



**XX
2012**

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WEDNESDAY 26th SEPTEMBER 2012

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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 **26th SEPTEMBER, 2012**, at 9.30am, to consider the items contained in this Billet d'État which have been submitted for debate.

R. J. COLLAS
Bailiff and Presiding Officer

The Royal Court House
Guernsey
17 August 2012

PROJET DE LOI

entitled

THE SEWERAGE (GUERNSEY) (AMENDMENT) LAW, 2012

The States are asked to decide:-

I.- Whether they are of the opinion to approve the draft Projet de Loi entitled “The Sewerage (Guernsey) (Amendment) Law, 2012” and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

**THE HEALTH AND SAFETY AT WORK (GENERAL) (GUERNSEY)
(AMENDMENT) ORDINANCE, 2012**

The States are asked to decide:-

II.- Whether they are of the opinion to approve the draft Ordinance entitled “The Health and Safety at Work (General) (Guernsey) (Amendment) Ordinance, 2012”, and to direct that the same shall have effect as an Ordinance of the States.

**THE MERCHANT SHIPPING (BAILIWICK OF GUERNSEY) LAW,
2002 (COMMENCEMENT) ORDINANCE, 2012**

The States are asked to decide:-

III.- Whether they are of the opinion to approve the draft Ordinance entitled “The Merchant Shipping (Bailiwick of Guernsey) Law, 2002 (Commencement) Ordinance, 2012”, and to direct that the same shall have effect as an Ordinance of the States.

**THE MERCHANT SHIPPING (CONVENTION ON LIMITATION OF
LIABILITY FOR MARITIME CLAIMS) (BAILIWICK OF GUERNSEY)
ORDINANCE, 2012**

The States are asked to decide:-

IV.- Whether they are of the opinion to approve the draft Ordinance entitled “The Merchant Shipping (Convention on Limitation of Liability for Maritime Claims) (Bailiwick of Guernsey) Ordinance, 2012”, and to direct that the same shall have effect as an Ordinance of the States.

**THE MONT VAROUF SCHOOL (GUERNSEY) LAW, 2012
(COMMENCEMENT) ORDINANCE, 2012**

The States are asked to decide:-

V.- Whether they are of the opinion to approve the draft Ordinance entitled “The Mont Varouf School (Guernsey) Law, 2012 (Commencement) Ordinance, 2012”, and to direct that the same shall have effect as an Ordinance of the States.

**THE SEA FISH LICENSING (BAILIWICK OF GUERNSEY) LAW, 2012
(COMMENCEMENT) ORDINANCE, 2012**

The States are asked to decide:-

VI.- Whether they are of the opinion to approve the draft Ordinance entitled “The Sea Fish Licensing (Bailiwick of Guernsey) Law, 2012 (Commencement) Ordinance, 2012”, and to direct that the same shall have effect as an Ordinance of the States.

EDUCATION DEPARTMENT

ELECTION OF NON-VOTING MEMBER

The States are asked:-

VII.- To elect as a non-voting member of the Education Department, Mr Denis Patrick Mulkerrin, who has been nominated in that behalf by that Department, to serve until May 2016 in accordance with Rule 4 (2) of the Constitution and Operation of States Departments and Committees.

(NB Rule 4 (2) of the Constitution and Operation of States Departments and Committees provides:

“Any Department may nominate up to two non-voting members, who shall not be sitting Members of the States, and whose appointments shall expire at the same time as the terms of office of the four sitting Members of the States. No other nomination may be made. Such Members shall have the same rights and duties as ordinary Members (other than the right to vote).”

COMMERCE AND EMPLOYMENT DEPARTMENT

ELECTION OF NON-VOTING MEMBER

The States are asked:-

VIII.- To elect as a non-voting member of the Commerce and Employment Department, Advocate Thomas Michael Carey, who has been nominated in that behalf by that Department, to serve until May 2016 in accordance with Rule 4 (2) of the Constitution and Operation of States Departments and Committees.

(NB Rule 4 (2) of the Constitution and Operation of States Departments and Committees provides:

“Any Department may nominate up to two non-voting members, who shall not be sitting Members of the States, and whose appointments shall expire at the same time as the terms of office of the four sitting Members of the States. No other nomination may be made. Such Members shall have the same rights and duties as ordinary Members (other than the right to vote).”

LEGISLATION SELECT COMMITTEE

ELECTION OF NON-VOTING MEMBERS

The States are asked:-

IX.- To elect

1. as a non-voting member of the Legislation Select Committee, Advocate Simon Francis William Howitt, who has been nominated in that behalf by that Committee, to serve until May 2016 in accordance with Rule 5 (1) (c) of the Constitution and Operation of States Departments and Committees.
2. as a non-voting member of the Legislation Select Committee, Ms Dawn Angela Tindall, who has been nominated in that behalf by that Committee, to serve until May 2016 in accordance with Rule 5 (1) (c) of the Constitution and Operation of States Departments and Committees.

(NB Rule 5 (1) (c) of the Constitution and Operation of States Departments and Committees provides:

“The Committee may nominate up to two non-voting members, who shall not be sitting Members of the States, and whose appointments shall expire at the same time as the terms of office of the four sitting Members of the States. No other nomination may be made. Such Members shall have the same rights and duties as ordinary Members (other than the right to vote).”

POLICY COUNCIL

APPOINTMENT OF MEMBER TO PLANNING PANEL

1. Executive Summary

- 1.1 The purpose of this States Report is to ask the States to appoint Mr. David Harry as an ordinary member of the Planning Panel to fill the vacancy which has arisen following the resignation of Mr. Nigel Burnard.

2. Background

- 2.1 On 25th March, 2009, the States elected Mr. Nigel Burnard to serve as a member of the Planning Panel established under section 86 of the Land Planning and Development (Guernsey) Law, 2005 ("the Law") for two years taking effect from 6th April, 2009.
- 2.2 On 23rd February, 2011, Mr. Burnard was re-elected to the Panel for a further six year term taking effect from 6th April, 2011.
- 2.3 Mr Burnard has recently informed the Policy Council that he has accepted employment which could involve work in relation to prosecutions for unlawful development. In order to avoid any perception of bias or pre-determination, Mr. Burnard tendered his resignation from the Panel on 10th July, 2012.
- 2.4 Section 86 of the Law¹ stipulates that the Panel must consist of "independent" persons. Although the Policy Council has no reason to consider that Mr Burnard would ever act in a manner other than independently as a member of the Panel, the Policy Council recognises that there is a risk that a party to tribunal proceedings or the public in general might consider there to be a perception of bias or pre-determination as a result of Mr Burnard's employment. The Policy Council accepts that as a result there could be a greater than ordinary level of risk that Mr Burnard would have to recuse himself on particular cases. As such and in the context of section 86 of the Law, the Policy Council has therefore resolved that it has no option but to accept Mr Burnard's resignation and seeks the States' approval to elect Mr Harry to serve on the Panel.

¹ Under section 86 : (1) "The States shall, on the recommendation of the Policy Council, draw up and maintain a panel to be called the Planning Panel which shall consist of six independent persons and from which the members of the Planning Tribunal shall, from time to time, be appointed."

- 2.5. Under the Law², a member of the Panel elected to fill a casual vacancy, as in this case, holds office only for the unexpired portion of the term of office of the member he replaces. Therefore, Mr. Harry, if elected, would serve for the unexpired portion of Mr. Burnard's term.
- 2.6 The Policy Council wishes to record its appreciation to Mr. Burnard for his work with the Panel.

3. Election New Member

- 3.1 In its March 2009 States Report recommending the election of the members of the Planning Panel (Billet d'État VIII of 2009, Article 7), the Policy Council advised the States that three of the unsuccessful candidates interviewed had been asked to train as informal "reserve members" to be available should the workload require that the number of Panel members be increased.
- 3.2 Mr. David Harry is one of the "reserve members". Mr. Harry is a qualified English Solicitor and has specialised in land and property law. He is a partner with Spicer and Partners (Guernsey) LLP. Mr. Harry is a member of the Society of Trust and Estate Practitioners and the Guernsey International Legal Association. He is also Vice-Chairman of the Guernsey Commonwealth Games Association. Mr. Harry lives in Guernsey.
- 3.3 The Chairman of the Panel has advised the Policy Council that Mr. Harry is happy to be considered for election to the Panel. The Chairman believes that Mr. Harry's qualifications and experience and relevant training would be valuable to the Panel in the discharge of its duties. Mr. Harry has maintained an active interest in the Panel's work. He has also attended various training courses run for Panel members, including a Judicial Studies Board training course for tribunal members.

4. Principles of Good Governance

- 4.1 The Policy Council is satisfied that the experience and expertise of the candidate will enable the Panel to operate effectively and in accordance with the principles of good governance.

The proposal set out in this report takes full account of the core principles of good governance as set out on page 247 of Billet d'État IV of 2011, most particularly principle 1 "focusing on the organisation's purpose and on outcomes for citizens and service users", and principle 4, "taking informed, transparent decisions and managing risk".

² Section 86 (8) "A member of the Planning Panel elected to fill a casual vacancy shall hold office only for the unexpired portion of the term of office of the member he replaces."

5. Recommendations

- 5.1 In accordance with the provisions of section 86 of the Land Planning and Development (Guernsey) Law, 2005, the Policy Council recommends that the States elect Mr. David Harry as an ordinary member of the Planning Panel, to hold office for the unexpired portion of Mr. Burnard's term, to take effect from 1st October, 2012 until 5th April, 2017.

P A Harwood
Chief Minister

23rd July 2012

J P Le Tocq
Deputy Chief Minister

G A St Pier
R Domaille
D B Jones

A H Langlois
K A Stewart
A H Adam

R W Sillars
P A Luxon
M G O'Hara

(NB As there are no resource implications identified in the report, the Treasury and Resources Department has no comments to make.)

The States are asked to decide:-

X.- Whether, after consideration of the Report dated 23rd July, 2012, of the Policy Council, they are of the opinion:-

To elect Mr. David Harry as an ordinary member of the Planning Panel, to hold office for the unexpired portion of Mr. Burnard's term, to take effect from 1st October, 2012 until 5th April, 2017.

TREASURY AND RESOURCES DEPARTMENT**DOUBLE TAXATION ARRANGEMENT WITH THE GOVERNMENT OF JAPAN**

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

19th June 2012

Dear Sir

1. Executive Summary

This Report proposes that the States declare, by Resolution, that a double taxation arrangement entered into with the Government of Japan, on 6th December, 2011, should have effect, with the consequence that the arrangement shall also have effect in relation to income tax, notwithstanding anything contained in the Income Tax (Guernsey) Law, 1975, as amended (“the Income Tax Law”).

2. Report

- 2.1. The principal purpose of a double taxation arrangement is for two governments to agree procedures for the prevention of double taxation – that is, taxation under the laws of both territories in respect of the same income.
- 2.2. Prior to 2012, Guernsey had only two comprehensive double taxation arrangements – one with the United Kingdom (which came into force in 1952) and one with Jersey (which came into force in 1955). Since 2008, several, albeit restricted, arrangements have been signed with countries including the Netherlands, Ireland, New Zealand and several Nordic countries.
- 2.3. Since 2001, Guernsey has been negotiating with a number of countries in relation to Tax Information Exchange Agreements (“TIEAs”). Part of the negotiation process is to discuss, with the country concerned, ways of preventing certain types of double taxation and related issues.

- 2.4. On 6th December, 2011, Guernsey signed an agreement with Japan, entitled “Agreement between the Government of Guernsey and the Government of Japan for the Exchange of Information relating to Tax Matters and the Avoidance of Double Taxation with respect to Taxes on Income of Individuals”), which incorporates, under Chapter 3, certain provisions which relate to the avoidance of double taxation in connection with government service, students and the method for the granting of relief in the event of double taxation (this is similar to the restricted Double Taxation Agreements negotiated with several other territories, as referred to in paragraph 2.2 above).

A copy of the agreement with Japan is appended to this Report.

- 2.5. Section 172(1) of the Income Tax Law provides:

“If the States by Resolution declare that arrangements specified in the resolution have been made with the government of any other territory with a view to affording relief from double taxation in relation to income tax and any tax of a similar character imposed by the laws of that territory, and that it is expedient that those arrangements should have effect, the arrangements shall have effect in relation to income tax notwithstanding anything in any enactment.”

- 2.6 Chapter 2 of the agreement with Japan provides for the obtaining and exchanging of information in relation to tax made between the States of Guernsey and the Government of Japan. In order for Chapter 2 to be effective, the States must specify the agreement by way of Ordinance pursuant to section 75C of the Income Tax Law. The Ordinance for this purpose was included at Article 9 of Billet d’État XI of 2012 and the States made the relevant Resolution.

3. Principles of Good Governance

In preparing this Report, the Department has been mindful of the States Resolution to adopt the six core principles of good governance defined by the UK Independent Commission on Good Governance in Public Services (Billet IV of 2011). The Department believes that the proposal in this Report complies with those principles.

4. Resource Implications

Whilst the agreement with the Government of Japan sets out measures for the avoidance of double taxation, as those obligations extend to both parties to the agreement, and taking into account the extent of the trading and other financial relationships between Guernsey and Japan, it is not anticipated that the agreement will give rise to any significant loss of, or increase to, the revenues of the States.

5. Recommendation

The Treasury and Resources Department recommends that the States should ratify the agreement made with Japan, as appended to this Report, as required by section 172(1) of the Income Tax Law.

Yours faithfully

G A St Pier
Minister

J Kuttelwascher (Deputy Minister)
M Dorey
T Spruce
G Collins

Appendix

AGREEMENT BETWEEN THE GOVERNMENT OF GUERNSEY
AND THE GOVERNMENT OF JAPAN
FOR THE EXCHANGE OF INFORMATION RELATING
TO TAX MATTERS AND THE AVOIDANCE OF DOUBLE TAXATION
WITH RESPECT TO TAXES ON INCOME OF INDIVIDUALS

The Government of Guernsey and the Government of Japan, the Government of Guernsey having the right under the terms of its Entrustment from the Government of the United Kingdom of Great Britain and Northern Ireland to negotiate and conclude a tax information exchange agreement,

Desiring to conclude an Agreement for the exchange of information relating to tax matters and the avoidance of double taxation with respect to taxes on income of individuals,

Have agreed as follows:

Chapter 1
GENERAL PROVISIONS

Article 1
GENERAL DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires:

- (a) the term "Japan", when used in a geographical sense, means all the territory of Japan, including its territorial sea, in which the laws relating to Japanese tax are in force, and all the area beyond its territorial sea, including the seabed and subsoil thereof, over which Japan has sovereign rights in accordance with international law and in which the laws relating to Japanese tax are in force;
- (b) the term "Guernsey", when used in a geographical sense, means Guernsey, Alderney and Herm, including the territorial sea adjacent to those islands established in accordance with international law;
- (c) the term "collective investment fund or scheme" means any pooled investment vehicle, irrespective of legal form. The term "public collective investment fund or scheme" means any collective investment fund or scheme provided the units, shares or other interests in the fund or scheme

can be readily purchased, sold or redeemed by the public. Units, shares or other interests in the fund or scheme can be readily purchased, sold or redeemed "by the public" if the purchase, sale or redemption is not implicitly or explicitly restricted to a limited group of investors;

- (d) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
- (e) the term "competent authority" means:
 - (i) in the case of Japan, the Minister of Finance or his authorised representative; and
 - (ii) in the case of Guernsey, the Director of Income Tax or his authorised delegate;
- (f) the term "Contracting Party" means Guernsey or Japan as the context requires;
- (g) the term "information" means any fact, statement, document or record in any form whatever;
- (h) the term "information gathering measures" means laws and administrative or judicial procedures that enable the Requested Party to obtain and provide the information requested;
- (i) the term "national" means:
 - (i) in the case of Japan, any individual possessing the nationality of Japan, any juridical person created or organised under the laws of Japan and any organisation without juridical personality treated for the purposes of Japanese tax as a juridical person created or organised under the laws of Japan; and
 - (ii) in the case of Guernsey, any individual who is a resident of Guernsey and possesses British citizenship, any legal person created or organised under the laws of Guernsey and any organisation without legal personality treated for the purposes of Guernsey tax as a legal person created or organised under the laws of Guernsey;
- (j) the term "person" includes an individual, a company and any other body of persons;
- (k) the term "principal class of shares" means

the class or classes of shares representing a majority of the voting power and value of a company;

- (l) the term "publicly traded company" means any company whose principal class of shares is listed on a recognised stock exchange provided its listed shares can be readily purchased or sold by the public. Shares can be readily purchased or sold "by the public" if the purchase or sale of shares is not implicitly or explicitly restricted to a limited group of investors;
- (m) the term "recognised stock exchange" means:
 - (i) any stock exchange established by a Financial Instruments Exchange or an approved-type financial instruments firms association under the Financial Instruments and Exchange Law (Law No. 25 of 1948) of Japan;
 - (ii) the Channel Islands Stock Exchange; and
 - (iii) any other stock exchange agreed upon by the competent authorities of the Contracting Parties;
- (n) the term "Requested Party" means the Contracting Party which is requested to provide information or which has provided information in response to a request; and
- (o) the term "Requesting Party" means the Contracting Party which is requesting information.

2. As regards the application of this Agreement at any time by a Contracting Party, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the laws of that Contracting Party, any meaning under the applicable tax laws of that Contracting Party prevailing over a meaning given to the term under other laws of that Contracting Party.

Chapter 2 EXCHANGE OF INFORMATION

Article 2 OBJECT AND SCOPE

The Contracting Parties, through their competent authorities, shall provide assistance through exchange of information that is foreseeably relevant for the carrying out of Chapters 3 and 4 or to the administration or

enforcement of the laws of the Contracting Parties concerning the taxes referred to in Article 4. Such information shall include information that is foreseeably relevant to the determination, assessment and collection of such taxes, the recovery and enforcement of tax claims, or the investigation or prosecution of tax matters. Information shall be exchanged in accordance with this Agreement and shall be treated as confidential in the manner provided in Article 8. When the Requested Party obtains and provides information under the Agreement, the procedural rights and safeguards secured to persons by the laws or administrative practices of the Requested Party remain applicable, to the extent that they do not unduly prevent or delay effective exchange of information.

Article 3 JURISDICTION

The Requested Party is not obliged to provide information which is neither held by its authorities nor in the possession of or obtainable by persons who are within its territorial jurisdiction.

Article 4 TAXES COVERED

1. This Chapter shall apply to the following taxes:

- (a) in the case of Japan:
 - (i) the income tax;
 - (ii) the corporation tax;
 - (iii) the local inhabitant taxes;
 - (iv) the inheritance tax;
 - (v) the gift tax; and
 - (vi) the consumption tax; and
- (b) in the case of Guernsey:
 - (i) income tax; and
 - (ii) dwellings profits tax.

2. This Chapter shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of this Agreement in addition to, or in place of, those referred to in paragraph 1. The competent authorities of the Contracting Parties shall notify each other of any significant changes that have been made in

their respective tax laws, which may affect matters covered by the Agreement.

Article 5
EXCHANGE OF INFORMATION UPON REQUEST

1. The competent authority of the Requested Party shall provide upon request information for the purposes referred to in Article 2. Such information shall be provided without regard to whether the Requested Party needs such information for its own tax purposes or the conduct under examination would constitute a crime under the laws of the Requested Party if such conduct occurred within the territorial jurisdiction of the Requested Party.

2. If the information in the possession of the competent authority of the Requested Party is not sufficient to enable it to comply with the request for information, the Requested Party shall use all relevant information gathering measures necessary to provide the Requesting Party with the information requested, notwithstanding that the Requested Party may not need such information for its own tax purposes.

3. If specifically requested by the competent authority of the Requesting Party, the competent authority of the Requested Party shall provide information under this Article, to the extent allowable under its laws, in the form of authenticated copies of original records.

4. Each Contracting Party shall ensure that it has the authority, for the purposes specified in Article 2 and within the constraints of Article 3, to obtain and provide, through its competent authority, upon request:

- (a) information held by banks, other financial institutions, and any person, including nominees and trustees, acting in an agency or fiduciary capacity; and
- (b)
 - (i) information regarding the ownership of companies, partnerships and other persons, including ownership information on all such persons in an ownership chain;
 - (ii) in the case of trusts, information on settlors, trustees, protectors and beneficiaries; and
 - (iii) in the case of foundations, information on founders, members of the foundation council and beneficiaries.

This Agreement does not create an obligation on the Contracting Parties to obtain or provide ownership information with respect to publicly traded companies or public collective investment funds or schemes unless such information can be obtained without giving rise to disproportionate difficulties.

5. The competent authority of the Requesting Party shall formulate a request for information under this Agreement with the greatest detail possible and shall provide the following information in writing to the competent authority of the Requested Party to demonstrate the foreseeable relevance of the information sought to the request for the purposes referred to in Article 2:

- (a) the identity of the person under examination;
- (b) the period of time with respect to which the information requested is required for the tax purposes of the Requesting Party;
- (c) the nature of the information requested and the form in which the Requesting Party prefers to receive the information from the Requested Party;
- (d) the tax purposes for which the information requested is sought;
- (e) the reason why the information requested is foreseeably relevant to the request for the purposes referred to in Article 2;
- (f) grounds for believing that the information requested is held by the Requested Party or is in the possession of or obtainable by a person who is within the territorial jurisdiction of the Requested Party;
- (g) to the extent known, the name and address of any person believed to be in possession of or able to obtain the information requested;
- (h) a statement that the request is in conformity with the laws and administrative practices of the Requesting Party, that if the information requested was within the territorial jurisdiction of the Requesting Party the competent authority of the Requesting Party would be able to obtain the information under the laws or in the normal course of administrative practices of the Requesting Party and that the request is in conformity with the Agreement; and
- (i) a statement that the Requesting Party has pursued all means available within its territorial

jurisdiction to obtain the information requested, except those that would give rise to disproportionate difficulties.

Article 6
TAX EXAMINATIONS ABROAD

1. At the request of the competent authority of the Requesting Party, the competent authority of the Requested Party may allow, to the extent permitted under the laws of the Requested Party, representatives of the competent authority of the Requesting Party to be present at the appropriate part of a tax examination in the Requested Party.

2. If the request referred to in paragraph 1 is acceded to, the competent authority of the Requested Party conducting the examination shall, as soon as possible, notify the competent authority of the Requesting Party about the time and place of the examination, the authority or official designated to carry out the examination and the procedures and conditions required by the Requested Party for the conduct of the examination. All decisions with respect to the conduct of the examination shall be made by the Requested Party conducting the examination.

Article 7
POSSIBILITY OF DECLINING A REQUEST

1. The Requested Party shall not be required to obtain or provide information that if the information requested was within the territorial jurisdiction of the Requesting Party the competent authority of the Requesting Party would not be able to obtain under the laws or in the normal course of administrative practices of the Requesting Party.

2. The competent authority of the Requested Party may decline to assist:

- (a) where the request of the Requesting Party is not made in conformity with this Agreement;
- (b) where the Requesting Party has not pursued all means available within its territorial jurisdiction to obtain the information requested, except where recourse to such means would give rise to disproportionate difficulties; and
- (c) where the disclosure of the information requested would be contrary to public policy (ordre public) of the Requested Party.

3. This Agreement shall not impose on a Contracting Party the obligation to supply information which would disclose any trade, business, industrial, commercial or

professional secret or trade process. Such information includes information relating to communications between advocates, attorneys, solicitors or other admitted legal representatives in their role as such and their clients to the extent that the communications are protected from disclosure under the laws of each Contracting Party. Notwithstanding the foregoing sentences, information of the type referred to in paragraph 4 of Article 5 shall not be treated as such a secret or trade process merely because it meets the criteria in that paragraph.

4. A request for information shall not be refused on the ground that the tax claim giving rise to the request is disputed.

5. The Requested Party may decline a request for information if the information is requested by the Requesting Party to administer or enforce any provision of the tax laws of the Requesting Party, or any requirement connected therewith, which discriminates against a national of the Requested Party as compared with a national of the Requesting Party in the same circumstances.

Article 8 CONFIDENTIALITY

1. All information provided and received by the competent authorities of the Contracting Parties under this Agreement shall be kept confidential.

2. The information referred to in paragraph 1 shall be disclosed only to persons or authorities (including courts and administrative bodies) in the Contracting Parties concerned with the purposes referred to in Article 2, and used by such persons or authorities only for such purposes, including the determination of any appeal. For these purposes, the information may be disclosed in public court proceedings or in judicial decisions.

3. The information referred to in paragraph 1 may not be used for any purpose other than for the purposes referred to in Article 2 without the express written consent of the competent authority of the Requested Party.

4. The information referred to in paragraph 1 may not be disclosed to persons or authorities in non-Contracting Parties.

Article 9 COSTS

Incidence of costs incurred in providing assistance shall be agreed by the competent authorities of the Contracting Parties.

Chapter 3
AVOIDANCE OF DOUBLE TAXATION

Article 10
PERSONS COVERED

This Chapter shall apply to individuals who are residents of one or both of the Contracting Parties.

