



BILLET D'ÉTAT

WEDNESDAY, 25th MAY, 2005

VI
2005

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B I L L E T D ' É T A T

TO THE MEMBERS OF THE STATES OF THE ISLAND OF GUERNSEY

I have the honour to inform you that a Meeting of the States of Deliberation will be held at **THE ROYAL COURT HOUSE, on WEDNESDAY, the 25th MAY, 2005**, immediately after the meeting already convened for that day, to consider the items contained in this Billet d'État which have been submitted for debate by the Policy Council.

DE V. G. CAREY
Bailiff and Presiding Officer

The Royal Court House
Guernsey
6th May 2005

THE HEALTH SERVICE (BENEFIT) (AMENDMENT) ORDINANCE, 2005

The States are asked to decide:-

I.- Whether they are of opinion to approve the draft Ordinance entitled “The Health Service (Benefit) (Amendment) Ordinance, 2005”, and to direct that the same shall have effect as an Ordinance of the States.

PAROCHIAL OUTDOOR ASSISTANCE BOARDS

NEW PRESIDENTS AND NEW MEMBERS

The States are asked:-

II.- To elect –

- (1) members of the following Parochial Outdoor Assistance Boards to fill the vacancies which will arise on the 1st June, 2005, by reason of the expiration of the terms of office who are eligible for re-election:

<u>Board</u>	<u>Retiring Member</u>
St Peter Port	Mr P D Jehan
St Sampson	Mr D J Harvey
Vale	Mr B R de Jersey
Castel	Mr H J Dorey
St Saviour	J H Humphreys
St Pierre-du-Bois	Mr M C Jeffreys
Torteval	Mr L P Brehaut
Forest	Mr G E Musson
St Martin	Mr R A Strappini
St Andrew	Mr W J Stewart

(NB Messrs B R de Jersey and M C Jeffreys do not seek re-election under (1) above)

(NB Only a sitting Member of the States or a Jurat, Rector or Douzenier resident in their respective parishes is eligible for election under (1) above)

- (2) from the States elected members of the St Peter Port Parochial Outdoor Assistance Board, a President to fill the vacancy which will arise on 1st June, 2005, by reason of the expiration of the term of office of Mr P D Jehan, who is eligible for re-election:

(NB The States elected members are Mrs J Tasker, Mr B J Gabriel, Mr P J B Wilson, Mr N G Weysom and the successor to Mr P D Jehan)

- (3) from the States elected members of the St Sampson Parochial Outdoor Assistance Board, a President to fill the vacancy which will arise on 1st June, 2005, by reason of the expiration of the term of office of Mr S G Park, who is eligible for re-election:

(NB The States elected members are Mr S G Park, Mr A W Nant, Mrs M E Levrier and the successor to Mr D J Harvey)

- (4) from the States elected members of the Vale Parochial Outdoor Assistance Board, a President to fill the vacancy which will arise on 1st June, 2005, by reason of the expiration of the term of office of Mr B R de Jersey, who is eligible for re-election:

(NB Mr de Jersey does not seek re-election. The States elected members are Mr T Pearson, Miss M Cleal, Mr N N Duquemin and the successor to Mr B R de Jersey)

- (5) from the States elected members of the St Saviour Parochial Outdoor Assistance Board, a President to fill the vacancy which will arise on 1st June, 2005, by reason of the expiration of the term of office of Mr P B Bott, who is eligible for re-election:

(NB The States elected members are Mr S J Bichard, Mr P B Bott, Mr D A Grut and the successor to Mr J H Humphreys)

- (6) from the States elected members of the St Pierre-du-Bois Parochial Outdoor Assistance Board, a President to fill the vacancy which will arise on 1st June, 2005, by reason of the expiration of the term of office of Mr J H Lenfestey, who is eligible for re-election:

(NB The States elected members are Mr S L Langlois, Mr J H Lenfestey, Mr A Morris and the successor to Mr M C Jeffreys)

- (7) from the States elected members of the Torteval Parochial Outdoor Assistance Board, a President to fill the vacancy which will arise on 1st June, 2005, by reason of the expiration of the term of office of Mr L P Brehaut, who is eligible for re-election:

(NB The States elected members are Mr G C Loaring, Mr C P Plant, Mr V J Watson and the successor to Mr L P Brehaut)

- (8) from the States elected members of the Forest Parochial Outdoor Assistance Board, a President to fill the vacancy which will arise on 1st June, 2005, by reason of the expiration of the term of office of Mr R L Heaume, who is eligible for re-election:

(NB The States elected members are Mr L G Trigwell, Mr R L Heaume, Mrs S G Ephgrave and the successor to Mr G E Musson)

- (9) from the States elected members of the St Martin Parochial Outdoor Assistance Board, a President to fill the vacancy which will arise on 1st June, 2005, by reason of the expiration of the term of office of Mrs B J Hervé, who is eligible for re-election:

(NB The States elected members are Mr J J Cleal, Mrs B J Hervé, Mr B E Gregg and the successor to Mr R A Strappini)

- (10) from the States elected members of the St Andrew Parochial Outdoor Assistance Board, a President to fill the vacancy which will arise on 1st June, 2005, by reason of the expiration of the term of office of Mr G C Le Mesurier, who is eligible for re-election:

(NB The States elected members are Mr G C Le Mesurier, Mrs J F Watts, Mr G Guilbert and the successor to Mr W J Stewart)

POLICY COUNCIL

THE GUERNSEY FINANCIAL SERVICES COMMISSION: 2004 ANNUAL REPORT

The Financial Services Commission (Bailiwick of Guernsey) Law, 1997, as amended, requires the Commission to prepare an annual report and the Policy Council to submit that report to the States.

The Policy Council recommends that the States appoint the firm of PricewaterhouseCoopers CI LLP as auditors of the Guernsey Financial Services Commission for the year ending 31 December 2005.

The Policy Council recommends the States:

- (1) to note the Report;
- (2) to approve the accounts of the Guernsey Financial Services Commission for the year ended 31 December 2004;
- (3) to appoint the firm of PricewaterhouseCoopers CI LLP as auditors of the Guernsey Financial Services Commission for the year ending 31 December 2005.

L C Morgan
Chief Minister

4th April 2005

(NB The Guernsey Financial Services Commission 2004 Annual Report, which is appended to this Report, is published separately)

(NB The Public Accounts Committee has approved the proposal relating to the appointment of auditors.)

The States are asked to decide:-

III.- Whether, after consideration of the Report dated 4th April, 2005, of the Policy Council, they are of the opinion:-

1. To note that Report.
2. To approve the accounts of the Guernsey Financial Services Commission for the year ended 31st December 2004.
3. To appoint the firm of PricewaterhouseCoopers CI LLP as auditors of the accounts of the Guernsey Financial Services Commission for the year ending 31st December 2005.

POLICY COUNCIL

LEGAL AID

1. Executive Summary

The purpose of this report is to progress the current extra-statutory legal aid scheme to a statutory scheme, in particular in relation to the provision of civil legal aid.

This report is the first of two and provides a synopsis of the development of legal aid since the extra-statutory criminal scheme commenced in September 2001 and details of the cost of publicly funded legal aid. The recommendations in this report focus on civil legal aid, namely how it will be delivered, its scope and it also addresses the following areas of the scheme:

- (a) Establishment of the office of Legal Aid Administrator;
- (b) Financial thresholds and means assessment for applicants;
- (c) Statutory framework for recoveries against assets secured or preserved through the legally aided action;
- (d) Provision for the taxation of legal aid accounts;
- (e) Appeals system against decisions of the Administrator in respect of the award of legal aid, conditions attached to a certificate and the taxation of accounts; and
- (f) Legal merits assessments in civil matters.

The second report will focus on the criminal legal aid scheme and recommendations for the levels of remuneration to advocates undertaking legal aid work. It is anticipated that this report will be presented to the States in September or October 2005 as negotiations with the Bar Council are in progress regarding remuneration rates.

2. Background

At its meeting of 25th July 2001 the States of Deliberation resolved:

- “1. *To approve in principle that a comprehensive system for the provision of civil and criminal legal aid be established that will satisfy the Island's obligations under the European Convention on Human Rights and the International Covenant on Civil and Political Rights.*
- 2. *That an extra-statutory scheme, on the lines set out in paragraphs 43 to 46, shall be established to provide civil and criminal legal aid that will replace the current voluntary scheme with an agreed system of payments to Advocates undertaking civil and criminal legal aid cases approved*

under the scheme.

3. *That the States Advisory and Finance Committee's revenue budget for 2001 shall be increased to provide adequate funding for the legal services to be provided under the extra-statutory scheme.*
4. *To authorise the States Advisory and Finance Committee to submit a budget for 2002 in excess of its revenue expenditure limit in respect of the increased revenue costs associated with the provision of legal aid under the extra-statutory scheme as set out above.*
5. *To direct the States Advisory and Finance Committee when proposing to the States revenue allocations for the States Advisory and Finance Committee in 2003 to take account of the costs associated with the continuing development of a long-term legal aid scheme.*
6. *To direct the preparation of such legislation on the lines set out in paragraph 26 and, if appropriate, paragraph 49 of that Report to give effect to their decision on proposition 1. above.”¹*

In August 2001 the then Advisory and Finance Committee (“the Committee”) appointed the Legal Aid Administrator (“the Administrator”). The Administrator has worked closely with Committee staff and the Law Officers to establish the extra-statutory Legal Aid Schemes which has included developing systems for the:

- Assessment of the legal merits of applications for legal aid;
- Assessment of financial merits of applications for legal aid;
- Taxation of accounts during the operation of the extra-statutory schemes for both criminal and civil legal aid; and
- Addressing grievances or appeals against decisions.

3. The Extra-Statutory Scheme

(a) Criminal Legal Aid

The extra-statutory scheme for criminal matters was established on 1st September 2001 and was broadly modelled by the pre-existing voluntary scheme for representation in the courts and at the police and customs custody suites.

Applicants for criminal legal aid have to satisfy both a financial and legal merits assessment. The financial thresholds are broadly in line with the Social Security Department’s benefit thresholds. In respect of the legal merits the following factors are

¹ Billet d’Etat, XVII, July 2001

taken into account when deciding whether aid is in the interests of justice:

- a) In the event of conviction, it is likely that the court would impose a sentence which would either deprive the accused of his liberty, or lead to loss of his livelihood, or seriously damage his reputation;
- b) The accused may be unable to understand the proceedings or state his own case, either through lack of knowledge of English or through mental or physical disability;

(b) Civil Legal Aid

It was not possible to establish an extra-statutory scheme for civil matters at the same time as that for criminal legal aid as there was no pre-existing voluntary scheme. Under the extra-statutory civil scheme, which commenced on 1st January 2002, the applicant is required to complete a declaration of means, including income and assets, and the advocate provides an assessment of its legal merits. An applicant must satisfy both before a certificate is issued.

In the majority of cases the initial certificate is limited to advice and assistance and allows an applicant two hours of an advocate's time. This approach is based on the United Kingdom 'Green Form Scheme'.

(c) Financial Thresholds and Contributions

The jurisprudence of the European Court of Human Rights suggests that individual governments and territories, which are subject to the European Convention on Human Rights may themselves decide financial thresholds for entitlement to state-funded to legal assistance. However, common sense suggests that those thresholds must be reasonable in the context of the precise circumstances and legal systems of the governments and territories concerned. There will be a point at which any "margin of appreciation" cannot be used to avoid altogether the obligations of Article 6 of the Convention, by, for example, setting an entitling level of means so high that the obligations become meaningless.

The Administrator, in consultation with the Committee, set the financial thresholds for advice and assistance in civil matters. In addition, the Administrator exercises discretion in the issue of full legal aid certificates, taking account of the legal merits of the case, cost effectiveness, equality of arms, etc. Persons detained by the police or customs are entitled to free legal advice and assistance from the duty advocate regardless of means.

(d) Cost of Legal Aid

In its policy letter dated 22nd June 2001 the Committee stated that it was unable to gain a reliable indication of the uptake for, and therefore the cost of providing, legal aid and so made the following undertaking to the States:

- “32. *Such an extra-statutory scheme would provide a base from which the likely demands for both civil and criminal legal aid could be assessed and the establishment of a permanent scheme would be developed using this evidence-base. The Committee undertakes to bring before the States more detailed proposals for substantive schemes for civil and criminal legal aid. Those proposals would include detailed costings based on the data collected from the extra-statutory scheme.*”²

In 2001 the Committee made budget provision of £1.6 million for the provision of legal aid in 2002, which included staff salaries, the cost of providing office accommodation and services for the Legal Aid Service and payments to advocates undertaking legal aid work. The hourly rate paid to advocates at the commencement of the extra-statutory scheme was £156 per hour in line with the Royal Court (Costs and Fees) Rules 2000. This has subsequently been increased in line with part of the increase in the Guernsey retail price index and is currently £167 per hour. The overall costs of legal aid are as detailed below and in Appendix 1.

Overall Cost of Legal Aid³

YEAR	CRIMINAL MATTERS	CIVIL MATTERS	TOTAL COST
2002	£594,486	£365,883	£960,171
2003	£683,714	£803,036	£1,486,750
2004	£773,423	£662,300	£1,435,723

(e) Establishment of the Legal Aid Working Party

In April 2003 the Committee established a working party to review the extra-statutory scheme as it was concerned at the very high costs involved, in particular those relating to some civil proceedings. Its mandate was to:

- Review and analyse how the extra-statutory scheme has worked since it was established in September 2001;
- Seek the views of the Judiciary, the Bar (both the Bar Council and individual advocates undertaking legal aid work), the authorities in Alderney and Sark and other relevant parties;
- Compare a range of options for the delivery of legal aid under a statutory scheme; and
- Identify the most cost effective approach and prepare appropriate drafting instructions.

² Billet d’Etat, XVII, July 2001

³ The figures relate to the payments made to advocates for legal aid work.

The Legal Aid (Bailiwick of Guernsey) Law, 2003 (“the 2003 Law”) was widely drawn and contains provisions for the future form of the legal aid scheme to be prescribed by Ordinance. The provisions which will be prescribed by Ordinance will include:

- The Scheme (or Schemes - it is likely that there will be 2 distinct schemes - one for civil matters and another for criminal), including the nature and extent of legal assistance which is available under the scheme, eligibility for legal aid, requirements for the payment of contributions, remuneration for provision of legal aid services, and terms and conditions for persons providing legal aid under the Scheme;
- Reimbursement of legal aid payments;
- Payment of costs in proceedings involving legally assisted persons;
- Appeals; and
- Duties of the Courts in respect of legally assisted parties.

(f) Impact of Recent Legislative Changes on Legal Aid Costs

Since the commencement of the extra-statutory scheme there have been a number of legislative changes which have had a significant impact on the cost of providing publicly funded legal aid. These include the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999, the Drug Trafficking (Bailiwick of Guernsey) Law, 2000, Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2002 and amendments to the Prison Administration (Amendment) Ordinance 2002. In addition, once the Human Rights (Bailiwick of Guernsey) Law, 2000 comes into force the number of applications for legal aid is likely to increase.

Other recently approved legislation, including the proposals from the Health and Social Services Department in respect of children and mental health laws, may result in further demands on the legal aid budget. The Policy Council acknowledges that the cost of legal aid was referred to in the Health and Social Services Department’s report on the revision of the Island’s children’s law and that the Department anticipated that the proposals would result in a reduction in legal aid costs.

The Policy Council recommends that, in the future, when a Department is proposing new legislation the Administrator should be consulted to establish whether or not the proposals will have an impact on the costs associated with providing publicly funded legal aid and that this should be commented upon within the resource implications section of the States Report.

4. Delivery of Civil Legal Aid

Under the current extra-statutory scheme, all the required legal services are provided by Advocates and their staff. For the time being, the Policy Council sees no reason to

change this manner of delivery. It will, however, continue to assess whether other ways of delivering some or all of the legal services required under the statutory scheme can properly be provided through alternative means, for example, under contractual arrangements with the whole Bar, or with firms or individual Advocates or by the Administrator employing qualified lawyers and/or paralegals. The Policy Council recognises the importance of ensuring that the civil legal aid scheme does not become overly bureaucratic and always remains proportionate to the level and type of demand for legal aid. The scheme must also be operated in the most cost-effective manner consistent with the Bailiwick's international obligations

Publicly funded legal aid can be delivered in a number of different ways, and the main alternatives are:

- (a) **Private Practice-based Model** – advocates in private practice providing services on a case-by-case basis and being paid for those services from a legal aid fund;
- (b) **Contractual Model** – provision of legal aid by contractual arrangement with either the private Bar, a group or groups of firms or individual advocates or other lawyers.
- (c) **Public Defenders' Model** - lawyers employed by the Legal Aid Service;

Appendix 2 provides an overview of each model, including some estimated costs for the public defender model.

At this stage the Policy Council is working on the premise that the civil scheme will be based on a private practice-based model and that the statutory civil legal aid scheme be a codified version of the current extra-statutory scheme. The Council believes that once suitable legislation is in place and changes have been made to the professional rules of conduct governing Advocates so as to permit them to act on the basis of conditional fees (i.e. fees which comprise an uplift over and above normal fee rates for successful representation of a client in certain types of civil proceedings), it will be possible to deliver a scheme which meets the key principles. Whilst it is possible that the other options, or indeed options not yet considered, might enable equally cost-effective delivery, the Council believes that there are advantages of building on the extra-statutory scheme which has, in practice, proved workable and is believed to have the "in principle" support of local Advocates if a fair and sensible agreement can be reached with the private Bar regarding levels of remuneration for legal aid work.

The Policy Council believes that the criminal scheme may lend itself to a more mixed approach with a combination of some work being undertaken as per the present arrangements and some is undertaken on a contractual basis. For example the representation of prisoners at prison adjudications and matters before the Alderney or Sark courts could be covered by a contractual agreement with a particular firm or with a group of advocates. These options will be explored more fully with the Bar Council.

5. Proposed Statutory Legal Aid Scheme

It is proposed that the move to a statutory scheme be undertaken in two stages. The first stage will provide for the basic structure (paragraphs (a) to (g) below) and the civil scheme (paragraphs (h) to (j)). The extra-statutory scheme will continue until the States has approved the second stage proposals which will make proposals for the delivery of criminal legal aid and levels of remuneration to be paid to advocates. However, the extra-statutory scheme will be amended with effect from 1st July 2005 in accordance with the recommendation in this report, that is, as transitional arrangements.

(a) General Principles

The provision of legal aid must be structured in a manner, which seeks to achieve early and effective resolution of disputes and thus discouraging unnecessary litigation, and funding must be targeted to the most deserving cases and priority areas. The current spending on legal aid is unsustainable and savings have to be made through a rebalancing of the scheme. The legal aid rates in the Isle of Man, the closest comparable model because in Jersey legal aid continues on a *pro bono* basis, are considerably lower than in Guernsey, some 44% and 65% lower. The legal aid rates paid in Central London are not dissimilar from those payable in the Isle of Man (Appendix 3).

The proposals seek to ensure that the most vulnerable, that is those on the lowest incomes and/or those least able to represent themselves, receive legal aid in appropriate matters. It will be granted on the presumption that the applicant and his advocate will seek fair resolution without unnecessary or unduly protracted proceedings in court. The scheme will ensure that an individual's rights are protected but a balance must be sought by:

- (i) Strengthening the funding criteria to make it harder to secure funding for litigation where reasonable alternatives exist;
- (ii) Wherever possible, moving to a system of fixed fees;
- (iii) By staging awards of legal aid to ensure that alternatives to litigation, especially contested litigation, have been reasonably explored; and
- (iv) Introducing a system of cost protection, whereby funded persons who are unsuccessful may be liable for a certain part of any costs; such an approach may encourage a person to think carefully about whether litigation is an appropriate risk and to look more objectively at the strength of the case itself.

(b) Establishment of the Office of Legal Aid Administrator

Sections 2 to 4 of the 2003 Law provide for the creation of the office of Administrator, who will be responsible for the delivery of legal aid and making recommendations to the Policy Council regarding the statutory framework for the delivery of legal aid. The Policy Council will make appropriate budgetary provision based on advice from the

Administrator. It will rely on the Administrator to provide a legal aid scheme, which satisfies the Island's international obligations from this budget.

The Administrator will seek appropriate legal advice and, in the first instance, this will be from Her Majesty's Procureur. However, it must be recognised that there will be many occasions where Her Majesty's Procureur is unable to advise, as he will be either the prosecuting authority or representing the defendant/respondent and so provision will need to be made to cover such matters. The Administrator will make recommendations to the Policy Council regarding the development of the scheme, including changes to the regulatory framework as may be required and provide an annual report detailing the progress of the scheme and its associated costs.

(c) Creation of a Legal Aid Board

Section 18 of the 2003 Law allows for the creation of a Legal Aid Board to support and advise the Administrator on such legal aid matters as may be prescribed by Ordinance. The Policy Council does not believe, that at this time, there is a need to establish a Legal Aid Board. However, it reserves the right to recommend the creation of a Board in the future should a need arise, particularly as regards the independence of the scheme from the States or if it was identified as operationally necessary.

(d) Financial Eligibility

When the extra-statutory scheme was established in September 2001 it was broadly based on the requirement rates published by the Social Security Department. The 2005 requirement rates are:

Category of Person	Weekly Requirement Rate
Married couple	£179.90
Single person	£124.15
Member of household	
16 years and over	£81.65
12 to 15 years	£50.50
5 to 11 years	£36.60
Under 5 years	£27.05

Financial eligibility will be based on income net of social security and income tax deductions and make an allowance for housing costs. The housing costs will be based on the Housing Department's fair rents system and mortgage repayments on States Loan payments, that is a maximum ceiling of 20% of gross income for rented accommodation or the full weekly rent whichever is the lesser amount and 25% of the gross weekly income or 90% of the weekly mortgage repayment whichever is the lesser amount, respectively. Further, the amount of borrowing could be capped to the maximum borrowing for a States Loan. The allowance for capital will also be in line with that adopted by the Social Security Department. The first £5,000 of capital is disregarded and for every £100 over the £5,000 £0.60 is added to the weekly residual

income. Where an applicant has capital of £20,000 or more legal aid will not be granted.

This approach will appear to satisfy the 'margin of appreciation' as it is clearly aligned to the welfare benefits for those of limited means in the community. A sliding scale of contributions will be applied rather than a single cut off:

Percentage Legal Aid Award	Assessed Residual Income
100%	SSD weekly requirement rate or less
80%	SSD weekly requirement rate + £50
60%	SSD weekly requirement rate + £100
40%	SSD weekly requirement rate + £150
20%	SSD weekly requirement rate + £200
No award	SSD weekly requirement rate + £201

(e) Taxation

The extra-statutory scheme provides for the Administrator to tax legal aid accounts. Taxation is a process by which the costs incurred by lawyers in the representation of a client are reviewed by an independent costs draftsman (or costs judge) to determine whether the costs incurred are fair and reasonable in all the circumstances. This work is complex, time consuming and specialist. The Administrator has already referred a small selection of files to independent costs draftsmen in England for them to review and the exercise has proved useful in fairly gauging the reasonableness of costs claimed under the current scheme and it is recommended that detailed provisions enabling the fair taxation of legal costs should be included in the statutory scheme.

(f) Appeals

The 2003 Law provides for an appeals procedure in relation to all decisions of the Administrator regarding the award of legal aid, conditions attached to such an award and the taxation of the costs. In order to meet Human Rights Convention requirements, it is essential that an appeals mechanism is provided for under the statutory scheme. It is therefore proposed that under a statutory scheme, appeals will be dealt with by an individual Commissioner (or Tribunal constituted by a single arbitrator) who will be (subject to the views of the Royal Court) a Lieutenant Bailiff or other person with appropriate legal qualifications.

