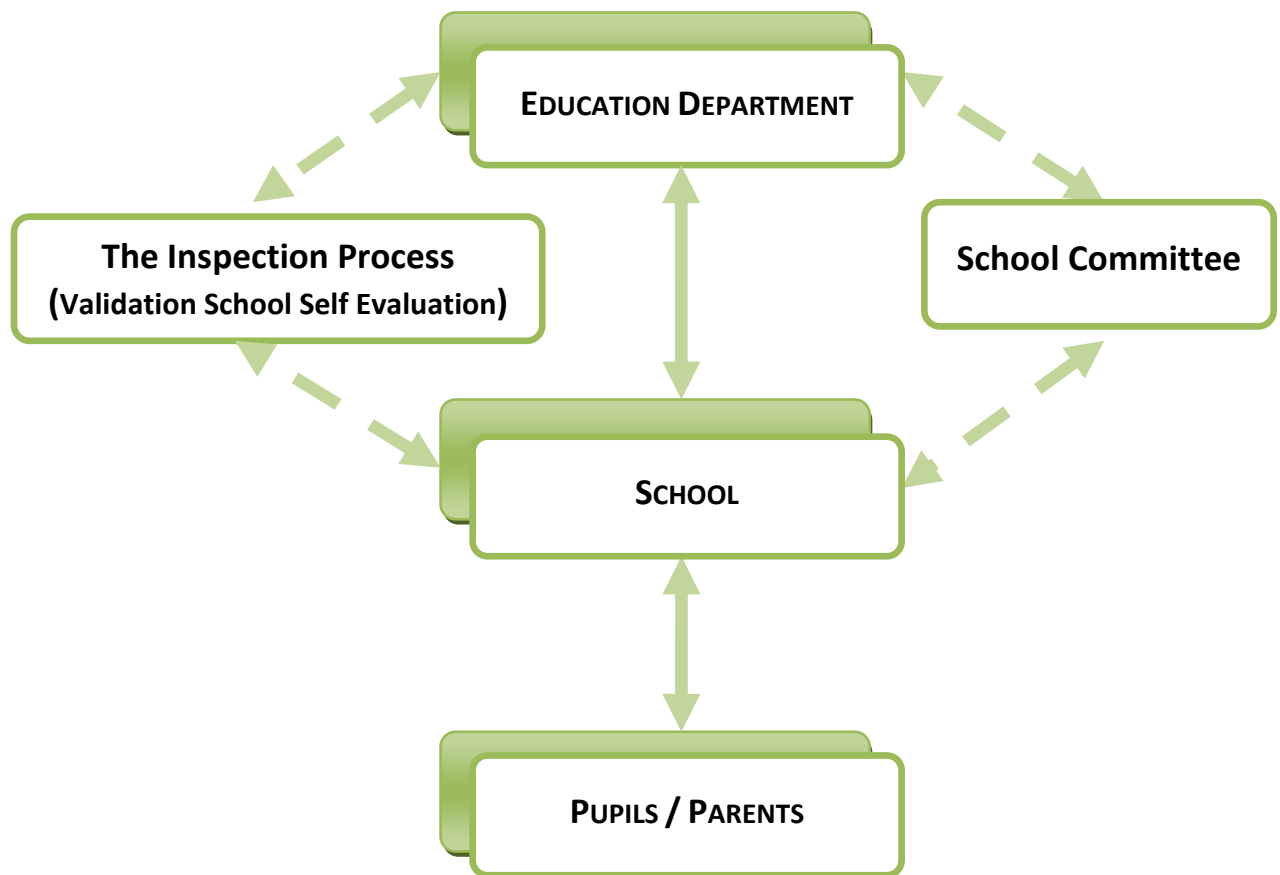
2.2.4 If a pupil is disruptive in a class then a proportion of the teacher's time can be spent attempting to manage that pupil, which can be to the detriment of the learning of other pupils in that class. The display of such behaviour may also impact on or influence other pupils' behaviour.

- 2.2.5 The Committee believes that all schools, in all jurisdictions, will experience some level of disruptive behaviour; it is inevitable that there will always be pupils that behave disruptively within a class from time to time and it is the degree, and management, of this disruptive behaviour that is important. Therefore it is imperative that the Department has appropriate policies, procedures and support resources available to schools to manage it.

3. ROLES AND RESPONSIBILITIES

- 3.1 Prior to consideration of the provisions in place to manage disruptive behaviour, the Committee believes it is important to provide an overview of the roles and responsibilities of those involved in behaviour management in schools locally. Figure 1 provides an overview of this, together with how they interlink:

Figure 1 The links between those involved in managing disruptive behaviour locally.



3.2 The Education Department

- 3.2.1 The objective of the Department can be summarised as follows:

“To consolidate and develop best value policies for education and lifelong learning which promote equality of educational opportunity and which are

*directed to ensure the best quality of education is obtained for the individual and for the community as a whole.*²³”

- 3.2.2 The Department is mandated by *The Education (Guernsey) Law, 1970* (“the Law”), to provide education to pupils of compulsory school age in Guernsey, Alderney and Herm.
- 3.2.3 In undertaking this, the Department is expected to ensure that disruptive behaviour is managed within its schools so the learning of pupils is not negatively affected.
- 3.2.4 The Department ultimately manages all the schools under its control and has a number of behaviour management procedures, guidelines and support systems in place that schools can practically implement.
- 3.2.5 Officers from the Department play a role in supporting, advising, monitoring and providing guidance to schools, in particular headteachers, on the implementation of these policies and practices.
- 3.2.6 If the Department has any concerns about the management of a school, or the implementation of its policies and guidelines, it is able to intervene and address these direct with the headteacher to ensure that necessary action is taken to rectify the area of concern.
- 3.2.7 The Department monitors the reasons for, and the use of, external exclusions across schools. It is its responsibility for ensuring that suitable education is provided to the excluded pupil and that the pupil is reintegrated into a suitable school following exclusion.
- 3.2.8 The Education Board (“the Board”) provides political oversight to all these processes and the officers of the Department are required to make recommendations for changes in policy to the political Board.
- 3.2.9 Ultimately, the overall responsibility of managing disruptive behaviour and school exclusion within schools in Guernsey, Alderney and Herm rests with the Department’s political Board.

3.3 The Schools

- 3.3.1 Each school is managed by a headteacher, who is responsible for the day-to-day running of their school and the practical implementation of the Department’s policies and guidelines. In undertaking this role, the headteacher is directly accountable to the Director of Education²⁴.

²³ Definition taken from the 2010 States Strategic Plan. The full mandate of the Education Department is located at www.gov.gg/ccm/navigation/government/states-members-and-committees/mandates-and-memberships/.

²⁴ The Director of Education is accountable to the Board.

- 3.3.2 Each headteacher is responsible for writing, implementing and communicating their school's behaviour management policy²⁵, which sets the standards of behaviour expected of pupils at the school and the rewards and sanctions that will be imposed as a result.
- 3.3.3 Headteachers manage all staff within their school and are responsible for ensuring that teaching staff consistently apply the school's behaviour management policy, together with the Department's wider policies and procedures.
- 3.3.4 Teachers discipline pupils whose behaviour is in breach of the school's behaviour management policy; headteachers oversee this discipline and record and monitor specific behaviour management interventions.
- 3.3.5 It is only the headteacher (or their representative) that can issue the external exclusion of a pupil and it is their responsibility to inform the parent and the Department when this occurs.
- 3.3.6 The schools, and in particular the headteachers, are expected to foster relationships and cooperation with parents throughout the schooling of a pupil.

3.4 Parents²⁶

- 3.4.1 The Law prescribes that it is the responsibility of the parent to ensure that a child of compulsory school age receives sufficient full-time education suitable to their age, ability and aptitude, either at school or through other suitable arrangements.
- 3.4.2 For school-registered pupils, parents must ensure that their child attends punctually and regularly.
- 3.4.3 If the Department considers a parent to be in breach of this responsibility, as a last resort, it can take a parent to Court to determine how the pupil's education should proceed. Referrals can also be made to the Children's Convenor²⁷ if the Department believes the parents, and the child, are not supportive of working with the Department and that, as a result, the child's education is being adversely affected.
- 3.4.4 For the behaviour management of a child to be effective, a partnership approach has to be developed between parents and schools; this is particularly important when a child is experiencing behaviour issues at school.

²⁵ Behaviour management policies are discussed in detail in section 5.

²⁶ Throughout this report, "parent" means anyone who has parental responsibility for, or care of, a child.

²⁷ The Children's Convenor is responsible for deciding when a child or young person under the age of 18 is referred to the Child Youth and Community Tribunal. More detail on this function can be viewed at http://www.childrenlaw.gg/pdfs/quicklinks/Child_Youth_Tribunal_leaflet.pdf

- 3.4.5 Parents have the prime responsibility for raising their child and for instilling good behaviour within them. When schools are required to intervene and react to the disruptive behaviour of a pupil they should be able to expect to receive parental support and involvement to take this forward.
- 3.4.6 If a pupil is excluded, parents must take responsibility for their child during days 1 to 5 of the exclusion and ensure that they are appropriately supervised during this period, with the work set by the school collected and returned.
- 3.4.7 Following the exclusion, parents are expected to attend the relevant reintegration meeting to agree the reintegration plan for the pupil.

3.5 Committees for States' Schools

- 3.5.1 The Law states that the powers and duties of committees for States' schools²⁸ are:

“Each Primary Schools Committee for a States' primary school and each Secondary Schools Committee for a States' secondary school may exercise the following powers and perform the following duties in relation to that school –

- (a) the preparation and presentation to the Council [the Department] of an annual budget in respect of the school at such time and in such form as the Council shall, from time to time, require,*
- (b) the maintenance of the school buildings with the exception of capital works and structural alterations which shall be the responsibility of the Council,*
- (c) the lighting, heating and cleaning of the school,*
- (d) the inspection, at least twice in each year, of the premises, furniture and equipment and, from time to time, the reporting to the Council of any major repair requirements and of any apparent irregularities in the discipline or conduct of the school.”*

- 3.5.2 The committees therefore have some powers and duties in respect of behaviour in their schools, in that they report *“any apparent irregularities in the discipline or conduct of the school”* to the Department Board for it to then look into these areas of concern.
- 3.5.3 The Director of Education explained the role of school committees succinctly by describing them as “watchdogs” over schools on behalf of the parishes.

“Their duty is to act as a watchdog on behalf of the parishes, and if they have concerns about the state of the building or indeed, and this is the most relevant to this, or indeed about how the school is being conducted, then through the Member of the Education Board who also sits on each of those committees,

²⁸ The powers and duties of committees for voluntary schools differ slightly, in that they do not have powers in respect of the maintenance of the school buildings or inspecting the premises.

those concerns are expressed back to the Education Board who do have governing body powers, which include looking at disciplinary processes and how the schools are managing their business. The School Committees do have a valuable function; it is acting as a watchdog on behalf of the parishes that they represent.”

Director of Education, Education Department –
Public Hearing, 27th September 2010

- 3.5.4 The Committee did not seek the views of the school committees in respect of disruptive behaviour, as a Member of the Education Board is part of each school committee, and therefore has the responsibility for informing the full political board of any issues a school committee may have experienced or observed.

3.6 The Independent Inspection Process

- 3.6.1 All schools under the management of the Department undergo validation inspections, which include a ‘*Validated School Self-Evaluation*’ (VSSE).
- 3.6.2 The Law states that the inspections are to take place “*at such intervals as appear to the Council [the Department] to be appropriate*”.
- 3.6.3 The inspections are undertaken by a validation team, the membership of which is independent to the school and to Guernsey; the majority of each validation team’s membership comprises Ofsted inspectors from the UK²⁹.
- 3.6.4 A key aspect of the validation team’s work is to assess the effectiveness of the approaches and policies in place within a school to manage disruptive behaviour.
- 3.6.5 In advance of the validation inspection, schools are required to undertake self evaluation activities and produce a self review report, which is submitted to the validation team for consideration prior to the visit inspection.
- 3.6.6 The validation team also seeks comments and views from parents of the school, through either written submissions or the return of a questionnaire together with meeting with some parents, teachers, other staff and pupils from the school.
- 3.6.7 As part of the inspection, scrutiny of school policies and documentation is undertaken, together with lesson and pupil observations, reviewing teachers’ planning, the consideration of pupils’ current and previous work and the collation of evidence about the standards and progress of the school over recent years.

²⁹ OFSTED is the UK Office for Standards in Education, Children’s Services and Skills, which independently and impartially inspects and regulates services that care for children and young people, and those providing education and skills for learners of all ages.

- 3.6.8 The validation team collates this research and reports on all aspects of a school's organisation, management and achievement to the headteacher and the Director of Education, which is subsequently passed to the Education Board. This report has previously been submitted to the States of Deliberation as an appendix to the Billet d'État, however the Department is currently reviewing the reporting of its school validation reports.

3.7 Conclusions

- 3.7.1 The purpose of this section of the report is to clarify the roles and responsibilities within the education system in relation to managing disruptive behaviour. This section has not sought to make judgements as to the effectiveness of each body in carrying out its role. These conclusions will be reached in respect of policy and procedure implementation.
- 3.7.2 The Committee does not take a view on where school validation reports are published; however it believes they should be available in hard copy on the individual school's website and on the Education Department's website.

4. POLICIES IN PLACE

4.1 Overview

4.1.1 Three key tools in place to support schools in managing disruptive behaviour are:

- The Department’s Behaviour Toolkit;
- The school’s individual behaviour management policy; and
- The Department’s “Guidance and Procedures for Managing Exclusions” policy.

4.1.2 The Department also has two other policies in operation, which schools need to consider when assessing the behaviour of children:

- “Special Educational Needs Code of Practice” and “SEN criteria”; and
- “Policy and Framework for Supporting Students with Behavioural Emotional and Social Difficulties”.

4.1.3 In addition to the above, the Committee feels it is important to comment on the restorative justice approach that the Department is following, which assists schools in resolving conflicts that may result from disruptive behaviour.

4.2 The Behaviour Toolkit

4.2.1 Each school has been provided with a copy of the Department’s Behaviour Toolkit, which provides guidance to schools on behaviour management at the whole school level, at the classroom level, for individual pupils and in working with parents.

4.2.2 The Behaviour Toolkit is designed to be a guidance document that schools can refer to in identifying, managing and monitoring disruptive behaviour at the aforementioned levels.

“[It] is produced with the aim of helping those in schools to manage behaviour in a positive and successful way...[it] contains strategies and advice, drawn from best practice...It is recognised that different schools will have individual needs and will therefore wish to select the resources from the Toolkit that best meets their requirements; it is not intended as a package that must be worked through in its entirety.”

Behaviour Management Toolkit

4.2.3 The Department provides the Behaviour Toolkit as a resource for headteachers to refer to when writing and reviewing their school’s behaviour management policy.

4.3 Schools' Behaviour Management Policies

- 4.3.1 Each school is required to have a behaviour management policy in operation, which sets out the behaviour expectations for pupils when at school, and the rewards and sanctions that the school has to manage and encourage against disruptive behaviour.
- 4.3.2 Each school is responsible for writing and reviewing its own behaviour management policy, which should reflect the behaviour management principles set out in the Behaviour Toolkit.
- 4.3.3 The headteacher communicates their school's behaviour management policy to all interested parties, i.e. teaching staff, parents and pupils, so that the behaviour requirements for the school are understood and consistently followed.

4.4 Guidance and Procedures for Managing Exclusions

- 4.4.1 If a pupil breaches their school's behaviour management policy to the extent that it is determined that they should be removed from class or, more seriously from school, then the sanction of "exclusion" is an option available to schools. Exclusion can take two forms, either internal exclusion or external exclusion.
 - **Internal exclusion** is when a disruptive pupil is required to be removed from a class, extracurricular activity or lunch/break times but not from the school premises. It is for a short period of time and is a lesser sanction than an external exclusion.
 - **External exclusion** ("exclusion") is a decision to temporarily remove a pupil from their registered school premises, for a set period of time, as a consequence of their disruptive behaviour.
- 4.4.2 There are three categories of exclusion available to schools locally, these are:

Category 1 – Up to five school days*

Category 2 – Up to twenty school days*

Category 3 – For a period over twenty school days

**these are the maximum lengths of time*

- 4.4.3 The Department's "*Guidance and Procedures for Managing Exclusions*" outlines in detail the procedures, roles and responsibilities that headteachers and

the Department should follow when the decision has been taken to externally exclude a pupil. The procedures apply to all schools under the Department's direct control and to all pupils within statutory school age³⁰.

4.5 Other relevant policies

- 4.5.1 The Committee has not directly reviewed the effectiveness of the Department's provisions in place for pupils with special education needs ("SEN"). However, it feels that the Department's policies in place for managing pupils with these needs should be recognised as part of this review.

Special Educational Needs Code of Practice and SEN Criteria

- 4.5.2 The Law states that:

- “- *A child has Special Educational Needs (SEN) if he/she has a learning difficulty which calls for special educational provision to be made.*
- *A child has a learning difficulty if he/she has a significantly greater difficulty in learning than a majority of children and young people of his/her age or has a disability which either prevents or hinders him from making use of educational facilities of a kind generally provided in schools for children and young people of his age.*
- *Special educational provision for a child of two years or more means educational provision that is additional to or otherwise different from the educational provision made generally for children and young people of his age in schools and for a child under two years means educational provision of any kind.*
- *A learning difficulty should not be assumed where the language in which he is, or will be, taught is different from a language which has at any time been spoken in the home.”*

- 4.5.3 Statistics indicate that there is a link between pupils who have a special educational need and exclusion. UK figures released in 2010 state that pupils with SEN are 8 times more likely to be permanently excluded than those with no SEN³¹.

- 4.5.4 Guernsey law does not make provision for the permanent exclusion of a pupil so a comparable statistic is not available locally. However, the most recent statistics

³⁰ The Guidance document makes specific reference to the exclusion of pupils with SEN, disabled pupils and 'looked after' children to ensure they are not discriminated against and are appropriately provided for during an exclusion period.

³¹ UK Department for Education's "Statistical First Release" 29 July 2010.

provided by the Department show that of the 129 pupils excluded during the 2008/2009 school year, 50 (39%) of them were pupils on the SEN Register³².

- 4.5.5 Early identification, assessment and appropriate provisions for pupils with SEN should lead to a reduction in the risk of them behaving disruptively and as a consequence reduce the risk of them being excluded. Guidance on how to identify, assess and make provision for pupils with SEN is set out in the “*Special Educational Needs Code of Practice*” and the “*SEN Criteria*”³³.
- 4.5.6 The circumstances under which a pupil with SEN may be excluded are the same as they are for other pupils. However, where a pupil with SEN is at risk of exclusion, the “*Guidance and Procedures for Managing Exclusion*” states schools should ensure that all reasonable steps are taken to secure the appropriate provision to meet the pupil’s SEN but if exclusion is still deemed necessary then it will proceed.
- 4.5.7 The “*Special Educational Needs Code of Practice*” provides a framework for meeting children and young people’s SEN. The “*SEN Criteria*” supplements the “*Special Educational Needs Code of Practice*” and provides additional detail on the range of categories of SEN and the graduated response and resources for each of the four SEN categories. These four SEN categories are:
 1. Cognition and Learning needs – includes general and specific learning difficulties.
 2. Social, Emotional and Behavioural needs – includes attention deficit disorders, mental health needs.
 3. Communication and Interaction needs – includes social communication and language needs and Autistic Spectrum Disorder.
 4. Sensory and Physical Needs – includes hearing, vision, physical and medical needs.

Social, Emotional and Behavioural Needs (SEBD)

“Children and young people with social, emotional and behavioural difficulties cover the full range of ability and continuum of severity. Their behaviours often present a barrier to learning and may persist whether or not there is implementation of an effective school behaviour policy and personal, social and health curriculum.”

The Education Department’s Policy and Framework for Supporting Students with Behavioural Emotional and Social Difficulties, 2007

³² Approximately 20% of pupils in mainstream school are recorded on the SEN Register, with a further 2% on the roll of a special education school.

³³ A copy of these documents are available on the Education Department’s website: <http://www.education.gg/SEN>

- 4.5.8 The Department's statistics show that during the 2008/2009 school year, of the 50 excluded pupils who were on the SEN register, 78% of these were within the social, emotional and behaviour difficulties (SEBD) sub-category. Therefore, it may be concluded that pupils within the social, emotional and behavioural difficulties category of SEN can be at a higher risk of exclusion. Equally, it may occur, that following an exclusion a pupil is identified as having SEBD and is subsequently placed on the SEN Register.
- 4.5.9 The targeting and provision of appropriate support to these pupils, who are at particular risk of exclusion, is critical. In seeking to meet the needs of pupils with SEBD the Department has in place a "*Policy and Framework for Supporting Students with Behavioural Emotional and Social Difficulties*" for schools to follow.
- 4.5.10 In order to support pupils with SEBD, the Department has provisions in place both within schools as well as external school provisions:
- Internal school provisions - Nurture Groups (primary schools only), Behaviour Co-ordinators (secondary school only) and the more general SEN Co-ordinators;
 - External provisions - the involvement of the Advisory and Outreach Service and the pupil's attendance at the SEBD Centre – The Link Centre.
- 4.5.11 The above provisions, and the role they play in managing disruptive behaviour, are discussed in more detail within the subsequent sections of this report.
- 4.5.12 However, as explained in the introduction to this report, the Link Centre undertakes a dual role; it provides placement support for pupils with SEBD and also provides a full time education facility for pupils excluded on category 2 and 3 exclusions.
- 4.5.13 During this review, the Committee has solely looked at the Link Centre's role as an education provider for excluded pupils and not at its wider role as a SEBD Centre. To do so would be premature because it only opened in November 2009 and at the time of the consultation it had been open for less than one year. Also, the Committee felt that reviewing the Link Centre in its role as a SEBD Centre went beyond the direct scope of this review because while SEBD and exclusions can be linked, they are not synonymous. In other words, not all attendees with SEBD would be disruptive within schools and the focus of this review is disruptive behaviour within schools.
- 4.5.14 However, the need to develop strategies for pupils who require long term SEBD provision was raised by four headteachers. While some acknowledged that the situation locally had improved with the introduction of the Link Centre, they still

felt that a gap existed for pupils who required this type of provision in the long term.

- 4.5.15 The Committee acknowledges that the Department does not have a specific SEBD school for pupils to be registered at on a permanent, full-time basis. Instead, placements are organised for pupils to attend the Link Centre according to their needs; these placements can be long-term but the pupil always remains on their mainstream school's register.

4.6 Restorative Justice

- 4.6.1 Restorative justice is an option that headteachers can use in response to a serious breach of a school's behaviour management policy, in particular when this breach warrants exclusion.

“Restorative justice enables the offender to redress the harm that has been done to a ‘victim’ and enables all parties with a stake in the outcome to participate fully in the process. This has been used successfully to resolve situations that could otherwise have resulted in exclusion.”

Education Department, Guidance and Procedures for Managing School Exclusions
August 2010

- 4.6.2 In its submission to the Committee, the Home Department concurred that restorative justice approaches could have a positive impact within the education system and, as such, the Home Department's Restorative Justice Development Officer has been working with the Education Department to develop restorative approaches to resolve conflicts in the school environment between pupils, and between pupils and teaching staff.

“During 2011-12, the [Home] Department will be working with the Education Department to achieve:

- *Training for teachers and Peer Mentors/Buddies in Restorative Justice Awareness sessions.*
- *Training Behavioural Education Co-ordinators as Restorative Justice Facilitators.*
- *Define protocols for restorative approaches within the two pilot schools [Les Beaucamps High School and St Sampson's High School]”.*

...It is known that by using the Restorative Justice process there is a lessened need to use school exclusions.”

Home Department letter to Scrutiny Committee,
10.01.11

4.7 Conclusions

- 4.7.1 The effectiveness of the Behaviour Toolkit, schools' behaviour management policies and the exclusion process are discussed in detail in sections 5 and 7.
- 4.7.2 As a result of the meeting with the Department to seek clarity on the "*Special Educational Needs Code of Practice*", "*the SEN Criteria*" and the "*Policy and Framework for Supporting Students with Behavioural, Emotional and Social Difficulties*", the Committee considered these three policy documents to give appropriate guidance for schools when providing for pupils with SEN.
- 4.7.3 In the course of its review, the Committee noted feedback from some headteachers who believed there is a need for a strategy to be developed for pupils who require permanent, long term SEBD provision.
- 4.7.4 It noted all SEBD placements at the Link Centre are time-limited, either on a full or part-time basis. There is no definition of how long these placements may be for, with each pupil considered on a case-by-case basis by the SEBD Provision Panel³⁴. However, one headteacher commented that they are aware that "*the Department is currently looking at the use of the Link Centre in order to meet the needs of children with long term behavioural difficulties*".
- 4.7.5 As the Link Centre only opened in November 2009 it will take time for its services, and its potential, to be fully realised. The Committee notes that the Centre Manager and the Deputy Centre Manager visited each of the high school headteachers in July 2010, to discuss how they would like to see the Link Centre progress, and it hopes this information sharing continues.
- 4.7.6 The Committee was interested in the joint working between the Education Department and the Home Department to develop restorative justice measures within schools. The Committee believes that this could be an effective way of assisting schools manage the issues resulting from disruptive behaviour and, in particular, from exclusion.³⁵
- 4.7.7 The Committee looks forward to the outcome of schools piloting restorative justice measures during 2011-2012.

³⁴ The SEBD Provision Panel meets monthly to discuss pupils who are currently attending the Link Centre with SEBD needs, those who are recommended for referral to the Link Centre and pupils who have returned to their registered school following their time at the Link Centre as part of a category 2 or category 3 exclusion.

³⁵ Restorative justice and reintegration following exclusion is discussed further in section 7.

5. POLICIES IN PRACTICE

5.1 A School's Behaviour Management Policy

“A clear and enforceable whole school policy on behaviour and discipline should be actively supported by all staff and regularly monitored in consultation with all parties contributing to, or directly affected by its contents, including pupils and parents.”

The Education Department's Behaviour Management Toolkit

- 5.1.1 The behaviour management tools in place across schools are numerous and wide-reaching, ranging from individual teaching techniques within the classroom through to more formal and structured approaches at the whole-school level.
- 5.1.2 One of the key provisions that underpins the management of disruptive behaviour within a school is a school's behaviour management policy. This policy sets out the behaviour expectations for that school and how any disruptive behaviour will be managed; it sets the behaviour standards that pupils and teachers should adhere to at a school.
- 5.1.3 Each school is responsible for writing, reviewing and communicating its own behaviour management policy. In order to assist schools in writing their policy, the Department created a Behaviour Toolkit, which states that a school's behaviour management policy should:
- i) **Express the school's expectations of good behaviour and how this will be supported.**
 - ii) **Identify the boundaries of acceptable behaviour.**
 - iii) **Specify the disciplinary and supportive actions the school will establish.**
 - iv) **Incorporate administrative and recording systems to monitor behaviour.**
 - v) **Provide relevant briefing and training for staff to ensure consistency in the approach to managing behaviour.**
- 5.1.4 Due to each school being responsible for their own behaviour management policy, there are inevitable differences in approach and content. The Department acknowledges that there is some need for consistency across schools in how disruptive pupils are managed, but believes that every school has different requirements and so should have different measures in place to meet those requirements:

“Every school is different; every school has a slightly different way of organising its curriculum and how it manages the young people in its care...As long as you remain consistent with the principles, then the detailed application of the policy should not really vary that much.”

Director of Education, Education Department – Public Hearing, 27th September 2010

- 5.1.5 This view is also supported by headteachers, with four commenting that a school’s behaviour management policy should be unique to each school so that they “*could be more relevant to [the] school’s context.*”

“Each school is different and therefore one should not expect complete consistency of approach...due to the nature of the children, the issues we have and the experience of staff, strategies are likely to be more localised.”

Headteacher, 2010

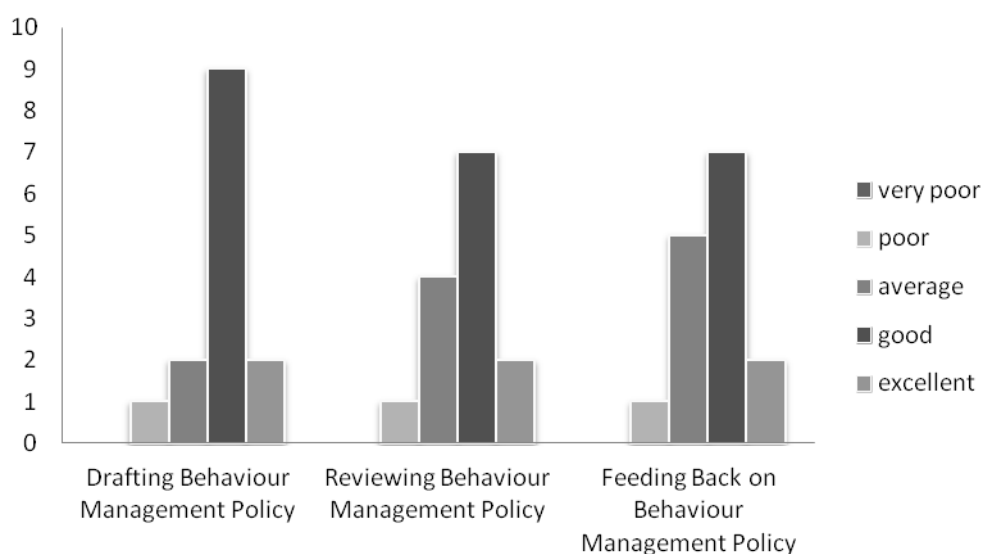
- 5.1.6 The Committee wanted to establish whether:
- Sufficient support is provided to headteachers in writing and reviewing their behaviour management policies;
 - The policies’ content meets the overarching Behaviour Toolkit principles;
 - The policies are reviewed and audited appropriately; and
 - They are communicated effectively to teachers, parents and pupils.

5.2 The Guidance and Support Provided to Headteachers in Writing their School’s Behaviour Management Policy

- 5.2.1 Discussion regarding the behaviour management policy forms part of a headteacher’s induction run by the Department. In addition to this, any support, guidance or training that a headteacher feels they need to assist them in writing their school’s behaviour management policy is provided directly by the Department.
- 5.2.2 Headteachers also have the opportunity of a mentoring service with people who have worked as headteachers and are experts in the field of running schools, which allows them the opportunity to discuss any operational issues, including their school’s behaviour management policy.
- 5.2.3 As part of the Committee’s consultation exercise, headteachers were asked to rate the level of support and guidance provided to them by the Department in writing, reviewing and providing feedback on their school’s behaviour management policy.
- 5.2.4 Figure 2 shows the majority of headteachers believe the level of support and guidance provided to them in these areas to be good.

Figure 2

Headteachers' Level of Satisfaction with the Level of Guidance and Support Provided to them by the Education Department in relation to their School's Behaviour Management Policy.



- 5.2.5 Seven headteachers commented positively about the support provided to them during the drafting and implementation stages of their behaviour management policy. One stated that the Education Officers *“have always been willing, and made themselves available, to offer guidance, support and feedback.”*
- 5.2.6 Headteachers also felt the support of the Department is there *“at the request of the schools”* and *“should we need further guidance and support we would contact the necessary officers at the Department”*. One headteacher explained that *“during the development of our Behaviour Policy, the Education Department were fully involved in each stage and made suggestions/recommendations which assisted in the final policy implementation”*.
- 5.2.7 Five of the headteachers also made positive reference to the introduction of the Behaviour Toolkit and how it had supported them in writing their behaviour management policy, *“all schools were provided with a Behaviour Toolkit, which has excellent examples of managing disruptive behaviour.”* However, two teachers suggested the Behaviour Toolkit needed reviewing.
- 5.2.8 As the graph above shows, while there is general satisfaction with the level of guidance and support provided by the Department in drafting and reviewing the policy, there is less satisfaction with the feedback provided to headteachers on their school's behaviour management policy, with five headteachers rating this as average, and one as poor.

5.3 The Content of the Behaviour Management Policies

5.3.1 The Director of Education explained that the Department holds copies of all the schools' behaviour management policies centrally; it therefore has the opportunity to review each policy against the overarching policy principles contained within the Behaviour Toolkit. The Department confirmed that if it was felt a significant amendment to a policy was required it would go before the Board for their consideration and intervention.

5.3.2 Other than by their publication, there is no indication in a school's behaviour management policy that the Department has approved its content.

5.3.3 At the hearing on 27th September 2010, the Department explained it monitored how schools applied their behaviour management policies by two methods:

- Education Officers regularly visiting schools to monitor their performance.
- Analysing school statistics.

“The opportunity to monitor what is happening and then to reflect with the staff and the school about how to manage what’s going on is there on a daily basis. We are in very close contact with our schools.”

Director of Education, Education Department –
Public Hearing, 27th September 2010

5.3.4 A school's behaviour management policy is also considered, and reviewed, as part of the independent inspection process.

5.3.5 Headteachers were asked if they felt there was consistency in the content of the behaviour management policies in place across the schools. Nine headteachers stated they had limited knowledge of other schools' behaviour management policies and therefore did not feel they could comment on the consistency of approach. One stated they *“expect that judgement to be made centrally by the Education Department”*.

5.3.6 However, there was general acknowledgement between headteachers that if schools were referring to the Behaviour Toolkit and using it as a basis for their behaviour management policy, then it could be assumed there was a degree of consistency between the policies.

5.3.7 Only three headteachers provided comment on their experiences of the consistency of the policies across schools; two felt the policies *“appear fairly consistent”*, while the other explained they had looked at the other policies in place when they drafted their school's behaviour management policy and, in doing so, did not believe there was consistency across schools.

- 5.3.8 Two headteachers specifically commented they would like increased collaboration on behaviour policies across schools, with one suggesting a *“behaviour policy meeting including all heads and officers”*.
- 5.3.9 Although not specifically asked, five teachers commented they would like to see a more consistent approach to managing disruptive behaviour across schools, *“to ensure continuity throughout the Bailiwick”*, with three teachers specifically referring to wanting an increased consistency in schools’ behaviour management policies.
- 5.3.10 In order to ascertain whether the content of schools’ behaviour management policies were consistent in meeting the five criteria specified in the Behaviour Toolkit, the Committee considered it necessary to review each school’s policy against these content principles³⁶.
- 5.3.11 The Committee’s research showed that:
- Not all schools provided content on each of the five criteria.
 - The level of detail provided in each behaviour management policy, against the five criteria, varied greatly across schools.

5.4 Reviewing and Auditing a Behaviour Management Policy

- 5.4.1 In his report *“Learning Behaviour: Lessons Learned”*, Sir Alan Steer stated:
- “If a school policy is to be meaningful it needs to be reviewed on a regular basis...”*
- 5.4.2 As shown in the analysis table in Appendix 1, the review dates of each school’s behaviour management policy show a number of policies had not been reviewed or updated for a number of years.
- 5.4.3 Most policies do not state how frequently they will be reviewed and, of those that do, some give no indication whether this review has actually taken place.
- 5.4.4 The Committee could also find no evidence to suggest the Department has a formal requirement for schools to review and update their behaviour management policy within a set timeframe.
- 5.4.5 The majority of behaviour management policies also do not indicate how they will be reviewed. There is a legal requirement in the UK for schools’ behaviour policies to be reviewed with pupils, staff and parents and for this to be informed by an audit of the behaviour needs within the school. Sir Alan Steer states that

³⁶ The Committee has not assessed the practical effectiveness of the content, and measures within, the behaviour management policies, as this is outside the scope of the review.

these audits are essential because *“too often discussions on behaviour lack any evidence base with the result that subsequent actions are not targeted and may not be effective.”*

5.4.6 The Department’s Behaviour Toolkit sets out detailed audits that schools can implement. Unit 1 of the Toolkit sets out guidelines and support material for:

- *Staff audit of whole school policy;*
- *Pupil audit of behaviour in school;*
- *Parents’ audit of the school’s present behaviour policy;*
- *Analysis of the frequency and intensity of disruption in classrooms;*
- *Analysis of the frequency and intensity of unacceptable behaviour at break and lunchtime;*
- *Monitoring and tracking disruptive behaviour;*
- *Monitoring and tracking acceptable behaviour.*

5.4.7 It is unclear to the Committee to what extent these audits are undertaken and if any other performance indicators are collected by schools that could assist the review of its behaviour management policy.

5.5 Communication of Behaviour Management Policies

5.5.1 The effective communication of behaviour management policies is essential for encouraging a consistent approach, and adherence to its principles, by teachers, pupils and parents.

“Schools should disseminate their behaviour management policy widely, so that pupils, all school staff and parents are aware of the standards of behaviour expected of pupils, as well as the range of rewards and sanctions available to promote good behaviour.”

Guidance and Procedures for Managing Exclusions – August 2010

Communication of Behaviour Management Policy to Teachers

5.5.2 In order for there to be consistency in the teachers’ approach to managing disruptive behaviour within the same school, communication of a school’s behaviour management policy is essential.

5.5.3 When asked how they have been made aware of their school’s behaviour management policy, there was a range of responses from teachers, which varied both across and within schools:

- A large number of teachers stated they were involved in updating and reviewing their school’s policy during staff meetings and training sessions at the beginning of each school year. While the majority of comments in relation to this approach were positive, one teacher did not consider the time

allocated to reviewing their policy to be sufficient and two teachers believed their school's policy still required updating.

- Another popular method of communicating the policy is via the school's computer network and within the school handbook, both of which all teaching staff have access to.
- Other teachers cited emails, class based files of school policies, copies circulated by the school secretary, handouts, updates from the School Council and through discussion with the SENCO or BECO as methods used to make them aware of their school's policy.

5.5.4 While the above demonstrates there is a number of communication methods used to keep teachers informed of their school's behaviour management policy, three teachers claimed not to have access to their school's policy, or had to specifically ask for a copy.

Communication of Behaviour Management Policy to Parents and Pupils

5.5.5 In addition to the behaviour management policies being communicated effectively to the teachers, it is equally essential that pupils and parents are made aware of their school's policy.

5.5.6 The Department confirmed every school holds a welcome evening for new parents at the beginning of each school year, at which the headteacher and teaching staff set out the school's expectations for behaviour. Supporting this, every school sends out a prospectus to the new parents, which sets out the school's expectations for behaviour.

"The opportunities for parents to be aware of what is going on at school, and to comment on it, are plentiful."