Article 11
TAXES COVERED

1. This Chapter shall apply to the following taxes:
 - (a) in the case of Japan:
 - (i) the income tax; and
 - (ii) the local inhabitant taxes
(in this Chapter referred to as "Japanese tax");
and
 - (b) in the case of Guernsey, income tax
(in this Chapter referred to as "Guernsey tax").
2. This Chapter shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of this Agreement in addition to, or in place of, those referred to in paragraph 1. The competent authorities of the Contracting Parties shall notify each other of any significant changes that have been made in their respective tax laws, which may affect matters covered by the Agreement.

Article 12
RESIDENT

1. For the purposes of this Chapter, the term "resident of a Contracting Party" means any individual who, under the laws of that Contracting Party, is liable to tax therein by reason of his domicile, residence or any other criterion of a similar nature. This term, however, does not include any individual who is liable to tax in that Contracting Party in respect only of income from sources in that Contracting Party.
2. Where by reason of paragraph 1 an individual is a resident of both Contracting Parties, then his status shall be determined as follows:
 - (a) he shall be deemed to be a resident only of the Contracting Party in which he has a permanent home available to him; if he has a permanent home

available to him in both Contracting Parties, he shall be deemed to be a resident only of the Contracting Party with which his personal and economic relations are closer (centre of vital interests);

- (b) if the Contracting Party in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Contracting Party, he shall be deemed to be a resident only of the Contracting Party in which he has an habitual abode;
- (c) if he has an habitual abode in both Contracting Parties or in neither of them, the competent authorities of the Contracting Parties shall settle the question by mutual agreement.

Article 13 GOVERNMENT SERVICE

1. Salaries, wages and other similar remuneration paid by a Contracting Party or a political subdivision or local authority thereof to an individual in respect of services rendered to that Contracting Party or political subdivision or local authority, in the discharge of functions of a governmental nature, shall be taxable only in that Contracting Party. However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting Party if the services are rendered in that other Contracting Party and the individual is a resident of that other Contracting Party who did not become a resident of that other Contracting Party solely for the purpose of rendering the services.

2. Notwithstanding paragraph 1, pensions and other similar remuneration paid by, or out of funds to which contributions are made or created by, a Contracting Party or a political subdivision or local authority thereof to an individual in respect of services rendered to that Contracting Party or political subdivision or local authority shall be taxable only in that Contracting Party.

3. Paragraphs 1 and 2 shall not apply to salaries, wages, pensions, and other similar remuneration in respect of services rendered in connection with a business carried on by a Contracting Party or a political subdivision or local authority thereof.

Article 14 STUDENTS

Payments which a student or business apprentice who is or was immediately before visiting a Contracting Party a resident of the other Contracting Party and who is present

in the first-mentioned Contracting Party solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in the first-mentioned Contracting Party, provided that such payments arise from sources outside the first-mentioned Contracting Party. The exemption provided by this Article shall apply to a business apprentice only for a period not exceeding one year from the date on which he first begins his training in the first-mentioned Contracting Party.

Article 15
ELIMINATION OF DOUBLE TAXATION

1. Subject to the provisions of the laws of Japan regarding the allowance as a credit against Japanese tax of tax payable in any country other than Japan, where a resident of Japan derives income from Guernsey which may be taxed in Guernsey in accordance with this Chapter, the amount of Guernsey tax payable in respect of that income shall be allowed as a credit against the Japanese tax imposed on that resident. The amount of credit, however, shall not exceed that part of the Japanese tax, as computed before the credit is given, which is appropriate to that income.

2. Subject to the provisions of the laws of Guernsey regarding the allowance as a credit against Guernsey tax of tax payable in a territory outside Guernsey (which shall not affect the general principle hereof):

- (a) subject to the provisions of sub-paragraph (c), where a resident of Guernsey derives income which may be taxed in Japan in accordance with this Chapter, Guernsey shall allow as a credit against the tax payable in respect of that income, an amount equal to the income tax paid in Japan;
- (b) such credit shall not, however, exceed that part of the income tax, as computed before the credit is given, which is attributable to the income which may be taxed in Japan;
- (c) where a resident of Guernsey derives income which shall be taxable only in Japan in accordance with this Chapter, Guernsey may include this income in calculating the amount of tax on the remaining income of such resident.

Chapter 4 SPECIAL PROVISIONS

Article 16 MUTUAL AGREEMENT PROCEDURES

1. Where a person considers that the actions of one or both of the Contracting Parties result or will result for him in taxation not in accordance with Chapter 3, he may, irrespective of the remedies provided by the laws of those Contracting Parties, present his case to the competent authority of the Contracting Party of which he is a resident as determined pursuant to Article 12. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with that Chapter.

2. The competent authority of a Contracting Party shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting Party, with a view to the avoidance of taxation which is not in accordance with Chapter 3. Any agreement reached shall be implemented notwithstanding any time limits in the laws of the Contracting Parties.

3. The competent authorities of the Contracting Parties shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Agreement.

4. In addition to the agreements referred to in paragraph 3, the competent authorities of the Contracting Parties may mutually agree on the procedures to be used for the purposes of Chapter 2.

5. The competent authorities of the Contracting Parties may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs of this Article.

Chapter 5 FINAL PROVISIONS

Article 17 HEADINGS

The headings of the Chapters and the Articles of this Agreement are inserted for convenience of reference only and shall not affect the interpretation of the Agreement.

Article 18
ENTRY INTO FORCE

1. The Governments of the Contracting Parties shall notify each other, in writing, of the completion of their respective internal procedures necessary for the entry into force of this Agreement. The Agreement shall enter into force on the thirtieth day after the latter of the dates of receipt of the notifications.

2. This Agreement shall have effect:

- (a) with respect to taxes levied on the basis of a taxable year, as regards taxes for any taxable years beginning on or after the date on which the Agreement enters into force; and
- (b) with respect to taxes not levied on the basis of a taxable year, as regards taxes levied on or after the date on which the Agreement enters into force.

3. Notwithstanding paragraph 2, Chapter 3 shall have effect:

- (a) with respect to taxes withheld at source, for amounts taxable on or after 1 January in the calendar year next following that in which this Agreement enters into force; and
- (b) with respect to taxes on income which are not withheld at source, as regards income for any taxable year beginning on or after 1 January in the calendar year next following that in which this Agreement enters into force.

Article 19
TERMINATION

1. This Agreement shall remain in force until terminated by a Contracting Party. Either Contracting Party may terminate the Agreement by giving written notice of termination at least six months before the end of any calendar year beginning after the expiry of five years from the date of entry into force of the Agreement. In such event, the Agreement shall cease to have effect:

- (a) with respect to taxes withheld at source, for amounts taxable on or after 1 January in the calendar year next following that in which the notice is given;
- (b) with respect to taxes on income which are not withheld at source, as regards income for any taxable year beginning on or after 1 January in

the calendar year next following that in which the notice is given; and

- (c) with respect to other taxes, as regards taxes levied on or after 1 January in the calendar year next following that in which the notice is given.

2. Notwithstanding paragraph 1, each Contracting Party shall remain bound by Article 8 with respect to any information provided and received by the competent authority of the Contracting Party under this Agreement.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed this Agreement.

DONE in duplicate at London this sixth day of December, 2011, in the English and Japanese languages, each text being equally authentic.

For the Government
of Guernsey:

For the Government
of Japan:

PROTOCOL

At the signing of the Agreement between the Government of Guernsey and the Government of Japan for the exchange of information relating to tax matters and the avoidance of double taxation with respect to taxes on income of individuals (hereinafter referred to as "the Agreement"), the Government of Guernsey and the Government of Japan, the Government of Guernsey having the right under the terms of its Entrustment from the Government of the United Kingdom of Great Britain and Northern Ireland to negotiate and conclude a tax information exchange agreement, have agreed upon the following provisions, which shall form an integral part of the Agreement.

With reference to Article 5 of the Agreement, the competent authority of the Requested Party shall forward the information requested as promptly as possible to the Requesting Party. To ensure a prompt response, the competent authority of the Requested Party shall:

- (a) confirm receipt of a request in writing to the competent authority of the Requesting Party and shall notify the competent authority of the Requesting Party of deficiencies in the request, if any, within sixty days of the receipt of the request; and
- (b) if the competent authority of the Requested Party has been unable to obtain and provide the information within ninety days of the receipt of the request, including if it encounters obstacles in furnishing the information or it refuses to furnish the information, immediately inform the competent authority of the Requesting Party, explaining the reason for its inability, the nature of the obstacles or the reasons for its refusal.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed this Protocol.

DONE in duplicate at London this sixth day of December, 2011, in the English and Japanese languages, each text being equally authentic.

For the Government
of Guernsey:

For the Government
of Japan:

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

The States are asked to decide:-

XI.- Whether, after consideration of the Report dated 19th June, 2012, of the Treasury and Resources Department, they are of the opinion:-

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

COMMERCE AND EMPLOYMENT DEPARTMENT

**AMENDMENTS TO STATUTORY MINIMUM WAGE ARRANGEMENTS
TO COME INTO FORCE ON 1 OCTOBER 2012**

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

19th June 2012

Dear Sir

1. Executive Summary

- 1.1 In accordance with the provisions of The Minimum Wage (Guernsey) Law, 2009, the Department is seeking States' agreement to its proposals to increase the Statutory Minimum Wage Rate. The States are also requested to approve the lowering of the minimum age at which a worker qualifies for the Minimum Wage from the current 19 years of age to 18 years of age. All changes will come into force on 1st October, 2012.
- 1.2 As part of its considerations, and mindful of the States' policy objective in this regard (see paragraph 2.5 below), the Department took the view that maintaining a Youth Minimum Wage Rate for potentially 3 full years for 16 year old school leavers was too long and that a two year period for training and skill development was sufficient.
- 1.3 The Department recommends the setting of the following Minimum Wage Rates (to come into force on 1st October, 2012):-

Adult Minimum Wage Rate at £6.30 per hour (currently £6.15) (for workers aged 18 and over)

The Young Persons' Rate at £4.50 per hour (currently £4.36) (for workers aged 16 and 17)

and that, in accordance with section 33 of the Law, the States are also requested to approve the Department's recommendation that the qualifying age for the Adult Rate shall from 1st October, 2012 be reduced from 19 to 18 years of age.

- 1.4 The Minimum Wage (Prescribed Rates and Qualifications) (Guernsey) Regulations, 2012, as set out in Appendix 2, have been made to give effect to these changes.
- 1.5 The Department advises, for information, that it does not intend to increase the Associated Rates (Accommodation and Food Offsets). These will remain at the current Rates as set out below. Decisions on the rate at which “offsets” are set do not require the prior approval of the States. These will remain as follows:-

Accommodation and Food Offset: £87.13 per week

Accommodation only Offset: £61.50 per week.

2. Introduction

- 2.1 Section 31 (3) of The Minimum Wage (Guernsey) Law, 2009 requires the States, on recommendation from the Commerce and Employment Department (the Department), to approve Regulations that set the hourly Minimum Wage Rates, prior to them coming into effect. The Law similarly requires prior approval by the States of a regulation changing the age for qualification for the single hourly rate.
- 2.2 Section 5 of the Law requires the Department to carry out a public consultation prior to making regulations setting Minimum Wage Rates. This was done in February and March 2012 and the results are presented as Appendix 1 to this report.
- 2.3 The 2007 States’ decision, to implement a statutory minimum wage, established the fundamental principle that it is unacceptable in the current social and economic climate in Guernsey for employees and workers to be paid low wages to the point of exploitation.
- 2.4 The 2007 States Report identified that the Minimum Wage was not intended to reflect a ‘living wage,’ as there are a number of social policy initiatives administered by the States through Social Security, Housing, and Income Tax, which provide a wide range of benefits, grants, social housing, housing rent rebates, and tax arrangements to help those on low incomes.
- 2.5 In 2010 (Billet d’État XI of 2010) the States resolved:-

To direct the Commerce & Employment Department, whilst having regard to the requirements of the Minimum Wage (Guernsey) Law, 2009, to take fully into account when reviewing minimum wage rates that it is a policy objective of the States of Deliberation that the young person’s minimum wage rate and the adult minimum wage rate should be equalised as soon as possible.

This view of the States has therefore become a relevant factor to be taken into account by the Department in arriving at its recommendation. (See section 3.2 (ii) below).

- 2.6 Following the introduction of the statutory minimum wage in October 2010, there have been a number of enquiries from employers and employees regarding the Minimum Wage provisions, but no complaints have been made, either to the Employment & Discrimination Tribunal or the Civil (Magistrate's) Court.

3. Considerations regarding the Minimum Wage & Associated Rates

3.1 Matters to be taken into account by the Department

The Law requires the Department to consider and take into account the following criteria before making Regulations setting the Minimum Wage Rates:-

- a) *The current rate of minimum wage in the United Kingdom, the Isle of Man and Jersey*

Table 1 – 2011 Minimum Wage Rates – UK, Jersey, and Isle of Man

Minimum Wage (Hourly) Rates 2012			
	Young Persons' Rate	Adult Rate	Date effective from
Guernsey Current	£4.36 (aged 16-19)	£6.15 (aged over 19)	1 st October 2011
UK	£3.68 (aged 16-17) £4.98 (aged 18-21)	£6.19 (aged 21 & over)	1 st October 2012
IOM	£4.67 (aged 16) £5.24 (aged 17)	£6.20 (aged 18 & over)	6 th October 2011
Jersey	Trainee Rate - £4.74 (for a maximum period of one year for new employees on training) Jersey is consulting on a Young Persons' Rate (2012)	£6.48 (above compulsory school age, 16)	1 st April 2012

- b) *The current economic and trading conditions prevailing in Guernsey*

The Fourth Quarter Bulletin from the Treasury and Resources Department states that:

“Whilst there are many external threats to our local economy that we will have to navigate, on balance, there are grounds for optimism for 2012. The recent more positive economic news from Europe should provide a boost to

confidence and ensure the stalling of our local economic recovery towards the end of 2011 will prove to be temporary. Nevertheless, it is clear that 2012 will be another testing year.”

c) *The rate of inflation in Guernsey*

The rate of inflation can be a significant factor in future wages settlements in the private and public sector of the Guernsey economy. The locally recorded rate of inflation (RPI) was 3.5% as of March 2012 and RPIX was 3.5%. RPI was 3.2% as of December 2011 and RPIX was 2.8%.

Previous RPI levels were 3.0% in June 2011 and 3.5% in September 2011. (RPIX was 2.6% in June 2011 and 3.0% in September.)

d) *The rate of unemployment in Guernsey*

The level of unemployment in Guernsey remains low compared to other jurisdictions. Figures released at the end of February 2012 by the Social Security Department recorded that there were 454 people registered as unemployed and available for work, which represents 1.4% of the working population. Whilst this figure is increasing it still compares favourably to Jersey. Jersey's Registered Unemployment Report for November 2011 states that the total number of people registered as unemployed and actively seeking work in Jersey was 1,530.

There are indications that more redundancies are likely to occur during 2012, however, these are linked to the removal of LVCR rather than the level of the Minimum Wage.

e) *Current rates of pay in Guernsey*

Currently the States of Guernsey do not collate job-related pay data in order to establish market rates for specific jobs. Therefore, no data are available on average pay rates in Guernsey.

However, the Social Security Department's Job Centre was a useful source of relevant information on advertised wage rates in some industries.

Table 2 - Rates of pay collated from Job Centre advertisements (2010 – 2012)

Job Title/Description	Pay Range 2010 (NB: Age not specified)	Pay Range 2011 (NB: Age not specified)	Pay Range 2012 (NB: Age not specified)
Kitchen Porter	£4.00 - £6.20	£6.00 - £6.35	£6.15
Agriculture Worker/Gardener	£4.25 - £8.50	£6.00	£6.15
Cleaner	£7.00 - £7.50	£6.00 - £10.00	£6.15
Receptionist	£5.50 - £6.00	-----	£6.15
Waiting staff	£5.55 - £6.50	£6.00 - £8.50	£6.15
Bar Person	£5.00 - £7.00	£6.00 - £7.00	£6.15
Chef/Cook	£5.88 - £8.00	£6.00	£6.15 - £7.50
Care Assistant	£7.00 - £8.50	£8.62 - £9.00	£7.83 - £8.88
Retail Assistant	£7.22 - £8.00	£6.00 - £8.50	£6.15 - £7.15

It is notable that the above figures, although not a comprehensive analysis, suggest the establishment of a standardised wage at the Minimum Wage Rate in some traditionally low paid areas of employment, with previous pay ranges having been lost.

Time will tell if this is a transient effect caused by the difficult economic situation or some other factor, or whether it will change with market forces coming to prominence.

f) The increase or decrease in rates of pay in Guernsey over the previous twelve months

The Island does not have a definitive data set on pay rates to draw on, but information received from a **limited** number of employers would suggest that pay increases ranged from 0% to 3.5% since 2011.

g) Such other factors that appear to the Department to be relevant

The following were identified as relevant when considering the statutory Minimum Wage Rates:-

- i. Public and political expectations.
- ii. The 2010 States Resolution establishing the “policy objective” of equalising the youth and adult minimum wage rates.
- iii. Creating a level playing field for employers recruiting staff from off-island in competition with the UK, Jersey and the Isle of Man.
- iv. The risk to financially vulnerable businesses.

3.2 The Department’s comments on the other relevant factors

i. Public and political expectations

The introduction of a statutory minimum wage aimed to ensure that the ‘... *worst cases of financial exploitation in employment were eliminated*’. The evidence of advertised hourly rates and the experience of the Commerce and Employment Department, that no formal complaints have been made regarding pay lower than the statutory Minimum Wage Rate, suggest that the rate is being respected by most employers.

However, a number of responses to the consultation indicate that other measures may have been taken to keep businesses viable including reducing working hours and reducing staffing levels.

Whether these are a result of the existence, or the particular level, of the Minimum Wage cannot be known, but it is likely to be greatly influenced by the difficult trading position as family incomes are reduced and uncertainty about the future affects current consumption.

ii. Equalising the Minimum Wage Rates for all ages

The UK Low Pay Commission, in its February 2012 report on the UK Minimum Wage, identified that the current reasoning behind a Young Persons’ Rate is that young people may not be interviewed or hired as they are the least skilled and least experienced in the workforce. In addition, they are often the first to be made redundant during a recession.

The UK proposes to retain the differentiation in this area and has chosen to freeze UK Youth Rates for 2012 (16-17 years, the Youth Rate and for 18-20 year olds, the Development Rate) (See Table 1).

The Department also noted the responses to the consultation with the majority of respondents (51 out of 71 responses) stating the Young Persons’ Rate should be maintained.

The local employment statistics show that youth unemployment in Guernsey, as a percentage of total employment is relatively low at 17.6%, but is higher than recorded last year when it was 15.6%.

Having reviewed the matter and the consultation responses, the Department continues to believe that the Young Persons' Rate incentivises employers to hire young people and to give them the opportunity to learn and develop vital labour market skills.

However, as part of its considerations, and mindful of the States' policy objective in this regard (see paragraph 2.5 above), Board members took the view that maintaining a youth minimum wage rate for potentially three full years for 16 year old school leavers was too long and that a two year period for training and skill development was sufficient.

The Department therefore recommends that the Adult Minimum Wage Rate should be payable from the age of 18 rather than 19 years of age.

iii. Creating a level playing field for employers recruiting staff from off-island in competition with the UK, Jersey and the Isle of Man

As many industries in Guernsey rely on seasonal workers, the Department believes that the Minimum Wage Rates must strike a balance between setting rates that are affordable to all or most employers operating in Guernsey, yet does not fuel the perception given to potential employees that Guernsey "pays low wages".

The Department's decision on the Minimum Wage Rate means that the rate in Guernsey remains mid-way between Jersey's rate (see Table 1), and the UK Adult Rate. (It should also be noted that the qualifying age for the UK adult minimum wage is 21 years as opposed to 19 years in Guernsey (with a reduction to 18 years proposed in this report.)

iv. The risk to financially vulnerable businesses

The Department gave consideration to the financial vulnerability of businesses being required to increase pay rates to at least match the statutory minimum wage and the contribution those businesses make to the economy, the employment of local labour, and their overall economic contribution to the Island.

The Department recognises that there is uncertainty in the economy and the local labour market. However, it believes it is prudent at present to increase the rates below which no worker in Guernsey should be paid, by a modest amount, in order to maintain the value of having a minimum level of pay.

The Department is confident that the majority of businesses will be able to adapt to a modest increase in the statutory minimum wage, as they would adapt to any other increase in cost to their businesses.

4. Consultation

- 4.1 Between 14th February and 14th March 2012, the Department carried out a public consultation on minimum wage rates. Some 250 consultation papers were sent out to targeted groups including hospitality, care and residential homes, agriculture and horticulture, trade unions and staff associations and groups representative of employers in Guernsey. States Departments and individual States members were also circulated with consultation papers and invited to comment.
- 4.2 Members of the public were also invited to contribute as individuals through the Commerce and Employment (Employment Relations) website. Media releases giving full details of the consultation were made available to all the local media.
- 4.3 A summary of the responses to the public consultation is in Appendix 1 to this report.
- 4.4 The Law Officer's Chambers has been consulted on the associated regulations.

5. Conclusions

Having considered the criteria and relevant factors as set out in the Law, the Department has concluded that there is a case to increase the Statutory Minimum Wage Rate with effect from 1st October 2012.

The Department does not want to peg this to a particular measure of inflation, but considers that the change this year should reflect increases in business costs. However, in the current uncertain economic environment, it should not push ahead of pay increases seen in the Island.

- 5.1 The Department has taken into account the aspiration expressed in the States resolution regarding the Youth Rate, but felt that the risk of increasing youth unemployment had to be a key factor at the present time in maintaining a differentiation in the minimum rates for those entering the labour market for the first time.
- 5.2 The Department is of the view that a reduction in the 3 year period for which the Youth Rate currently applies, to 2 years, is appropriate and still allows a suitable differentiation in young new entrant and adult rates. The Department therefore proposes that, with effect from 1st October 2012, the age of qualification for the Adult Minimum Wage Rate should be reduced to 18 years, a change that will ensure that employees are paid the adult rate from the generally recognised age for attaining full adulthood.

- 5.3 During the drafting of the regulations to give effect to this change, it was realised that this desirable change left the potential for a conflict with provisions previously established by regulation, in respect of apprentices. Specifically, under current arrangements, apprentices aged 16 to 18 years are exempt from the minimum wage Youth Rates and those apprentices aged 19 years are exempt from the adult minimum wage until they have served at least 12 months in their current apprenticeship.
- 5.4 As the drafting of the Law does not allow the Department to reduce the age of the apprentice one year service exemption from 19 to 18 in line with the current proposals, the Department believes that the appropriate approach, alongside the reduction in the qualification age for the adult minimum wage, is to remove the 12 month qualification rule that applies to apprentices aged 19 years and over.
- 5.5 This achieves two things. Firstly more workers will be eligible for the minimum wage and secondly an anomaly is removed which would have allowed the possibility of someone commencing an apprenticeship at 18 years old and thus qualifying for the adult rate, but subsequently, on reaching the age of 19, losing that right; only to re-acquire it again a few months later after they have served 12 months of their apprenticeship.
- 5.6 The Department therefore proposes to dispense with the 12 month service qualifying rule for apprentices “over the age of 18” (i.e. 19 years of age) as currently set out in regulation. The Board considers that this adjustment will facilitate the wholly positive move to include a greater number of workers within the scope of the Adult Minimum Wage Rate as intended by its proposals in this report and the attached regulations.
- 5.7 The Department believes that it has complied fully with the six principles of corporate governance in the preparation of this States Report.

6. Recommendations

- 6.1 The Department recommends that the States:

(a) Approves the appended “The Minimum Wage (Prescribed Rates and Qualifications) (Guernsey) Regulations, 2012” which increases the Minimum Wages Rates, as set out below, alters the age of qualification for the Adult Minimum Wage Rate from 19 years of age to 18 years of age and removes the 12 month qualification rule for apprentices:

- Adult Minimum Wage Rate to be set at £6.30 per hour (For workers aged 18 and over).
- Young Persons’ Minimum Wage Rate to be set at £4.50 per hour (For workers aged 16 and 17).

- (b) Approves that 1st October 2012 shall be the date for implementation of the Commencement Order and the Regulations to give effect to the Law.