(g) Commencement of the Statutory Scheme

The proposed commencement date for the statutory scheme will be set out in the second report. However, the Policy Council hopes that it will be possible for the statutory scheme relating to the provision of legal aid for civil matters to come into force on 1st January 2006. However, this is on the assumption that the drafting of legislation to implement agreed legal aid policy will continue to attract the highest priority.

Further if the proposals within this report are approved, it proposes to direct the Administrator that the scope of the extra-statutory scheme should be modified as soon

as possible to reflect the limitation on the matters for which legal aid will be available and the revised financial assessment and legal merits criteria.

(h) Scope of the Civil Legal Aid Scheme

It is accepted that the current scheme is drawn more widely than necessary to satisfy the Island's international obligations and it is recommended that the statutory scheme should be limited to the following areas:

- Domestic proceedings involving children.
- Public law children matters.
- Housing matters where the applicants right to reside in Guernsey are involved and eviction proceedings.
- Public law matters where a person's liberty was involved, or where there was an allegation of degrading or inhumane treatment or where a person died whilst in lawful detention or the care of a public body.
- Domestic violence injunctions.

In addition the scheme will provide for legal aid to be granted in exceptional circumstances for other matters, for example where equality of arms (i.e. the principle that both sides to a dispute should have equal legal resources/representation available to them) provided an overriding reason or where there was an issue of overriding public importance.

Further private law claims, including personal injury claims, will not ordinarily engage legal aid. This change is conditional on an amendment to the Rules of the Bar to provide for the possibility of advocates undertaking this type of work on a conditional or deferred fee arrangement. The Policy Council understands that the Bar Council supports such a change and will be approaching Her Majesty's Procureur to progress this.

(i) Legal Merits - Probable Cause and Reasonableness

Every application for legal aid will be subject to a financial means and legal merits assessment. The financial assessment is discussed in more detail in (d) above. It is proposed that the legal merits be based on that adopted by the Scottish Legal Aid Board which is based on probable cause and reasonableness (see Appendix 3).

To establish probable cause the applicant must show that there is a sound legal basis for the proposed legal action he wishes to take. Further, the Administrator will expect to be given information to establish jurisdiction and right, title and interest to raise proceedings. The reasonableness test provides the Administrator with a very wide discretion.

(j) Realty Charging and Personality Assignment Orders

Sections 20 to 24 of the 2003 Law provide for the Administrator to apply to a court for a realty charging order in respect of any relevant real property securing the repayment of legal aid. It is envisaged that such orders will be sought where assets, including property, are secured or preserved through the action funded under the legal aid certificate.

Under the extra-statutory scheme it has not been possible for the Administrator to obtain such orders. This has meant that such recoveries have been difficult to pursue because the Administrator has had to rely on the co-operation of the legally aided person in negotiating the repayment of legal aid where assets have been preserved or recovered.

6. Recommendations

The Policy Council believes that the proposed two-stage approach will provide a legal aid scheme, which satisfies the Island's international obligations without placing an unacceptable or uncontrollable financial burden on the public purse. It also believes that the proposed scheme(s) will ensure that people with limited means will be able to access legal advice and assistance and representation before the courts in those matters which most directly affect their lives. The proposals will make a positive contribution to the achievement of the overall agreed purpose of the Key Themes of the States Corporate Agenda, which is to ensure that:

“Guernsey prospers as a self-determining, distinct and independent community that is a good place to live and bring up children because it is safe, attractive and forward-looking and attempts to meet the aspirations of its citizens.”

More specifically the proposals will assist in the achievement of the stated objectives of the Key Theme on “Community/Social Inclusion.” The principal aim here is,

“To maintain Guernsey as a strong and caring community, where respect for individuals flourishes, and where the needs of all members of the community, including vulnerable groups, are provided for.”

The Policy Council acknowledges that Members may feel uneasy about being asked to approve a scheme when the full costs are unclear at this stage. However, it hopes that Members will accept the assurances as set out in this report, namely that the scope of the scheme has been determined by balancing the costs of its implementation, the need for prudence in public spending against the Island's international obligations and that it has drawn on the experience of both the current extra-statutory scheme and legal aid schemes which operate in the British Isles.

It believes by approving the scope and structure of the statutory scheme the current negotiations with the Bar Council will become more focused as both sides will have a clearer understanding of the type and volume of work likely to be covered by the

scheme. It is the Policy Council's intention to return to the States with the second of its stage 2 proposals in September or October 2005.

7. Costs

At this stage the Policy Council is unable to provide an estimation of the cost of providing legal aid under the scheme as set out in this report because this will depend on the level of remuneration to advocates. However, it believes the costs should be significantly less than under the extra-statutory scheme. This reduction in costs will be achieved by refocusing the availability of publicly funded legal aid to those matters which most directly affect people's lives and where there is no alternative route for people whose means are limited to access the courts. Further, proposed statutory provisions to recover the costs of legal aid from assets preserved or secured through the litigation and tax costs claimed, will also assist in controlling the overall costs.

The proposals as set out in this report will result in an increase in the costs of administering the Scheme. The establishment of the Office of Administrator will necessitate the post of Administrator becoming full-time. However, this increase in costs will be offset by Policy Council staff no longer providing policy support. The salary scale for the Administrator will be set broadly in line with that of the Data Protection Commissioner.

Section 28 of the 2003 Law creates a number of offences relating to fraudulent applications for legal aid. The evidence from the extra-statutory scheme suggests that this is not a significant problem. However, the current staffing levels provide little capacity to undertake such investigations. It is proposed that the administrative budget be increased by £12,000 to allow the Administrator to carry out such investigations under a contractual arrangement with a suitably qualified and experienced person or organisation. It is anticipated that the savings to the Legal Aid Fund will more than cover this additional cost by denying or withdrawing funding for fraudulent applications.

8. Alderney and Sark

The views of the Authorities in Alderney and Sark have been sought. The Sark General Purposes and Finance Committee has responded as follows:

"Sark remains committed to the principle of legal aid and whilst hopefully we will remain only an occasional user of the system it is important that under the right circumstances it must be available to Sark residents to make application for legal aid. We have nothing to add to the Report but are pleased to note the very strong message that comes across of every effort being made to keep legal aid costs to an absolute minimum but still achieve our international obligations."

No response has been received from Alderney.

9. Bar Council

The views of the Bar Council have been sought and are attached as Appendix 5.

10. Conclusion

The Policy Council is grateful for the help, advice and assistance which the Bailiff and members of the Judiciary, Her Majesty's Procureur and the Law Officers, Her Majesty's Greffier and his staff, and members of the Bar have given in respect of the development of legal aid.

In the circumstances outlined in this report, the Policy Council recommends the States:

- 1) To approve the establishment of the Office of Legal Aid Administrator as proposed in the Report (as set out in paragraphs 5 (b), (d), (e), (f), (h), (i) and (j))
- 2a) To authorise the Policy Council to negotiate with the Guernsey Bar regarding the basis for, and rates of remuneration for publicly funded legal aid work and to report back to the States on the outcome;
- 2b) To direct the Policy Council to report to the States with recommendations, including an estimation of costs, for all or any of the models for the delivery of legal aid;
- 3) To require Departments proposing new legislation to indicate any likely impact on the proposed Legal Aid Fund as a direct or indirect result of the proposals; and
- 4) To direct the preparation of such legislation as may be necessary to give effect to the foregoing.

L C Morgan
Chief Minister

21st April 2005

APPENDIX 1

Tables 1 to 8 provide a breakdown of the costs of legal aid by classification of the major areas of legal representation covered by the extra-statutory scheme.

Table 1 – Overall Cost of Criminal Legal Aid

YEAR	MAGISTRATE'S & JUVENILE COURT	ROYAL COURT (TRIALS)	ROYAL COURT (APPEALS)	ATTENDANCE AT CUSTODY SUITES	DUTY ADVOCATE SCHEME
2002	£234,371	£193,452	£54,533	£77,269	£34,861
2003	£232,229	£236,945	£10,325	£133,719	£70,496
2004	£227,040	£229,706	£18,098	£180,594	£67,984

Table 2 – Overall Cost of Civil Legal Aid

YEAR	FAMILY AND MATRIMONIAL MATTERS ⁴	OTHER CIVIL MATTERS ⁵
2002	£260,001	£105,882
2003	£583,507	£219,529
2004	£406,453	£255,847

Table 3 – Private Law and Public Law Children Matters

YEAR	PRIVATE LAW CHILDREN MATTERS	PUBLIC LAW CHILDREN MATTERS
2002	£67,563	£14,247
2003	£80,067	£31,245
2004	£129,548	£55,236

Table 4 – Personal Injury and Medical Negligence Cases

YEAR	PERSONAL INJURY	MEDICAL NEGLIGENCE	TOTAL
2002	£21,253	£4,289	£25,542
2003	£31,564	£6,146	£37,710
2004	£30,686	£7,198	£37,884

⁴ This category includes all legal aid costs relating to separation and divorce proceedings, maintenance and affiliation, custody and care and control of children, access and any variations to associated court orders.

⁵ This category includes all other legally aided civil matters, including personal injury and medical negligence claims, eviction proceedings, guardianship matters and those civil disputes within the scope of the extra-statutory scheme.

Table 5 – Criminal Legal Aid Costs – Percentage Costs by Type of Work

YEAR	MAGISTRATE'S & JUVENILE COURT	ROYAL COURT (TRIALS)	ROYAL COURT (APPEALS)	ATTENDANCE AT CUSTODY SUITES	DUTY ADVOCATE SCHEME
2002	39.42%	32.54%	9.17%	13.00%	5.87%
2003	33.97%	34.66%	15.10%	19.56%	10.31%
2004 ⁵	35.82%	29.70%	2.34%	23.35%	8.79%

Table 6 – Civil Legal Aid Costs – Percentage Costs by Type of Work

YEAR	FAMILY AND MATRIMONIAL MATTERS	OTHER CIVIL MATTERS
2002	71.06%	28.94%
2003	72.66%	27.34%
2004	61.37%	38.63%

Table 7 – Civil Legal Aid Costs – Percentage Costs by Type of Work

YEAR	PUBLIC LAW CHILDREN	PRIVATE LAW CHILDREN	PERSONAL INJURY & MEDICAL NEGLIGENCE
2002	3.89%	18.47%	7.00%
2003	3.98%	9.97%	4.70%
2004	7.56%	19.56%	4.74%

Table 8 – Very High Cost Cases

YEAR	CRIMINAL MATTERS	CIVIL MATTERS
2002	£120,356 ⁶	£20,993
2003	£14,320	£71,820 ⁷
2004	£27,568	£32,478

⁶ Two co-accused drug dealers

⁷ Appeal against a drug trafficking confiscation order – costs represent £21,470 of advocate's time and £57,670 in disbursements, of which some £50,350 is for forensic accounting.

APPENDIX 2

Options for the Delivery of Legal Aid

(a) Private Practice-based Model

Structure

The provision of publicly funded legal aid would be on a similar basis to that which has operated under the extra-statutory scheme, that is, members of the private Bar “opting in” to provide legal aid on a case-by-case basis. Applications for legal aid are covered by a certificate issued by the Administrator once the legal merits of the matter and financial merits of the applicant have been assessed in line with those laid down under the Scheme. The Legal Aid Service will determine the scope of matters which are covered by the scheme. Advocates submit accounts once the legal aid work has been completed and these accounts are subject to taxation before final settlement is made. The scheme may, in part, operate on a fixed fee basis, that is certain categories of work are undertaken on a fixed price basis regardless of the actual time taken by the advocate. Fixed fee matter would not be subject to any form of taxation.

Advantages

Number of Advocates - Experience from the extra-statutory scheme indicates that a sufficient number of advocates are opting in to undertake legal aid work; if the Statutory Scheme was based on this model the transition from the extra-statutory scheme should be relatively straightforward.

Conflict - Number of advocates and firms participating means that few problems have been experienced by legal aid clients being unable to find an advocate to represent them.

Cost - The experience from the extra-statutory scheme has shown that providing legal aid on this basis is unsustainable at the present rate and payment arrangements; further the payment on a case-by-case basis makes it very difficult for the States to maintain any strict control on the annual cost unless the Legal Aid Fund was capped.

Fixed fees would have to be a principal feature of any private practice-based model. Fixed fees are a feature of many legal aid schemes whereby the advocate would be paid a fee based on the type of case. They are most common in criminal matters as the opportunities for using fixed fees in civil matters is more limited. It is envisaged that fixed fees would apply to all but the most serious of criminal matters.

Taxation - Requirement for taxation means that costs can be reduced retrospectively where it is shown that unnecessary work or work not covered by the legal aid certificate has been undertaken. Taxation does involve an additional cost but experience has shown that the savings identified offsets these costs.

Professional Standards – the provision of legal aid would be based on a service level agreement or contractual agreement either between the individual advocates or a firm and the Administrator. The agreement would need to specify the advocates from the firm willing to do legal aid work and the area of work they are available for. In addition the individual advocates would need to demonstrate competency and appropriate experience in the areas of work which they wish to do and to maintain these skills through an appropriate programme of continuing professional development. The Policy Council recognises that a system of “grandfather rights” would need to be introduced. It proposes that advocates of 5 plus years call would be able to join the scheme in specialist areas on the basis of their experience in previously undertaking such case but the “grandfather rights” would be limited to 2 years to enable specialist training to be undertaken. The Administrator will work with the Guernsey Bar Association and appropriate professional bodies such as the Law Society to advise on which courses should be accepted for accreditation.

Disadvantages

Number of Advocates – In the main legal aid has been provided by the more junior advocates, that is, with less than 3 years call. As payments have been on an hourly basis this has tended to favour the less experienced and/or slower advocates. The extra-statutory scheme has not included any formal arrangements for fixed fees which, if included under the Statutory Scheme, would partly address this problem.

Conflict – There has been little evidence from the extra-statutory scheme to indicate that professional conflict is a problem under this model.

Cost – The experience of the extra-statutory scheme clearly indicates that without either reducing the hourly rate payable to advocates and/or introducing as broad a system for legal aid work to be undertaken the costs will continue to rise and controlling the rate of increase will be difficult and may prove unsustainable in the prevailing financial climate.

Taxation – Taxation is an additional administrative cost and can only be undertaken following completion of a matter and so can cause delays in settling final accounts which may delay the recovery of legal aid funding against assets preserved or secured by the legal action.

Estimated Costs

Based on the costs of the extra-statutory scheme the Working Party estimates that this model would cost between £1.4m and £1.8m per annum. This figure includes the cost of servicing the Legal Aid Office, the Legal Aid Service, taxation of files and payments to advocates. It is based on the current hourly rate payable to advocates, that is £167. The Policy Council estimates that the cost of this option would be between approximately £1m and £1.4m per annum and could be further reduced if a lower hourly rate of remuneration was negotiated or if Legal Aid was solely confined to the

Bailiwick's minimum requirements to fulfil its international obligations. However, this latter approach may expose the Bailiwick authorities to a risk of challenge.

(b) Contracted Service

Structure

Under this model the private Bar, as a whole or by individual firms or a group of firms would provide publicly funded legal aid, under a contractual arrangement with the States of Guernsey and the Legal Aid Service. The contractual arrangement could take a number of forms, for example:

- (i) All legal aid (criminal and civil matters and duty advocate services at the police and customs custody suites and the Magistrate's and Juvenile Court);
- (ii) All civil legal aid;
- (iii) All criminal legal aid;
- (iv) Duty advocate services at police and customs custody suites;
- (v) Duty advocate services at the Magistrate's and Juvenile Courts;
- (vi) Legal aid services in Alderney;
- (vii) Legal aid services in Sark;
- (viii) "Green form" advice and assistance.

The options set out above at (ii) to (viii) could be offered as separate contracts or in combinations. If option (viii) was offered under a contractual arrangement consideration should be given to including non-governmental organisations such as the Citizens Advice Bureau to tender for the contract.

The contractual arrangements would need to address issues relating to the scope of and eligibility for legal aid and how and where legal aid costs would be recovered against assets preserved or secured. In part, this will be prescribed by the legislation but the contract would need to ensure that the same criteria were being applied across the firms within the contract.

Advantages

Number of Advocates - Experience from the extra-statutory scheme indicates that there are an increasing number of advocates who appear to be specialising in legal aid work; on this basis the Working Party anticipates that there would be sufficient interest in a contractual arrangement.

Conflict - If the contractual arrangement involved a sufficient number of advocates; the discussion at (a) above applies but if it is more restrictive then the comments at (b) above apply.

Cost - The costs would be fixed and determined for the period of the contract. In addition there would be no requirement for a Legal Aid Office which would result in savings of approximately £130,000 per annum.

Taxation – Taxation would not be required.

Professional Standards – Contractual arrangements would cover the areas discussed under the Private Practice-based Model above.

Disadvantages

Number of Advocates – See comments under Advantages above

Conflict – As above

Cost – Whilst the contractual price would be negotiated in advance the Working Party noted that when the contract for the Medical Specialist Group was renegotiated it showed a significant increase over the original contract costs. This may be a concern for the States in seeking to control future public spending.

Taxation – As above

Estimated Costs

Without entering into negotiations it is impossible to indicate with any certainty the likely costs. However, given the co-operation of the members of the private Bar and, for them, the security of core funding during the contract period and the confidence that accounts would not be subject to reduction through taxation by the Legal Aid Service, it should be possible to achieve a satisfactory agreement.

In addition, if a non-governmental organisation such as the Citizens Advice Bureau was interested in entering into an arrangement to provide the advice and assistance now offered under the “green form” scheme significant savings could be made. Removing the need for a Legal Aid Office in its current form, albeit relatively small given the current overall costs of legal aid, would also make further savings.

(c) Public Defenders – Option 1

Structure

Delivery of criminal legal aid by salaried lawyers employed by the Legal Aid Service who would undertake full representation of defendants in the vast majority of criminal matters. The core provision would be provided on Island but would be supplemented, as necessary, through a contractual arrangement with mainland-based lawyers. The off-Island provision would be used in protracted matters or where it was necessary to engage a lawyer with particular specialist experience. Civil legal aid would be provided on either a private practice-based model or a contractual model.

Advantages

Number of Advocates - Section 19 of the Legal Aid (Bailiwick of Guernsey) Law 2003 allows the States to establish a Public Defenders' Office and afford the lawyers limited rights of audience within the Bailiwick's courts. That is the lawyers would only be able to practice as such whilst employed by the Office and would lose any such rights on leaving the Office. Whilst every effort would be made to recruit persons qualified as advocates before the Guernsey Bar, if this was not possible consideration would be given to appointing suitably qualified and experienced lawyers under the provisions of section 19. If it proved necessary to rely on section 19 the rights of audience would be limited to their rôle as public defenders and therefore these lawyers would lose any rights of audience when they left the Office.

Conflict - The public defenders would only be undertaking legal aid work within the scope of the Office and so conflicts would not arise due to representation in other matters.

Cost - The costs associated with this option would be more easily controlled as all employees would be salaried. However, additional monies would need to be set aside for disbursements, such as specialist reports, and to engage private advocates should a matter need to be out sourced because of professional conflict or other reasons, for example multiple defendants.

Taxation - There would be no requirement for taxation as the lawyers would be salaried.

Professional Standards - Would be addressed through the recruitment and selection process and continuing professional development would be covered in the terms and conditions of employment.

Disadvantages

Number of Advocates - The number of lawyers would be limited therefore where there were multiple defendants or where the matter was especially protracted there may be a need to outsource some criminal legal aid work which would involve an additional cost. This could be undertaken either by local advocates or under a contractual arrangement with suitably qualified and experienced lawyers on the mainland. However, the experience from the extra-statutory scheme would suggest that such situations are exceptional.

Conflict - Conflict is not envisaged save in the most exceptional circumstances. Further, there is no ECHR requirement for a defendant to be provided with a lawyer of his therefore an applicant for legal aid would have to satisfy the Court that there was a true conflict of interest rather than a wish to be represented by somebody else.

Cost – Whilst the costs would be fixed the set-up costs would be greater than for other models as the Public Defenders’ Office would need to be adequately resourced.

Taxation – Not applicable.

Other – A Public Defenders’ Office could provide appropriate legal advice, assistance and representation in criminal and public law matters as the legislation in these areas and court procedures are broadly similar to those in England and Wales. However, in private law matters, particularly family and domestic proceedings there are significant legislative and practice differences which would need to be overcome before this model could be employed across all matters covered under the legal aid scheme.

Estimated Costs

The estimated costs are as detailed below. The costings have been based on the current staffing of the Police Court Office and the Criminal Prosecutions Team for the Law Officers of the Crown on the basis that these two sections provide the prosecution side for criminal matters. A Public Defenders’ Office would need to have sufficient staff to cover the provision of legal advice and assistance to detained persons, as “duty advocate” at the Magistrate’s and Juvenile Courts, Alderney Police Court and Sark Seneschal’s Court and representation in the Bailiwick’s criminal courts.

It is envisaged that the service would employ a core of lawyers but have an agreement or agreements with appropriately experienced Chambers of firms of solicitors to provide either specialist representation for particular complex or lengthy cases, where there were multiple defendants or conflict, or where the core staff were unable to meet the demands placed upon it.

Estimated Annual Costs

Criminal defence staff – 3 lawyers	£180,000 to £230,000 (depending on experience and qualifications)
Administrative staff – 1 office manager plus 2 administrative staff and 2 paralegals	£120,000
Office accommodation	Rent £50,000 Operational Costs £70,000
Total Costs	£520,000 to £570,000 plus costs of any additional contracted in representation

Public Defenders – Option 2

Structure

As Public Defenders – Option 1 above but incorporating a proportion of public law children and mental health matters. It is anticipated that these areas of work would provide the representation for the children or the mental ill person, rather than parents or other parties involved in the matter.

Advantages

Number of Advocates – as (b) Public Defenders – Option 1.

Cost - as (b) Public Defenders – Option 1.

Taxation - as (b) Public Defenders – Option 1.

Disadvantages

Number of Advocates – as (b) Public Defenders – Option 1.

Conflict – as (b) Public Defenders – Option 1.

Cost – as (b) Public Defenders – Option 1.

Taxation - as (b) Public Defenders – Option 1.

Estimated Costs

The estimated costs detailed below are based on an assumption that the criminal defenders and public law defenders would operate from the same offices and so share administrative support.