Director of Education, Education Department –
Public Hearing, 27th September 2010

5.5.7 The Committee found that every school apart from Herm Primary School and Le Murier School had its own website. However, as Appendix 1 shows, only four schools have their full behaviour management policy published on their website, either as a separate document or in its entirety within the school prospectus.

5.5.8 The Committee asked members of the public for their views on the communication of schools' behaviour management policies.

5.5.9 45 members of the public provided comment and of these, over half stated they were not aware of the behaviour management policy, or its content, at the school they have experience of. In addition to this, two other parents stated they only knew about the policy because they had proactively requested it from the school.

- 5.5.10 Of the members of the public who were aware of the behaviour management policy, there appeared to be no standard way of communicating the policies to them. Methods of communication referred to were via letter, newsletter, handout as part of the welcome/induction pack provided by the school or via a teacher or the headteacher.
- 5.5.11 No consistent trend within or across schools was evident, with almost all schools represented in the consultation responses having some parents/pupils being aware of the policy and some not being aware of the policy.

5.6 CONCLUSIONS

Content of Behaviour Management Policies

- 5.6.1 Further to the views expressed by the Department and the headteachers, the Committee supports the view that each school is best placed to adapt its behaviour management to meet its individual school's needs.
- 5.6.2 The Behaviour Toolkit states that "*it is not intended as a package that must be worked through in its entirety*". However, there are important aspects the Committee believes should be a formal requirement: adherence to the behaviour management policy content criteria and for schools to undertake behaviour audits involving staff, pupils and parents when reviewing their school's behaviour management policy.
- 5.6.3 The Committee is pleased the majority of headteachers rate the level of support and guidance provided to them by the Department in writing their school's behaviour management policy so highly. In addition, the Behaviour Toolkit appears an invaluable tool for headteachers to refer to in formulating their in-house behaviour management policies and procedures. The Committee believes the Department should outline regular dates for reviewing the Toolkit to ensure it is kept updated and relevant.
- 5.6.4 A school's behaviour management policy sets out the requirements of acceptable behaviour to teachers, pupils and parents of that school and the Behaviour Toolkit outlines the five content criteria schools "*should*" include detail on in their behaviour management policy. In practice, the Committee found an inconsistency in the level of detail contained within schools' policies against these criteria, with some schools' policies not containing content on some criteria at all.
- 5.6.5 The Committee accepts that the behaviour management policy content can vary from school to school, allowing headteachers the autonomy to address the individual needs of their school. However, the Committee would expect every school's behaviour management policy, as a minimum, to follow the content criteria stipulated in the Behaviour Toolkit to ensure a consistency in approach and for this to be sufficiently detailed to establish clear guidance to users.

- 5.6.6 The Committee believes the Department should monitor schools' behaviour management policies more closely to ensure they contain detailed content on the criteria specified in the Behaviour Toolkit. It also feels that all schools should receive formal confirmation from the Department that it is satisfied that their policy meets with the criteria set out in the Behaviour Toolkit. This could be achieved by the Department formally signing the policy once checked and approved.

Reviewing schools' behaviour management policies

- 5.6.7 The Committee believes schools' behaviour management policies should be regularly reviewed and updated, at least every two years, to ensure they are continually meeting the evolving needs of the school and are effectively managing disruptive behaviour.
- 5.6.8 The published policy should state when it was last reviewed, its date of publication and when it will next be reviewed.
- 5.6.9 The Committee supports Sir Alan Steer's view that, without an appropriate evidence base to assess the level of disruptive behaviour within a school, it is difficult to confirm whether the behaviour management policy has been effective.
- 5.6.10 To ensure that a school's needs are met by the policies in place, it is essential to gather and assess the experiences and opinions of teachers, parents and pupils on the disruptive behaviour within the school. Provision for this is set out in Unit 1 of the Behaviour Toolkit – "*Managing Behaviour at Whole at Whole School Level.*" The Committee is unclear to what extent schools undertake these audits but believes they should be a requirement when reviewing the behaviour management policy. The results should also be submitted to the Department to enable appropriate monitoring and oversight.

Communicating the behaviour management policies

- 5.6.11 Respondents collectively outlined a number of different communication methods used for communicating a school's behaviour management policy. There appears to be no consistency in the mode of communication used, however, this is not to say the wide-ranging methods in use are not effective in their own right.
- 5.6.12 Although only three teachers appeared to be "missed" by the range of communication methods used, the Committee believes that guidance and standards for communications would be helpful to schools to increase effectiveness.
- 5.6.13 In relation to the communication of the behaviour management policy to parents, the Committee acknowledges they are given the opportunity to attend a

welcome evening and are sent the school's prospectus at the start of the school year, which should set out the schools' expectations for behaviour. However, the Committee does not consider this to be sufficient to ensure parents are aware of a school's complete behaviour management policy.

- 5.6.14 The Committee believes every school should have the latest version of their complete behaviour management policy published on its website so parents, pupils, teachers and any other interested party can access it. By publishing the policy on the school's website, the school can easily update and re-issue the policy with minimal time and cost involved.

6 SUPPORTING PROVISIONS

6.1 Supporting Behaviour Management Policies

- 6.1.1 A school's behaviour management policy is the foundation for managing disruptive behaviour. The practical implementation of the policy is key in determining the policy's effectiveness in managing disruptive behaviour.
- 6.1.2 Teachers are ultimately at the "front line" when implementing their school's behaviour management policy and it is essential, aside from their individual skills, they have access to appropriate training and support to assist them throughout their career.
- 6.1.3 Other important support mechanisms in place are the advice and support provided to teachers by SENCOs, BECOs and nurture group teachers when providing for, and managing, pupils with SEN, SEBD and wider behavioural and development difficulties. The Committee was therefore interested to learn how the SENCO role, the BECO role and nurture groups are resourced within schools.

6.2 Training and Supporting Teachers

- 6.2.1 Training and support in behaviour management is provided to teachers both centrally by the Department and by the individual headteacher/school. As explained previously, even when delegated to schools, it is still ultimately the mandated responsibility of the Department.
- 6.2.2 It is important to stress the Committee has not appraised teachers' individual skills in managing disruptive behaviour, as this would be inappropriate and is outside the remit of this review.

Behaviour Management Training and Support Provided by the Education Department

The Behaviour Toolkit

- 6.2.3 The Department's Behaviour Toolkit contains two units³⁷ which set out classroom behaviour management skills and methods to identify, address and manage the behaviour of individual pupils. The units are detailed step-by-step guidelines, with associated appendices, that the teacher can implement to assist them in managing disruptive behaviour.

³⁷ Unit 2 "*Behaviour Management in the Classroom*" and Unit 3 "*Managing the Behaviour of Individual Pupils*"

Behaviour Management Training

- 6.2.4 The whole-school training needs and individual teacher training needs are identified by the school on an annual basis. These are contained within the school improvement plan submitted to the Department for consideration and inclusion in either the whole island training provision or specific training for that school.
- 6.2.5 The Education Development Centre (EDC)³⁸ is responsible for the organisation and coordination of in-house training centrally funded by the Department. It provides a training schedule for each school term, which is circulated to teachers and is publicly available on the www.education.gg website under the “working in schools” section³⁹.
- 6.2.6 The Department’s SEBD Advisory and Outreach Service, which is based at the Link Centre, provides training to school staff specifically on matters relating to social, emotional and behavioural difficulties. These training courses are published in the EDC training schedule. The Department normally centrally funds one member of staff from each school to attend each course, however, if there is sufficient space available, schools can send more than one teacher or teaching assistant⁴⁰. A full list of the topics covered in this SEBD Advisory and Outreach Service training are set out in Appendix 2.
- 6.2.7 Specific training on behaviour management is provided within the Induction Programme for newly qualified teachers and within the mandatory training for teaching assistants. Following this initial training, behaviour management training courses are offered to teaching staff but are not compulsory; there is no formal requirement for teachers to attend any behaviour management training courses following their newly qualified teacher training.

Behaviour Management Support Services

- 6.2.8 The Department has a number of Education Support Services available, which assist schools in the early identification of SEN, advise them on effective provisions in response and act as an advice source on learning and behaviour management strategies for teachers. Details of these services can be found on the Department’s website under the heading “Education Support Services”.

³⁸ The training courses of the EDC are co-ordinated centrally by three members of Department staff.

³⁹ In September 2011, the Department established a virtual learning environment, part of which enables school staff to exchange information; it is envisaged all information regarding training and development will be accessible on this website.

⁴⁰ The Department asks course attendees to complete an evaluation of the training they have received. The Department confirmed that “*generally feedback is extremely positive*” and if the feedback raises any concerns, these are subsequently addressed with the course leaders so adjustments can be made.

SEBD Advisory and Outreach Service

6.2.9 One of the key support services in relation to behaviour management specifically is the SEBD Advisory and Outreach Service⁴¹. This service provides advice, support and intervention to mainstream schools, and advice and support to special schools specifically for pupils with SEBD. While the Advisory and Outreach Service works with a number of young people, two specific groups of pupils it works with are those where:

- Despite interventions and strategies being implemented by the school, the pupil continues to have difficulties adjusting to mainstream school due to social, emotional or behavioural difficulties;
- The pupil has been excluded or is at risk of exclusion;

6.2.10 The Advisory and Outreach Service works with teachers and provides advice, support and intervention to them while the pupil is in their registered class. As part of its service, the Advisory and Outreach Service can:

- Undertake assessment, intervention programmes, together with ongoing monitoring and reporting on pupils with identified behavioural difficulties;
- Provide advice on strategies in relation to disruptive behaviour that may be implemented by staff within schools;
- Be available for assistance and consultation at any stage in managing the needs of pupils with behavioural difficulties;
- Provide in-service training for school staff;
- Support schools on the development of whole school or whole class policies in issues relating to behaviour management;
- Provide time-limited in-class support for pupils with SEBD; and
- Support the reintegration of pupils following exclusion through providing a Teaching Assistant, if this provision is considered necessary;

6.2.11 Although not directly asked, four headteachers praised the work of the Advisory and Outreach Service in assisting schools with the management of disruptive behaviour, outlining that “*it provide[s] sound advice when required*” and is “*easily accessible*”.

⁴¹ The Advisory and Outreach Service was established in 1995 and currently comprises the Head of Service, 3 Advisory Teachers, 1 part-time support teacher and 4.5 Teaching Assistants. In February 2011 the SEBD Advisory and Outreach Service merged with the Link Centre to become one SEBD Service. This one SEBD Service was subsequently restructured into three departments; the Primary Department; the Secondary Department and the Schools Liaison Department. It is important to note the consultation period with headteachers, teachers and members of the public ran from October 2010 to March 2011, therefore their consultation responses do not refer to this revised, merged structure. However, the function of the merged SEBD Service is the same as its two predecessor services and therefore discussion on the separate role of the Advisory and Outreach Service is still relevant in this review.

The Allocation Panel Meeting

- 6.2.12 In relation to the allocation of additional teaching support resources to schools, the Department has a bi-annual multi-agency meeting⁴² to determine the allocation of these resources. Schools put forward any additional support requirements they have identified for consideration at these meetings.
- 6.2.13 Resource and budget constraints mean it is not always possible to provide schools with all the resources they request. This approach allows the Department to consider the needs, and competing resource requirements, of schools across Guernsey, Herm and Alderney concurrently and to subsequently prioritise resources to the schools with the highest identified need.

“This method enables us to look at all the requests right across the Island and it means that we are allocating the additional resources in a fair and equitable way across the schools.”

Assistant Director for Schools and Education Services, Education Department –
Hearing, 20th September 2010

- 6.2.14 The support requests put forward by a school are monitored by the Department and if it becomes apparent that one school has identified a number of difficulties, the Department will liaise with the Advisory and Outreach Service, the Educational Psychologist and the Education Welfare Service to provide further advice and support to the school.

Teachers’ Views

- 6.2.15 The Committee was interested to learn how satisfied teachers were with the level of behaviour management training and behaviour management support provided by the Department.
- 6.2.16 Half the teacher respondents rated both the level of behaviour management training and support provided by the Department as either “*poor*” or “*very poor*”. However, the Committee is mindful that this only represents a small percentage of the overall teaching population.

Behaviour Management Training

- 6.2.17 Four teachers felt that the success of dealing with disruptive behaviour was largely down to the ability and skills of the teachers involved; one teacher commented, “*I am aware of some poorly managed classrooms where behaviour impacts upon learning...the issue in these lessons is usually the skill of the teacher, not the behaviour of the students.*” Appropriate training will assist teachers in developing the right skills to deal with disruptive behaviour.

⁴² Attendees at this meeting include the head of the SEBD Service, the Principal Educational Psychologist, two headteachers and Education Officers.

- 6.2.18 While not all teachers appeared to be aware of the behaviour management training provided by the Department, a high number stated they would like to see more regular training courses on behaviour management provided.
- 6.2.19 The Committee is aware that some behaviour management courses have been provided by UK specialists; some teachers commented positively on these and is something they would like to see repeated.
- 6.2.20 One teacher felt that stronger encouragement should be in place for teachers to attend training courses.

Behaviour Management Support

- 6.2.21 A number of respondent teachers believe more resources are required in the classroom to assist them in managing some pupils, for example, through an increased number of teaching assistants or support staff being made available. One teacher commented that there are *“too many students with numerous problems”* for teachers to be able to cope, with another stating that *“there should be more people available to deal with certain pupils, so the rest of the class can be taught”*.
- 6.2.22 Although not specifically asked, four parents commented that, in their opinion, teachers should be given more support in managing disruptive pupils, outlining that there should be *“enough teachers to manage the number of pupils.”* One parent commented that *“the real problem is that the school has too many children and not enough staff to properly deal with day-to-day behaviour”*.

In-School Behaviour Management Training and Support

- 6.2.23 The Department informed the Committee that each school has four Organisation, Administration and Training (OAT) days per school year, where teaching staff meet without pupils present. The Director of Education explained that these OAT days are *“designated to be used for...whole school training purposes.”*
- 6.2.24 Headteachers determine the content of their school’s OAT days and behaviour management training can form part of these days.

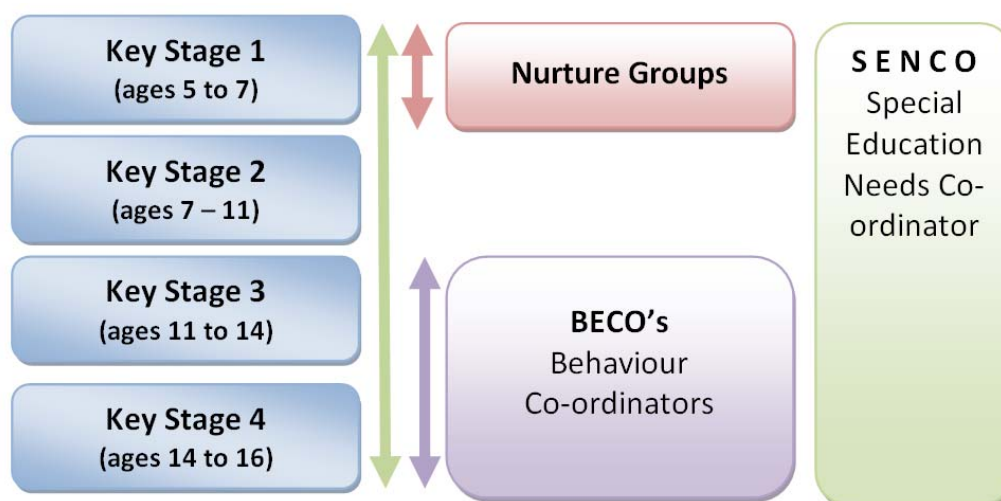
Teachers’ Views

- 6.2.25 On average, respondent teachers’ satisfaction with the level of behaviour management support and training provided by their headteacher/school was higher than that provided by the Department.

- 6.2.26 This was particularly prevalent in relation to the level of behaviour management support provided by their school/headteacher, where 55% of respondent teachers consider the support to be either “good” or “excellent”. It is expected that this result would be higher than the level of behaviour management support provided by the Department because a teacher’s first point of call for support would be to either their headteacher or their school’s SEN Co-ordinator and Behaviour Co-ordinator.
- 6.2.27 While this result shows that just over half of respondent teachers are satisfied with the level of behaviour management support provided by their school/headteacher, improvements could still be made in this area. In particular, three teachers suggested that they would like to see an increased sharing of best practice on behaviour management within schools.
- 6.2.28 In relation to the behaviour management training provided by the school/headteacher, there was reduced satisfaction for this, with satisfaction levels more varied and only 37% of respondent teachers rating it as “good” or “excellent”.

6.3 SENCOs, BECOs and Nurture Groups

Summary of the Key Stages that the SENCO, BECO and Nurture Group Provisions Provide For.



The Role of Special Education Needs Co-ordinator: SENCOs

- 6.3.1 As stated in the introduction of this report, the Special Educational Needs Code of Practice (Guernsey 2004) (“SEN Code of Practice”) provides a procedural framework for schools to identify, assess, monitor and review the SEN of pupils.

- 6.3.2 One of the four main categories of SEN is social, emotional and behaviour difficulties. As outlined earlier, statistics indicate that pupils who have social, emotional and behaviour difficulties are at a higher risk of being disruptive in the classroom.
- 6.3.3 Every headteacher is responsible for developing and implementing their school's own SEN policy. This will be in line with the overarching SEN Code of Practice, which states that a school's SEN Policy should detail:
- *The procedures by which children and young people with SEN are identified, assessed and have their needs met by the school;*
 - *How children and young people with SEN are able to access the curriculum and are included in the school community;*
 - *How the school provides effective learning opportunities for all children and young people through early intervention, removing barriers to learning, raising expectations and achievement and improving partnerships.*
- 6.3.4 Each school has an appointed SEN Co-ordinator (SENCO) who is responsible for the day-to-day operation of the school's SEN policy and, as such, co-ordinates the special educational need provisions for pupils at their school.
- 6.3.5 Class teachers have the majority of contact with pupils and are best placed to identify any pupils they believe may have a SEN. Class teachers will then consult with the SENCO and they discuss the early identification, assessment, provision and monitoring that should be put in place for that pupil.
- 6.3.6 The SEN Code of Practice states that the role of the SENCO is to:
- *Assist class teachers in the identification and assessment of children and young people with SEN;*
 - *Co-ordinate the provision made for individual children and young people with SEN, working closely with staff, parents and carers and other agencies, including Education Support Services;*
 - *Liaise with and advise colleagues with the aim of securing high quality teaching for children and young people with SEN;*
 - *Convene review meetings at School Action⁴³ and School Action Plus⁴⁴;*
 - *Convene Annual Review meetings for children and young people who have a Determination;*
 - *Maintain the school's Register of Special Educational Needs, using the Schools Information Management System;*

⁴³ School Action is the first level of additional support provided to meet a pupil's SEN from within the school's existing resources. It is time-specific with set review dates.

⁴⁴ School Action Plus is the second level of additional provision made for pupils with SEN and occurs following a review at School Action that determines that there is a requirement for involvement from outside the school's resources, i.e. from the Education Support Services or the Health and Social Services Department.

- *Oversee the records for all children and young people with SEN;*
- *Liaise with external agencies including Education Support Services and Health and Social Services Department;*
- *Ensure Individual Education Plans⁴⁵ are written in consultation with class or subject teachers, using the proforma provided by the Education Department.*

6.3.7 At the hearing on 20th September 2010, the Department's SEN and Children's Manager explained that the Department has worked closely with schools to develop a common job description for the role of SENCO, based on the above requirements. The Department is also involved in the selection and appointment of SENCOs within schools.

The SENCO Resource

6.3.8 SENCOs are qualified, experienced teachers and undertake teaching responsibilities in addition to their SENCO responsibilities.

6.3.9 The amount of teaching that a SENCO undertakes is determined by the headteacher, whose responsibility it is to ensure that the SENCO has an appropriate timetable with sufficient time to enable them to undertake their SENCO duties.

“In some schools....the SEN Co-ordinator is a full time teacher, in our primary schools that is particularly true...in some schools they are also the deputy headteacher...in a couple of our schools, our primary schools, the SENCO role is taken by the headteacher themselves. So it is down to the headteacher...in consultation with the Education Department, to organise the management and deployment of the resources they have in their school, including the person in post of SENCO.”

SEN and Children's Services Manager, Education Department –
Hearing, 20th September 2010

6.3.10 During the hearing, the Department emphasised that the role of the SENCO is to co-ordinate the SEN provisions within their school, not to solely undertake teaching responsibilities for SEN pupils within their school:

“All teachers are teachers of children with special needs, and all teachers have a responsibility in terms of finding out about the special needs and understanding them, and making provision for them, as far as they are able in their classroom, with the support of and advice of other specialists...the SEN Co-ordinator co-ordinates the provision and...the administration of the processes around SEN and makes sure that the correct provision is in place for

⁴⁵ An Individual Education Plan (IEP) is written for a pupil when they have been identified as having a SEN and require interventions to be put in place additional to, or different from, those provided as part of the school's standard curriculum.

each child.”

SEN and Children’s Services Manager, Education Department –
Hearing, 20th September 2010

6.3.11 Every school has one named SENCO⁴⁶. The Director of Education confirmed that occasionally there may be more than one SENCO in a school, but this would be during times of reorganisation or to account for the transition between roles.

6.3.12 The Department advised that the key component of the SENCO role was to “co-ordinate”. In conjunction with the school’s senior management team, the SENCO monitors the deployment of support staff within a school, which includes themselves, to ensure that teachers are supported in managing pupils with SEN. Due to the prime function of the post being a “co-ordinator”, no consideration is given to the ratio between the SENCO and the number of SEN pupils they co-ordinate.

“It would be difficult to justify more than one because if you did have more than one it would really be because you were using them simply for one-to-one support for small groups of support, rather than being a point of reference which they really should be...It has to be a shared responsibility on the part of all staff that they involve themselves in addressing the needs of these children”

Director of Education, Education Department –
Hearing, 20th September 2010

6.3.13 In addition to each school having a SENCO, SEN teaching assistants are allocated to each of the High Schools dependent on the size of the school; St Sampson’s High School has three SEN Teaching Assistants, while Les Beaucamps High School and La Mare De Carteret High School each have two.

6.3.14 The Committee sought feedback from teachers on the resourcing of the SENCO posts in their schools. The Committee has not reviewed the individual skills of the SENCOs or their abilities to undertake this role; instead it has focused on reviewing the teachers’ perceptions of the adequacy of the SENCO provision itself within schools.

6.3.15 64% of respondent teachers felt that their school had an adequate SENCO resource, with 59% rating the support provided by their SENCO as either good or excellent. One teacher commented that the support provided by their SENCO “*made a big difference to me*”.

6.3.16 However, on further analysis of the responses, it emerged there was a difference in perception of the adequacy of the SENCO resource between respondent primary and secondary school teachers. In general, primary school teacher

⁴⁶ This is consistent with equivalent provisions in other jurisdictions, including England.

respondents rated their SENCO provision as adequate for their school, whereas a number of the secondary school teachers did not.

- 6.3.17 No respondent from St Sampson's High School considered their school to have an adequate SENCO resource available. One teacher from the school believed that due to the demands placed upon this role at their school, they should have two SENCOs instead of one. Four teachers from the school also stated that the SENCO post at their school was vacant at the time of them contributing to the Committee's consultation.
- 6.3.18 During the focus group, the attendees agreed that the number of pupils with a SEN and the subsequent workload of the SENCO in co-ordinating the provisions for these pupils varied from school to school. While they understood that the role of the SENCO was to "co-ordinate" they confirmed SENCOs also did a lot of the "*hands-on work...as they were the people with the skills to deal with these kinds of pupils.*"
- 6.3.19 Contrary to the view of the Department, the attending teachers felt more needed to be done to address the perceived imbalances between the SENCO workloads across the schools and suggested that further consideration be given to marrying the SENCO resource against the number of pupils with SEN within each school.

The Role of Behaviour Co-ordinators: BECO

- 6.3.20 Each secondary school has a Behaviour Co-ordinator (BECO), responsible for co-ordinating the management of behavioural problems within the school, in particular pupils with social, emotional and behaviour difficulties (SEBD). The BECO implements strategies to help teachers manage disruptive pupils and prevent poor behaviour.
- 6.3.21 Following the introduction of the Behaviour Toolkit in 2003, primary school headteachers did not feel that they had the same need as secondary schools for a BECO resource; therefore, no mainstream primary school has a BECO. The only primary school to have a BECO is Le Rondin School.

"The secondary headteachers felt there was a need and they welcomed the idea of having a Behaviour Coordinator. The primary head teachers...felt that they didn't have that same need."

Assistant Director for Schools and Education Services, Education Department –
Hearing, 20th September 2010

- 6.3.22 The co-ordinating functions of the BECO in secondary schools, their link with class teachers and their appointment all work on the same principles as the SENCOs. Due to the BECO work being a subset of special education needs, they work closely with the SENCO in setting out the provisions for pupils with SEBD.

- 6.3.23 BECOs also have a reduced teaching timetable to enable them to provide the necessary BECO resource to the schools. At the hearing on 20th September 2010, the Deputy Director of Education estimated that BECO teaching commitments were approximately 10-20% per week, *“that is their actual timetable commitment but they’ve got flexibility within the other 80% of their week to do what they need to do”*.
- 6.3.24 As with the SENCO role, the BECO co-ordinates the management of pupils with SEBD within their school and also provides direct teaching and support for these pupils. The BECO’s job description states their role is: *“To provide support and intervention for individual pupils and groups of pupils with SEBD”*.
- 6.3.25 In cases where it is no longer considered appropriate for a pupil with SEBD to continue full time in mainstream schools without additional support, the BECOs work with class teachers and the SENCO to make a referral to support agencies outside the school; this can result in either Advisory and Outreach Service support within mainstream schools or ultimately an off-site SEBD placement at the Link Centre.

The BECO Resource

- 6.3.26 Secondary school teachers were asked if they felt the BECO role was adequately resourced within their school. 65% of those that answered this question did not consider their school to have a sufficient BECO resource. Less than half of the respondents, 45%, rated the support provided by their BECO as “good” or “excellent”.
- 6.3.27 The main respondents who highlighted dissatisfaction with the amount of BECO resource in their school were again from St Sampson’s High School. While one teacher highlighted that *“positive steps”* had occurred since the implementation of the BECO at their school, other teachers commented that the BECO resource in their school was not sufficient to meet demand.
- 6.3.28 The focus group attendees also acknowledged that the workload of a BECO varied between schools and they considered more needed to be done to redress the imbalance. They did not consider the current approach of one BECO per secondary school to adequately meet the needs of pupils in all the schools and again suggested that consideration be given to the ratio between the number of pupils with behaviour difficulties and the BECO.

Nurture Groups

“The role of a nurture group is to provide early intervention and support for young children who may have missed out on early learning experiences, lack the foundations essential for further learning and are at risk of having difficulties with school adjustment and failing in school.”

Policy and Framework for Supporting Pupils with Social, Emotional and Behavioural Difficulties, September 2007

- 6.3.29 The principle behind nurture groups is that pupils who attend them are encouraged to develop positive relationships and are given the opportunity to focus on developing their social and linguistic skills. Nurture groups cover a range of difficulties pupils may experience and aim to address these to enable the pupil to participate successfully in mainstream school⁴⁷.
- 6.3.30 The Department originally established four dedicated nurture groups located at Amherst Primary School, St Martin’s Primary School, La Mare De Carteret Primary School and the Link Centre. Amherst Primary School and La Mare De Carteret Primary School were originally identified to pilot a nurture group, with St Martin’s School subsequently volunteering for the third pilot. A factor in this decision was the availability of space to accommodate the facility.
- 6.3.31 Since September 2010, La Mare De Carteret Primary School no longer operates a dedicated group provision, as the headteacher does not currently perceive there to be a need. The school follows a nurture class style philosophy instead, with the nurture group teacher providing a bespoke programme of support as required.
- 6.3.32 The nurture group at Amherst Primary School is a specifically dedicated preschool nurture group. It is for children in the Foundation Stage⁴⁸ who have been identified, in consultation with the Health and Social Services Department, as needing this additional support before they start mainstream school.

“It is four⁴⁹ afternoons a week where they do lots of language enrichment activities and social activities so that they are more ready to be in a place to make a successful start at school the following year.”

SEN and Children’s Services Manager, Education Department –
Hearing, 20th September 2010

- 6.3.33 The nurture groups at St Martin’s Primary School and the Link Centre are targeted at pupils in Foundation Stage and Key Stage 1⁵⁰. Spaces can be made

⁴⁷ Pupils attending a nurture group always keep daily contact with their class even when attending the group on a full time basis.

⁴⁸ See Glossary of Terms.

⁴⁹ During the hearing, the Department stated that Amherst Primary School has “two afternoons a week...” but later clarified that it is actually four afternoons a week.

available for Key Stage 2 pupils, depending on their needs and the make-up of the group as a whole. While the pupils at St Martin's Primary School will attend the nurture group within their school, pupils from all other schools, assessed to be in need of the facility, will attend the Link Centre nurture group.

6.3.34 The Department has confirmed that early indications show there is currently sufficient space and resource to meet the demand for places at the Link Centre nurture group.

6.3.35 The Department describes the nurture group facility as “*very valuable*”.

“It has proved to be, within those schools, that [nurture groups] had a very good success rate of young people moving on and being successful within the other classes within the school.”

Deputy Director of Education, Education Department –
Hearing, 20th September 2010

6.3.36 The Director of Education explained that their value locally is even more apparent due to the current absence of a State-funded pre-school system. This results in some children commencing school at 5 years old needing a “*catch-up function*”.

6.3.37 The Department acknowledges that even though all schools without an on-site provision have access to the Link Centre group, not having a nurture group facility in every school is not ideal. Consideration of increasing the number of nurture groups within schools is tied to both the provision of States funded pre-school education and the limited availability of accommodation to facilitate the nurture group facilities.

“It’s a long-term aspiration of ours to provide those facilities for a nurture group opportunity elsewhere.”

Deputy Director of Education, Education Department –
Hearing, 20th September 2010

6.3.38 Primary school teachers were asked if they felt that they had adequate access to the nurture group facility. The results varied between teachers who had an on-site nurture group facility in their school and those that had access to the off-school site Link Centre nurture group.

6.3.39 Teachers from St Martin's Primary School commented positively about their nurture group provision, “*from experience, the nurture group has proved to be successful for many children within our school*”, “*every school should have one*” and “*it is an essential resource for our school*”, with only one teacher raising a negative view that “*sometimes [the nurture group is] seen as a ‘reward’ for bad behaviour*”.

⁵⁰ See Glossary of Terms.

- 6.3.40 The respondents that did not feel that they had adequate access were all from schools that do not have an on-site facility and instead have access to the Link Centre nurture group only. There also appears to be some confusion among these teachers in relation to their access rights to the Link Centre nurture group, with two teachers stating that they do not have access to a nurture group facility at all.

Key Stage 2 Pupils

- 6.3.41 The Committee noted there is not a specific resource equivalent to nurture groups or BECOs in place for pupils in the Key Stage 2 year groups i.e. ages 7 to 11.
- 6.3.42 While the functions of the BECOs and the nurture groups are different, they both look to develop behaviour skills in a pupil and assist them with their integration into mainstream classes.
- 6.3.43 The Department explained that Key Stage 2 pupils have access to the general interventions described in the SEN Code of Practice and SEN Criteria e.g. senior management team discipline and support, SENCO support, the Advisory and Outreach Service, teaching assistant support via the Allocation Panel or emergency support and placements at the Link Centre.
- 6.3.44 The Committee understands that, when asked previously, primary school headteachers did not feel that there was a need for BECOs in the primary school age group. However, in their responses to the consultation, four teachers recommended that primary schools should have BECOs, with three other teachers recommending that the nurture group facility be extended to pupils in Key Stage 2.

6.4 Conclusions

Training and Support

- 6.4.1 Effective training and support accessible to teachers in managing disruptive behaviour is essential if the impact of disruptive behaviour on the learning of other pupils is to be minimised.
- 6.4.2 The Committee considers the Advisory and Outreach Service, the resources set out in the Behaviour Toolkit and the Allocation Panel meetings to be particularly valuable tools in providing behaviour management support and training to teachers.
- 6.4.3 In their questionnaire responses, no teacher made direct reference to any of these and, in particular, when directly asked during the focus group meeting for their perception on the effectiveness of the Advisory and Outreach Service, the teachers present stated they were unclear of its role and function.

- 6.4.4 In light of approximately half the respondent teachers rating the behaviour management training and support provided by the Department as either poor or very poor, these teachers either do not consider the provisions in place to be sufficient to meet their needs, or they are not fully aware of the resources available.
- 6.4.5 The Committee believes the latter may be true, particularly in relation to the support provisions of the Advisory Outreach Service and the Allocation Panel meetings. It believes the Department should ensure all teachers have access to information on the behaviour management support provisions available to them and the purpose of the Allocation Panel meetings.
- 6.4.6 The Advisory and Outreach Service's training course schedule is circulated to all teaching staff directly and is also published in the EDC's training schedule on the Department's website. It appears to the Committee that information on training is easily accessible to teachers, however the reasons for the dissatisfaction expressed by a small percentage of teachers on the training offered by the Department is unclear and merits further consideration.
- 6.4.7 There is no formal requirement for teachers to attend behaviour management training beyond that which they undertake as part of the newly qualified teacher induction programme. The Committee believes the Department should consult with teachers to ascertain whether there would be merit in enforcing a formal requirement that all teachers attend behaviour management training at set points in their career. One teacher's comment regarding behaviour management training particularly supports this; *"training days and workshops had a positive effect for a short period of time but continuous training updates would be preferable, with relevant follow up"*.
- 6.4.8 No teacher commented on the support and training resources contained in the Behaviour Toolkit, which led the Committee to question the distribution of this resource within schools. The Committee believes it should be published on the teachers' intranet, or the Department's virtual learning environment, so all teachers have access to it.
- 6.4.9 Although not to the same degree, a level of dissatisfaction was expressed by some respondent teachers on the behaviour management training and support provided by their school/headteacher.
- 6.4.10 The Committee understands that a bi-annual headteachers' conference takes place, where the headteachers and the heads of service from the Department meet to work on any issues that need addressing. The Committee believes that the training and support provided by schools/headteachers in behaviour management should be discussed at this meeting to determine how it might be improved.

- 6.4.11 To support the above conclusions, the Committee believes that increased regular communication and consultation directly with teachers on what improvements they would like to see made to behaviour management training and support, provided both by the Department and the schools/headteachers, would be a valuable initiative.

SENCO resource

- 6.4.12 The Committee noted that the role of the SENCO is to co-ordinate the SEN provisions within a school and, at the direction of the headteacher, they may be used as an additional support resource; SENCOs undertake this support resource through a reduced teaching timetable. However, the consultation results indicate that some teachers at the three high schools – La Mare De Carteret High School, Les Beaucamps High School and St Sampson’s High School - do not feel their school has a sufficient SENCO resource.
- 6.4.13 The Committee believes the Department should review the SENCO provisions in the three High Schools to ensure they are adequate to meet the needs of the schools.
- 6.4.14 The Committee noted comments from four St Sampson’s High School teachers who stated that, at the time of the consultation, the SENCO role at their school was vacant.
- 6.4.15 Having the SENCO role vacant in a school is far from ideal, but the Committee accepts that the movement of staff is beyond the control of the Department. The Department provided the Committee with an assurance that when a teaching vacancy does arise, it is routinely covered by supply or agency staff, with skills and experience to match the vacancy.

BECO resource

- 6.4.16 Some respondent teachers also did not feel their school’s BECO provision was sufficient.
- 6.4.17 In light of the importance of the BECO role in assisting behaviour management, the Committee believes the Department should investigate the concerns raised to ensure the BECO support available is appropriate for each school’s needs.

Nurture Groups

- 6.4.18 The introduction of the nurture group provision appears to be a valuable initiative in assisting the young children it serves and the Committee welcomes the Department’s long-term aspiration of providing a nurture group facility in every primary school.

- 6.4.19 The Committee is mindful of both the accommodation and resource constraints facing schools, and so believes the central Link Centre nurture group is an important provision for schools without a nurture group facility onsite.
- 6.4.20 However, it appears that some teachers are unclear on their school's access to this shared nurture group and the Committee believes its role should be clarified to all teachers.

Key Stage 2

- 6.4.21 In light of the emphasis given to early intervention in addressing disruptive behaviour, the Committee believes there is a need to consistently provide behaviour management support throughout a pupil's schooling.
- 6.4.22 The Committee has noted that while Key Stage 2 pupils have access to additional behaviour support through the mechanisms described in section 6.3.43, it does not have additional dedicated behaviour management provisions as the other key stages do, such as a BECO or nurture group access.
- 6.4.23 With regard to some teachers stating that perhaps a BECO provision or extension to nurture groups should be implemented, the Committee believes there is merit in the Department investigating whether the existing provisions are adequate, through consultation with headteachers, teachers and parents, so the views of all interested parties are taken into account.

7. EXCLUSION

“All pupils have a right to receive an education in a safe and secure environment where their individual needs are recognised and met. In ensuring that this happens there may be exceptional circumstances when a Headteacher may need to exclude individual pupils.”

*Education Department, Guidance and Procedures for Managing School Exclusions
August 2010*

7.1 What is Exclusion?

7.1.1 Most disruptive behaviour that occurs within a school can be managed by the class teacher and through the training and support measures discussed previously. However, at times a more serious level of disruptive behaviour might be experienced, which may require behaviour management techniques beyond those available in the classroom setting.

7.1.2 Exclusion occurs when a pupil breaches their school’s behaviour management policy to the extent that it is determined they should be either:

- **Internally excluded** - temporarily removed from their class, lunch/break time or extra-curricular activity; or
- **Externally excluded** – temporarily removed from their registered school premises.

7.1.3 Both internal and external exclusions will be for time limited periods; the *Education (Guernsey) Law 1970* and the *Education (Guernsey)(Amendment) Law, 1987*, makes no legal provision for the permanent exclusion (often termed as ‘expulsion’) of a pupil from a school where he/she is registered.

7.1.4 A pupil may be excluded as both a sanction in response to their disruptive behaviour but also to serve the interests of other pupils in that class, to enable them to be taught in positive learning surroundings.

“The interests of the class must be seen as paramount. It is not acceptable if the behaviour of an individual is allowed to prevent others from learning and from being in a safe and harmonious environment.”