Yours faithfully

K A Stewart
Minister

A Brouard
Deputy Minister

L Queripel
D De Lisle
M Hadley

Appendix 1: Summary of 2012 Minimum Wage Consultation Responses

Question 1: Please tick which of the following you are responding as, or on behalf of;		
Answer Options	Response Percent	Response Count
Employee	38.2%	29
Trade Union	3.9%	3
Employer	43.4%	33
Employers' Association	2.6%	2
Other	11.9%	9

Question 2: Over the last year, have there been any of the following changes to your employment, place of work or business as a direct consequence of the statutory Minimum Wage? (Note: multiple answers possible)	
Answer Options	Number of Responses by Category
Reduced basic working hours of employees	9
Reduced overtime or enhanced rates of pay	16
Reduced overall staffing levels: through redundancy or natural wastage	8
Increased prices or tariffs	11
Reduced number of apprentices normally employed	4

Question 3: Do you believe there is justification to maintain the Young Persons' Rate?		
Answer Options	Response Percent	Response Count
Yes	71.8%	51
No	16.9%	12
Don't know	11.3%	8

Question 4: Should the Minimum Wage and Associated Rates be changed with effect from 1 October 2012? Response count in brackets.			
Answer Options	No Change	Yes Change	Response Count
Minimum Wage Rate Over 19 years (currently £6.15 per hour)	48.3% (29)	51.7% (31)	60
Minimum Wage Rate 16-18 years (currently £4.36 per hour)	36.8% (21)	63.2% (36)	57
Max Accommodation Only Offset (currently £61.50 per week)	69.8% (37)	30.2% (16)	53
Max Accommodation and Food Offset (currently £87.13 per week)	75.0% (39)	25.0% (13)	52

Question 5: In conjunction with question 4, respondents were asked to suggest new rates if they believed the Minimum Wage and Associated Rates should be changed.

Answers suggesting new rates were as follows;

Over 19 years rate: Four respondents suggested the new Rate should be the current Rate plus RPI. Two suggested an increase with the cost of living. Nine suggested an amount over £6 ranging from £6.15 to £7 per hour however, 11 suggested it should remain the same.

16-18 years Rate: Four respondents suggested it should remain the same. Eleven suggested the new Rate be more than the current Rate ranging from £4.36 to £5.00. Three respondents suggested the new Rates should be the current Rate plus RPI. Three respondents suggested a lower amount than the current Rate.

Maximum Accommodation Only Offset: Three respondents suggested the current Rate plus RPI. Seven suggested a higher figure, ranging from £65 to £80. Seven respondents suggested it should remain at the same Rates.

Maximum Accommodation and Food Offset: Four respondents suggested it should remain the same. Six respondents suggested a higher amount ranging from £90 to £120. Three respondents suggested the current Rate plus RPI. One respondent suggested it be lowered to £60.

Comments Received regarding the Minimum Wage and Associated Rates

“Should be kept roughly in line with inflation.”

“Need to examine issues for apprentices who are 18 and 19 not 16 as usual.”

“RPI as appropriate for all the above”

“I have concerns about the offsets that are allowed. They ensure that employees are controlled and do not allow the choice that one would normally expect in living conditions. However, the Housing Regulations are the means by which such employees are dealt with and perhaps that will be addressed in the new Population Policy. I would like them to be done away with, but that may be a step too far at present so they certainly should not be raised at all.”

“The economic climate is very difficult and it is unlikely we will award a pay increase this year. If we do we will need to reduce numbers to convert the cost. An increase would make redundancy more likely.”

“In the current economic climate with unemployment rising locally it is unwise to just add RPI to the adult minimum wage. Jersey is a prime example of adding cost to business (eg GST) - now their unemployment figure is 1,700 and rising.”

“Guernsey is looking at 1000 people unemployed by the end of 2012 increasing the minimum wage will mean that they will stay unemployed for longer.”

“As all cost are raising the added burden of minimum wage increase is making our business less and less viable putting local peoples jobs at risk.”

“Profit margins are very tight in our sector and increasing turnover is almost impossible in this present economic climate. Any increase in the minimum wage could potentially jeopardise jobs.”

“I would support any increase that means that a person is more than marginally better off working than claiming benefits.”

Appendix 2**GUERNSEY STATUTORY INSTRUMENT****2012 No.****The Minimum Wage (Prescribed Rates and Qualifications)
(Guernsey) Regulations, 2012**

<i>Made</i>	<i>26th June, 2012</i>
<i>Coming into operation</i>	<i>1st October, 2012</i>
<i>Approved by resolution of the States</i>	<i>, 2012</i>

THE COMMERCE AND EMPLOYMENT DEPARTMENT, in exercise of the powers conferred on it by sections 1(3), 3(1) and (2), and 4 of the Minimum Wage (Guernsey) Law, 2009^a and all other powers enabling it in that behalf, hereby makes the following Regulations:-

Minimum wage.

1. (1) For the purposes of section 1(3) of the Law, the minimum wage is the rate specified as the Adult Minimum Wage Rate in the Schedule.

(2) A person qualifies for the minimum wage referred to in paragraph (1) if he –

(a) is qualified under section 1(2)(a) and (b) of the Law, and

(b) is at least 18 years of age.

^a

Order in Council No. I of 2010; as amended by Order in Council No. XIII of 2010.

Young Persons' Minimum Wage Rate.

2. (1) The Young Person's Minimum Wage Rate is the rate specified as the Young Person's Minimum Wage Rate in the Schedule.

(2) A person qualifies for the minimum wage referred to in paragraph (1) if he –

- (a) is qualified under section 1(2)(a), (b), and (c) of the Law,
- (b) is under 18 years of age, and
- (c) is not an apprentice.

Revocations.

3. The following regulations are revoked –

- (a) the Minimum Wage (Prescribed Rates and Qualifications) (Guernsey) Regulations, 2010^b, and
- (b) the Minimum Wage (Prescribed Rates and Qualifications) (Guernsey) (Amendment) Regulations, 2011^c.

Transitional and savings provisions.

4. (1) These Regulations do not have effect in relation to any worker and his work until the first day of the first pay reference period of the worker in respect of that work.

(2) For the avoidance of doubt, before the first day of the first pay reference period of the worker in respect of that work, the former Regulations have effect in relation to that worker and that work as if these Regulations had not been made.

^b G.S.I. No. 26 of 2010.

^c G.S.I. No. 29 of 2011.

(3) In this regulation –

"the first pay reference period", in relation to a worker and his work, means the first pay reference period of the worker, in respect of that work, beginning on or after the date specified in regulation 7, and

"the former Regulations" means the Minimum Wage (Prescribed Rates and Qualifications) (Guernsey) Regulations, 2010, as amended by the Minimum Wage (Prescribed Rates and Qualifications) (Guernsey) (Amendment) Regulations, 2011.

Interpretation.

5. (1) In these Regulations –

"enactment" means any Law, Ordinance or subordinate legislation,

"the Law" means the Minimum Wage (Guernsey) Law, 2009, and

"subordinate legislation" means any regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument made under any enactment and having legislative effect.

(2) The Interpretation (Guernsey) Law, 1948^d applies to the interpretation of these Regulations in the Islands of Guernsey, Herm and Jethou as it applies to the interpretation of a Guernsey enactment.

(3) Any reference in these Regulations to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

^d Ordres en Conseil Vol. XIII, p. 355.

Citation.

6. These Regulations may be cited as the Minimum Wage (Prescribed Rates and Qualifications) (Guernsey) Regulations, 2012.

Commencement.

7. These Regulations come into force on the 1st October, 2012.

Dated this day of , 2012

Deputy Kevin Stewart
Minister of the Commerce and Employment Department
For and on behalf of the Department

SCHEDULE

MINIMUM WAGE RATES

Regulations 1(1) and 2(1)

Adult Minimum Wage Rate	£ 6.30 per hour.
Young Person's Minimum Wage Rate	£ 4.50 per hour.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and replace the Minimum Wage (Prescribed Rates and Qualifications) (Guernsey) Regulations, 2010, as amended by the Minimum Wage (Prescribed Rates and Qualifications) (Guernsey) (Amendment) Regulations, 2011.

The changes made by these Regulations are as follows –

- the minimum wage rate for adults has been increased from £6.15 to £6.30 an hour,
- the minimum wage rate for young persons has been increased from £4.36 to £4.50 an hour,
- a person would now qualify for the Adult Minimum Wage Rate at the age of 18 years instead of 19 years. Consequently, a person who is 18 years of age or older would cease to qualify for the Young Person's Minimum Wage Rate, and
- apprentices would no longer be required to have completed 12 months of their apprenticeship before qualifying for the Adult Minimum Wage Rate. This means that any worker (who is working, or ordinarily works, in Guernsey under his contract) whether an apprentice or not, who is 18 years of age or older, would qualify for the Adult Minimum Wage Rate.

Under section 31(3) of the Law, these Regulations do not have effect until approved by resolution of the States. If so approved, these regulations will come into force on the 1st October, 2012. These Regulations will take effect on and from the first day of the first pay reference period of each worker in respect of any particular work.

(NB As there are no resource implications identified in the report, the Treasury and Resources Department has no comments to make.)

(NB The Policy Council supports the proposals contained in the Report.)

The States are asked to decide:-

XII.- Whether, after consideration of the Report dated 19th June, 2012, of the Commerce and Employment Department, they are of the opinion:-

1. To approve the appended “The Minimum Wage (Prescribed Rates and Qualifications) (Guernsey) Regulations, 2012” which increases the Minimum Wages Rates, as set out below, alters the age of qualification for the Adult Minimum Wage Rate from 19 years of age to 18 years of age and removes the 12 month qualification rule for apprentices:
 - Adult Minimum Wage Rate to be set at £6.30 per hour (For workers aged 18 and over).
 - Young Persons’ Minimum Wage Rate to be set at £4.50 per hour (For workers aged 16 and 17).
2. To approve that 1st October 2012 shall be the date for implementation of the Commencement Order and the Regulations to give effect to the Law.

HEALTH AND SOCIAL SERVICES DEPARTMENT

THE MEDICINES (HUMAN AND VETERINARY) (BAILIWICK OF GUERNSEY) LAW, 2008 – REGISTRATION OF PHARMACIES

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

10th July 2012

Dear Sir

EXECUTIVE SUMMARY

1. The majority of the provisions of the Medicines (Human and Veterinary) (Bailiwick of Guernsey) Law, 2008¹ ("the Law") were brought into force with effect from 1st October, 2009², with the exception of those establishing a **licensing system for pharmacies in the Bailiwick** (in Part IV of the Law), which the Health and Social Services Department ("the Department") now wish to implement.
2. In implementing Part IV, the Department also wishes to amend the Law, firstly, to apply a slightly more onerous standard of professional qualification to pharmacists in charge of pharmacy businesses than proposed in its original policy report dated 12th August, 2004³; secondly, to clarify that its regulatory powers in the case of UK-qualified pharmacists are triggered only upon disqualification of the pharmacist by the relevant disciplinary committee; and thirdly, to clarify the grounds and procedures for appeal in the case of an appeal against the exercise of the Department's regulatory powers.

INCREASED QUALIFICATION REQUIREMENTS FOR PHARMACISTS

3. The Law currently allows any UK qualified pharmacist to carry on a retail pharmacy business, and allows bodies corporate to carry on such a business under the personal control of a UK qualified pharmacist.
4. The Department considers on reflection that, to protect patient safety, some activities should be restricted only to **experienced** pharmacists. Those activities

¹ Order in Council No. V of 2009, as amended by Ordinance No. XXIV of 2009

² Ordinance No. XXIV of 2009

³ Billet D'Etat No XIV of 2004

comprise carrying on a retail pharmacy business; or being a superintendent pharmacist (for a body corporate); or having personal supervision of a retail pharmacy carried on by a body corporate. The Department therefore proposes to amend the Law to ensure that only pharmacists who have been qualified to practise as a pharmacist in the UK for a period of at least three years should be eligible to carry out those activities.

CLARIFYING REGULATORY POWERS OF THE DEPARTMENT

5. In the case of a body corporate, the Law's disciplinary provisions currently authorise the Department to refer disciplinary matters to the relevant disciplinary committee in the UK or Northern Ireland (Northern Ireland has its own registration system for pharmacists administered by the devolved administration). The current referral provisions do not distinguish between, on one hand, disciplinary matters involving misconduct or an offence committed by a UK-registered pharmacist, and on the other hand, disciplinary matters involving an offence committed by the body corporate or by an officer or employee of the body corporate who is *not* a UK-registered pharmacist. At the same time, the Department is also authorised to take regulatory action in relation to a body corporate that employs such a pharmacist, without awaiting the determination of the relevant disciplinary committee as to whether the pharmacist is to be disqualified from practising as a pharmacist or is to be subject to any other sanction. Also, the Department is authorised to refer the body corporate to the relevant disciplinary committee for regulatory action.
6. There are equivalent provisions for referral in the case of a representative of a pharmacist who carries on the business in the case of death or disability of the pharmacist.
7. The Department is of the opinion that it is necessary to distinguish between matters involving UK-registered pharmacists and those that do not. In the former, it is inappropriate for the Department to pre-empt the relevant disciplinary committee by taking regulatory action (this is consistent with the position of sole traders or partnerships carrying on a pharmacy business – in this case, the pharmacy registration regime in the Law relies on the relevant disciplinary committee to disqualify or impose other sanctions on the pharmacist concerned). In the latter, the Department *should* retain the power to independently disqualify the persons carrying on the retail pharmacy business as well as to direct that the relevant premises be removed from the pharmacy register.
8. The Department is also of the opinion that if the body corporate concerned commits an offence against laws relating to controlled drugs or medicines in any jurisdiction (and not just the Bailiwick), this should trigger the Department's regulatory powers.
9. The Department seeks to amend the Law to achieve the objectives mentioned in paragraphs 7 and 8 above.

GROUNDINGS FOR AND DETERMINATION OF APPEALS

10. Further, currently there is provision for appeal to the Royal Court against the exercise of regulatory powers, but there is no specification of the grounds for appeal or the applicable appeal procedures including determination of the appeal. The Department therefore proposes that the Law be amended to clearly specify the grounds of appeal (such as *ultra vires*, unreasonableness, and bad faith) and the Court's powers in determining the appeal.

RISKS AND BENEFITS

11. If the amendment proposed in paragraph 4 is not enacted, the quality of pharmacy services in the Bailiwick will not be adequately safeguarded in the opinion of the Department, for the reasons more fully explained in that paragraph. It would be possible, for example, for a recently graduated pharmacist to open and run a pharmacy business without any support, guidance or direction from a more experienced colleague.
12. If the amendments proposed in paragraph 9 are not enacted, there is a risk of the Department being expected to take regulatory action in a case where a UK-registered pharmacist commits an offence or is believed to be guilty of misconduct. Also, the Department might be expected to refer matters to a UK disciplinary committee, which the Department should be dealing with itself.
13. If the amendment proposed in paragraph 10 is not enacted, there is a risk of confusion and uncertainty as to the grounds of appeal and procedures for appeal, in the case of an appeal against regulatory action by the Department.

COMMENCEMENT OF PART IV OF THE LAW

14. This Amendment Law is to come into force on the 1st June 2013. This will allow plenty of time for the States of Alderney and Chief Pleas of Sark to disapprove this Amendment Law, if they choose to do so (in which case it will not come into force in respect of the respective Island) or approve it or neither, within the period of 4 months, in which case this Amendment Law will come into force on the 1st June 2013, pursuant to section 131 of the Law.

FUNDING IMPLICATIONS

15. These proposals require no funding in addition to that already required in order to administer the regulatory regime under the current Law. In fact, these proposals should go some way towards reducing administrative and Court time and costs: clarifying the circumstances in which the Department should, and should not, act independently of the relevant disciplinary committee in the UK; as well as clarifying the grounds and procedures for appeal before the Royal Court.

CONSULTATION

16. The Law Officers have been consulted on the contents of this Report. The drafting time required is minimal and can be absorbed seamlessly into the drafting of a Commencement Ordinance.
17. Local pharmacies, Pharmacy Owners and general medical practices have also been consulted and have raised no objections.
18. The States of Alderney and Chief Pleas in Sark have been consulted. Sark has no pharmacy premises so the impact is minimal. Alderney has one pharmacy and it has been fully supportive of the proposed law.

ANNEX – ADDITIONAL INFORMATION

19. Annexed to this report is certain specified additional information, requested by the Policy Council.

RECOMMENDATIONS

20. The Health and Social Services Department recommends the States:
 - i) to agree that Part IV of the Law should come into force on 1st June, 2013;
 - ii) to agree that only a pharmacist who has been qualified to practise as a pharmacist in the UK for at least three years, and is not prohibited from practising under the Law, should be permitted:
 - a) to carry on a retail pharmacy business, or
 - b) to be a superintendent pharmacist for a body corporate carrying on a pharmacy business, or
 - c) to have personal supervision of a retail pharmacy carried on by a body corporate;
 - iii) to agree that in the case of UK-registered pharmacists, the Health and Social Services Department should have the power to take regulatory action (to disqualify a body corporate or a representative of a pharmacist) which is consistent with any decision of the relevant disciplinary committee;
 - iv) to agree to specify the grounds for appeal and the procedures applying in the case of an appeal against regulatory action taken by the Department; and

- v) to direct the drafting of such legislation as may be necessary to give effect to the above decisions.

Yours faithfully

A H Adam
Minister

B L Brehaut
Deputy Minister

E G Bebb
Member

D A Inglis
Member

A M Wilkie
Member

Compliance with the Principles of Good Governance

In accordance with Resolution VI of Billet d'État IV, 2011, this annex sets out the degree to which the HSSD considers that the Report complies with the six principles of good governance as detailed in the aforementioned Billet d'État.

Core Principle 1 – Good governance means focusing on the organisation's purpose and on outcomes for citizens and service users.

The recommendations in this report, if approved, would enable the HSSD to manage the governance of the pharmaceutical service to the people Guernsey and ensure the highest standards are maintained, and the facilities used are fit for the purpose of delivering a pharmaceutical service.

Core Principle 2 – Good governance means performing effectively in clearly defined functions and roles.

The recommendations in this report, if approved, would enable HSSD and its officers to meet its obligations to ensure a quality service is provided more effectively.

Core Principle 3 – Good governance means promoting good values for the whole organisation and demonstrating the values of good governance through behaviour.

The proposed legislation would give HSSD the powers and authority to inspect and monitor the performance of pharmacies, bodies corporate and pharmacists providing a pharmaceutical service to the people of Guernsey. This will enable it to ensure the highest standards are maintained, that services funded by the States are provided from premises which are fit for purpose by appropriately trained staff.

Core Principle 4 – Good governance means taking informed, transparent decisions and managing risk.

The recommendations in this report, if approved, would enable HSSD to make the necessary decisions on service delivery and organisation, and be accountable for them. It will enable risk management of the supply of medicines to be spread across the entire Health and Social care economy.

Core Principle 5 – Good governance means developing the capacity and capability of the governing body to be effective.

The proposed legislation would give HSSD the powers and authority to manage the delivery of health care by this sector of the market.

Core Principle 6 – Good governance means engaging stakeholders and making accountability real.

Consultation with a number of health professions in particular pharmacists and pharmacy owners has been undertaken (including Alderney and Sark) as set out in the report. SSD a key states partner has also been consulted and supports the initiative.

(NB As there are no resource implications identified in the report, the Treasury and Resources Department has no comments to make.)

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

The States are asked to decide:-

XIII.- Whether, after consideration of the Report dated 10th July, 2012, of the Health and Social Services Department, they are of the opinion:-

1. To agree that Part IV of the Law should come into force on 1st June 2013.
2. To agree that only a pharmacist who has been qualified to practise as a pharmacist in the UK for at least three years, and is not prohibited from practising under the Law, shall be permitted:
 - i) to carry on a retail pharmacy business, or
 - ii) to be a superintendent pharmacist for a body corporate carrying on a pharmacy business, or
 - iii) to have personal supervision of a retail pharmacy carried on by a body corporate.
3. To agree that in the case of UK-registered pharmacists, the Health and Social Services Department shall have the power to take regulatory action (to disqualify a body corporate or a representative of a pharmacist) which is consistent with any decision of the relevant disciplinary committee.
4. To agree to specify the grounds for appeal and the procedures applying in the case of an appeal against regulatory action taken by the Department.
5. To direct the preparation of such legislation as may be necessary to give effect to the above decisions.

SOCIAL SECURITY DEPARTMENT

CONTRIBUTION RATES FOR 2013

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

10th July 2012

Dear Sir

Executive summary

1. This report contains recommendations for the upper and lower earnings and income limits for social security contributions, to take effect from 1 January 2013. The report also contains recommendations for the allowance on income for non-employed contributions and for the rates of voluntary contributions. No changes are proposed in the percentage rates of the contributions.
2. The Department's proposals for benefit rates to apply from January 2013 will appear in a report to be submitted to the October States meeting, when the proposals can be considered alongside the Budget proposals for 2013.

Introduction

3. The Social Security and Treasury and Resources Departments have investigated how the Social Security Department can delay the submission of the 2012 benefit uprating report so that it coincides with the budget debate which has been brought forward to October 2012.
4. The two Departments recognised that there is not sufficient time after the October 2012 States meeting for the Social Security Department to perform the numerous contribution-related processes that have to be carried out before the new rates can apply from January 2013. However, the two Departments agreed that there is sufficient time after the October States debate to perform the benefits-related processes that have to be carried out before the new rates can apply from January 2013.
5. This means that the Social Security Department's 2012 uprating report will be considered by the States in two stages. The first stage will result in the States

considering the Social Security Department's proposals on social insurance contribution rates for 2013 at the September 2012 States meeting. The second stage will result in the States considering the Department's proposals on benefit increases, including general revenue funded benefits, at the October 2012 States meeting. This will enable the Department's report on benefit increases for 2013 to coincide with the 2012 Budget debate and thus enable the States to consider all major expenditure for 2013 in a single States meeting.

6. At the request of the Policy Council's Fiscal and Economic Group, the Department has continued to await the resolution of the second phase of Zero-10 before bringing forward any further proposals on changes to contribution rates. That process has become extended and the absence of the 0.5% which had been recommended in July 2009 as an increase to the employer contribution is resulting in the Fund foregoing £6m per year in contribution income.
7. Pending the resolution of the second phase of Zero-10, the Department will not be recommending any changes to the percentage contribution rates for 2013, which will therefore continue at the current rates and the income allocated across the 3 Funds as shown in the following tables.

Contribution rates for employed persons	2013	2012
Employer	6.5%	6.5%
Employee	6.0%	6.0%
Total	<u>12.5%</u>	<u>12.5%</u>

Contribution rates for self-employed persons	10.5%	10.5%
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Contribution rates for non-employed persons under 65	9.9%	9.9%
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Contribution rates for non-employed persons over 65	2.9%	2.9%
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8. It should be noted that the actuarial reviews for the Guernsey Insurance Fund and the Long-term Care Insurance Fund up to 2009 (Billet d'Etat XV of 2011) showed that the current contribution rates are inadequate to finance those schemes in the long-term.
9. In recent years the Department's benefit uprating policy for the benefits financed from contributions has been to increase benefit rates at the mid-point of the increase in RPIX (prices) and the increase in earnings. This is based on a Government Actuary assumption that, over the long-term, earnings will exceed prices by approximately 2% per year. The Department's benefit

uprating policy has, therefore, in recent years been given effect through applying increases of RPIX plus 1%.

10. In 2005 the single person's old age pension was £139 per week and in 2011 it was £179.69. The six year increase was therefore approximately 29%. The Policy Council's Policy and Research Unit has confirmed that over the same period the movement in nominal median earnings was approximately 24% (shown below). The old age pension uprating over the last six years has, therefore, exceeded the mid-point of prices and earnings and has exceeded the movement in earnings.

Year	Nominal median earnings (£s)	Real median earnings (£s) 2011 prices	Annual percentage change in real median earnings (%)
2005	22,880	27,351	
2006	23,660	27,083	-1.0
2007	24,960	27,236	0.6
2008	26,130	28,186	3.5
2009	27,040	28,528	1.2
2010	27,430	28,301	-0.8
2011	28,340	28,340	0.1

NB: Although RPIX is the preferred measure of inflation, RPI has been used in this instance as that is what is available to the Policy Council for any time series beyond a few years.

11. In light of the fact that old age pension uprating over the last six years has exceeded the movement in earnings and taking into account current economic circumstances, the Department will be proposing increases of approximately 3.6% for the contributory (contribution based) social insurance and long-term care insurance benefits in its October 2012 benefit uprating report, being 0.5% ahead of the June 2012 RPIX figure of 3.1%. The Department will be recommending increases of approximately 3.1% for the non-contributory benefits funded from general revenue.
12. In this report, the Department is recommending that upper and lower earnings and income limits be increased by approximately 3.6%.

PART I

PROPOSED CONTRIBUTION RATES FOR 2013

Alignment of upper earnings limits

13. In accordance with the States Resolutions concerning the future financing of the contributory social security schemes (Billet d'Etat XXI of 2009) the upper earnings and income limits for employed people, self-employed people and non-employed people are to be incrementally increased from 1 January 2010 to match the upper earnings limit for employers. 2013 represents the fourth year of a 5 year phasing-in period.

2013 upper earnings limit for employed people

14. As the fourth step toward the alignment of the upper earnings limit with that applicable to employers, the Department recommends that, from 1 January 2013, the upper earnings limit for employed people should increase from £105,144 per annum to £119,340 per annum. For people paid weekly, this means an increase of £273 per week, taking it from £2,022 per week to £2,295 per week. For people paid less frequently than weekly, this means an increase of £1,183 per month, taking it from £8,762 per month to £9,945 per month.