Estimated Annual Costs

Public Law defence staff – 1.5 lawyers	£90,000 to £120,000 (depending on experience and qualifications)
Additional administrative staff – 1.5 additional staff and 1 paralegal	£55,000
Additional office accommodation and operational costs	Rent £10,000 Operational Costs £10,000
Total Costs – Option 2	£165,000 to £195,000 plus costs of any additional contracted in representation

APPENDIX 3

Comparison of Remuneration Levels

ISLE OF MAN	Preparation Time and Advocacy	Travelling and Waiting Time	Appearance Time
Summary Proceedings	£58.50 per hour	£34.50 per hour	£77.00 per hour
Trial and Appeal Proceedings (<i>Junior Advocate</i>)	£58.50 per hour	£34.50 per hour	£77.00 per hour
Trial and Appeal Proceedings (<i>Senior Advocate</i> ⁸)	£67.50 per hour	£34.50 per hour	£94.00 per hour
CENTRAL LONDON	Preparation Time and Advocacy	Travelling and Waiting Time	Appearance Time
Attendance at Custody Suites	£55.20 per hour £67.93 per hour (unsocial hours) plus £4.25 per hour standby allowance £36.95 per telephone advice call	£55.20 per hour £67.93 per hour (unsocial hours)	
Duty Solicitor at Court		£26.30	Between £55.15 and £68.90 per hour
Representation at Magistrate's Court	£52.55 per hour (preparation) £62.55 per hour (advocacy)	£26.30	£62.55 per hour (representation without counsel) £34.00 per hour (where counsel assigned)
Representation at Crown Court and Appeal Proceedings	£81.90 per hour	£34.25	£38.15 per hour

⁸ A senior advocate is an advocate of five or more years standing

APPENDIX 4

Scottish Legal Aid Board Guidelines on Reasonableness in Civil Legal Aid Cases

Section 14(1)(b) of the Legal Aid (Scotland) Act 1986 (“the Act”) requires us to be satisfied that it is reasonable in the particular circumstances of the case that the applicant should receive civil legal aid. The reasonableness test provides us with a very wide discretion. It is impossible to give an exhaustive list of circumstances in which questions of reasonableness may apply. However, it is possible to identify a number of categories where it would be unreasonable to grant legal aid, which are discussed in more detail below. We hope that these guidelines help to explain our approach to the reasonableness test. The following categories have been identified.

General issues of reasonableness

The nature of the proceedings appears unreasonable

There may be something about the case itself which is objectively unreasonable.

Application is premature

It would generally be considered unreasonable to make legal aid available where no or insufficient attempt has been made to resolve a dispute prior to litigation. We would expect to see evidence that negotiations have been attempted and failed, and that the position being adopted by the applicant in relation to those negotiations is a reasonable one.

The proceedings are frivolous or vexatious

Cases of this nature should certainly not be encouraged at public expense. Privately paying clients would not be reasonably advised to prosecute such actions.

The issues involved do not appear to be in dispute and the proposed action is unnecessary

It would not be reasonable to expend public funds litigating a matter where there is no active dispute between the parties.

The order sought is not necessary

The order might be unnecessary if, for example, the existing situation between the parties was unlikely to change and a court order was not needed to prevent it changing.

A reasonable offer has been made in settlement

It is for us to reach our own view on the reasonableness of an offer or tender. We might wish to consider factors such as the:

- likelihood of a finding of contributory negligence;
- likely cost of the proceedings;
- prospects of recovery;
- likelihood of additional sums being clawed back under section 17(2B) of the Act (particularly in consistorial cases); and
- reasonableness of any offer having regard to the sum which is likely to be awarded by the court.

The order sought will not cause significant disadvantage or prejudice

This will most likely arise in defender applications, particularly for interdict. It could also arise where the applicant is a pursuer wishing to oppose a counterclaim. If the applicant is not going to be disadvantaged by an order, it seems unreasonable to expend public funds resisting the order.

The matter could be resolved in other existing proceedings

It would be unreasonable to make legal aid available for separate proceedings when a claim or dispute could be resolved within an existing action, either as it stands or by way of an additional crave/conclusion/defence/claim in the defence being amended into the existing pleadings. It may be more appropriate for an applicant to seek an extension to an existing grant of civil legal aid.

Undue delay in seeking a remedy

Where an applicant has failed to avail himself of a remedy at the appropriate time, it may be unreasonable to make legal aid available at, perhaps, some considerably later date. This could arise, for example, where

- an interdict is sought many months or years after the incident complained of
- the applicant seeks to petition for judicial review in respect of a decision taken considerably earlier
- the original decision has been supplanted by a later decision
- legal aid has already been made available to obtain the same remedy at some earlier stage.

Applicant is not in a position to utilise the remedy sought

If the applicant cannot utilise the remedy sought, the cost of proceedings at public expense seems somewhat pointless. For example, a spouse may demand an order

transferring title in the matrimonial home, but not be in a position to meet mortgage payments, or the lender may refuse consent to the transfer from joint names on the mortgage. Whilst the remedy sought might be valid, the applicant could not utilise it.

Where the state of the evidence may make it unreasonable to make legal aid available

See Handbook at paragraph 6.2. (the Board's approach to the Civil Evidence (Scotland) Act 1988)

Applications by corporate or unincorporated bodies

Civil legal aid is not available to corporate or unincorporated bodies. Legal aid is not available to partnerships or to the individual partners of a firm to pursue or defend actions brought by or against the partnership. The effect of giving legal aid to a partner would be to give legal aid to the partnership itself. However, legal aid may be available to an individual partner of a firm if s/he can indicate an interest distinct from that of the partnership (for example, upon dissolution). Where a partnership has been dissolved, we should be satisfied that the dissolution was not a device by the partners to obtain civil legal aid. You should note that sole traders are not corporate or unincorporated bodies, and may therefore apply for civil legal aid. There is no prohibition on sole traders seeking legal aid to pursue or defend proceedings relating to 'business matters' (for example, sums not paid under a contract, etc).

Applications by persons with joint interest

In terms of regulation 15 of the Civil Legal Aid (Scotland) Regulations 2002, we can only grant legal aid to a person who is jointly concerned with, or has the same interest in the matter as other people if we are satisfied that the applicant would be seriously prejudiced in his own right if legal aid were not granted or it would not be reasonable and proper for the other persons concerned with or having the same interest in the matter as the applicant to defray so much of the expenses as would be payable from the Fund in respect of the proceedings if legal aid was granted.

An example of 'serious prejudice' would be an owner of a flat in a tenement faced with litigation over a bill for common repairs.

Examples of cases where an applicant will not suffer 'serious prejudice' include closure of a school, community centre, swimming pool, or other cultural or leisure institution.

Where a number of people each have a claim for damages, say, arising out of a common calamity and each individual has his or her own distinct claim, this would not be a joint interest situation.

Whilst the parties have similar interests, they are not the same.

Shadow applications

Applications may be received in the name of a child or impecunious relative in cases where other family members, who would not qualify for civil legal aid, have a direct and identical interest in the matter. Indeed, the other family members may be the true client in the case, providing the solicitor with instructions. It would be unreasonable to make civil legal aid available to them, in effect, through the device of granting it to an impecunious relative, thereby allowing them to avoid paying towards the litigation.

Other rights and facilities

In terms of regulation 16 of the Civil Legal Aid (Scotland) Regulations 2002, we cannot grant legal aid to someone who has other rights and facilities that make it unnecessary for him/her to obtain legal aid or a reasonable expectation of obtaining financial or other help from a body of which s/he is a member. We may, however, grant legal aid if the applicant has not succeeded in enforcing or obtaining such rights, facilities or help after having taken, in our opinion, all reasonable steps to enforce or obtain them (short of taking proceedings by way of declarator).

Other rights or facilities may include rights to indemnity under an insurance policy (legal expenses insurance, home insurance, motor insurance) or membership of a professional association or trade union.

- If an applicant is a member of a trade union or professional body which provides legal assistance to its members, the applicant must explain why s/he is not using its services.
- If the union is refusing to assist, the reason must be ascertained. It may have a bearing on probable cause and/or reasonableness.
- If the applicant has not applied to his/her union or has decided to stop taking their advice, the reason should be ascertained. The applicant might be able to satisfy us that s/he has good reasons to be dissatisfied with the past or present performance of the union-nominated solicitors. However, remember that trade unions nominate specialist firms to deal with personal injury claims.
- It would not be reasonable to make legal aid available because the applicant prefers to instruct his own solicitor, rather than a union-nominated solicitor.

Applications involving public interest

It may be unreasonable to make legal aid available to a person to litigate, as a private citizen, at public expense, about something that is obviously not exclusive to him. Examples could be fluoridation of public water supplies, noise generated by a large social or cultural event, closure of public leisure facilities. Any applications of this nature should be referred to the Legal Services Sub-Committee.

Matters de minimis

It would be unreasonable to grant legal aid where the amount at stake does not justify the cost of proceedings. This is obviously a variable factor which depends on the circumstances of the individual case, including the strength or otherwise of the merits of the case. You should take into account, in assessing the value of a claim, any deduction likely to be made in respect of contributory negligence.

Applicant convicted of a criminal offence arising from subject matter of application

If civil litigation arises as a consequence of a criminal offence of which an applicant has been convicted, it would be unreasonable to grant legal aid to oppose the merits of the action. However, it would not necessarily be unreasonable to oppose the claim on quantum, depending on the whole circumstances of the case. You may also need to consider the prospects of success, where substantial questions may arise bearing upon the reliability and credibility of evidence led at proof.

Insufficient interest

Every applicant must show that s/he has a right, title and interest to be a party to the proceedings. Even where such an interest is demonstrated, the amount of interest the applicant has may not justify the expenditure of public funds. As a general proposition, litigation which would have little or no material benefit to the applicant or is brought simply to satisfy vague demands for justice or principle should not be encouraged.

Cost benefit analysis

Our approach to cost benefit was upheld by the court in the case of *McTear -v- Scottish Legal Aid Board* 1997 SLT 108. Whilst cost alone cannot justify a refusal on reasonableness, the court was satisfied that it could be a very important factor. In balancing up the cost of the litigation, the possible benefit to the applicant, and the prospects of success, Lord Kirkwood saw no reason in principle why, if the case would be likely to involve heavy expenditure of public funds, the cost of the litigation could not effectively be the deciding factor in favour of refusal. The cost benefit analysis applies to any value of financial claim. If the applicant fails to fully recover judicial expenses, property recovered or preserved by the applicant may be subject to clawback, potentially leading to little or no material benefit to the applicant. Where the potential benefit to the applicant is equalled or exceeded by the likely cost of prosecuting the action, the application will fail the cost benefit test. Thus, if the likely benefit to the applicant is £10,000, and the cost of the action is likely to be £12,000, there is no cost benefit.

Prospects of success

McTear re-affirmed that it is perfectly appropriate for us to assess the prospects of success when considering the reasonableness of granting legal aid. It is for us to assess prospects of success having regard to all the information before us including, where

appropriate, the solicitor's own opinion as to the prospects of success. Regard must obviously be had to comments by the solicitor and counsel, but we carry out our own independent assessment. Experience shows that assertions of good prospects of success may be overoptimistic. In looking at the prospects of success, factors to be considered include, for example

- volenti and contributory negligence
- evidential difficulties arising from the fading memories of witnesses
- unsuccessful litigation of a similar nature in Scotland or elsewhere in the UK
- evidential discrepancies
- unsupportive opinions of the applicant's own legal advisers.

There may be some classes of case where less emphasis would be placed on the prospects of success, but a greater emphasis placed on other factors. In looking at prospects of success, we are not looking at a guaranteed successful outcome, but rather – all things being equal – a reasonable prospect of success.

Private client reality

Legal aid does not exist to place assisted persons in any better position than privately paying clients. We should have regard to whether a privately paying client would reasonably be advised to litigate in the same circumstances. In *Venter -v- Scottish Legal Aid Board 1993 SLT 147*, the Inner House agreed that we were perfectly entitled to have regard to what a private client would do when being advised on steps likely to involve unusually large expenditure.

Claim likely to be within the small claims limit

Assertions of a particular value of quantum must not be taken at face value. It is for us to assess whether, in our view, the claim lies above the small claims limit. Civil legal aid is not available for small claims actions. If the claim really lies below £750, it should be raised as a small claim. Take care to note contemporary levels of quantum and check the current edition of the Judicial Studies Board Guidelines for personal injuries cases (in particular, for psychiatric injury).

The prospects of recovery do not justify the use of public funds

Where there are insufficient prospects of recovering both the principal sum and expenses, it would be unreasonable to waste public money obtaining an unenforceable decree. The solicitor's comments on the CIV/APP form as to the prospects of recovery should be noted, but we must reach our own view, having regard to all the circumstances. Experience indicates that forms invariably suggest there are good prospects of recovery. We should consider whether the opponent:

- is insured
- has substantial capital assets or income to satisfy a decree
- has been sequestrated or is in liquidation
- is not indemnified by the insurer for the particular risk or claim
- is furth of Scotland with no employer or capital in Scotland
- has unreachable assets (for example, individual placing property behind the corporate veil) or
- is in receipt of civil legal aid.

Proceedings in a court outwith Scotland are more appropriate

This factor interacts with an examination of jurisdiction when assessing probable cause. There may be cases where both the Scottish and foreign courts have jurisdiction. Factors which might be relevant in assessing which country is more appropriate include, for example, place of accident, place of business/residence of opponent, location of witnesses, whether there are existing related proceedings in the other jurisdiction, existence of a statutory remedy in Scotland although incident occurred abroad (for example, under domestic legislation implementing an EU Directive).

Judicial Committee of the Privy Council

In what will invariably be extremely expensive proceedings, where the Fund is at considerable risk of bearing the high costs of both sides, the standard that is applied to the application is relatively high. Although accounts have typically been claimed at around £50,000 (inclusive of counsel), the total bill claimed by both parties in one recent case was in the region of £200,000.

- The sum involved, after making appropriate allowances for any element of contributory negligence, or the importance of the point at issue, must justify the cost of proceedings.
- An applicant who has been successful in the court at first instance but not before the Inner House is on relatively stronger ground than one who has failed both at first instance and on appeal.
- In any application for proceedings before the House of Lords, or JCPC, we should be satisfied that there are not only significant prospects of success, but also significant points of law to be argued.

APPENDIX 5

GUERNSEY BAR COUNCIL

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Please quote our reference in all correspondence
Our ref: PAH/KLB/G1049002/bell-104

7th April 2005

Deputy W M Bell
Chairman
Legal Aid Working Party
States of Guernsey Advisory & Finance Committee
PO Box 43
Sir Charles Frossard House
La Charroterie
St Peter Port
GUERNSEY
GY1 1FH

Dear Deputy Bell,

I have been asked on behalf of the Bar Council to comment upon the draft report to be submitted by the Policy Council in relation to the Legal Aid System.

On behalf of the Bar Council, I am grateful to you for being offered the opportunity of commenting upon the content of that report before its publication.

The Guernsey Bar remains committed to assisting in the provision of adequate Legal Aid Services in the Island and wishes to work together with the Policy Council and the Legal Aid Administrator in arriving at the most efficient and effective delivery of such services.

There is ample proof of this commitment in that the Guernsey Bar was able to respond in a speedy and effective manner in helping the States to establish the extra statutory legal aid scheme. The Guernsey Bar is and remains conscious of the cost of the provision of legal aid services in Guernsey. It should be noted that the Guernsey Bar has voluntarily waived its entitlement to claim any index increase in the hourly rate paid to Guernsey Advocates for both 2004 and 2005.

At the end of 2003 the Guernsey Bar submitted detailed submissions to your Working Party Group in which we advocated possible further savings that could be introduced, in particular through:-

- 1) the application of fixed fees to a number of legally aided criminal matters.
- 2) possible savings on Civil Legal Aid demands if the Guernsey Bar was allowed to charge fees for civil actions on a conditional fee basis.

The Bar acknowledges that there has been an improvement in the past 6 months in the control of legal aid costs, that has probably not yet been reflected in the statistics quoted in the report. It must also be acknowledged that, had such controls (particularly the taxation of costs) been in place from the outset, that the costs of legal aid would have been reduced. Undoubtedly, going forward, even with the current hourly rates, the overall cost of legal aid will reduce as a result of the application of these controls.

The inability of the Legal Aid Administrator and of the Bar to enforce recovery of contributions from assisted clients has impacted the overall costs of legal aid.

Whilst the Guernsey Bar through fee negotiations can assist in helping to achieve some control over the costs of delivery of Legal Aid the Guernsey Bar unfortunately cannot control the demands for Legal Aid. Control over the demand for Legal Aid services must rest upon the States of Guernsey and in particular the policies that the States wish the Courts to adopt in relation to certain aspects of the criminal law, especially with reference to drug related matters and tolerance for social disorder. With respect to Civil Legal Aid matters it is entirely for the States of Guernsey to determine the extent to which Civil Legal Aid should and/or needs to be made available. The Guernsey Bar is not, however, convinced that the limitations on the availability of legal aid for civil proceedings recommended in your report are consistent with the Island's Human Rights Commitments. The Bar also considers that there needs to be greater clarity as to what will be encompassed by the expression "domestic proceedings involving children".

In your report you draw attention to the costs of Legal Aid. On behalf of the Bar I would point out that the cost of criminal matters, as we believe, has been in line with the original projections made in 2001. It should be noted, however, that in the costs of providing Legal Aid in criminal matters a significant proportion of the total cost relates to Legal Aid provided to non-Guernsey residents, particularly those arrested and charged on arrival in Guernsey in connection with the importation of drugs. It should also be recognised that the costs of Legal Aid in criminal matters cover all levels of criminal jurisdiction in Guernsey from attendance at the custody suite in the police station, the provision of a duty Advocate at the Magistrate's Court to costs associated with providing defences for Royal Court trials.

With reference to the costs of providing legal aid in civil matters, it should be noted that a high proportion relates to family and matrimonial matters, which is a reflection of the high level of divorce, separation and contested family matters in the Island. These figures are

aggravated by the increasing number of public law cases of children being taken into care whereby the Guernsey Courts have had little choice than to follow the English authorities of providing separate representation for the child/guardians. Other public departments associated with this process will have no doubt noted the escalation of costs associated with such cases. In some instances, this could and does involve as many as 5/6 Advocates being involved in the same case representing different interests. Likewise, single parents on supplementary benefit are obliged by the Department of Social Security to obtain maintenance orders, which are funded under legal aid (formerly funded under the Social Security budget). Again, these are not matters the Guernsey Bar can control, but matters solely within the discretion and practice of the Courts and the relevant States Departments. The application of a “no means no merits” test by the Courts as entitlement to legal aid in such cases potentially removes any control that the Legal Aid Administrator has over the costs of such proceedings.

Year on year it is not possible to budget accurately the likely cost to the public purse for the provision of Legal Aid Services, as no one can predict with any certainty the level of demand for those services that may arise during the course of the calendar year. One major defended prosecution case brought in the Royal Court against two co-accused for alleged drug trafficking could, for example, in itself account for £50/60,000 of unbudgeted legal aid costs.

In your report you have focused on the hourly rates charged by Guernsey Advocates and you have sought to draw comparison with rates charged in the Isle of Man and in London. With respect any attempt to draw strict comparisons might be considered misleading for the following reasons:-

- 1) Although the headline hourly rate for Guernsey Advocates is correctly stated, the effective rate recovered by Guernsey Advocates is considerably lower, particularly after taking into account (i) the inability to recover contributions from assisted clients, (ii) the effect of costs taxation and (iii) time written-off by members of the Bar for time spent on client care.
- 2) The rates quoted for London are, we believe, rates that are only applicable to Solicitors. They do not extend to or include rates that would be paid to Counsel when Counsel is briefed to appear. It should be borne in mind that the profession of the Advocate in Guernsey is that of a fused profession fulfilling the dual roles of Solicitor and Barrister, thereby avoiding the doubling up of costs that occurs in England.
- 3) The comparison with both London and the Isle of Man does not draw a true comparison with the costs of dealing with individual cases. The additional add on costs in both London and the Isle of Man do, we believe, considerably inflate the overall cost per case.
- 4) The single rate applied in Guernsey covers all aspects of the legal aid process spanning attendance at the custody suite at the police station through to appearing at

lengthy Royal Court trials. The rate covers practitioners from those who may only have 1 or 2 years qualified experience to those of 15 years or more who regularly appear on criminal legal aid matters. We estimate that, of the Advocates who regularly undertake legal aid assignments, approximately fifty per cent. have more than 5 years' post qualification experience.

- 5) The costs associated with recruitment and retention of staff in Guernsey are unfortunately higher than in other jurisdictions, particularly housing costs. The average overhead costs associated with running a Guernsey legal practice, are, we estimate to be on average 55% of fee income and that overhead cost is before allowing for the payment of any salaries to the principals of the practice.

We suggest that a more appropriate comparison would be with the hourly rates charged in Guernsey by the medical profession with whom the States have from time to time negotiated. The Bar would also welcome an assessment of the overall costs of legal aid in Guernsey per capita of population in comparison with other jurisdictions.

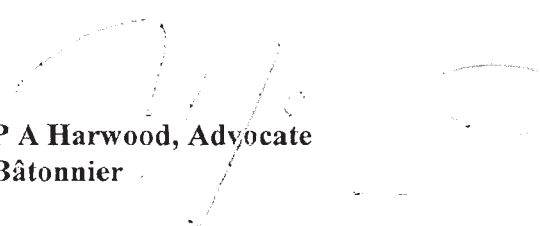
The fees paid to the Guernsey Advocates are only one element of the costs of providing legal aid services. Costs associated with obtaining experts reports and evidence, and the assistance of forensic accounting services, have also contributed to the overall costs of legal aid, although this is not necessarily apparent from your report. The management of cases by the Courts has added to the costs with the Courts' insistence upon additional preliminary hearings. The Magistrate's Court (possibly, in response to public demand) has shown a greater tendency to consider imposing custodial sentences for a wider range of offences. Such an approach has increased the demand for obtaining pre-custodial reports, which, in turn, require additional court appearances on behalf of defendants.

In looking at the options included in Appendix 2 of your report, the Guernsey Bar would be supportive and willing to co-operate with the establishment of either option (A) or (B). The estimated costs of establishing the public defenders option (option (C)) is, we suggest, flawed. We have serious reservations that an office of three qualified lawyers would be capable of providing the full range of criminal legal aid services required. For example, one trial with multiple defendants in the Royal Court could tie up 2 or 3 of those lawyers with no one available to cover other proceedings. It is suggested that a more realistic minimum would be 10 qualified lawyers to provide the full level of services currently provided by the Bar at an estimated initial salary cost of at least £60/70,000 per qualified lawyer. In addition to basic salary costs, the establishment of a public defence system would require further employment costs including Pensions, Health Scheme cover, Professional Insurances etc. The accommodation and other support costs associated with providing a functioning legal practice would also be commensurately higher. Whilst it may be possible for the States of Guernsey initially to control costs by direct employment the States must recognise that they would inevitably be building into the system future employment inflation costs. For the reasons stated above we doubt also whether it would be viable or possible for the same group of people also to cover even the restricted civil legal aid matters suggested, e.g. public law,

children and mental health matters, especially where the Courts require each party to any children issue to be legally represented.

If and to the extent that the States were minded to adopt option (C) by having a directly employed legal aid service it is doubtful if the Guernsey Bar would be in a position to provide additional criminal legal aid support, given that there would be insufficient opportunity within the Guernsey Bar to build up the level of expertise in matters of criminal law that is now required for those providing Criminal Legal Aid Services.

Yours sincerely,



P A Harwood, Advocate
Bâtonnier

(NB The Treasury and Resources Department supports the proposals)

The States are asked to decide:-

IV.- Whether, after consideration of the Report dated 21st April, 2005, of the Policy Council, they are of the opinion:-

1. To approve the establishment of the Office of Legal Aid Administrator as proposed in that Report (as set out in paragraphs 5 (b), (d), (e), (f), (h), (i) and (j)).
2. (a) To authorise the Policy Council to negotiate with the Guernsey Bar regarding the basis for, and rates of remuneration for publicly funded legal aid work and to report back to the States on the outcome.
2. (b) To direct the Policy Council to report to the States with recommendations, including an estimation of costs, for all or any of the models for the delivery of legal aid.
3. To require Departments proposing new legislation to indicate any likely impact on the proposed Legal Aid Fund as a direct or indirect result of the proposals.
4. To direct the preparation of such legislation as may be necessary to give effect to the foregoing.