Sir Alan Steer, Learning Behaviour: Lessons Learned
April 2009

7.1.5 Exclusion is the most severe sanction for disruptive behaviour available in the local education system. The *“Guidance and Procedures for Managing*

Exclusions” outlines that the following measures should be implemented to help reduce the risk of exclusion:

- Engaging with parents;
- A change of teaching set or class;
- Flexible curriculum alternatives;
- Individual Education Plans, which include behavioural and educational targets, arrangements for monitoring and reinforcing progress together with the roles and responsibilities of all concerned;
- Allocation of a named member of staff or mentor to provide additional support and guidance;
- Request for the involvement of an external service, such as the Educational Psychology Service, the SEBD Advisory and Outreach Service, the Education Welfare Service and Services for Children and Young People, which include the Child and Adolescent Mental Health Service;
- Referral to the SEBD Panel for consideration of a placement at the Link Centre;
- A managed move to another school, with consent of all parties involved.
- Formal assessment of Special Educational Needs, including possible placement in a special school or centre.

7.1.6 However, there are times when all these interventions fail and the only option left to the school is to either internally or externally exclude a pupil. The following sections look at both the internal exclusion and the external exclusion processes in detail.

7.2 Internal Exclusions

“Internal seclusion (also known as internal exclusion) can be used to defuse situations occurring in school that require a pupil to be removed from class but not from the school premises. The seclusion should be to a designated area within the school, with appropriate support and supervision, or to another class on a temporary basis, and may continue during break periods. Internal seclusion should be for the shortest time possible, subject to regular review and where the pupil is expected to complete normal class work.”

Education Department – Guidance and Procedures for Managing

7.2.1 The Department’s *“Guidance and Procedures for Managing Exclusions”* does not outline the disruptive behaviour attributes that would warrant an internal exclusion, but the Director of Education stated that internal exclusion would be used:

“...where the challenge cannot be managed in that classroom, where it reaches a point that the learning of other children is being adversely affected or, indeed, if the learning of that child is reinforcing the behaviour in that child’s mind.”

Director of Education, Education Department –
Public Hearing, 27th September 2010

- 7.2.2 The structure that an internal exclusion can take varies; the most generic method referred to is the removal of a pupil from the classroom, but it can also include segregating a pupil from lunch/break times or a pupil being excluded from attending additional school activities, for example school trips.
- 7.2.3 The length of time of an internal exclusion will be dependent on the gravity of the situation and will be taken on a case-by-case basis. No prescriptive guidelines on this are provided within the Department’s overarching *“Guidance and Procedures for Managing Exclusions”*.
- 7.2.4 If following the content criteria stipulated in the Behaviour toolkit, a school’s behaviour management policy should include detail on when it is appropriate to use an internal exclusion, and the level at which it is to be applied. From the Committee’s consideration of each school’s behaviour management policy, not all policies contain information about the use of internal exclusions.

Use of Internal Exclusion

- 7.2.5 All but three headteachers who responded to the questionnaire confirmed that they use internal exclusion as a form of behaviour management; the three headteacher respondents that do not use internal exclusions were from primary schools.
- 7.2.6 Five headteachers specifically outlined how effective they consider internal exclusion to be, for the right circumstance, namely *“lesser misdemeanours”* and as *“a valuable alternative to a full exclusion in the right circumstances.”*

“Internal exclusion is an effective process...it clearly demonstrates to a child that their actions are unacceptable...it gives a brief period of respite for the teacher and other children as well as the child concerned.”

Headteacher, 2010

- 7.2.7 The views of respondent members of the public on internal exclusion as an effective method of behaviour management were distinctly split – 22 believe it to be an effective method, while 19 believe it to be ineffective.
- 7.2.8 Those that believed it to be an effective method of behaviour management, were of a similar view to headteachers and the Department, and believed it was appropriate in the right situations, with one adding that it *“is a tool that can be used to keep them [the pupil] within the school community”*. However, it is important to note that six of these respondents do not consider it appropriate for

internal exclusions to be applied repeatedly to the same pupil as this could be “*detrimental to their learning*” and does little to address the reasons behind the disruptive behaviour.

- 7.2.9 The majority of parents that did not believe internal exclusion to be an effective method of behaviour management shared this view on repeat internal exclusions and believed that it “*just meant that the pupil missed out on more education*” and “*it does not change the child’s behaviour in the next class*” or get to the root cause of the problem.
- 7.2.10 In addition, they felt that if a pupil was excluded from break/lunchtimes or additional school activities, it left them at risk of being stigmatised by other pupils. Two parents felt that being internally excluded from attending a school trip as a sanction for previous disruptive behaviour was confusing for a child to understand, due to the time delay, “*it made it difficult for [the pupil] to see the connection between the incident and the sanction*”.
- 7.2.11 Some parents also felt that some pupils see being internally excluded as the “*easy option*” compared to staying in class, which was something they could then “*boast to their friends about*”; “*why bother working when you can have some one-to-one (or near enough) attention and more relaxed time in the seclusion room.*”
- 7.2.12 Concern was also expressed by parents about the lack of consistency in teachers using internal exclusion within the same school.

Internal Exclusion Resources

- 7.2.13 The “*Guidance and Procedures for Managing Exclusions*” states that if a pupil is internally excluded from a class, they should be excluded to a designated and supervised area.
- 7.2.14 To avoid the education of the internally excluded pupil being hindered, the internal exclusion should be sufficiently resourced so that a “time out” location is available and appropriately supervised so the pupil can continue with the work they would be doing in the class.
- 7.2.15 This requirement carries with it resource implications for the school – both in physical resources, to have such an area available for the pupil to go to, as well as in human resources, to have additional staff resources to supervise the internally excluded pupil(s).
- 7.2.16 While 81% of headteacher respondents stated they use internal exclusions, only 25% of them outlined that their school had a dedicated “time out” room to send pupils who were internally excluded.

- 7.2.17 Several headteachers commented on the lack of in-school facilities for pupils to go to when they were internally excluded. Two headteachers specifically commented on the safety aspect of internal exclusions due to the lack of a dedicated “time out” room.
- 7.2.18 While some members of the public referred to pupils being sent to a time out room, which one described as “*a real improvement*” in their school, others stated that their experiences of internal exclusion were “*children...sitting alone in the entrance hall*”, sitting in the classroom alone during break time and the “*child removed from class and placed in the year above class*”.

Monitoring the Use of Internal Exclusions

- 7.2.19 Unlike external exclusions, there is no requirement set out in the “*Guidance and Procedures for Managing Exclusions*” for schools to notify the Department if a pupil is internally excluded.
- 7.2.20 Individual schools keep their own behaviour log, within which the issuance of internal exclusions should be recorded. The behaviour log is available for the Department to access upon request.

“In relation to internal exclusion specifically, we do not have that data at the Department, but schools do have a behaviour log and they would log all of that, so the data is available if somebody wanted to look at it or if we wanted to investigate that more fully.”

Assistant Director for Schools and Education Services, Education Department
Public Hearing, 27th September 2011

- 7.2.21 If a school has a pupil that is repeatedly internally excluded, then it is the school’s responsibility to assess any additional support needs the pupil may have and put forward a case to the Department for additional support at the bi-annual resource allocation meeting. The onus is on the school to bring this to the Department’s attention.
- 7.2.22 It was suggested to the Committee, by some teachers and public respondents, that schools prefer to issue internal exclusions rather than external exclusions because internal exclusions do not have to be officially reported to the Department and, as such, do not impact upon the school’s exclusion statistic record.

Communicating Internal Exclusions

- 7.2.23 The Department reiterates that managing disruptive behaviour is the responsibility of both the parent(s) and the school in partnership.

“...It is described as a partnership with parents, because you need to have the buy-in of parents to the approaches an individual school is taking...if you do not

work with a parent and do not get their support for what you are trying to do, it is going to be very difficult.”

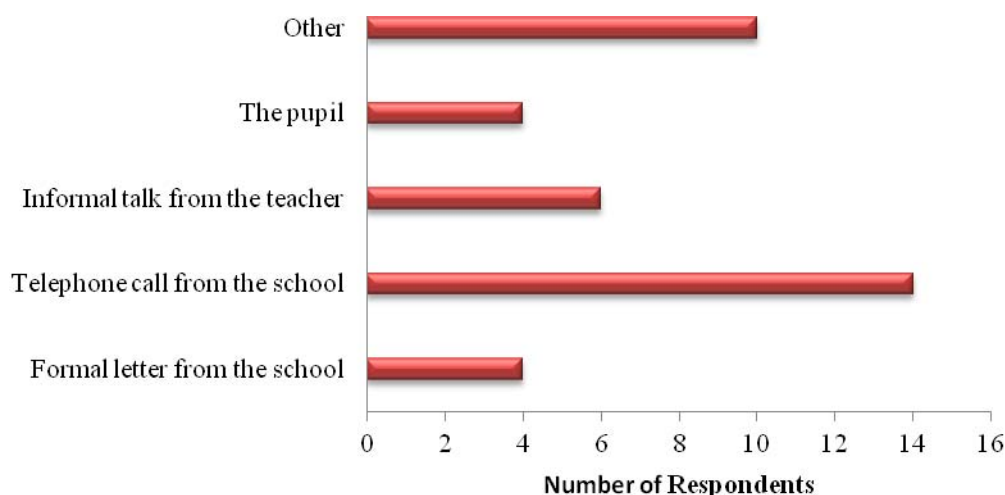
Director of Education, Education Department –
Public Hearing, 27th September 2010

Therefore, if a pupil has been sufficiently disruptive at school to warrant an internal exclusion, then it is likely to have been for a level of disruptive behaviour that warrants the parent(s) being informed.

7.2.24 The “*Guidance and Procedures for Managing Exclusions*” gives no requirement or detail on how an internal exclusion should be communicated to the parents. The Committee asked members of the public who had experience of internal exclusions how, as parents, they were informed of the internal exclusion.

7.2.25 As can be seen in Figure 3 below, from the 38 respondents that answered this question, there is no consistency for informing parents that an internal exclusion has occurred.

Figure 3 **How Internal Exclusions Have Been Reported to Parents**



7.2.26 In addition to this inconsistency, respondents specified different methods of communication at the same school.

7.2.27 One parent also said that in their experience, internal exclusions were not always “*formally communicated*” or recorded by the school appropriately and therefore, as a parent, they were not aware of how frequently their child was internally excluded, for what reason and how much education they were actually missing.

Special Circumstances: “Cooling off” Days

- 7.2.28 The Department’s *“Guidance and Procedures for Managing Exclusions”* outlines that the headteacher may deem it necessary for a pupil to be removed from class and to have time away from the school site for the remainder of that day.

“In the event of the headteacher believing that time is required away from the school site then he/she may direct that a pupil be sent home for the remainder of that day and remain at home for a maximum of one further full day on the condition that the parents are contacted and agree that their child can return home.”

Education Department, *Guidance and Procedures for Managing School Exclusions*
August 2010

- 7.2.29 These special circumstances occur when the headteacher believes this action is necessary for the pupil’s physical, mental and emotional well being. It can only take place if the parents agree this action and are willing to attend a follow-up meeting at the school the next day to discuss the difficulties that have arisen.
- 7.2.30 The headteacher is required to telephone the parents to request this action and follow it up in writing to clarify the reasons for the need for the period away from school. This letter will also be copied to the Department for its records.
- 7.2.31 Although not directly asked, two headteachers referred to the benefits of this provision, referring to it as a “cooling-off” day, with one reiterating the requirement to report these days to the Department.
- 7.2.32 In contrast, one teacher believed that schools use “cooling-off” as an alternative to exclusion because they are unclear of a requirement to report “cooling-off” days to the Department, and therefore believes they are used to *“improve the school’s exclusion statistics”*.
- 7.2.33 The Committee received no further evidence on the use, or recording, of “cooling-off” days.

7.3 External Exclusions

- 7.3.1 The Department directs that external exclusion (“exclusion”) should only be used when the school has exhausted all strategies available to it in managing a pupil’s disruptive behaviour.
- 7.3.2 Its *“Guidance and Procedures for Managing School Exclusions”* sets out the procedures and responsibilities that should be followed when exclusion is used. This policy is outlined in more detail throughout this section.

**Education Department's Guidance and Procedures for Managing School
Exclusions, August 2010**

Exclusion can be appropriate:

- *In response to serious/persistent breaches of the school's behaviour policy;*
- *If allowing the pupil to remain in school represents a serious risk to harming the education of the pupil or others in the school;*
- *When a pupil's presence on the school site represents a serious risk to the health safety and welfare of themselves and/or that of other pupils or school staff.*

Exclusion should not normally be used for:

- *Failure to do homework;*
- *Poor academic performance;*
- *Lateness or unauthorised absences, including truancy;*
- *Breaches of school uniform rules or rules on appearance, for example relating to jewellery, body piercing, hairstyles, and so forth (information made available to parents must state clearly the rules which will be applied to uniform and other aspects of personal appearance).*

It is accepted, however, that if all other measures have failed, and if the behaviours described above are persistent over a period of time and in open defiance of the school's published behaviour policies then it is appropriate that such behaviour might be regarded by the Headteacher as being reasonable ground to exclude a pupil. What constitutes reasonable will depend on the circumstances of each case.

- *Exclusion should never be used for punishing pupils for the behaviour of their parents.*

7.3.3 Exclusion will be time-limited and fall into one of three categories:

Category 1 exclusion	Up to five school days
Category 2 exclusion	Between five and twenty school days
Category 3 exclusion	For a period over twenty school days

7.3.4 A pupil is excluded on the category that the headteacher deems appropriate for the seriousness of their disruptive behaviour and the Department directs it should be for the shortest time possible.

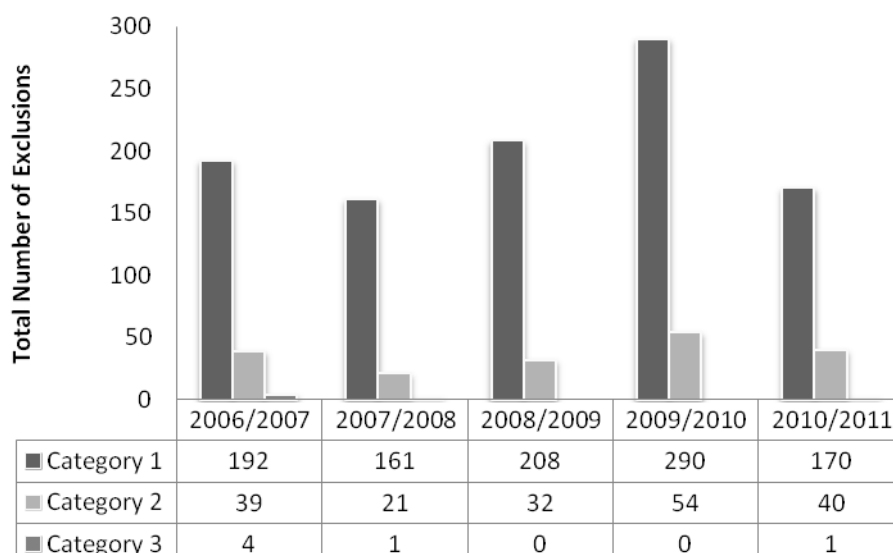
Exclusion Statistics

- 7.3.5 Schools are required to notify the Department as soon as a pupil is excluded. The Assistant Director (Schools and Education Services) collates an annual report on exclusions, which is also made available to the Deputy Director of Education, the Senior Education Welfare Officer, the Principal Educational Psychologist and senior managers and officers within the Schools and Education Services Division.
- 7.3.6 An Annual Exclusion Data Report is presented by the Deputy Director of Education to the Director of Education and the Board. Each school is also annually provided with an exclusions data report detailing its own exclusion data together with that of other schools, which is anonymised.
- 7.3.7 While exclusion data is not published, the Department confirmed that it is available upon request. A copy of the September 2011 “Exclusions Statistics” Report is appended in Appendix 3. This report covers the years from 2006 – 2011 and the Committee has used this information to summarise the use of exclusions locally:

The number of excluded pupils

Figure 4

The Total Number of Exclusions Within Each Category of Exclusion For Each School Year Since 2006/2007.

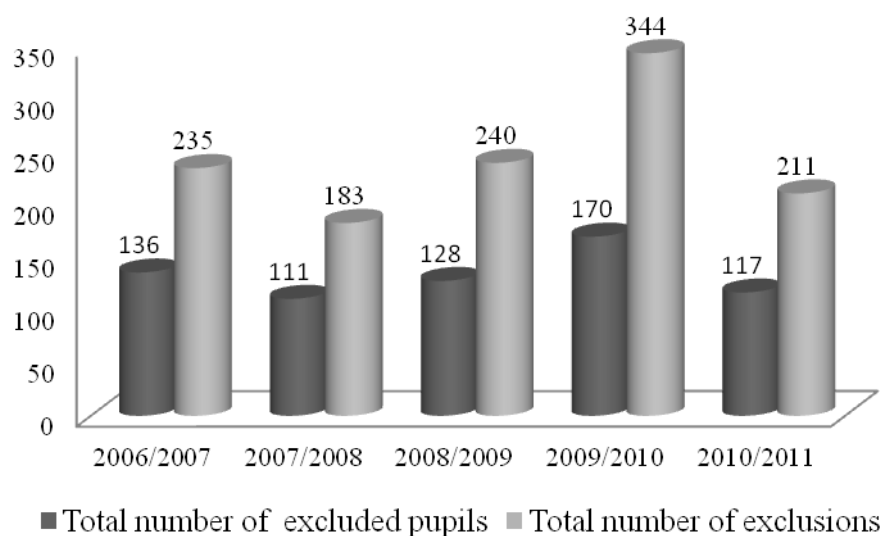


- 7.3.8 The above graph demonstrates that category 1 exclusions (up to five school days) have been used most frequently, with category 3 exclusions (for a period over twenty school days) used least frequently. The statistics outline the number of exclusions within each exclusion category but do not show the total number of actual days lost through exclusion.

- 7.3.9 In England, the Department for Children, Schools and Families produce an annual report entitled “*Permanent and Fixed Period Exclusions from School and Exclusions Appeals in England*”, within which the duration of fixed period exclusions is provided, showing the number of days children are excluded in primary, secondary and special schools.

Repeat exclusions

Figure 5 **Total Number of Excluded Pupils in Comparison to the Total number of Exclusions Each School Year since 2006/2007.**



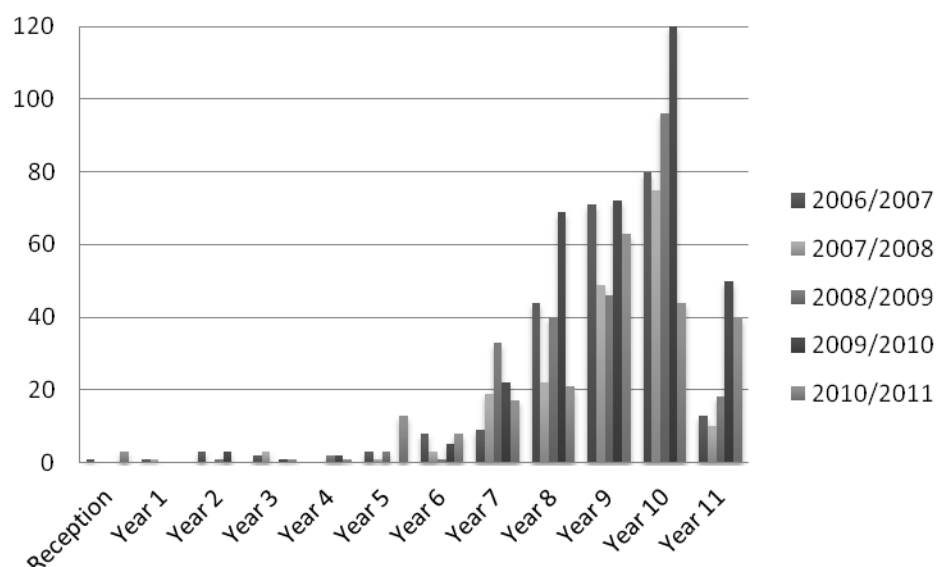
- 7.3.10 Figure 5 clearly shows that some pupils are being repeatedly excluded each year. The raw data, as set out in Appendix 3, shows that over the five year period, one pupil was excluded eight times in one school year, and a number of pupils were excluded seven times in one school year. It is unclear from the statistics provided what categories these repeat exclusions fall into.

Exclusions by year group

- 7.3.11 Over the past 5 years, significantly more pupils have been excluded from secondary schools than primary schools.
- 7.3.12 Figure 6 shows that, with the exception of Year 11, secondary school pupils are generally more likely to get excluded from school the older they get. The statistics show an increase each year, peaking in Year 10 (with the exception of the 2010/11 school year). The number of exclusions then decreases in Year 11⁵¹.

⁵¹ The rise in the number of exclusions in Year 11 during the 2009/2010 and 2010/2011 school years is likely to be due to the raising of the school leaving age from 15 to 16, which was implemented in 2009.

Figure 6 **Total Exclusions by Year Group for the past 5 School Years**



7.3.13 Within the UK's former Department for Education's annual report "*Permanent and Fixed Period Exclusions from School and Exclusions Appeals in England*", it details the number of fixed period exclusions by age and gender. The Committee considered the data from the years 2005/6 to 2009/10 and identified the following trends in the UK:

- Significantly more pupils have been excluded from secondary schools than primary schools;
- The use of fixed period exclusions steadily increases from the age of four until ten and then there is a significant increase between the ages of 10 to 11;
- The highest numbers of exclusions are given to 13 and 14 year olds; and
- The most significant decrease in exclusions occurs when pupils reach 16.

7.3.14 The Committee compared these trends to the statistics provided by the Department, and noted that the data and trends identified for secondary schools in the UK mirror those in the local secondary school education system:

- Year Nine (ages 13 - 14) and Year Ten (ages 14 – 15) have the highest number of exclusions;
- At Year 11 (ages 15 – 16), there is a marked drop in the number of exclusions.

Excluded pupils after school

7.3.15 The Committee was interested to learn whether any relevant statistics were recorded on excluded pupils after they left compulsory education, to assess whether these pupils continued to remain in education, undertook training or

went into employment. The Committee believes this information would be of particular interest in the development of Guernsey's NEET⁵² strategy. However, it found the statistics currently collated on these links to be low.

7.3.16 Statistics provided by the Department show that at the end of the 2008-2009 school year, of the 22 students that left school at the end of Year 11 and did not continue into education, employment or training, six had been excluded at some point during their schooling, with four of these having been excluded on a category 2 exclusion. The Committee is aware that the Education Department has collated updated statistics on excluded pupils and "NEETs", which are due to be published in early 2012.

7.3.17 The Social Security Department's Job Centre currently monitors trends in relation to the number of excluded pupils who are unemployed, but is unable to provide empirical data to support this. However, it stated that it believed the general trend showed *"a disproportionately high number of unemployed young people have been excluded from school."*⁵³

7.3.18 The Committee was interested to learn whether any information was gathered from young offenders to establish whether there was any link locally between exclusion and offending in the future. It learnt that the Home Department does not officially record such data, however, the Prison Learning and Skills Manager perceives there to be a link between exclusions and offending and outlined the *"vicious circle"* she believed some pupils face:

"The more they were away from school, the more likely they were to fall behind in their learning, which led to them being less likely to return to school, resulting in them receiving no qualifications and the only feasible option open to them was to offend to get money. It was a negative circle of decline."

Notes from Meeting with Prison Learning and Skills Manager,
1st February 2011

Exclusion as a Form of Behaviour Management

7.3.19 The Department emphasises in its *"Guidance and Procedures for Managing Exclusions"* that exclusion is the last resort sanction a school can apply to a pupil in response to their disruptive behaviour and should only be used in the right circumstances.

⁵² The Social Policy Group has made a commitment to developing a local NEET Strategy ("NEET" - Not in Education, Employment or Training).

⁵³ Particular caution needs to be given to the use of the term "exclusions" in these circumstances as "exclusion" may be interpreted by each individual differently. Individuals may be viewed as having been excluded when they decided to stop attending school, i.e. were truant and so self-excluded themselves. This is in contrast to being excluded by a school, which is the focus of this review.

- 7.3.20 The Committee wanted to ascertain whether headteachers, teachers and the public consider exclusion to be an effective behaviour management tool.
- 7.3.21 69% of headteacher respondents either strongly agreed or agreed that exclusion was an effective behaviour management technique. However, the views of respondent teachers and members of the public were more wide ranging.

Perceived Benefits of Exclusion

- 7.3.22 Respondent headteachers provided feedback expressing views that exclusion sent “*a clear message to all*” and believed that the option needed to exist as “*the final action*” to enable teachers “*to defuse a difficult situation*” and enable parents and pupils to recognise the seriousness of the offence.
- 7.3.23 Some respondent teachers and members of the public also accepted that exclusions were viable as a last resort and “*when all other areas and options have been exhausted*”. The main advantage they referred to was the benefit it brought to other pupils in the class who, when disruptive pupils were not present, could be taught in a more conducive learning environment; one teacher commented that “*inclusion does not work – poor, disruptive behaviour cannot be allowed to keep happening.*”

Perceived Disadvantages of Exclusion

Ineffective at getting to the reason for the disruptive behaviour

- 7.3.24 One of the most popular reasons given by respondent teachers and members of the public for viewing exclusions as ineffective in managing disruptive behaviour was that excluding a pupil did not get to the “*root cause of the problem*”. Respondents felt that excluding the same pupil repeatedly, with little done to address the underlying reasons for the disruptive behaviour, was not effective in reducing disruptive behaviour in the long run. The manner in which pupils’ behaviour is dealt with during and after exclusion is considered later in this chapter.
- 7.3.25 Three headteachers also shared this view and commented that if additional measures were not taken to address and change the challenging behaviour, then exclusion does not benefit the excluded pupil and therefore its effectiveness is minimised.

Perception of ‘exclusion’ as a punishment

- 7.3.26 Another recurring theme that arose from members of the public, and some teachers, was that exclusion periods are not a sufficient enough punishment for pupils. Some respondents believe pupils consider exclusion as “*a day off school*” and extra “*holiday*” time; while three members of the public commented that there is a need to take “*a tougher stance*” on disruptive

behaviour, with the exclusion periods including measures that act as more of a deterrent to pupils.

“The logical way to minimise disruptive behaviour is to make the perpetrator wish to avoid the sanctions which will inevitably result.”

Parent, 2010

- 7.3.27 The Home Department also expressed concern over how pupils spent their time during their exclusion. It suggested:

“As part of a structured educational programme, some consideration could be paid to the introduction of some type of ‘community service’ work as a ‘penalty’ for their disruptive behaviour.”

Minister, Home Department
10th January 2011

- 7.3.28 Some public respondents suggested that ways this could be achieved were through making the pupil help with the upkeep of the school premises and work associated with community service.

Negative stigma resulting from exclusion

- 7.3.29 The stigma of the exclusion on the pupil also has to be taken into account; one pupil who was excluded explained that *“it felt like the teachers had given up on [me] and the only option they felt they had was to exclude [me].”*

- 7.3.30 This view was also supported by a Health and Social Services Department (HSSD) staff member at the Link Centre:

“After exclusion the young person themselves feels rejected by the school, that they have not been listened to in some way or that they have no-one to talk to in school if they are struggling. In short, they do not feel they are understood, feel isolated from their peers and vilified from that point onward. As a result of these feelings they can also feel that they are not worthwhile students, that staff and peers see them as ‘bad’ and therefore live up to this expectation. After exclusion they can also get into a mindset that if they misbehave they will get sent away from the school, thus avoiding the area of stress / sense of failure in the first place.”

HSSD staff member, Link Centre
November 2010

Impact on Family

- 7.3.31 Some members of the public outlined the stress that exclusion can put on other family members, in particular the parents who may be prevented from going to work because they have to supervise their child during the first days of their exclusion. This can then impact their job and their earnings, particularly if self-employed.

- 7.3.32 In addition to this, one member of the public and a HSSD staff member from the Link Centre stated that exclusion sent the wrong message to the excluded pupil's siblings, who may see behaving disruptively as a way to get out of school.

The Exclusion Process: The Department's Guidelines

- 7.3.33 The Department sets out guidelines for the implementation and administration of exclusions in its *"Guidance and Procedures for Managing Exclusions"*.
- 7.3.34 It is a headteacher's responsibility to ensure that the guidelines are implemented appropriately when excluding a pupil from their school. All⁵⁴ respondent headteachers who had used the Department's *"Guidance and Procedures for Managing Exclusions"* considered it to be either good or excellent, with one headteacher commenting that *"the documentation is very clear and sets out the procedures for exclusion, clearly identifying roles and responsibilities."*
- 7.3.35 73% of respondent headteachers also rated the level of support provided by the Department in implementing the exclusion procedures as good/excellent. The remaining headteachers rated this area as average with no reason given for the rating other than one stating that they did not use exclusions so found it difficult to comment.

The Exclusion Process: Reasons for Exclusion

- 7.3.36 The decision to exclude a pupil can only be sanctioned by the headteacher, or the headteacher's designate in their absence. It is the headteacher's responsibility to issue the exclusion and to determine the category and length of exclusion.
- 7.3.37 The *"Guidance and Procedures for Managing Exclusions"* sets out when it is appropriate to use exclusion but the Department does not set out a prescriptive list of which exact behaviours warrant each category of exclusion⁵⁵.
- 7.3.38 The Department explained that the circumstances, and reasoning, for exclusion can vary on a case by case basis and each breach of a school's behaviour management policy, and the resultant sanctions, needs to be considered on an individual basis by the headteacher.

"The context can vary from school to school, teacher to teacher and child to child. And so there is always a judgement call on this, where the guidelines are there to be followed and respected, but you can't absolutely structure a decision"

⁵⁴ The St Sampson's High School headteacher rated the *"Guidance and Procedures on Managing Exclusions"* as "average" because they had not been in post for long and stated it was *"too early to say otherwise"*.

⁵⁵ The only guidance given is that a category 3 exclusion might be issued for a first or 'one off' offence for: serious actual or threatened violence against a pupil or member of staff; sexual abuse or assault; supplying an illegal drug; carrying an offensive weapon.

to be the same any more than you can in any decision-making system. There may be variations in the way that it is applied.”

Director of Education, Education Department –
Public Hearing, 27th September 2010

7.3.39 The “*Guidance and Procedures for Managing Exclusions*” states that in order to ensure that the exclusion is justified and evidence-based, the headteacher must ensure:

- That the matter has been dealt with fairly and neutrally;
- That sufficient investigation has taken place;
- That the decision to exclude is based on a clear and reasonable balance of evidence;
- The consistent application of [its] school rules and behaviour management policies.

7.3.40 Within one school day of the exclusion being issued, the headteacher must inform the Department of details regarding the exclusion, which include the reason for the exclusion. The Department then records and considers this information to ensure that the sanction is appropriate. If they feel there is a problem Education Officers will address this direct with the school.

“We do have then a range of strategies which broadly come under the heading, “support, monitoring, challenge and intervention”. And you have those four areas of our responsibility where if we believe something is not being done properly, we will intervene and we have the right to do so.”

Director of Education, Education Department –
Public Hearing, 27th September 2010

7.3.41 All exclusions are registered with one point of contact at the Department, the Assistant Director for Schools and Education Services, so that one person can consistently monitor the reasons for the exclusions, the associated category and the length of the exclusion; *“immediately they can be looked at as they come in”* (Deputy Director of Education, Education Department).

7.3.42 73% of respondent headteachers agreed/strongly agreed that the Department closely monitors the reasons for exclusion, however, in their experience, 57% did not feel there was a consistent approach in the use of exclusions across schools locally.

7.3.43 When asked if they felt there was a consistency in the use of exclusions within their school, only 48% of teacher respondents believed that there was. Some teachers indicated that they would like to see clearer guidelines in place across all schools on what warrants each category of exclusion and for these, and the exclusion guidelines, to be more available to teachers.

- 7.3.44 Only 12% of public respondents who had experience of the exclusion process perceived the reasoning behind exclusions to be used appropriately across schools, it is “*not very standardised across the schools*”.

The Exclusion Process: Education During Exclusion

“Pupils who are excluded from school are not excluded from education and should therefore be provided with continuing education until a suitable permanent placement is found. In the first instance, following an exclusion and until other arrangements are in place, it is the responsibility of the school to provide and mark work to be completed by the pupil at home.”

Education Department – Guidance and Procedures for Managing Exclusions, August 2010

- 7.3.45 A pupil who is excluded from school is not excluded from receiving education. In order to avoid a pupil’s education being negatively impacted during exclusion, it is essential that the Department has in place appropriate procedures to guarantee that a pupil’s education continues.
- 7.3.46 A pupil being required to complete school work during their exclusion should also help limit any perception of exclusion as “*a day off school*”. Implemented effectively, it should also ensure that the pupil is not behind in their school work when they return to school and should limit the stress of the pupil reintegrating back into class.
- 7.3.47 When a pupil is excluded from school they remain at home for the first 5 days of their exclusion. During this time the school sets work for the pupil to complete and it is the parents’ responsibility to collect and return this work from/to the school.

“If a student is excluded from school, on whatever category, they are still not excluded from education as a whole. The school is expected from day one of... exclusion to provide work for the student, and the parent is expected to ensure that that work is collected and taken home, and that the student actually is not sitting at home doing nothing, but actually continuing with their studies and that work is then returned to school to be marked and further work issued.”

Assistant Director for Schools and Education Services, Education Department –
Public Hearing, 27th September 2010

- 7.3.48 In Guernsey and Herm only, any pupil who is excluded for more than five days, i.e. on a category 2 or category 3 exclusion, will attend the Link Centre from day 6 of their exclusion until their exclusion’s expiration. Due to geographical constraints, this provision is not feasible for excluded pupils in Alderney and so

the Department has implemented a SEN Base⁵⁶ facility within St Anne's School for excluded pupils to attend from day 6 of their exclusion.

7.3.49 During their time at the Link Centre, the pupil remains on their current school's register and their headteacher maintains responsibility for their attendance and progress while there⁵⁷. Work is set by the school for completion at the Link Centre, which is then returned to school for marking before it is returned to the pupil.

7.3.50 The work that is set during any exclusion period should be in line with the curriculum that the pupil is missing from school.

“There should be effective links between schools and the education providers over the curriculum particularly for Key Stage 3 and Key Stage 4 pupils, to support working towards eventual reintegration, otherwise time spent in alternative provision can itself become a barrier to reintegration.”

Education Department, Guidance and Procedures for Managing School Exclusions
August 2010

7.3.51 There is a shared responsibility between the school, parents, the Link Centre and the pupil in ensuring that a pupil's education continues during exclusion:

- It is the school's responsibility to ensure that adequate work is set and marked for the pupil;
- It is the parent's responsibility (during the first 5 days of the exclusion period) to collect work from the school, to ensure that the pupil undertakes this work and to return the work to the school for marking;
- It is the Link Centre's responsibility to complete the work with the excluded pupil from day 6 of their exclusion and return it for marking;
- It is the pupil's responsibility to do the work that is set for them by the school.

7.3.52 In order to learn more about how education is provided in practice during exclusion, the Committee asked headteachers, teachers and members of the public how effective they consider the process to be.

Headteachers

7.3.53 The majority of headteachers rated the effectiveness of the setting and completion of work for/by an excluded pupil as average, with only 33% rating it above average. The Committee has assumed that this dissatisfaction is in relation to the completion of work by a pupil during exclusion, rather than their school's setting of work for the excluded pupil.

⁵⁶ Discussed in further detail in Section 8, “Alderney”.

⁵⁷ If a pupil does not attend the Link Centre during their exclusion then the Centre would contact the headteacher of their registered school for the non-attendance to be investigated.

Teachers

- 7.3.54 Respondent teachers were generally dissatisfied with the setting and completion of work for an excluded pupil with only 12% of respondents rating it as above average. The area of dissatisfaction predominantly expressed by teachers was in relation to the work they set not being completed or returned by the pupil/parent; one teacher commented “*parents, too often, are not supportive of the need to continue education at home during periods of exclusion.*”
- 7.3.55 At the focus group, the attending teachers also expressed dissatisfaction with work set for an excluded pupil attending the Link Centre not being returned. This is in contrast to the Link Centre teachers’ views, which are discussed in more detail in sections 7.3.63 to 7.3.68.
- 7.3.56 One teacher believes it is difficult to keep the excluded pupil “*on track with the curriculum*” because much of the work relies on teaching, discussion and working in pairs within the class.

The Public

- 7.3.57 Over half the public respondents rated their satisfaction of the setting and completion of work during the exclusion period as either poor/very poor, with only 19% rating it above average. In contrast to teachers, their area of dissatisfaction was in relation to the amount of work set by schools for completion during exclusion.
- 7.3.58 Some respondents commented that they did not believe the work set was sufficient in comparison to the work the excluded pupil was missing, with some explaining they/their child was only provided with work to complete when they approached the school and asked for it.
- 7.3.59 These respondents felt that their/their child’s education had suffered as a result of having “*gaps*” in their education due to exclusion; one parent stated “*in the case of exclusion, the child’s education effectively ceases*”.
- 7.3.60 Parents appeared to be aware of the requirement to supervise their child during exclusion and to ensure they complete the work set by the school. However, some of them said that it was very difficult to support their child in completing the set work because they did not have “*the skills or knowledge to appropriately support*” them in this work.
- 7.3.61 The Committee notes the Department’s commitment to E-learning and the launch of the Virtual Learning Environment (VLE) in September 2011, which seeks to enable every pupil to have access to a secure and personalised learning area accessible over the internet. Once developed, this implementation could be used to assist teachers and pupils in the setting and completion of work during exclusion. It would enable a more direct link to work for pupils and will place a reliance on them to complete it, with less administrative burden involved.

- 7.3.62 Jersey has developed the use of the VLE to support the education of its students while they are not in school, in particular for those that are excluded. One headteacher from Jersey described the use of the VLE as “*very fortuitous*” and felt that it had made the provision of education to pupils while not in school “*far more effective*”⁵⁸.