2013 upper earnings limit for employers

15. The Department recommends that, from 1 January 2013, the upper earnings limit for the employers' contribution be increased by approximately 3.6%, from £125,268 per year to £129,792 per year. For people paid weekly, this means an increase of £87 per week, taking it from £2,409 per week to £2,496 per week. For people paid less frequently than weekly, this means an increase of £377 per month, taking it from £10,439 per month to £10,816 per month.
16. The effect of the proposed new upper earnings limit on people who pay a contribution at the new upper earnings limit is as follows:

Maximum 2013 contributions (2012 in brackets)

Weekly Earnings	Contributions per week		
	Employer	Employee	Total
	6.5%	6.0%	12.5%
Upper Earnings Limit	£2,496	£2,295	
	(£2,409)	(£2,022)	
Maximum payable	£162.24	£137.70	£299.94
	(£156.58)	(£121.32)	(£277.90)

17. For an employee with earnings of £119,340 per year, the additional contribution is £16.38 per week, which equates to £2.34 per day.

Number of contributors paying at upper earnings limits

18. In 2012, with an upper earnings limit of £105,144 per year, there were 3% of employed persons and 15% of self-employed persons paying on earnings at or above that level.
19. In 2012, with an upper earnings limit of £125,268 per year for employers, contributions were being paid at or above that level of earnings in respect of 1.5% of employees.

2013 lower earnings limit for employed people

20. The Department recommends that the lower earnings limit be increased from £121 per week to £125 per week. The corresponding monthly limit would be £541.67.
21. The effect of the foregoing changes on a contribution at the lower earnings limit is as follows:

Minimum 2013 contributions (2012 in brackets)			
Weekly Earnings	Contributions per week		
	Employer	Employee	Total
	6.5%	6.0%	12.5%
Lower Earnings Limit			
£125	£8.12	£7.50	£15.62
(£121)	(£7.86)	(£7.26)	(£15.12)

2013 upper and lower earnings limit for self-employed people

22. As the fourth step toward the alignment of the upper earnings limit with that applicable to employers, the Department recommends that the upper earnings limit for self-employed persons be increased from 1 January 2013 from £105,144 to £119,340 per year.
23. The effect of the proposed new upper earnings limit on self-employed people who pay a contribution at the upper earnings limit is as follows:-

Annual earnings from self-employment	Contributions per week
	10.5%
£119,340 or more	£240.97
(£105,144 or more)	(£212.31)

24. For a self-employed person with earned income of £119,340 per year, the additional contribution is £28.66 per week, which equates to £4.09 per day.
25. Self-employed people who have applied to pay earnings-related contributions, and whose earned income from self-employment was less than £119,340 per year, will pay less than the maximum contribution.
26. The proposed increase in the lower earnings limit from £121 to £125 per week would mean that the lower annual earnings limit for self-employed persons in 2013 would be increased from £6,292 to £6,500 (£125 x 52). The

minimum self-employed (Class 2) contribution in 2013 would be £13.12 per week (£12.70 in 2012).

2013 upper and lower income limit for non-employed people

27. As the fourth step toward the alignment of the upper income limit with that applicable to employers, the Department recommends that the upper income limit for non-employed persons be increased from 1 January 2013 from £105,144 to £119,340 per year.
28. As with the self-employed, non-employed contributors are liable to pay non-employed, Class 3 contributions, at the maximum rate unless application is made to the Department and authorisation given for the release of the relevant information by the Director of Income Tax. This allows an income-related contribution to be calculated.
29. There are two categories of non-employed contributions:
 - Full percentage rate contributions to cover social insurance, health service and long-term care insurance liabilities. This is the rate of contribution that non-employed adults under the age of 65 are liable to pay, based on their personal income. The contribution rate is 9.9% of income, after the deduction of an allowance, up to the upper income limit;
 - Specialist health insurance and long-term care insurance contributions. These contributions, which are payable by people aged 65 and over, go towards funding the specialist health insurance scheme and the long-term care insurance scheme. The contribution rate is 2.9% of income, after the deduction of an allowance, up to the upper income limit.
30. The Department recommends that the lower income limit at which non-employed contributions become payable be increased from £15,730 per year to £16,250 per year from 1 January 2013.

Non-employed person's allowance

31. From 2010 the Department introduced an allowance for non-employed people, which is subtracted from their annual income figure with liability being calculated on the balance. The Department recommends increasing the allowance from £6,675 to £6,895.
32. The following table shows the minimum and maximum weekly contributions payable in 2013 by non-employed people. People with income at some point between the upper and lower income limits will pay pro-rata.

2013 non-employed weekly contributions (2012 in brackets)

Annual Income	Full rate (under 65)	Specialist health and long-term care only (over 65)
	9.9%	2.9%
Less than £16,250	zero	zero
(less than £15,730)	(zero)	(zero)
£16,250	£17.81	£5.22
(£15,730)	(£17.24)	(£5.05)
£119,340	£214.08	£62.71
(£105,144)	(£187.47)	(£54.91)

Voluntary contributions

33. As shown above, where a non-employed person's annual income is below £16,250, that person will be exempted from the payment of contributions. However, this could affect old age pension entitlement. A voluntary contribution which counts towards old age pension can be paid by or on behalf of non-employed people, resident in Guernsey and under pension age, with personal income below the lower income limit.
34. The voluntary contribution in 2012 is £17.24 per week. The rate is calculated by applying the social insurance element of the non-employed contribution rate, being 5.7% of the total 9.9%, to the lower income limit. With a proposed lower income limit of £16,250 per annum in 2013, the voluntary contribution will increase to £17.81 per week.

Overseas voluntary contributions

35. People living outside of the Island are able to pay contributions in order to maintain their entitlement to old age pension. The rate payable in 2012 is £82.36 per week for the non-employed and £91.04 for the self-employed. It is recommended that, from 1 January 2013, the overseas voluntary contribution should be increased in line with the general 3.6% increase. This means that from 1 January 2013 the voluntary overseas contributions would rise from £82.36 to £85.32 per week for non-employed people and from £91.04 to £94.32 per week for self-employed people.

Special (minimum) rate Class 3 contributions

36. A special rate non-employed contribution is payable by insured persons who would normally rely upon employed contributor's employment for their livelihood, but have a small gap in their record where they were neither employed nor receiving an unemployment contribution credit. The rate of this contribution is aligned with the rate of the voluntary contribution. The

special rate Class 3 contribution would, therefore, be £17.81 per week in 2013.

States Grants to Funds

37. The Guernsey Insurance Fund currently receives a grant from general revenue equal to 15% of the total amount collected in contributions. The Guernsey Health Service Fund receives a similar grant equal to 12% of the contributions collected for that Fund. The Department is not recommending any change in the level of the States grants for 2013.
38. The estimated costs to general revenue for the States grants to the two funds is shown below.

Fund	General Revenue Grant	General Revenue Grant
	2013	2012
Guernsey Insurance Fund	£14,960,000	£14,360,000
Guernsey Health Service Fund	£4,515,000	£4,335,000
	£19,475,000	£18,695,000

Estimated operating surplus/deficit on Guernsey Insurance Fund

39. Taking into account all of the foregoing and on the assumption that the States will support the Department's proposed increases in benefits rates at the October 2012 States meeting, for the Guernsey Insurance Fund, it is estimated that:
 - 1) there will be an operating deficit in 2012 in the order of £8.9m; and
 - 2) there will be an operating deficit in 2013 in the order of £11.8m.
40. The estimated operating deficit in 2013 will just be covered by investment income. As explained in paragraphs 6 to 8 of this report, although the long-term strategy is to draw down on the capital value of the Guernsey Insurance Fund to meet increased demand due to demographic ageing, this strategy is combined with a necessary increase in contribution rates. With no increases to contributions having been made, pending resolution of the second phase of the Zero-10 taxation reforms, the operating deficits for the Guernsey Insurance Fund are occurring earlier than previously envisaged. The deficits will rapidly become deeper and the drawdown of the reserves will accelerate unless contributions are increased, benefits are reduced or the States Grants to the Funds are increased.

Consultation

41. The Department has consulted with the Policy Council through its Fiscal and Economic and Social Policy Groups. The Department has also consulted with

the Treasury and Resources Department.

Corporate Governance

42. The Department believes that the proposals in this report comply with the relevant principles of good governance as defined by the UK Independent Commission on Good Governance in Public Services (Billet d'Etat IV of 2011).

PART II RECOMMENDATIONS

43. The Department recommends:
- (i) that, for employed persons, the upper weekly earnings limit, the upper monthly earnings limit and the annual upper earnings limit, from 1 January 2013, shall be £2,295, £9,945 and £119,340 respectively;
(paragraph 14)
 - (ii) that, for employers, the upper weekly earnings limit, the upper monthly earnings limit and the annual upper earnings limit, from 1 January 2013, shall be £2,496, £10,816 and £129,792 respectively;
(paragraph 15)
 - (iii) that, for employed persons and employers, the lower weekly earnings limit and the lower monthly earnings limit, from 1 January 2013, shall be £125 and £541.67 respectively;
(paragraph 20)
 - (iv) that, for self-employed persons, the upper earnings limit and lower earnings limit, from 1 January 2013, shall be £119,340 per year and £6,500 per year, respectively;
(paragraphs 22 and 26)
 - (v) that, for non-employed persons, the upper and lower annual income limits, from 1 January 2013, shall be £119,340 per year and £16,250 per year respectively;
(paragraphs 27 and 30)
 - (vi) that the allowance on income for non-employed people from 1 January 2013, shall be £6,895 per year;
(paragraph 31)
 - (vii) that the voluntary contribution from 1 January 2013, shall be £17.81 per week for non-employed people;
(paragraph 34)

- (viii) that the overseas voluntary contribution from 1 January 2013, shall be £85.32 per week for non-employed people and £94.32 for self-employed people;

(paragraph 35)

- (ix) that such legislation as may be necessary to give effect to the foregoing shall be prepared.

Yours faithfully

A H Langlois, Minister
S A James, Deputy Minister

J A B Gollop
C J Green

M K Le Clerc

ANNEX 1 – LEGISLATION

1. THE NEED FOR LEGISLATION

The proposed new amounts of the upper weekly and upper monthly earnings limits for the purpose of primary and secondary Class 1 contributions, the lower income limit for Class 3 contributions, the Class 3 income allowance and the voluntary and overseas voluntary contribution rates can only properly be given effect by legislation. These changes can be all be achieved by Ordinance.

2. FUNDING IMPLICATIONS

The proposals made in this report are of a routine nature and will be funded from the Guernsey Insurance Fund.

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

If the upper earnings and income limits are not increased, the amount of contribution income payable in 2013 will be less than budgeted and the operating deficit of the Guernsey Insurance Fund will be higher than estimated. It may not be possible to cover this increased operating deficit by investment income alone.

4. ESTIMATED DRAFTING TIME

The amendments which are necessary to implement the changes proposed in the States Report are not major. In terms of pure drafting time, preparation of the amending legislation should take no longer than half a day.

(NB A majority of the Members of the Treasury and Resources Department are disappointed that it has not proved possible for these proposals to be debated as part of the 2013 Annual Budget in October although it is noted that proposals relating to benefit rates will be. The Department would hope that in future, proposals relating to contribution and benefit rates can be debated alongside the States Annual Budget. It is also noted that the Social Insurance Fund is currently operating at a deficit which is a matter that requires addressing as soon as possible. Finally, given that the Fund is operating at a deficit, the Department is surprised that the Social Security Department is signalling its intention to recommend increases of 3.6% in contributory benefits (0.5% above the RPIX figure at 30 June 2012), particularly given the fact that since 2005, benefits have increased by 29% while nominal earnings have increased by 24%.

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

The States are asked to decide:-

XIV.- Whether, after consideration of the Report dated 10th July, 2012, of the Social Security Department, they are of the opinion:-

1. That, for employed persons, the upper weekly earnings limit, the upper monthly earnings limit and the annual upper earnings limit, from 1 January 2013, shall be £2,295, £9,945 and £119,340 respectively.
2. That, for employers, the upper weekly earnings limit, the upper monthly earnings limit and the annual upper earnings limit, from 1 January 2013, shall be £2,496, £10,816 and £129,792 respectively.
3. That, for employed persons and employers, the lower weekly earnings limit and the lower monthly earnings limit, from 1 January 2013, shall be £125 and £541.67 respectively.
4. That, for self-employed persons, the upper earnings limit and lower earnings limit, from 1 January 2013, shall be £119,340 per year and £6,500 per year, respectively.
5. That, for non-employed persons, the upper and lower annual income limits, from 1 January 2013, shall be £119,340 per year and £16,250 per year respectively.
6. That the allowance on income for non-employed people from 1 January 2013, shall be £6,895 per year.
7. That the voluntary contribution from 1 January 2013, shall be £17.81 per week for non-employed people.

8. That the overseas voluntary contribution from 1 January 2013, shall be £85.32 per week for non-employed people and £94.32 for self-employed people.
9. To direct the preparation of such legislation as may be necessary to give effect to the above decisions.

STATES REVIEW COMMITTEE

REVIEW OF THE STRUCTURE AND FUNCTIONS OF A LEGISLATURE AND GOVERNMENT IN GUERNSEY

1. Executive Summary

- 1.1 The purpose of this report is to request approval from the States of Deliberation for funding the expenditure that will be incurred by the States Review Committee in discharging its role.
- 1.2 At its September 2012 meeting the Assembly will also be asked to appoint two persons independent of the States, which election was deferred from being considered at the June 2012 States meeting.

2. Background

- 2.1 On the 9 March 2012 the States, having considered a Requête signed by Deputy Matt Fallaize and 22 other Members, resolved to create a States Review Committee for the purposes of examining “*the extent to which the structure and the functions of the legislature and the government in Guernsey are capable of fulfilling expectations of good governance with reference in particular to the processes of developing, determining, coordinating, effecting and monitoring States policies.....*” A copy of the Requête which appeared in Billet d’Etat V of 2012, Article 21, and which sets out the mandate in full is appended to this Report for Members’ ease of reference.
- 2.2 Following the General Election of Deputies in April 2012, the States duly elected, at its June 2012 meeting, three States Members to sit alongside the Chief Minister (who acts as Chairman) and the Chairman of the States Assembly and Constitution Committee, comprising one Minister and two sitting Members of the States of Deliberation. However, as a result of an Amendment proposed by the Chief Minister and seconded by the Chairman of the States Assembly and Constitution Committee, the States resolved to defer the appointment of two persons independent of the States.
- 2.3 In this respect, the Chief Minister was not in a position to nominate the independent members and a deferment was required in order to allow the Committee to meet and explore its options further.
- 2.4 It had also become clear, as the two known Members of the Committee undertook early planning, that the Review Committee was going to struggle to discharge its mandate effectively without any budget whatsoever and as a consequence it was decided to submit this Report to the States.
- 2.5 The Committee held its inaugural meeting on Wednesday 4th July 2012 and resolved to submit this report for consideration at the September States meeting and to delay its nomination of preferred candidates for the role of independent

member to allow time to re-open the search for local candidates. The nominations are to be made in a separate report also to be considered at the September States meeting.

3. Selection of Independent Members of the Committee

- 3.1 Paragraph 18 of the Requête proposes the election of *“two persons independent of the States with relevant skills and experience of the structure and functions of legislatures and governments”*.
- 3.2 Paragraph 19 goes on to make the case for balancing the mix of Guernsey politicians on the Committee with those with a breadth of skills and knowledge of government other than Guernsey’s, whilst paragraph 20 makes it clear that reference to *“persons independent of the States”* *“shall be interpreted as meaning persons who are not, and never have been, members or employees of the States or non States Members of States Departments or Committees”*.
- 3.3 Against this background an advertisement was placed in the Guernsey Evening Press inviting persons with such skills and experience to indicate whether they were interested in their names being put forward for these positions.
- 3.4 In addition, contact was made with a number of specialists in this field in the UK to establish whether they too would be interested in this role.
- 3.5 In the event eight expressions of interest were received from local residents but five were excluded on the grounds that they were former Members or former employees of the States.
- 3.6 Of the potential candidates from outside of the Bailiwick that were approached, in the opinion of the Chief Minister and Chairman of SACC, there were two particularly well suited candidates who were willing and available to assist and who could be nominated for this position. However, putting forward the names could not proceed because both candidates expected reimbursement for travel and, where necessary, accommodation costs in order to allow them to attend meetings on the Island. Furthermore, in the case of one candidate, who was specifically approached for his extensive academic knowledge and impressive track record in this area, there was again a reasonable expectation that there would be some recompense for his work given that the time that he would dedicate to this task will mean that he will have to decline remuneration from other projects.
- 3.7 Following the formal constitution of the Committee at the June States meeting, with the election of Deputies St Pier, Dorey and Conder to join the Chief Minister and Chairman of the States Assembly and Constitution Committee, and in response to comments from States Members, the Committee resolved to widen the search for potential local candidates and to meet with a short-list of the applicants.

- 3.8 As a matter of principle, the Committee wished to ensure that all avenues of finding suitable local candidates should be explored. At the time of writing this report, this search is still in progress and the Committee will be reporting separately on the outcome and its preferred candidates once these have been selected.

4. Funding the Review Generally

- 4.1 It is recognised that if the Committee is to do its job properly then it is likely to incur costs in terms of hiring of facilities at which to engage with the public, potentially placing advertisements in the Guernsey Press and so on.
- 4.2 Furthermore, while the work of the Committee will be predominantly undertaken by its Members, nevertheless there will need to be a degree of professional and secretarial support (beyond the organising of meetings and taking of minutes) which will include research, the preparation of papers and assistance in preparing Reports, briefing papers and so on. The Committee is not anticipating the use of consultants as part of this review.
- 4.3 The Chief Executive of the States has identified an experienced Senior Officer who is well suited to this task and who he is willing to second for an initial period of 2 years. However the Officer will need to be replaced in their current role and there is no allocated budget for meeting the salary of the secondee.
- 4.4 The Committee requires a reasonable budget to fund this important Review.

5. Proposed Budget

- 5.1 The Committee estimates that it is likely to require a maximum budget of £25,000 in 2012 and £95,000 in 2013 and 2014, made up as follows:

Budget Heading	2012 <i>£000s</i>	2013 <i>£000s</i>	2014 <i>£000s</i>
Staff support	20	75	75
Incidental expenses (travel, accommodation, publications etc)	4	10	10
Administration (room hire, advertising, recording equipment, transcripts etc)	1	10	10
Total:	25	95	95

- 5.2 In 2013 the Committee is mandated to produce a States Report, to be submitted under Rule 12(4), setting out the general principles of its findings. In 2014 the Committee will be submitting its final report and recommendations to the States. The Committee has been directed by the terms of the appended successful Requête to undertake wide consultation with States Members and the public, which will inevitably incur costs, which have been allowed for in the above proposed budget.
- 5.3 Given that the Review could fundamentally influence the heart of Guernsey's system of Government, the magnitude of this task and its potential importance to the good governance of the States of Guernsey, the Committee considers that such a level of expenditure is justified and warranted and a relatively modest cost for a review that has not been undertaken for over a decade. Accordingly, the States are recommended to direct the Treasury and Resources Department to fund the work of the Committee in 2012 and to incorporate into the budget proposals for 2013 and 2014 an appropriate sum to enable the Committee to discharge its role.
- 5.4 Under the Rules of Procedure any proposition which may have the effect of increasing revenue expenditure requires an indication of how such an increase could be funded. Discussions have been held with the Treasury and Resources Department on this matter and due to the estimated level of expenditure it has been agreed that the 2012 increase can be funded from the Budget Reserve and the Treasury and Resources Department will also take account of the Review Committee's expenditure when recommending cash limits to the States for 2013 and 2014.

6. Recommendations

- 6.1 The States are asked:
- i. To approve a transfer from the Budget Reserve of £25,000 to establish a budget for the States Review Committee for 2012;
 - ii. To direct the Treasury and Resources Department to take account of the costs detailed in this States Report when recommending Cash Limits for the States Review Committee for 2013 and subsequent years.

Yours faithfully

P A Harwood
Chairman

12th July 2012

M J Fallaize, Vice Chairman
M H Dorey

G A St Pier
R Conder

- (NB When the matter was discussed by the States in March of this year, the Treasury and Resources Department advised that there would inevitably be resource implications in carrying out the resolutions contained within the Requête. While it is disappointing that the Requête did not deal with the resource implications at the time, the Department recognises that if this States Report is approved it will have to find the necessary funds.)
- (NB This review is of major significance to the future well being of Guernsey, with potential impacts on many aspects of the functions of the legislature and government in the Island (and their associated costs). This has already been recognised by the new Assembly when States Members, at their meeting in June 2012, appointed members to the Committee.

The Policy Council is aware that some new States Members may be uncertain as to whether the original proposals in the Requête bringing about the Committee were compliant with Rule 15(2). It therefore wishes to remind Members that this matter was well debated by the States at the time, and the published comments of the then Treasury & Resources Department on the Requête were as follows:-

“Members noted that HM Comptroller has advised that, in his view, Rule 15(2) is not applicable. However, there will inevitably be resource implications in carrying out the resolutions contained in the Requête and it is considered that these should be, as far as possible, specified and a funding source identified.”

This is exactly what the Review Committee is doing in this Report, which the Policy Council supports.)

The States are asked to decide:-

XV.- Whether, after consideration of the Report dated 12th July, 2012, of the States Review Committee, they are of the opinion:-

1. To approve a transfer from the Budget Reserve of £25,000 to establish a budget for the States Review Committee for 2012.
2. To direct the Treasury and Resources Department to take account of the costs detailed in this States Report when recommending Cash Limits for the States Review Committee for 2013 and subsequent years.

REQUÊTE

FREEZING OF STATES MEMBERS' PAY

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

1. At their January 2012 meeting the States of Deliberation considered a Report presented by the Policy Council entitled “Review of States Members and Non-States Members Pay” (Article 8 of Billet d’Etat III of 2012), including a Proposition: “(1) That the basic Remuneration and Expenses allowance paid to States Members and Non-States Members of Departments and Committees with effect from 1 May 2012 shall remain in force until 30 April 2016, subject to annual review and adjustment in accordance with changes in Guernsey median earnings”.
2. An amendment moved by Deputies J Kuttelwascher and S Langlois read “In the Proposition designated (1) to delete “, subject to annual review and adjustment in accordance with changes in Guernsey median earnings”. This amendment was declared lost without a division (appel nominal) but on a collective call (aux voix); and the States went on to approve the unamended Proposition.
3. The Treasury and Resources Department had commented on the report as follows: “The Treasury and Resources Department does not wish to comment on the States Report other than to point out that aligning adjustments to States members and Non-States members pay to changes in median earnings could result in above-inflation increases”.
4. Your Petitioners believe that in a time of fiscal restraint and in an uncertain economic environment States Members should lead by example. A freezing of States Members’ pay throughout this term would set a good example to the whole community.

THESE PREMISES CONSIDERED, YOUR PETITIONERS humbly pray that the States may be pleased to resolve:

To amend their Resolution of 27th January 2012 on the Proposition designated (1) at Article 8 of Billet d’État III of 2012 by deleting “, subject to annual review and adjustment in accordance with changes in Guernsey median earnings”.

AND YOUR PETITIONERS WILL EVER PRAY

GUERNSEY

This 30th day of May 2012

J Kuttelwascher
P A Harwood

M M Lowe
M G O’Hara

R A Perrot
R Conder

D de G De Lisle
G A St. Pier

(NB In pursuance of Rule 17(2) (a) of the Rules of Procedure of the States of Deliberation, the views received from Departments and Committees consulted by the Policy Council, as appearing to have a particular interest in the subject matter of the Requête, are set out below.)

STATES ASSEMBLY AND CONSTITUTION COMMITTEE

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

27th June 2012

Dear Deputy Harwood

I refer to the Requête entitled 'Freezing of States Members' Pay' which was sent to the Committee for its consideration by an email dated 1st June 2012 from the Head of Government Business.

The States Assembly and Constitution Committee is of the opinion that the subject matter of the Requête does not fall within its mandate. Consequently it has no comment to make thereon.

Yours sincerely

M. J. Fallaize

Chairman
States Assembly and Constitution Committee

TREASURY AND RESOURCES DEPARTMENT

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

3rd July 2012

Dear Chief Minister

REQUÊTE – FREEZING OF STATES MEMBERS' PAY

At its meeting on 26 June 2012, my Board considered the Policy Council's invitation to comment on the Requête submitted by Deputy Kuttelwascher and seven other Members of the States.

Having considered the prayer of the Requête, my Board has on this occasion decided against making any comment on the matter.

Yours sincerely

Gavin St Pier
Minister

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

The States are asked to decide:-

XVI.- Whether, after consideration of the Requête dated 30th May, 2012, signed by Deputy J Kuttelwascher and seven other Members of the States, they are of the opinion:-

To amend their Resolution of 27th January 2012 on the Proposition designated (1) at Article 8 of Billet d'État III of 2012 by deleting “, subject to annual review and adjustment in accordance with changes in Guernsey median earnings”.