HEALTH AND SOCIAL SERVICES DEPARTMENT

FUTURE MANAGEMENT OF ST JULIAN'S HOUSE

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

23rd March 2005

Dear Sir

1. **EXECUTIVE SUMMARY**

The Health and Social Services Department is reporting, as required by States resolution, on proposals for the future of St Julian's House.

It is proposed to make St Julian's House suitable for accommodation for the homeless, together with a unit for recidivist drinkers, who do not wish to stop drinking, which will accommodate overnight those who are 'Drunk and Incapable'. It is also proposed that part of the house be used as a non-residential unit for outreach drug services, in accordance with the Bailiwick Drug Strategy.

It is believed that these developments could be carried out in a phased manner over the next two to three years. The total capital cost is estimated at some £915,000 and the recurring revenue cost would be £15,000 p.a. No additional staffing establishment is needed.

2. **INTRODUCTION**

The States meeting in January 2004 (Billet d'État I) considered a policy letter from the then Housing Authority (copy attached) and resolved:

“To direct that the Health and Social Services Department shall report back to the States, no later than January 2005, with its recommendations on the type of service(s) and client group(s) to be served by St Julian's House, having consulted fully with the Housing Department and the Home Department, together with all other relevant non-governmental agencies.”

The States, at its meeting in November 2004, noted the Health and Social Services Minister's statement that the States Report would be delayed until Spring 2005.

3. **HISTORY**

A detailed history was provided to the States by the former Housing Department in its report of 16 December 2003. This report noted that St Julian's House had developed from its original purpose of 1966 "to accommodate persons of a similar nature to those previously accommodated in the St Peter Port Hospital; those requiring accommodation for a short period prior to finding employment and lodgings; and persons requiring accommodation while awaiting repatriation to the mainland".

In 1972, an annexe was approved for the purpose of accommodating people who were not willing to accept the modest discipline that the hostel required of them. Its prime purpose was to provide short stay accommodation for those people not willing, or able, to control their alcohol consumption.

4. **CURRENT SITUATION**

St Julian's House can accommodate 33 persons but, as at January 2005, there were 18 residents: 2 female and 15 male in the main house and 1 male in the annexe.

During 2004, the overall bed occupancy of St Julian's was 72%, comprising 95% in the main house, 29% in the female unit and 59% in the Annexe.

The average male age is 64 years, ranging from 49 (youngest) to 75 (eldest), with only 5 under 65. They have occupied St Julian's House for an average of 9 years; this varies from 1 to 25 years.

Of the two women, one is 65 years old and has lived there for 20 years. The other, a 40 year old, has been resident for six months.

The cost of running St Julian's House in 2004 was £395,245, including a recovery of £100,456.

There are a total of 12.99 whole time equivalent staff involved in the running of St Julian's House.

A disproportionate amount of the accommodation is used for staff (i.e. a two and a three bed roomed flat).

A substantial cost of recidivist drinkers is borne by the Police. It has been estimated that over £40,000 per annum is spent on specific drink-related offences, i.e. 'Drunk in a Public Place', 'Found Lying Drunk', 'Disorderly while Drunk', 'Drunk on the Premises of Another', etc. for a relatively small number of citizens (in the order of 12 people per annum). Many of these citizens will also be taken to prison following a court appearance.

5. **CONSULTATION**

One to one meetings were held with representatives of:

- Police
- Parish Procureurs of the Poor
- Guernsey Alcohol & Drug Abuse Council
- Probation Service
- Adult Psychiatric Service, including addiction services
- Housing Department
- Social Work
- Public Health
- Drug Strategy Co-ordinator
- St Julian's League of Friends
- National Children's Homes (locally)
- Prison
- Adult Disability Services
- MIND
- Social Security Department
- The Salvation Army
- St Julian's House management

Three multi-agency meetings were held, with representatives from:

- Police
- Prison
- Probation Service
- Mental Health Medical Staff
- Nurse Specialist, Alcohol Abuse
- Social Workers for Adults, Mental Health and Learning Disability
- Housing Department staff
- Health and Social Services Department senior management

At its third, and final, meeting, representatives from the following organisations were invited to address the group:

- Jersey Shelter Trust
- National Children's Homes Youth Housing Project
- Drug Strategy Co-ordinator

6. **CONCLUSIONS FROM CONSULTATIONS**

The underlying reasons why an individual becomes homeless are varied, but differ little from those identified in 1966. Each of the following problems may lead to people finding themselves homeless and, because of the social stigma associated with such problems, they often cannot find anywhere else to live:

- i. addiction issues (alcohol, illicit and prescription drugs);
- ii. mental health problems;
- iii. mild to moderate learning disabilities;
- iv. returning to the community after a time in prison;
- v. emerging into the community as a young adult from social care;
- vi. relationship breakdown;
- vii. requiring one or two nights' accommodation while awaiting repatriation to the mainland.

The number of homeless people, however, is relatively small, averaging less than 24 people at any one time. This includes those recidivist drinkers, for whom there is currently no provision but excludes those for whom St Julian's House would not be an appropriate service, eg. the under 18 age group and others provided for by the National Children's Homes' Youth Housing Project or other organisations.

There is, however, an apparent need for a 'Drunk and Incapable Unit', where intoxicated individuals can 'sleep it off' and thereafter discuss their drinking habits with trained staff, rather than incur criminal records and endure court appearances.

There is also a need for the Probation Service to have access to accommodation for people on bail or newly released from prison and a need for a base in St Peter Port for non-residential drug services.

7. **OPPORTUNITIES**

The low occupancy and several staff vacancies provide an ideal opportunity for changes to be made, both in the buildings and in the skill mix of staff. These changes could, however, be phased over the next 2 – 3 years.

8. **PROPOSALS**

Having identified the reasons why an individual becomes homeless, the following is a proposal for how these needs can best be met. The development would primarily be in two parts, the development of the annexe and the development of the main house and flats.

It is proposed to develop the annexe into single room accommodation for recidivist drinkers, including within this development a one or two bed unit for those who are 'drunk and incapable'. Developing this service will enable

recidivist drinkers and people found under the influence of alcohol in the community to feel more in control of their lives and prevent the inappropriate use of prison for such offences. It will also address the concern of potential 'death in custody' where people taken into custody in vulnerable conditions are at risk.

Various risk strategies will be implemented to monitor this vulnerable client group, including monitoring their conscious state and risk of vomiting. It is acknowledged that the facilities provided will remain basic but, from the community perspective, it will address a key concern from the general public on how recidivist drinkers are currently managed.

a) Annexe (See Appendix 1) the plans demonstrate the following changes

The annexe to be converted into single room accommodation for recidivist drinkers and to include a 1 or 2 bed unit for 'Drunk and Incapable'. (5 beds in total)

The annexe has its own gate, adjacent to a road and can easily be accessed by the police as necessary.

The room currently used as a sitting area for annexe residents will be used by multi-agency groups assisting recidivists (either residents or non-residents). Provision of showers, hot meals, etc. will be made available to non-residents who wish to use them.

The unit will need 24 hour awake staff instead of the resident on-call staff currently used at night.

b) Main House / Flats (See Appendices 2 and 3)

It is proposed that the main house and flats be divided in two areas, with the larger flat being developed as a separate independent unit to cater for people who require support for substance misuse. This could act as a multi agency development, involving other services such as Drug Concern and the Clinical Nurse Specialist for Substance Misuse. This flat would not need any physical alteration to become a multi-agency building, providing non-residential services for people with, or affected by, drug addiction problems. This flat has its own entrance and will be used independently from the main house. There are no staffing implications of this proposal.

The main house, including the smaller flat, would be converted to provide the maximum possible number of single-rooms, a proposed total of 21 beds. This would be used primarily for the homeless but with beds available for use by the Probation Service for people on bail or newly released from prison. There would be one en-suite room for overnight

on-call staff.

It would also be necessary to provide an additional 5 car parking spaces as there will be an increase in visitors to the house from Probation and other services.

9. **PHASING**

Phase 1

The low occupancy in the annexe means that this could be the first stage of the project. It would then provide for the recidivist drinkers and those 'drunk and incapable' for whom there is no suitable service currently available.

Phase 2

The low occupancy of female beds means that if the two residents could be re-housed, possibly the elder within a residential home and the younger given help to find other more suitable accommodation; this will allow the gradual conversion of dormitories into single rooms.

Phase 3

When the resident staff have been re-housed, the project could be completed. This can be done without the need to rehouse any of the existing residents.

10. **CAR PARKING**

A car parking feasibility study has been completed and has indicated that the existing 7 spaces could be increased to 12.

11. **CHARGES**

Charges to residents need to be fair and equitable. It is proposed that a fair rent be charged, which allows those who work to retain the rest of their income and those on States subsidies to have more personal monies. It is not intended that use of the Annexe be charged in the same way as the main house, but that a nominal charge be agreed. If charges were the same as the main house, this would not solve the problem of accommodation for the recidivist drinkers, as some would refuse to pay the agreed rate.

12. **RESOURCE IMPLICATIONS**

Capital

Outline working drawings have been prepared to give an estimated cost, which is some £915,000. The first phase above, conversion of the Annexe accounts for

£320,000 of this.

Staffing and Other Revenue

A skill mix review has been undertaken to determine the numbers and types of staff required for the proposed client groups.

No more staff will be required, but the additional costs for different types of staff have been calculated to be in the order of an extra £15,000 per annum.

The current income received is £100,456 per annum (2004 figures). It is not anticipated that the level of income will change significantly as recent and current occupancy has remained well below the maximum of 33. Non-pay revenue budgets should not be affected by the proposed changes, as there are opportunities to benefit from economies of scale now that St Julian's House is part of a larger States Department.

Consequently, the total increased revenue required is £15,000 per annum.

13. **RECOMMENDATIONS**

The Health and Social Services Department recommends the States:

- i. to approve that St Julian's House be used as accommodation for homeless people, with units for recidivist drinkers, those who are drunk and incapable and non-residential outreach drug services;
- ii. that, if i) above is approved, to direct the Treasury and Resources Department to consider the capital and revenue requirements needed by the Health and Social Services Department to implement these proposals when recommending resource allocations to the States for 2006 and subsequent years.

Yours faithfully

P J Roffey
Minister

Attachment:
2003 Policy Letter (included in Billet d'État I of 2004)

STATES HOUSING AUTHORITY

The President
 States of Guernsey
 Royal Court House
 ST PETER PORT

16th December 2003

Dear Sir

FUTURE MANAGEMENT OF ST JULIAN'S HOUSE

Executive Summary

In October 2003, the President of the Public Assistance Authority, Deputy Mrs P Robilliard, proposed an amendment directing the Housing Authority to report back to the States on the feasibility of the management of St Julian's House being undertaken by the Housing Department from May 2004.

A Welfare Hostel at St Julian's House was established in 1966 to accommodate persons of a similar nature to those previously accommodated in the St Peter Port Hospital; those requiring accommodation for a short-period prior to finding employment and lodgings; and persons requiring accommodation while awaiting repatriation to the Mainland.

The establishment of the Hostel was followed in 1972 by the establishment of the Night Stay Unit (now known as the "Annexe"). The purpose of the Night Stay Unit was to accommodate those people who were not willing to accept the modest discipline which the hostel required of them. Its prime purpose was to provide short stay accommodation for those people not willing or unable to control their alcohol consumption.

A review of the current services has shown that the short-term facilities for homeless men and women have largely been phased out and that the accommodation is under-utilised, especially in the women's accommodation and the Annexe. A combination of factors have led to this change:

- the age of the current occupants;
- the social/medical/psychiatric problems of the occupants;
- the desire to improve the standard of the premises;

- the adoption of policies that have led to difficult and troublesome persons being refused access to the facilities.

Accordingly, the Authority has found that the overall use of both the House and the Annexe differ significantly from what was agreed by the States. Both are occupied by persons with a variety of significant social, medical and psychiatric problems, who require far more than just a bed for the night or accommodation on an ongoing basis.

As a result, the Authority has concluded that the future Housing Department will be ill-equipped to cope with the needs of the current residents. It has also formed the view that there should be a review of the type of service(s) and client group(s) to be served by St Julian's House and the Annexe.

The Authority, therefore, recommends that: (i) the management of the facility be transferred to the Health and Social Services Department as originally intended; and (ii) the Health and Social Services Department should be directed to report back to the States by January 2005 on the future use of St Julian's House, having consulted with the relevant States' departments and non-governmental organisations.

Introduction

The following amendment, proposed by the President of the Public Assistance Authority, Deputy Mrs P Robilliard, was accepted by the States on 30 October 2003:

“..... the States Housing Authority shall be directed to report back to the States, by January 2004 at the latest, concerning the feasibility of the management of St Julian's House being undertaken by the Housing Department.”

This report sets out the findings of a review of the historic and current services provided by St Julian's House, and makes recommendations regarding its future management.

The history of St Julian's House 1966 - 2003

Welfare Hostel as St Julian's House - 1966

In Billet d'Etat III 1966, the States Public Assistance Authority – Hospital Board - placed before the States a report outlining proposals for the removal of what were then termed “inmates from the St Peter Port Hospital”.¹

¹Whilst the Hospital Board recommended that the administration of the Hostel be “divorced” from the St Peter Port Hospital (and therefore the Hospital Board), the Public Assistance Authority was comprised of a number of separate Boards of which the Hospital Board and the Central Outdoor Assistance Board formed two. The recommendation was, therefore, proposing a transfer of responsibility between two different arms of the same Authority – an Authority that had, amongst other things, responsibility for: the financial needs of persons in the community; for Islanders in need of geriatric hospital care; and, for children and young people in need of care.

The St Peter Port Hospital had been built mainly for the purpose of housing homeless and destitute persons rather than for the treatment of patients, but over the years this concept had changed and by 1966 the Hospital Board were doubtful as to whether there was a single hospital in the United Kingdom which still housed such persons. At the time the Hospital Board were aware that homeless and destitute persons were being housed in welfare hostels, leaving hospitals to care for persons in need of medical and nursing care.

The Hospital Board, therefore, altered and modified the St Peter Port Hospital to become a hospital for geriatrics. However, in 1966 there were still a number of persons accommodated in the Hospital who could not be considered as patients but who were unable to live independently for a variety of reasons, not the least of which was that they had been cared for over such a long period they had become totally institutionalised. The Hospital Board policy letter referred to these persons as “social misfits who are not acceptable in any lodgings and who are incapable of living on their own”. In some instances these “social misfits” were adults who would now be referred to as suffering from learning disabilities.

It was the opinion of the Hospital Board that there was an urgent need for the establishment of a welfare hostel to which the “inmates” could be transferred, and which could also be used to house:

- persons of a “similar nature” to those transferred from the St Peter Port Hospital;
- persons requiring accommodation for a short period prior to finding employment and lodgings; and
- persons who required accommodation for one or two nights while awaiting repatriation to the Mainland.

The Hospital Board hoped that staff would be able to rehabilitate those accommodated in the hostel so “that they would regain their self-respect and become normal members of the community again.”²

At the time of the policy letter, the Housing Authority was responsible for St Julian’s House and it had been used to provide emergency accommodation. By 1966 the Authority had vacated the major portion of the House and, after inspecting the building,

² In reality there was no hope of rehabilitation for the majority of those persons transferred from the St Peter Port Hospital. Many had been resident in the Hospital prior to the Second World War, and those who were not suffered various degrees of learning difficulty.

the Hospital Board believed that it would be possible to convert the premises into a welfare hostel that could accommodate 20 people.

The Hospital Board, therefore, recommended, and the States approved, that: (i) St Julian's House be converted into a Welfare Hostel; and (ii) that the administration of the hostel be "divorced" from the St Peter Port Hospital and become the responsibility of the Central Outdoor Assistance Board (COAB) (see footnote 1 above). In addition, it was agreed that the furnishing of the hostel should be kept to a minimum as it was intended that it would only provide food and shelter, with the articles of equipment used by the "inmates" being transferred to their new accommodation.

This minimalist approach to expenditure was fostered by the fact that the setting up of a Hostel was seen as an experiment until the need for such accommodation might be assessed and ultimately consideration given to the construction of a purpose-built unit.

In 1968 the COAB returned to the States with a request for an additional credit to cover unexpected costs that had been incurred in the conversion of St Julian's House into a hostel (Billet d'Etat XVIII). The major item of expenditure was the conversion of the top floor of the house into a Warden's flat to accommodate the new Warden, his wife and two children.

Night Stay Unit at St Julian's Welfare Hostel - 1972

In April 1972 (Billet d'Etat VI), the COAB asked the States to consider a request for a Night Stay Unit at St Julian's Hostel.

The Hostel had opened at the end of September 1967 and within one month 10 residents had been admitted, including those from the St Peter Port Hospital. By March 1972, the hostel accommodation was limited to 20 persons and the occupancy averaged around 18 persons.

The COAB advised the States that it endeavoured to maintain a reasonable standard of accommodation for its residents, but it had become apparent since the Hostel opened that there were two distinct categories of persons for whom accommodation was required:

- those persons who were willing to accept the modest discipline which the hostel required of them; and
- those who were not willing to do so.

The second category of person (the "hard-core") were referred to by the Board as follows:

"These persons reject almost every social convention, resent any kind of discipline or restriction, and in almost every case are the victims of a total inability (or unwillingness) to master alcoholic habits".

The policy letter went on to say that:

“The Board accepts that it is its responsibility to provide some sort of accommodation for this ‘hard-core’ type who at present is sleeping rough.”

The Board advised the States that it considered the provision of a Night Stay Unit was a matter of urgency and expressed their desire for it to be open for the winter of 1972/73. Following a search for suitable accommodation the Board concluded that a disused outbuilding in the grounds of St Julian’s Hostel would be converted into a Night Stay Unit.

The States agreed to the recommendations of the COAB and the Night Stay Unit was built to accommodate 14 men. It was separate from the Hostel, with its own entrance.

St Julian’s House – Conversion of Ground Floor for use by Women - 1977

Whilst the conversion of St Julian’s House into a hostel in 1967 had provided accommodation for both men and women, by 1977 the COAB reported to the States (Billet d’Etat XVII 1977) that it had become aware of the inadequacy of the facilities for women and girls at St Julian’s.

Following the receipt of information obtained from the Guernsey Welfare Service and other organisations regarding the number of homeless women and girls identified in a survey carried out during 1975/76, the Board decided that the ground floor facilities of St Julian’s Hostel should be upgraded for use by women and girls.

The proposals would, it was claimed, result in the most appropriate use of the existing facilities and the management of the extended accommodation would, in all likelihood, be accomplished by fully utilising the existing members of staff.

At the time of the report, consideration of the future management of the Hostel had not been finalised - a new warden had just been appointed - however, it had been concluded that if the number of staff members needed to be increased to administer the new female unit then no more than one additional part-time attendant would be required.

Refurbishment and Upgrading of Facilities 1979 – 1986

Since St Julian’s Hostel and the Night Stay Unit opened there have been a number of extensions and improvements made to the accommodation. These have been carried out to ensure that the space is utilised in as an efficient and effective manner as possible given the constraints of the building. These improvements include:

- construction of a new kitchen, bathroom and fire escape – 1979;
- new roof, improved vehicular access and remedial work to external walls – 1980;

- improvements to and extension of the Night Stay Unit – 1984; and
- repairs to the structural supports of the dining room, extension of the dining room, and the recovery of an open courtyard with the potential for the provision of additional units of accommodation – 1986.

While there have been no further improvements requiring an approach to the States, since 1986 the Public Assistance Authority has carried out a number of improvements to St Julian's House and the Annexe (resulting from a Board of Health assessment in 1993 - see below). These have included:

- provision of a sitting room for persons using the Annexe;
- new toilet/washing facilities within the Annexe;
- complete refurbishment of the women's lounge;
- new windows on the main house;
- a new roof for the Annexe; and
- complete upgrading of toilets, bathrooms and bedrooms, men's lounge and dining room in the main house.

Board of Health Inspection – July 1993

In July 1993, at the request of the Public Assistance Authority, the Board of Health's Director of Community Services carried out an assessment of St Julian's House to ascertain the effects of Board of Health proposals for a new code of practice and legislative requirements for residential and nursing homes in the Island. This assessment looked at the staffing levels, standards and facilities in both the main House and the Annexe, **but did not review the services provided.**

The resulting report noted that the House did not meet modern criteria for long-term residential care³, and made a number of suggestions as to how this could be improved – one of which was to reduce the number of beds in the Annexe from 14 to 13.

Levels of Occupancy

Although the various policy letters describe in some detail the type of person to be accommodated and the type of accommodation they require, it is not until 1979 that

³ The Director of Community Services made it clear his review report findings would be imperfect "because the function of the St Julian's House is not the same as for a residential home for the elderly."

details regarding the maximum number of persons who could be accommodated are quoted. Further references are made in 1980 and 1986⁴, leading to the following summary of the accommodation available at various dates:

Year	Main House	Night Stay Unit	Women's Section	Total
1979	21	14	10	45
1980	21	14	9	44
1986	22	14	12(?)	48(?)
2003	16	10	7	33

The reduction in the number of beds over the last 16 years has been mainly as a result of the advice contained in the aforementioned Board of Health inspection report. Consequently there are fewer beds available to meet the needs of those people for whom St Julian's House and the Annexe were intended.

Current occupancy (as at week ending 9 November 2003) was as follows:

Year	Main House	Night Stay Unit	Women's Section	Total
2003 (maximum)	16	10	7	33
9 November 2003	15	3	3	21

The reasons for the current low numbers accommodated are explored below.

St Julian's House – The Present Day

The current usage of St Julian's House and the Annexe (the term Hostel was dropped in the 1980's and the Night Stay Unit is now known as the Annexe) has changed dramatically from the original purposes set out in the 1966 and 1972 policy letters.

St Julian's House currently accommodates 21 people in a property that has the facilities to accommodate 33 people, and the potential to accommodate a much higher number than this. The accommodation is thus under-utilised, especially in the women's accommodation and the Annexe.

The short-term facilities for homeless men and women have been largely phased out as a result of a combination of a number of factors:

⁴ No numbers are mentioned in 1986, only the possibility that the female accommodation might be increased by 30%.

- the age of the current occupants (this has very nearly always been the case);
- the social/medical/psychiatric problems of the occupants;
- the desire to improve the standard of the premises;
- the adoption of policies that have led to difficult and troublesome persons being refused accommodation.

The application of some or all of the above factors is most noticeable in the administration of the Annexe (Night Stay Unit).

The original purpose of the Night Stay Unit was to provide accommodation for those people not willing or unable to control their alcohol consumption. The Unit was created for the Island's worst alcoholic cases; facilities were minimal; and there was little or no attempt to rehabilitate those persons who frequented the Unit. As such it attracted those persons who wanted to spend their money on alcohol with little or no interference. Very few, if any, drunks were turned away from its doors and the Unit was generally full.

The Night Stay Unit described above no longer exists.

The Annexe is, as its name suggests, an extension of the main building. The facilities provided are of a similar quality, and the age and type of person frequenting the Annexe is little different to that to be found in the main house. It has a higher turnover and is used by younger persons on occasions, but the habitual drunk is no longer the most frequent user – especially if that drunk is deemed to be of a troublesome nature. It is now accepted policy that troublesome drunks who behave in a somewhat unsavoury fashion are barred from the Unit.

The Manager (Warden) of St Julian's/the Annexe accepts that the above is the case and is conscious of the fact that most of the Island's worst alcoholics will be found dossing down in toilets etc around the Island, e.g. the Crown Pier toilets.

The Authority observes that, as matters stand at the moment, if room for the three occupants of the Annexe could be found in the main house the Annexe could be closed down or returned to its original purpose.⁵ (This is discussed in more detail below.)