The Link Centre

- 7.3.63 When a category 2 or 3 exclusion is given, the pupil will attend the Link Centre from day 6 of their exclusion. The Committee was particularly interested in the views of the Centre Manager and teachers from the Link Centre in respect of the provision of education during exclusion.
- 7.3.64 The Link Centre Manager rated the effectiveness of the setting and completion of work during exclusion as “poor”. While he acknowledged that it had improved as the Link Centre, and its procedures, had become more established he felt that it was still the case that teachers and schools were inconsistent at setting and marking work for excluded pupils.
- 7.3.65 In addition to this, he explained that it is often the case, that due to the one-on-one or small group teaching that excluded pupils have at the Link Centre, they complete the work set quicker than they would if they were in their registered school. As a result, Link Centre teachers have to request more work for the pupil to complete in addition to the work originally set, which can prove problematic.
- 7.3.66 Respondent teachers from the Link Centre supported the Centre Manager’s view and were generally dissatisfied with the effectiveness of the setting and return of work for an excluded pupil. They felt that insufficient work was set for excluded pupils to complete at the Centre and, in particular, felt that the work set was out of synch with the curriculum the child was missing from school. At times, the work provided was exactly the same for different year group pupils from the same school, “*often a Year 7 child will get the same work set as a Year 10 child from the same school*”.
- 7.3.67 In attempting to address this, the Link Centre teachers suggested it would be beneficial for the schools to provide the Link Centre with their short and long-term lesson plans so the Centre staff could be aware of the curriculum pupils were missing, which would then enable them to be better equipped to teach appropriate material.
- 7.3.68 A HSSD staff member at the Link Centre concurred that the work set by schools for excluded pupils to complete at the Link Centre needed improvement.

⁵⁸ Quotes taken from States of Jersey, Education and Home Affairs Scrutiny Panel’s “*School Suspensions*” Report, 25th May 2010

“In my experience, this [provision of education during exclusion] is a pertinent issue between TLC [the Link Centre] and the schools. The school itself is responsible for supplying course work...however this needs to be improved. Young people often complain that the work set is too easy, or work they have done before.”

HSSD staff member, Link Centre
November 2010

The Exclusion Process: Addressing the Reasons behind Disruptive Behaviour and the Reintegration Procedures

Overview of the process

- 7.3.69 There is a widespread view from a large number of respondents that without getting to the root cause of a pupil's disruptive behaviour, and seeking to solve it, exclusion becomes a cycle and is unfair on the school and the pupil.
- 7.3.70 Depending on the category of exclusion, different procedures exist during and following a pupil's exclusion:

Category 1 exclusion

- 7.3.71 A pupil's time during a category 1 exclusion is spent solely at home. It appears that nothing is done to address the reasons for their disruptive behaviour until the school's re-entry meeting.
- 7.3.72 The headteacher has a responsibility to convene a re-entry meeting with the parents and excluded pupil at the end of the exclusion period. At this meeting the reasons for the exclusion will be discussed and the headteacher should seek to address any issues the pupil may have to reduce the likelihood of a repeat of the behaviour that warranted the exclusion.
- 7.3.73 If any additional provisions are required for the pupil they will be agreed at this meeting and it is the responsibility of the headteacher to monitor the pupil's reintegration.

Category 2 exclusion

- 7.3.74 The Department's *“Guidance and Procedures for Managing Exclusion”* states that if an exclusion is for *“a longer period, for example for more than **ten** school days, the headteacher must plan...how the time might be used to address the pupil's problems”*.
- 7.3.75 From day 6 of their exclusion, pupils in Guernsey and Herm attend the Link Centre for the remaining period of their exclusion.
- 7.3.76 Organisation and administration procedures are undertaken by the school and the Link Centre during the first 5 days of a pupil's exclusion to prepare for the

placement. These include the necessary communications with the parents, admission meetings, transport arrangements and the school's submission of the Link Centre Referral Form. The administrative procedures for admitting pupils on exclusion placements to the Link Centre are set out in Appendix 4.

7.3.77 The Link Centre Referral Form outlines the headteacher's plan for how the exclusion time might be used to address the pupil's problems. Staff at the Link Centre have access to these forms, where appropriate.

7.3.78 Excluded pupils will be discussed at the SEBD Provision Panel, which meets every four weeks, and is a multi agency meeting consisting of:

- Senior Manager from the Education Department – Chair
- SEBD Centre Manager
- Educational Psychologist
- Secondary Headteacher representative
- Primary Headteacher representative
- Education Welfare Service representative
- HSSD representative from the Children in Need Team
- CAMHS representative
- Youth Service representative
- Any other professionals as considered appropriate

7.3.79 The pupil's attendance at the Link Centre following exclusion will not be delayed by awaiting discussion at the Provision Panel meeting. At this meeting, the Provision Panel will discuss the Link Centre Referral Form, prepared and submitted by the school.

7.3.80 The Link Centre has places available for 8 excluded pupils, although the Department confirmed that if demand surpassed this capacity it would seek to "*ensure that we could include and make some provision available within the Link Centre*" (SEN and Children's Services Manager).

7.3.81 The Committee was informed that while formal sessions at the Link Centre do not take place to address the reasons behind a pupil's disruptive behaviour, each excluded pupil who attends the Centre is designated a tutor for the duration of their time there. The tutor will informally discuss with them the reasons behind their exclusion and how these might be reduced, with the aim of enabling the pupil to participate more successfully when they return to the mainstream environment. The Centre utilises small teaching groups, which permit the tutors time and focus to address issues such as anger management and self esteem, or any other issues which may have been raised in the school's referral form.

"Part of the strategies and the work done within the Link Centre is addressing the reasons why the challenging behaviour and the disruptions are occurring."

Minister, Education Department
Public Hearing, 27th September 2010

- 7.3.82 In order to assist reintegration into school the headteacher convenes a multi-agency “Professionals meeting” no later than the 15th day of exclusion, which includes relevant teaching staff, support staff and an Education Department Officer to develop a dedicated support plan for the pupil’s re-entry to school.

“As much information as is possible would be looked at and a plan would be put into place as to how to reintegrate that young person to ensure the best chance of success.”

Assistant Director for Schools and Education Services, Education Department
Public Hearing, 27th September 2010

- 7.3.83 This support plan is agreed with the parents and the pupil at the re-entry meeting. Any additional provisions that have been identified as part of the support plan will be confirmed for implementation at this meeting.
- 7.3.84 The pupil is also added on to the next month’s SEBD Provision Panel meeting to monitor the success of the re-entry and support plan.

Category 3 exclusion

- 7.3.85 Pupils excluded on category 3 exclusions also attend the Link Centre from day 6 of their exclusion and so undergo the same procedures as outlined previously for category 2 exclusion pupils.
- 7.3.86 In relation to the reintegration of category 3 excluded pupils, the Department convenes an Education Placement Meeting within 15 school working days of the notification of the exclusion, which will review the case and determine how best to meet the pupil’s needs.
- 7.3.87 The meeting is held by the Education Placement Panel, which is the decision-making body comprising the Deputy Director of Education (or designated representative), an Education Officer and a representative from the Health and Social Services Department’s Services for Children and Young People.
- 7.3.88 All relevant parties are given the opportunity to put their views forward and the Education Placement Panel will review the information, ensure the category 3 exclusion is justified and make a decision based on one of these four outcomes:
- The pupil returns to their current school, with specific conditions set;
 - The pupil transfers to another States of Guernsey school, with specific conditions set;
 - The pupil remains on their current school’s roll but is provided with an education package that involves time out of school as arranged by the SEBD services;
 - The pupil’s needs and educational requirements are considered to be best met other than in school, with further assessment required.

- 7.3.89 Upon notification of the Panel's decision, the Education Officer co-ordinates the arrangements for the pupil.

How effective are the procedures for addressing the reasons behind a pupil's disruptive behaviour in practice?

- 7.3.90 Public respondents who had experience of the Link Centre were supportive of its introduction, and believed it to be an improvement on the facilities previously available to excluded pupils. However, 80% of the public respondents did not feel that the overall exclusion process was effective in addressing the reasons for the pupil behaving disruptively. Eight members of the public who attended the public drop-in session also expressed discontent with this aspect of the exclusion process.
- 7.3.91 One headteacher commented that they feel an inadequacy of the exclusion process is that *"no work is undertaken with the student to help them modify their behaviour"*.
- 7.3.92 A HSSD staff member from the Link Centre felt more could be done to maintain the link between the school and the pupil during the exclusion period to remind the pupil of their links to their registered school.

"TLC's [The Link Centre's] concern is that they do not want to become 'a dumping ground' for forgotten students."

HSSD staff member, Link Centre
November 2010

How effective is the reintegration in practice?

- 7.3.93 Headteacher respondents were generally satisfied with the reintegration procedures following exclusion; however, teacher respondents expressed a lower level of satisfaction in this area with 28 of them rating their satisfaction of the reintegration procedures as average or below.
- 7.3.94 Some teachers commented that more emphasis needed to be placed on reintegration, with a more structured programme in place rather than just expecting pupils to *"fit straight back in"*.
- 7.3.95 A HSSD staff member from the Link Centre felt that more support and resources could be put in place by schools to ease the reintegration of excluded pupils; for example having more teaching assistants.
- 7.3.96 Although not directly asked, three teachers believe that as part of an excluded pupil's reintegration there should be a focus on restorative justice.
- 7.3.97 A HSSD staff member from the Link Centre also supports general restorative justice measures as a way to alleviate the stress on both teachers and pupils upon the excluded pupil's return to school.

“Teachers may also feel unable to cope with the young person in their class...this adds to the overall stress in their role as teacher if they have to accept the young person back to the classroom they were excluded from, especially if they have not seen or spoken with the young person since they have left. The same can be felt for the young person who is excluded.”

HSSD staff member, Link Centre
November 2010

- 7.3.98 Although only 12 members of the public commented on the reintegration procedures following exclusion, of these only three rated their satisfaction with this area as good or excellent, indicating a level of dissatisfaction that was also reiterated at the drop-in meetings with members of public. One parent in particular felt that the re-entry meeting was *“just a meeting to sign [her daughter] back into school rather than any discussion on how to rectify the problem.”*
- 7.3.99 The three teachers at the focus group felt that it was particularly difficult for a pupil to reintegrate into their registered school following an exclusion placement at the Link Centre due to the two contrasting teaching environments. They believed that because the Link Centre teaching ethos was that of small groups, it made it particularly difficult for the pupil to adjust to larger classes when they returned to their registered school.
- 7.3.100 In an attempt to limit this gap, and to improve the reintegration of pupils following exclusion, the introduction of pupil referral units in mainstream secondary schools was suggested by the focus group, particularly for pupils requiring *“behaviour modification”*. This suggestion was also made by other secondary school teachers, one headteacher and the Paroisse de Torteval.

“The gap between the Link Centre and mainstream school was too large and it was not beneficial to the pupil being moved between the two contrasting environments.”

Teacher Focus Group Attendee,
February 2011

- 7.3.101 Although it was acknowledged that a pupil referral unit demanded additional resource requirements for a school, consultees felt that in the long run it could reduce the number of in-class support staff needed within the main school to assist with managing disruptive pupils.

The Appeals Procedure

- 7.3.102 Parents have the right of appeal against a decision to exclude on category 2 and category 3 exclusions; there is no right of appeal to a category 1 exclusion.

7.3.103 The Department is responsible for making arrangements for an Appeal Panel to hear parents' appeals. The Appeal Panel will comprise:

- A member of the Board of Education (chairperson);
- An officer representative from the Services for Children and Young People, Health and Social Services Department;
- An educational professional who is independent from the school.

7.3.104 A person is only permitted to serve as a member of an Appeal Panel if they have not, or at any time, had any connection with the people involved or the incident leading to the exclusion, which could raise doubts about their ability to act impartially.

7.3.105 The possible conclusions that the Appeal Panel may come to are:

- To uphold the headteacher's decision to exclude on a category 2 or category 3;
- To direct reinstatement of the pupil;
- To direct reintegration at a later date; or
- To decide that it is not practical to require reinstatement.

7.3.106 Only eight public respondents responded to say they had experience of the appeals process and, of these, five considered the process to be either poor or very poor but gave no explanation as to why they felt this.

Parental Involvement in the Exclusion Process

7.3.107 As highlighted throughout this chapter, parents play a fundamental role in the exclusion process; they are responsible for collecting and returning work set by the school, as well as ensuring that the pupil completes this work, during days 1 to 5 of their exclusion.

7.3.108 Parents are also required to attend the re-entry meeting, and other reintegration meetings if appropriate, to discuss and agree their child's reintegration into school.

"Clear communication between the school and families in question...is needed to maintain a consistent approach for the young person as ultimately the families need to have a clear understanding for the reasons for their child's exclusion and possible return strategies early on."

HSSD staff member, Link Centre
November 2010

7.3.109 These roles, including the more general parental responsibilities, are key to assisting the Department in the continual provision of education for a pupil during exclusion and in assisting the pupil's effective reintegration back into school.

- 7.3.110 While the engagement of parents during the exclusion process is undertaken by schools, the Department has provisions in place to support and maintain this dialogue; this can include the involvement of the Education Welfare Service, the Educational Psychology Service or multi-agency working with the Health and Social Services Department.
- 7.3.111 When asked for their views on the effectiveness of parental involvement and participation in the exclusion process, the majority of respondent headteachers considered it to be good/excellent, with no headteacher rating it below average. They acknowledged that it varied case-by-case, but in general they were satisfied with parental involvement.
- 7.3.112 Respondent teachers were more split in their views; 41% rated the level of parental involvement in the exclusion process as good or excellent and 30% rated it as poor/very poor, with three teachers specifically commenting that they believed increased parental involvement and awareness was needed within the exclusion process.

“Unfortunately in many cases, exclusions/re-admissions fail due to a lack of support/interest from parents/guardians”.

Teacher, 2010

Communication of parental responsibilities during exclusion

- 7.3.113 If parents are to undertake the roles the Department expects of them, then it is essential they are made aware of these requirements, with the procedures and processes effectively communicated to them.

“Parents should always be involved and communication with them is essential to reintegration.”

Headteacher, 2010

- 7.3.114 The Department’s *“Guidance and Procedures for Managing Exclusions”* states that when a pupil is excluded the headteacher must notify the parent immediately, ideally by telephone, and that this must be followed up by a letter within one school day stating:
- the reason for the exclusion, outlining the exact incident or series of incidents that led to the exclusion;
 - the category and length of the exclusion;
 - the member of staff they should contact to arrange the collection and return of their child’s school work;
 - the date and time of the re-entry meeting (if this information is not immediately available the letter should inform the parents that it will follow);
 - the parents’ right of appeal in relation to category 2 and 3 exclusions.
- 7.3.115 The school also sends the parents a booklet entitled *“A Parents’ Guide to the Exclusion of Pupils From School”*, which sets out what an exclusion is, an

overview of what happens when a pupil is excluded and what the rights and responsibilities of the parent are within the exclusion process. Access to this leaflet is also available from the Education Department's website by following the "Education Support Services" link⁵⁹.

- 7.3.116 While the booklet has a specific section on the re-entry meeting and the Education Placement Panel, the content on the responsibilities of parents in assisting the education provision of their child during exclusion only states:

"If your child is excluded make sure the work set is completed. Keep your child as busy as possible. An exclusion is a time for pupils to consider their behaviour, not an additional school holiday.

[You should] make arrangements, if necessary, for the work set by the school to be assessed by the school and returned."

Communication of the exclusion and the resulting procedures

- 7.3.117 Members of the public were asked for their satisfaction on the information provided to them on the reason for exclusion and the procedures involved in the exclusion process. Of the respondents who commented on this, the majority rated it as average or above.

- 7.3.118 However, two parents outlined their dissatisfaction with the way their child's exclusion had been communicated to them; one had received a text message informing them of the exclusion and another had been telephoned at 7.30pm to inform them that their child was excluded as of that day, which gave them only limited time to organise supervision arrangements for the following day.

Communication of the role of the Link Centre during exclusion

- 7.3.119 In relation to pupils who have been excluded on a category 2 or category 3 exclusion, and as such attend the Link Centre from day 6 of their exclusion, the following contact with parents is made:

- Day 1/2 of the exclusion – telephoned by the Link Centre and provided with an overview of the role of the Centre;
- Day 2/3 of the exclusion – sent a letter and admission pack on the Link Centre;
- Day 6 of the exclusion – parents and pupil attend an admission meeting to the Link Centre.

- 7.3.120 Information on the role of the Link Centre is also published on the Education Department's website, by following the "Education Support Services" link⁶⁰.

⁵⁹ <http://www.education.gg/article/3069/Parents-Guide-to-Exclusions>

⁶⁰ <http://www.education.gg/article/2620/The-Link-Centre>

7.4 CONCLUSIONS

Internal exclusions

- 7.4.1 While there is a split in public opinion on the effectiveness of internal exclusions as a form of behaviour management, the Committee concurs with the position of the Department that it can be an effective behaviour management tool in the right circumstances.
- 7.4.2 The Committee believes that a level of consistency in the use of internal exclusion within, and across, schools should be sought. Not all schools' behaviour management policies contain information on the use of internal exclusions; therefore it is unclear how teachers are directed to use internal exclusions to ensure consistency within a school.
- 7.4.3 However, internal exclusions are used by many schools and the Committee feels that for them to be as effective as they can be it is essential that the Department oversees how they are communicated to parents, how schools resource them and how their use is monitored.
- 7.4.4 The Committee believes it is necessary to inform parents of every incident when their child is internally excluded and that the communication procedures for doing so should be formalised. This will enable the parents to understand the reasons for the internal exclusion, and to advocate to their children why their disruptive behaviour was inappropriate. To avoid doing so would greatly reduce the partnership approach that the Department wishes to encourage between the parents and the school.
- 7.4.5 As demonstrated in Figure 3, the most frequently used communication method for informing parents of their child's internal exclusion is a telephone call. The Committee considers this to be the most effective and least time consuming method available, which it believes should be the standard communication method used.
- 7.4.6 In order to increase the effectiveness of internal exclusions, the Committee believes that schools should have both a dedicated room to send pupils to, rather than ad hoc arrangements being made, and sufficient staff time to supervise internally excluded pupils.
- 7.4.7 The main criticism raised against the use of internal exclusion is the missed teaching and learning time for that pupil, which the Committee believes could be limited if appropriate teaching supervision was provided.
- 7.4.8 The Committee was impressed with the "*long-stopping*" procedure in place at Les Beaucamps High School, whereby if a pupil is internally excluded, they are picked up by a spare teacher during that lesson, "*the long-stop teacher*", and taken to a separate room where they are supervised in doing the work they are

missing. This ensures that the pupil is in a designated area and constantly supervised, while still continuing with their education. The Committee believes this approach could be adopted in other schools.

- 7.4.9 In relation to special circumstances, and the use of “cooling-off” periods, the Committee received limited evidence on its use to evaluate whether it is an effective behaviour management tool. However, the Committee feels it is important that a pupil’s behavioural issues are discussed with them following both a “cooling-off” period and an internal exclusion. The Committee found there to be an absence of detail on the processes undertaken in this area following either of these sanctions and therefore believes central procedures should be established to set out how the reasons behind a pupil’s disruptive behaviour will be addressed in an attempt to limit repeat occurrences.
- 7.4.10 Other than some respondents’ assumptions, the Committee has no evidence to suggest whether or not the use of internal exclusion or “cooling-off” periods are used to “manipulate” a school’s statistics.
- 7.4.11 In order to counter these perceptions, it supports the requirement on schools to report the use of “cooling-off” days to the Department and believes this should be extended to include a closer, more formal, monitoring role on the number of internal exclusions.
- 7.4.12 While the Committee believes that schools’ internal exclusion statistics should be formally reported to the Department, unlike “cooling-off” periods, it does not feel it necessary for schools to report on every incident of internal exclusion immediately as they occur. Instead it suggests that schools provide a termly update report to the Department setting out:
- The number of internal exclusions.
 - The reasons for each internal exclusion.
 - The occurrence of repeat internal exclusions.
- 7.4.13 In order to increase the transparency on the use of both internal exclusions and “cooling-off” days, the Committee believes the Department should include statistics on the use of both within its annual exclusions report.

External Exclusion

- 7.4.14 The Committee acknowledges that the use of exclusion will have advantages and disadvantages due to it being such a severe sanction; however it supports the Department in its use and believes it can be an effective behaviour management technique in the right circumstances and when correctly implemented.
- 7.4.15 While the Committee supports the use of exclusion, its research indicates that there are areas of the process that could be improved to increase effectiveness.

- 7.4.16 In general, the Committee supports the headteachers' view that the Department's "*Guidance and Procedures for Managing Exclusions*" clearly sets out the roles and responsibilities of those involved in the exclusion process, and is pleased that the majority of headteachers feel they have sufficient support from the Department when utilising exclusions.
- 7.4.17 The Committee believes that this document would be of interest to anyone encountering the exclusion process and sees no reason why it should not be published on the Department's website.
- 7.4.18 When considering the exclusion statistics collated by the Department, the Committee feels that the publication of an exclusion data annual report on its website, with a covering statement made by the Department, would also increase the transparency and understanding on their use locally.
- 7.4.19 The Committee is unclear whether the exclusions report presented to the Board includes data on exclusion statistics for individual schools. To enable the Board to accurately assess the level and use of exclusion locally, while also allowing it to provide political oversight on the consistency in its use across schools, the Committee believes that, in addition to the information provided in the published document, the Department's Board should be provided with data on:
- The use of exclusions within each school;
 - The reasoning behind each of these exclusions; and
 - The number of days a child is excluded in each exclusion period.
- 7.4.20 The Committee is also unclear exactly what exclusion data is provided to headteachers and believes that their report should include data on the reasoning behind exclusions in other schools, so they can gauge whether their use of exclusion is consistent with other schools.
- 7.4.21 In addition to the statistics currently collected, monitoring the progress of excluded pupils after school is likely to form a key element in the development of Guernsey's NEET Strategy, in addition to identifying the potential impact exclusion can have on a person's life. The Committee recommends that in the development of Guernsey's NEET Strategy, consideration be given to collecting relevant statistics in this area.

The reasons for exclusion

- 7.4.22 In the absence of access to any recent data detailing the reasoning for each exclusion, it is difficult for the Committee to comment on the consistency of approach across schools locally. However, further to comments from teachers, it questions whether the absence of central guidelines hinders consistency in the reasoning applied.
- 7.4.23 The Committee acknowledges the limitations of setting central guidelines detailing exactly what behaviours warrant each category of exclusion, due to

each case needing to be considered individually. However, it believes that if guidelines are set out in principle, and published by the Department, on the disruptive behaviours that could warrant each of the three categories of exclusion then further consistency in the use, and understanding of exclusion, could be achieved.

Time during the exclusion period

- 7.4.24 The Committee acknowledges the comments that some respondents made on the use of pupils' time during their exclusion and believes it essential that exclusion is perceived as a sanction that pupils want to avoid.
- 7.4.25 The Home Department suggested that the ethos of 'community service' could be adopted as part of the exclusion process to form an additional sanction against disruptive behaviour; the Committee believes this approach may be worth further investigation.

Education during exclusion

- 7.4.26 The Committee acknowledges that there are a number of factors that need to be taken into account when assessing the effectiveness of education during exclusion. The Department, the schools, the parents and the pupils all have a role to play in ensuring that education is continued during an exclusion period.
- 7.4.27 The consultation results indicate that some representatives from these groups doubt the effectiveness of education provision during exclusion, for varying and contrasting reasons:
- Teacher respondents believe the main problem to be that work set by them is not completed by the pupil, or returned for marking.
 - Link Centre respondent teachers do not feel that sufficient work is set by a school for a pupil to complete during their exclusion time at the Link Centre and that the work set can be inconsistent with the curriculum the pupil is missing.
 - Public respondents believe the main problem is that insufficient work is set by the school for their child to complete.
- 7.4.28 This indicates that the Department should review the procedures for setting, completing and returning work during exclusion periods, with consideration given to producing more detailed guidelines for:
- Schools to follow when co-ordinating the setting of work for an excluded pupil from day 1 of their exclusion;
 - Parents to follow when collecting and returning work;
 - The Link Centre and schools to follow in the exchange of work between the two for an excluded pupil attending the Link Centre.

7.4.29 In addition to the above, the Link Centre teachers' comments suggest the level of work set for an excluded pupil to complete while at the Centre requires clearer guidelines. The Committee believes that with the detailed lesson planning teachers are required to undertake, there should be no reason why schools cannot provide copies of this to the Link Centre outlining the work the pupil will be missing during their exclusion; this could then assist the Link Centre teachers in preparing any additional work to that set by the school in line with what the pupil is missing from school.

7.4.30 An implementation that the Committee hopes will assist the education provision during exclusion locally is the development of the Virtual Learning Environment. The Committee supports its development and believes that it will further improve the education resources available to all excluded pupils.

Addressing the reasons behind a pupil's disruptive behaviour and the reintegration procedures following exclusion

7.4.31 The Committee strongly believes that if exclusions are to be effective then attempting to address the reasons behind pupils' disruptive behaviour and their successful reintegration are essential elements of the process.

7.4.32 Without successfully tackling the reasons behind the disruptive behaviour, there is a potential risk that a pupil may return to school with unresolved issues and, as such, increase the probability of them behaving disruptively again.

7.4.33 Without successful reintegration, the pupil could return to school facing the same problems that caused them to behave disruptively previously, but with the added pressure, and stigma, of having had time out of their registered school. If this is not provided for appropriately then it is likely that the disruptive behaviour will be repeated.

7.4.34 In both cases the Committee considers multi-agency working imperative so that any issues can be adequately addressed and provisions put in place to support the pupil in mainstream school.

7.4.35 Before further evaluation is undertaken, the Committee believes it important to acknowledge that the success of the Department in these areas is dependent on three additional factors:

- **Resources** – there are finite resources available to the Department which can have an impact on the availability of support provisions in place following reintegration.
- **Parental Involvement** – the behaviour management process is a partnership approach between the Department, schools and the parents. If there is a lack of parent/carer input and support then the success of the processes undertaken could be hindered. While the Department can do

all it can to encourage parental involvement, it is the ultimate decision of the parent as to how engaged they are.

- **The Pupil** – the Department can put in place provisions to support and assist pupils but ultimately the pupil has to want to modify their behaviour and successfully participate in school.

- 7.4.36 The consultation results raised concerns about the effectiveness of the Department's procedures in getting to the root cause of a pupil's disruptive behaviour. The Committee feels that these concerns are made increasingly apparent by the Department's exclusion statistics which, as set out in figure 5, show that repeat exclusions occur.
- 7.4.37 The Committee could find no evidence in the "*Guidance and Procedures for Managing Exclusions*" that indicates a "trigger point" whereby the Department considers more serious intervention and involvement with a pupil following repeat exclusion where it would indicate that attempts to address a pupil's disruptive behaviour have failed.
- 7.4.38 The Committee also feels there is an absence of clarity on the actual procedures pupils undergo to attempt to address the reasons behind their disruptive behaviour following exclusion. Again, very little detail is provided in the "*Guidance and Procedures for Managing Exclusions*" on this area, which means that any interested party is unable to ascertain what procedures, if any, are undertaken.
- 7.4.39 In light of these findings, the Committee believes the Department should review the procedures it has in place at seeking to address the reasons behind a pupil's disruptive behaviour and prepare detailed guidelines for all interested parties, for all categories of exclusion.
- 7.4.40 The Committee understands that pupils who are excluded on a category 2 or category 3 exclusion have access to their designated tutor at the Link Centre and are also discussed at the SEBD Provision Panel meetings. However, the Committee believes more could be done to ensure excluded pupils' issues are addressed adequately during, and following, their time at the Link Centre.
- 7.4.41 The Committee believes the following should be considered for inclusion in the Department's Link Centre induction procedures for excluded pupils:
- A detailed report (i.e. the referral form) provided by the school on the pupil's behaviour leading up to the exclusion being discussed in a formal meeting with relevant representatives from the school and the Link Centre staff at the start of the pupil's time at the Link Centre.
 - The excluded pupil meeting with both the social worker and the Educational Psychologist to discuss their exclusion and the reasons behind it, when identified as required.

- Clarity on the support and contact between the school and the pupil during exclusion periods at the Link Centre.
- 7.4.42 For pupils excluded on a category 1 exclusion, any work to address the reasons behind their disruptive behaviour takes place at the re-entry meeting organised by the school and, as such, these pupils do not have automatic access to the multi-agency oversight, and service professionals, that those excluded on a category 2 and 3 exclusion have.
- 7.4.43 While the Committee acknowledges the Department's administrative procedures in arranging an excluded pupil's attendance at the Link Centre, the Committee questions whether these could be condensed so that more⁶¹ excluded pupils attend the Link Centre sooner than day 6 of their exclusion and benefit from its facilities⁶².
- 7.4.44 In relation to the reintegration procedures, the Committee believes the Department has clear and detailed provisions in place through the re-entry meetings, the Professionals Meeting and the Education Placement meetings.
- 7.4.45 While public and teacher respondents' satisfaction with these reintegration processes was limited, the Committee believes this could be due to limited knowledge on, and involvement in, the processes and procedures in place.
- 7.4.46 As with the procedures in seeking to address the reasons behind a pupil's disruptive behaviour, the Committee does not feel the "*Guidance and Procedures for Managing Exclusions*" provides sufficient detail on the reintegration procedures that take place. It believes that more content on this should be included and for it to be made publicly available so that all interested parties understand the processes that are followed.
- 7.4.47 The Committee also questions the monitoring that takes place following a pupil's return to school. The Committee is unaware of any central guidelines that headteachers follow when monitoring the reintegration of excluded pupils into their schools.
- 7.4.48 The Committee would therefore like the Department to publish formal reintegration monitoring guidelines for schools to follow to ensure they are implemented consistently and effectively.

⁶¹ Vulnerable pupils can attend the Link Centre sooner than day 6 of their exclusion if the Department deems it necessary.

⁶² Section 100 of the UK's Education and Inspections Act 2006 requires maintained schools to provide suitable full-time education to excluded pupils from the sixth school day of any fixed-period exclusion. Schools or Local Authorities may, if they wish, provide education to excluded pupils earlier than day six.

- 7.4.49 Finally, as outlined in section 4.6, the Committee fully supports the Department's development of restorative justice measures within schools and believes this will add further benefit to the reintegration measures following exclusion.

The exclusion appeals process

- 7.4.50 The Committee supports the provision of an appeals process within the exclusion procedures. While limited evidence on its effectiveness was obtained, the only criticism received was that the Appeals Panel was not perceived to be independent.
- 7.4.51 The Committee concurs that independence is key to the success of the Appeals Panel and feels that this is an area that the Department could look to review to ascertain whether it would be possible to implement a fully independent Panel.

Parental involvement in the exclusion process

- 7.4.52 The public responses received indicate that, as a majority, there is general satisfaction with the information parents receive from schools on both the reasons for exclusion and the subsequent processes involved. This leads the Committee to conclude that there is general satisfaction with the telephone call and letter from headteachers and the "*A Parents' Guide to the Exclusion of Pupils From School*" booklet.
- 7.4.53 While two issues were raised on the timing and method of communication used when informing parents of their child's exclusion, the Committee hopes that these were exceptional cases and that, as a standard, schools follow the procedures set in the "*Guidance and Procedures for Managing Exclusions*".
- 7.4.54 From its own analysis, one area that the Committee considers to require strengthening is the information provided in the "*A Parents' Guide to the Exclusion of Pupils From School*" booklet on the parents' responsibilities in ensuring that their child's education is continued during days 1 to 5 of their exclusion. The Committee believes that the role of parents in this could be set out and emphasised in greater detail within this document.
- 7.4.55 Finally, the Link Centre page on the Department's website has minimal content on its role during the exclusion process and instead predominantly focuses on the Centre as the SEBD Centre. The Committee believes the role of the Link Centre in relation to exclusions on the internet could be strengthened to assist parents' understanding of its function further.

8. Alderney

8.1 Education in Alderney

- 8.1.1 The Department is responsible for the provision of statutory education and training in Alderney. There is one school in Alderney under the Department's control, St Anne's School, which teaches children from the age of 4 to 16.
- 8.1.2 The Committee was interested to learn what support, provisions and resources are available to St Anne's School, specifically in respect of managing disruptive behaviour, given the geographical barriers which exist between the two islands.

8.2 Public Consultation

- 8.2.1 The Committee understands that some of the Department's provisions and procedures outlined within this report have had to be adapted for implementation in Alderney and, as a result of the consultation, a number of points were raised that the Committee feels merit specific comment.
- 8.2.2 The Committee received a good response to its public consultation exercises from members of the public in Alderney. While some issues raised fell somewhat outside the original Terms of Reference for the review, the Committee believed that they had links to managing disruptive behaviour and the ultimate exclusion process.

8.3 SENCO and BECO Provision

- 8.3.1 The SENCO and BECO roles at St Anne's School are undertaken jointly by one teacher. The SEN and Children's Services Manager explained that *"it's a dual role because it's such a small school"* with only a small proportion of its pupils on the SEN register.
- 8.3.2 The headteacher at St Anne's School explained that the two roles, in an ideal world and not based on the capabilities of the teacher currently undertaking the joint SENCO and BECO role, would be split and undertaken by two separate people. He felt it would be more appropriate to enable two post holders to work together on issues and alleviate the responsibilities that are currently held by one person.
- 8.3.3 Having the two roles separated was also supported by two parents who had pupils at St Anne's School, together with two teachers from the school.
- 8.3.4 The teachers also commented that the school was lacking adequate BECO resources.

8.4 SEN Provisions

The Department's provisions

- 8.4.1 As outlined in Section 4.5, the SEN Code of Practice is the framework that schools follow to identify, assess and make provision for children with SEN; the SEN Code of Practice is in operation at St Anne's School and, like other schools, it writes its own SEN Policy to meet the needs of its pupils.
- 8.4.2 Alderney does not have a dedicated SEN school or SEBD Centre equivalent to those in Guernsey; instead if a pupil is identified as having a SEN which requires specialist provision beyond that provided within the standard classroom setting, they will attend the St Anne's School SEN Base.

"The SEN Base is primarily for pupils with identified SEN living in Alderney who would meet the criteria to access specialist provisions, such as a special school, Communication Base or SEBD Centre were they residing in Guernsey."

Education Department's guidance document:
"St. Anne's School – Specialist Base for Pupils with SEN"

- 8.4.3 The SEN Base was established in September 2009 and is located in a room within the main school building. It is managed by St. Anne's School's SENCO/BECO and is resourced by a number of teaching assistants. The Department confirmed that the number of teaching assistants in place at the SEN Base will vary depending on the changing needs of the school⁶³.
- 8.4.4 In order to be considered for a place at the school's SEN Base, the Department has set out detailed assessment guidelines it will follow for each of the four main categories of SEN⁶⁴. All assessments will be undertaken and considered by the Department on an individual, case-by-case basis.
- 8.4.5 Depending on their assessment and their required level of provision, pupils may be taught within the SEN Base either individually or in small groups. SEN Base teaching assistants are also expected to provide support to SEN pupils in their mainstream classroom; therefore regular dialogue and communication between the class teachers and the SEN Base teaching assistants should be continual.

⁶³ In the school year 2009 – 2010, the teaching resource of St Anne's School's SEN Base was 3 full-time equivalent permanent Teaching Assistants and 1 full-time Teaching Assistant on a 1 year contract. Prior to the SEN Base being established, the school had similar staffing levels to support pupils with SEN within the mainstream school.

⁶⁴ Cognition and learning; communication and interaction; social, emotional and behavioural difficulties; sensory and physical impairment.

Consultees' views

- 8.4.6 A number of consultees explained that, in their experience, pupils with SEN were educated in mainstream classes with minimal additional support provisions in place to assist teachers in providing for their needs.
- 8.4.7 The Committee was surprised to note that neither the headteacher, respondent teachers nor members of the public made reference to the SEN Base facility in operation at St Anne's School.
- 8.4.8 Some respondents do not feel St Anne's School has sufficient teaching assistants to support teachers in managing pupils within classes.

"Even though St Anne's School had a good teacher : pupil ratio, in the absence of a SEN or SEBD facility, there were often not enough teaching assistants to provide the support required."

St Anne's School teacher,
March 2011

- 8.4.9 Four parents stated that, in their view, because the school has insufficient resource provisions to meet the requirements of pupils with special educational needs, these pupils are often excluded; one parent said the school had told them it *"does not have suitable provision"* for their child and that the school *"can't manage the situation."*
- 8.4.10 While St Anne's School headteacher acknowledged the SEN provision demands in Alderney do not warrant a dedicated SEN/SEBD school/centre equivalent, he felt that meeting the needs of SEN pupils could be challenging at times.

"The effectiveness of their [St Anne's School teachers'] teaching can be limited due to their time spent managing SEN / SEBD pupils...It would be arrogant to say that the provision could not be improved but within the confines of the Alderney setting it is currently the best that could be expected."

St Anne's School Headteacher,
March 2011

- 8.4.11 Respondent teachers from St Anne's School emphasised the negative impact managing pupils with SEN / SEBD, in conjunction with trying to teach a class of pupils, can have on the learning of all pupils in that class. One teacher commented that, in their experience, when a pupil with SEBD was behaving disruptively in their class, they had to sit one-to-one with that pupil to manage their behaviour. This then *"held back the rest of the class"* and the teacher felt that *"we often appear to run out of options"*, with the school currently *"improvising"*, in which *"teachers coped"* at meeting these pupils' needs.
- 8.4.12 The headteacher, respondent teachers and public respondents from Alderney all indicated they would like to see a more *"dedicated provision"* for pupils with SEN in Alderney, such as a *"SEN/SEBD referral unit/base"*. They felt this

would subsequently improve the school's ability to provide for pupils with SEN, reduce the number of exclusions and improve the learning of all pupils within the school.

- 8.4.13 The headteacher and another teacher suggested this purpose built referral unit could be either a room within the current school, or a room adjacent to the school building, resourced with relevant SEN/SEBD teaching staff.

8.5 Provisions for Excluded Pupils

- 8.5.1 Excluded pupils in Alderney follow the same education during exclusion requirements and reintegration procedures as those used in Guernsey⁶⁵. The St Anne's School headteacher commented that, at the time of meeting, during his term as headteacher all but one exclusion have been category 1 exclusions.
- 8.5.2 The Department's "*Guidance and Procedures for Managing Exclusions*" states that "*the Education Department has a responsibility to provide suitable alternative education for pupils excluded for more than 20 days.*"
- 8.5.3 In Guernsey, this is met by pupils attending the Link Centre from day 6 of their exclusion. In Alderney, the Department confirmed that when a pupil is excluded they will be offered support at the SEN Base from day 6 of their exclusion.
- 8.5.4 Prior to the implementation of the SEN Base facility, St Anne's School demonstrated a level of flexibility in providing for pupils excluded on a category 2 or category 3 exclusion; one parent explained that the school permitted their excluded child to attend teaching sessions with teachers during the lunch time break, when no other pupils were on the school premises. This involved the teachers voluntarily giving up their time to meet with the excluded pupil to go through the work that they were missing.