ORDINANCES LAID BEFORE THE STATES

**THE REPUBLIC OF GUINEA-BISSAU (RESTRICTIVE MEASURES)
(GUERNSEY) ORDINANCE, 2012**

In pursuance to the provisions of the proviso to Article 66 (3) of the Reform (Guernsey) Law, 1948, as amended, The Republic of Guinea-Bissau (Restrictive Measures) (Guernsey) Ordinance, 2012, made by the Legislation Select Committee on the 31st May, 2012, is laid before the States.

**THE BELARUS (FREEZING OF FUNDS) (GUERNSEY) (AMENDMENT)
ORDINANCE, 2012**

In pursuance to the provisions of the proviso to Article 66 (3) of the Reform (Guernsey) Law, 1948, as amended, The Belarus (Freezing of Funds) (Guernsey) (Amendment) Ordinance, 2012, made by the Legislation Select Committee on the 31st May, 2012, is laid before the States.

STATUTORY INSTRUMENTS LAID BEFORE THE STATES

**THE COMPULSORY ACQUISITION OF LAND (GUERNSEY) (PRESCRIBED
FORMS) REGULATIONS, 2012**

In pursuance of Section 12A (4) of The Compulsory Acquisition of Land (Guernsey) (Amendment) Law, 2010, The Compulsory Acquisition of Land (Guernsey) (Prescribed Forms) Regulations, 2012, made by the Treasury and Resources Department on 3rd July 2012, are laid before the States.

EXPLANATORY NOTE

These Regulations prescribe the form of various documents required under the Compulsory Acquisition of Land (Guernsey) Law, 1949, as amended.

**THE COMPETITION (CALCULATION OF TURNOVER) (GUERNSEY)
REGULATIONS, 2012**

In pursuance of Section 63 (3) of The Competition (Guernsey) Ordinance, 2012, The Competition (Calculation of Turnover) (Guernsey) Regulations, 2012 made by the Commerce and Employment Department on 31 July 2012 are laid before the States.

EXPLANATORY NOTE

These Regulations explain how a business' turnover is to be calculated for the purpose of section 34(3) of The Competition (Guernsey) Ordinance, 2012, which calculation is also to be used for The Competition (Merger and Opinion Application Fees) (Guernsey) Regulations, 2012, and The Competition (Prescribed Mergers and Acquisitions) (Guernsey) Regulations, 2012.

These regulations came into force on 1st August 2012.

**THE COMPETITION (MERGER AND OPINION APPLICATION FEES)
(GUERNSEY) REGULATIONS, 2012**

In pursuance of Section 63 (3) of The Competition (Guernsey) Ordinance, 2012, The Competition (Merger and Opinion Application Fees) (Guernsey) Regulations, 2012 made by the Commerce and Employment Department on 31st July 2012 are laid before the States.

EXPLANATORY NOTE

These Regulations specify the fees, and the person by whom and time by when the fees are payable, for applications to the Authority made under sections 16 and 37 of the Competition (Guernsey) Ordinance, 2012.

These regulations came into force on 1st August 2012.

**THE COMPETITION (PRESCRIBED MERGERS AND ACQUISITIONS)
(GUERNSEY) REGULATIONS 2012**

In pursuance of Section 63 (3) of The Competition (Guernsey) Ordinance, 2012, The Competition (Prescribed Mergers and Acquisitions) (Guernsey) Regulations, 2012 made by the Commerce and Employment Department on 31st July 2012 are laid before the States.

EXPLANATORY NOTE

These Regulations prescribe the mergers and acquisitions for which the Authority's approval is required for the purpose of section 13(1) of the Competition (Guernsey) Ordinance, 2012.

These regulations came into force on 1st August 2012.

THE OFFENCES (FIXED PENALTIES) (GUERNSEY) ORDER, 2012

In pursuance of Section 7 of The Offences (Fixed Penalties) (Guernsey) Law, 2009, The Offences (Fixed Penalties) (Guernsey) Order, 2012, made by the Home Department on 31st May 2012, is laid before the States.

EXPLANATORY NOTE

This Order specifies the manner in which, and the place at which, a fixed penalty is to be paid.

This Order came into force on 1st July, 2012.

THE DATA PROTECTION (PROCESSING OF PERSONAL DATA) (STSC) ORDER, 2012

In pursuance of Section 66(4) of The Data Protection (Bailiwick of Guernsey) Law, 2001, the Data Protection (Processing of Personal Data) (STSC) Order, 2012, made by the Home Department on 23rd July 2012, is laid before the States.

EXPLANATORY NOTE

The first data protection principle set out in paragraph 1 of Schedule 1 to The Data Protection (Bailiwick of Guernsey) Law 2001 ("the Law") prohibits the processing of personal data unless one of the conditions in Schedule 2 to the Law is met. One of the conditions (set out in paragraph 6 of the Schedule) is where the processing is necessary for the purposes of the legitimate interests pursued by the data controller or the third party or parties to whom the data are disclosed. That paragraph also provides that the Committee [now the Home Department] may by Order specify particular circumstances in which the condition is, or is not, taken to be satisfied. This Order is made in exercise of that power.

Article 1 of the Order provides that, for the purposes of paragraph 6(1) of Schedule 2 to the Law, the processing of personal data (excluding sensitive personal data) concerning any employee, debtor or creditor of a relevant body are circumstances in which the condition set out in that paragraph is taken to be satisfied; provided that the processing is for the purpose of enabling the Shared Transactional Service Centre of the Treasury and Resources Department (the "STSC") to carry out a relevant function and is by way of disclosure to the STSC by a relevant body or to a relevant body by the STSC.

Article 2 contains the interpretation provisions and defines a "relevant body" as any department, council or committee of the States of Guernsey, any committee of the States of Alderney, any office or other person or body, to which the STSC delivers services. A "relevant function" is defined as meaning a function which the STSC has agreed with any relevant body, or any person acting on behalf of a relevant body, that the STSC will carry out on behalf of that body.

APPENDIX 1**RECORD OF THE 2012 GENERAL ELECTION**

Members of the States:

I lay before you the formal report of the General Election of People's Deputies which was held on Wednesday, 18th April 2012.

Returning Officers for the electoral districts were appointed and sworn by the Royal Court, as follows:

St. Peter Port South:	Douzenier John Henry Sarre
St. Peter Port North:	Douzenier Dennis Henry Le Moignan
St. Sampson:	Douzenier John Edward Foster
Vale:	Mr. Colin Harold Bond
Castel:	Douzenier Nicholas Martyn Dorey
West:	Douzenier Martin Andrew Ozanne
South-East:	Douzenier Barbara Joyce Hervé

and Deputy Returning Officers (for parishes in districts which comprise more than one parish) were appointed and sworn by the Royal Court as follows:

St. Saviour:	Douzenier Andrew Michael John Courtney
St. Pierre du Bois:	Mr. Stephen Andrew Fell
Torteval:	Mr. Jean Nicolas Robert de Garis Lenfestey
Forest:	Douzenier Pierre Louis Francis Paul
St. Martin:	Douzenier Richard Anthony Strappini
St. Andrew:	Douzenier Godfrey Charles Le Mesurier.

Polling stations were established by the Constables of the Parishes, as follows:

St. Peter Port South:	Constables' Office, Lefebvre Street St. Stephen's Community Centre, St. Stephen's Lane
St. Peter Port North:	Beau Séjour Leisure Centre, Amherst St. John's Church Hall, Les Amballes
St. Sampson:	Chambre de la Douzaine, Le Murier Church Schools, Grandes Maisons Road
Vale:	Douzaine Room, Rue Maraitaine Island Scout Headquarters, Rue Mainguy
Castel:	Chambre de la Douzaine, Les Beaucamps Cobo United Air Rifle Club, Le Feugré
West:	Douzaine Room, Grande Rue, St. Saviour Church Hall, Le Neuf Chemin, St. Saviour Salle Paroissiale, Les Buttes, St. Pierre du Bois Chambre de la Douzaine, Rue du Belle, Torteval Chambre de la Douzaine, Rue des Landes, Forest
South-East:	Salle Paroissiale, Grande Rue, St. Martin Douzaine Room, Route de St. André, St. Andrew.

Polling stations were open from 8.00 a.m. to 8.00 p.m. in the districts of St. Peter Port South and St. Peter Port North and from 10.00 a.m. to 8.00 p.m. in all other districts.

The following results were certified to me by the respective Returning Officers.

St. Peter Port South:

BREHAUT, Barry Leslie	938
BYGOTT-WEBB, Hugh Barnabus Jefferson	683
DOMAILLE, Roger	931
FORMAN, Neil Anthony	577
HARWOOD, Peter Andrew	1,191
JONES, Robert Anthony	695
KUTTELWASCHER, Jan	1,072
LANGLOIS, Allister Hurrell	929
LORD, Richard Lund	553
TASKER, Jennifer Mary	684
Blank Papers	2
Spoilt Papers	6
Number of electors on roll	2,976
Total number of voters	1,967
Turnout	66.1%

St. Peter Port North:

BEBB, Elis Gwyn	943
COLLINS, Michael Wynne	555
CONDER, Richard	1,125
FISHER, Keith Alan	562
GALLIENNE, Leon Roy	845
GOLLOP, John Alfred Bannerman	1,451
IRVIN, Joseph Edward	383
LE CLERC, Michelle Karen	1,708
MATTHEWS, Robert Rhoderick	933
QUERIPEL, Lester Carlson	936
RENIER, James Alan Mitchell	238
ROBERT, Matthew Rex	470
SHERBOURNE, Peter Anthony	1,296
STOREY, Martin John	1,068
Blank Papers	11
Spoilt Papers	5
Number of electors on roll	3,653
Total number of voters	2,522
Turnout	69.0%

St. Sampson:

BOWKER, Caroline Jane	963
BRETON, Sarah Jane	643
BROOME, Robert John	618
GILLSON, Peter Leonard	1,469
LE PELLE, Paul Raymond	1,443
OGIER, Scott John	1,418
RIHOY, Ivan Frederick	1,168
STEPHENS, Tania Jane	1,297
STEWART, Kevin Andrew	1,909
ST. PIER, Gavin Anthony	2,153
TROTT, Lyndon Sean	1,370
Blank Papers	9
Spoilt Papers	26
Number of electors on roll	4,291
Total number of voters	3,137
Turnout	73.1%

Vale:

COLLINS, Garry Michael	1,276
FALLAIZE, Matthew James	2,912
JONES, David Brian	2,429
LE LIÈVRE, Andrew Robert	1,887
LOWE, Mary May	2,167
QUERIPEL, Laurie Bryn	2,341
SPRUCE, Anthony	1,889
SYMONS, James Richard	1,234
WEBBER, Anthony David Canivet	359
Blank Papers	22
Spoilt Papers	6
Number of electors on roll	4,935
Total number of voters	3,510
Turnout	71.1%

Castel:

ADAM, Alexander Hunter	1,345
DOREY, Mark Hirzel	1,823
DUQUEMIN, Darren James	2,199
FLOUQUET, Bernard Marcel	778
GARRETT, Michael Guy Gordon	801
GREEN, Christopher James	2,189
JAMES, Sandra Anne, MBE	1,575
LE TOCQ, Jonathan Paul	1,575
MACINTYRE, Martin Brian	639
MARTIN, Rolf	455
MAYER, Dominic Peter	330

M ^C MANUS, Sean Joseph		1,236
PAINT, Barry John Edward		1,634
Blank Papers	4	
Spoilt Papers	15	
Number of electors on roll	4,329	
Total number of voters	3,176	
Turnout	73.4%	

West

BROUARD, Alvord Henry		1,710
BURFORD, Yvonne		1,305
DE LISLE, David de Garis		1,306
DUDLEY-OWEN, Gloria Pearl		1,053
GARLICK, Paul Michael		1,241
GORVEL, David John		1,079
INGLIS, David Albert		1,292
LANGLOIS, Shane Lenfestey		1,058
PERROT, Roger Allen		2,266
WILKIE, Arrun Michael		1,318
Blank Papers	4	
Spoilt Papers	4	
Number of electors on roll	4,126	
Total number of voters	3,148	
Turnout	76.3%	

South-East:

ELDRIDGE, Arthur Walter		1,027
HADLEY, Michael Peter James		1,162
LE SAUVAGE, Janine Michelle		913
LUXON, Paul Anthony		1,865
MAHÉ, Martyn		937
MATTHEWS, Aidan Douglas Stephen		881
O'HARA, Michael George		1,609
QUIN, Francis William		1,168
SILLARS, Robert William		1,989
SOULSBY, Heidi Jean Renée		2,061
TALBOT-CULL, Margaret		82
Blank Papers	29	
Spoilt Papers	3	
Number of electors on roll	4,346	
Total number of voters	2,999	
Turnout	69.0%	

Article 41 of the Reform (Guernsey) Law, 1948, as amended provides that if the total of the votes cast for any unsuccessful candidate does not exceed by more than 2% of the

total number of votes cast for any unsuccessful candidate, such unsuccessful candidate may demand a recount. Such recounts are held under my direction.

On the 19th April 2012 I received a request for two recounts:

- from Mr. Robert Rhoderick Matthews in respect of the votes cast in the electoral district of St. Peter Port North;
- from Mr. James Richard Symons in respect of the votes cast in the electoral district of the Vale.

I appointed Jurat Stephen Edward Francis Le Poidevin as scrutineer for the recount of the votes cast in the electoral district of St. Peter Port North and Jurat Margaret Ann Spaagaren as scrutineer for the recount of the votes cast in the electoral district of the Vale. The recounts were held in the Dorey Room at St. James Assembly and Concert Hall on the 20th April 2012 and the following results were certified to me by the respective scrutineers:

St. Peter Port North:

BEBB, Elis Gwyn	944
COLLINS, Michael Wynne	555
CONDER, Richard	1,126
FISHER, Keith Alan	564
GALLIENNE, Leon Roy	846
GOLLOP, John Alfred Bannerman	1,455
IRVIN, Joseph Edward	384
LE CLERC, Michelle Karen	1,712
MATTHEWS, Robert Rhoderick	936
QUERIPEL, Lester Carlson	938
RENIER, James Alan Mitchell	238
ROBERT, Matthew Rex	472
SHERBOURNE, Peter Anthony	1,305
STOREY, Martin John	1,065
Blank Papers	1
Spoilt Papers	12

Vale:

COLLINS, Garry Michael	1,275
FALLAIZE, Matthew James	2,909
JONES, David Brian	2,430
LE LIÈVRE, Andrew Robert	1,892
LOWE, Mary May	2,162
QUERIPEL, Laurie Bryn	2,345
SPRUCE, Anthony	1,889
SYMONS, James Richard	1,232
WEBBER, Anthony David Canivet	358
Blank Papers	22
Spoilt Papers	6

Members elected to serve from 1st May 2012 to 30th April 2016

The following candidates were declared elected as People's Deputies for their respective districts. They each took the oath of allegiance (or affirmed) and the oath of office (or affirmed) before a special sitting of the Royal Court held on the 1st May 2012 whereupon they entered into office.

St. Peter Port South

1. Peter Andrew Harwood
2. Jan Kuttelwascher
3. Barry Leslie Brehaut
4. Roger Domaille
5. Allister Hurrell Langlois
6. Robert Anthony Jones

St. Peter Port North

1. Michelle Karen Le Clerc
2. John Alfred Bannerman Gollop
3. Peter Anthony Sherbourne
4. Richard Conder
5. Martin John Storey
6. Elis Gwyn Bebb
7. Lester Carlson Queripel

St. Sampson

1. Gavin Anthony St. Pier
2. Kevin Andrew Stewart
3. Peter Leonard Gillson
4. Paul Raymond Le Pelley
5. Scott John Ogier
6. Lyndon Sean Trott

Vale

1. Matthew James Fallaize
2. David Brian Jones
3. Laurie Bryn Queripel
4. Mary May Lowe
5. Andrew Robert Le Lièvre
6. Anthony Spruce
7. Garry Michael Collins

Castel

1. Darren James Duquemin
2. Christopher James Green
3. Mark Hirzel Dorey

4. Barry John Edward Paint
5. Sandra Anne James M.B.E.
6. Jonathan Paul Le Tocq
7. Alexander Hunter Adam

West

1. Roger Allen Perrot
2. Alvord Henry Brouard
3. Arrun Michael Wilkie
4. David de Garis De Lisle
5. Yvonne Burford
6. David Albert Inglis

South-East

1. Heidi Jean Renée Soulsby
2. Robert William Sillars
3. Paul Anthony Luxon
4. Michael George O'Hara
5. Francis William Quin
6. Michael Peter James Hadley

Alderney Representatives

On the 11th January 2012 the States of Alderney, pursuant to the States of Guernsey (Representation of Alderney) Law, 1978, as amended, elected –

1. Mr. Boyd Nigel Kelly
2. Mr. Paul Arditti

as representatives of the States of Alderney in the States of Deliberation during 2012 and sent a statutory notice to Her Majesty's Greffier to that effect.

R. J. COLLAS
Bailiff and Presiding Officer

APPENDIX 2

POLICY COUNCIL

PLANNING APPEALS PANEL – ANNUAL REPORT 2011

The Policy Council has received the Planning Appeal Panel's 2011 Annual Report which is attached for publication as an appendix to the Billet d'État.

P. A. Harwood
Chief Minister

23rd July 2012

Annual Report

2011

Second Annual Report of the Guernsey Planning Panel

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1. Chairman's Introduction

I am pleased to present the Planning Panel's second Annual Report. I believe that 2011 has been a period of consolidation and progress for the Panel. During 2011 its workload, in terms of the number of appeals registered did not increase significantly, but the complexity of issues identified by the appeals did increase.

During 2011, the Panel also sought to consolidate its working relationships with the Policy Council, the Environment Department, and a range of professionals in private practice representing appellants whilst at all times striving to demonstrate its independence and impartiality. I am appreciative of the continuing support the Panel receives from the Policy Council to ensure that it is able to maintain its independence and also discharge its duties in a timely and cost efficient manner.

The Panel is also grateful for the feedback it has received from the Environment Department's planning officers and appellants and their representatives. This feedback has proved invaluable in the preparation of its revised Guidance Notes for appellants. These revised Guidance Notes were published in early 2012.

Since it was established, the Panel has been eager to ensure that its policies, procedures and practices have remained transparent, fair, unbiased and accessible. To this end, during 2011 the Panel published a synopsis of all its appeal decisions since it commenced hearing appeals in late 2009. This document is updated on a quarterly basis and has been well received by the Environment Department, and professionals acting for clients both in respect of making and appealing against planning decisions.

In early 2011, the Panel recognised that with just two professional and four ordinary members it was vulnerable should either the number of appeals increase significantly or one or more members be unavailable for a prolonged period through illness or resignation from the Panel.

The Panel raised its concerns with the Policy Council in March 2011 and whilst these discussions were being progressed one of the Panel's two professional members resigned for personal reasons. This resignation placed a significant burden on the remaining professional member, Mr. Fell. Thanks to the commitment of Mr. Fell and the support provided to him by the other Panel members, the Panel was able to continue its work without undue delay until it was possible to obtain the approval of the States for my appointment as a professional member and also the appointment of a replacement lay member.

In this second Annual Report I have sought to provide an overview of the Panel's work in 2011, including an analysis of the casework, which in turn demonstrates recurring issues and themes.

The last year has been one of considerable progress. The Panel has increased modestly in size to enable it to continue to deal expeditiously with increasing commitments. It has also striven to establish itself as a wholly independent judicial body which is user friendly and provides an efficient and cost effective service to those aggrieved by planning decisions.

It is again my pleasure to record my gratitude to my fellow colleagues on the Panel who have so freely given of their time. In my last Report I wrote of their hard work, skill and dedication and that has been ever present during the last twelve months. I also wish to record the Panel's thanks to our incoming Secretary Ms. Elizabeth Dene. She seamlessly took over this role from Mrs. de Garis and has been of immeasurable assistance not just to the Panel but also to all who have had contact with it.

Patrick Russell
Chairman
Planning Panel

June 2012

2. Planning Panel Membership

During 2011 there were a number of changes in the Panel's membership.

In June 2011, Mr. William Bowen, one of the Panel's two Professional Members and its Deputy Chairman, tendered his resignation for personal reasons. During his time with the Panel, Mr. Bowen showed limitless enthusiasm for its work and had great skill in putting unrepresented appellants at their ease when presenting their appeals.

Prior to Mr. Bowen's resignation, the Panel had asked the Policy Council to agree to the appointment of a third Professional Member. The Panel's request reflected a steady increase in the Panel's workload and a concern that if either of the two Professional Members was unable to sit for a protracted period the remaining Professional Member would undoubtedly find it difficult to hear all appeals expeditiously. The Panel was also concerned that should such a situation arise there would be no provision for dealing with conflicts of interest.

Following Mr. Bowen's resignation, the Policy Council, in close consultation with the Panel, commenced the recruitment of two new Professional Members.

In September 2011, the States approved the following appointments to ensure that the Panel continued to be able to hear appeals in a timely manner, namely to appoint:

- Mr. Patrick Russell, as a Professional Member on an interim basis
- Mr. Stuart Fell as the Panel's Deputy Chairman
- Miss Julia White as a replacement Ordinary Member.

In October 2011, five candidates, selected from over sixty applications (of which approximately half of the applicants had been employed as planning inspectors with the UK Planning Inspectorate, the Isle of Man Planning Commission or the Irish Planning Inspectorate, the An Bord Pleanála) were interviewed.

In January 2012, the States of Deliberation unanimously approved the appointment of Mrs. Linda Wride and Mr. Jonathan King as professional members of the Panel.

Mrs Wride is an experienced town planner and has been a member of the Royal Town Planning Institute since 1976. She has a Diploma in Town Planning from Oxford Brookes University. In March 2011 she took early retirement from the UK Planning Inspectorate, having worked as a Senior Planning Inspector for 9 years.

During her employment with the UK Planning Inspectorate, Mrs. Wride developed specialisms in design, historic buildings heritage (including Listed Buildings and Conservation Areas), the location of telecommunications masts and transmitters and advertisement controls. She was appointed as one of the UK Planning Inspectorate's "Design Champions". Mrs Wride was also involved in the training of other planning inspectors in her areas of specialism.

Prior to joining the Planning Inspectorate, Mrs. Wride was employed by Oxford City Council, including 12 years as Head of Planning Control and Conservation.

Mr. King is an experienced town planner and has been a member of the Royal Town Planning Institute since 1980. He gained a degree in Geography from Manchester University and a Diploma in Town Planning from the City of Birmingham Polytechnic. He joined the UK Planning Inspectorate in September 1996 and retired from full-time employment with the UK Planning Inspectorate in early 2012. Prior to joining the UK Planning Inspectorate, Mr. King worked for both the Nottingham and Staffordshire County Councils planning departments.

In addition to determining a wide range of planning appeal cases, Mr. King has undertaken several planning inquiries into development plans and has acted as a trainer for newly appointed Planning Inspectors.

The Panel firmly believes that Mrs. Wride's and Mr. King's knowledge and experience of planning appeals will strengthen the Panel and ensure it continues to provide a high level of service to all parties that appear before it.

3. Staff Changes

In April 2011, Mrs. Joanne de Garis' term as the Panel's Secretary came to an end. Mrs. de Garis had been appointed as the Panel's Secretary shortly after the Land Planning and Development (Guernsey) Law, 2005 came into force in April 2009. During her time with the Panel, Mrs. de Garis undertook a huge amount of work behind the scenes to enable the Panel to discharge its duties, including putting in place the administrative system for managing appeal cases.

The Panel wishes to formally record its sincere appreciation to Mrs. de Garis for her hard work, commitment, support and advice to the Panel.

Mrs. de Garis was replaced by Ms. Elizabeth Dene. Ms. Dene is an experienced civil servant and is also an English Barrister (non-practising) and an Advocate of the Royal Court. Her appointment is on a half-time basis. Although employed by the States of Guernsey, when discharging her duties for the Panel Ms. Dene acts independently of the Policy Council or any States Department. Ms. Dene is based at Sir Charles Frossard House and, whilst appointed to the Panel on a part-time basis, is available daily during office hours to deal with any enquiries that arise.

4. Operating Costs

The Panel is mindful that it must continue to strive to offer best value for money. The Panel's expenditure in 2011 is set out in Table 1.

The increase in payments to Panel members reflects that during 2011 (2010) the Panel sat on 55 (27) separate occasions to consider 53 (27) appeal cases, 14 (3) being appeals lodged in 2010 (2009) but heard in 2011 (2010). One 2011 appeal case exceptionally requiring a Planning Tribunal to sit on three separate occasions.

Table 1 – Panel’s Expenditure and Income

	2009	2010	2011
Interview costs, on-Island training and JSB Course	£26,410		
Recruitment of new Professional Members, including advertising and interview costs			£8,352
General administration and stationery	£960	£1,410	£1,038
Payments to Panel Members – including monthly retainers, attendance fees for preparing for and sitting on appeal hearings and drafting and reviewing Decision Notices	£16,700	£48,070	£50,867
Travel and accommodation costs for Panel members	£210	£1,870	£1,618
Operational costs (room hire for appeal hearings, etc)	£870	£4,050	£3,503
Staff salaries	£12,550	£31,150	£32,232
Total Expenditure	£57,650	£86,350	£97,610
Income from Fees	--	--	£965¹

5. Appeal Fees

On 1 September 2011, under the provisions of the Land Planning and Development (Fees and Miscellaneous Provisions) (Guernsey) Ordinance, 2011 an appeal fee became payable in respect of certain planning appeals. In the majority of cases, the fee payable is the same as the fee paid when the planning application which is the subject of the appeal was made.