Although the changes in usage are most noticeable in the Annexe, St Julian's House itself does not provide accommodation along the lines set out in the 1966 policy letter;

⁵ The Night Stay Unit was not the equivalent of what would now be defined as a "wet house" in that it was not solely intended to house men who were drunk and incapable. However, in practice the majority of nightly residents admitted were intoxicated to a greater or lesser degree.

in particular, in relation to “those persons requiring accommodation for a short period pending finding employment and lodgings.”

Though cases of the above do occur they are relatively rare and this has always been the case. The reason for this is simple – St Julian’s is predominantly occupied by aged men and women who, once admitted, stay for the rest of their lives, or until such time as they become ill and require nursing/hospital accommodation. There is no throughput as such as a result of rehabilitation. Given that the average stay of men in the main house is 10.5 years it is easy to see why the premises could be considered as a residential home – albeit a residential home for persons with social/medical/psychiatric problems as will be demonstrated below.

The current occupancy of the unit

St Julian’s House and the Annexe are together able to accommodate a maximum of 33 people, but they currently accommodate only 21 persons.

Generally speaking, both current and past residents of St Julian’s House will have suffered from significant social/medical/psychiatric problems at some stage, necessitating the provision of ongoing supervised accommodation.⁶ Although a few have moved on to specialist accommodation or even private sector accommodation, the tendency will be for them to stay at St Julian’s House on a long-term basis, as is evidenced by the current residents.

It is likely that the stresses of living alone might prove too much and that, in any event, St Julian’s provides a homely, non-rehabilitative, environment that encourages longer rather than short-term stays.⁷

Men – St Julian’s House

There are currently 15 men living in the main house. The average age of these men is 63 and they have lived in St Julian’s for on average 10.5 years.

Characteristically, the residents have significant medical/social/psychiatric problems, and are of an age where it is unlikely that they would be able to be rehabilitated to the extent that they would be able to cope with living independently in the community.

⁶ It is interesting to note that the Director of Community Services’ 1993 report identified 22 male residents of which: 3 suffered from a learning disability; 3 were considered appropriate for elderly care services; 14 were either mentally ill or suffered a personality disorder; and 1 was described as “inadequate”. The women’s section housed residents with similar problems.

⁷ The Director of Community Services’ 1993 report commented on the lack of rehabilitation for residents.

Some of the male residents will still drink to excess given the opportunity to do so. As may be determined from the above, the turnover of male residents is very slow. They tend to stay in the main house until such time as their health fails and they are admitted to a higher dependency facility. For some this will be shortly before their death.

Women's Section

There are 3 women currently residing at St Julian's House: their average age is 56. Although one lady has only been resident since the beginning of the year, the average stay of the two remaining residents is 15 years.

The Annexe

There is a distinct similarity between the social/medical backgrounds of those men accommodated in the main House and those resident in the Annexe.

Most residents of the Annexe will have, or currently suffer, alcohol-related problems combined with some other significant social/medical/psychiatric problem. Some will still be active drinkers and be admitted to the Annexe in an intoxicated state.

However, it is the policy of the Public Assistance Authority that **habitual drinkers who are unwilling to conform to the rules of the Annexe**, in particular the payment of the admission charges, **will not be admitted. Some potential users of the Unit are barred because of their previous poor behaviour when drunk.** This policy is understood to have been introduced to reflect the improved quality of the facilities on offer and because unruly drunks will upset the long-term residents of the Annexe.

Men – the Annexe

There are 3 men currently residing in the Annexe.

The average age of the men housed in the Annexe is 59 years (although two of the three are in their 60s). They have lived there on average 3.5 years.

These are men who would be better accommodated in the main house if there were room.

In addition, the Annexe will provide short-term accommodation for persons seeking employment and lodgings in the community, and night-stay accommodation for persons under the influence of alcohol, **subject to their willingness to abide by acceptable standards of behaviour.**

Recent occupants now living elsewhere

The above summarises the current usage of the main house and the Annexe but it does

not portray the complete picture. The Manager and the Deputy Manager were, therefore, asked to select a number of past occupants who could be described as being representative of those persons St Julian's is required to house from time to time.

Details of 10 typical cases were provided: the cases were a mixture of men and women, young and elderly, who occupied either the main house or the Annexe. The average age of the eight younger residents was 33 whilst the two older cases were of men in their mid-70s.

Eight of these ex-residents had significant social/medical/psychiatric problems of one form or another. Only two of the younger male residents of the Annexe could be regarded as having a need of accommodation that was solely related to temporary homelessness.

Two of the females and one of the men were involved in separate self-harming incidents during their stay. One of these incidents proved to be serious. All three residents were admitted to an appropriate hospital unit for appropriate treatment. Of the elderly residents, one was admitted to hospital suffering from dementia whilst the other died whilst still resident.

The average period of residence in respect of the 10 admissions was less than 4 months. As stated above, one elderly resident died whilst the rest were either admitted to one of the Island's hospitals, imprisoned on a temporary basis, or asked to leave as a result of some unacceptable incident. Where these residents went to live is unknown.

Staffing levels

In view of the description of typical residents set out above, it is instructive to consider the current staffing arrangements, which are as follows:

Main House

1.	Manager	Lives in house
2.	Deputy Manager	Lives in house
3.	Assistant Manager	Covers above 5 days a week
4.	Housekeeper	Monday – Friday
5.	Head Cook	6 days a week
6.	Assistant Cook	35 hours fitted around above
7.	Attendant 1	7.00 – 3.00 Monday – Friday
8.	Attendant 2	Annex and Main House 6 days a Week

9.	Weekend Attendant	Sat – Sun + provides cover
10.	Laundry lady	Part-time 25 hours
11.	General Cleaner	Monday – Friday
12.	Handyman	Monday – Friday

Annexe (previously known as the Night Stay Unit)

13.	Attendant 1	4 days on 4 days off
14.	Attendant 2	Ditto above

(Holiday cover is provided by the main house Attendant 2)

St Julian's House is a large and rambling building. (This should come as no surprise as it was built in 1842 as a "House of Correction".) The Warden and Deputy Warden's flats take up a large proportion of the overall accommodation. One of the flats accommodates the Warden, his wife and their children, the other the Deputy Warden and his wife.

At first sight, the levels of staffing appear high, particularly so when the overall numbers housed is at such a low level. (The staffing establishment for St Julian's is 13.92 FTE, but the current staff employed slightly exceeds this total.) However, such levels might be justified if staff were trained to provide rehabilitative services to the residents.

In this context, it is interesting to note that, in his 1993 report, the Director of Community Services observed that the then residents "would require special rehabilitation programmes and substantial support", but that "[w]hilst the home manager would like to undertake such work, it is very clear that his staffing levels are well below those which would enable such activity."

The Authority is advised that after careful consideration, and having regard to the subsequent reduction in the number of beds, the Public Assistance Authority resolved not to seek an increase in staffing levels.

Taking account of all the above, the Authority would observe that, given the numbers and types of person occupying the facility, a number of issues now require examination:

- is a staff/resident ratio of 2/3:1 reasonable for a facility of this sort?

- given the various social and other medical/psychiatric problems of the residents why are none of the staff qualified in any medical/social/psychiatric discipline?⁸
- does the facility need a Manager, Deputy Manager, and an Assistant Manager, as well as a Housekeeper?
- are Attendants still necessary given that it is no longer a requirement to bath residents due to their ability to bath/shower unaided? (In the past this was not the case, and the Manager distinctly remembers much of his day washing the elderly residents who had become incapable of doing so.)
- if the residents of the Annexe were found accommodation in the main house could the Attendants be redeployed for other duties?

In the Authority's view, these are all staffing issues that will need to be addressed regardless of which department has political responsibility for St Julian's House from May 2004.

Budgets 1993 - 2002

Examination of expenditure has been limited to extracting figures from the annual accounts Billets d'Etat. (Without a more detailed examination of the accounts/expenditure, it is not possible to come to any reasonable conclusion about expenditure patterns.)

The table below shows expenditure in respect of St Julian's and the Annexe over the last 10 years. Accounts, budgets and other financial matters are administered by the Committee Secretariat on behalf of the Public Assistance Authority.⁹

In 2002, St Julian's House expenditure totalled nearly £380,000, of which around £6,000 was recovered in relation to staff emolument payments.

⁸ The 1993 report from the Director of Community Services stated that: "... staff receive no training other than direction from the manager either on or off the job. To achieve the objectives of the home [to provide rehabilitative services], staff would need to undertake substantial training in order to enable the residents (rather than simply encourage) to find work and to set themselves back on a course to find permanent accommodation."

⁹ The net expenditure figure in the final column represents the expenditure after the fee income from residents and recoveries from staff have been taken into account. However, it should be noted that, prior to 2002, all fee income was returned to General Revenue.

EXPENDITURE					INCOME		
				Gross			Net
	Premises	Staff	Supplies/ Services	Total	Recoveries from residents	Recoveries from staff	Total
	£	£	£	£	£	£	£
1993	27,151	210,516	39,807	277,474	77,720	5,959	193,795
1994	29,508	214,802	40,502	284,812	84,075	6,140	194,597
1995	34,750	224,696	46,393	305,839	83,800	5,853	216,186
1996	32,857	231,082	46,425	310,364	89,929	5,062	215,373
1997	40,277	232,515	44,643	317,435	88,010	5,170	224,255
1998	30,488	248,779	41,584	320,851	90,364	5,395	225,092
1999	52,909	258,361	39,402	350,672	88,581	5,723	256,368
2000	48,989	266,191	58,759	373,939	96,743	6,240	270,956
2001	63,018	280,516	47,161	390,695	92,289	6,149	292,257
2002	41,228	288,800	49,637	379,665	106,486	6,792	266,387

Income derived from charges levied for residents during 2002 amounted to just over £106,000. This fee income is now retained by the Public Assistance Authority and offset against St Julian's House expenditure.

Those residents who are in receipt of Social Security benefits or pensions only, are required to pay over the whole of their benefit and in return receive a gratuity of £17.50 per week. An additional discretionary gratuity of between £5 and £10 can be awarded if residents help out in either the House or the garden.

If a resident has income of private means above benefit levels then they are required to pay 60% of their net income as fees up to a maximum of £111.50 per week in the main house and £98.50 per week in the Annexe. Staff at St Julian's carry out the fee assessments. For those in receipt of private income, pay slips or bank statements are used as verification. For those residents who cannot prove their income or who are not willing to do so, the maximum fee is charged until evidence is produced to reduce the fee.

(It is important to note that St Julian's House is not regarded as a long-term care facility – like Maison Maritane or Longue Rue House – and was excluded from any consideration of the funding arrangements for long-term care that heralded the Long-Term Care Insurance Scheme.)

Admissions policy and other policies

As referred to above, St Julian's has an Admissions Policy (see Appendix 1) as well as a Health and Safety Policy, but the Authority has been unable to find evidence of any other written policies.

There are implications arising from the absence of written policies and procedures given the type of person being accommodated.

Summary of Findings

Having reviewed the history and current operation of St Julian's House and the Annexe, the Authority would summarise its findings as follows:

- 1) The main building does not lend itself to efficient use, neither does it assist in providing the type of accommodation that might be seen as attractive by those people who require temporary accommodation.
- 2) The above situation is aggravated by the fact that both the Manager and the Deputy Manager live in house. In effect six people occupy the building when it is questionable whether they need to.¹⁰
- 3) The building is 160 years old and requires constant maintenance.
- 4) The overall use of both the House and the Annexe differ significantly from what was originally intended; and, indeed, what the Authority believes the public perceives to be their use.
- 5) The main house and the Annexe are occupied by persons with a variety of social, medical and psychiatric problems. Nearly all residents are long-stay, with the average period of residence excluding the Annexe over 10 years.
- 6) It would appear that the persons currently accommodated are mostly those with a social/medical/psychiatric problem rather than a temporary housing need. Whilst some of the current residents might well have ended up homeless had St Julian's not existed, there is a greater likelihood that they would have been housed in Board of Health establishments that could better cater for their needs.

¹⁰ The Manager and Deputy Manager and their wives provide night cover on a call-out basis. If they were not resident, additional (male and female) night staff would need to be employed.

- 7) The staff appear not to be trained to care for persons who suffer from learning difficulties/psychiatric problems. This poses a significant risk both to the residents and to the staff themselves.
- 8) The relatively low number of persons cared for and the numbers of staff involved, suggests that the average care cost per person is high when compared with other facilities.
- 9) It is possible that St Julian's is over-staffed.
- 10) Admission policies adopted by the Public Assistance Authority have led to the Annexe no longer functioning as a Night Stay Unit which in turn has given rise to demands for a dedicated "wet house".
- 11) The above change in policy – which has not been approved by the States – means that people for whom the Annexe was intended (as agreed by the States in 1972) no longer have access to proper shelter during inclement weather and take advantage of whatever shelter they can find.
- 12) Both the Manager and his Deputy are aware of the fact that the current policies they apply result in habitual drinkers being denied access to the Annexe resulting in those persons having to sleep rough in public toilets etc. Equally, they acknowledge that admitting such persons would disrupt its smooth running and upset the current long-stay residents.
- 13) The home is managed at arms length by the Public Assistance Authority. The only independent review of care standards and facilities was carried out by the Board of Health's Director of Community Services a decade ago, **but this did not question whether the services provided were appropriate**. Consequently, until the preparation of this report, there appears to have been no fundamental review of the services offered by St Julian's House or the Annexe since 1972.

Options available for the future use of St Julian's House and the Annexe

There are a number of options available for the future use of St Julian's House and the Annexe: a non-exhaustive list is set out below.

- 1) Maintain the status quo

The current services offered by St Julian's could be maintained, with additional administrative support and expertise being provided by the future Department of Health and Social Services.
- 2) The Annexe to revert to its original purpose as a Night Stay Unit

The Night Stay Unit was established to provide a facility to accommodate those people not willing or unable to control their alcohol consumption, but current

policy is to refuse entry to some such persons because of the disruption they could cause. A return to the original admissions policy could rectify this.

3) The Annexe to become a “wet house”

The Annexe at St Julian’s could become a “wet house” which would provide facilities to enable those persons found drunk, or drunk and incapable, to be cared for other than by being taken into custody. (This was identified as a matter of some urgency by the States in 1985 and again in 1993, but no action has been taken in pursuance of those resolutions – see Appendices 2 and 3.)

4) As accommodation for ex-offenders

The accommodation at St Julian’s House could be used as a welfare hostel to house ex-offenders who are unable to secure accommodation immediately upon their release from prison. Accommodation is crucial to the rehabilitation of offenders and ex-prisoners, some of whom need short-term accommodation to enable them to establish themselves in the employment market for long enough to secure private-rented accommodation. The Probation Service reports that using St Julian’s House/the Annexe for this purpose has become more difficult in recent years, due to its change in admissions policy.

5) As accommodation for the temporarily homeless

St Julian’s could be used exclusively for the accommodation of persons whose need of temporary accommodation is a result of homelessness due to financial and other circumstances, as opposed to providing supervised accommodation for persons suffering from medical/psychiatric/social problems.

Conclusions

Although this report is critical of the current services, the staff of St Julian’s should be praised for creating a very homely atmosphere within the House. The standard of food served up is excellent (as good as could be obtained anywhere) and given the constraints of the building the staff continually strive to create the feeling that the House is a home and not an institution.

However, it is an inescapable conclusion that whichever department becomes responsible for St Julian’s in the future it will have to review whether or not the House should function in its current mode, meet some other need or, indeed, whether it continues to function at all.

In its current mode of operation it would appear that due to its under-occupation the facility is wasteful of resources; however, it does provide accommodation for those persons whose needs are not met elsewhere. In the main these are people who would require the type of care otherwise provided by the Board of Health.

The question of the Annexe is, however, a different matter: the Island had a facility to accommodate those people not willing or unable to control their alcohol consumption, but this has been changed over a period of years to such a degree that the facility by and large no longer exists, with the original client group being denied access.

The question is: should the Annexe exist at all? Clearly, one option would be to close the Annexe by moving the users to the main house and to reopen the same building as a “wet house”.

However, this is not an option that should be looked at in isolation from the other possible uses for the facility, some of which have been identified above. Furthermore, the Authority does not consider that these questions can be answered properly without further detailed examination and consultation with all relevant parties.

With this in mind, the Housing Authority has concluded that the future Housing Department is particularly unsuited to cope with the problems associated with the administration of St Julian’s. It has little or no expertise in the handling of persons with alcohol/drug/psychiatric problems or with learning disabilities: the current residents of St Julian’s are not normal homeless people, their consistency of age and social/medical problems prove this. The necessary expertise rests within the current Board of Health and the future Health and Social Services Department: accordingly, it is the most appropriate body to administer the facility because it already looks after people with exactly the same sort of problems as those found in St. Julian’s.

Furthermore, even within the current facility, there exist a plethora of administrative problems that need to be tackled – from the introduction of written policies and procedures, to the need to employ appropriately trained staff. Here again the Department of Health and Social Services will have the expertise that is required **not** the Housing Department.

Consequently, if the States wishes to operate in the most efficient manner and, more importantly, in the best interests of the community as a whole, then it should confirm its original decision for the Department of Health and Social Services to take over the administration of St Julian’s; and direct that Department to recommend what services and client groups should be served by it in the future.

In 1966 St Julian’s was set up as an experiment to gauge the Island’s long-term need for a welfare hostel facility and so it could be established if there was a need for a purpose-built unit. Some 37 years later the Housing Authority believes it is time for the States to declare the experiment over and for a body with the necessary skills to say what is required in 2004/5. The Housing Authority believes the most appropriate department to determine the answers to those questions to be the future Department of Health and Social Services.

Recommendations

Accordingly, the Housing Authority recommends that the States agree the following:

- 1) to confirm that responsibility for managing St Julian's House shall pass to the Health and Social Services Department with effect from 1 May 2004.
- 2) to direct that the Health and Social Services Department shall report back to the States no later than January 2005 with its recommendations on the type of service(s) and client group(s) to be served by St Julian's House, having consulted fully with the Housing Department and the Home Department, together with all other relevant non-governmental agencies.

I should be grateful if you would be good enough to lay this matter before the States with appropriate propositions.

Yours faithfully

B M Flouquet
President
States Housing Authority

Appendix 1 [to 2003 Policy Letter]**Public Assistance Authority****GUIDELINES FOR ADMISSION TO ST JULIAN'S HOUSE
(approved by the Authority on 14 July 1998)****1. Long-term accommodation**

The Manager, or in his absence, the Deputy Manager may provide long-term accommodation at St Julian's House to person who they are satisfied are unable to live independently in the community.

2. Temporary accommodation

- (a) The Manager or the Deputy Manager or the Assistant Manager may provide temporary accommodation in St Julian's House Annexe.
- (b) Except in the case of emergencies admission will only be agreed prior to 10.00 pm.
- (c) Persons who are accommodated on a temporary basis will be required to agree in writing that they remain in St Julian's House Annexe on a day to day basis until such time as the Manager or, in his absence, the Deputy Manager, is satisfied that they are able to live independently in the community.
- (d) If the Manager, or, in his absence, the Deputy Manager are satisfied that the person is able to live independently in the community they will give the person notice, not exceeding one week, to leave St Julian's House Annexe. A refusal to take up fieldwork or to claim benefit may be taken into account by the Manager or, in his absence, the Deputy Manager in determining the period of notice.
- (e) The Manager or, in his absence, the Deputy Manager may require a person who is being temporarily accommodated in St Julian's House Annexe to leave, without notice, if that person is
 - i. under the influence of alcohol drugs or other substance; or
 - ii. offers violence to other persons occupying the accommodation or to staff; or
 - iii. otherwise acts in a disruptive manner.

3. Conditions for accommodation

- (a) No person under 16 years of age will be admitted.
- (b) No person under 17 years of age to be admitted unless they are under the supervision of a Child Care Officer or a Social Worker and any such admission to be for an agreed period of time.
- (c) No person referred by the Psychiatric Services to be admitted without a written agreement.

4. Charges

Charges will be made for both long-term and temporary accommodation at St Julian's House as determined, from time to time, by the Public Assistance Authority.

The ability to pay charges should not be taken into account in determining whether a person may be given accommodation at St Julian's House.

Appendix 2 [to 2003 Policy Letter]

States consideration of a “wet house”

Following consideration of a report to investigate ways of reducing alcohol, drugs and solvent abuse related offences dated 20 May 1985 (Billet d’Etat XIV), the States resolved *inter alia*:

“10. that facilities shall be provided to enable persons found drunk or drunk and incapable to be cared for other than by being taken into custody;

11. (a) to decide in principle that the creation of a shelter for persons found drunk or drunk and incapable should be treated as a matter of some urgency.”

No such facilities were, however, forthcoming.

In Billet d’Etat XIV, July 1993, the States considered a policy letter from the Board of Health regarding substance misuse in Guernsey. This policy letter advised the States of the following:

“10.15 In the absence of suitable accommodation, the Police in their enforcement role currently have little alternative but to charge people under the influence of drink with an offence and detain them in prison. There are, therefore, people who regularly appear in Court for drunkenness offences wasting public money and Police, Court and Prison time.

10.16 The Board of Health on the recommendation of its various substance misuse Sub-Committees, has raised this issue on a number of occasions with the Public Assistance Authority, the now defunct Prison Board and Police Committee, and latterly, with the Advisory and Finance Committee. The Board is clear that whilst it is not the role of the Police to provide overnight accommodation to persons who are homeless, neither is it the responsibility of the Board of Health.

10.20 Nevertheless, the Board of Health remains concerned that this problem persists and that, despite the Resolutions of 27 June, 1985, no action has been taken to provide facilities to enable persons found drunk or drunk and incapable to be cared for, other than by being taken into custody. Although the Board understands that the present numbers involved remain constant at approximately two per week, **the Board recommends that the Committee for Home Affairs again reviews the provision of facilities to accommodate the inebriated overnight.**”

The States subsequently resolved:

“to direct the States Committee for Home Affairs, in pursuance of the States

Resolution of 20 May, 1985, to investigate the provision of a suitable place for the safe care of inebriated people detained by the Police and to report back to the States with their findings.”

A report, in compliance with this resolution remains outstanding, even though a report commissioned by the Medical Officer of Health in 2003 entitled “The Need for a Guernsey Alcohol Strategy” stated the following:

“The need to provide support for these types of individuals has received increasing recognition in many places over recent years with the expansion of wet house facilities and outreach services to enable street drinkers to access these facilities.

Many participants in the consultation agreed that there is a need for a similar facility in Guernsey preferably situated within an existing service in order to share resources.”

The relevant section of this report regarding “Support for chronic non-changing ‘recidivist’ drinkers” is reproduced in full in Appendix 3.

Appendix 3 [to 2003 Policy Letter]

Extract from Medical Officer of Health report “The Need for a Guernsey Alcohol Strategy” (2003)

Support for chronic non-changing ‘recidivist’ drinkers

The Strategy consultation demonstrated a strong and consistent concern over the lack of support for the relatively small group of chronic, non-changing ‘recidivist’ drinkers or ‘habitual drunkenness offenders’ who present an on-going unresolved problem to the criminal justice system.

Recent changes in the Guernsey Police’s policy guidelines of handling non-violent drunks have resulted in a reduction in the number of ‘drunk in a public place’ and ‘found lying drunk’ charges. However, those that are not accompanied by a ‘responsible adult’ who can take them home and that are either the subject of a suspended sentence of imprisonment or have been cautioned for a relevant offence in the last 48 hours, are likely to be charged. To this extent, the chronic non-changing drunks are still likely to regularly present themselves to the criminal justice system.