8.6 Conclusions

SENCO and BECO provision

- 8.6.1 The consultation results show that there is a level of dissatisfaction with the current structure of the joint SENCO and BECO role at St Anne's School.
- 8.6.2 The Committee believes the Department should review whether these roles would be more effective undertaken separately and so should consult with interested parties to ascertain how this provision could be improved.

⁶⁵ These are outlined in detail in section 7.3.

SEN provisions

- 8.6.3 The consultation results indicate that, at the time of consultation⁶⁶, the provisions in place for pupils with SEN in Alderney are not meeting the expectations of respondents.
- 8.6.4 Following the consultation period, the Department provided the Committee with information on the SEN Base provision within St Anne's School.
- 8.6.5 The Committee was concerned to note that neither the headteacher, respondent teachers nor members of the public made reference to the SEN Base facility in operation at St Anne's School. Information collected appeared to support claims that SEN and SEBD pupils are educated primarily within mainstream classes, and that this can have an impact on the learning of the class. No evidence was collected from any respondent to indicate evidence of an alternative provision that could be accessed when required, which the Committee assumes the SEN Base should be providing.
- 8.6.6 Upon receipt of this information, and in comparison to the consultation results, the Committee believes there is a disparity in the SEN Base provision meeting the consultees' expectations. The comments provided by the headteacher, respondent teachers and the public regarding the need for a "*SEN/SEBD referral unit/base*" appear at odds with information provided by the Department that a SEN Base was established in September 2009.
- 8.6.7 In light of the contrasting opinions expressed by the Department and Alderney consultees, the Committee believes the Department should review the provision available, how it is used in practice and what improvements could be made to ensure it is meeting the needs of St Anne's School.

Provisions for excluded pupils

- 8.6.8 The Committee supports the Department's introduction of the SEN Base and the provision it can provide for pupils excluded on category 2 or 3 exclusions. However, in line with the above findings, it believes the Department should review the extent to which the SEN Base is used as a provision for excluded pupils.
- 8.6.9 Prior to this facility, the Committee commends the flexibility of the teachers at St Anne's School for providing a level of formal education to a pupil, in the lunch hour period, during their exclusion.

⁶⁶ The majority of views expressed by Alderney respondents were collated during the Panel's visit to Alderney on 7th March 2011.

9. Pupils with ADHD

9.1 Attention deficit hyperactivity disorder: ADHD

- 9.1.1 During the public consultation, one issue arose repeatedly from members of the public who contacted and met with the Committee: the provisions available within schools to deal with attention deficit hyperactivity disorder (ADHD).
- 9.1.2 The parents who contacted the Committee expressed dissatisfaction with the provisions in place within schools for children who suffer from ADHD. The ADHD Guernsey Group also made representation to the Committee to support this assertion.
- 9.1.3 ADHD falls into the SEN spectrum of social, emotional and behaviour difficulties. Parents identified two predominant areas where they felt management of pupils with ADHD could be improved: resource provisions and teacher training.

9.2 Resource Provisions

- 9.2.1 Six parents met with the Committee and expressed their frustration at the provision gap they feel exists between the assessments the Health and Social Services Department undertake and the resulting provisions implemented in schools by the Education Department.
- 9.2.2 These parents felt that the assessment recommendations from the Health and Social Services Department were generally ignored by the Education Department and, as a result of these provisions not being in place, their child's behaviour had not been managed appropriately, which led to exclusions being issued.
- 9.2.3 One parent explained that her son had been referred to the Child and Adolescent Mental Health Services (CAMHS) but the recommended provisions were not put in place at the school.
- 9.2.4 Five of the six parents stated that they had to pressurise the schools to get any level of the recommended support in place for their child, despite the recommendations from CAMHS; they considered this to be wholly inappropriate. Often the response given by schools was that they had "*resource issues*", which meant that adequate provisions could not be implemented.
- 9.2.5 The communication between the Education Department and the Health and Social Services Department was called into question by these parents. One parent outlined that, in their view, there should be "*a better working relationship between the Education Department and the Health and Social Services*

Department...to enable consistent guidelines to be put in place for all schools to follow to help them deal with the issues surrounding ADHD.”

9.3 Teacher Training

- 9.3.1 Parents of children with ADHD did not feel that all teachers were provided with sufficient training in how to manage pupils with ADHD; *“the school does not really understand it [ADHD]”*. In support of this, one parent was told by her son’s school that they *“couldn’t teach him”* because they could not manage his ADHD.
- 9.3.2 ADHD Guernsey Group also outlined that parents of children with ADHD *“struggle to keep their child in mainstream schooling, as the schools had found it hard to manage the behaviour of their children”*.
- 9.3.3 The ADHD Guernsey Group, and its members did not consider this suitable and would like to see increased training for teaching staff in managing pupils with ADHD across all schools.

9.4 Conclusions

Resource Provisions

- 9.4.1 The Committee did not specifically consider the link between the assessment process at CAMHS and the resulting resource provisions implemented in schools by the Education Department. However, the consultation responses showed there to be dissatisfaction within this area.
- 9.4.2 The Committee accepts that due to resource constraints, resource recommendations have to be prioritised with supply often not meeting demand. However, it was of concern to the Committee that the parents of children with ADHD who met with the Panel felt their child’s needs were being ignored by schools and consequently felt that their child’s education was being adversely affected. It believes both the Education Department and the Health and Social Services Department should liaise effectively with the parents, pupils and each other, regarding the support and options available to children with ADHD.

Teacher Training

- 9.4.3 While the Committee is aware that, upon request, ADHD training is provided to teachers, it has not directly reviewed the extent of this training or its effectiveness. It believes in light of comments raised by ADHD Guernsey and parents, the ADHD training provision could be reviewed to assess how it might be improved.

10. Pre-Schools and Early Intervention

10.1 Early Intervention

10.1.1 It is widely acknowledged that early identification and intervention to address a child's disruptive behaviour will reduce the impact, and the level, of disruptive behaviour in the long term. By targeting any behavioural issues early, it should also help prevent disruptive behaviour escalating into a scenario where the only option deemed suitable to a school is to exclude the pupil.

10.1.2 The Department supports the ethos of early intervention and emphasises the importance of it in managing disruptive behaviour.

"This early identification of children and young people is critical, especially for us."

Assistant Director for Schools and Education Services, Education Department
Hearing, 20th September 2010

10.1.3 The first formal education environment that a child can experience is at pre-school. Pre-schools play an important role in educating children and can assist in the early identification of any behavioural difficulties.

10.1.4 Pre-school nursery provision in Guernsey, Herm and Alderney is currently only provided by the private sector, with no funding received from the States of Guernsey. The status of the "Pre-school Education" workstream was published in the update provided by the Social Policy Group on the 2010 Social Policy Plan⁶⁷. It stated:

"The Education Board is committed to bringing a States Report to the Assembly on the introduction of an entitlement to state-supported pre-school education for three to four year olds before the end of this political term. Any entitlement would be universal and in partnership with private providers...A small working party has been set up to drive forward the preparation of a States Report...Following debate on the States Report the Department will prepare a bid for submission to the States Strategic Plan team for consideration."

10.1.5 The Department explained that it has a close working relationship with the pre-schools.

"The Education Department regularly provides advice, training and sessions that they [pre-schools] tap into in that way to keep them in line...with our

⁶⁷ In the 2011 States Strategic Plan.

schools and then some of our headteacher colleagues are very active with the Pre-School Alliance⁶⁸ in meeting with pre-school leaders.”

Special Educational Needs (SEN) and Children’s Services Manager, Education Department
Hearing, 20th September 2010

10.1.6 Due to their involvement in the early years of a pupil, and therefore the early identification of any behaviour difficulties a child may have, the Committee wrote to pre-schools to ascertain their views on managing disruptive behaviour at this early stage in a pupil’s education.

10.1.7 As a result of the consultation, two key issues were identified that the Committee feels need further consideration:

- The referral process.
- The transition into primary schools.

The Pre-School referral process

10.1.8 If a pre-school believes a pupil may have a SEN or behavioural issues, they require the parents’ permission to refer the pupil to the relevant professional outside agencies, for example, to the Educational Psychologist or the Child and Adolescent Mental Health Service (CAMHS).

10.1.9 The Pre-School Learning Alliance explained that often, in relation to behaviour difficulties in particular, parents refuse to give permission for this referral because *“they are usually in denial of this type of behaviour”*.

10.1.10 The ability for children to be referred is therefore in the hands of the parents who can choose to ignore advice offered to them by the pre-school. This comes with the risk that the child’s behaviour development needs are not being adequately identified and provided for.

“We have to leave this [referral] up to the parent to follow up and as you can imagine this often does not happen. This is when children can become excluded from Nursery or Pre-schools because their behaviour in the setting becomes too difficult to manage.”

Chairperson, Guernsey Pre-School Learning Alliance,
March 2010

10.1.11 The Pre-School Learning Alliance would like closer links with the specialist agencies so that the principle of early identification can be adhered to and a child’s difficulties appropriately addressed from the outset.

⁶⁸ Pre-School Learning Alliance is an early years consortium to establish best practice in pre-schools who are committed to training and quality improvement. Pre-schools in Guernsey are not required to be members of the Pre-School Learning Alliance.

- 10.1.12 A suggestion put forward by the Pre-School Learning Alliance to address this is for a health visitor to be attached to each pre-school; not a dedicated resource for each school, but a consistent resource for a consortium of pre-schools. This would enable pre-schools to build a working relationship with one health visitor and for that health visitor to become familiar with the pupils within their allocated pre-schools.

Transition from Pre-School to Primary School

- 10.1.13 There is currently no formal requirement for pre-schools to make contact with primary schools before pupils progress on.
- 10.1.14 The Department provides pre-schools with Pre-School Assessment forms for completion on each pupil but it is not compulsory for pre-schools to complete these forms.
- 10.1.15 Pre-schools can undertake these assessments three times a year on each pre-school pupil and identify any behaviour issues a pupil may have. These forms can then be returned to the Department and forwarded on to the relevant primary schools, allowing them time to prepare for providing for that pupil in the next stages of their education.
- 10.1.16 The Chair Person of the Pre-School Learning Alliance feels strongly that it should be compulsory for all pre-schools to complete and return these forms, so that the transition of pupils with identified behavioural issues, or SEN, can be prepared for as smoothly as possible by the receiving primary school.

10.2 Conclusions

- 10.2.1 The problems identified by the Pre-School Learning Alliance in the referral process to professional bodies fall to the Health and Social Services Department. Therefore, the Committee believes there is merit in the Health and Social Services Department consulting with pre-schools and the Pre-School Learning Alliance to seek clarity on the concerns expressed and to work together to determine how the current arrangements could be improved.
- 10.2.2 In relation to the use of the Pre-School Assessment Forms, the Committee supports their use and believes there is merit in the Department and the Pre-School Learning Alliance working together to formalise the transition procedures between pre-schools and primary schools.

11 Recommendations

- 11.1 The Department has a number of detailed policies, procedures and support provisions in place to assist the management of disruptive behaviour within the schools under its control.
- 11.2 However, the Committee identified areas, as set out in the main body of this report, where the implementation of aspects of these policies and processes could be improved.
- 11.3 In light of this, the Committee has made a number of recommendations which it believes will improve the Department's implementation and oversight of the policies and procedures in relation to the management of disruptive behaviour and school exclusions. These recommendations are set out in the table below.
- 11.4 It is important to note that when the Committee has made a recommendation for the Department "to review" or "to consult on" an aspect of its policy, it is assumed the Department will identify all relevant stakeholders to ensure the review is fully informed of all interested parties' views.

	TOPIC	RECOMMENDATION	REFERENCE
1.	Behaviour Toolkit	(A) Review of Toolkit The Education Department to regularly review the Behaviour Toolkit within a specified timescale, say every 2 years, and publish it on the teachers' intranet.	Sections 5&6 Paragraphs: 5.6.3 and 6.4.8
2.	School Behaviour Management Policies	(A) Content The Education Department to monitor every school's behaviour management policy to ensure, as a minimum, they all set out detailed and clear content on: i) The School's expectations of good behaviour and how this will be supported; ii) The boundaries of acceptable behaviour; iii) The disciplinary and supportive actions the school will establish; iv) The administrative and recording systems in place to monitor behaviour. v) The briefing and training for staff to ensure consistency in the approach to managing behaviour. (B) Review and Publication The Education Department to ensure every school's behaviour management policy: i) Is reviewed every two years using the audits set out in Unit 1 of the Behaviour Toolkit;	Section 5 Paragraphs: 5.6.1 – 5.6.6 Paragraphs: 5.6.7 – 5.6.14

		<p>ii) Contains the date of its last review and be formally signed off by the Department.</p> <p>iii) Is published in full on the school's website.</p> <p>(C) Internal Exclusions The Education Department to ensure every school's behaviour management policy is clear on how internal exclusions may be used so teachers, parents and pupils are aware of their purpose.</p>	Paragraph: 7.4.2
3.	Behaviour Management Training and Support	<p>The Education Department to:</p> <p>i) Extend the existing SEN Criteria to include detail on the function and decision making role of the Allocation Panel meeting and the Link Centre Nurture Group.</p> <p>ii) Ensure in-school training and support provided to teachers is discussed at the next bi-annual headteachers' conference to determine where improvements might be made.</p> <p>iii) Consult all teachers to ascertain what improvements they would like made to the behaviour management training and support available to them.</p>	<p>Section 6</p> <p>Paragraphs: 6.4.1 – 6.4.5</p> <p>Paragraphs: 6.4.9 – 6.4.10</p> <p>Paragraphs: 6.4.1 – 6.4.11</p>
4.	SENCOs and BECOs	<p>The Education Department to:</p> <p>i) Review the SENCO provision in the three high schools to ensure it is adequately resourced.</p> <p>ii) Review the current provision of BECO resources, in consultation with the headteachers and teachers, to identify any resource issues.</p>	<p>Section 6</p> <p>Paragraphs: 6.4.12 - 6.4.15</p> <p>Paragraphs: 6.4.16 – 6.4.17</p>
5.	Key Stage 2 Behaviour Management Support	The Education Department to consult with interested parties to determine whether the current behaviour management support in Key Stage 2 is sufficient.	<p>Section 6</p> <p>Paragraphs: 6.4.21 – 6.4.23</p>
6.	Internal Exclusions	<p>The Education Department to:</p> <p>(A) Appropriate provisions for internal exclusions: Review the resources available to schools when using internal exclusions, to assess whether there is adequate time-out and supervision resources.</p>	<p>Section 7</p> <p>Paragraph: 7.4.6</p>

		<p>(B) Addressing the Reasons behind a Pupil's Disruptive Behaviour Ensure that schools have clear procedures for discussing and addressing the reasons for a pupil behaving disruptively when it results in an internal exclusion or a "cooling-off" period.</p> <p>(C) Monitoring and Reporting i) Set up a formal requirement for schools to report the number, and details, of the internal exclusions that have been issued each school term.</p> <p>ii) Ensure that statistics on the use of internal exclusions and "cooling-off" periods are published in the Department's Exclusion Statistics Report.</p>	<p>Paragraph: 7.4.9</p> <p>Paragraphs: 7.4.10 – 7.4.12</p> <p>Paragraph: 7.4.13</p>
7.	External Exclusions	<p>The Education Department to:</p> <p>(A) Statistics on Exclusions i) Publish an annual report on exclusions on its website.</p> <p>ii) Ensure the Board receives statistics, in its Annual Exclusion Data Report, on:</p> <ul style="list-style-type: none"> • The use of exclusion in each school; • The reasoning behind each exclusion; • The exact length of each exclusion period. <p>iii) Include the reasons for exclusion within the exclusion statistic report provided to headteachers.</p> <p>iv) Ensure that statistics on excluded pupils after school are included within the development of Guernsey's NEET Strategy.</p> <p>The Education Department to:</p> <p>(B) Monitoring the use of exclusions Provide detail in the "<i>Guidance and Procedures for Managing Exclusions</i>" on the monitoring it conducts, and the action it can take, for repeat exclusions.</p> <p>(C) Guidance on exclusions Publish more detailed information on its website on the role of the Link Centre in the exclusion process.</p> <p>i) Publish its "<i>Guidance and Procedures for</i></p>	<p>Paragraph: 7.4.18</p> <p>Paragraph: 7.4.19</p> <p>Paragraph: 7.4.20</p> <p>Paragraph: 7.4.21</p> <p>Paragraphs: 7.4.36 – 7.4.37</p> <p>Paragraph: 7.4.55</p> <p>Paragraphs: 7.4.16 –</p>

		<p><i>Managing Exclusions</i>” on its website.</p> <p>7.4.17</p>	
		<p>ii) Give consideration to preparing central guidelines for headteachers to refer to on what behaviour could warrant each of the three categories of exclusion.</p> <p>Paragraphs: 7.4.22 – 7.4.23</p>	
		<p>(D) Education during Exclusion</p> <p>i) Review its current procedure to ascertain whether pupils can attend the Link Centre sooner than day 6 of their exclusion.</p> <p>Paragraph: 7.4.43</p>	
		<p>ii) Review its procedures in the setting and completion of work during exclusion and produce more detailed guidelines for teachers and parents to follow to ensure appropriate work is set and returned from day 1 of a pupil’s exclusion.</p> <p>Paragraphs: 7.4.27 – 7.4.28</p>	
		<p>iii) Work with schools and the Link Centre to set mutually agreed procedures for the setting and return of work during an excluded pupil’s attendance at the Link Centre.</p> <p>Paragraphs: 7.4.28 – 7.4.29</p>	
		<p>(E) Addressing the Reasons behind Pupils’ Disruptive Behaviour</p> <p>i) Consider the Home Department’s suggestion of a community service approach for excluded pupils as part of the exclusion period.</p> <p>Paragraphs: 7.4.24 – 7.4.25</p>	
		<p>ii) Review the procedures in place for addressing the reasons behind all excluded pupils’ disruptive behaviour, particularly while they are attending the Link Centre, and publish clear guidelines in the “<i>Guidance and Procedures for Managing Exclusions</i>”.</p> <p>Paragraphs: 7.4.38 – 7.4.42</p>	
		<p>(F) Reintegration</p> <p>i) Set out further detail in the “<i>Guidance and Procedures for Managing Exclusions</i>” on the reintegration procedures it has in place.</p> <p>Paragraphs: 7.4.44 – 7.4.46</p>	
		<p>ii) Publish guidelines for headteachers on the monitoring of excluded pupils following reintegration.</p> <p>Paragraphs: 7.4.47 – 7.4.48</p>	
		<p>(G) Appeals Panel</p> <p>Review the Appeals Panel membership with the aim of making it fully independent.</p> <p>Paragraphs: 7.4.50 – 7.4.51</p>	

		<p>(H) The Role of Parents</p> <p>Provide greater detail in the “<i>A Parents’ Guide to Exclusion of Pupils from School</i>” on the roles expected of parents in the education of their child during their exclusion period.</p>	<p>Paragraph: 7.4.54</p>
8.	Alderney:	<p>The Education Department to:</p> <ul style="list-style-type: none"> i) Review the joint SENCO and BECO role at St Anne’s School. ii) Review the implementation of the SEN Base provision at St Anne’s School, following consultation with all interested parties. 	<p>Section 8</p> <p>Paragraphs: 8.6.1 – 8.6.2</p> <p>Paragraphs: 8.6.3 – 8.6.8</p>
9.	ADHD	<ul style="list-style-type: none"> i) The Education Department and the Health and Social Services Department to review, in partnership, how assessments by CAMHS are communicated and where improvements could be made. ii) The Education Department, in consultation with headteachers and teachers, to assess the current training provided to teachers to ascertain the capacity and capability of schools to deal with children with ADHD. This should include examining the training, support and resources available to teachers to assist with the behaviour management of children with ADHD. 	<p>Section 9</p> <p>Paragraph: 9.4.2</p> <p>Paragraph: 9.4.3</p>
10.	Pre-School Education	<ul style="list-style-type: none"> i) The Health and Social Services Department to consult with the Pre-School Learning Alliance to discuss how the current provisions for referrals could be improved. ii) The Education Department to consult with the Pre-School Learning Alliance to formalise the transition arrangements between pre-schools and primary schools. 	<p>Section 10</p> <p>Paragraph: 10.2.1</p> <p>Paragraph: 10.2.2</p>

GLOSSARY OF TERMS

ADHD	Attention Deficit and Hyperactivity Disorder
BECO	Behaviour Co-Ordinator
CAMHS	Child and Adolescent Mental Health Services
EDC	Education Development Centre
Foundation Stage	Children aged 3 – 5 years old. Children may be registered at a school from September during the year in which they reach their fifth birthday (Reception Year).
HSSD	The Health and Social Services Department
Key Stage 1	Pupils in Year 1 and Year 2 i.e. children aged 5 to 7. Also referred to as “Infant School”.
Key Stage 2	Pupils in Years 3, 4, 5 and 6 i.e. children aged 7 to 11. Also referred to as “Junior School”.
Key Stage 3	Pupils in Years 7, 8 and 9 i.e. aged 11 to 14.
Key Stage 4	Pupils in Years 10 and 11 i.e. aged 14 to 16.
Mainstream Schools	Schools that are not special education schools, grant-aided schools or fully independent schools.
OAT Days	Organisation, Administration and Training Days
SENCO	Special Educational Needs Co-ordinator
Special educational needs schools	Le Rondin School, Le Murier School
Grant-aided schools	The Ladies’ College, Elizabeth College, Blanchelande College
Independent Schools	Ormer House, Alderney and Sark School, Sark
Primary Schools	This comprises teaching pupils from Year 1 to Year 6, i.e. pupils aged from 5 to 11.
Secondary Schools	This comprises teaching pupils from Year 7 to Year 11, i.e. pupils aged from 11 to 16.
SEN	Special Educational Needs

SEBD	Social, Emotional and Behaviour Difficulties
The Board	The Education political Board
The Committee	The Scrutiny Committee
The Department	The Education Department
The Law	The Education (Guernsey) Law, 1970 and The Education (Amendment)(Guernsey) Law, 1987
VSSE	Validated School Self-Evaluation

APPENDICES ATTACHED TO THIS REPORT

Appendix 1	Analysis of the publication of full behaviour management policies on schools' websites and policy review dates.
Appendix 2	The SEBD Advisory and Outreach Team: Support and Training Available.
Appendix 3	The Education Department's "Exclusions Statistics" Annual Report.
Appendix 4	Procedures for admitting pupils on category 2 exclusions to the Link Centre.
Appendix 5	Letter of comment from the Education Department.

APPENDICES AVAILABLE ELECTRONICALLY

Appendix i	Terms of Reference.
Appendix ii	Detailed methodology.
Appendix iii	Transcripts of the two meetings held with the Education Department in September 2010.
Appendix iv	Questionnaire templates and detailed analyses of consultation results.

APPENDIX 1

Analysis of the Publication of Full Behaviour Management Policies on Schools' Websites and Policy Review Dates.

	Does the school have a website?	Website Link from the Education Department's website? ⁶⁹	Is the full Behaviour Management Policy on the School website? ⁶⁹	Behaviour Management Policy Publication Date	Behaviour Management Policy Review Date
Amherst Primary School	✓	✓	✗	No detail	No detail
Castel Primary School	✓	✓	✗	February 2008	No detail
Forest Primary School	✓	✓	✗	September 2007	To be reviewed every 3 years
Hautes Capelles Primary School	✓	✓	✗	September 2009	No detail
Herm School	✗	✗	✗	The Committee could not access Herm School's behaviour management policy	
La Houquette Primary School	✓	✓	✗	September 2009	No detail
La Mare de Carteret Primary School	✓	✓	✓	No detail	No detail

⁶⁹ A number of schools have their Prospectus available on their website and while this may contain some detail on how the school manages behaviour, unless marked with a ✓, it does not include the school's full behaviour management policy.

	Does the school have a website?	Website Link from the Education Department's website?	Is the <u>full</u> Behaviour Management Policy on the School website? ⁷⁰	Behaviour Management Policy Publication Date	Behaviour Management Policy Review Date
Le Rondin School	✓	✓	✗	March 2009	No detail
Notre Dame Primary School	✓	✓	✗	January 2001	No detail
St Andrew's Primary School	✓	✓	✗	March 2001	No detail
St Anne's School	✓	link does not work	✗	No detail	To be reviewed bi-annually
St Martin's Primary School	✓	✓	✗	November 2008	To be reviewed at least every 2 years
St Mary and St Michael Primary School	✓	✓	✗	January 2009	No detail
St Sampson's Infant School	✓	✓	✗	No detail	To be reviewed at least every 2 years
Vale Infant School	✓	✓	✓	No detail	To be reviewed at least every 2 years
Vale Junior School	✓	✓	✓	No detail	No detail
Vauvert Primary School	✓	✓	✗	March 2008	No detail
Les Beaucamps High School	✓	✓	✓	February 2001	No detail

⁷⁰ A number of schools have their Prospectus available on their website and while this may contain some detail on how the school manages behaviour, unless marked with a ✓, it does not include the school's full behaviour management policy.

	Does the school have a website?	Website Link from the Education Department's website?	Is the <u>full</u> Behaviour Management Policy on the School website? ⁷¹	Behaviour Management Policy Publication Date	Behaviour Management Policy Review Date
La Mare de Carteret High School	✓	link does not work	✗	No detail	No detail
St Sampson High School	✓	✗	✗	No detail	No detail
The Grammar School and Sixth Form Centre	✓	✓	✗	July 2009	No detail
College of Further Education	✓	✓	✗	No detail	No detail
Le Murier School	✗	✗	✗	No detail	No detail

⁷¹ A number of schools have their Prospectus available on their website and while this may contain some detail on how the school manages behaviour, unless marked with a ✓, it does not include the school's full behaviour management policy.

APPENDIX 2

The SEBD Advisory and Outreach Team: Support and Training Available

The SEBD Advisory and Outreach Service operates from the Link Centre working directly with staff and students in schools across the Bailiwick. They also provide training to school staff on a range of issues as outlined below. School staff are circulated with the list of courses through the EDC diary and the Education Department will normally centrally fund a member of staff from each school to attend (this will provide cover in school to cover the teacher's absence).

- ❖ **AD/HD** – An introduction to AD/HD and how we can best support children who are diagnosed.
- ❖ **Alcoholism** – Supporting children who have an alcoholic parent.
- ❖ **Anger Management** – Empowering staff to work with young people in a variety of settings to stimulate discussion and strategies on the issues around anger and other pressures experienced during adolescence.
- ❖ **Anti-bullying** – How to address bullying issues in the context of the school.
- ❖ **Behaviour Management** – To enable staff and TAs to understand and manage children's behaviour more effectively.
- ❖ **Bio-feedback Technology** – An introduction to Heartmath, a bio-feedback programme to support relaxation, stress and anxiety relief. (This programme has also proved effective with ADHD).
- ❖ **Counselling** – Members of the SEBD Advisory & Outreach team are qualified in the use of counselling skills in an educational setting and are able to support schools with individual pupils. Two members of the team are also trained in bereavement counselling.
- ❖ **Emotional Literacy** – Developing awareness and understanding of how emotions, thoughts and feelings influence behaviour. Strategies for managing emotions thoughts and feelings to make positive behaviour choices.
- ❖ **Family Links Parenting Programme** – A ten week programme designed to help parents with strategies to manage their children's behaviour and to nurture themselves.
- ❖ **Help in delivering the Behaviour Toolkit** – Support in using the materials included in the Behaviour Toolkit.
- ❖ **Nurture Groups** – An introduction to the theory and practice of Nurture Groups.
- ❖ **Positive and Protective Physical Management of Pupils (Teamteach)** – Positive handling techniques and strategies within a whole establishment setting, providing a holistic response to behaviour management.
- ❖ **Protective Behaviours** – Strategies for promoting personal safety in young people.
- ❖ **Self-Esteem and Resilience** – Empowering staff to work with pupils who have low self esteem and/or are underachieving.
- ❖ **Social Skills** – Promoting positive social skills through a variety of strategies and programmes focussing on KS1, 2 & 3 pupils.

- ❖ **Using the Boxall Profile as a Baseline Assessment** – An introduction to the use of the Boxall Profile as a baseline assessment to identify emotional and behavioural difficulties.
- ❖ **Writing and Implementing Behaviour Policies** – Advice and practical examples of good practice in creating a whole school behaviour policy.
- ❖ **Writing I.E.Ps** – Advice and practical suggestions on identifying behaviour targets and creating child friendly I.E.Ps.

APPENDIX 3



EDUCATION

A STATES OF GUERNSEY GOVERNMENT DEPARTMENT

Exclusion Statistics

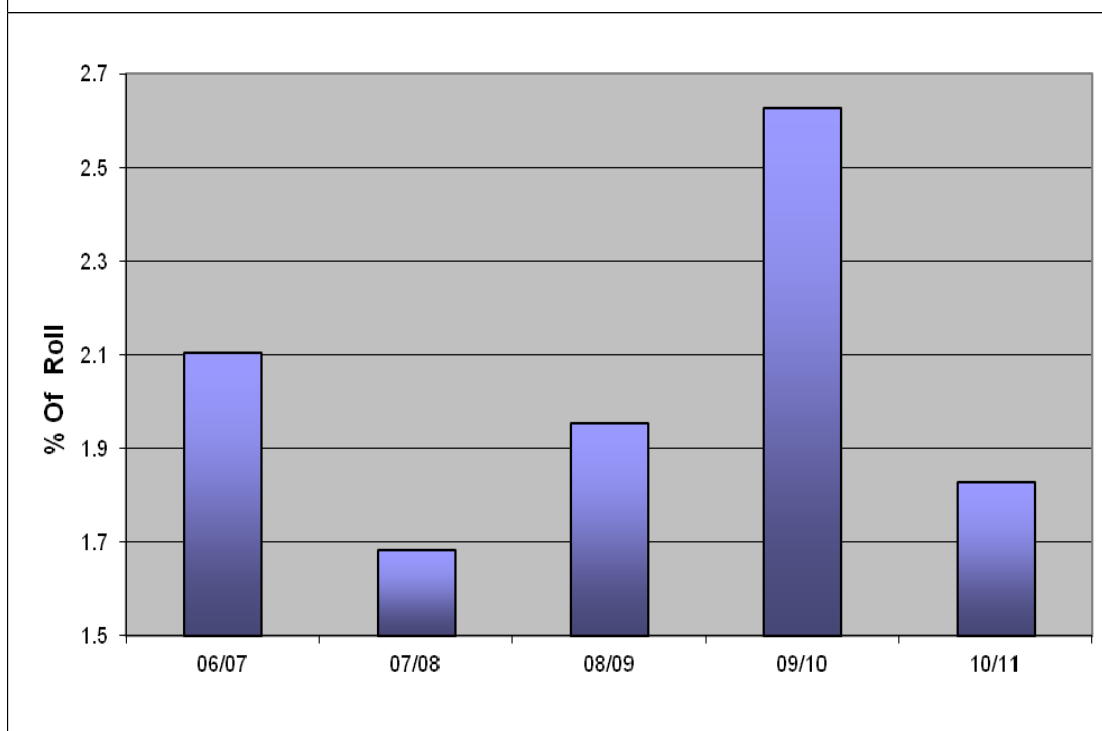
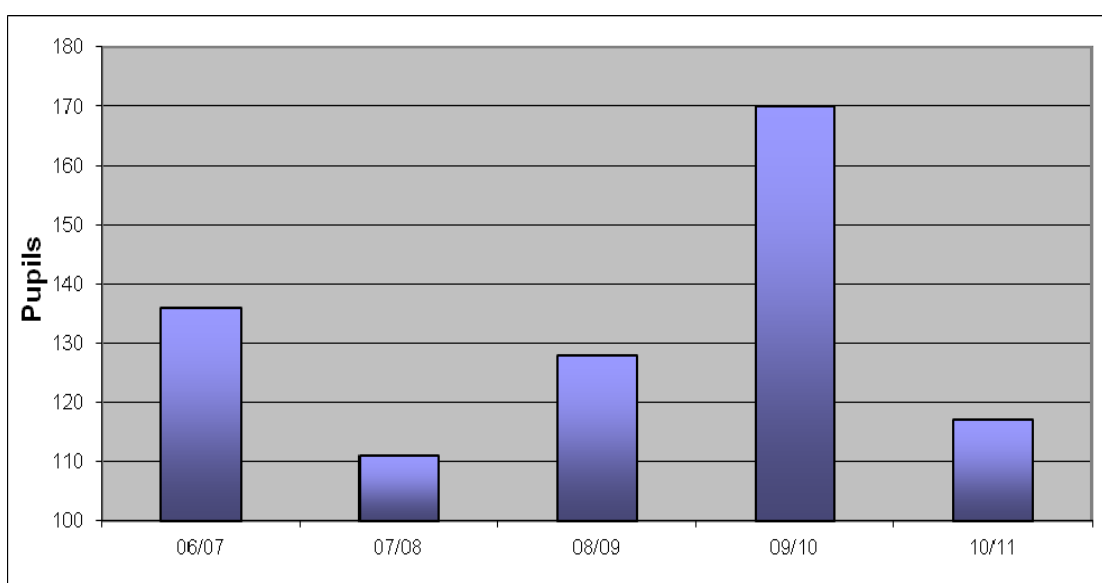
Schools and Services Division

(First release September 2011)

Total Number of Exclusions

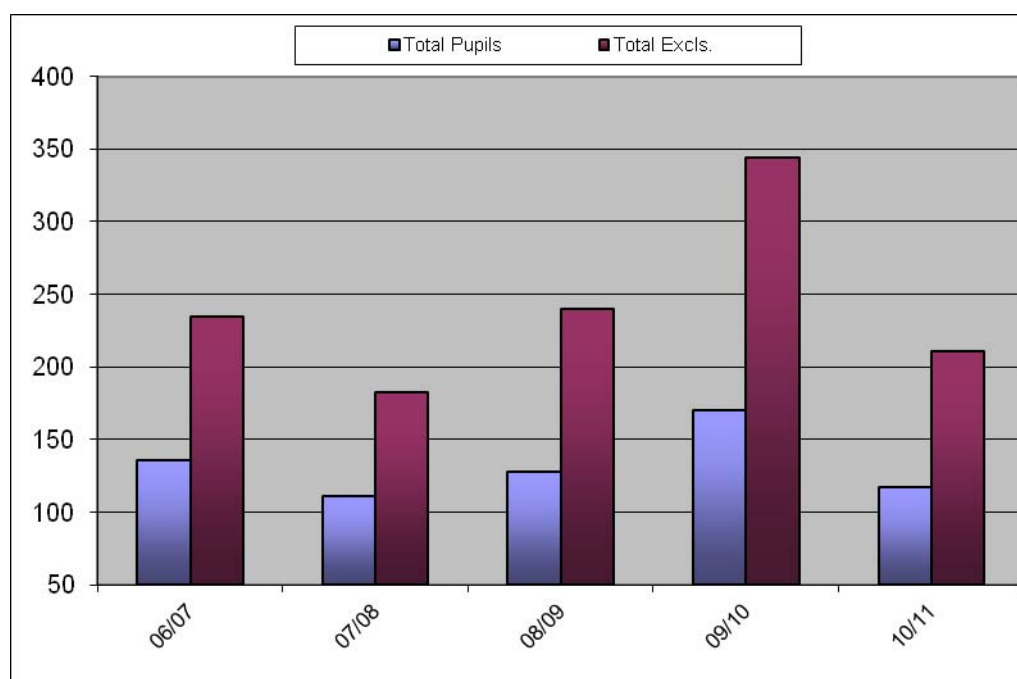
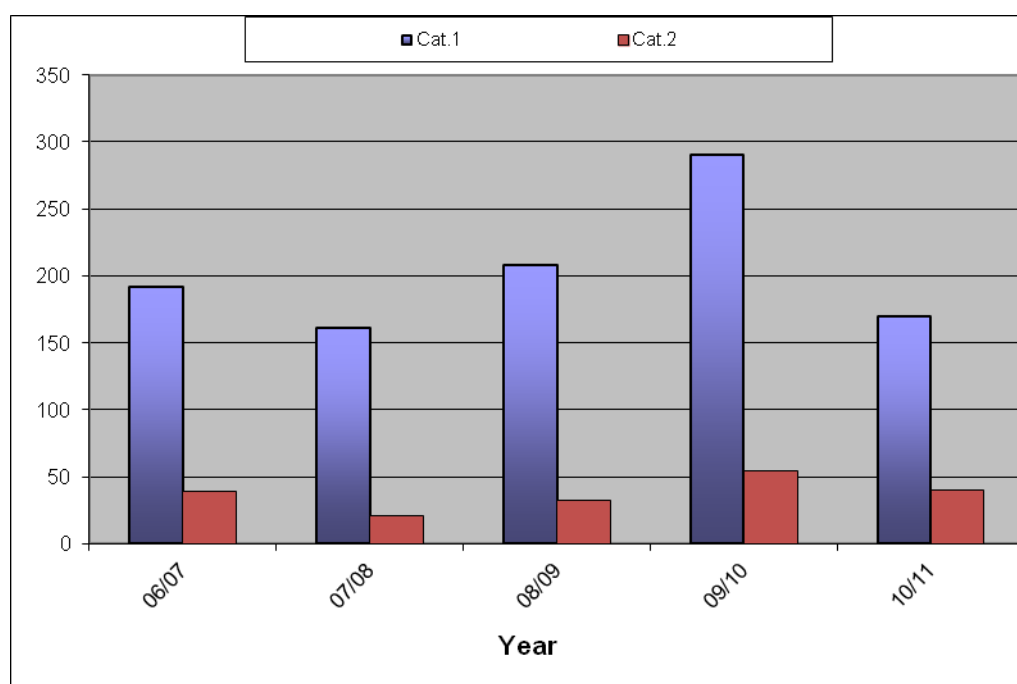
Year	Total No of Pupils	Excl. One	Excl. Two	Excl. Three	Excl. Four	Excl. Five	Excl. Six	Excl. Seven	Excl. Eight	Total	States Maintained Roll	% of Roll Excluded
06/07	136	85	23	19	9	1	1	0		235	6464	2.1
07/08	111	73	26	8	5	0	0	2		183	6593	1.7
08/09	128	80	20	9	12	4	3	1		240	6547	2.0
09/10	170	92	35	20	7	7	5	3	1	344	6473	2.6
10/11	117	67	25	9	7	4	2	1		211	6402	1.8