Where an appellant indicates he is agreeable that his appeal to be determined by a Single Professional Member without a hearing or on the basis of written representations the fee payable will be discounted by 25%.

Prior to the introduction of appeal fees, the Panel issued guidance notes, including details of what may constitute exceptional circumstances when the appeal fee may be waived. The Panel published this guidance on its website and sent copies to the various legal, architectural and surveying practices on the Island.

The Panel has not noticed any marked change in the number of appeal cases it has received since an appeal fee has been payable.

Between 1 September 2011 and 31 December 2011, eight appeals were registered with the Panel and in respect of four of these cases an appeal fee was payable. In total £965 was received in appeal fees. No applications for the appeal fee to be waived were received.

¹ Appeals fees became payable with effect from 1 September 2011 (see Section 5 for further detail)

6. Casework

In 2011 (2010), the Panel received 43 (41) appeals. Table 2 provides a breakdown of the categories of appeals made and their disposal.

During 2011 only 5 appeals lodged during the year remained undetermined. This compared with 15 appeals in 2010. Of the 5 cases awaiting determination, two had been opened and adjourned pending further negotiations between the appellants and the Environment Department and one case was deferred at the request of the appellants for personal reasons.

Table 2 - Breakdown of Appeal Cases by Outcome

	Number of Appeals	Outcome				
		Allowed	Dismissed	Other		
				Withdrawn by Appellant	Conceded or Withdrawn by Department	Appeal out of time
Appeal against refusal of planning permission	29 (36)	7 (7)	14 (24)	4 (4)	1 (--)	1 (1)
Appeal against refusal of outline planning permission	2 (--)	1 (--)	1 (--)	--	--	--
Appeal against planning conditions	3(1)	2 (--)	1 (--)	--	--	-- (1)
Appeal against a Compliance Notice	8 (3)	1 (1)	3 (1)	--	3 (1)	1 (--)
Appeal against confirmation of a Tree Protection Order	1 (1)	-- (--)	-- (1)	--	--	--
TOTAL	43² (41)	11 (9)	19 (25)	4 (4)	4 (1)	2 (--)

7. Case Appraisal

In July 2011, the Panel published a synopsis of all its appeal decisions (see Appendix 1). This document, which is updated on a quarterly basis, includes brief details of the case, the issues identified at appeal, the planning policies involved and the Tribunal's decision. The synoptic document is available on the Panel's website (www.gov.gg/planningpanel).

The Panel notes that the majority of appeals continue to relate to more minor domestic developments. During 2011, only 8 of the 28 cases determined by a Tribunal related to business or commercial premises compared with 5 in 2010.

The Panel has analysed which planning policies under the Urban Area and Rural Area Plans were scrutinised in the various appeal cases it has determined. In 2011 (2010), 21(28) of the appeals against the refusal of planning permission which proceeded to an adjudication by a

² This figure includes the decisions for appeals lodged in 2011 but heard in January 2012

Tribunal related to development within the Rural Area and 7³ (6) cases related to developments in the Urban Area. A full breakdown of the planning policies is set out in Appendix 2.

Table 3 provides an overview of the principal subject matter of planning decisions which have been appealed. In many appeal cases more than one issue was raised and therefore the totals do not automatically equate to the number of the appeals detailed above.

Table 3 – Subject matter of Appeals⁴

		2011	2010
Change of Use	Horticultural to industrial	2	1
	Horticultural to residential	1	1
	Horticultural to recreational	1	4
	Industrial to retail	1	--
Creation of dormer windows		1	2
Creation of parking		5	8
Domestication of agricultural land		2	--
Small-scale domestic cultivation on agricultural land		3	--
Dower units		1	1
Extension of curtilage		--	1
Fencing	Type	3	3
	Height	3	--
New housing developments		2	2
Removal or lowering of roadside walls		6	13
Removal of earthbanks		--	3
Re-use of redundant buildings for other purposes		6	5
Sheds on agricultural or horticultural land		5	1
Signage		--	3

8. Case Administration

In its 2010 Annual Report, the Panel set out its policies and procedures regarding the determination of whether appeals should be heard in public before a Planning Tribunal rather than by means of Written Representations or before a Single Professional Member. During 2011 the Panel revised its general policies in respect of:

- Determining Compliance Notices and Confirmation of Tree Protection Order
- Site visits
- Handling post-hearing correspondence
- Determining linked appeals against the refusal of planning permission and against a Compliance Notice

³ In one case the appellants appealed 3 separate planning decisions relating to alternative schemes on the same site

⁴ A single appeal case may have involved more than one of the subject areas listed.

For ease of reference these policies and procedures have been reproduced at Appendix 3.

The Panel has noted that most appellants' preferred mode of appeal is for a public hearing before a Planning Tribunal. Table 4 provides a breakdown of the mode of appeal, including cases where the Panel's Chairman has, having reviewed an appeal application, decided that the case should be determined by a different mode of appeal to that indicated by the appellant.

The Panel is mindful that the costs are significantly lower where an appeal is determined by a Written Representation or a Single Professional Member and that both these disposals are also generally quicker. However, whilst it will keep its policies under regular review, it does not believe that, at this time, there are any persuasive arguments for change or indeed for the Panel to direct certain types of appeal to determination by Written Representations rather than a Planning Tribunal.

Table 4 – Mode of Appeal

Mode of Appeal	Disposal as requested by Appellant		Actual disposal following review by Panel Chairman	
	Planning Decisions	Compliance Notices or Tree Protection Orders	Planning Decisions	Compliance Notices or Tree Protection Orders
Public Hearing before a Planning Tribunal	26	5	31	9
Public Hearing before a Single Professional Member	1	--	--	--
Written Representations determined by a Planning Tribunal	5	2	1	--
Written Representations determined by a Single Professional Member	--	2	--	--

The Panel is conscious that the appeal system is still relatively new and, therefore, many appellants may wish to have their appeal determined at a public hearing so that they can fully engage with the appeal process. The Panel believes that affording an appellant a public hearing before a Planning Tribunal when requested is an important part of maintaining public confidence in its judicial function.

Notwithstanding the above, the Panel will continue to promote the use of Written Representations and determination by a Single Professional Member in appropriate cases.

The Panel has noted that the majority of appellants choose to present their own case (see Table 5). Where appellants are represented only a few have engaged an Advocate, and others use their architect, surveyor or other planning professional who has been involved in the original planning application.

The Panel is encouraged that most appellants feel able to present their own case as this indicates that the appeal system is accessible and affordable regardless of means. During

2011 the Panel received some very positive feedback from a number of appellants regarding the appeal process.

Table 5 – Breakdown of Representation⁵

		2011	2010
Unrepresented		16	17
Unrepresented but assisted by a friend or family member		3	3
Represented	Architect	8	10
	Advocate	4	4
	Planning consultant	3	--
	Surveyor	2	--

9. Update on Issues raised in the Panel's 2010 Annual Report

In its 2010 Annual Report, the Panel commented on a number of aspects of the 2005 Law and its associated Ordinances and Regulations where, based on its experience derived from dealing with planning appeals, it believed consideration should be given to possible amendments to the legislation.

Following publication of the 2010 Annual Report, the Panel formally wrote to the Policy Council and the Environment Department about these matters. The Panel understands that these matters are currently under detailed consideration and that it is likely that a States Report will be published during 2012 proposing a number of amendments to the 2005 Law.

Without wishing to pre-empt the contents on any forthcoming States Report, this report sets out the Panel's observations on some of the issues raised in its 2010 Annual Report.

(a) Third Party Representations

In a number of appeals heard during 2011, the Panel noted the continued frustration of certain third parties because the 2005 Law does not permit anyone who has raised an objection when the planning application was being considered by the Environment Department to address the Planning Tribunal. The Panel has also noted that, in many cases, this restriction serves to discourage third parties from attending the appeal hearing itself.

The Panel has no reason to believe that, based on the current number of appeal cases it receives, the appeals system would become protracted or more costly if this restriction was lifted. In the majority of cases only one or two, if any, written representations are received by the Department.

In 2011, only nine appeals made to the Panel included written representations from third parties opposing the development. Further, of these nine cases, only three had attracted

⁵ Numbers relate to appeals determined at a public hearing; in two cases the appellant was represented by an Advocate together with the architect

more than two written objections and in no case were more than eight letters of objections received by the Department.

The Panel also noted that in a number of cases, particularly those which attracted multiple letters of objections, the objectors raised issues which were not material considerations to the planning application and so, by inference, were not material to the subsequent appeal.

The Panel's expectation is that if the 2005 Law was amended to allow a Planning Tribunal to take evidence from a third party, where a relevant written representation was made to the Department during the application process, this would make the appeal process more open.

(b) Length of the Appeal Period

During 2011, the Panel noted that in a number of cases appeals against the refusal of retrospective planning permission were submitted towards the end of the six month appeal period.

The Panel has noted that this trend is continuing and in most cases such "last minute" appeals involve a retrospective planning application. As a result, such appeals present greater difficulties for the Panel when considering the appeal since the unauthorised development may have been in place for up to a year by the time the appeal is heard, making it more difficult for the Panel to envisage the circumstances that prevailed at the time when the appealed decision was made.

The Panel recognises that the fee payable for retrospective applications is double the usual rate and that the same fee is applied to any appeal. It acknowledges that appeal fees have only been payable since September 2011 and that the financial requirements may reduce the number of such cases arising.

Following discussions with the Policy Council it has agreed to monitor the situation and to report back to the Policy Council if the difficulties continue.

10. Matters arising from Appeals determined in 2011

(a) Small-scale Domestic Cultivation on Agricultural Land

During 2011, several appeals determined by a Planning Tribunal involved agricultural land and, in particular, its use by the appellants to grow fruit and vegetables for their own use rather than on a commercial basis.

In determining these appeals the Tribunals noted under section 45A of the Land Planning and Development (Guernsey) Law, 2005 "agriculture" is defined as follows:

- (a) land used or, with the application of good husbandry, capable of being used, for –
 - (i) dairy farming,
 - (ii) production, rearing or maintenance of livestock, or
 - (iii) market gardening or the outdoor cultivation of flowers, bulbs or nursery stock,

- (b) land which is covered by a glasshouse, or
- (c) land which was covered by a glasshouse and falls within paragraph (a)

The Panel has noted that the definition in the Rural Area Plan is based on the definition for agriculture under the Island Development (Guernsey) Law, 1966() namely,

Agricultural land any land used, or with good husbandry, capable of being used for the purpose of any trade or business of dairy farming, the producing, rearing or maintenance of livestock, market gardening or the outdoor cultivation of flowers, bulbs or nursery stock and includes land which was, but no longer is, covered by a glasshouse if the land is capable of being used as aforesaid and land which is covered by a glasshouse but does not include land used as a garden other than a market garden.

In the Panel's view, neither definition fully addresses the increasing popularity of small-scale domestic growing. This has presented difficulties when a Tribunal has been asked to balance the objectives of the Development Plans to protect Guernsey's agricultural land against the needs of an appellant who required some facilities on site to store equipment, water, etc. especially where their growing site was either remote from their home or they did not have sufficient space at their home to store larger items of equipment such as rotovators.

(b) Interpretation of Section 69(1) of the 2005 Law

Section 69(1) of the 2005 Law states:

"An appeal under section 68 shall be determined by the Planning Tribunal on the basis of the materials, evidence and facts which were before the Department –

- (a) in the case of an appeal under section 68(1), when it made the decision appealed against, or*
- (b) in the case of an appeal under section 68(2), at the expiry of the period mentioned in that section."*

During 2011, Tribunals noted that in a number of appeal cases the appeal site and its immediate environs had changed significantly since the planning application was lodged. For example, in one case a greenhouse on the appeal site had been removed and the site's use had changed from a redundant horticultural site to a community allotment site. Neither of these changes required planning permission but were significant changes and would have been relevant matters had the planning decision been made at this later stage.

11. Developments for 2012

Strategic Land Use Plan

The Panel noted that in September 2012 the States of Deliberation approved the Strategic Land Use Plan which will form the basis for a forthcoming review of the Detailed Development Plans, i.e. the Urban Area Plan and Rural Area Plan.

The Panel acknowledges that it will have a major impact on how development control decisions are reached in the future. In particular, it notes that in drafting the Strategic Land Use Plan the process has recognised that demands regarding how land is used today are very different from the time when the strategic framework for the Urban and Rural Area Plans was drafted and thereby seeks to address the land use and land planning challenges and opportunities Guernsey will need to face over the next two decades.

The Panel also noted that the Strategic Land Use Plan is fundamentally different to its predecessor since it promotes more effective working practices and establishing policies that can facilitate improved corporate working to enable the States, in partnership with others, to better meet social, economic and environmental expectations. The Panel believes this will assist applicants to better understand the reasons why one application may be refused when another is approved.

Appendices

APPENDIX 1 - SYNOPSIS OF APPEAL CASES

Appeals against the refusal of planning decision or a grant of planning permission subject to conditions – 2009				
Reference	Appeal Details	Principal Issues	Relevant Policies	Decision
001/2009	Transfer of Karningul, Braye Road, Vale from existing Register to Protected Buildings List			Withdrawn by Appellants
002/2009	Transfer of Eastwood, Mount Row, St Peter Port from existing Register to Protected Buildings List			Invalid
003/2009	Tree Protection Order at 33 Clos Raymond Leterrier, Pont Vaillant, Vale	<ul style="list-style-type: none"> Whether the tree has amenity value to justify Tree Protection Order (TPO) Whether harm to property caused by protected tree sufficient to render TPO unreasonable 	Rural Area Plan BS 5837:2005 Trees in Relation to Construction	Appeal Dismissed
004/2009	Erect a fence at Tanderra, Les Petites Capelles, St Sampson			Withdrawn by Appellants
005/2009	Transfer of 2 Mount Durand, St Peter Port from existing Register to Protected Buildings List			Invalid
006/2009	Change of use of two dwellings to a single dwelling at Primrose Cottage, Havelet, St Peter Port (Retrospective)	<ul style="list-style-type: none"> Whether the accommodation in Primrose and Rose Cottages is substandard Whether satisfactory living conditions could be achieved by means of upgrading to each property. 	Rural Area Plan RH4 – Protecting housing stock	Appeal Dismissed
007/2009	Create a dower unit at Mont Plaisant, Hougues Peres, Vale	<ul style="list-style-type: none"> Whether mass, scale and visual appearance of development on existing protected building 	Rural Area Plan RH5 – Dower units RGEN4 – Built heritage RCE11 – Building of special interest	Appeal Dismissed
008/2009	Extend outbuilding to create self contained residential unit at The Stable, Plainmont House, Rue des Valniquets, Torteval	<ul style="list-style-type: none"> Whether the proposed development is contrary to the policies of the Rural Area Plan 	Rural Area Plan RCE14 – Conservation and re-use of buildings	Appeal Allowed

Appeals against the refusal of planning decision or a grant of planning permission subject to conditions – 2010				
Reference	Appeal Details	Principal Issues	Relevant Policies	Decision
001/2010	Widen gateway to provide off-road parking at Dilkusha, Dalgairns Road, St Peter Port	<ul style="list-style-type: none"> Whether vehicle access and parking has negative effect on the character of area 	Urban Area Plan DBE1 – Design DBE7 – New development in conservation areas	Appeal Dismissed
002/2010	Remove a hedge and erect a wall at Aimee's Cottage, Sandy Hook, St Sampson	<ul style="list-style-type: none"> Whether the proposed wall and fence would be harmful to character and appearance of area 	Rural Area Plan RGEN5 – Character and amenity RGEN6 - Design RCE12 - Design and local distinctiveness	Appeal Dismissed
003/2010	Lop a protected tree at Primera, 33 Clos Raymond Leterrier, Pont Vaillant, Vale	<ul style="list-style-type: none"> Whether the lopping of protection tree appropriate 	BS 3998:1989 in respect of tree work	Appeal Dismissed
004/2010	Permit a camp site and motor home storage area and relocate greenhouse at Meadow View, Rue à Ronces, Castel	<ul style="list-style-type: none"> Whether campsite for 16 pitches between March and October, and the storage of motor homes all year in accordance with the following policies of the Rural Area Plan 	Rural Area Plan RGEN5 – Character and amenity RGEN7 - Safe and convenient access RGEN11 - Effect on adjoining properties RS4 – Outdoor recreational facilities RCE1 – Agricultural development	Appeal Dismissed
005/2010	Demolish part of roadside wall to create vehicular access and parking at At Last, La Canurie Road, Vale	<ul style="list-style-type: none"> Whether vehicular access and parking area has negative effect on the character and appearance area 	Rural Area Plan RCE12 – Design and local distinctiveness RGEN8 – Parking and open space Annex 7 – Guidance on Parking Standards	Appeal Dismissed

Reference	Appeal Details	Principal Issues	Relevant Policies	Decision
006/2010	Non-determination of a Planning Application to erect a marquee on field situate at Rue des Marettes, St Martin on a temporary basis	<ul style="list-style-type: none"> Whether the proposed development complies with the Rural Area Plan 	Rural Area Plan RGEN1 - Sustainable development RGEN5 – Character and amenity RGEN7 - Safe and convenient access RGEN8 - Parking and open space RGEN10 - Public Enjoyment RGEN11 - Effect on adjoining properties RCE1 - Protecting open land and avoiding unnecessary development RCE3 - Areas of high landscape quality RE9 - Commerce-related development RE13 - Visitor facilities and attraction	Appeal Dismissed
007/2010	Appeal conditions to erect boundary wall at Vevey, Rue des Marais, Vale	<ul style="list-style-type: none"> Whether concrete block wall incompatible on agriculture land Whether condition requiring the lowering and rendering of wall justified in interests of visual amenity Whether granting permission could prejudice to future use 	Rural Area Plan RCE1 – Protecting open land and avoiding unnecessary development RCE6 - Design	Appeal Allowed
008/2010	Extend domestic curtilage at Ruishton, Rue des Houmet, Castel	<ul style="list-style-type: none"> Whether the development causes an unacceptable harm to the character of the neighbouring countryside 	Rural Area Plan RCE3 - Areas of high landscape quality RCE6 - Design	Appeal Dismissed
009/2010	Remove earthbank and use fields for recreation at Sylvans Sports Club, St Saviour/St Pierre du Bois	<ul style="list-style-type: none"> Whether development conflicts with Rural Area Plan Whether the removal of the earthbank conflicts with Rural Area Plan 	Rural Area Plan RCE3 - Areas of high landscape quality RS4 – Outdoor recreational facilities	Appeal Allowed

Reference	Appeal Details	Principal Issues	Relevant Policies	Decision
010/2010	Erect signs at Waves Apart-Hotel, Vazon, Castel	<ul style="list-style-type: none"> Whether signs at the entrance cause unacceptable harm to the visual quality and character of the surrounding open land, 	Rural Area Plan RCE1 – Protecting open land and avoid unnecessary development RCE3 - Areas of high landscape quality RE11 – Visitor accommodation development	Appeal Dismissed
011/2010	Alter car parking area at Slater's Bridge, Mont Arrivé, St Peter Port	<ul style="list-style-type: none"> Whether the character and amenity of area by effected the development Whether contrary to Urban Area Plan 	Urban Area Plan GEN5 – Design GEN6 – Character and amenity DBE1 - Design	Appeal Dismissed
012/2010	Remove hedge and extend existing balcony at White Horses, Fort George, St Peter Port	<ul style="list-style-type: none"> Whether the removal of the hedge and the extension of the balcony cause unacceptable harm to the character and visual amenity of the surroundings Whether the extended balcony prejudices amenity enjoyed by the occupants of neighbouring houses 	Rural Area Plan RGEN5 – Character and amenity RGEN6 - Design RGEN11 - Buildings of special interest RCE12 – Design and local distinctiveness	Appeal Dismissed
013/2010	Erect event marquee and use of field for parking 4 July – 19 Sept 2009 at Jerbourg, St Martin	<ul style="list-style-type: none"> Whether the development complies with the Rural Area Plan 	Rural Area Plan RGEN1 - Sustainable development RGEN5 – Character and amenity RGEN7 - Safe and convenient access RGEN8 - Parking and open space RGEN10 - Public Enjoyment RGEN11 - Effect on adjoining properties RCE1 - Protecting open land and avoiding unnecessary development RCE3 - Areas of high landscape quality RE9 - Commerce-related development RE13 - Visitor facilities and attraction	Appeal Dismissed

Reference	Appeal Details	Principal Issues	Relevant Policies	Decision
014/2010	Erect sign at Guernsey Conservatories, La Ville Baudu, Vale	<ul style="list-style-type: none"> Whether the sign causes unacceptable harm to the amenity of the surroundings 	Rural Area Plan RGEN5 – Character and amenity	Appeal Allowed
015/2010	Alter outbuilding and convert to separate residential unit and erect fencing at Le Pont Morinel, Mont d'Aval, Castel	<ul style="list-style-type: none"> Whether the conversion to form a self-contained dwelling serves the primary objective of the Rural Area Plan 	Rural Area Plan RCE14 – Conservation and re-use of buildings RH1 – New housing	Appeal Dismissed
016/2010	Erect boundary fencing at Cote es Ouet, Les Rouvets, Vale	<ul style="list-style-type: none"> Whether the fence complies with the Rural Area Plan 	Rural Area Plan RGEN3 - Areas of high landscape quality RGEN5 – Character and amenity RGEN11 - Effects on adjoining properties RCE10 - Conservation Areas	Appeal Dismissed
018/2010	Alter vehicle access and height of roadside wall at Brighthelmston, La Mazotte, Vale	<ul style="list-style-type: none"> Whether the new access would, harm to the character or appearance of the locality Whether road safety benefits outweigh any harm to the character or appearance of the locality 	Rural Area Plan RCE12 – Design and local distinctiveness RCE13 – Demotion of buildings and features	Appeal Allowed
019/2010	Change of use of packing shed to general storage	at Merton Vinery, Rue des Pointes, St Andrew (Retrospective)		Withdrawn by Appellants
020/2010	Erect illuminated sign at Fusion Nightclub, Lower Pollet, St Peter Port (Retrospective)			Dismissed Out of Time
021/2010	Demolish section of roadside wall railings, create vehicular access and parking area at St Honorine, Candie Road, St Peter Port	<ul style="list-style-type: none"> Whether the vehicular access and parking have a negative effect on the character area and on a protected building 	Urban Area Plan GEN8 – Safe and convenient access DBE1 - Design DBE7 – new development in conservation area DBE8 – Buildings of special interest	Appeal Dismissed

Reference	Appeal Details	Principal Issues	Relevant Policies	Decision
022/2010	Alter vehicular access, install turntable, create additional parking spaces and install disabled lift at Mont Altier, Cordier Hill, St Peter Port	<ul style="list-style-type: none"> Whether modifications to approved scheme preserve or enhance the character of a conservation area Whether proposed scheme would harm the appearance of surrounding area 	Urban Area Plan DBE1 - Design DBE7 – new development in conservation area British Standard 5837 - Tree Protection Measures	Appeal Dismissed
023/2010	Erect a conservatory (first floor rear) at Brookleigh, Queen's Road, St Peter Port			Withdrawn by Appellants
024/2010	Erect sheds at Les Lories, Rue de Rougeval, Torteval	<ul style="list-style-type: none"> Whether the sheds have a significant adverse effect on the visual quality or landscape character of the area Whether the sheds make a positive contribution to the visual quality, landscape character and environmental value of the area 	Rural Area Plan RGEN5 – Character and amenity RCE1 – Protecting open land and avoid unnecessary development RCE3 – Areas of high landscape quality RCE6 – Creation or extension of curtilages	Appeal Dismissed
025/2010	Construct new vehicular access & parking area at Pres la Cour, Le Courtillet, St Martin	<ul style="list-style-type: none"> Whether proposed new access and parking area has a negative effect on the character and amenity 	Rural Area Plan RGEN5 – Character and amenity RGEN7 – Safe and convenient access RGEN8 – Parking and open space RCE12 – Design and local distinctiveness	Appeal Dismissed
026/2010	Erect first floor extension on existing outbuilding at Les Niaux Farm, Les Niaux, Castel	<ul style="list-style-type: none"> Whether the development can properly be regarded as a conversion Whether it fulfils the characteristics of a dower unit Whether the development would harm the visual quality and landscape character of its rural surroundings 	Rural Area Plan RH1 – New housing RH5 – Dower units RCE3 – Areas of high landscape quality RCE14 – Conservation and re-use of buildings	Appeal Dismissed
027/2010	Vary approved plans to install two sets of double doors at third floor level at rear of Dawn Cottage, 10A The Strand, St Peter Port	<ul style="list-style-type: none"> Whether alterations would serve to preserve or enhance the character and appearance of the urban surroundings, which form part of an historic quarter of St Peter Port 	Urban Area Plan DBE1 - Design DBE7 – New development in conservation area	Appeal Dismissed