The need to provide support for these types of individuals has received increasing recognition in many places over recent years with the expansion of wet house facilities and outreach services to enable street drinkers to access these facilities.

Wet drop-in centres such as that run by Brent Community Drug and Alcohol Services, and residential care homes such as the Aspinden Wood Centre provide support with health and welfare issues and advice on harm minimisation.

The Leeds Detoxification Unit enable chronic drinkers to have a respite from drinking without necessarily pursuing treatment (cited in Alcohol Concern, 1999, p84).

The St James Street Shelter in Jersey includes an emergency night unit that contains a ‘drunk and incapable’ unit. The police can therefore utilise this safe and secure facility to avoid having to arrest and detain non-violent drunks for their own safety. This unit was used 109 times between July 2000 and July 2001., and hence all these cases avoided entering the criminal justice system (in line with the ‘Court diversion scheme’), and were offered information, advice and referral into alcohol treatment and support services. Many participants in the consultation agreed that there is a need for a similar facility in Guernsey, preferably situated within an existing service in order to share resources.

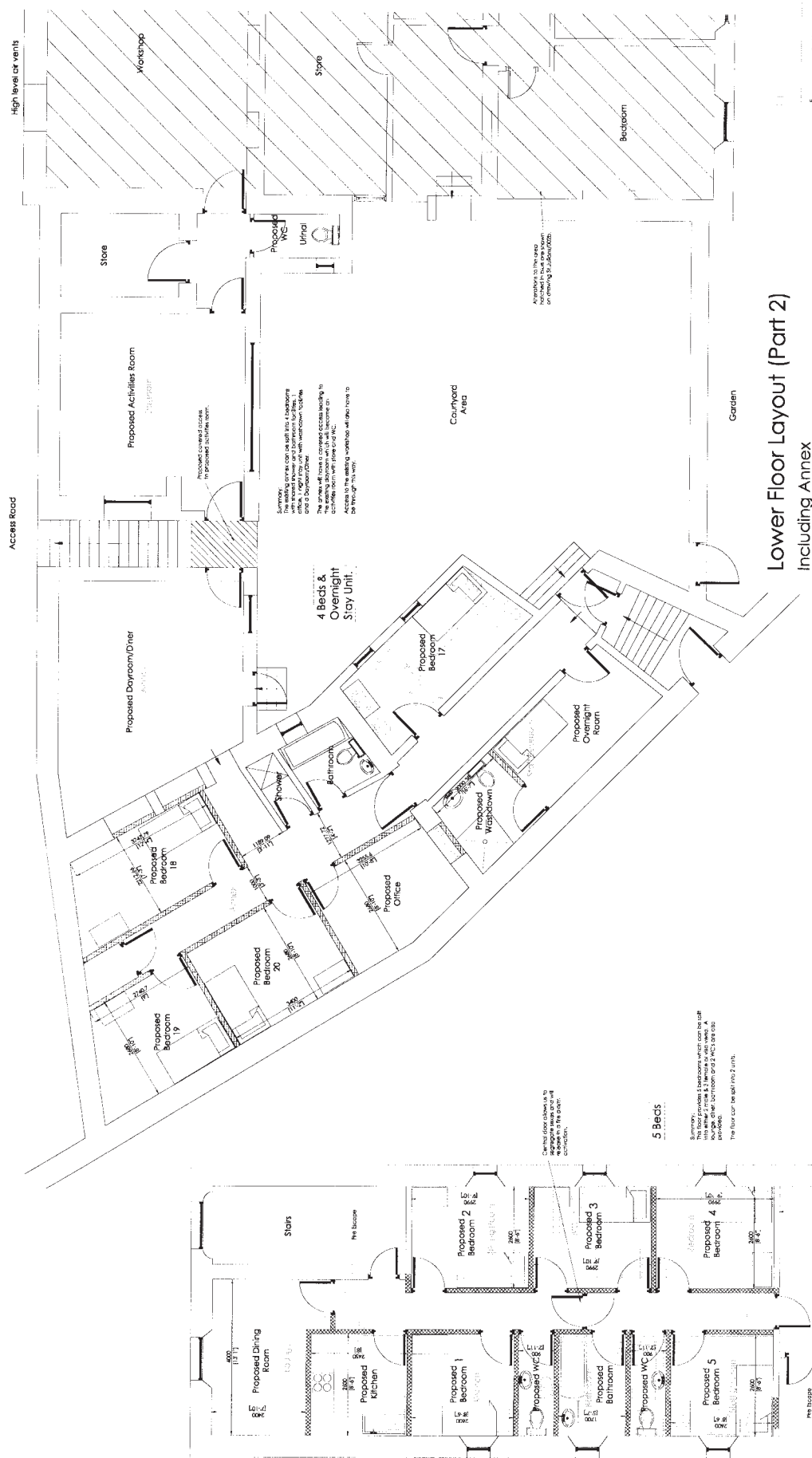
[Propositions to 2003 Policy Letter]

(NB The Advisory and Finance Committee supports the proposals)

The States are asked to decide:

XI.- Whether, after consideration of the Report dated 16th December 2003, of the States Housing Authority, they are of the opinion:

- 1) To confirm that responsibility for managing St Julian's House shall pass to the Health and Social Services Department with effect from 1 May 2004.
- 2) To direct that the Health and Social Services Department shall report back to the States no later than January 2005 with its recommendations on the type of service(s) and client group(s) to be served by St Julian's House, having consulted fully with the Housing Department and the Home Department, together with all other relevant non-governmental agencies.



Lower Floor Layout (Part 2)

Manager's Flat
Above the upper floor

[illegible]

Estados Department
Princess Elizabeth Hospital

St Julian's Hostel Alterations Scheme 2

Lower Floor Layout (Part 2)
Including Annex and

JOR Checked:
1:50 (Approx)

St. Jullians/2/003a

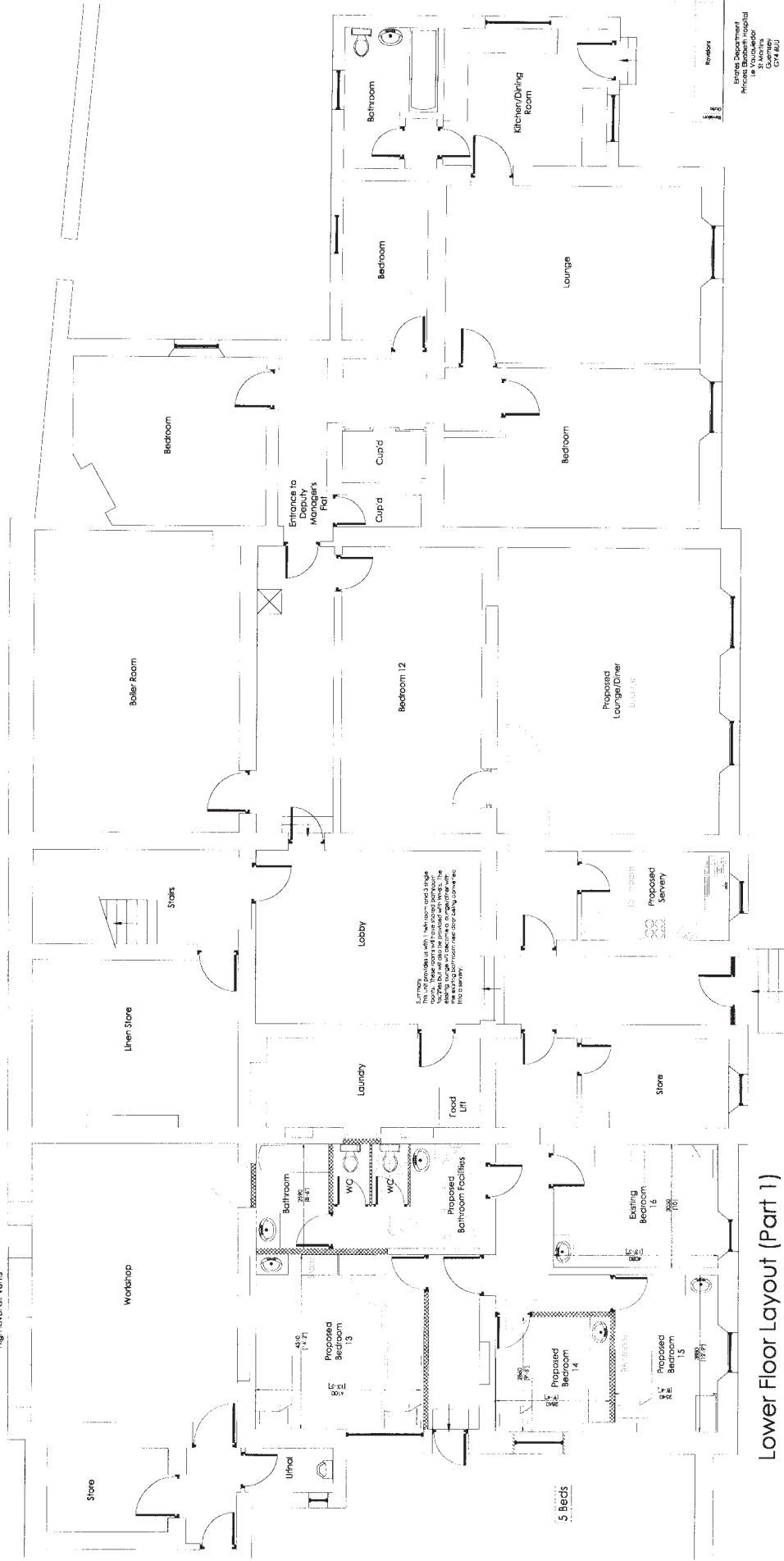
File: St_Johns All_Idea 2

Revision A - 10/02/05
Bedroom numbers added.

21/07/23 - Revision a
See Issue Allocation omitted.

All dimensions should be confirmed on
site before carrying out any works.

High level air vents



Lower Floor Layout (Part 1)

St. Julian's Home Alterations
Scheme 2

Lower Floor Layout (Part 1)

Drawn: JAR Checked: Approved:
Scale: 1:50 (Actual) Date: Jan 18

Revision A: 1/02/23
Bedroom numbers listed.

Rev: St. Julian's at: 18/01/23

All dimensions should be confirmed on site before carrying out any works.



Upper Floor Layout

Revision A - 10/02/05

- I) Bedroom numbers added.
- II) Bedroom 3 layout amended by re-locating shower.
- III) Sanitary entrance amended.
- IV) Bathroom serving bedrooms 10&11 has been omitted from the other area and re-located next to the bedrooms.

Division
Date
Reviewed
Checked by

Summary:
The floor will consist of two 2 bedroom units with shared bathroom facilities. There is also two 3 bedroom units with full size storage, bathroom, separate shower and each room will be provided with a walk in.

The existing kitchen will be converted into an on-suite bedroom and a server will be provided within the existing dining area.

12 Beds

Correspondence with States Departments

HOUSING DEPARTMENT

The Minister
Health and Social Services Department
Duchess of Kent House
Le Vauquiedor
ST MARTIN
GY4 6UU

20 March 2005

Dear Deputy Roffey

St Julian's House

I refer to your Deputy Minister's letter of 11 March 2005, seeking the Housing Department's comments on your proposals for the future of St Julian's House (at what we considered to be unreasonably short notice).

My board considered your report at its meeting on 17 March 2005 and would make the following comments.

(1) The board was surprised at the Report's general lack of detail. It was surprised, for example, that the Report gave no indication of the numbers in the respective client groups to be served in the new facility; no details of the staff changes to be made; and no details of how the funding required had been arrived at.

(2) Section 9 of the Report talks about re-housing the current residents of St Julian's House during phases 2 and 3 of the work. However, the Report is not explicit about where the current residents will go or whose Department's responsibility it will be to re-house them.

Specifically, the Report says: -

"Phase 2

The low occupancy of female beds means that if the two residents could be re-housed, possibly the elder within one of the States' residential homes and the younger given help to find other more suitable accommodation, this will allow the gradual conversion of dormitories into single rooms.

Phase 3

When the resident staff have been re-housed, the project could be completed."

The Housing Department is concerned that this could mean that it would be our responsibility to re-house the existing residents, while the project is being phased in.

However, you will recall that when the Housing Authority submitted its report to the States on St Julian's House in January 2004, it was pointed out: -

" Generally speaking, both current and past residents of St Julian's House will have suffered from significant social/medical/psychiatric problems at some stage, necessitating the provision of ongoing supervised accommodation. Although a few have moved on to specialist accommodation or even private sector accommodation, the tendency will be for them to stay at St Julian's House on a long-term basis, as is evidenced by the current residents.

It is likely that the stresses of living alone might prove too much and that, in any event, St Julian's provides a homely, non-rehabilitative environment that encourages longer rather than short term stays..."

"...It would appear that the persons currently accommodated are mostly those with a social/medical/psychiatric problem rather than a temporary housing need. Whilst some of the current residents might well have ended up homeless had St Julian's not existed, there is a greater likelihood that they would have been housed in Board of Health establishments that could better cater for their needs."

As many of the residents at that time will still be residents now, it is likely that the majority will not be suitable to be accommodated either within our residential homes or on our estates.

Accordingly, to make this clear, we would ask that your Report include a statement along the following lines: -

"Existing residents will be re-housed in alternative Health and Social Services Department accommodation on a temporary basis, if it is necessary for residents to move out of St Julian's House whilst the renovation works are taking place."

(NB We would be prepared to consider any individual application for Housing Department accommodation on its merits, but we cannot accept any general responsibility to house all or any of the residents affected.)

(3) Regarding the proposals on rents, the Report states that a 'fair' rent will be charged, but does not explain how this is to be calculated. Similarly, the Report says that the Annexe will be subject to only a nominal charge, again unspecified.

You will recall that in considering your Department's proposals for John Henry Court, we expressed the view that it was illogical for States Departments to use different bases

for calculating and abating rents for their accommodation. We consider that this comment is equally applicable in this context.

In our view, the logical way forward would be for rents for St Julian's House to be set on the same basis as for our accommodation, with the rent rebate scheme being extended to apply to persons accommodated at St Julian's; in that way there could be a fair and transparent system to ensure that residents paid no more for their accommodation than they reasonably afford. Accordingly, we would be pleased to enter into discussions with your staff about the practicalities of including such a recommendation in your Report. (NB We would anticipate carrying out the rebate assessments, for which we would make an overall administration charge.)

(4) We would point out that while your proposals are a reasonable response to addressing the current deficiencies of St Julian's House, they are only a partial solution to meeting the accommodation needs of persons with special needs and, as such, do not form part of any overall housing strategy for such persons. Indeed, they arguably run counter to the recently approved Action Plan for Action Area E of the Corporate Housing Programme, which highlighted the need to develop *a strategy* for the onward accommodation of ex-offenders and proposals to provide supported accommodation for other special needs groups.

Consequently, while the Housing Department will not oppose the proposals for St Julian's House, it asks that your Department acknowledge in the Report that this is not the only (nor necessarily the most cost-effective) solution to meeting the housing needs of persons with special needs, as our departments have yet to explore other options.

I trust these comments will be of assistance to you in finalising your Report.

Yours sincerely

D Jones
Minister

HEALTH AND SOCIAL SERVICES DEPARTMENT

The Minister
Housing Department
Sir Charles Frossard House
La Charroterie
St Peter Port
GY1 1FH

1st April 2005

Dear Deputy Jones

St Julian's House

Thank you for your letter of 20 March 2005 regarding the Health and Social Services Department's States Report on the above. I accept that the request for comments on the proposals were at unreasonably short notice and my Deputy Minister did apologise for this in his letter of 11 March. The original timescale, which was set by the former Housing Authority, proved far too optimistic but it did not seem reasonable to ask the States for too long an extension. Consequently, we only just met the deadline for the May States meeting. Hence, the short timescale for consultation.

I will respond to your comments in the order they are made.

- (1) You express surprise at the report's lack of detail. It is intended purely as an outline proposal on the future services to be provided, with an indication of the funding consequences, rather than a very detailed document. There is, however, a reference to the number of homeless people, although we are amending the wording of this slightly to show that we have not included those for whom the future services of St Julian's House may not be appropriate, who are served better by the NCH and other provision. The revenue funding is our estimate of what will be required from the change in skill mix and the capital funding is an outline estimate, following a survey of the building. We saw no need to go into detail on staff changes to be made, as that is an operational matter.
- (2) I regret that I cannot agree with your views on re-housing the current residents of St Julian's House during phases 2 and 3 of the work. In respect of phase 2, what we are saying is that there are two women who, we believe, are suitable for permanent alternative accommodation: one, possibly but not necessarily, within one of the States' residential homes and the other, possibly, in the private sector. For phase 3, two members of staff (one couple and one family) will need alternative accommodation. If these are people who would be eligible for States housing, then, obviously, they would be able to apply to you for this. However, I

doubt this will be the case and I believe they will both choose to live in the private sector. There is no expectation that it would be the Housing Department's responsibility to re-house the existing residents while the project is being phased in and my Board does not think the States will interpret the report in this way. Moreover, it would be quite wrong to say "Existing residents will be re-housed in alternative Health and Social Services Department accommodation on a temporary basis if it is necessary for residents to move out of St Julian's House whilst the renovation works are taking place" as Section 9 of the States Report is not talking about any temporary relocation and existing Health and Social Services Department accommodation would certainly not have sufficient vacancies. What we will do, however, is to omit mention of a States residential home in the section on Phase 2.

- (3) Regarding the proposals on rents, we have not yet gone into any detail on this until we know whether the States support our proposed policy on the use of St Julian's House. Whilst there could be good reason for having different formulae for calculating and abating rents for States Departments' accommodation (for example, as required by the Long Term Care Insurance Scheme States resolution), our staff will be pleased to discuss this further with your staff, once the policy on the use of St Julian's House has been decided by the States.
- (4) With reference to your point regarding "accommodation needs of persons with special needs," this is a much wider issue than the accommodation of homeless people with units for recidivist drinkers, those who are drunk and incapable and non-residential out-reach drug services, which is what we are proposing to provide at Julian's House.

I am surprised that you have made the comment that, arguably, our proposals run counter to the action plan for Area E of the Corporate Housing Programme. We fully agree that there is a need for a strategy for the onward accommodation of ex-offenders and for supported accommodation for other special needs groups but, in the absence of other provision, we were happy to take on board the request from the Probation Service that beds should be made available in St Julian's House for people on bail or newly released from prison. The problem exists now and we consider any measures which can temporarily alleviate it, pending production of an overall strategy, should be taken, rather than accepting that no service will be provided until a full strategy has been produced. However, you will note that the recommendations to the States do not specifically mention this provision. It may well be superseded by any strategy you produce for accommodation of ex-offenders, but it would not be appropriate to say in the report that "this is not the only (nor necessarily the most cost-effective) solution to meeting the housing needs of persons with special needs", as the proposals do not purport to be meeting all these needs and I believe it would be inviting the States to reject the proposals, pending consideration of a wide ranging report, which would take a very long time to prepare.

I trust that this reply has clarified some of the issues where there appear to have been misunderstandings but, in the light of my response, I realise that your Board may wish to ask for a letter to be appended to the States Report and I will, of course, endeavour to arrange this if your Board still has concerns about any of the issues. If so, it would be helpful to receive your letter as soon as possible.

I am pleased that the Housing Department will not oppose the proposals for St Julian's House. I would have been disappointed if this was the case, as we took care to involve your staff, along with those of other affected Departments, in the discussions leading up to production of the proposals.

Yours sincerely

P J ROFFEY
Health and Social Services Minister

HOME DEPARTMENT

Deputy D A Grut
Deputy Minister
Health and Social Services Department
Corporate Services
La Vauquiedor
St Martins

21 March 2005

Dear Deputy Grut

ST JULIAN'S HOUSE

Thank you for your letter of 11 March 2005 and enclosed States Report on proposals for the future of St Julian's House.

The Home Department, at its meeting of 21 March 2005, considered the Report and fully supports the proposals. The Department noted that a number of its staff (Police, Prison, Probation, Drug Strategy) had been involved in the consultation process, all of whom welcome the Report.

Thank you for providing the Department with the opportunity to comment.

Yours sincerely

M W TORODE
Minister
Home Department

HEALTH AND SOCIAL SERVICES DEPARTMENT

The Minister
Treasury and Resources Department
Sir Charles Frossard House
La Charroterie
St Peter Port

8th April 2005

Dear Deputy Trott

Future Management of St Julian's House

Thank you for your letter of 5 April 2005.

The Health and Social Services Department is conscious of the ever-increasing demand for resources and is currently considering its priorities, so that you can be advised accordingly through the policy and resources planning process.

In respect of St Julian's House, the Health and Social Services Department was required to report to the States and is seeking States endorsement of the Department's views on how the premises should be used. If the States agrees with the Department's proposals, it will then be for us to prioritise the resources required so that they can be allocated appropriately when sufficient resources are available. Consequently, my Department is not currently asking for any additional resources to be made available for St Julian's House.

My own view, which is yet to be considered by my Board, is that Phase 1 of the work, ie. conversion of the annexe into a unit for recidivist drinkers, including overnight accommodation for those who are drunk and incapable, should be a high priority, as it should relieve unnecessary pressure on the police, prison and court services. The other phases would, I think, have a lower priority but this will be confirmed in our policy and resource planning submission.

Yours sincerely

P J ROFFEY
Health and Social Services Minister

SOCIAL SECURITY DEPARTMENT

Deputy P J Roffey
Minister
Health and Social Services Department
Corporate Headquarters
St Martins
Guernsey
GY4 6UU

11 April 2005

Dear Deputy Roffey

St Julian's House

I refer to Deputy Grut's letter of 11 March 2005 with enclosed States report on the proposed future use of St Julian's House.

The report was considered by the Social Security Department at its meeting on 6 April 2005.

The Social Security Department considers that the proposals will result in a much better use of the resources at St Julian's House and will offer some much needed solutions for homeless people and recidivist drinkers.

The Department would like to see a maximum use of the buildings by way of accommodation for the client groups. While understanding the merits of the multi-agency groups calling at St Julian's House to see the clients, the Department would not like this to be at the expense of rooms for clients.

The Department understands, from staff level discussion, that the redeveloped St Julian's House would not accept clients under the age of 18. The Department asks HSSD to reconsider its position on this point as we think that there is a need that is not adequately provided for elsewhere. While we understand that HSSD considers the mixed sex hostel-type accommodation to be unsuitable for vulnerable teenagers, we think that such supervised state provision must still be preferred to some of the alternatives including clearly unsuitable instances of lodging house accommodation. While limited accommodation will soon be available from the Youth Housing Project, we think it would be very helpful if the redeveloped St Julian's would be prepared to be flexible on the admission age, if admission there would be preferable to the other options available to homeless young teenagers.

The HSSD proposals for St Julian's House have the support of the Social Security Department, apart from one member who, while accepting the merits of the proposals, is not convinced that the level of priority justifies the capital costs.

Yours sincerely

Mary Lowe
Minister

(NB The Policy Council supports the proposals but endorses the comments of the Treasury and Resources Department set out below)

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

19th April 2005

Dear Sir

FUTURE MANAGEMENT OF ST JULIAN'S HOUSE

The Treasury and Resources Department acknowledges that the Health and Social Security Department is bringing forward this States Report in accordance with the January 2004 resolution of the States.

Members are asked to note that the Health and Social Services Department is not at this stage asking for a firm financial commitment from either the Treasury and Resources Department or the States for the capital works identified in the Report (estimated to be in the order of £915,000).