School roll includes all pupils Reception - Yr 11



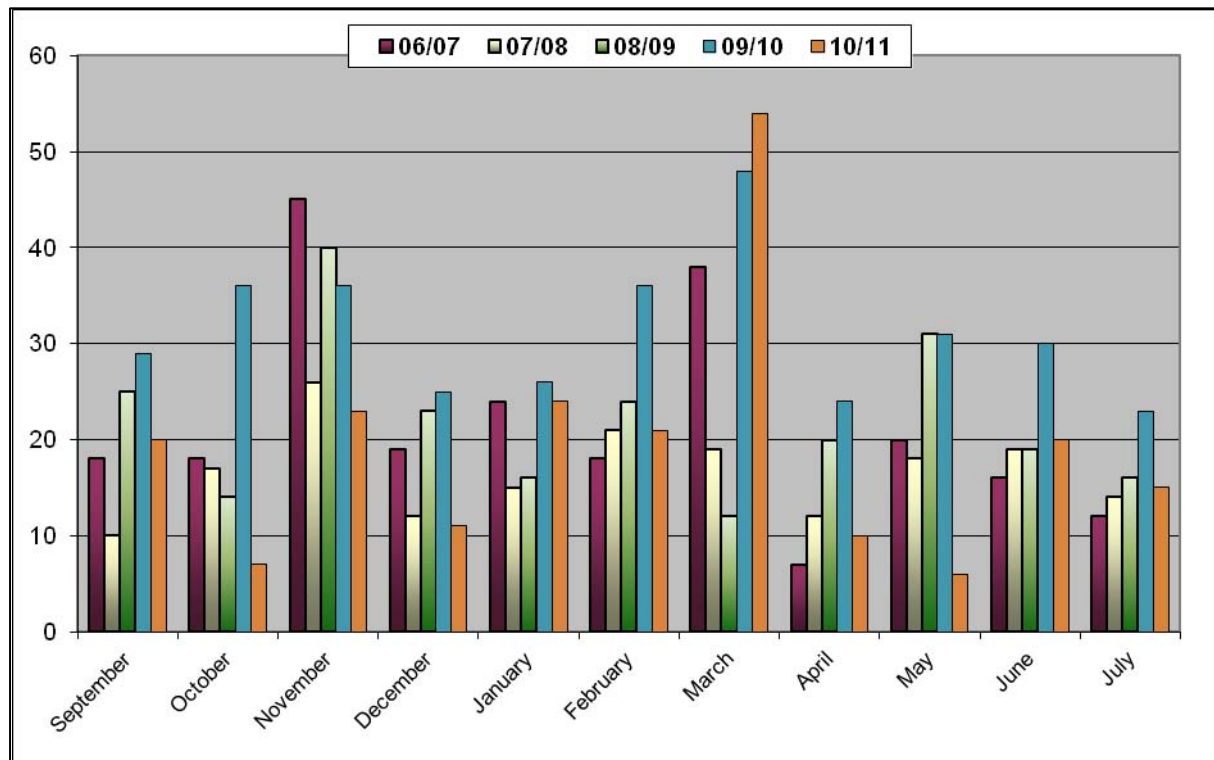
Exclusions by Category

Year	Total Pupils	Total Excls.	Cat.1	Cat.2	Cat.3
06/07	136	235	192	39	4
07/08	111	183	161	21	1
08/09	128	240	208	32	0
09/10	170	344	290	54	0
10/11	117	211	170	40	1



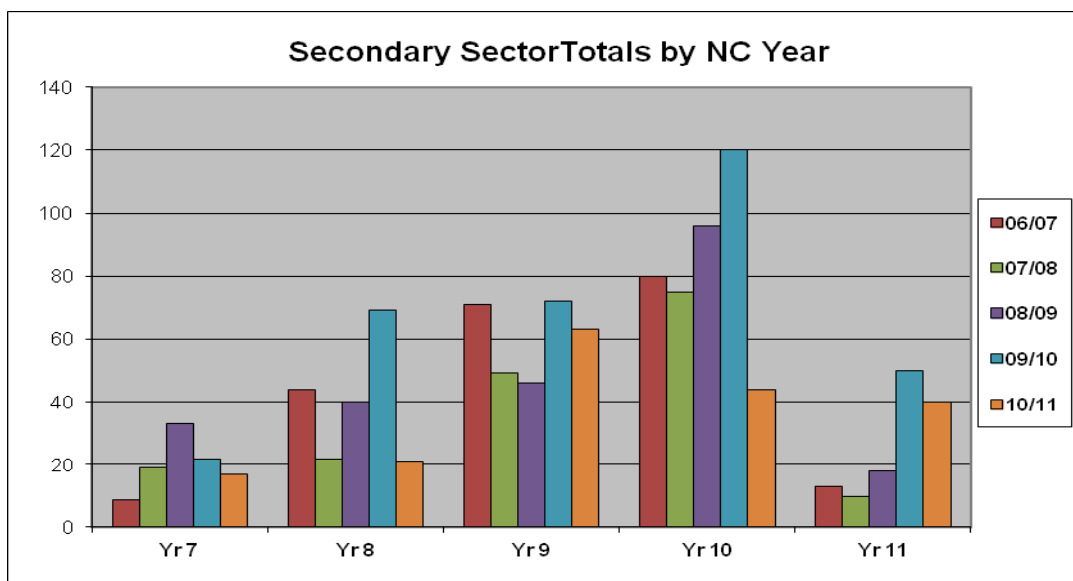
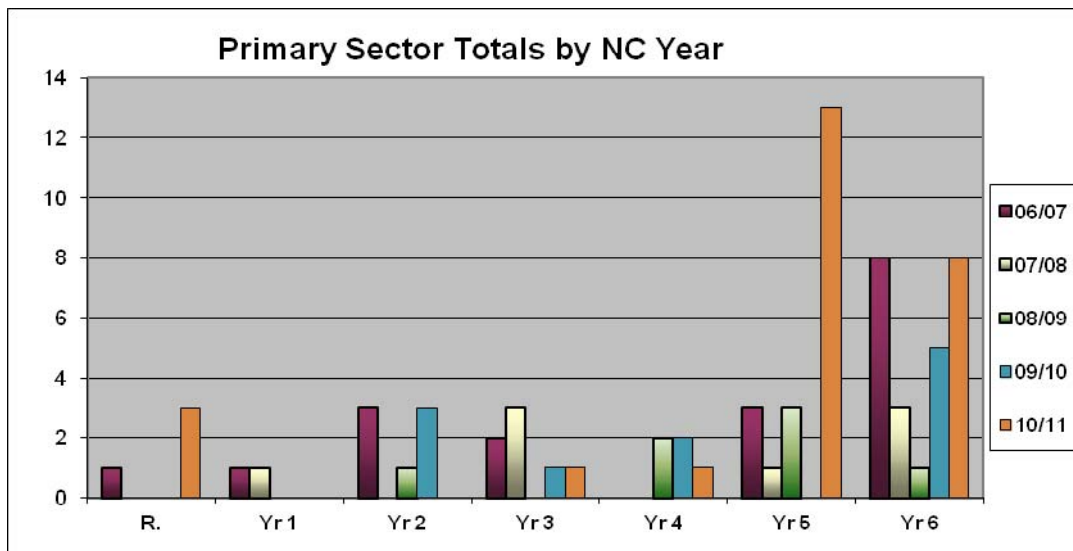
Total Exclusions by Month

Start Month	06/07	07/08	08/09	09/10	10/11
September	18	10	25	29	20
October	18	17	14	36	7
November	45	26	40	36	23
December	19	12	23	25	11
January	24	15	16	26	24
February	18	21	24	36	21
March	38	19	12	48	54
April	7	12	20	24	10
May	20	18	31	31	6
June	16	19	19	30	20
July	12	14	16	23	15
Total	235	183	240	344	211



Total Exclusions by NC Year

Totals by NC Year	06/07	07/08	08/09	09/10	10/11
R.	1	0	0	0	3
Yr 1	1	1	0	0	0
Yr 2	3	0	1	3	0
Yr 3	2	3	0	1	1
Yr 4	0	0	2	2	1
Yr 5	3	1	3	0	13
Yr 6	8	3	1	5	8
Yr 7	9	19	33	22	17
Yr 8	44	22	40	69	21
Yr 9	71	49	46	72	63
Yr 10	80	75	96	120	44
Yr 11	13	10	18	50	40
Total	235	183	240	344	211



APPENDIX 4

Procedures for Admitting Pupils on Category 2 Exclusions to the Link Centre

Procedure:	When:	Communication/Paperwork/Process Required:	Action Required By:	Responsibility:
Student excluded from school	Day 1	Headteacher's letter sent immediately to parents and copy to Education Officer SEN (Behaviour Support) within 24 hours	School to email letter to Education Officer SEN (Behaviour Support)	Headteacher
		Copy of letter to Education Officer SEN (Behaviour Support) within 24 hours	Letter copied to The Link Centre, Centre Manager	Education Officer SEN (Behaviour Support) /Admin
Gathering of information for SEBD Referral/placement	Day 1/2	The Link Centre Referral Form, pack of work for pupil	School to fully complete and send to The Link Centre	School
Establishing Communication Links	Day 1/2	Phone call to The Link Centre to check arrival of letters and referrals	School to call Centre Manager on Day 1 or Day 2	School
		Phone call to parents to establish contact and role of the Centre	Centre to call parents and insert record of phone call into log	Centre Manager
Checking eligibility and arranging any transport	Day 1/2	Transport arranged if applicable	Centre to check eligibility and arrange if applicable	Centre admin
Contacting parents of excluded student	Day 2/3	Letter and Category 2 Exclusion admission pack to parents	Centre to send letter	Centre Manager/admin

Procedure	When	Communication/Paperwork/Process Required	Action Required By:	Responsibility
Confirming appointment	Day 3/4	Confirming contact and admission meeting appointment, record phone calls on log in student file	Centre to call parents and confirm date, time. Enter record on student intervention log	Centre Manager/admin
Admission meeting and starting interim education programme	Day 6	Student and parents attend admission meeting. Student starts programme at Centre	Parents and student attend admission meeting	Centre Manager
Entering student's details on database	Day 6	Student support entered on database from start date. Attendance recorded	Student details on system and file started	Centre admin
Professionals meeting arranged	By Day 15 at the latest	Professionals Meeting to be arranged at school and appropriate agencies invited to attend. Pastoral Support Plan to be drawn up by school, including re-integration plan.	School to arrange and invite parents and student to attend. Written report to be provided from The Link Centre	School
PSP and information regarding re-entry date sent to parents/SEBD services		Copy of PSP sent to all relevant agencies and parents	Time and date arranged for re-entry meeting. PSP and letter sent out	School
Reintegration plan starts	By end of exclusion	Student is re-admitted to school and PSP continues as support plan	School to implement PSP and support	BECO / SENCO

APPENDIX 5

20th December 2011

The Chairman,
Scrutiny Committee,
Sir Charles Frossard House,
PO Box 43,
La Charroterie,
ST. PETER PORT.
GY1 1FH

Dear Deputy Brehaut

**re: SCRUTINY REPORT - MANAGING DISRUPTIVE BEHAVIOUR AND
SCHOOL EXCLUSIONS**

The Education Department welcomes the opportunity to provide comment on the Scrutiny Committee's Report into Managing Disruptive Behaviour and School Exclusions. The Department is pleased to note that the Committee has recognised that it has detailed policies, procedures and support provisions in place to assist its schools with the management of disruptive behaviour.

The Department willingly engaged with the scrutiny process providing all the statistics and supporting information required and attended various meetings at officer and political level as well as taking part in the public hearing.

The Department is responsible for more than 9,000 pupils in two infant, one junior and 11 primary schools; an all age school in Alderney, three high schools, the Grammar School & Sixth Form Centre and the College of Further Education. The Department operates two special needs schools; a Centre for pupils with Social, Emotional and Behavioural difficulties and grant aids three Colleges. Statutory education provision is from age 5 to 16.

The majority of children and young people in Bailiwick schools enjoy learning, work hard and behave well. Schools have clear expectations of how their pupils should behave and these are continually reinforced within school and through information to parents and carers.

The Scrutiny Panel acknowledges the Department's view - one that is shared by headteachers, teachers and members of the public - that the disruptive behaviour within schools is caused by a minority of pupils.

All teachers should have the skills to manage pupil behaviour within the classroom. They also have the opportunity to improve and develop new skills throughout their career through continuous professional development. The Department supports teachers in all aspects of CPD.

The Department does not propose to comment in detail on all sections of the Report but would make the following observations:

Consultation process

The Department is disappointed to note that despite the concerted efforts of the Scrutiny Committee, with the support of the Education Department, only a very small number of teachers and members of the public responded to the consultation.

The Department employs more than 600 teachers throughout the education service and only 71 completed the anonymous questionnaires. The Scrutiny Committee acknowledges that its ability to draw conclusions on the views of ‘teachers’ is limited by this poor level of response. The Department agrees and is concerned that too much emphasis is being given to the views of a very small number of teachers or members of the public. It would also guard against the reporting of these views as percentages (for example 7.3.114 states that 30% of teachers who responded rated parental involvement in the exclusion process as poor/very poor) which can distort the true level of satisfaction or dissatisfaction with a particular issue (in this case this was the views of 21 teachers which represents less than 3.5% of the teaching workforce).

Two schools represented nearly half of all respondent teachers and this may also render invalid the overall conclusions the Committee has drawn from the consultation.

Focus Group

Although providing some value to the Report, a focus group of just three teachers can easily give more credence to a particular view that perhaps does not reflect the views of teachers in general. The Department would question the selection criteria for this focus group and whether the teachers involved represented all phases of education across different schools and consequently the range of views therein.

Review Programme

The Department is disappointed at the time taken by the Scrutiny Panel to conduct the consultation and prepare the report – 14 months passed between the Department’s attendance at the public hearing and it receiving a draft of the final report – and yet the Department was given less than a month to review the accuracy of the Report and draft this letter of comment. This is on top of a range of competing priorities.

The Education Department would respectfully request that the Scrutiny Committee gives consideration to producing a more detailed timetable for the progress and

publication of such reviews in future so that the requirement for its staff resources can be better planned.

Resources

The Education Board is aiming to achieve the sustainable and effective use of public money to meet the Department's needs and what the public expects of an education service. It is endeavouring to reduce costs while maintaining the quality of service delivery.

The Department is continually reviewing its services to ensure that they remain fit for both current and future purpose and represent value for money. It is mindful that there are many calls for additional resources or staffing which must be considered alongside other priorities for expenditure.

The Department has a small team of officers whose role is to work with schools and monitor, support, challenge and intervene across a wide range of areas of which managing behaviour is just one.

The Conditions of Service for headteachers states that they '*shall be responsible for the internal organisation, management and control of the school*'. This includes:

'determining measures to be taken with a view to promoting among pupils, self-discipline, good behaviour and proper regard for authority; making such measures generally known within the school and ensuring that they are implemented;

'establishing an appropriate policy for the maintenance of good order and discipline at all times during the school day (including the midday break) when pupils are present on the school premises and whenever the pupils are engaged in authorised school activities, whether on school premises or elsewhere;'

Whilst it is encouraging for the Education Department that headteachers are generally very positive about the support they receive from the Department with these duties, headteachers are ultimately responsible for them within their own school.

Recommendations:

The Department will be happy to report to the Scrutiny Committee with a response to each of the recommendations and would note that some have already been implemented since the review began.

Yours sincerely,

Deputy C. A. Steere
Minister

APPENDIX B

Timeline for Key Stages of the Scrutiny Committee's Managing Disruptive Behaviour and School Exclusions Review.

DATE	ACTION
20 th September 2010	Meeting with Education Department representatives on the SEN Code of Practice and SEN Criteria.
27 th September 2010	Public Hearing with Education Department representatives on " <i>Guidance and Procedures for Managing Exclusions</i> " policy.
27 th September 2010	Public Drop-in afternoon in Guernsey. Public consultation opened.
28 th October 2010	Letters sent to all headteachers enclosing their questionnaire and questionnaires for distribution to teachers within their school. Headteacher and teacher consultation opened.
12 th November 2010	Letters sent to grant-assisted schools' headteachers. Letters sent to relevant States of Guernsey departments. Letters sent to Pre-School nurseries. Letters sent to local Teaching Unions.
15 th February 2011	Visit to Link Centre and meeting with Centre Manager and Education Officer.
17 th February 2011	Teachers' Focus Group.
18 th February 2011	Public Drop-in afternoon in Guernsey.
7 th March 2011	Meeting with St Anne's School headteacher and public drop-in afternoon in Alderney.
8 th March 2011	Consultation period closed.
March to July 2011	Analysis of consultation results. Research of processes in place in other jurisdictions. Follow up requests for updated statistics made to the Education Department.
August 2011 to October 2011	Drafting of the Review Report.
23 rd November 2011	Committee approved final version of Review Report.
25 th November 2011	Education Department sent a complete copy of the Review Report for comment.
5 th December 2011	Staff level meeting with Education Officer to discuss the factual accuracy of the Review Report.
9 th December 2011	Scrutiny Committee approved minor amendments to the Review Report in light of comments made on its factual accuracy at the staff level meeting.
21 st December 2011	Scrutiny Committee received Education Department's formal comments on the Review Report.

The States are asked to decide:-

XVIII.- Whether, after consideration of the Report dated 9th January 2011, of the, Scrutiny Committee, they are of the opinion:-

- 1) To note this States Report, and the Committee's review report in Appendix A.
- 2) To direct the Education Department to report to the Scrutiny Committee by not later than September 2012, updating the Committee on whether they have accepted or rejected the recommendations directed to it within the review report (as set out in section 3 of this report) and, where they have accepted the recommendations, outlining a timetable for their implementation.
- 3) To direct the Health and Social Services Department to report to the Scrutiny Committee by not later than September 2012, updating the Committee on whether it has accepted or rejected the recommendations directed to it within the review report (as set out in section 3 of this report) and, where it has accepted the recommendations, outlining a timetable for their implementation.
- 4) To Direct the Scrutiny Committee to publish not later than April 2013 an update on actions taken by the Education Department and the Health and Social Services Department.

STATES ASSEMBLY AND CONSTITUTION COMMITTEE

DECLARATION OF MEMBERS' INTERESTS

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

6th January 2012

Dear Sir

EXECUTIVE SUMMARY

This report proposes that the present provisions relating to the written declaration of Members' interests be revoked and replaced with new provisions which will require declaration of the following:

- employment, directorships, partnerships or offices held;
- consultancies, trades, professions and vocations;
- entitlement to benefit from superannuation schemes;
- the address of all real property owned or leased in the Bailiwick and the purpose for which it is held;
- shareholdings in limited liability companies which exceed 1% of issued share capital;
- trusts, whether as beneficiary or trustee (excluding professional trustees);
- payments for public speaking;
- membership etc. of trade unions, professional societies, political groupings, charitable organisations and other bodies;
- gifts, benefits and hospitality currently declared pursuant to the Code of Conduct;
- the cost of overseas travel and accommodation paid otherwise than by the Member, spouse, co-habiting partner or other close relative or by the States of Guernsey or States of Alderney;
- any other interest or benefit which might reasonably be perceived to influence actions as an elected member;

- any interest specified above which relate to the Member's spouse, co-habiting partner or infant children, to the extent that he is aware of such an interest.

REPORT

INTRODUCTION

1. The States Assembly and Constitution Committee has carried out a thorough review of the rules relating to the declaration of interests by Members of the States. The present rules in that regard were introduced in 1980 and only minor amendments have been made thereto since then. As a consequence the rules have fallen far behind those in other jurisdictions and they are no longer sufficient, given the moves towards transparency and openness that have occurred in the past three decades.
2. Prior to 1980 “the practice” was that Members were only required to declare their financial interests in a proposition if, during the debate, they spoke on the subject, but not otherwise. In a report to the States,¹ the Committee to Review the Constitution of the States of Deliberation and the Procedure Therein [the CRCS DPT] stated that the practice was ‘informal’, i.e. it was not a rule as such. The Committee proposed, and the States subsequently resolved², that the Rules of Procedure of the States of Deliberation be amended by the introduction of two Rules – one relating to the declaration of interests in the course of States debates and the other relating to the establishment of a register of financial interests. Subject to fairly minor amendments those two rules remain in the present Rules as paragraphs (8) to (10) of Rule 12, and Rule 23.
3. The CRCS DPT also stated that it was desirable that declarations should be made at Committee meetings although that recommendation was “*intended to give guidance rather than to introduce a positive rule*”. However, at a later date this guidance was transposed into a rule. The current provision in this regard is Rule 15 in the Rules relating to the Constitution and Operation of States Departments and Committees.

THE CURRENT RULES

Declarations made in the States of Deliberation

4. The relevant paragraphs of Rule 12 of the Rules of Procedure state:
 (8) *A Member who either has a direct or special financial interest in the subject matter of a proposition submitted to a Meeting at which he is*

¹ Billet d'État XII of 1980, p. 627.

² Resolution on Billet d'État XV of 1982, p. 106.

present, or who is aware that his spouse, co-habiting partner, infant child or any company in which he has a controlling interest on his or their behalf has such an interest, shall, without prejudice to the requirements of Rule 23 –

- (a) before he speaks on the proposition; or*
 - (b) if he does not speak, before a vote is taken on the proposition, declare the said interest by disclosing it to the Meeting.*
- (9) Where a Member declares an interest in accordance with paragraph (8), he may declare the extent of the interest.*
- (10) A Member shall not, by reason only of declaring an interest in accordance with paragraph (8), be precluded from voting on the proposition.*

The Register of Members' Interests

5. Rule 23 of the Rules of Procedure states:

- (1) The Greffier shall maintain, in a book kept solely for that purpose, a Register to be known as the Register of Members' Interests in which he shall enter all declarations of financial interests lodged with him in accordance with paragraphs (3) and (4).*
- (2) The Register of Members' Interest shall be available at the Greffe for public inspection whenever the Greffe is open for normal business. Current entries in the Register of Members' Interests shall also be published on the States website.*
- (3) All Members shall, during the month of December, 2006 and subsequently within one month of being elected or re-elected as a Member, make and lodge with the Greffier a declaration of their financial interests.*
- (4) All Members shall make and lodge with the Greffier new declarations of their financial interests within one month of any material change to their financial interests or the acquisition of a new financial interest.*
- (5) A Member need not, when making a declaration in respect of a financial interest, disclose the value of the interest.*
- (6) All declarations of financial interests required to be lodged with the Greffier under paragraphs (3) and (4) shall be in the form set out in Schedule 1 to these Rules³ and shall be lodged with the Greffier in electronic format.*

Declarations made at Department/Committee Meetings

³

Schedule 1 to the Rules of Procedure is set out in extenso in appendix 1 of this report.

6. Rule 15 of the Rules relating to the Constitution and Operation of States Departments and Committees states:

- (1) *A Member of a Department or Committee or Sub-Committee who (or whose spouse, or any of whose infant children or any company in which he has a controlling interest on his own or their behalf) has a direct or special interest in the business under consideration by the Department, Committee or Sub-Committee shall, as soon as practicable, declare his interest and withdraw from the meeting during the consideration of and voting on the matter concerned.*
- (2) *In the preceding paragraph 'spouse' includes any co-habiting partner.*
- (3) *Every declaration made in pursuance of paragraph (1) and the Member's subsequent withdrawal from the meeting shall be recorded in the minutes of the meeting.*
- (4) (i) *When an interest has been declared pursuant to paragraph (1) of this Rule, the officer of the Department or Committee concerned responsible for the despatch of agenda papers shall not send to the said Member any paper relevant to the matter concerned.*
- (ii) *When an interest has not been declared but the said officer has reason to believe that a Member may have an interest in a matter to be discussed, he shall request the Minister or Chairman, as the case may be, to make enquiries of the person concerned, following which the Minister or Chairman shall direct whether agenda papers relating to the matter should be withheld from the Member.*
- (iii) *When the Member referred to in paragraph (3)(ii) is the Minister or Chairman, the officer shall refer the matter to the Deputy Minister or Vice-Chairman.*
- (iv) *Notwithstanding the foregoing, it shall be the duty of any Member who receives agenda papers which should not have been sent to him by virtue of the provisions of this rule, to return such papers to the Department or Committee and he shall not disclose the content or existence of the papers to any person nor shall he use the information contained therein in his own personal interest or that of his family, friends, business associates or any voluntary or charitable organisation with which he is involved.*
- (v) *In this rule the expression "agenda papers" shall include:*
 - (a) *the relevant section of the minutes of the Department or Committee relating to the matter concerned; and*
 - (b) *any electronic communication relating to the matter concerned.*

OTHER JURISDICTIONS

7. In the course of its deliberations the Committee has considered the practices in several other jurisdictions: that is Jersey, the Isle of Man, the United

Kingdom (both House of Lords and House of Commons), Australia, Canada, New Zealand and Ireland. Appendix 2 is a brief précis of the rules applicable in those jurisdictions. The rules applicable in New Zealand, Jersey and the Isle of Man were particularly helpful in enabling the Committee to identify shortcomings in Guernsey. The current rules in those three jurisdictions are set out in Appendices 3-5.

8. However, none of the other jurisdictions provided a model which could simply be copied here. All Members of the States are members of the executive and it is not necessary, therefore, to make special provision for ministers regarding declarations of interest.

PROPOSALS FOR CHANGE

9. In the following paragraphs the Committee sets out its proposals for new rules relating to the declaration of Members' interests. Some changes are minor, whilst others introduce wholly new concepts in the Guernsey context. In each case the current position in Guernsey is set out first, followed by the proposal for change. The Committee believes that the proposed changes balance the need for transparency whilst maintaining Members' right to privacy in matters which have no bearing on their public duties. Members' declarations of interest undergird the general principles of conduct for holders of public office (commonly known as the Nolan principles) which are set out in the Code of Conduct for States Members as follows –

- **Selflessness**

Members shall take decisions solely in terms of the public interest. They shall not do so in order to gain financial or other material benefits for themselves, their family or friends, their business associates or any voluntary or charitable organisation with which they are involved.

- **Integrity**

Members shall not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

- **Objectivity**

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, Members shall make choices on merit.

- **Accountability**

Members are accountable for their decisions and actions to the States and the public and must submit themselves to whatever scrutiny is appropriate to their office.

- **Openness**

Members shall be as open as possible about all decisions and actions that they take and must not knowingly deceive or mislead. They shall give reasons for their decisions and restrict information only when the wider public interest, or statutory provision, clearly demand.

- **Honesty**

Members have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

- **Leadership**

Members shall promote and support these principles by leadership and example.

Employment

10. *Present:*

If employed, Members have to declare the name and address of the employer and the nature of the employment or office. If self-employed, they have to declare the trade, profession or vocation.

[Declaration⁴ paragraph 1]

11. *Proposed:*

- (i) Members who are (a) employed; (b) the holder of any office; (c) a director of any company; or (d) a partner in a partnership or firm, whether or not they are in receipt of remuneration, will be required to give the name and address of every employer/partnership/firm. Members will **not** be required to declare the amount of any remuneration or other benefit received.
- (ii) Self-employed Members will be required to list any consultancy, trade, profession, vocation or other work which does not fall within (i) above. Further, Members will have to give the name and address of a person from whom they receive any payment or benefit if the payment or benefit forms a significant portion of either their total income or a significant portion of their total income from that work. It is stressed that Members will **not** be required to disclose the value of such payment or benefit.
- (iii) In addition, in both (i) and (ii) above, they will be required to provide a brief description of the business or work. Members will also be required to declare the entitlement (whether present or future) to benefit from a superannuation scheme.

12. The proposals are more comprehensive than the present requirements and expand on the amount of information which needs to be declared. It is the Committee's intention to prepare Explanatory Notes for the assistance of Members in the completion of the new declaration form. The Explanatory

⁴

Form for the Declaration of Financial Interests – see Appendix 1 to this Report.

Notes will be published at the same time as the draft Rules and will contain guidance relating to each section of the declaration form. The Committee also noted that the declaration of entitlement to benefit from a superannuation scheme was now a requirement in several jurisdictions and considers that such declarations should also be made by Members of the States.

Directorships, etc.

13. *Present:*
All directorships (other than those related to employment) must be declared.
[Declaration paragraph 2]
14. The Committee believes that the current provision is both necessary and adequate.

Land

15. *Present:*
Members are required to declare “a material interest” in real property situated in the Bailiwick, other than their principal residence.
[Declaration paragraph 3]
16. *Proposed:*
It is proposed that all land in the Bailiwick should be declared, whether or not it is held jointly with others. Leaseholds and property held in trust will also have to be declared, as will the purpose for which the property is held.
17. The Committee considered whether land outside the Bailiwick should be declarable but concluded that such interests were unlikely to influence decisions taken by Members. However, it was of the view that the location of a principal residence may be relevant and that the exemption in that regard should be removed. The “material interest” condition will also be removed, as the Committee believes that it serves only to provide uncertainty as to what needs to be declared.

Shareholdings/Material Interests in Companies

18. *Present:*
Beneficial ownership of 10% or more of the issued share capital, or other material interest in, any limited liability company.
[Declaration paragraph 4]
19. *Proposed:*

Members will be required to declare the name and address and principal activity of any company in which they own shares which exceed 1% of the issued share capital.

20. The Committee believes that the present 10% threshold is too high. It considers that the 1% threshold as applied in Jersey is reasonable for Guernsey having regard to local factors relating to commercial activity. Rule 15 of the Rules relating to the Constitution and Operation of States Departments and Committees provides that any financial interest, however small, must be declared in relation to Department and Committee business. This proposal is therefore a development designed to put such financial interests more openly into the public domain to ensure proper accountability at all levels of States business.

Family Interests

21. *Present:*
In the above categories relating to land and shareholdings etc. a Member is required to declare not only his own interests, but also any such interest of his spouse, infant children or company in which he has a controlling interest in his or their behalf. He is also required to declare any asset or interest held or enjoyed by any close members of his family or company in which he has a controlling interest on his or their behalf which might influence or be thought to influence his conduct as a Member of the States of Deliberation. The definition of 'spouse' includes any co-habiting partner.
[Declaration paragraph 5 (also paragraphs 3 and 4 and endnote 2)]
22. *Proposed:*
No change is recommended in this regard.
23. The Committee believes that the current provision is both necessary and adequate.

Trusts

24. *Present:*
There is no provision in the present Rules regarding trusts.
25. *Proposed:*
All trusts of which the Member is a beneficiary or trustee will have to be declared. It is not intended, however, that professional trustees be required to make declarations in respect of trust matters related purely to their professional activities which will already be appropriately declared under the proposals relating to employment (see paragraph 11).

Gifts, Hospitality and other Benefits

26. *Present:*
Members are required to make an annual declaration of gifts, hospitality and other benefits pursuant to Schedule 1 to the Code of Conduct for Members of the States of Deliberation which is set out in full as Appendix 6.
27. *Proposed:*
It is noted that in other jurisdictions such declarations are made as part of the general declaration of interests, not as a separate matter. The Committee believes that there would be merit in declarations of gifts, hospitality and other benefits being included in the general declaration, and so proposes. It is also proposed to include one further matter in this section: that is the cost of overseas travel and accommodation, excluding travel and accommodation paid for by the States of Guernsey or States of Alderney, the Member or a spouse, co-habiting partner or other close relative. It is not intended that this new provision should apply to brief leisure trips within the Islands, or adjacent French and British coasts. The proposed Explanatory Notes referred to earlier will give specific guidance on this matter.
28. It will be simpler for Members to complete one return rather than two. Declarations will continue to be made annually (this is referred to in greater detail in paragraph 32). With regard to overseas travel and accommodation this is already implicitly included in the general terms set out in Schedule 1 to the Code of Conduct but the Committee believes that it would be useful to include it explicitly.

Miscellaneous

29. *Present:*
The present rules do not include any of the issues specified below.
30. *Proposed:*
In addition to the foregoing it is proposed that Members be required to declare
- (i) any payments received for public speaking;
 - (ii) membership of, or other relationship with, any trade union, professional society, political grouping, charitable, religious or sporting organisation or other body;
 - (iii) any other interest or benefit received which, whilst not required to be registered under other headings, might reasonably be perceived by other persons to influence actions as an elected member.
31. Declaration of these sundry matters will ensure complete transparency in the relationship between Members and the general public.

GENERAL MATTERS AND TRANSITIONAL ARRANGEMENTS

32. This report has been submitted for debate prior to the General Election as the Committee believes that all candidates in the forthcoming election should be aware of the likely rules regarding declarations of interest before they seek election. The present Rules require Members to lodge a declaration within one month of being elected or re-elected: they are also required to lodge new declarations within one month of any material change. The Committee regrets to note that there have been several instances when Members have failed to lodge new declarations in the latter circumstances. That being so the Committee proposes that a new declaration should in future be lodged annually and that material changes should be notified within one month of the change occurring.
33. It is the Committee's intention that draft Rules and draft Explanatory Notes be placed before the States at their meeting on the 30th May 2012. If approved the revised Rules would take immediate effect.
34. Paragraph 4 sets out the Rule which requires Members to declare interests in the course of meetings of the States of Deliberation and paragraph 6 sets out the Rules which apply in respect of declarations to be made at meetings of States Departments and Committees. The new Rules and Explanatory Notes regarding the declaration of interests will assist Members in applying the Department and Committee Rules by clarifying certain grey areas. However, the Committee anticipates that there may be consequential amendments required to those Rules and also to the Code of Conduct for Members of the States of Deliberation. Such amendments will also be placed before the States in May 2012.
35. Rule 23(3) requires Members to lodge a declaration of financial interests with H. M. Greffier within one month of being elected. The Committee considers that it would be unreasonable to require Members to complete a declaration within one month of being elected in accordance with the Rules as they presently stand, only to have to complete a further declaration after the change of Rules has been approved. It is therefore proposed that a transitional provision be agreed, the effect of which would be to require Members to lodge a declaration of interests before the 30th June 2012. It is therefore proposed to amend Rule 23(3) by deleting the words "December 2006" and substituting "June 2012".

PRINCIPLES OF GOOD GOVERNANCE

36. The Committee is of the view that the proposed changes to the declaration of interests by Members of the States would provide a substantial improvement in openness and transparency. Consequently the proposals contained in this report are in accordance with the principles of good governance.

CONSULTATION / RESOURCES / NEED FOR LEGISLATION

37. The Presiding Officer, Deputy Presiding Officer and H. M. Greffier have been consulted pursuant to Rule 14(6) of the Rules relating to the Constitution and Operation of States Departments and Committees. The Law Officers have not identified any reason in law why the proposal set out in this Report cannot be implemented.
38. The approval of the recommendations would have no implications for the manpower resources of the States nor do they require any legislation.

RECOMMENDATIONS

39. The States Assembly and Constitution Committee recommends the States to:
 - (1) direct the Committee to draft amendments to the Rules of Procedure of the States of Deliberation to provide that Members shall be required to make annual declarations stating:
 - (a) if (i) employed; or (ii) the holder of any office; or (iii) a director of any company; or (iv) a partner in a partnership or firm, whether or not they are in receipt of remuneration, the name and address of every employer/partnership/firm, in each case giving a brief description of the business or work;
 - (b) any consultancy, trade, profession, vocation or other work not declared in (a) above together with the name and address of any person from whom they receive payment or benefit which forms a significant portion of either their total income or their income from that work;
 - (c) any entitlement (whether present or future) to benefit from a superannuation scheme;
 - (d) the name and address of all limited liability companies or firms of which they are directors, whether paid or not;
 - (e) the address of all real property situated in the Bailiwick, whether owned or leased or held in trust in each case with a brief statement setting out the purpose for which the property is held;
 - (f) the name and address of all limited liability companies in which they own shares which exceed 1% of the issued share capital;
 - (g) the name and address of all trusts of which the Member is either a beneficiary or a trustee (excluding professional trusteeships);
 - (h) payments received for public speaking;
 - (i) membership of, or other relationship with, any trade union, professional society, political grouping, charitable, religious or sporting organisation or other body;

- (j) gifts, benefits and hospitality which are presently declared pursuant to Schedule 1 to the Code of Conduct for Members of the States of Deliberation;
 - (k) the cost of overseas travel and accommodation, excluding travel and accommodation paid for by the States of Guernsey or States of Alderney, the Member or spouse, co-habiting partner or other close relative and excluding brief leisure trips within the Islands or adjacent French and British coasts;
 - (l) any other interest or benefit received which, whilst not required to be registered under other headings, might reasonably be perceived by other persons to influence actions as an elected member;
 - (m) any interests specified in (a) to (l) of which he is aware which relate to the Member's spouse, co-habiting partner or infant children;
- (2) direct the Committee to draft consequential amendments to the Rules of Procedure of the States of Deliberation, the Rules relating to the Constitution and Operation of States Departments and Committees and the Code of Conduct for Members of the States of Deliberation;
 - (3) direct the Committee to draft Explanatory Notes regarding the proposed declaration of interests, for the guidance of Members, which Explanatory Notes shall be laid before the States at the same meeting as the proposed amendments set out above;
 - (4) agree that Rule 23(3) of the Rules of Procedure of the States of Deliberation shall be amended with immediate effect by deleting the words "December 2006" and substituting therefor "June 2012".

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

**RULES OF PROCEDURE OF THE STATES OF DELIBERATION
SCHEDULE 1**

Declaration of Financial Interests

To Her Majesty's Greffier

In accordance with Rule 23 of the Rules of Procedure of the States of Deliberation, I
..... hereby furnish you with the following declaration of –

- * (a) my financial interests; or
- * (b) a material change to my financial interest; or
- * (c) a financial interest acquired by me.

1. Employment

- *(a) I am self-employed in the following trade, profession or vocation
- *(b) I have the following remunerated employment or offices –

Name and address of employer

.....

.....

Nature of employment or office

.....

.....

- *(c) I am non-employed or retired.