Reference	Appeal Details	Principal Issues	Relevant Policies	Decision
028/2010	Erect a petrol filling station at GT Cars site, Les Bas Courtils Road, St Sampson			Withdrawn by Appellants
031/2010	Demolish existing garage/store and erect new garage/store at La Verniaz, Rue de la Lague, Torteval	<ul style="list-style-type: none"> – Whether development conflicts with the Rural Area Plan – Whether the proposed new garage/store conflicts – Whether the proposed new garage/store complies with the Rural Area Plan 	Rural Area Plan RCE3 – Areas of high landscape quality RGEN5 – Character and amenity RCE10 – Conservation areas RCE13 – Demotion of building and features	Appeal Allowed
032/2010	Extend and convert existing outbuilding to a dwelling and install post and rail fencing Sunnysdene, Route de la Marette, St Saviour	<ul style="list-style-type: none"> – Whether the conversion of outbuildings would cause material harm to character of the surroundings, 	Rural Area Plan RCE14 – Conservation and re-use of buildings RH1 – New housing	Appeal Dismissed
033/2010	Demolish roadside wall to enlarge vehicle access and replace existing rooflight at rear with dormer window at Airle Cottage, La Route du Braye, Vale	<ul style="list-style-type: none"> – Whether roadside wall can be regarded as a distinctive feature of some interest or importance which should be preserved – Whether demolition impacts on character of area 	Rural Area Plan RCE13 – Demotion of buildings and features	Appeal Allowed
034/2010	Appeal against condition permitting widening access by 20cm and not 70cm as per application at Feldspar, Grandes Maison Road, St Sampson	<ul style="list-style-type: none"> – Whether widening entrance by 0.7m would preserve or enhance the character and appearance of the surroundings – Whether the development would harm the special character, features or setting of protected building 	Urban Area Plan DBE1 - Design DBE7 – New development in conservation area DBE8 – Buildings of special interest DBE9 – Demolition of buildings and features	Appeal Allowed
035/2010	Appeal conditions to remove hedge and erect fence at Budleigh, Rue Cauchez, St Martin			Struck out
036/2010	Lop five sycamore trees at Woodvale, Damouettes Lane, St Peter Port			Withdrawn by Appellants

Reference	Appeal Details	Principal Issues	Relevant Policies	Decision
037/2010	Erect sun lounge on west elevation at The Moorings, Rue Batée, Vale	<ul style="list-style-type: none"> Whether sun lounge, by virtue of its position, bulk and appearance, would cause unacceptable harm to the amenity of the surroundings 	Rural Area Plan RGEN5 – Character and amenity RH6 – Extensions and alterations to dwellings	Appeal Allowed
038/2010	Erect fencing along the roadside boundary at Vue de L'Eglise, Rue du Belle, Torteval	<ul style="list-style-type: none"> Whether the fence serves to preserve or enhance the character and appearance area Whether the fence has a significant adverse effect on the visual quality and landscape character of the surroundings 	Rural Area Plan RCE3 – Areas of high landscape quality RCE10 – Conservation areas	Appeal Dismissed
039/2010	Erect sign at Grandes Rocques Bar and Bistro, Rue de la Saline, Cobo, Castel	<ul style="list-style-type: none"> Whether the signs cause unacceptable harm to the appearance of the building or the surroundings 	Rural Area Plan RGEN5 – Character and amenity RCE12 – Design and local distinctiveness	Appeal Dismissed
040/2010	Remove earthbank in driveway at Le Nid, Hougue du Pommier, Castel (Retrospective)	<ul style="list-style-type: none"> Whether the removal of the earthbank would comply with the Rural Area Plan 	Rural Area Plan RGEN5 – Character and amenity RCE13 – Demolition of buildings and features RH6 – Extensions and alterations to dwellings	Appeal Dismissed
041/2010	Widen vehicular access at Le Nid, Hougue du Pommier, Castel	<ul style="list-style-type: none"> Whether the widening of the vehicular access would enhance the Island's built heritage Whether it would detract from the character and appearance of the area 	Rural Area Plan RGEN4 – Built heritage RCE13 – Demolition of buildings and features RH6 – Extensions and alterations of dwellings	Appeal Dismissed

Reference	Appeal Details	Principal Issues	Relevant Policies	Decision
042/2010	Erect fence at roadside and east boundaries and erect temporary shed at Les Serres du Verger, Grand Douit Lane, St Sampson	<ul style="list-style-type: none"> Whether fence and shed comply with the Rural Area Plan 	Rural Area Plan RGEN3 – Landscape, ecology and wildlife RGEN4 – Built heritage RCE1 – Protecting open land and avoiding unnecessary development RCE2 – Landscape character RCE6 – Creation and extension of curtilages RH6 – Extensions and alterations of dwellings	Appeal Dismissed
043/2010	Use of horticultural land as builders' yard at La Canurie Vinery, La Canurie Road, Vale	<ul style="list-style-type: none"> Whether continued use of part of site as a builders yard serves to conserve and enhance the character and appearance of the rural environment 	Rural Area Plan RCE5 – Derelict land in the countryside RE7 – Industrial development	Appeal Dismissed
046/2010	Demolish existing dwelling and erect new dwelling, erect stables, extend domestic curtilage, erect fencing and construct earth bank at The Hawthorns, Rue du Manoir, Forest			Withdrawn by Appellants

Appeals against the refusal of planning decision or a grant of planning permission subject to conditions – 2011

Reference	Appeal Details	Principal Issues	Relevant Policies	Decision
001/2011	Extend and alter dwelling to side (south elevation) and install roof lights at The Farmhouse, La Mazotte, Vale			Withdrawn by Appellants
002/2011	Erect post and Rail fencing, construct a shed and install timber steps at Pulco, Rue de la Saline, Cobo, Castel (Retrospective)			Withdrawn by Appellants
003/2011	Reduce height of section of roadside wall at entrance (west) to Oakleigh Vinery, La Douit Lane, Vale	<ul style="list-style-type: none"> Whether improved visibility overrides harm caused by the removal of part of the stone granite wall, to the character of the area 	Rural Area Plan RGEN4 – Built heritage RGEN7 – Safe and convenient access RCE13 – Demolition of buildings	Appeal Dismissed

Reference	Appeal Details	Principal Issues	Relevant Policies	Decision
004/2011	Change of use of part of building to gift shop at Griffin's Grotto, La Hougue Bachelet, St. Saviour	<ul style="list-style-type: none"> Whether the retail use harms vitality and viability of the existing Rural Centres Whether the retail use would fail to safeguard stock of existing industrial units in the rural area 	Rural Area Plan RE4 – Retail development RE8 – Protecting industrial accommodation	Appeal Dismissed
006, 007 and 008/2011	Excavate steps and relocate gate pillar to create parking area at Somerset House, Collings Road, St. Peter Port	<ul style="list-style-type: none"> Whether the proposed parking space would have an unacceptably harmful effect on highway safety and the free flow of traffic on a Traffic Priority Route Whether widening opening in front wall would cause unacceptable harm to the character of the surrounding area 	Urban Area Plan GEN6 – Character and amenity DBE1 - Design DBE9 – Demolition of buildings and features Traffic Engineering Guidelines for Guernsey	Appeal Dismissed
009/2011	Demolish roadside wall to create vehicular access at 13 Les Camps Terrace, Les Camps, St Martin's	<ul style="list-style-type: none"> Whether the development conserves and enhances the special character and appearance of the area Whether the removal of an additional 1.7m of wall would prejudice the character of the area 	Rural Area Plan RGEN5 – Character and amenity RCE10 – Conservation areas	Appeal Allowed
010/2011	Erect an agricultural store at field at Vue de l'Eglise, Forest	<ul style="list-style-type: none"> Whether the erection of the store represents an unacceptable form of development that is contrary to the relevant objectives and policy provisions of the adopted Rural Area Plan 	Rural Area Plan RCE1 – Protecting open land and avoid unnecessary development RCE3 – Areas of High Landscape Quality RE1 – Agricultural development RE2 – Horticultural development	Appeal Allowed
011/2011	Install recessed dormer window on fifth level at 22 Cornet Street, St Peter Port	<ul style="list-style-type: none"> Whether the proposed dormer would preserve or enhance the character of the surrounding Conservation Area Whether the dormer would appear intrusive or discordant in the wider street scene 	Urban Area Plan GEN6 – Character and amenity DBE1 - Design DBE7 – New development in conservation area	Appeal Dismissed
013/2011		–		

Reference	Appeal Details	Principal Issues	Relevant Policies	Decision
Erect shed at Haute Landes Vinery, Les Abreuveurs, Vale	<ul style="list-style-type: none"> Whether the appeal building and the use for which it was intended conflict with the policy provisions identified by the Department in its refusal of the application Whether the development runs contrary to other relevant policies of the Plan 	Rural Area Plan RCE1 – Protecting open land and avoid unnecessary development RCE3 – Areas of High Landscape Quality RE1 – Agricultural development RE2 – Horticultural development	Appeal Allowed	Erect shed at Haute Landes Vinery, Les Abreuveurs, Vale
014/2011	Alter car parking and vehicle access and lower roadside wall at Wavertree, Grand Bouet, St Peter Port			Withdrawn by Appellants
015/2011	Remove section of roadside wall to create new vehicle access and parking area at Les Martins, Les Martins, St Sampson	<ul style="list-style-type: none"> Whether the proposed vehicular access would have an unacceptably detrimental effect on highway safety Whether the formation of new openings in the roadside boundary wall would cause harm to the character and amenity of the local environment 	Rural Area Plan RGEN5 – Character and amenity RGEN7 – Safe and convenient access RCE13 – Demolition of buildings and features Traffic Engineering Guidelines for Guernsey	Appeal Dismissed
016/2011	Install garage doors and windows at Les Martins, Les Martins, St Sampson	<ul style="list-style-type: none"> Whether installing garage doors and new window opening to the existing façade would cause harm to the character of the property 	Rural Area Plan RGEN5 – Character and amenity RCE13 – Demolition of buildings and features	Appeal Allowed
017/2011	Extend and convert existing garage to dower until with first floor accommodation with link to main house at Highview, Rue de Haut, Vale	<ul style="list-style-type: none"> Whether the proposed extension can reasonably be regarded as accommodation that is subservient to the existing dwelling, i.e. a dower unit Whether the proposed dower would be appropriate, given its proximity to the neighbouring property 	Rural Area Plan RH1 – New housing RH5 – Dower units RH6 – Extensions and alterations to dwellings RCE3 – Areas of high landscape quality RCE14 – Conservation and re-use of buildings RGEN11 - Effect on adjoining properties	Appeal Dismissed

Reference	Appeal Details	Principal Issues	Relevant Policies	Decision
018/2011	Erect a sign on an existing signpost and another on a wall			Dismissed Out of Time
019/2011	Erect 3 detached houses on a field at Greenways, Belgrave Lane, St. Sampson	<ul style="list-style-type: none"> Whether the access route is capable of providing safe and convenient access to the appeal site 	019/2011	Erect 3 detached houses on a field at Greenways, Belgrave Lane, St. Sampson
025/2011	Alter and convert a packing shed to pigeon loft, erect pigeon loft, traps and aviary on agricultural land at Epinelle Road, St Sampson	<ul style="list-style-type: none"> Whether the development causes unacceptable harm to the rural surroundings 	Rural Area Plan RGEN11 - Effect on adjoining properties RCE1 – Protecting open land and avoiding unnecessary development RCE3 – Areas of high landscape quality RCE14 – Conservation and re-use of buildings	Appeal Dismissed
026/2011	Outline planning permission to demolition existing garage and erect house and garage at Les Godaines, Godaines Avenue, St. Peter Port	<ul style="list-style-type: none"> Whether a policy gateway exists allowing development on the appeal site Whether the site can be regarded as an open space making a beneficial contribution to its surroundings Whether the development would cause unacceptable detriment to its open quality Whether by virtue of scale, mass and design the dwelling would have an adverse impact on the character of the surroundings 	Urban Area Plan HO2 – New housing in Settlement Areas and on previously developed land GEN5 - Design GEN6 – Character and amenity DBE1 – Design – general CO1 – New development outside Settlement Areas	Appeal Dismissed
027/2011	Resurface existing hardcore drive with tarmac at Bon Enfant Vinery, La Rochelle Road, Vale			Conceded by Environment Department

Reference	Appeal Details	Principal Issues	Relevant Policies	Decision
028/2011	Extend storage shed at Les Huriaux Farm, Les Huriaux, St. Martin	<ul style="list-style-type: none"> Whether the development is unacceptable within an Area of High Landscape Quality, bearing in mind the relevant policy provisions of the Adopted Rural Area Plan and the planning history of the site 	Rural Area Plan RE7 – Industrial development RCE1 – Protecting open land and avoiding unnecessary development RCE3 – Areas of high landscape quality RCE6 – Creation or extension of curtilages	Appeal Allowed
029/2011	Vary the height of a previously approved decking area outside L'Atlantique Hotel, Route de la Perelle, St. Saviour	<ul style="list-style-type: none"> Whether the retention of the decking in its present form would cause unacceptable harm to the character and amenity of the surroundings Whether its retention would result in unacceptable harm to the amenity of the adjacent residential property to the west 	Rural Area Plan RGEN1 – Sustainable development RGEN5 – Character and amenity RE11 – Visitor accommodation development	Appeal Dismissed
031/2011	Remove a section of roadside wall and dividing wall to create vehicle access and parking areas at St. Michael's Cottages, Nocq Road, St. Sampson	<ul style="list-style-type: none"> Whether the proposed removal of the granite wall would, by virtue of the loss of distinctive features, cause harm to the character or appearance of the area Whether the benefits to road safety outweigh any harm to the character or appearance of the locality 	Urban Area Plan GEN6 – Character and amenity GEN8 – Safe and convenient access GEN9 – Open space and parking GEN12 – Effect on adjoining properties DBE1 – Design - general DBE9 – Demolition of buildings and features Traffic Engineering Guidelines for Guernsey	Appeal Dismissed
032/2011	To remove condition 4 of planning permission which required the existing fence (a new fence which was a direct replacement for a pre-existing one) along the southern boundary at Trelawney, Upper St. Jacques, St. Peter Port to be reduced 0.5m	<ul style="list-style-type: none"> Whether the erection of this new replacement fence amounts to “development” within the meaning of s. 13 of the 2005 Law Whether the replacement fence is in conflict with the intentions of Policies 	Urban Area Plan GEN5 - Design GEN6 – Character and amenity DBE1 – Design – general	Appeal Allowed

Reference	Appeal Details	Principal Issues	Relevant Policies	Decision
033/2011	Replace a fence at Icart House, Icart, St. Martin	<ul style="list-style-type: none"> Whether the replacement of the existing fence would cause unacceptable harm to the surroundings 	Rural Area Plan RCE2 – Landscape character RH6 – Extensions and alterations to dwellings	Appeal Allowed
034/2011	Remove a section of roadside wall and dividing hedge to create vehicle access and parking area at 5 Daytona Cottages, Rue de Galaad, Castel			Withdrawn by Appellants
035/2011	Vary previously approved works to demolish an existing dwelling and erect a new dwelling, namely the rescinding of condition requiring closure of an existing south-western access to the main dwelling, Nirvana, at Ship's Bell Cottage, Portinfer Road, Vale	<ul style="list-style-type: none"> Whether the condition is reasonable and justifiable Whether there is any benefit in retaining a second access sufficient to override the presumption to resist a further access onto a Traffic Priority Route Whether the condition is reasonable and justified on road safety and traffic management grounds 	Rural Area Plan RGEN7 – Safe and convenient access Traffic Engineering Guidelines for Guernsey	Appeal Allowed
036/2011	Change of use of horticultural building to carpenter's workshop and store at Ridgeway Vinery, Rue des Pointes, St. Andrew	<ul style="list-style-type: none"> Whether the intended use of the building is, given the policies in the adopted Rural Area Plan to regulate the creation of new industrial establishments and protect key horticultural sites 	Rural Area Plan RCE14 – Conversion and re-use of buildings RE7 – Industrial development Strategic Horticultural Sites	Appeal Allowed
037/2011	Install 2m high closed boarded timber gates at 65 and 66 La Corniche, Fort George, St. Peter Port	<ul style="list-style-type: none"> Whether the development would have a significant adverse effect on the visual quality or landscape character Whether the design and the materials to be used are contrary to Policy RGEN 6. Whether a precedent has been set by the Department in allowing gates similar to those proposed to be installed at a nearby property, such that it should be followed in the instant case Whether the Department has acted with inconsistency. 	Rural Area Plan RGEN5 – Character and amenity RGEN6 – Design RCE3 – Areas of high landscape quality	Appeal Dismissed

Reference	Appeal Details	Principal Issues	Relevant Policies	Decision
038/2011	Raise the ground level of a field at La Vallette, Rue des Longs Camps, St. Saviour to improve drainage	<ul style="list-style-type: none"> – Whether the raising of the level of the field by the amount specified would harm the visual quality and landscape character of the countryside surroundings – Whether this work would harm the quality of the land in agricultural terms 	Rural Area Plan RGEN1 – Sustainable development RCE2 – Landscape character RCE3 – Areas of high landscape quality	Appeal Dismissed
041/2011	Demolish existing buildings and convert an existing packing shed to a dwelling at Kintyre Vinery, Hougues Magues Lane, St. Sampson	<ul style="list-style-type: none"> – Whether the development would have an unacceptably harmful effect on the rural environment, the conservation and enhancement of which is the primary objective of the Rural Area Plan 	Rural Area Plan RH1 – New housing RCE14 – Conversion and re-use of buildings	Appeal Dismissed
042/2011	Vary conditions relating to setting of a pond at Soucique, Route de la Charruée, Castel	<ul style="list-style-type: none"> – Whether the appeal site is agricultural land – Whether the development results in the unacceptable loss of open and undeveloped land and detracts from the openness of the countryside or would result in unacceptable irreversible loss of agricultural land – Whether the development results in the creation or extension of the domestic curtilage of the property 	Rural Area Plan RCE1 – Protecting open land and avoiding unnecessary development RCE6 – Creation or extension of curtilages	Appeal allowed only to the extent that Condition 4 was varied

2010 Compliance Notice Appeals				
	Compliance Notice issued for parking and use of storage container at Oatlands Vinery, St Sampson		Compliance Notice Withdrawn by Environment Department	
017/2010	Compliance Notice issued for use of horticultural land as builders' yard La Canurie Vinery, La Canurie Road, Vale	<ul style="list-style-type: none"> Whether the timescale prescribed for the clearance of the site too short, particularly as permanent solution to accommodation needs now seemed possible Whether the issue of the Notice is in any other way unreasonable or ultra vires 	<i>Requirements attached to Compliance Notice:</i> <ol style="list-style-type: none"> The land to be cleared of all builders' materials, plant and equipment All rubbish and any other non-horticultural/agricultural items to be removed The areas of hard-standing to be removed Non-horticultural/agricultural use to cease. 	Appeal Allowed Compliance Notice amended to give Appellants 3 months to carry out the requirements set out in the Compliance Notice
044/2010	Compliance Notice issued for alleged breaches of conditions 5, 7 and 8 of Planning Control Permit PAPP/2009/0041 at Waves Apart-Hotel, Vazon, Castel	<ul style="list-style-type: none"> Whether the timescale was too short Whether the issue of the Notice is in any other way unreasonable or ultra vires 	<i>Requirements attached to Compliance Notice:</i> Condition 5 – the car parking shall be surfaced, marked out and made available for use prior to the use hereby approved Condition 7 – a comprehensive scheme of landscaping shall be submitted for approval Condition 8 – all planning, seeding or turfing in the approved landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or completion of the development	Appeal Dismissed Compliance Notice Upheld

2011 Compliance Notice Appeals					
021/2011	Requiring the removal of top soil deposited at Northfield, St Sampson	<ul style="list-style-type: none"> Whether the issuing of a Compliance Notice was premature in light of submission of planning application which, if approved, would use soil 	Compliance Notice withdrawn by the Environment Department following action to rectify the planning breach		
022/2011	Requiring the removal of concrete base of former shed, water butts and other items from a field at Rue Carey, St Pierre du Bois	<ul style="list-style-type: none"> Whether a breach of planning control has occurred in this case Whether the measures specified in the Compliance Notice can be regarded as reasonable 	Relevant Policies Rural Area Plan RCE1 – Protection of open land RCE3 – Protection of Areas of High Landscape Quality	Reasons for allowing Appeal - Lack of compelling evidence of a change in use of the land - Requirement to permanently remove specified items would stop appellants from undertaking further growing and so be unreasonable	Appeal Allowed Compliance Notice quashed
023/2011	Compliance Notice relating to breach of planning control in relation to the use of part of the premises known as L'Atlantique Hotel as an independent beauty salon		Compliance Notice withdrawn by Environment Department		
024/2011	Compliance Notice relating to breach of planning control in relation to the use of part of the premises known as L'Atlantique Hotel as an independent beauty salon		Compliance Notice withdrawn by Environment Department		
030/2011	Compliance Notice relating to breach of planning control in relation to unauthorised development at Oatlands Centre, Les Gigands, St. Sampson		Appeal submitted outside the appeal period		

2011 Compliance Notice Appeals					
042/2011	Relating to the conversion of a packing shed to pigeon loft on agricultural land at Epinelle Road, St Sampson	<ul style="list-style-type: none"> Whether there has been any material changes since the Tribunal Decision of 25th August, 2011 sufficient for it to re-open any findings of that earlier Tribunal and hear further evidence upon those decided facts Whether the use of the block built packing shed as a pigeon loft amounts to a breach of planning control Whether the requirements of the Notice exceed what is reasonably necessary Whether any period of time is unreasonably short Whether the Notice was in any other way unreasonable or ultra vires 	Relevant Policies Rural Area Plan RGEN11 - Effect on adjoining properties RCE1 – Protecting open land RCE3 – Areas of high landscape quality RCE14 – Conservation and re-use of buildings	Reasons for Dismissing Appeal <ul style="list-style-type: none"> The extent of the rebuilding work to the shed amounted to development under s.13 of the 2005 Law There was no fault in the construction, wording or processing of the Compliance Notice 	Appeal Dismissed Compliance Notice Upheld but Effective Date amended to 13 February 2012
043/2011	Relating to the extensive rebuilding of the roof and superstructure of a packing shed at Le Planel, La Rue du Planel, Torteval	<ul style="list-style-type: none"> Whether the rebuilding of a pre-existing shed which had been demolished because of storm damage and for which there was no record of a grant of planning permission was development under s.13(1)(a) of the 2005 Law Whether the Notice is ultra vires or unreasonable 	Relevant Policies Rural Area Plan RCE1 – Protecting open land and avoid unnecessary development RE1 – Agricultural development RE2 – Horticultural development	Reasons for Dismissing Appeal <ul style="list-style-type: none"> The extent of the rebuilding work to the shed amounted to development under s.13 of the 2005 Law There was no fault in the construction, wording or processing of the Compliance Notice 	Appeal Dismissed

2011 Compliance Notice Appeals					
044/2011	Relating to the construction of a fence at Highlands, Lowlands Road, St. Sampson	<ul style="list-style-type: none"> Whether the replacement of a pre-existing fence for which there was no record of a grant of planning permission was development under s.13(1)(a) of the 2005 Law Whether the enforcement action was ultra vires or unreasonable in any way 	Relevant Policies Urban Area Plan GEN5 - Design GEN6 – Character and amenity DBE1 – Design – general	Reasons for Dismissing Appeal – The extent of the rebuilding work to the fence amounted to development under s.13 of the 2005 Law – There was no fault in the construction, wording or processing of the Compliance Notice	Appeal Dismissed

APPENDIX 2**ANALYSIS OF PLANNING POLICIES****Rural Area Plan Policies**

	2011	2010
General		
RGEN1 Sustainable development	2	2
RGEN2 Comprehensive development	--	--
RGEN3 Landscape, ecology and wildlife	--	2
RGEN4 Built heritage	2	2
RGEN5 Character and amenity	5	13
RGEN6 Design	1	2
RGEN7 Safe and convenient access	4	4
RGEN8 Parking and open space	--	4
RGEN9 Hazardous development, nuisance and pollution	--	--
RGEN10 Public enjoyment	--	2
RGEN11 Effect on adjoining properties	2	5
RGEN12 Flood risk	--	--
RGEN13 Airport safety	1	--
Conservation and Enhancement		
RCE1 Protecting open land and avoiding unnecessary development	7	6
RCE2 Landscape character	2	2
RCE3 Areas of High Landscape Quality	6	9
RCE4 Sites of Nature Conservation Importance	--	--
RCE5 Derelict land in the countryside	--	1
RCE6 Creation or extension of curtilages	2	3
RCE7 Public views	--	--
RCE8 Landscape design	--	--
RCE9 Archaeological remains	--	--
RCE10 Conservation Areas	1	3
RCE11 Buildings of special interest	--	--
RCE12 Design and local distinctiveness	--	5
RCE13 Demolition of buildings and features	2	5
RCE14 Conversion and re-use of buildings	4	3
Housing		
RH1 New housing	2	3
RH2 Social housing	--	--
RH3 Sub-division and conversion to provide housing	--	--
RH4 Protecting housing stock	--	--
RH5 Dower units	1	1
RH6 Extensions and alterations to dwellings	2	4