Any future approach for funding (either through the annual Policy and Resource Plan, Budget or via a separate States Report) will need to be carefully weighed against the resources available and/or competing demands. **At this stage, the Treasury and Resources Department is unable to make any commitment for any additional funding on St Julian's House.**

Yours faithfully

L S Trott
Minister

The States are asked to decide:-

V.- Whether, after consideration of the Report dated 23rd March, 2005, of the Health and Social Services Department, they are of the opinion:-

1. To approve that St Julian's House be used as accommodation for homeless people, with units for recidivist drinkers, those who are drunk and incapable and non-residential outreach drug services.
2. To direct the Treasury and Resources Department to consider the capital and revenue requirements needed by the Health and Social Services Department to implement the above proposal when recommending resource allocations to the States for 2006 and subsequent years.

HOME DEPARTMENT

GAMBLING CONTROL

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

24th March 2005

Dear Sir

1. Executive Summary

The purpose of this report is to propose enactment of an Ordinance under the provisions in the Gambling (Guernsey) Law, 1971, as amended, (“the 1971 Law”) to allow gaming servers for use by the Alderney e-gaming industry to be permanently located in Guernsey and for the Alderney Gambling Control Commission (“the Commission”) to have jurisdiction to inspect and regulate the servers.

2. Background

The Home Department has been approached by the Commerce and Employment Department with a request for the Guernsey gambling legislation to be extended to allow for servers hosting the games and databases for Alderney’s e-gaming industry to be housed on Guernsey.

In 1997 the States of Guernsey approved the Gambling (Amendment) (Guernsey) Law which provides for the States to prescribe by Ordinance the circumstances in which “gambling with strangers”, which will usually be involved in e-gaming, may be permitted. In December 2003 the States approved the preparation of an Ordinance to,

- (a) Permit any entity licensed by the Alderney Gambling Control Commission to undertake internet gambling activities in Alderney, to undertake the same activities in Guernsey only in situations when there occurs a denial of access to, or service from, facilities in Alderney arising from unforeseen or uncontrollable external circumstances;
- (b) Require that any switch of internet gambling activities from Alderney to Guernsey must be undertaken as if in compliance with the relevant extant requirements of Alderney’s gambling control legislation; and
- (c) Require that, within twenty four hours of any switch of internet gambling activities from Alderney to Guernsey, the Alderney Gambling Control

Commission advises the Department (formerly the Gambling Control Committee) of the fact that a switch of activities has taken place and, within twenty four hours of switch back occurring, the duration of the switch.

The Alderney Internet Gambling (Temporary Relocation) Ordinance, 2004 was approved in May 2004 and includes the above provisions.

However, in recent months it has become increasingly evident that Alderney will not, in the medium- to long-term, be able to continue to attract potential e-gambling investors. Multi-player games, which are much more interactive than conventional casino-type games and betting transactions, are becoming increasingly popular. These new games require significantly more bandwidth to operate than is the case with conventional games.

The Commission has advised the Alderney Policy and Finance Committee that it is concerned that the network limitations could have a negative impact on the continuing attractiveness of Alderney as a major e-gambling jurisdiction. The Committee approached the Commerce and Employment Department with a view to exploring the possibility of hosting gambling servers, which will essentially be operated under an Alderney gambling licence, in Guernsey under the provisions of the 1971 Law.

3. Alderney's Case

In recent years Alderney has established a thriving e-gaming industry which makes a significant contribution to the Island's economy through the revenue from licence fees and the employment opportunities which it has brought with it.

This rapidly developing area has presented a number of challenges for the authorities in Alderney. In recent months the capacity of Alderney's telecommunications network has emerged as a new challenge and one which appears to be threatening the continued viability of the industry. The Department understands that the limitations of the current network have resulted in some existing licensees relocating to other jurisdictions and that it is becoming increasingly difficult for Alderney to attract new business. Alderney cannot overcome this challenge without the assistance of Guernsey and its case is set out below.

(a) Current Alderney Regulatory Requirements

The Alderney Interactive Gaming and Electronic Betting Ordinances provide that the conducting of or participating in games or betting shall not be lawful gambling if the game or the bet is not operated at, or from, any place other than the licensee's approved premises. Further, the legal jurisdiction of the Alderney Gambling Control Commission is confined to Alderney and it can reasonably be construed that the intention was for the approved premises from where the licensee conducts gambling to be based in Alderney.

Whilst the Commission does not expect all gambling related servers to be based in Alderney, it does require that the gaming/ betting server, the user database server and the game transaction server be in Alderney.

(b) Existing Hosting Environment

All gambling servers associated with the Alderney licensees are hosted in the Cable and Wireless facility in Alderney. These are the only premises that have been duly approved by the Commission for the conducting of interactive games and betting. It should be noted that the facility was originally built to accommodate the telephone exchange but the former Guernsey Telecoms made additional capital investments into the facility to ensure that it complies with the Commission's requirements as a hosting facility.

(c) Existing Telecommunication Network Situation

Alderney's telecommunications links to Guernsey are via micro-wave technology and onwards to the United Kingdom and France by optic fibre. The micro-wave link forms a ring with Guernsey and Sark and is generally found to be both resilient and reliable.

(d) Changes in Nature of E-gaming

During the last year there has been a significant growth in e-gaming. Multi-player poker is a good example of such a form of gambling and is linked with the player chatting with the other players and so require significantly more bandwidth than other e-gaming options. For example it is estimated that the bandwidth requirements for multi-player poker are on average ten times the amount currently required for conventional casino-type games.

(e) Cost of Bandwidth

The Commission has, in consultation with Cable and Wireless, who are currently the only provider of bandwidth in Alderney, investigated the cost of providing substantially higher bandwidth to Alderney to accommodate this changing pattern of e-gaming. The research has shown that the annual costs to provide the 10MB of bandwidth will be approximately £173k, when operating from Alderney, but only £105k, when operating from Guernsey.

(f) Other Factors

There is generally within the industry a negative perception about the general robustness and reliability of micro-wave links as against optic fibre links. Whilst it is accepted that the existing network is highly resilient, it is becoming more technically and commercially challenging to provide large bandwidths which were unforeseen when the current network was installed.

It is accepted that jurisdictions such as Guernsey and Alderney, in common with all offshore jurisdictions, will never be able to compete with the larger jurisdictions in terms of the basic price of bandwidth. However, the additional leap from Guernsey to Alderney makes it harder for Alderney to compete with other offshore jurisdictions.

4. Legislative Framework

As indicated above the 1971 Law, in particular as amended in 1997, enables the States, by Ordinance, to prescribe the circumstances in which e-gaming, may be permitted. The Home Department believes there are mutual benefits to both Guernsey and Alderney in protecting the viability of the Alderney e-gaming industry by allowing for the hosting of gambling servers to be located permanently in Guernsey and to permit the Commission to approve premises for the conducting of gambling in Guernsey.

Further, it acknowledges the importance to the economy of Alderney to provide state-of-the-art telecommunications infrastructure to the e-gaming industry at competitive prices as soon as possible and would therefore ask that the drafting of the necessary legislation be given appropriate priority.

5. Potential Benefits and Risks for Guernsey

The Home Department concurs with the views expressed by the Commerce and Employment Department that there are sound economic reasons for supporting Alderney's request in this way as it will be to the benefit of both Islands if e-gaming is to be maintained as a revenue stream for Alderney. Further, access to bandwidth at lower prices, carried by state-of-the-art infrastructure may attract other business which is dependent on such bandwidth provision and could assist in promoting competition in the local telecommunications market. Such developments could be of benefit to Guernsey-based data centres as well as Alderney's e-gaming industry and generate further income in this area. Further, the additional traffic through Guernsey could generate greater competition in this area of the telecommunications market which would have benefits to all internet users.

The Home Department is satisfied that as the e-gaming business will be carried out entirely within Alderney save for the location of the gambling servers there should be no negative impact on Guernsey's reputation. It accepts the reassurances from the Alderney authorities that e-gaming within Alderney will not be promoted in any way as being from Guernsey.

It acknowledges that the Island has always been cautious to avoid attracting business to Guernsey that may damage the Island's reputation or adversely affect the local finance industry. The Department has received confirmation that the key players within Guernsey's finance sector and the Guernsey Financial Services Commission foresee no negative impact on the Island's international reputation as a well-regulated and controlled offshore finance jurisdiction if these proposals are approved.

Further, it is recognised that the Alderney's Commission has built up a regulatory regime that is well balanced and well respected and that Alderney has attracted positive international publicity because of its regulation, especially with regards to age verification of players to prevent abuse by under age gamblers. It is as a result of these policies that Alderney has managed to attract highly reputable e-gaming companies from the United Kingdom and United States.

7. Costs

The Department has been advised, by all the parties involved in this investigation, that there will be no resource implications or costs to the States of Guernsey. The costs will be met commercially, that is through the licence fees paid by operators and the telecommunications providers.

8. Conclusion

In conclusion the Department recommends the States:

To approve the Department's proposals for the gambling legislation to allow for gambling servers for the Alderney e-gaming industry to be hosted on Guernsey and conferring appropriate regulatory powers on the Alderney Gambling Control Commission, as detailed in this Report; and

To direct the preparation of such legislation as may be necessary to give effect to the foregoing.

I should be grateful if you would lay this matter before the States with appropriate propositions.

Yours faithfully

M W Torode
Minister

(NB The Policy Council supports the proposals)

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

The States are asked to decide:-

VI.- Whether, after consideration of the report dated 24th March, 2005, of the Home Department, they are of the opinion:-

1. To approve the proposals for the gambling legislation, as set out in that Report, to allow for gambling servers for the Alderney e-gaming industry to be hosted on Guernsey and to confer appropriate regulatory powers on the Alderney Gambling Control Commission.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

HOUSE COMMITTEE

PARLIAMENTARY PRIVILEGE AND CODE OF CONDUCT FOR MEMBERS OF THE STATES OF DELIBERATION

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

15th March 2005

Dear Sir

Executive Summary

The first subject of this report, relating to parliamentary privilege, was originally included in Billet d'État XIV of 2004 but was withdrawn at the request of HM Procureur to allow the Law Officers further consideration of the draft legislation. In addition to the matter of parliamentary privilege included in the earlier report, the opportunity is being taken to include in this present report proposals for the introduction of a code of conduct for States Members as this matter is closely related and complementary to parliamentary privilege.

The House Committee recommends that the scope of the legislation regarding parliamentary privilege, the drafting of which the States directed in October 2003, should also provide:

- (a) for the extension of the protection afforded by the proposed Law to persons who
 - (i) publish a document for the purpose of a States/Department/ Committee meeting;
 - (ii) publish accounts of States' proceedings; and
 - (iii) appear before hearings or inquiries held by the Scrutiny Committee or Public Accounts Committee;
- (b) for the introduction of a Code of Conduct for Members of the States of Deliberation.

Report

Parliamentary Privilege

1. On the 29 October 2003 the States resolved:
 1. That legislation be enacted to provide that:
 - (a) No civil or criminal proceedings may be instituted against any Member of the States for words spoken before or written in a report to, the States or a Department or Committee of the States, or by reason of any matter or thing brought by him therein by requête, proposition or otherwise;
 - (b) The States may, by resolution, make provision regarding the investigation and disposal of allegations of breaches or abuse of privilege, including reprimand, suspension and expulsion of offending Members.
 2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.
2. In the course of drafting, the Law Officers have drawn the Committee's attention to two additional matters not embraced in the October 2003 resolution.
3. Firstly, whilst the resolution refers to the protection of individual Members of the States it does not refer to other persons who publish any report or other document for the purposes of the States meeting or Department/Committee meeting. By way of example, civil servants who forward a document containing a defamatory statement to others, or printers who print such a statement, are not protected by the new provisions.
4. Secondly, the resolution does not propose the granting of immunity to persons who publish extracts, accounts or summaries of States' proceedings – principally newspapers, radio and television. The Law Officers advise that in England such persons would enjoy qualified privilege under the common law, that is they would be protected as long as they were not motivated by malice. It is believed that the Bailiwick courts have never adjudicated on this potential liability and the Committee is informed that it is considered advisable to put the matter beyond doubt by making express provision.
5. Prior to the withdrawal of the earlier report, the Scrutiny Committee had given notice that it intended to move an amendment to the propositions, the effect of which was to extend the protection afforded by the Law to persons who appear at hearings held by the Scrutiny Committee and the Public Accounts Committee.

6. The House Committee was of the opinion that the matters raised by the Law Officers and the Scrutiny Committee should be included in the Law and so recommend.
7. Following the withdrawal of the earlier report, HM Procureur further advised the Committee on the issue of parliamentary privilege, because he was concerned that the States, when originally debating the issue, may not have fully appreciated the extent of indemnity that would be afforded to Members if the Law, as drafted, were approved. His concern arose because the Policy Letter which gave rise to the draft Law (Billet d'État No XXI of 2003 at p. 2114) focussed on protection from defamation (libel and slander) proceedings as the justification for privilege, whereas absolute privilege would extend beyond a claim in defamation. H. M. Procureur also advised the Committee that, in his opinion, on such an important issue the States needed to be fully informed as to the nature and extent of the privilege being recommended.
8. Absolute privilege is a complete defence to any action, claim or proceedings. It cannot be defeated even if the claimant proves that the defendant published the words maliciously. Whilst the majority of complaints about statements made in the course of debate will arise in the context of a defamation claim, certain statements could, but for absolute privilege, give rise to other proceedings. So absolute privilege extends to statements which, were they to be made outside the confines of a States debate, could result in a criminal prosecution; for example a disclosure by a States Member of a taxpayer's affairs in breach of the oath taken pursuant to the Income Tax legislation; similarly, disclosure by a States Member of sensitive information relating e.g. to terrorism, acquired in exercising his or her functions, and when the legislation is in place, incitement to racial hatred: but in neither case could the Member be prosecuted if the disclosure or incitement took place during the course of a States debate; and this protection would extend to any publication, e.g. in the media, of what was said.
9. Whilst absolute privilege provides immunity from prosecution it does not mean that a Member is either released from his oath or free from responsibility. A member who violates an oath will be answerable to the States and may, ultimately, be expelled depending on the particular circumstances. Furthermore, the shield of absolute privilege would extend only to words spoken in the States or written in a report to the States or at hearings before the Scrutiny and Public Accounts Committees. A member who violates his oath in any other circumstances will continue to be subject to due process of law. The House Committee is advised that of all the parliaments that have statutory parliamentary privilege, only a very few do not have absolute privilege; the States of Alderney is, however, one such parliament. Those that do have it include the United Kingdom, Jersey, the Isle of Man and practically all the Commonwealth parliaments.
10. The application of the European Convention on Human Rights was tested recently in the case of *A. v. The United Kingdom* (35373/97). In that case a

British Member of Parliament had made allegations during a parliamentary debate about the behaviour of a constituent who subsequently appealed to the European Court of Human Rights. The ECHR held that the inability of a member of the public to sue a Member of Parliament for defamatory words spoken in Parliament was justified as a proportionate way of promoting the legitimate aim of protecting free debate in Parliament both in the public interest and in regulating the relationship between the legislature and the judiciary.

11. In the States Procedures and Constitution Committee's policy letter considered by the States in October 2003 it was made plain that the counter-balance to absolute privilege is responsibility and the States agreed that a mechanism was required whereby abuse of privilege could be investigated. Part IV of the appended draft Code of Conduct sets out how allegations of breach of privilege might be dealt with. The legislation will, therefore, make provision for the disciplining of Members who abuse the parliamentary privilege. Such offending Members may be reprimanded, suspended or even expelled depending on the facts of the case.
12. The House Committee is pleased to have had the opportunity of reflecting on the matter but remains convinced that, in the interests of good government, Members should be afforded absolute privilege, and so recommends.

Code of Conduct for Members of the States of Deliberation

13. The mandate of the House Committee requires it to review and bring forward proposals for the States to consider in connection with matters relating to the propriety and conduct of States Members.
14. Although certain matters concerning conduct are provided for in the Rules of Procedure of the States of Deliberation, there is no formal code of conduct for States Members, although most other legislatures do have such a code. In drafting a code for the States of Deliberation the Committee has drawn, in particular, on the codes applicable in Jersey and the United Kingdom. The purpose of the proposed code is to lay down principles for States Members only. It is not intended that it should apply to the myriad of non-States Members who serve the community in parochial offices, judicial positions, as members of States departments and committees and in many other rôles.
15. The draft code, like those in the United Kingdom, Jersey and the devolved institutions in Scotland and Wales, is based on the Seven Principles of Public Life, as set out in the 1995 report of the United Kingdom Committee on Standards in Public Life chaired by the Rt. Hon. the Lord Nolan. These principles have become widely accepted as the basic principles applicable to those holding public office.
16. The purpose of the code is to assist Members in the discharge of their obligations to the States and the public. All Members are required to comply

with the code in all aspects of their public life but it does not seek to regulate what Members do in their purely private and personal lives.

17. It is expected that breaches of observance of the code will be extremely rare but, nonetheless, provision should be made for such occasions. In that regard it is proposed that complaints against States Members would be investigated by three persons drawn from a panel of non States members appointed by the States for a four year term. The States Members' Conduct Panel would have a Chairman and Deputy Chairman, also appointed by the States for a similar term. Details of the proposed procedure for dealing with complaints is set out on Part II of the draft Code of Conduct.
18. A draft of the code is appended to this report as an indication of the likely provisions which will be included in the definitive version. However, before the States can formally introduce a code it will be necessary to amend the Reform (Guernsey) Law, 1948, as amended to give the code and related disciplinary measures a statutory basis and the Committee therefore recommends that the Law be amended accordingly.

Recommendations

The Committee therefore recommends the States:

- (1) To extend the legislation relating to the granting of absolute privilege, the preparation of which was directed by the States on 29 October 2003, by the inclusion of the matters set out in paragraphs 3, 4 and 5 of this report;
- (2) To agree that legislation be enacted to enable the States, by resolution, to introduce a Code of Conduct for Members of the States of Deliberation on the lines set out in paragraphs 13 to 18 of this report.

I would be grateful if you would lay this matter before the States with appropriate propositions, including one directing the preparation of the necessary legislation.

As the required legislation will be an amendment to The Reform (Guernsey) Law, 1948, as amended, it may assist Members of the States to have the precise wording of Article 3(4) of that Law which will apply when the States vote on the propositions. The relevant article states:

“... any resolution of the States of Deliberation directing the preparation of legislation to repeal or vary any of the provisions of this Law which is carried by a majority of less than two-thirds of the members present and voting shall not be deemed to have been carried before the expiration of seven days from the date of the resolution:

Provided that where before the expiration of the aforesaid seven days an application in writing signed by not less than seven members of the States of Deliberation is made in that behalf to the Presiding Officer such resolution shall

be brought back before the States of Deliberation by the Presiding Officer as soon as may be after the expiration of three months from the date of the resolution whereupon such resolution shall be declared lost unless confirmed by a simple majority."

Yours faithfully

D P Le Cheminant
Chairman

DRAFT**Code of Conduct for
Members of the States of Deliberation**

approved by Resolution of the States on the XX XXXX 200X, pursuant to article XX of The Reform (Guernsey) Law, 1948, as amended¹

PART I***Purpose of the Code***

1. The purpose of the Code of Conduct is to assist elected Members of the States of Deliberation [hereinafter referred to as “Members”] in the discharge of their obligations to the States, their constituents and the public . All Members are required to comply with the provisions of this code in all aspects of their public life. Whilst it does not seek to regulate what Members do in their purely private and personal lives they must, however, be aware that some private and personal matters may impinge on their public rôles.

Public Duty

2. Members, before entering office², take an oath or affirm allegiance to be faithful and bear true allegiance to Her Majesty the Queen, her heirs and successors, according to law. They also take an oath of office or make an affirmation in which they promise that “well and faithfully” they will perform the duties attaching to membership of the States of Deliberation.
3. The primary duty of Members is to act in the public interest. In so doing Members have a duty on all occasions to act in accordance with their oaths, and in accordance with the public trust placed in them.
4. Whilst Members have a general duty to act in the best interests of the public as a whole they have a special duty to be accessible to the people of the electoral district for which they have been elected to serve and to represent their interests conscientiously.

Personal Conduct

5. Members should observe the following general principles of conduct for holders of public office –

¹ Article XX inserted by The Reform (Guernsey) (Amendment) Law, 200X

² Article 19 of The Reform (Guernsey) Law, 1948, as amended

- **Selflessness**
Members should take decisions solely in terms of the public interest. They should 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 should 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 should make choices on merit.
- **Accountability**
Members are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
- **Openness**
Members should be as open as possible about all decisions and actions that they take. They should 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 should promote and support these principles by leadership and example.

The Principles in Practice

Conflict between public and private interest

6. Members should base their conduct on a consideration of the public interest, avoid conflict between personal interest and the public interest and resolve any conflict between the two, at once, and in favour of the public interest.

Members' Conduct

7. Members should at all times conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of the States of Deliberation and never undertake any action which would bring the States, or its Members generally, into disrepute.
8. Members should at all times treat other Members, officers and members of the public with respect and courtesy and without malice, notwithstanding the disagreements on issues and policy which are a normal part of the political process.

Gifts and Hospitality

9. The acceptance by a Member of a bribe to influence his or her conduct as a Member, including any fee, compensation or reward in connection with the promotion of, or opposition to any matter submitted or intended to be submitted to the States of Deliberation, or any Department or Committee of the States, is contrary to law.³
10. The acceptance of hospitality may be acceptable in appropriate circumstances as a means of effecting States' business. However, Members should not accept gifts, hospitality or services that might appear to place the recipient under any form of obligation to the giver. In receiving any gift or hospitality Members should consider whether they would be prepared to justify acceptance to the public.
11. Members must comply with the detailed provisions regarding gifts and hospitality set out in Schedule 1 to this Code.

Use of States facilities

12. To avoid misrepresentation of the States and to avoid the improper use of States' assets, Members must not use any goods, services or facilities provided for the functioning of government
 - (a) for private purposes; nor
 - (b) except where generally available in accordance with published arrangements to all Members, for constituency purposes.

Register and Declaration of Members' Interests

13. Members must fulfil conscientiously the requirements of the Rules of Procedure of the States of Deliberation in respect of the registration of interests in the Register of Members' Interests and must always draw attention to any relevant

³ The Prevention of Corruption (Bailiwick of Guernsey) Law, 2003

and material interest in any proceedings of the States of Deliberation, its Departments or Committees.

14. In any activities with, or on behalf of, any organisation with which a Member has a financial relationship, including activities which may not be a matter of public record such as informal meetings and functions, he or she must always bear in mind the need to be open and frank with Ministers, Members and officials.

Paid Advocacy

15. No Member may act as a paid advocate on behalf of any third party in any proceedings of the States.

Confidential Information

16. Members must bear in mind that confidential information which they receive in the course of their duties should only be used in connection with those duties, and that such information must never be used for the purpose of financial gain or otherwise in their own personal interest or that of their families, friends, business associates or any voluntary or charitable organisation with which they are involved.
17. In addition, Members should not disclose publicly, or to any third party, personal information about named individuals which they receive in the course of their duties unless it is both lawful and clearly in the wider public interest to do so. Members must, at all times, have regard to all relevant data protection, human rights and privacy legislation when dealing with confidential information and must be aware of the consequences of breaching confidentiality.

PART II

Procedure for Complaints relating to Part I matters

18. Complaints, whether from Members or from members of the public, alleging that the conduct of a Member is in breach of the Code of Conduct set out in Part I must be addressed in writing to the Chairman of the States Members' Conduct Panel [hereinafter referred to as "the Panel"].
19. Unsubstantiated allegations will not be considered by the Chairman of the Panel. Complainants are required to supply the Chairman of the Panel with supporting evidence and a complaint founded only upon a media report will not normally be treated as a substantiated allegation. Anonymous complaints will not be considered.