2. Directorships

Apart from my employment set out in paragraph 1 above, I am a director of the following limited liability companies -

Name and registered offices of companies

.....

.....

3. Land

I (or my spouse or my infant children or a company in which I have a controlling interest on my own or on their behalf) have a material interest in the following real property situated in the Bailiwick (other than my principal residence) -

Address or description of real property

.....

.....

4. Shareholdings/Material interests in companies

I (or my spouse or my infant children or a company in which I have a controlling interest on my own or on their behalf) am beneficially entitled to 10% or more of the issued share capital of, or otherwise have a material interest in, the following limited liability companies:–

Name and registered offices of companies

.....

.....

5. Family interests

Except as mentioned in paragraphs 3 and 4 above, and except as set out below, I know of no asset or interest held or enjoyed by any close members of my family or by any company in which I have a controlling interest on my own or on their behalf which might influence or be thought to influence my conduct as a Member of the States of Deliberation –

Description of asset or interest

.....

Dated

Signed

*Delete as appropriate

Notes:

- (1) Members are not required to disclose the monetary value of any interest.
- (2) In this Declaration of Financial Interests ‘spouse’ includes any co-habiting partner.

APPENDIX 2

**BRIEF SUMMARY OF THE PROVISIONS
RELATING TO THE DECLARATION OF MEMBERS' INTERESTS
IN GUERNSEY AND CERTAIN OTHER JURISDICTIONS**

The following abbreviations are used:

~	G	Guernsey
~	J	Jersey
~	IM	Isle of Man
~	NZ	New Zealand
~	A	Australia
~	C	Canada
~	HL	House of Lords
~	HC	House of Commons
~	I	Republic of Ireland

1. Employment

G	Sub-divides into self-employed; remunerated employment and non-employed.
J	Includes all remuneration or benefit from employment, offices, directorships and partnerships. Self-employment is in a separate section.
NZ	All employment, other than as a member of Parliament; membership of any superannuation scheme.
A	Pension rights.
HL	Remunerated employment and public affairs advice and services to clients.
HC	Remunerated employment, including membership of Lloyds.
I	Remuneration from any occupation which exceeds €2,600 p.a.

2. Directorships

G	All directorships (unless included in 1 above).
J	Only if declarable in 1 above.
IM	Directorship, consultancy, proprietorial or managerial role, whether paid or not.
NZ	All directorships.
A	All directorships.
HL	Remunerated directorships.
HC	Remunerated directorships.
I	All directorships.

3. Land

G	Material interest in real property – or other material interest (principal residence excluded).
---	---

- J As Guernsey – in addition all land from which member derives an income.
- IM As Guernsey.
- NZ All – in addition leasehold interests and property held in a trust of which the member is a beneficiary.
- A All – and purpose for which held (e.g. residence, investment etc).
- C Categorised into primary residence, secondary residence, recreational, vacant, farm, buildings, investment with names of co-owners etc.
- HL Land with a capital value of more than £250,000 (excluding personal residences) or from which an income of more than £5,000 p.a. is derived.
- HC Land with a substantial value, i.e. a value greater than a parliamentary salary (excluding personal residences) or from which a substantial income (i.e. an income greater than 10% of the parliamentary salary) is derived.
- I Freehold and leasehold property where the value exceeds €13,000. The purpose for which the land is held must be stated. Rental income from land in excess of €2,600 p.a.

4. Shareholdings/Material interests in Companies

- G Beneficial ownership of 10% or more of issued share capital – or other material interest.
- J 1% or more of the issued share capital – or value exceeds £25,000.
- IM All shares and stock (in limited circumstances value to be declared).
- NZ All companies where member holds 5% or more of voting rights; other companies or business entity in which member has a pecuniary interest.
- A All shareholdings in both public and private companies to be declared (extent of interest not declarable).
- HL Any shareholding amounting to a controlling interest or exceeding £50,000 in value.
- HC 15% or more of the issued share capital – or value exceeds the current parliamentary salary.
- I Any shareholding exceeding €13,000 in nominal or market value.

5. Family Interests

- G Asset or interest held by any close member of family (or company) which “*might influence or be thought to influence*”.
- J Certain sections require the declaration to be made in respect of any interests of the spouse or cohabitee.
- IM Certain sections refer to ‘immediate family’ which is defined as “husband or wife; son or daughter; step son or step daughter; father or mother; step father or step mother; brother or sister, half brother or half sister; grandparent or grandchild; step grandparent

- or step grandchild; uncle or aunt; nephew or niece; son-in-law or daughter-in-law.
- NZ Certain (quite limited) sections refer to the member's spouse or domestic partner, any parent, child, step-child, foster child or grandchild of the member.
- A Certain sections refer to the member's spouse and any children which are wholly or mainly dependent on the member for support.
- C Certain sections refer to spouse, common law partner, son or daughter of the member or of the spouse or of the common law partner who has not reached the age of 18 years or who is primarily dependent for support on the member, member's spouse or common law partner.
- HL Certain sections refer to the member's spouse or dependent children.
- HC Certain sections refer to the member's spouse or partner or dependent children.
- I The only reference to familial relationships which I have seen is the exemption from disclosure of gifts received from "a relative or friend of yours, your spouse, of your child or of your spouse's child".

6. Trusts etc.

- NZ All trusts of which the member is a beneficiary or trustee, other than superannuation schemes.
- A Family and business trusts and nominee companies (a) in which a beneficial interest is held or (b) of which the member is a trustee.
- A Partnerships.
- C Partnerships, trusts of which member is a beneficiary; activities as a trustee, executor or liquidator.

7. Assets

- IM Debts of more than £50,000 including deposit accounts but with exclusions.
- NZ Debts of more than NZ\$50,000 must be declared (not amount) – excluded are family-related transactions and short-term re supply of goods etc; bank deposits over NZ\$50,000 must be declared.
- A Nature of assets (e.g. bonds, savings accounts) but not amount
- C Household goods, works of art, antiques, other collectibles, automobiles, aircraft, cash, deposits, investments (many different sub-categories), annuities, life assurance policies, money owed to member including from family, employer etc and reason, mortgages; commercial personal property (e.g. trademarks etc).

8. Liabilities

- NZ Broadly as for debtors and includes mortgages, home loans, hire-purchase, personal loans and overdrafts.
- A Nature of liabilities (e.g. mortgage, guarantor etc.) but not amount.
- C All direct and contingent liabilities.
- HC Certain 'regulated transactions' have to be reported, e.g. where a loan is used in connection with a member's political activities and also with regard to certain guarantees.

9. Sponsorship

- J Name and address of persons who provide sponsorship to enable Member to carry out duties as elected member.
- IM From trade unions, professional societies, political groupings, other persons, cultural or religious sources or consultancies with the foregoing.
- HL Any source of sponsorship which amounts to more than £500.
- HC Any source of sponsorship which amounts to more than £1,500 from a single source whether as a single donation or as multiples of more than £500 in the course of a calendar year.

10. Gifts, Hospitality and other benefits

- G These are declared annually pursuant to the Code of Conduct – declarations are required where the gifts or material benefit is of a value greater than 1% of the basic allowance.
- J Gifts, hospitality or benefits with a monetary value exceeding 1% of current States remuneration.
- IM Individual gifts of value £50 or more or totalling more than £1,000 p.a.
- NZ Cost of overseas travel (other than when paid by member, family, the Crown, government or parliamentary organisation); all gifts, corporate hospitality with a market value over NZ\$500; discharged debts of more than NZ\$500.
- A Gifts valued over A\$ 500 from official sources or A\$200 from other sources; sponsored travel or hospitality received.
- C All gifts and 'advantages'.
- HL Overseas visits arising from membership of the House except where the cost was wholly borne by the member or by UK public funds. Any gift etc. of a value greater than £500.
- HC Overseas visits arising from membership of the House except where the cost was wholly borne by the member or by UK public funds. Any gift etc. of a value greater than 1% of the parliamentary salary.
- I Gifts must be declared where the aggregate value exceeds €650 p.a. Travel facilities provided outside the State exceeding €650 p.a. must be declared. Properties supplied or lent must be declared.

11. Miscellaneous

- J Any other interest or benefit received which, whilst not required to be registered under previous sections, might reasonably be thought by other persons to influence actions as an elected member.
- IM Authorship of books etc or newspaper articles or internet not published under member's name.
Membership of trade union, professional society, political grouping, Freemasons or any body outside Tynwald.
- NZ Payments for activities not declared in other sections, e.g. fees for speaking at engagements, book royalties etc.
- A Nature of other substantial sources of income.
Membership of any organisation or other interests where a conflict of interest with a member's public duties could foreseeably arise or be seen to arise.
- C Lobbying activities; all income not otherwise declarable; activities such as employment, management, officer, director of organisations, consultant; involvement in philanthropic, charitable, non-commercial or political activities.
- HL Any relevant financial interest not falling within one of the defined categories but which might be thought by a reasonable member of the public to influence a member's parliamentary conduct. Unremunerated directorships; membership of public bodies such as hospital trusts; trusteeship of museums etc; acting as office-holder of pressure groups or not-for-profit organisations.
- HC Similar to HL.
- I Remunerated activities as a political or public affairs lobbyist, consultant or advisor must be declared. Contracts exceeding €6,500 in aggregate for the supply of goods or services to a Minister or public body must be declared.

APPENDIX 3***Extracts from the Standing Orders of the New Zealand House of Representatives*****160. Pecuniary and other specified Interests**

- (1) Members must make returns of pecuniary and other specified interests in accordance with the provisions of Part 1 of Appendix B.
- (2) Returns of members' pecuniary and other specified interests are to be maintained in a register in accordance with the provisions of Part 2 of Appendix B.

Declaration of Financial Interests**161. Financial interests**

- (1) A financial interest is a direct financial benefit that might accrue to a member personally, or to any trust, company or other business entity in which the member holds an appreciable interest, as a result of the outcome of the House's consideration of a particular item of business.
- (2) A financial interest—
 - (a) includes a financial interest held by a member's spouse or domestic partner or by any child of the member who is wholly or mainly dependent on the member for support, but
 - (b) does not include any interest held by a member or any other person as one of a class of persons who belong to a profession, vocation, or other calling or who hold public offices or an interest held in common with the public.

162. Declaration of financial interest

- (1) A member must, before participating in the consideration of any item of business, declare any financial interest that the member has in that business.
- (2) Nothing in this Standing Order requires a member to declare an interest that is contained in the Register of Pecuniary and Other Specified Interests of Members of Parliament.

163. Speaker decides if interest held

If any dispute arises as to whether a member has a financial interest, the matter is referred to the Speaker, whose decision is final.

Appendix B

Pecuniary and Other specified Interests

Introduction

1AA Introduction

This Appendix establishes the Register of Pecuniary and Other Specified Interests, and sets out requirements and arrangements for members to make returns declaring specified financial, business and personal interests.

Part 1

1 Definitions

- (1) For the purposes of the return and registration of pecuniary and other specified interests, unless the context otherwise requires,—

business entity means any body or organisation, whether incorporated or unincorporated, that carries on any profession, trade, manufacture, or undertaking for pecuniary profit, and includes a business activity carried on by a sole proprietor

company means—

- (a) a company registered under Part 2 of the Companies Act 1993;
- (b) a body corporate that is incorporated outside New Zealand

effective date of the return means the date as at which the return is effective as required by clause 2(1) or clause 3(1) (as the case may be)

employed—

- (a) means employed under a contract of service, but
- (b) does not include holding the position of a member of Parliament or any other position for which the person in question would not be qualified unless he or she had been elected a member of Parliament (for example, the position of Minister of the Crown, Parliamentary Under-Secretary, Leader of the Opposition, or Whip)

general election means the election that takes place after the dissolution or expiration of Parliament

Government funding means funding from any one or more of the following:

- (a) the Crown;
- (b) any Crown entity;
- (c) any State enterprise

other specified interest means a matter or activity that may not be of financial benefit to the member and that is required to be declared under clause 4 or clause 7

pecuniary interest means a matter or activity of financial benefit to the member that is required to be declared under clause 4 or clause 7

polling day, in relation to any election, means the day appointed in the writ for that election for the polling to take place if a poll is required

register means the Register of Pecuniary and Other Specified Interests of Members of Parliament established by clause 11

Registrar means the Registrar of Pecuniary and Other Specified Interests of Members of Parliament, and—

(a) is the Deputy Clerk or a person appointed under clause 12 to act as Registrar;

(b) includes every person who has been authorised by the Registrar to act on his or her behalf under the Standing Orders

registered superannuation scheme means any superannuation scheme that is registered under the Superannuation Schemes Act 1989 (including any scheme referred to in section 19H of the Government Superannuation Fund Act 1956)

return means a return of pecuniary and other specified interests required to be made under this Appendix

voting right means a currently exercisable right to cast a vote at meetings of the owners or proprietors of a business entity, not being a right to vote that is exercisable only in relation to a special, immaterial, or remote matter that is inconsequential to control of the entity.

- (2) Every amount specified in this Appendix is inclusive of goods and services tax (if any).
- (3) Every reference in this Appendix to a person elected at an election includes a person elected as a consequence of a recount or an election petition relating to that election.

2 Duty to make initial return

- (1) Every member must make an initial return as at the day that is 90 days after the date that the member takes the oath or makes the affirmation required by section 11(1) of the Constitution Act 1986.
- (2) Sub-clause (1) does not apply if,—
 - (a) in the case of a member who is elected at an election, polling day for the election is after 1 July in the year of the election, or
 - (b) in the case of a member who is declared to be elected under section 137 of the Electoral Act 1993, the date that the member's election is notified in the *Gazette* is after 1 July in the year that the member is declared to be elected.
- (3) An initial return must be transmitted by the member to the registrar within 30 days of the effective date of the return.

3 Duty to make annual return

- (1) Every member must make an annual return in each year as at 31 January.
- (2) The annual return must be transmitted by the member to the registrar by the last day of February in each year in which an annual return must be made.

4 Contents of return relating to member's position as at effective date of return

- (1) Every return must contain the following information as at the effective date of the return:
 - (a) the name of each company of which the member is a director or holds or controls more than 5 percent of the voting rights and a description of the main business activities of each of those companies, and
 - (b) the name of every other company or business entity in which the member has a pecuniary interest and a description of the main business activities of each of those companies or entities, and
 - (c) if the member is employed, the name of each employer of the member and a description of the main business activities of each of those employers, and
 - (d) the name of each trust of which the member is aware, or ought reasonably be aware, that he or she is a beneficiary or a trustee, except registered superannuation schemes disclosed under sub-clause (1)(g), and
 - (e) if the member is a member of the governing body of an organisation or a trustee of a trust that receives, or has applied to receive, Government funding, the name of that organisation or trust and a description of the main activities of that organisation or trust, unless the organisation or trust is a Government department, a Crown entity, or a State enterprise, and
 - (f) the location of each parcel of real property in which the member has a legal interest in the fee simple or leasehold or stratum estate, or in which any such interest is held by a trust which the member knows (or ought reasonably to know) he or she is a beneficiary of, but does not include land held by a member as a trustee only, and
 - (g) the name of each registered superannuation scheme in which the member has a pecuniary interest, and
 - (h) the name of each debtor of the member who owes more than \$50,000 to the member and a description, but not the amount, of each of the debts that are owed to the member by those debtors, and
 - (i) the name of each creditor of the member to whom the member owes more than \$50,000 and a description, but not the amount, of each of the debts that are owed by the member to those creditors.
- (2) For the purposes of sub-clause (1)(b), a member does not have a pecuniary interest in a company or business entity (entity A) merely because the member has a pecuniary interest in another company or business entity that has a pecuniary interest in entity A.
- (2A) For the purposes of sub-clause (1)(e), a member who is patron or vice-patron of an organisation that receives, or has applied to receive, Government funding, and who is not also a member of its governing body, does not have to name the organisation, unless the member has been actively involved in seeking such funding during the period specified in clause 8.
- (3) For the purposes of sub-clause (1)(h) and (i) a member must also declare if the rate of interest payable in relation to the debt is less than the normal market

interest rate that applied at the time the debt was incurred or, if the terms of the debt are amended, at the time of that amendment.

5 Relationship property settlements and debts owed by certain family members do not have to be disclosed

A member does not have to disclose—

- (a) a relationship property settlement, whether the member is a debtor or creditor in respect of the settlement, or
- (b) the name of any debtor of the member and a description of the debt owed by that debtor if the debtor is the member's spouse or domestic partner or any parent, child, step-child, foster-child, or grandchild of the member.

6 Short-term debts for supply of goods or services do not have to be disclosed

A member does not have to disclose the name of any debtor or creditor of the member and a description of the debt owed by that debtor or to that creditor if the debt is for the supply of goods or services and payment is required—

- (a) within 90 days after the supply of the goods or services, or
- (b) because the supply of the goods or services is continuous and periodic invoices are rendered for the goods or services, within 90 days after the date of an invoice rendered for those goods or services.

7 Contents of return relating to member's activities for period ending on effective date of return

- (1) Every return must contain the following information for the period specified in clause 8:
 - (a) for each country (other than New Zealand) that the member travelled to,—
 - (i) the name of the country, and
 - (ii) the purpose of travelling to the country, and
 - (iv) the name of each person who contributed (in whole or in part) to the costs of the travel to and from the country, and
 - (v) the name of each person who contributed (in whole or in part) to the accommodation costs incurred by the member while in the country, and
 - (b) a description of each gift received by the member that has an estimated market value in New Zealand of more than \$500 and the name of the donor of each of those gifts (if known or reasonably ascertainable by the member), and
 - (c) a description of all debts of more than \$500 that were owing by the member that were discharged or paid (in whole or in part) by any other person and the names of each of those persons, and
 - (d) a description of each payment received, and not previously declared, by the member for activities in which the member was involved, including the source of each payment, except that a description is not required of any payment that is—

- (i) paid as salary or allowances under the Civil List Act 1979 or the Remuneration Authority Act 1977, or as a funding entitlement for parliamentary purposes under the Parliamentary Service Act 2000:
 - (ii) paid in respect of any activity in which the member concluded his or her involvement prior to becoming a member (that is, before the commencement of a period set out in clause 8(2)(b) or (d), as applicable).
- (2) The information referred to in sub-clause (1)(a) does not have to be included in the return if the travel costs or accommodation costs (as the case may be) were paid by the following or any combination of the following:
 - (a) the member:
 - (b) the member's spouse or domestic partner:
 - (c) any parent, child, step-child, foster-child, or grandchild of the member:
 - (d) the Crown:
 - (e) any State government or international parliamentary organisation, if the primary purpose of the travel was in connection with an official parliamentary visit.
- (3) For the purposes of sub-clause (1)(b), **gift**—
 - (a) includes hospitality and donations in cash or kind other than donations made to cover expenses in an electoral campaign:
 - (b) excludes gifts received from family members (that is, any of the following: the member's spouse or domestic partner or any parent, child, step-child, foster-child, or grandchild of the member).
- (4) For the purposes of sub-clause (1)(d), a description of a payment is required if the terms of the payment have been agreed in the period specified in clause 8, even if the payment has not been received during that period.

8 Period covered by return

- (1) The period for which the information specified in clause 7 must be provided is the 12-month period ending on the effective date of the return.
- (2) However,—
 - (a) a member does not have to include any information specified in clause 7 that has been included in a previous return:
 - (b) if the member is elected at an election and the member was not also a member of Parliament immediately before that election and the return is the first return required to be made by the member after that election, the period for which the information specified in clause 7 must be provided is the period beginning on polling day for that election and ending on the effective date of that return:
 - (c) if an initial return is required to be made by a member elected at a general election who was also a member of Parliament immediately before that general election, the period for which the information specified in clause 7 must be provided is the period beginning on 1 February in the year in which the general election is held and ending on the effective date of that return:

- (d) if the member is declared to be elected under section 137 of the Electoral Act 1993 and the return is the first return required to be made by the member after being elected, the period for which the information specified in clause 7 must be provided is the period beginning on the date that the member's election is notified in the *Gazette* and ending on the effective date of that return;
- (e) if the previous return that the member had a duty to make was an initial return, the period for which the information specified in clause 7 must be provided is the period beginning on the day after the effective date of that initial return and ending on the effective date of the return that must be made.

(3) For the purposes of sub-clause (2)(b) and (d), the first return required to be made by a member may be either an initial return or an annual return.

9 Actual value, amount, or extent not required

Nothing in this Appendix requires the disclosure of the actual value, amount, or extent of any asset, payment, interest, gift, contribution, or debt.

10 Form of returns

Returns must be either—

- (a) in a form specifically prescribed by the House, or
- (b) in a form approved by the Registrar.

PART 2

11 Register of Pecuniary and Other Specified Interests of Members of Parliament

- (1) A register called the Register of Pecuniary and Other Specified Interests of Members of Parliament is established.
- (2) The register comprises all returns transmitted by members under this Appendix.

12 Office of Registrar

The office of Registrar of Pecuniary and Other Specified Interests of Members of Parliament is held by the Deputy Clerk or a person appointed by the Clerk, with the agreement of the Speaker, to act as Registrar.

13 Functions of Registrar

The functions of the Registrar are to—

- (a) compile and maintain the register;
- (b) provide advice and guidance to members in connection with their obligations under this Appendix:

- (c) receive and determine requests for an inquiry under clause 15A, and, if the Registrar thinks fit, conduct and report to the House on any such inquiry.

14 (*deleted*)

15 Auditor-General's review

(1AA) The Registrar must supply to the Controller and Auditor-General a copy of every return within 21 days of the date by which all returns are due. The Registrar may, as the Registrar thinks fit, supply to the Auditor-General any other information relating to a return.

- (1) The Auditor-General will review the returns provided under sub-clause (1AA) as soon as is reasonably practicable, and will advise the Registrar of any matters arising from the review.

15A Registrar's inquiry

- (1) A member who has reasonable grounds to believe that another member has not complied with his or her obligations to make a return may request that the Registrar conduct an inquiry into the matter.
- (2) The request must be in writing, signed, and set out:
 - (a) the specific matter that the member believes to be a failure to comply, and
 - (b) the reasonable grounds for that belief.
- (3) A member who makes a request for an inquiry under this clause must, as soon as reasonably practicable, forward a copy of the request to the member who is the subject of the request.
- (4) On receiving a request, the Registrar conducts a preliminary review of the request to determine if, in the Registrar's opinion, an inquiry is warranted. In making a determination under this sub-clause, the Registrar takes account of the degree of importance of the matter under inquiry, and whether the matter—
 - (a) may involve a breach of the obligations to make a return:
 - (b) is technical or trivial.
- (5) On determining whether an inquiry is warranted, the Registrar must inform the member who made the request of this determination, and must also inform the member who was the subject of the request.
- (6) If the Registrar determines that an inquiry is warranted, the Registrar conducts an inquiry.
- (7) In conducting the inquiry, the Registrar—
 - (a) must invite the member who is the subject of the inquiry to provide a response to the matter under inquiry within 10 working days (provided that

the Registrar and member may agree on a different period of time for the member's response):

- (b) may seek further information from the member who made the request for an inquiry, from the member who is the subject of the inquiry, and from any other person that the Registrar considers may have relevant information:
 - (c) may seek assistance or advice from the Auditor-General or from any other person, as the Registrar sees fit:
 - (d) may disclose any return or returns and information relevant to the inquiry to a person providing assistance or advice under paragraph (c).
- (8) The Registrar may,—
- (a) if the Registrar considers that the matter under inquiry does not involve a breach of the obligations to make a return, or is so minor as not to warrant the further attention of the House, determine that no further action is required:
 - (b) if the Registrar considers that the matter under inquiry involves an inadvertent or minor breach of the obligations to make a return, advise the member who is the subject of the inquiry to submit an amendment to the member's return or returns to remedy the breach:
 - (c) determine that the matter under inquiry involves a question of privilege, and report this to the House at the first opportunity:
 - (d) report to the House on any other matter that may warrant the further attention of the House.

15B Information on Registrar's inquiry

- (1) A request under clause 15A and all information relating to the Registrar's consideration of that request are confidential until the Registrar determines whether to conduct an inquiry in respect of the request.
- (2) After determining whether an inquiry is warranted under clause 15A, and after informing members under clause 15A(5), the Registrar may, at the Registrar's discretion, disclose any or all of the following information:
 - (a) the name of the member who made the request:
 - (b) the date on which the request was received:
 - (c) the name of the member who was the subject of the request:
 - (d) the particular requirement or requirements in this Appendix to which the request relates.
- (3) The proceedings of the conduct of an inquiry are strictly confidential, subject to clause 15A(7) and (8).
- (4) All returns and information disclosed to a person by the Registrar under clause 15A(7)(d) are confidential and must be returned to the Registrar or destroyed when that person's involvement in the inquiry is concluded.
- (5) If the Registrar completes an inquiry under clause 15A without making a report to the House, the Registrar—

- (a) must communicate the result of the inquiry to the member who requested the inquiry and the member who was the subject of the inquiry;
 - (b) publishes the result of the inquiry to the Parliament website.
- (6) If the Registrar reports to the House that the matter under inquiry involves a question of privilege, the Registrar—
 - (a) must, before reporting to the House, inform the member that is the subject of the inquiry that it is intended to do so, and
 - (b) includes in the report any information relating to the inquiry that the Registrar considers is necessary to inform the House of the matter, and
 - (c) forwards to the Privileges Committee any information relating to the inquiry that the Registrar considers is necessary for the committee's consideration of the report.
- (7) In considering a question of privilege determined by the Registrar, the Privileges Committee may request from the Registrar information that it considers is necessary for the committee's consideration. The Registrar decides whether to provide the information requested.
- (8) Information provided by the Registrar to the Privileges Committee under sub-clauses (6)(c) or (7) is received by the committee as evidence in private, unless it is received in secret.

16 Registrar must publish summary of returns of current members of Parliament

- (1) The Registrar must, within 90 days of the due date for transmitting any initial returns that are required to be made following a general election, publish on a website and in booklet form a summary containing a fair and accurate description of the information contained in those initial returns that has been transmitted by persons who, at the date of publication, are members of Parliament.
- (2) The Registrar must, within 90 days of the due date for transmitting annual returns, publish on a website and in booklet form a summary containing a fair and accurate description of the information contained in those annual returns that has been transmitted by persons who, at the date of publication, are members of Parliament.
- (3) The Registrar must promptly provide a copy of the booklet to the Speaker.
- (4) The Registrar must ensure that a summary containing a fair and accurate description of information contained in all returns is—
 - (a) maintained on a website;
 - (b) available for inspection by any person at Parliament Buildings in Wellington on every working day between the hours of 10 am and 4 pm.

(4A) Sub-clause (4) does not apply in respect of information contained in the annual return of any member who has ceased to be a member of Parliament after submitting a return and before the information is published under sub-clause (4).

(5) A person may take a copy of any part of the summary referred to in sub-clause (4)(b) on the payment of a fee (if any) specified by the House.

17 Speaker must present copy of booklet to House of Representatives

The Speaker must, as soon as practicable after receipt of a copy of a booklet under clause 16(3), present a copy of the booklet to the House.

17A Errors or omissions

- (1) Any member who becomes aware of an error or omission in any return previously made by that member must advise the Registrar of that error or omission as soon as practicable after becoming aware of it.
- (2) The Registrar may, at the Registrar's own discretion, publish amendments on a website to correct errors or omissions advised under sub-clause (1).
- (3) Nothing in this Appendix requires members to advise the Registrar of changes to their interests that have occurred since the effective date of their last return.

18 Information about register

- (1) *(deleted)*
- (2) Subject to clauses 15, 15A and 15B, all returns and information held by the Registrar or by the Auditor-General relating to an individual member are confidential until destroyed under sub-clause (3).
- (3) On the dissolution or expiration of Parliament all returns and information that have been held for three complete terms of Parliament by the Registrar or by the Auditor-General relating to individual members must be destroyed.

19 Responsibilities of members and Registrar

- (1) It is the responsibility of each member to ensure that he or she fulfils the obligations imposed on the member by this Appendix.
- (2) The Registrar is not required to—
 - (a) notify any member of that member's failure to transmit a return by the due date or of any error or omission in that member's return, or
 - (b) obtain any return from a member.

APPENDIX 4***Extract from the Standing Orders of the States of Jersey****(Consolidation to 3rd November 2011)***106 Declaration of interest**

- (1) A member of the States who has, or whose spouse or cohabitee has, an interest in the subject matter of a proposition must –
 - (a) if it is a direct financial interest –
 - (i) declare the interest, and
 - (ii) withdraw from the Chamber for the duration of the debate and any vote on the proposition;
 - (b) if it is not a direct financial interest, but a financial interest which is general, indirect or shared with a large class of persons, declare the interest;
 - (c) if it is an interest which is not financial, declare the interest.
- (2) A member of the States asking or answering an oral question and who has a financial interest in, or whose spouse or cohabitee has a financial interest in, the subject matter of the question must declare the interest.
- (3) All declarations must be made as soon as possible.
- (4) A financial interest in any subject matter is direct if it is immediate or personal to the person concerned.
- (5) A member of the States is not required to declare any interest of his or her spouse or cohabitee of which the member is not aware.
- (6) The Greffier shall record declarations in the minutes.

152 Elected members' interests that must be registered

- (1) Schedule 2 has effect to specify interests that must be registered by an elected member.
- (2) The requirement to register applies to all interests, whether received, arising, held or owned within or outside Jersey.
- (3) If the requirement to register depends upon an interest having a monetary value in excess of a specified amount, and the elected member does not know the exact value of the interest but believes it to be in the region of the specified amount, he or she must register the interest.

- (4) An elected member is not required to provide information regarding the monetary value of any interest that must be registered, but may do so if he or she wishes.
- (5) An elected member is not required to register any interest of his or her spouse or cohabitee of which the elected member is not aware.

153 Process for registering member's interests

- (1) An elected member must, not less than 30 days after the day on which he or she takes the oath of office as a Senator, Connétable or Deputy (whether following his or her election or re-election), complete a return of his or her interests that must be registered and submit it to the Greffier.
- (2) An elected member must notify the Greffier, in writing, of any change in or addition to his or her interests that must be registered (apart from a shareholding), not less than 30 days after the change or addition occurs.
- (3) An elected member must notify the Greffier, in writing, of the acquisition of a shareholding that must be registered, not less than 30 days after the acquisition.
- (4) An elected member must –
 - (a) notify the Greffier, in writing, not less than 30 days after becoming aware that a shareholding must be registered; and
 - (b) in any event, review the value of his or her shareholdings, and those of his or her spouse or cohabitee of which the member is aware, not less than once in every 12 months, in order to determine whether or not they must be registered.
- (5) An elected member may include in his or her return of interests, or notify the Greffier at any time of, any interest which, although not required to be registered, is in the opinion of the member an interest which should be disclosed to the public.

154 Greffier to maintain register

- (1) The Greffier shall keep a register in which he or she enters all returns submitted and information notified by elected members regarding their interests.
- (2) Any person may inspect the register at the offices of the States Greffe during normal working hours.

Schedule 2

(Standing Order 152)

REGISTER OF INTERESTS OF ELECTED MEMBERS

1 Employment, offices, directorships and partnerships

- (1) An elected member must register the name and address of any person, company, trust, professional association, union, political party or other organization from whom he or she receives any remuneration or benefit by virtue of being –
 - (a) employed;
 - (b) the holder of any office;
 - (c) a director of any company; or
 - (d) a partner in a partnership or firm.
- (2) If the elected member is a director of a company by which he or she is not remunerated, but receives remuneration through another company in the same group, the directorship must be registered.
- (3) When registering the name and address of a person, the elected member must also provide a brief description of the person's business or work.
- (4) An elected member is not required to register –
 - (a) remuneration he or she receives out of the consolidated fund, by virtue of being an elected member; or
 - (b) remuneration he or she receives out of the funds of a parish, by virtue of being its Connétable.

2 Self-employment, etc.

- (1) An elected member must register any consultancy, trade, profession, vocation or other work for which he or she receives any payment or benefit and which does not fall within paragraph 1.
- (2) An elected member must register the name and address of a person from whom he or she receives any payment or benefit in return for the work if the payment or benefit received from that person forms a significant portion of the member's total income or a significant portion of the member's total income from that work.
- (3) When registering the name and address of a person the elected member must also provide a description of the person's business or work.

3 Shareholdings

- (1) An elected member must register the name and address of any company in which he or she, or his or her spouse or cohabitee, or both of them, whether jointly or separately, own shares exceeding –
 - (a) 1% or more of the issued share capital of the company; or
 - (b) £25,000 in value.
- (2) When registering the name and address of the company, the elected member must also provide a brief description of the business or purpose of the company.
- (3) For the purposes of this paragraph, a person owns shares if he or she owns them in his or her own name or if the shares are held, on his or her behalf, or for his or her benefit, by any other person.

4 Sponsorship

- (1) An elected member must register the name and address of any person who provides him or her with sponsorship for the purpose of enabling the member to carry out his or her duties as an elected member.
- (2) Sponsorship may take the form of the donation of money or of any benefit.
- (3) When registering the name and address of the sponsor, the elected member must provide a brief description of the sponsorship.

5 Gifts, hospitality and other benefits

- (1) An elected member must register the name and address of any person who gives the elected member, or his or her spouse or cohabitee, any gift, hospitality or other benefit which has a monetary value greater than 1% of the current remuneration figure for elected members (disregarding any expense allowances) if the giving of the gift, hospitality or benefit is, in any way, related to membership of the States.
- (2) When registering the name and address the elected member must also provide a brief description of the gift, hospitality or other benefit given.
- (3) An elected member is not required to register any gift, hospitality or other benefit which is given or made available to all elected members or to all spouses or cohabitees of elected members.

6 Overseas visits

An elected member must register the name and address of any person (apart from the States or any administration of the States) who pays all or part of the costs of a visit made outside Jersey by the elected member or his or her spouse or cohabitee if the visit is, in any way, related to his or her membership of the States.

7 Land

- (1) An elected member must register a description of any land sufficient to identify it, which is wholly owned, or jointly owned with another person –
 - (a) by or on behalf of the elected member or his or her spouse or cohabitee; or
 - (b) by or on behalf of the elected member and his or her spouse or cohabitee jointly.
- (2) No declaration is required in respect of land so owned which is the principal place of residence of the elected member or of his or her spouse or cohabitee.
- (3) An elected member must register a brief description of any land from which the elected member or his or her spouse or cohabitee derives an income.

8 Miscellaneous

An elected member must register details of any other interest or benefit which the elected member or his or her spouse or cohabitee receives which, although not required to be registered under the foregoing paragraphs of this Schedule, the elected member believes might reasonably be thought by other persons to influence his or her actions as an elected member.

APPENDIX 5

Tynwald Register of Members' Interests Rules

(Consolidated to September 2011)

Purpose

The purpose of these Rules is to place a duty on Members of Tynwald to identify interests which should be registered in order to inform Tynwald Court and the public of any circumstances arising from them which could reasonably be regarded as bearing upon the way in which any Member may carry out his/her duties.

Definitions

1. In these Rules the following definitions apply –

“material debate” means a debate in Tynwald Court, or in the branch to which the Member belongs, in which a relevant interest of the Member in question could reasonably be regarded as bearing upon the main issue or a main issue;

“Member” means a Member of Tynwald;

“private sources” means any source which is not paid for from public funds;

“Register” means the Register of Members' Interests established pursuant to Paragraph 4.7 of the Schedule to the Standing Orders and Rule 2;

“Registrar of Members' Interests” means the Clerk of Tynwald or, in his absence, the Deputy Clerk of Tynwald; and

“relevant interest” has the meaning given to it in Rule 6.

The Register

2. The Registrar of Members' Interests shall establish the Register in electronic form to be kept in the Office of the Clerk of Tynwald.
3. A printed copy of the Register shall be available in the Tynwald Library, updated at the beginning of each month.
4. The Register shall contain one section for each Member and be divided into subsections corresponding to the categories of relevant interests established in Rule 6.

Interests to be registered

5. The relevant interests of Members shall be entered in the Register as provided in Rules 7 to 11.

- 6.

- (1) A relevant interest for the purpose of these Rules is any past interest (existing at any time from 12 months before the Member's election) or present interest which may affect, or reasonably be perceived as affecting, a Member's judgment on the way in which he/she may carry out his/her duties, and includes in particular:
- (i) a legal or equitable interest in any of the following –
 - (a) land or buildings, except the Member's principal private residence;
 - (b) shares or stock held in any company whose shares or stock are publicly quoted on a stock exchange in the United Kingdom or Ireland;
 - (c) shares or stock held in any company other than one within (b) above; where any asset to which such a company may be entitled is or represents a right, interest or circumstance which is itself a relevant interest, details of that asset and of its value shall be declared;
 - (d) a legal right, including a deposit or loan of money or money's worth, of more than £50,000 in value save where the reason for which the right in question has come into existence is of an immediate family or personal nature (including inheritance), it has not been created with a view to profit and any interest earned is at normal commercial rates.
 - (ii) a directorship, consultancy, proprietorial or managerial role whether paid or not in, or in relation to, any business or professional undertaking (other than one wholly supported by public funds);
 - (iii) sponsorship in money or money's worth from a trade union, professional society, political grouping or party, registered charity, person or persons other than the Member's immediate family, or from a cultural or religious source, or a consultancy with any of the foregoing whether paid or not;
 - (iv) gifts and benefits in kind from private sources of more than a total of £1,000 in value in any calendar year, or in any individual case of more than £50 in value, with the name and address of the donor, and the capacity in which the gift or benefit has been given, but excluding:
 - (a) all inheritances;
 - (b) gifts or benefits received from the Member's immediate family; and
 - (c) attendance at functions in the course of governmental or official parliamentary sponsored duties;⁷
 - (v) the authorship of a book, pamphlet or the like, or of an article or column in a newspaper or journal or on the Internet, which does not appear under the Member's name;
 - (vi) membership of any trade union, professional society, political grouping or party, or of the Freemasons or any body outside Tynwald.
- (2) The sums mentioned in Rule 6(1)(iv) shall be amended in accordance with a Notice laid before Tynwald in May of each year by the Registrar of Members'

Interests to reflect, to the nearest pound, changes in the Retail Price Index published by the Treasury for the preceding twelve months.