20. If the Chairman of the Panel is satisfied that there is prima facie evidence to support the complaint he will ask the Member concerned to respond to the complaint and will then conduct an investigation. The investigation Panel will comprise the Chairman or Deputy Chairman, one member nominated by the Chairman or Deputy Chairman and one member nominated by the Member concerned. The Member concerned will at every stage be given full details of the nature of the complaint and will be invited to address the Panel.
21. All Members are required to co-operate fully with the Panel during any investigation, even if the Member concerned considers that the alleged breach is unsubstantiated. Failure to co-operate in any investigation will, in itself, be regarded as a breach of the Code.
22. The Panel may request the production of papers and records and may request the attendance of any person before it, and may request that specific documents in the possession of a Member relating to its inquiries be laid before it.
23. Where the Panel finds that a complaint has been substantiated but is of the view that the breach of conduct was of a minor nature it will normally dispose of the matter by cautioning the Member concerned.
24. Where the Panel finds that a complaint has been substantiated and it is of the opinion that the Member should be formally reprimanded, suspended or expelled, or, where a Member refuses to accept a caution in the circumstances set out in the previous paragraph, it shall report its findings to the House Committee which, in turn, shall report to the States on the matter, with appropriate recommendations.
25. Where the complaint concerns the Chairman or a Member of the House Committee, and where the Panel finds that the complaint has been substantiated and is of the opinion that the Member should be formally reprimanded, suspended or expelled, it shall report its findings to the Policy Council which, in turn, shall report to the States on the matter, with appropriate recommendations.

PART III

Absolute Privilege for States Proceedings

26. The Law⁴ confers absolute privilege on Members in respect of any words spoken in, or in any report to, the States or any Department or Committee thereof. This includes requêtes, amendments, sursis, questions, reports and other written documents. Absolute privilege is a complete defence to any legal proceedings arising as a result of what is said or published. It confers protection even when the words complained of are spoken or published maliciously, or when their being spoken or published would otherwise amount to a criminal offence.

⁴ Article XX of The Reform (Guernsey) Law, 1948, as amended

27. Members are afforded this immunity to enable them to air any matter, regardless of the power, wealth or status of those criticised.
28. The counter-balance to privilege, however, is responsibility; and Part IV of this Code sets out the mechanism for the investigation of allegations of abuse of privilege and, where such an allegation is found to be substantiated, the penalties which may be imposed on the Member concerned.

PART IV

Investigation of Allegations of Breach of Privilege

29. A Member alleging that another Member has breached or abused privilege shall (in accordance with procedures set out in the Rules of Procedure of the States of Deliberation) request the States to direct that the alleged breach or abuse be referred to a Privileges Panel for consideration.
30. The alleged breach or abuse shall only be so referred if the States have resolved that a prima facie case has been made by the Member alleging the breach or abuse of privilege.
31. The Privileges Panel shall comprise five of the ten most senior Members, by length of service, appointed by the Presiding Officer. The Member concerned will be invited to address the Privileges Panel.
32. All Members are required to co-operate fully with the Privileges Panel during any investigation, even if the Member concerned considers that the alleged breach or abuse is unsubstantiated. Failure to co-operate in an investigation will be regarded as a breach of the Code.
33. The Privileges Panel may request the production of papers and records and may request the attendance of any person before it, and may request that specific documents in the possession of a Member relating to its inquiries be laid before it.
34. When the Privileges Panel has concluded its investigations it shall report its findings to the States, and if the allegation is upheld the States shall have the power to reprimand, suspend or expel the offending Member.

SCHEDULE 1

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 House Committee in such form as the House 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 offices of the House Committee. Declarations by the Chairman of the House Committee shall be made to 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, should 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 any of his close family jointly 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.

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 should be registered.

(NB The Policy Council supports the proposals)

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

The States are asked to decide:-

VII.- Whether, after consideration of the Report dated 15th March, 2005, of the House Committee, they are of the opinion:-

1. That the legislation relating to the granting of absolute privilege, the preparation of which was directed by the States on 29th October 2003, be extended by the inclusion of the matters set out in paragraphs 3, 4 and 5 of that Report.
2. That legislation be enacted to enable the States, by resolution, to introduce a Code of Conduct for Members of the States of Deliberation on the lines set out in paragraphs 13 to 18 of that Report.
3. To direct the preparation of such legislation as may be necessary to give effect to their above decisions.

REQUÊTE

FAIRTRADE FOUNDATION

THE HUMBLE PETITION of the undersigned Members of the States of Deliberation
SHEWETH:-

1. THAT the object of the Fairtrade Foundation is to seek to protect small scale producers in third world countries against falls in commodity prices which can force them into debt.
2. THAT charities assist by buying direct from farmers at better prices thus marketing produce directly through their own shops and catalogues and offering consumers the opportunity to buy products brought on the basis of fair trade.
3. THAT the Fairtrade Foundation runs the international standard setting and monitoring body Fairtrade Labelling Organisations International (FLO).
4. THAT producers registered with FLO receive a minimum price that covers the cost of production and an extra premium that is invested in the local community.
5. THAT in September 2004 there were 422 Fairtrade certified producer groups (including many umbrella bodies) in 49 producer countries selling to Fairtrade registered importers, licensees and retailers in 19 countries.
6. THAT in the opinion of your petitioners the objects of the Fairtrade Foundation are worthy of support by the government and people of Guernsey.

THESE PREMISES CONSIDERED humbly pray that the States may be pleased to resolve as follows:-

- (a) to support all goals, targets and initiatives to enable the Island to be recognised by the Fairtrade Foundation as a Fairtrade island and, in particular, to agree that-
 - (i) the States should support Fairtrade and agree that Fairtrade coffee and tea be served at meetings of the States and departments and committees of the States and in States offices and canteens,
 - (ii) the States should promote awareness of Fairtrade on a regular basis on the States of Guernsey website and in publications produced or sponsored by the States with the object of attracting popular support for the Fairtrade campaign,
 - (iii) the States should support any local Fairtrade steering group that may be convened to ensure continued commitment to Fairtrade island status,

- (b) to request the Policy Council, in consultation with any such group, to ensure continued commitment to the Fairtrade initiative,
- (c) to request all departments and committees of the States take all appropriate steps to support Fairtrade products in their purchasing policies.

AND YOUR PETITIONERS WILL EVER PRAY

GUERNSEY

This 1st day of April, 2005

M W TORODE

T M LE PELLEY

B R DE JERSEY

D P LE CHEMINANT

G H MAHY

G GUILLE

B J GABRIEL

D E LEWIS

J A B GOLLOP

(NB The Policy Council supports the proposals)

(NB The Treasury and Resources Department supports the proposals)

The States are asked to decide:-

VIII.- Whether, after consideration of the Requête, dated 1st April, 2005, signed by Deputy M W Torode and eight other Members of the States, they are of the opinion:-

1. To support all goals, targets and initiatives to enable the Island to be recognised by the Fairtrade Foundation as a Fairtrade island and, in particular, to agree that-
 - (a) the States should support Fairtrade and agree that Fairtrade coffee and tea be served at meetings of the States and departments and committees of the States and in States offices and canteens;
 - (b) the States should promote awareness of Fairtrade on a regular basis on the States of Guernsey website and in publications produced or sponsored by the States with the object of attracting popular support for the Fairtrade campaign; and
 - (c) the States should support any local Fairtrade steering group that may be convened to ensure continued commitment to Fairtrade island status.
2. To request the Policy Council, in consultation with any such group, to ensure continued commitment to the Fairtrade initiative.
4. To request all departments and committees of the States take all appropriate steps to support Fairtrade products in their purchasing policies.

EDUCATION DEPARTMENT

THE LADIES' COLLEGE ANNUAL REPORT - 2003/2004

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

21st March 2005

Dear Sir

I enclose the annual report of the Principal of The Ladies' College for the academic year 2002/2003. I would be grateful if you would arrange for the report to be published as an appendix to the Billet d'État for May 2005.

Yours faithfully

Deputy M A Ozanne
Minister

**PRINCIPAL'S REPORT
to the States of Guernsey
2003 – 2004**

The expansion of the Ladies' College to a three form entry school from Years 7 to 11 which began in 1999 was completed this year. Pupil numbers once again increased and the total including Melrose reached 548. Student numbers in the Sixth Form also increased to 90. Results in public examinations were outstanding and college girls achieved many successes in sport, music and drama. In March the school had a full inspection conducted by the Independent Schools' Inspectorate and received a very positive endorsement.

Examinations

The Ladies' College in 2003/4 maintained its record of excellence in public examinations. The A level pass rate at grades A to E was 100% with 48.8% being at A grade and 90.2% at grades A to C. Alexandra Monkhouse achieved A grades in 5 subjects and Scarlet Bayfield, Zoe James, Robyn Sherwell and Jade Simpson achieved A grades in four subjects. 5 girls achieved A grades in three subjects. At GCSE the results were the best ever. There was 100% pass rate at grade A* to G with 98.2% at grade A* to C and 69.3% at grades A* or A. Twenty two girls achieved A* or A grades in all ten subjects, with Abigail Downing, Lucy Farrimond, Katie Platts and Emily Yerby gaining A* in all ten subjects. Lucy Farrimond achieved a special award from the Royal Geographical Society for gaining the top mark in the Edexcel Geography Syllabus B examination. This is the third time in four years that a Ladies' College student has won this Award and it represents a significant tribute not only to the individual students but also to the teachers in the Geography department at the Ladies' College.

Destinations

The success that the Year 13 students enjoyed at A level meant that nearly all of them have obtained places at the university of their first choice. Jade Simpson gained a place at Newnham College Cambridge to read Social and Political Science. A full list of the destinations of Upper 6 leavers is attached.

Curriculum

Spanish was introduced into the curriculum this year as a GCSE short-course. It has proved popular and from September 2004 it will be offered as a full GCSE. Another initiative has been the introduction of Citizenship in Year 9. This is the first stage of a programme that will be continued in Year 10 next year and will be completed in Year 11 in 2005-2006. As part of the extended curriculum Year 10 and Year 11 have done a

touch-typing course and have begun to study modules for the European Computer Driving Licence. It took longer than expected for the Education Department to get the necessary authorisation for the Award and thus no candidates were able to be entered for assessment this year. Take-up for Science at A level has been particularly strong with very large numbers opting for both Biology and Chemistry at AS level. Two sets have had to be provided in both subjects, Design and Technology has also proved to be a very popular subject and has grown rapidly since its introduction to the College in 2000. This year the first Ladies' College student has undertaken a AS level course in Resistant Materials at Elizabeth College. A CAM machine has been purchased which has greatly enhanced the range and quality of the products that the girls can now undertake. An exhibition of the work carried out by this year's GCSE students was outstanding.

Music and Drama

At Christmas the Music and Drama departments combined to stage a Medieval Evening based on scenes from the York Mystery Plays. In Spring Term the GCSE drama group staged a performance of Euripides' Antigone. The Trinity College Speech and Drama examinations, introduced two years ago, continued to be strongly supported. Seven girls gained the Performers' Certificate and Victoria Marr gained the Diploma in Performing Arts. Extra curricular Music groups have flourished this year and music-making is very much part of College life. In addition to playing in School music groups, many girls also play in Island orchestras and twelve girls played in the Channel Islands Youth Orchestra. The annual concert provided an opportunity for girls of all ages to demonstrate their talent and the GCSE music group provided the musical backing for the Medieval Banquet in St James at the end of the Summer term.

Sport

The College has had an excellent year in Sport, particularly in Hockey and Swimming. Several girls represented the Island or the Channel Islands and Elena Johnson, Clare Chapple and Heather Watson competed in their respective sports of Badminton, Dinghy Sailing and Tennis at national level. A full list of Island representation is attached.

Resources and Buildings

The Education Department has responsibility for the capital development of the College buildings which are States' owned and the College Board can only make representations to the Education Department about the School's long-term need for improved facilities. Regrettably no progress was made this year in securing funds from the States for any capital development and the College is still not on any programme of capital works. Some internal modifications have been made, however, to effect minor improvements. In Melrose the Library was converted into the Secretary's office and separate new Libraries were created for the infant and junior departments. An environmental garden

was developed with the support of the Parents' Association and it was opened by Lady Foley in October. At the other end of the age range, the Sixth Form centre was completely refurbished and re-decorated.

Staff Changes

Deputy David Grut replaced Deputy Jonathan Le Tocq as the Education Council Member on the Board of Governors. The following new members of staff were appointed in September 2003:-

Mr Barnes - Head of Science and Chemistry,
 Mr Gribbens - Teacher of English and Music,
 Miss Jenkins - Teacher of History
 Miss Landman - Teacher of PE
 Mrs Coombs - Part-time teacher of Music
 Mrs Claxton - Part-time teacher of Religious Studies
 Mrs C Webster - Part-time teacher of Drama
 Mr Sherbourne - Part-time teacher of Design and Technology
 Mrs Brand - Part-time teacher of History

Mr Henderson who was already on the staff became Head of Music

In Melrose the following staff were appointed:-

Miss Coates class teacher for Year 4 and Music specialist
 Mrs Woodfield class teacher for Year 1
 Mr Walsh class teacher for Year 3
 Mrs Falla part-time teaching assistant for Year 1 and 2

Mrs Spurrier became Deputy Head

Mrs Russell became Senior Teacher of the Junior Department

In December Mr Arblaster Principal teacher of Physics left the Senior School and was replaced by Mr Harding.

The following staff left at the end of the academic year:-

Mrs Hargreaves – Head of English Department
 Mr Cornelius – Head of Drama Department
 Mrs C Webster – Teacher of Drama
 Mr Turner – Teacher of Biology
 Miss Armand-Smith – Teacher of Mathematics and Junior Co-ordinator
 Miss Jenkins – Teacher of History
 The Reverend Mrs Le Vasseur – Chaplain

The College was greatly saddened by the illness and death of Mr Gribbens in July 2004.

Inspection

As a member of the Girls' School Association the Ladies' College is inspected every six years by the Independent Schools Inspectorate. A team of eight inspectors visited the School in March. They recognised the generally high standard achieved by the girls and were full of praise for their motivation and attitude to study and also for the support and encouragement that they received from the staff. The inspectors commended the high standard of the teaching. Teaching was generally described as good or very good and moral values and pastoral care were identified as strengths of the College. The Music Department, the Library and Melrose were signalled out for unstinting praise.

Extra Curricular successes

In the Duke of Edinburgh's Award Scheme 58 girls gained the Bronze Award, 24 girls gained the Silver Award and 9 girls gained the Gold Award.

Many of the Lower Sixth took part in Young Enterprise and the Company GY1 with five Ladies' College members won the Guernsey round. Laura Brogan won the Managing Directors' Award. In the company "Blue Cube", Bethan Boscher won the Company Secretary's Award and, with Jessica Robinson and Sarah Wadley, the best company presentation.

In the Institute of Directors' Management Shadowing Programme, Emma Guilbert and Eleanor Root were awarded joint second place.

In the Rotary Youth Speaks competition the senior team of Hannah Druckes, Abigail Heyworth and Sarah Honey won the Guernsey round and were narrowly defeated by Jersey in the second round of the competition.

The World Wise Quiz team, comprising Abigail Downing, Lucy Farrimond and Carolyn VanVliet, won the local round of the competition.

An economics team comprising Zoe James, Sally Ede-Golightly, Tara-Louise Falla and Chloe Spaven entered the Bank of England Target 2.0 competition and they won the regional heat in Exeter and were placed second in the South-west Regional finals.

There were many individual winners in the Eisteddfod including Ann Harris who won the Edith Messenger Trophy and Emma Harding who won the Golden Jubilee Trophy. Lucy Farrimond was awarded the Coupe de L'Alliance Francaise. Four girls were selected to play in the High Achievers concert at St James and the Senior Hand-bell team won the Edith Agnew Memorial Trophy. Mr Henderson and Mr Gribbens won the Piano Duet class and together with Mr Cornelius and Mrs Coombs won the eight hands class.

In the 'Design and Ad' Competition the Ladies' College won a prize as the most deserving School. Miranda Bane gained the Award for artistic flair and Rosie Milner was the Year 8 winner.

Sally Ede-Golightly was selected to represent Guernsey in the Commonwealth Education Conference in Edinburgh.

Chloe Grover was selected as one of the Scientists to represent Guernsey at the International Youth Science Forum in London.

The College has been actively involved in Fund Raising throughout the year for both local and international causes:- £4575 has been raised this year.

<u>Numbers on Roll</u>	September 2003	(September 2002)
Melrose	144	(142)
Senior School		
Years 7 – 11	314	(308)
Years 12 - 13	90	(82)
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TOTAL	548	(532)

Conclusion

The College has made significant progress both academically and in the broader curriculum and has successfully met the challenges of this year. The morale of both students and staff remains high. In spite of the deficiencies in its buildings the Ladies' College is still providing a first class education for the girls of the Island.

Miss M E Macdonald
Principal

Resolutions

IN THE STATES OF THE ISLAND OF GUERNSEY

ON THE 26th DAY OF MAY, 2005

(Meeting adjourned from 25th May, 2005)

The States resolved as follows concerning Billet d'État No VI
dated 6th May, 2005

THE HEALTH SERVICE (BENEFIT) (AMENDMENT) ORDINANCE, 2005

I.- To approve the draft Ordinance entitled "The Health Service (Benefit) (Amendment) Ordinance, 2005", and to direct that the same shall have effect as an Ordinance of the States.

PAROCHIAL OUTDOOR ASSISTANCE BOARDS

NEW PRESIDENTS AND NEW MEMBERS

II.-

(1) (a) To re-elect as members of the following Parochial Outdoor Assistance Boards with effect from 1st June, 2005:

<u>Board</u>	<u>Member</u>
St Peter Port	Mr P D Jehan
St Sampson	Mr D J Harvey
Castel	Mr H J Dorey
St Saviour	Mr J H Humphreys
Torteval	Mr L P Brehaut
Forest	Mr G E Musson
St Martin	Mr R A Strappini
St Andrew	Mr W J Stewart

(b) To elect Mr A Goubert as a Member of the Vale Parochial Outdoor Assistance Board with effect from 1st June, 2005

(c) To elect Mr T. R. Langlois as a Member of the St Pierre-du-Bois Parochial Outdoor Assistance Board with effect from 1st June, 2005

- (2) To re-elect Mr P D Jehan as President of the St Peter Port Parochial Outdoor Assistance Board, with effect from 1st June, 2005.
- (3) To re-elect Mr S G Park as President of the St Sampson Parochial Outdoor Assistance Board, with effect from 1st June, 2005.
- (4) To elect Mr N N Duquemin as President of the Vale Parochial Outdoor Assistance Board, with effect from 1st June, 2005.
- (5) To re-elect Mr P B Bott as President of the St Saviour Parochial Outdoor Assistance Board, with effect from 1st June, 2005.
- (6) To re-elect Mr J H Lenfestey as President of the St Pierre-du-Bois Parochial Outdoor Assistance Board, with effect from 1st June, 2005.
- (7) To re-elect Mr L P Brehaut as President of the Torteval Parochial Outdoor Assistance Board, with effect from 1st June, 2005.
- (8) To re-elect Mr R L Heaume as President of the Forest Parochial Outdoor Assistance Board, with effect from 1st June, 2005.
- (9) To re-elect Mrs B J Hervé as President of the St Martin Parochial Outdoor Assistance Board, with effect from 1st June, 2005.
- (10) To re-elect Mr G C Le Mesurier as President of the St Andrew Parochial Outdoor Assistance Board, with effect from 1st June, 2005.

POLICY COUNCIL

THE GUERNSEY FINANCIAL SERVICES COMMISSION: 2004 ANNUAL REPORT

III.- After consideration of the Report dated 4th April, 2005, of the Policy Council:-

1. To note that Report.
2. To approve the accounts of the Guernsey Financial Services Commission for the year ended 31st December 2004.
3. To appoint the firm of PricewaterhouseCoopers CI LLP as auditors of the accounts of the Guernsey Financial Services Commission for the year ending 31st December 2005.

POLICY COUNCIL

LEGAL AID

IV.- After consideration of the Report dated 21st April, 2005 of the Policy Council:-

1. To approve the establishment of the Office of Legal Aid Administrator as proposed in that Report (as set out in paragraphs 5 (b), (d), (e), (f), (h), (i) and (j)).

2. (a) To authorise the Policy Council to negotiate with the Guernsey Bar regarding the basis for, and rates of remuneration for publicly funded legal aid work and to report back to the States on the outcome.
- (b) To direct the Policy Council to report to the States with recommendations, including an estimation of costs, for all or any of the models for the delivery of legal aid.
3. To require Departments proposing new legislation to indicate any likely impact on the proposed Legal Aid Fund as a direct or indirect result of the proposals.
4. To direct the preparation of such legislation as may be necessary to give effect to the foregoing.

HEALTH AND SOCIAL SERVICES DEPARTMENT

FUTURE MANAGEMENT OF ST JULIAN'S HOUSE

V.- After consideration of the Report dated 23rd March, 2005, of the Health and Social Services Department:-

To surmise the proposals; and instruct the Health and Social Services Department to report back to the States with alternative proposals as soon as practicable.

HOME DEPARTMENT

GAMBLING CONTROL

VI.- After consideration of the report dated 24th March, 2005, of the Home Department:-

1. To approve the proposals for amending the gambling legislation as set out in that Report to allow for gambling servers for the Alderney e-gaming industry to be hosted on Guernsey and to confer appropriate regulatory powers on the Alderney Gambling Control Commission.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

HOUSE COMMITTEE

PARLIAMENTARY PRIVILEGE AND CODE OF CONDUCT FOR MEMBERS OF THE STATES OF DELIBERATION

VII.- After consideration of the Report dated 15th March, 2005, of the House Committee:-

1. By 43 votes in favour and none against, that the legislation relating to the granting of absolute privilege, the preparation of which was directed by the States on 29 October

2003, be extended by the inclusion of the matters set out in paragraphs 3, 4 and 5 of that Report.

2. By 42 votes in favour and 2 against, that legislation be enacted to enable the States, by resolution, to introduce a Code of Conduct for Members of the States of Deliberation on the lines set out in paragraphs 13 to 18 of that Report.
3. To direct the preparation of such legislation as may be necessary to give effect to their above decisions.

REQUÊTE

FAIRTRADE FOUNDATION

VIII.- After consideration of the Requête, dated 1st April, 2005, signed by Deputy M W Torode and eight other Members of the States:-

1. To support all goals, targets and initiatives to enable the Island to be recognised by the Fairtrade Foundation as a Fairtrade island and, in particular, to agree that-
 - (a) the States should support Fairtrade and agree that Fairtrade coffee and tea be served at meetings of the States and departments and committees of the States and in States offices and canteens, and that any refreshments provided at receptions and functions organised by the States should whenever reasonably possible be Fairtrade products;
 - (b) the States should promote awareness of Fairtrade on a regular basis on the States of Guernsey website and in publications produced or sponsored by the States with the object of attracting popular support for the Fairtrade campaign; and
 - (c) the States should support any local Fairtrade steering group that may be convened to ensure continued commitment to Fairtrade island status.
2. To request the Policy Council, in consultation with any such group, to ensure continued commitment to the Fairtrade initiative.
3. To request all departments and committees of the States to take all appropriate steps to support Fairtrade products in their purchasing policies.

K. H. TOUGH
HER MAJESTY'S GREFFIER