When and how a relevant interest must be registered

7. (a) A relevant interest becomes registrable when it is acquired, or comes into existence, or when in the case of Rule 6(1)(iv) the threshold is reached.
(b) A Member having a registrable relevant interest must register it, unless there is good reason to the contrary, either within one month of the date on which it becomes registrable, or before any material debate in Tynwald or the branch to which the Member belongs if that is sooner.
8. (a) A relevant interest shall be registered by the Member giving to the Registrar a notification in Form A annexed to these Rules.
(b) The notes in Form A are for ease of reference only and do not affect the interpretation of Rule 6.
9. The Registrar of Members' Interests shall initial and date such a notification and shall cause it to be entered in the Register as soon as possible.
10. A Member who has registered a relevant interest shall, if it ceases to be a relevant interest, so notify the Registrar by giving him a notification in Form B annexed to these Rules.
11. The Member submitting Form A or Form B shall sign and date it and the Registrar of Members' Interests shall initial and date such a notification and shall cause it to be entered in the Register as soon as possible.

Inspection of the Register

12. The printed copy of the Register referred to in Rule 3 shall be available for inspection free of charge in the Tynwald Library during normal hours.
13. Any person giving the Registrar of Members' Interests 24 hours written notice, shall be entitled to see a printed copy of the Register updated to the day of inspection, and to receive that copy, or any part of it, on payment of a copying charge determined from time to time by the Tynwald Management Committee.

Commencement

14. These Rules shall come into effect on 1st February 2004.

APPENDIX 6

*SCHEDULE 1 to the Code of Conduct for Members of the States of Deliberation***GIFTS, BENEFITS AND HOSPITALITY**

Any gift or material benefit received by a Member, or to the Member's knowledge by any of his close family or associates, must be declared in accordance with this schedule if it:

- (a) in any way relates to membership of the States; and**
 - (b) is of a value greater than 1% of the basic allowance for the time being payable to States Members.**
1. Declarations in accordance with this schedule must be made to the Chairman of the States Assembly and Constitution Committee in such form as the States Assembly and Constitution Committee may from time to time determine, not later than the 31st May each year in respect of the 12 months ending on the previous 30th April. Such declarations shall be available for public inspection at the Greffe during normal opening hours. Declarations by the Chairman of the States Assembly and Constitution Committee shall be made to the Vice-Chairman of the Committee.
 2. The specified financial value above which gifts of money or tangible items (e.g. jewellery, glassware), or other benefits (e.g. hospitality, tickets to sporting and cultural events, relief from indebtedness, loan concessions, provision of services, etc.) must be registered is 1% of the current basic allowance payable to States Members. Any such money or tangible gifts received by a Member may not be retained but must be transferred or delivered into the ownership of the States.
 3. The rule means that any gift, or other benefit, which in any way relates to membership of the States and which is given gratis, or at a cost below that generally available to members of the public, shall be registered whenever the value of the gift or benefit is greater than the amount specified in paragraph 2. Any similar gift or benefit which is received by any company or organisation in which the Member and/or any of his close family have a controlling interest must also be registered.
 4. Gifts and other benefits from the same or associated sources in the course of the relevant 12 months which cumulatively are of greater value than the amount specified in paragraph 2 must be registered, even if each single gift or benefit is of lesser value.
 5. Benefits, such as tickets to sporting or cultural events, received by another person together with or on behalf of a Member must be registered as if they had been received by the Member.
 6. Gifts or other benefits from another Member of the States are to be registered in the same way as those received from other persons.

7. Excepted from the provisions of this Schedule:
 - (a) are gifts and benefits known to be available to all Members of the States;
 - (b) is attendance at a conference or a site visit within the Bailiwick, the United Kingdom, Jersey and the Isle of Man in the context of legitimate States business where the organiser meets reasonable travel and subsistence costs only;
 - (c) is hospitality provided in the context of legitimate States business by the States of Guernsey, States of Alderney, Chief Pleas of Sark or the governments the United Kingdom, Jersey or the Isle of Man or the devolved institutions in Scotland, Wales or Northern Ireland.
8. Gifts and material benefits are exempt from registration if they do not relate in any way to membership of the States. Whether this exemption applies in any particular case is necessarily a matter of judgment. Both the possible motive of the giver and the use to which the gift is put have to be considered: if it is clear on both counts that the gift or benefit is entirely unrelated to membership of the States, and would not reasonably be thought by others to be so related, it need not be registered. If there is any doubt it shall be registered.
9. In this Schedule “close family” includes any co-habiting partner.

The States are asked to decide:-

XIX.- Whether, after consideration of the dated 6th January 2011, of the States Assembly and Constitution Committee, they are of the opinion:-

- (1) To direct the Committee to draft amendments to the Rules of Procedure of the States of Deliberation to provide that Members shall be required to make annual declarations stating:
 - (a) if (i) employed; or (ii) the holder of any office; or (iii) a director of any company; or (iv) a partner in a partnership or firm, whether or not they are in receipt of remuneration, the name and address of every employer/partnership/firm, in each case giving a brief description of the business or work;
 - (b) any consultancy, trade, profession, vocation or other work not declared in (a) above together with the name and address of any person from whom they receive payment or benefit which forms a significant portion of either their total income or their income from that work;
 - (c) any entitlement (whether present or future) to benefit from a superannuation scheme;
 - (d) the name and address of all limited liability companies or firms of which they are directors, whether paid or not;
 - (e) the address of all real property situated in the Bailiwick, whether owned or leased or held in trust in each case with a brief statement setting out the purpose for which the property is held;
 - (f) the name and address of all limited liability companies in which they own shares which exceed 1% of the issued share capital;
 - (g) the name and address of all trusts of which the Member is either a beneficiary or a trustee (excluding professional trusteeships);
 - (h) payments received for public speaking;
 - (i) membership of, or other relationship with, any trade union, professional society, political grouping, charitable, religious or sporting organisation or other body;
 - (j) gifts, benefits and hospitality which are presently declared pursuant to Schedule 1 to the Code of Conduct for Members of the States of Deliberation;
 - (k) the cost of overseas travel and accommodation, excluding travel and accommodation paid for by the States of Guernsey or States of Alderney, the Member or spouse, co-habiting partner or other close relative and excluding brief leisure trips within the Islands or adjacent French and British coasts;
 - (l) any other interest or benefit received which, whilst not required to be registered under other headings, might reasonably be perceived by other persons to influence actions as an elected member;

- (m) any interests specified in (a) to (l) of which he is aware which relate to the Member's spouse, co-habiting partner or infant children.
- (2) To direct the Committee to draft consequential amendments to the Rules of Procedure of the States of Deliberation, the Rules relating to the Constitution and Operation of States Departments and Committees and the Code of Conduct for Members of the States of Deliberation.
 - (3) To direct the Committee to draft Explanatory Notes regarding the proposed declaration of interests, for the guidance of Members, which Explanatory Notes shall be laid before the States at the same meeting as the proposed amendments set out above.
 - (4) To agree that Rule 23(3) of the Rules of Procedure of the States of Deliberation shall be amended with immediate effect by deleting the words "December 2006" and substituting therefor "June 2012".

REVIEW BOARD: PANEL OF MEMBERS

(Constituted by the Administrative Decisions (Review) (Guernsey) Laws, 1986-1993)

REPORT OF THE REVIEW BOARD FOR 2011

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

14th December 2011

Dear Sir

In accordance with the provisions of Section 8 of the Administrative Decisions (Review) (Guernsey) Laws, 1986-1993, I submit a report on the complaints received by the Chief Executive of the States during the period 1st January 2011 to 31st December 2011.

Section 1 of the Law provides that all applications for a matter to be reviewed by a Review Board shall be made to the Chief Executive of the States except where the matter complained of relates to the Policy Council and its staff, in which case application is made to HM Greffier.

Three complaints were received in 2011 and a brief synopsis of the matters complained about and the outcomes are set out in the attached report in Appendix 1.

Yours faithfully

R R Matthews
Chairman
Panel of Members

Appendix 1**The Administrative Decisions (Review) (Guernsey) Laws 1986-1993****REPORT OF COMPLAINTS RECEIVED****By the Chief Executive of the States during 2011****1. “A” v The Education Department**

“A” complained that a decision of the Education Department in relation to the refusal under the Department’s Admissions Policy in respect of Notre Dame du Rosaire Roman Catholic Primary School was wrong.

The Chief Executive referred the matter to the Chairman of the Panel of Members who appointed Deputy I F Rihoy as Chairman of the Review Board, together with Deputy M S Laine and Douzenier Mrs. B Hervé as ordinary members.

The complaint was heard in private as it involved the allocation of a school place for a young child.

The Review Board, by a majority, concluded that the decision made by the Department did not fall within any of the provisions of Section 7(3) of the Administrative Decisions (Review) (Guernsey) Laws, 1986-1993 and the complaint was therefore dismissed.

2. Mrs. A Castle v The Treasury and Resources Department

A complaint that a decision of the Treasury and Resources Department - Property Services Sub Committee not to grant to Mrs Castle a formal Right of Way over land at Belgrave Vinery was wrong.

The Chief Executive referred the matter to the Chairman of the Panel of Members who appointed Deputy A H Brouard as Chairman of the Review Board, together with Deputy T M Le Pelley and Douzenier R L Heaume, M.B.E. as ordinary members.

The Review Board concluded that the decision made by the Department’s Property Services Sub Committee did not fall within any of the provisions of Section 7(3) of the Administrative Decisions (Review) (Guernsey) Laws, 1986-1993 and the complaint was therefore dismissed.

The Review Board noted that the Treasury and Resources Department had indicated in its submissions the possibility of further negotiations with Mrs. Castle regarding rights of way at Belgrave Vinery.

REPORT OF COMPLAINTS RECEIVED

By HM Greffier of the States during 2011

1. Mr. A D C Webber v The Home Department

A complaint that a decision of the Home Department not to interview Mr. Webber for a temporary post was wrong.

The temporary post in question related to the preparation of the electoral roll and as the Chief Executive also acts as Registrar General of Electors, he referred this matter to HM Greffier.

The complaint was not referred to a Review Board it related to a matter of private law and was therefore did not fall within the provisions of Section 3(a) of the Administrative Decisions (Review) (Guernsey) Laws, 1986-1993.

(N.B As there are no resource implications identified in this report, the Treasury and Resources Department has no comments to make.)

(NB The Policy Council has no comment on this report.)

The States are asked to decide:-

XX.- Whether, after consideration of the Report dated 14th December 2011, of the Review Board Panel of Members constituted under The Administrative Decisions (Review) (Guernsey) Laws, 1986-1993, they are of the opinion:-

To note that Report.

REQUÊTE

GOVERNANCE IN THE STATES OF GUERNSEY: PROPOSAL FOR A COMPREHENSIVE REVIEW OF THE STRUCTURE AND FUNCTIONS OF THE LEGISLATURE AND THE GOVERNMENT IN GUERNSEY

THE HUMBLE PETITION of the undersigned Members of the States of Deliberation
SHEWETH THAT:

1. The term ‘governance’ has its origin in the Greek verb *kubernân*, which means ‘to pilot or steer’. It is an ancient concept stretching back well over two thousand years.
2. Governance describes the way in which organisations are directed, controlled and led. It defines relationships and the distribution of rights and responsibilities among those who work with and in the organisation, determines the rules and procedures through which the organisation’s objectives are set, and provides the means of attaining those objectives and monitoring performance; importantly, it defines where accountability lies throughout the organisation¹.
3. Aspiring to, and ultimately delivering, good governance is paramount if government is to retain credibility, legitimacy and authority in arranging economic and social affairs².
4. Matters relating to governance have received considerable attention – at both a political and operational level – during the present States term. In 2009, an external audit of governance was commissioned with emphasis on examining the extent to which the activities of the States of Guernsey were obtaining value for money. At around the same time the States were developing initiatives such as the capital prioritisation process, rules for financial management and the States Strategic Plan, all of which have since evolved and made a contribution to the on-going pursuit of good governance. In 2011, the States of Deliberation committed to six core principles of good governance³. In 2012, three Parliamentary Committees (Public Accounts Committee, Scrutiny Committee and States Assembly and Constitution Committee – “the Joint Committees”) will set out proposals on how in practical terms the six core principles of good governance could be applied strictly within Guernsey’s system of government by committees and consensus.
5. The scope of the work undertaken by the Joint Committees has been necessarily limited – first by the time available, and second by their terms of reference. Consequently their States Report will need to focus primarily on the operation and procedures, rather than the structure and functions, of the legislature and the government in Guernsey.
6. In the opinion of your Petitioners, it would be expedient in the next term of the States to examine without constraint whether there are any options for reform of the structure and

¹ Cabinet Office and H M Treasury, 2011

² Governance, Politics and the States; Pierre and Peters; 2000

³ CP1 – Focusing on the organisation’s purpose and on outcomes for citizens and service users;
CP2 – Performing effectively in clearly defined functions and roles;
CP3 – Promoting values for the whole organisation and demonstrating good governance through behaviour;
CP4 – Taking informed, transparent decisions and managing risk;
CP5 – Developing the capacity and capability of the governing body to be effective;
CP6 – Engaging stakeholders and making accountability real.

functions of the legislature and the government in Guernsey which might enable the progress made already in respect of good governance to be advanced further.

7. In some respects that process of structural review has started already with the commissioning late in 2011 by the Policy Council of “a review of scrutiny in the States in order to re-examine the constitution, powers, resources and mandates of the Public Accounts, Legislation Select and Scrutiny Committees and make recommendations for improving the formal scrutiny processes available to the States of Deliberation to hold its departments, committees and other government service providers to account for their performance in providing effective legislation, value for money, service delivery, policy formulation and implementation”.

8. Your Petitioners welcome that review. However, they submit that any fundamental changes to the scrutiny function of the States cannot reasonably be pursued in isolation without also examining the many other functions of the legislature and the government. Rather, they should be considered holistically as part of a broad examination of the overall structure of the States of Guernsey.

9. During this term of the States there has been a re-emergence of debate about the case for re-examining, inter alia, the number and mandates of States Departments and Committees, the number of members sitting on Department Boards and Committees, the wisdom of permitting members to hold seats on Department Boards and scrutiny committees at the same time, the role and authority of the Chief Minister and Ministers, the organisation of the States’ corporate policy planning process and the relationship between the States of Deliberation as legislature and the States of Deliberation as government.

10. In any event, by the end of the next term, it will be 12-14 years since the States last undertook a thorough review of their structure and functions. Your Petitioners believe that is quite long enough for a matter which should be reviewed periodically in view of the States’ commitment to good governance.

11. In addition, it should be noted that implementing change inevitably takes quite a period of time. Failure to commence a review early in the life of the next States term would almost certainly mean that the implementation of any reforms which were considered desirable would be delayed until the States term commencing in 2020, a period approaching two decades since the most-recent changes of 2004.

12. Therefore, your Petitioners are of the opinion that there is a compelling case to undertake early in the next States term a comprehensive review of the structure and functions of all aspects of the legislature and government in Guernsey.

13. The subject matter of the review proposed by your Petitioners engages the mandates of the Policy Council and the States Assembly and Constitution Committee.

14. The Policy Council is responsible for “the allocation of responsibilities and functions to departments and committees...” and has the authority “to examine and report to the States...on any matter which falls outside the mandate of any Department and Committee”.

15. The States Assembly and Constitution Committee is required “to review and bring forward proposals for the States of Deliberation of the Island of Guernsey to consider in connection with: the constitution of the States of Deliberation...the Rules of Procedure of the States of Deliberation, the constitution and operation of States Departments and Committees,

the system of election of Ministers and Members of States Departments and States Committees, matters relating to the practical functioning of the States of Deliberation...[and] elections to the office of People's Deputy”.

16. However, your Petitioners note that a committee combining the Policy Council and the States Assembly Constitution Committee would consist of up to 16 members and would not be conducive to undertaking the detailed review proposed in this Requête. Your Petitioners also note that the subject matter of such a review, while comprehensive and significant, is discrete and should have a definitive ‘start’ and ‘end’.

17. Therefore, it is recommended that the review proposed by your Petitioners should be undertaken by a ‘task and finish’ Special States Committee established in accordance with Rule 18 of the Rules relating to the Constitution and Operation of States Departments and Committees. The Special States Committee should be entitled the ‘States Review Committee’ and it should consist of seven voting members.

18. In recognition of the importance of the review and in view of the link between the subject matter of the review and the Policy Council and the States Assembly and Constitution Committee, your Petitioners propose that the membership of the States Review Committee should include the Chief Minister (as its chairman), one other member of the Policy Council and the Chairman of the States Assembly and Constitution Committee. Your Petitioners propose that in addition the States of Deliberation should elect to the States Review Committee: two sitting members of the States and two persons independent of the States with relevant skills and experience of the structure and functions of legislatures and governments.

19. It is the opinion of your Petitioners that the two other potential models for determining the membership of the body established to undertake the review – requiring it to consist solely of politicians or solely of persons independent of the States – both contain material disadvantages. Requiring it to consist solely of politicians would not necessarily provide for a breadth of skills and knowledge and could result in a membership which had never experienced or studied any government other than Guernsey's. Requiring it to consist solely of persons independent of the States would represent a failure to recognise that the structure and functions of the legislature and the government are inherently political matters and could well result, arguably as on the last occasion that such a review was undertaken, in the presentation of a report which from the outset is without any political ‘buy-in’ and therefore ultimately less likely to be considered satisfactory by the States of Deliberation. Combining political members and independent members in a Special States Committee overcomes such disadvantages.

20. For clarification, in the context of this Requête and in order to provide for a genuinely independent perspective in the work of the States Review Committee, it is proposed that the ‘persons independent of the States’ referred to in paragraph 18 above shall be interpreted as meaning persons who are not, and never have been, members or employees of the States or Non-States Members of States Departments and Committees.

21. The Rules for Payments to States Members, Former States Members and Non-States Members of States Departments and Committees provide for the remuneration of members of Special States Committees constituted under Rule 18 of the Rules relating to the Constitution and Operation of States Departments and Committees. At the time of the submission of this Requête, the costs of remunerating the members of the States Review Committee proposed herein would normally total several thousand pounds per annum. However, in view of the

pressure on public finances, your Petitioners submit that that the entitlement to remuneration which would normally attach to membership of a Special States Committee should not be applied to membership of the States Review Committee.

22. The States Review Committee should be directed to report to the States of Deliberation in two stages.

23. In 2013, and in accordance with the provisions of Rule 12 (4) of the Rules of Procedure of the States of Deliberation, it should present a States Report setting out its examination of the extent to which the structure and functions of the legislature and the government are capable of fulfilling expectations of good governance and the general principles of any policy reforms of the structure and functions of the legislature and the government which it considers necessary to provide for the highest possible standards of good governance.

24. Then, in 2014 it should present a States Report containing in detail any firm recommendations for reform of the structure and functions of the legislature and the government which it considers necessary to provide for the highest possible standards of good governance.

25. Political and public engagement must form an essential component of the work of the States Review Committee. Your Petitioners are of the opinion that during both stages of its work (i.e. the stage referred to in paragraph 23 above and the stage referred to in paragraph 24 above) the States Review Committee should be required to consult with, and take evidence from, the widest possible range of persons from among the membership of the States and the general public.

26. Your Petitioners wish to emphasise that the review they are proposing would be restricted to the structure and functions of the legislature and the government to the extent that they impact upon public administration domestically, i.e. within the island of Guernsey. The review they are proposing would not examine external matters such as the island's constitutional relationship with other Channel Islands, the United Kingdom or Europe or the role of the Privy Council etc.

27. Your Petitioners further wish to emphasise that within their number there is a very diverse range of views with regard to whether the structure and functions of the legislature and the government require no reform, a measure of reform or radical reform. At this stage they are united in one conclusion only: that a comprehensive review of such matters should be commenced early in the life of the next States and undertaken in the manner set out above.

THESE PREMISES CONSIDERED, YOUR PETITIONERS humbly pray that the States may be pleased to resolve:-

1. To direct that at their June, 2012 meeting, and in accordance with the provisions of Rule 18 of the Rules relating to the Constitution and Operation of States Departments and Committees, the States of Deliberation shall form the States Review Committee as a Special States Committee, the membership of which shall be:

i) The Chief Minister (as chairman);

ii) One other member of the Policy Council;

- ii) The Chairman of the States Assembly and Constitution Committee;
- iii) Two sitting members of the States elected by the States of Deliberation; and
- iv) Two persons independent of the States elected by the States of Deliberation.

2. That the mandate of the States Review Committee shall be:

“To examine the extent to which the structure and functions of the legislature and the government in Guernsey are capable of fulfilling expectations of good governance with reference in particular to the processes of developing, determining, co-ordinating, effecting and monitoring States’ policies, which shall include, but not necessarily be restricted to, consideration of:

- a) the membership, operation and effectiveness of the States of Deliberation;
- b) the membership, operation and effectiveness of States Departments and Committees;
- c) the roles and responsibilities of the States of Deliberation and States Departments and Committees in achieving an efficient and effective corporate policy planning and resource allocation process;
- d) the leadership, accountability, transparency and democratic responsiveness of the States of Deliberation and States Departments and Committees;

but which shall explicitly not include consideration of:

- e) the constitutional relationship between Guernsey and other Channel Islands, the United Kingdom, the European Union and other jurisdictions;

and, if considered necessary, to make recommendations on any reforms of the structure and functions of the legislature and the government in Guernsey which would be likely better to provide for the highest possible standards of good governance with reference in particular to the processes of developing, determining, co-ordinating, effecting and monitoring States’ policies.”

3. To direct that in 2013, and in accordance with the provisions of Rule 12 (4) of the Rules of Procedure of the States of Deliberation, the States Review Committee shall present a States Report setting out its examination of the extent to which the structure and functions of the legislature and the government in Guernsey are capable of fulfilling expectations of good governance and the general principles of any policy reforms of the structure and functions of the legislature and the government in Guernsey which it considers necessary to provide for the highest possible standards of good governance.

4. To direct that in 2014 the States Review Committee shall present a States Report containing in detail any firm recommendations for reform of the structure and functions of the legislature and the government in Guernsey which it considers necessary to provide for the highest possible standards of good governance.

5. To direct that both before and after the States Report referred to in Proposition 3 above the States Review Committee shall consult with, and take evidence from, the widest possible range of persons from among the membership of the States and the general public.

6. To agree that the entitlement to remuneration which would normally attach to the chairmanship and membership of a Special States Committee shall not apply in the case of the States Review Committee.

AND YOUR PETITIONERS WILL EVER PRAY

GUERNSEY

This 1st day of December, 2011.

Matt Fallaize
Bernard Flouquet
Shane Langlois
Sean Mc Manus
Jan Kuttelwascher
Andrew Le Lievre
Barry Brehaut
Mike Hadley
John Gollop
Jane Stephens
Peter Gillson
Roger Domaille

Samantha Maindonald
Charles Parkinson
Peter Sirett
Marc Laine
Allister Langlois
Peter Sirett
Paul Arditti
Ivan Rihoy
Leon Gallienne
Mike Collins
Jenny Tasker

(NB In accordance with Rule 17(2) (a) of the States of Deliberation Rules of Procedure, the Policy Council consulted Departments and Committees on the subject matter of the Requête. The replies which were received are self-explanatory and are appended.)

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

22 December 2011

Dear Lyndon

REQUETE – GOVERNANCE IN THE STATES OF GUERNSEY

Your letter of 14 December 2011, concerning Deputy Fallaize's Requete, was considered by the Housing board at its meeting on 22 December 2011.

The board had no comments to make as a department, but political members of the board will make their personal views known when the Requete is debated.

Yours sincerely

D Jones, Minister, Housing.

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

29th December 2011

Dear Deputy Trott

Thank you for your letter of the 14th December 2011 with which you enclosed a copy of a Requête signed by Deputy M. J. Fallaize and 21 other Members of the States.

Three members of the Committee are signatories to the Requête. For that reason the Committee does not consider it appropriate to submit a corporate view thereon.

Yours sincerely

I. F. RIHOY, Chairman, States Assembly and Constitution Committee

The Chief Minister,
Policy Council,
Sir Charles Frossard House,
PO Box 43,
La Charroterie,
St. Peter Port.
GY1 1FH

22nd December, 2011

Dear Deputy Trott,

Re: Requête in the States of Guernsey

Proposals for a comprehensive Review of the Structure and functions of the legislature and the Government of Guernsey

At the Education Board meeting held on 20th December, 2011 members agreed that they did not wish to make a Board response to the proposals. Any member who wishes will make an individual response.

Yours sincerely,

Deputy C. A. Steere
Minister, Education Department

Chief Minister
Policy Council
Sir Charles Frossard House
La Charroterie
St Peter Port
Guernsey
GY1 1FH

19 December 2011

Dear

Requête - Governance in the State of Guernsey

Thank you for your letter of 14 December with reference to the above. This was shared with the Board by e-mail and their comments requested.

The comments received were broadly in support of the Requête although individual members will vote as they see fit in the debate.

Thank you for the opportunity to comment.

Yours sincerely
Deputy Mike O'Hara, Minister, Culture and Leisure Department

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

16 December 2011

Dear Deputy Trott

Requete – Governance in the States Guernsey

Thank you for your letter of 14th December 2011 concerning Deputy Fallaize's Requete proposing a comprehensive review of the structure and functions of the legislature and the Government in Guernsey. The Commerce and Employment Department has had an opportunity to consider the proposal and, like Policy Council, supports the Requete and looks forward to a debate on this important topic in March next year.

Yours sincerely

Carla McNulty Bauer, Minister Commerce and Employment Department

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

20 December 2011

Dear Deputy Trott

REQUÊTE – GOVERNANCE IN THE STATES OF GUERNSEY

Proposal for a comprehensive Review of the Structure and functions of the legislature and the Government in Guernsey

Thank you for your letter dated 14 December 2011, attaching a copy of the Requête proposed by Deputy Fallaize for intended submission to the March States meeting.

The Public Services Department Board considered both the Requête and letter from Policy Council at its meeting held on 15 December 2011 and decided it had no comment to make regarding this issue.

Yours sincerely

S J Ogier, Deputy Minister, Public Services Department

Deputy L S Trott
Chief Minister
Policy Council
Sir Charles Frossard House
PO Box 43, La Charroterie
St Peter Port
GY1 1FH

23 December 2011

Dear Deputy Trott

Requête – Governance in the States of Guernsey

Thank you for your letter dated 7 July 2011, issued in accordance with Rule 17(2) of the Rules of Procedure.

The Social Security Department has no comment to make as a States Department. The members will of course express their individual views during the debate.

Yours sincerely

M H Dorey, Minister, Social Security Department

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

22 December 2011

Dear Deputy Trott

REQUÊTE – GOVERNANCE IN THE STATES OF GUERNSEY

Thank you for your letter dated 14 December 2011 which was considered by my Board at its meeting on 20 December 2011.

Members noted that HM Comptroller has advised that, in his view, Rule 15(2) is not applicable. However, there will inevitably be resource implications in carrying out the resolutions contained in the Requête and it is considered that these should be, as far as possible, specified and a funding source identified

Yours sincerely

C N K Parkinson, Minister Treasury and Resources

The Chief Minister
Policy Council
Sir Charles Frossard House
PO Box 43, La Charroterie
ST PETER PORT,
GY1 1FH

17 January 2012

Dear Chief Minister

Re: Requête – Governance in the States of Guernsey

Proposal for a comprehensive Review of the Structure and functions of the legislature and the Government in Guernsey

Thank you for your letter of the 14 December 2011. Please accept my apologies for not replying to you sooner.

The HSSD Board has considered your letter and have decided that, due to the nature of the requête, it is up to the individual deputies to express their views on the requête. Therefore, the HSSD Board does not have a collective view on this issue.

Yours sincerely

A H ADAM, Health and Social Services Minister

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

23rd December 2011

Dear Deputy Trott

GOVERNANCE IN THE STATES OF GUERNSEY

Proposal for a comprehensive Review of the Structure and functions of the legislature and the Government in Guernsey

I refer to your letter dated 14th December 2011 requesting, in line with Rule 17 of the Rules of Procedure, the Committee's views on the Requête entitled "Governance in the States of Guernsey".

In 2011, two reviews commenced which are particularly relevant to the Requête:

- The Joint Committees undertook a review in 2011 and will present a report to the March 2012 meeting, containing detailed proposals on how in practical terms the six Core Principles of good governance can be applied, and how compliance with them can be

measured, within the context of Guernsey's system of government by committees and consensus.

- An independent review of the scrutiny function commenced in December 2011, reviewing the role and functions of the Public Accounts, the Scrutiny and the Legislation Select Committees.

The Committee believes the findings and conclusions of both reviews should assist an informed debate on the effectiveness of the current structure and functions of the legislature and Government in the Guernsey. It therefore believes it is an opportune time to debate the possibility of a review to consider reform in the next political term. The Committee therefore welcomes the prayer of the Requête.

Yours sincerely

Deputy B L Brehaut

Chairman

(N.B The Policy Council, by a majority, supports the Requête.)

The States are asked to decide:-

XXI.- Whether, after consideration of the Requête dated 1st December 2011, signed by Deputy M.J Fallaize and twenty-two other Members of the States, they are of the opinion:-

1. To direct that at their June, 2012 meeting, and in accordance with the provisions of Rule 18 of the Rules relating to the Constitution and Operation of States Departments and Committees, the States of Deliberation shall form the States Review Committee as a Special States Committee, the membership of which shall be:
 - (a) The Chief Minister (as chairman);
 - (b) One other member of the Policy Council;
 - (c) The Chairman of the States Assembly and Constitution Committee;
 - (d) Two sitting members of the States elected by the States of Deliberation; and
 - (e) Two persons independent of the States elected by the States of Deliberation.
2. That the mandate of the States Review Committee shall be:

“To examine the extent to which the structure and functions of the legislature and the government in Guernsey are capable of fulfilling expectations of good governance with reference in particular to the processes of developing, determining,

co-ordinating, effecting and monitoring States' policies, which shall include, but not necessarily be restricted to, consideration of:

- a) the membership, operation and effectiveness of the States of Deliberation;
- b) the membership, operation and effectiveness of States Departments and Committees;
- c) the roles and responsibilities of the States of Deliberation and States Departments and Committees in achieving an efficient and effective corporate policy planning and resource allocation process;
- d) the leadership, accountability, transparency and democratic responsiveness of the States of Deliberation and States Departments and Committees;

but which shall explicitly not include consideration of:

- e) the constitutional relationship between Guernsey and other Channel Islands, the United Kingdom, the European Union and other jurisdictions;

and, if considered necessary, to make recommendations on any reforms of the structure and functions of the legislature and the government in Guernsey which would be likely better to provide for the highest possible standards of good governance with reference in particular to the processes of developing, determining, co-ordinating, effecting and monitoring States' policies.”

3. To direct that in 2013, and in accordance with the provisions of Rule 12 (4) of the Rules of Procedure of the States of Deliberation, the States Review Committee shall present a States Report setting out its examination of the extent to which the structure and functions of the legislature and the government in Guernsey are capable of fulfilling expectations of good governance and the general principles of any policy reforms of the structure and functions of the legislature and the government in Guernsey which it considers necessary to provide for the highest possible standards of good governance.
4. To direct that in 2014 the States Review Committee shall present a States Report containing in detail any firm recommendations for reform of the structure and functions of the legislature and the government in Guernsey which it considers necessary to provide for the highest possible standards of good governance.
5. To direct that both before and after the States Report referred to in Proposition 3 above the States Review Committee shall consult with, and take evidence from, the widest possible range of persons from among the membership of the States and the general public.
6. To agree that the entitlement to remuneration which would normally attach to the chairmanship and membership of a Special States Committee shall not apply in the case of the States Review Committee.

ORDINANCES LAID BEFORE THE STATES**THE BURMA / MYANMAR (RESTRICTIVE MEASURES) (GUERNSEY)
ORDINANCE, 2012**

In pursuance of the provisions of the proviso to Article 66 (3) of the Reform (Guernsey) Law, 1948, as amended, the Burma / Myanmar (Restrictive Measures) (Guernsey) Ordinance, 2012, made by the Legislation Select Committee on the 4th January, 2012, is laid before the States.

**THE ERITREA (RESTRICTIVE MEASURES) (GUERNSEY) ORDINANCE,
2012**

In pursuance of the provisions of the proviso to Article 66 (3) of the Reform (Guernsey) Law, 1948, as amended, the Eritrea (Restrictive Measures) (Guernsey) Ordinance, 2012, made by the Legislation Select Committee on the 4th January, 2012, is laid before the States.

**THE REPUBLIC OF GUINEA (RESTRICTIVE MEASURES) (GUERNSEY)
ORDINANCE, 2012**

In pursuance of the provisions of the proviso to Article 66 (3) of the Reform (Guernsey) Law, 1948, as amended, the Republic Of Guinea (Restrictive Measures) (Guernsey) Ordinance, 2012, made by the Legislation Select Committee on the 4th January, 2012, is laid before the States.

**THE SOMALIA (RESTRICTIVE MEASURES) (GUERNSEY) ORDINANCE,
2012**

In pursuance of the provisions of the proviso to Article 66 (3) of the Reform (Guernsey) Law, 1948, as amended, the Somalia (Restrictive Measures) (Guernsey) Ordinance, 2012, made by the Legislation Select Committee on the 4th January, 2012, is laid before the States.

STATUTORY INSTRUMENTS LAID BEFORE THE STATES**THE SOCIAL INSURANCE (CLASSIFICATION) (AMENDMENT)
(GUERNSEY) REGULATIONS, 2011**

In pursuance of Section 117 of The Social Insurance (Guernsey) Law, 1978, The Social Insurance (Classification) (Amendment) (Guernsey) Regulations, 2011 made by the Social Security Department on 23 December 2011, are laid before the States.

EXPLANATORY NOTE

These Regulations amend the Social Insurance (Classification) (Guernsey) Regulations, 1978 to provide that persons employed as Jurats of the Royal Court of Guernsey shall be treated as non-employed persons in respect of that employment, and that any such employment shall be disregarded. In practice, this means that fees received by Jurats for carrying out their duties shall be treated as income, not earnings, and only included in the calculation of a non-employed person's liability.

These Regulations came into operation on the 1st January 2012.

**THE HEALTH SERVICE (MEDICAL APPLIANCES) (AMENDMENT)
REGULATIONS, 2011**

In pursuance of Section 35 of The Health Service (Benefit) (Guernsey) Law, 1990, The Health Service (Medical Appliances) (Amendment) Regulations, 2011 made by the Social Security Department on 21 December 2011, are laid before the States.

EXPLANATORY NOTE

These Regulations further amend the Health Service (Medical Appliances) Regulations, 1990, as amended, by increasing the charges payable to authorised appliance suppliers in Guernsey and Alderney by persons supplied with Part I, II or III medical appliances, who are not exempt from such charges. These Regulations came into operation on 1 January 2012.

**THE SOCIAL INSURANCE (BENEFITS) (AMENDMENT NO. 2)
REGULATIONS, 2011**

In pursuance of Section 117 of The Social Insurance (Guernsey) Law, 1978, The Social Insurance (Benefits) (Amendment No. 2) Regulations, 2011 made by the Social Security Department on 21 December 2011, are laid before the States.

EXPLANATORY NOTE

These Regulations amend the schedules to the Social Insurance (Benefits) Regulations, 2003 and prescribe the reduced rates of benefit payable from 2 January 2012 to claimants who do not satisfy the conditions for entitlement to payment of the maximum rate of benefit. These Regulations came into operation on 2 January 2012.

**THE HEALTH SERVICE (BENEFIT) (LIMITED LIST) (PHARMACEUTICAL
BENEFIT) (AMENDMENT NO.6) 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.6) Regulations, 2011 made by the Social Security Department on 21 December 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 operation on 21 December 2011.

**THE INCOME TAX (STANDARD CHARGE) (AMENDMENT)
REGULATIONS, 2011**

In pursuance of Section 203 of the Income Tax (Guernsey) Law, 1975, as amended, The Income Tax (Standard Charge) (Amendment) Regulations, 2011, made by the Treasury and Resources Department on 20 December 2011, are laid before the States.

EXPLANATORY NOTE

These Regulations increase the standard charge payable under section 5B of the Income Tax (Guernsey) Law, 1975 by individuals resident in Guernsey but not solely or principally resident therein from £25,000 to £27,500 in respect of their income in years of charge following 2011. These Regulations came into operation on 1 January 2012.

**THE STATES HOUSING (RENT AND REBATE SCHEME) (GUERNSEY)
(AMENDMENT) REGULATIONS, 2011**

In pursuance of section 5 (3) of the States Housing (Tenancies, Rent and Rebate Scheme) (Guernsey) Law, 2004, the States Housing (Rent and Rebate Scheme) (Guernsey) (Amendment) Regulations, 2011, made by the Housing Department on 22nd December, 2011, are laid before the States.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the States Housing (Rent and Rebate Scheme) (Guernsey) Regulations, 2005 by making changes to the States Rental Formula and to the charges applied to non-dependent persons residing in the household of a statutory tenant, and to the allowances given to dependent children residing in the household of a statutory tenant.

MOORING CHARGES REGULATIONS, 2011

In pursuance of Section 5 (2) of the Fees, Charges and Penalties (Guernsey) Law 2007, the Mooring Charges Regulations, 2011, made by the Public Services Department on 29th December 2011, are laid before the States.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe the mooring charges payable under section 2 of the Vessels and Speedboats (Compulsory Third-Party Insurance, Mooring Charges and Removal of Boats) (Guernsey) Law, 1972 (the "**1972 Law**"). These Regulations increase the existing mooring charges by approximately 4 per cent. Under the terms of the Fees, Charges and Penalties (Guernsey) Law, 2007, these charges may now be prescribed by regulations of the Public Services Department.

THE HARBOUR DUES AND FACILITIES CHARGES REGULATIONS, 2011

In pursuance of Section 5 (2) of the Fees, Charges and Penalties (Guernsey) Law 2007, the Harbour Dues and Facilities Charges Regulations, 2011, made by the Public Services Department on 29th December, 2011, are laid before the States.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe the harbour dues payable under section 2 of the Harbour Dues (Saint Peter Port and Saint Sampson) Law, 1957, and the charges payable for the use of harbour facilities under section 33(1) of the Harbours Ordinance, 1988. These Regulations increase the existing harbour dues and facilities charges by approximately 4 per cent. Under the terms of the Fees, Charges and Penalties (Guernsey) Law, 2007, these dues and charges may now be prescribed by regulations of the Public Services Department.