	2011	2010
Rural Economy		
RE1 Agricultural development	2	1
RE2 Horticultural development	2	--
RE3 Protecting key horticultural sites	1	--
RE4 Retail development	1	--
RE5 Garden centres	--	--
RE6 Coastal kiosks	--	--
RE7 Industrial development	3	1
RE8 Protecting industrial accommodation	1	--
RE9 Commerce related development	--	2
RE10 Home based employment	--	--
RE11 Visitor accommodation development	--	1
RE12 Rationalisation of visitor accommodation	--	--
RE13 Visitor facilities and attractions	--	2
RE14 Development requiring an airport location	--	--
RE15 Minerals	--	--
Social, Community and Recreational		
RS1 Community services	--	--
RS2 Protecting community facilities	--	--
RS3 Indoor recreational facilities	--	--
RS4 Outdoor recreational facilities	2	2
RS5 Golf course development	--	--
Essential Development and Infrastructure		
RD1 Essential development	--	--
RD2 Small-scale infrastructure	--	--
Other Policies		
Traffic priority routes	3	1
BS 5837:2005 Trees in Relation to Construction	1	1
BS 3998:1989 in respect of tree work	1	1

Urban Area Plan Policies

	2011	2010
General		
GEN1 Sustainable development	--	--
GEN2 Comprehensive development	--	--
GEN3 Landscape, ecology and wildlife	--	--
GEN4 Built heritage	--	--
GEN5 Design	4	1
GEN6 Character and amenity	7	1
GEN7 Safe and convenient access	1	--
GEN8 Roads and infrastructure	1	2
GEN9 Safe and convenient access	1	--
GEN10 Open space and parking	--	--
GEN11 Public enjoyment	--	--
GEN12 Effect on adjoining properties	1	--
Design and the Built Environment		
DBE 1 Design - General	7	6
DBE 2 Developments with significant townscape impact	--	--
DBE 3 High buildings	--	--
DBE 4 Landscape design	--	--
DBE 5 Open space	--	--
DBE 6 Skyline and public views	--	--
DBE 7 New development in Conservation Areas	1	5
DBE 8 Buildings of special interest	1	2
DBE 9 Demolition of buildings and features	1	--
DBE 10 Archaeological remains	--	--
Housing		
HO 1 Housing provision in the Urban Area Plan	1	--
HO 2 New housing in Settlement Areas and on previously developed land	1	1
HO 3 Mixed use development	--	--
HO 4 Conversion and subdivision of existing buildings - General	--	--
HO 5 Vacant and underused upper floors	--	--
HO 6 Obsolete office space	--	--
HO 7 Flats, houses in multiple occupation, and staff hostels	--	--
HO 8 Housing Target Areas	1	1
HO 9 Retention of the existing housing stock	--	--
HO 10 Residential density and amenity	--	--
HO 11 Housing for smaller households	--	--
HO 12 Housing for people with mobility impairment	--	--
HO 13 Accommodation for the elderly	--	--
HO 14 Dower units	--	--

	2011	2010
Employment		
Office Accommodation		
EMP 1 New office developments	--	--
EMP 2 Small-scale professional and support services	--	--
EMP 3 Upgrading the office stock	--	--
EMP 4 Conversion of office sites for alternative uses	--	--
Industrial Development		
EMP 5 Key Industrial Areas	1	--
EMP 6 Industrial development outside Key Industrial Areas	--	--
EMP 7 Small workshops and yards	--	--
EMP 8 Development of the land reclamation site	--	--
EMP 9 Protecting industrial sites	1	--
EMP 10 Unneighbourly uses	--	--
EMP 11 Home based employment	--	--
EMP 12 Horticultural development	--	--
Tourism		
EMP 13 New tourist accommodation	--	--
EMP 14 Alteration, extension and redevelopment of existing tourist accommodation	--	--
EMP 15 Rationalisation of visitor accommodation	--	--
EMP 16 Visitor facilities and attractions	--	--
Centres		
CEN 1 New shopping facilities in the Central Areas	--	--
CEN 2 New retail development outside the Central Areas	--	--
CEN 3 Mixed use development	--	--
CEN 4 Complementing the retail function	--	--
CEN 5 Maintaining the variety of shop units	--	--
CEN 6 Public and commercial car parks	--	--
CEN 7 Temporary car parks	--	--
CEN 8 Pedestrians in the Central Areas	--	--
CEN 9 Town centre management and environmental improvement	--	--
CEN 10 Paving, street furniture and public art	--	--
CEN 11 Shopfronts	--	--
CEN 12 Signs	--	--
Social, Community and Recreational		
SCR 1 Community services	--	1
SCR 2 Education facilities	--	--
Recreation		
SCR 3 Development of existing facilities	--	--
SCR 4 Increased dual use of facilities	--	--
SCR 5 The establishment of sports performance centres	--	--
SCR 6 Indoor leisure facilities	--	--
SCR 7 Equestrian related development	--	--

	2011	2010
Countryside		
CO 1 New development outside the Settlement Areas	1	--
CO 2 Re-use of buildings outside the Settlement Areas	1	--
CO 3 Landscape character	--	--
CO 4 Areas of Landscape Value	--	--
CO 5 Wildlife and nature conservation	--	--
CO 6 Derelict land in the countryside	--	--
Other Policies		
Traffic priority routes	2	--
Belgrave Lane Housing Target Area	1	--

APPENDIX 3

THE PLANNING PANEL'S GENERAL POLICIES AND PROCEDURES

Determination of an Appeal by a Single Professional Member

When deciding if an application should be made to the Policy Council to seek its approval that an appeal should be determined by a Single Professional Member the Panel Chairman will consider the following factors:

- Are the appeal papers complete and self-contained? In other words, can the Tribunal easily understand how the planning decision was reached, the appellants' reasons for appealing the decision and why the Environment Department is resisting the appeal?
- Are the relevant planning policies and issues clear? In other words, can the Tribunal clearly understand the issues by reading the appeal papers and visiting the site?
- Is there an over-riding public interest? Examples of appeals which may have an over-riding public interest will include large scale developments, developments in areas of particular environmental or historic sensitivity or where the policy issues are unclear. In other words, is there likely to be significant public interest in the development or have the policy issues linked to the appeal ones which are the subject of wider debate so that it is appropriate for a hearing to be held.
- Were any third party representations objecting to the development received by the Environment Department?
- Are there significant disputes as to the facts?
- Are there any novel legal issues?

Determination on an Appeal by Written Representation by either a Single Professional Member or by a Full Tribunal

When deciding if an Appeal should be determined by Written Representations by a Single Professional Member the Panel Chairman will consider the factors referred to above in addition to those below relating to determination by a full Tribunal:

- Does the appeal involve a planning application of Island-wide significance or concern development where an environmental statement has or may be required, as specified under s.6(2)(a) and (b) of the Land Planning and Development (Appeals) Ordinance, 2007?

- Is the matter appealed fairly minor and uncomplicated?
- Is the evidence self explanatory and complete?
- Were there any third party representations received by the Environment Department; how many and from whom?

General Procedure for Determining Compliance Notices and Confirmation of Tree Protection Order

When deciding whether an appeal against the issue of a Compliance Notice or the Confirmation of a Tree Protection Order should be determined by a Hearing or by written representations by either a Single Professional Member or by a full Tribunal, the Panel Chairman's general presumption is that the appeal should be heard by way of public hearing.

This general presumption is because these types of appeal are likely to be of wider public interest and, in some cases, the issues are likely to be more complex, and so require the Tribunal to hear evidence from a number of parties, other than the person making the appeal and the Environment Department.

General Procedure for Site Visits

When determining an appeal the Tribunal or Single Professional Member will always visit the appeal site.

As a general rule, where an appeal is determined at a public hearing the site visit will take place at the end of the hearing. However, the Tribunal or Single Professional Member may direct that the site visit should take place at the start of a hearing or part way through a hearing. Such decisions will be determined on a case-by-case basis and the Tribunal or Single Professional Member will explain its decision.

These site visits will require the attendance of the appellants and/or his representative and the Environment Department's representative/s. All parties must be present throughout the site visit and should remain in close proximity to the Tribunal Members to ensure that they can hear any questions that Members may ask and the answers given.

Where an appeal is determined by written representations the site visit will generally be made privately, i.e. the attendance of the appellants and/or his representative and the Environment Department's representative/s will not be required. However, where the Tribunal Members need to gain access to a building or cannot view the appeal site without entering privately owned land the site visit will be conducted in the presence of the appellants and/or his representative and the Environment Department's representative/s.

For all accompanied site visits the appellant should ensure he brings any keys which may be needed to afford Tribunal Members access to any locked buildings, sheds, etc on the appeal site.

General Procedure for Handling Post-Hearing Correspondence with the Parties

As a general rule, the Tribunal or Single Professional Member will not enter into any post-hearing correspondence with the parties. However, from time to time this may be necessary, e.g. to clarify a point made in evidence by either party or to seek both parties' comments on the wording of a non-standard planning condition.

Where it is necessary for a Tribunal or Single Professional Member to open such correspondence copies of any letters or email communications will be sent to all parties, together with the replies received from each party.

General Procedure for Determining Linked Appeals against the Refusal of Planning Permission and against a Compliance Notice

As a general rule the Panel will endeavour to prioritise appeals against Compliance Notices.

This general rule will be modified where retrospective planning permission has been refused and the Environment Department has commenced enforcement measures before the appeal period for the refusal of planning permission has expired.

The Panel's general policy for dealing with appeals against both the refusal of planning permission and a Compliance Notice seeks to ensure that the party's rights under s.68 of the 2005 Law to appeal a decision refusing planning permission are not interfered with and that the Environment Department's endeavours to deal with any breaches of the Island's development controls are not frustrated. The Panel's normal procedure will be to defer setting a date for determining an appeal against a Compliance Notice until after the expiry of the appeal period for the refusal of retrospective planning permission where the appellant advises the Panel of the intention to appeal both matters.

Guernsey Quarterly Inflation Bulletin

30th June 2012 - Issue date 20th July 2012



POLICY COUNCIL
THE STATES OF GUERNSEY

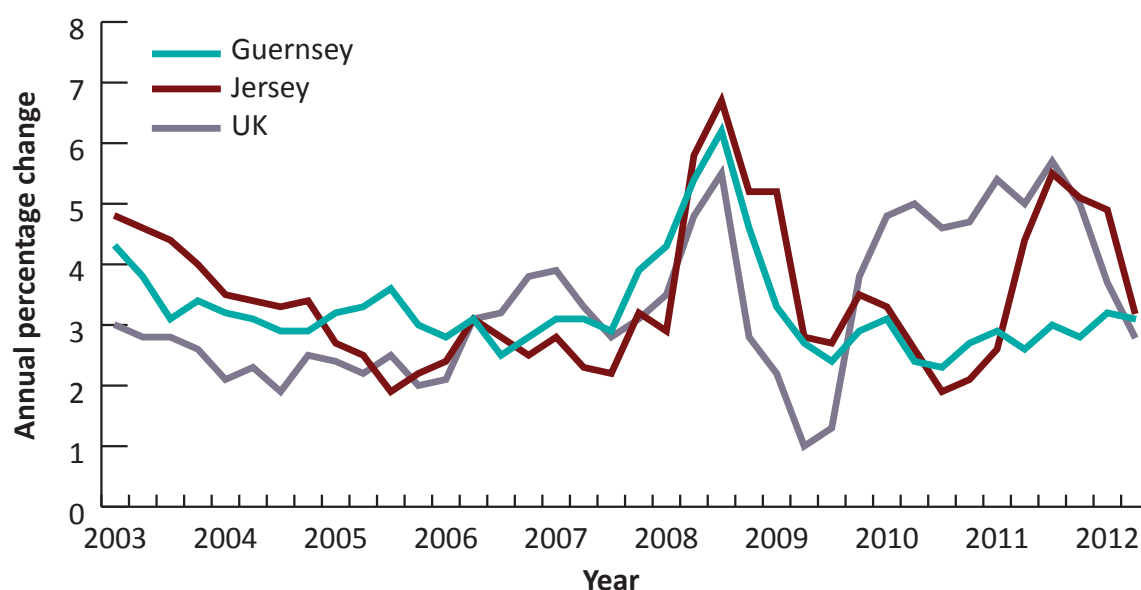
1.1 Introduction

The Guernsey RPIX and RPI are measures of inflation used in Guernsey. They measure the change in the prices of goods and services bought for the purpose of consumption or use by households in Guernsey. The indices are published quarterly by the States of Guernsey Policy and Research Unit. The calculation of the RPIX and RPI are based on the price change of items within a 'shopping basket'. Whilst some prices rise over time, others will fall or fluctuate and the indices represent the average change in these prices. More detailed information on the calculation of these indices can be found at the end of this handout.

1.2 Headlines

- Guernsey's annual inflation as measured by RPIX ('core' inflation excluding mortgage interest payments) was 3.1% in the year ending June 2012, compared to 3.2% in the year ending March 2012 and 2.6% in the year ending June 2011.
- In the UK and Jersey the equivalent RPIX figures for the year ending June 2012 were 2.8% and 3.2% respectively (see [Figure 1.2.1](#)).
- Twelve of the fourteen RPIX groups increased in the year ending June 2012.
- The Housing and Leisure services groups made the largest upward contributions to the annual change in RPIX in June 2012, each contributing 0.5 percentage points.
- The 'all items' RPI inflation rate was 3.2% in the year ending June 2012, compared to 3.5% in the year ending March 2012 and 3.0% in the year ending June 2011.

Figure 1.2.1: Annual percentage change in RPIX



APPENDIX 4

COMMERCE AND EMPLOYMENT DEPARTMENT

OUR ANNUAL REPORT AND AUDITED ACCOUNTS 2011

The Chief Minister
Policy Council
Sir Charles Frossard House
La Charroterie
St Peter Port
Guernsey
GY1 1FH

June 2012

Dear Chief Minister

OUR ANNUAL REPORT AND AUDITED ACCOUNTS 2010

I enclose a copy of the Annual Report and Accounts 2011 of the Office of Utility Regulation and would be grateful if you would arrange for it to be published as an Appendix on the next available Billet d'Etat.

Yours sincerely

Kevin A Stewart
Minister

1979



ANNUAL REPORT 2011



Office of Utility Regulation

5 April 2012

Deputy Carla McNulty Bauer
Minister for Commerce and Employment
Raymond Falla House
Longue Rue
St Martins
Guernsey
GY4 6AF

Dear Deputy McNulty Bauer,

I am pleased to submit this report on the activities of the Office of Utility Regulation for the period from 1 January 2011 to 31 December 2011.

In accordance with Section 8 of the Regulation of Utilities (Bailiwick of Guernsey) Law 2001, I would be grateful if you would present this report to the States of Guernsey.

Yours sincerely,

John Curran

Director General

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Director General's Report



I am pleased to submit the OUR's Annual Report for 2011 to the States of Guernsey.

During 2011 the OUR, along with our colleagues in the Jersey Competition Regulatory Authority (JCRA), made good progress on closer working between the two offices and the benefits of this are already significant. Aside from closer co-ordination of our regulatory work which has a very direct benefit for the companies we deal with, closer working is also allowing us to reduce our direct costs. Through greater co-ordination of our work, particularly in the telecoms sector, the companies we regulate should also see the cost to them of dealing with regulation fall over time.

The States of Guernsey in 2011 agreed to a change in the structure of the OUR, moving from the current 'director general' model to a board structure. The appointment of a board will strengthen the governance arrangements for the office. The planned appointment of the existing JCRA board as the OUR's board, with the addition of a Guernsey representative, should also deliver a consistent approach to regulation and competition issues across both islands.

The States of Guernsey also agreed to commence funding a competition law in Guernsey which is due to come into force in summer 2012, subject to the States of

Guernsey agreeing the legislation to enable this to happen. The OUR has worked closely with the Commerce & Employment Department and the Law Officers in Guernsey to align Guernsey's competition law with the law in Jersey. We will also look to adopt a common approach to dealing with mergers & acquisitions across both jurisdictions to make it easier for businesses to work with the law. The OUR intends to commence a programme of briefing sessions over the coming months for key industry groups to help raise awareness and understanding of key elements of the competition law and what it will mean for businesses and consumers.

For now our focus remains on regulating the utility sectors. The announcement in late 2011 by the UK Treasury that the 'Low Value Consignment Relief' (LVCR) is to be abolished with respect to the Channel Islands has raised significant concerns about the future of the fulfillment industry in both islands. The legal challenge mounted by the governments of both islands was unsuccessful and although leave to appeal has been granted, the postal sector will remain under pressure. The work Guernsey Post has undertaken to meet the OUR's efficiency targets is important in ensuring the company is able to deal with any significant curtailment in fulfillment activity in the Bailiwick.

The OUR for its part has proposed a number of measures to Commerce & Employment that we believe the States of Guernsey should adopt in order to help encourage bulk mailers to remain in Guernsey and potentially grow markets outside the UK. While we do not believe at this time there is a need to revisit the scope of the USO, there may be merit in assessing whether the delivery of the USO can be made more efficient, while still meeting the needs of postal customers.

In the telecoms sector, we remain committed to trying to get greater competition into all parts of the telecoms market. In 2011, a significant part of our work was focused on exploring options for more competition in the fixed line market. We recognise that a possible barrier to better pricing comes from the inability to change to an alternative

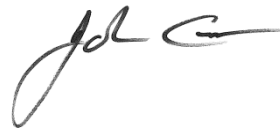
provider and during 2012 we are hopeful that progress on this will be made. We are also actively considering how spectrum might be made available to improve the competitive landscape in both the fixed and mobile markets.

In the electricity sector, following the review of regulation in 2011, we are implementing an alternative approach to regulating Guernsey Electricity. This involves a move away from the standard price control to one which allows the company to set its own prices which will then be reviewed by the OUR. We believe this approach best addresses the expectations of the States of Guernsey whilst still protecting consumers' interests. As part of the move to this approach, Guernsey Electricity will be required to demonstrate more transparently its justification for price changes including clearer targets for efficiency savings. It also puts more responsibility on the shareholder and the board of the company to demonstrate that it has effectively challenged the business to do all it can to keep charges as low as possible.

During 2011 the OUR was again supported in its work by the Audit, Risk and Remuneration Committee (ARRC). In 2012, as part of the

legislative changes being made, including the move to a board structure the ARRC will cease to exist. I would like to thank Mr Peter Woodward, Ms Jane Needham and Deputy Martin Storey for their support and guidance during 2011. The final report of the ARRC is included within this annual report.

I also wish to thank the staff at the OUR for their continued professionalism and support and for contributing to the success of the pan-Channel Island initiative with the JCRA. It is clear that closer working across the two islands can deliver real savings for both governments, for the companies we regulate and ultimately for consumers. It highlights the opportunity that exists across the Channel Islands to deliver public services in a way that is ultimately more effective and more cost efficient than is the case when done separately.



John Curran
Director General

The Guernsey Regulatory Environment

The States of Guernsey has set out the regulatory framework for telecommunications post and electricity sectors in various Laws and Orders that were made in 2001 and 2002. The States has also issued a number of Directions to the Director General of Utility Regulation that develop States policy in more detail. The OUR, which was established in 2001, is charged with implementing that policy and regulating in the best interests of the Bailiwick.

Legislation

The principal piece of regulatory legislation is the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 (as amended), which establishes the OUR, sets out the governing principles of the office and allows the States to assign further functions to the Office over time. Three other key laws are:

- The Telecommunications (Bailiwick of Guernsey) Law 2001;
- The Post Office (Bailiwick of Guernsey) Law 2001; and
- The Electricity (Guernsey) Law.

Where empowered to do so, the Director General has also introduced regulation and orders. Texts of all relevant legislation can be found on the OUR website at www.cicra.gg.

States Directions

The Regulation Law provides that the States of Guernsey may give States Directions to the Director General on certain specific issues in each of the sectors.

Directions issued to-date have addressed issues such as the identity of the first licensee in each sector to be granted a licence with a universal service obligation, the scope of a universal service or minimum level of service that all customers in the Bailiwick must receive and any special or exclusive rights that should be granted to any licensee in any of the sectors.

The States debated and agreed policy direction in relation to all three sectors in 2001. The full texts of the directions that were in place in 2011 are included in Annexes A to C of this report, in accordance with Section 8 of the Regulation Law.

The OUR Team

John Curran, Director General

John has been Director General of Utility Regulation since February 2005 and in 2010 was also appointed as Executive Director of the Jersey Competition Regulatory Authority. He previously worked with the OUR when the office was first established in 2001. After a period as a regulatory advisor with the Australian telecoms incumbent Telstra John returned to the OUR in April 2003 as Director of Regulation. John has a strong background in regulation.

Before joining the OUR he worked for six years in communications regulation in Ireland. He began his career in the Irish Civil Service upon graduating from the Galway Institute of Technology. John also holds a Diploma in Company Direction from the IoD.



Michael Byrne, Director of Regulation

Michael joined the OUR in June 2005 as Director of Regulation. Michael has led work across a variety of projects in all three sectors, in particular in the energy and telecoms sectors. Prior to joining the OUR, Michael was head of Retail Competition at Ofgem in the UK. He led case investigations across various aspects of the UK energy sectors. He has worked in commercial television regulation and as a consultant, specialising in the dairy manufacturing industry. He has a BSc Honours degree in Mathematics, Statistics and Economics from the University of Natal. He also has a post-graduate diploma in Competition Policy, an MBA from the University of Warwick and a Diploma in Company Direction from the IoD.



Jeanne Golay, Head of Regulatory Policy

Jeanne joined the OUR in June 2010 after 13 years as Economic Regulation Advisor for Water UK, the industry association for the water companies in the UK. Prior to this Jeanne worked for the UK Post Office Group Planning department and as an accountant managing the Post Office £300m capital budget. She has also worked in the gas industry as an Ofgas director and in the telecommunications and transport sectors for Coopers & Lybrand. She has economics and law degrees from the University of Lausanne, a Masters in Science from the London School of Economics and a diploma in European competition law from King's College, University of London.



Jonathan Tooley, Head of Policy and Consumer Affairs

Jonathan joined the OUR in October 2010. He has worked across the utilities sector and has extensive experience of energy markets and economic regulation. Jonathan began his career at Ofwat where he worked in a range of areas and led work on operating cost analysis and efficiency assessment before becoming Head of Economic Regulation at Northumbrian Water.

He subsequently moved to the energy sector, working on electricity and gas market trading and risk analysis, developing hedging strategies for structured contracts and energy derivatives. His experience of electricity generation ranges from large scale coal and nuclear to small scale oil and renewables. Prior to joining the OUR Jonathan headed the Strategic Assets team at British Energy. He has a first degree in Physics and a Masters in Environmental Management.

**Lisa White, Office Manager**

Lisa joined the OUR in December 2011. She manages the office and provides administrative support. Lisa was born and educated in Guernsey and was previously a legal PA for 10 years during which time she gained a diploma for Legal Secretarial and Personal Assistants.



Activity Report

Under the Regulation of Utilities (Guernsey) Law, 2001, the Director General has a duty to promote, and where they conflict, to balance, objectives that underpin the work of the OUR. The following report outlines the Office's duties as set out on Section 2 of the Regulation Law 2001 and some of the initiatives undertaken in 2011 in performing these duties.

Duties

To protect the interests of consumers and other users in the Bailiwick in respect of prices charged for and the quality, service levels, permanence and variety of utility services.

Performance

The OUR set a new price control for Guernsey Post's prices for the three years from April 2011 to April 2014. As part of the decision, Guernsey Post will look to implement a £3million programme of operating cost savings. Guernsey Post will also be allowed greater freedom to adjust tariffs during the period of the price control.

At Guernsey Electricity's request, the OUR set a one year price control for its tariffs with effect from April 2011. As a result Guernsey Electricity was allowed to increase its prices by up to 6.5% from April 2011. Tariffs were further increased by 2.5% in October 2011 to allow the company to recover outstanding pass through costs.

The OUR also extended the price control for Cable & Wireless Guernsey for one year. The OUR, in conjunction with the JCRA in Jersey, is working on the introduction of further competition into the fixed market and it was felt that a one year price control was more proportionate.

Duties

To secure, as far as practicable, the provision of utility services that satisfy all reasonable demands for such services within the Bailiwick, whether those services are supplied from, within or to the Bailiwick.

Performance

The OUR continued working on seeking to ensure greater competition in the fixed telephony market in Guernsey through the Wholesale Access Project. The OUR is examining ways in which more innovative services and lower prices might be enabled by greater access to the existing fixed telephony network by operators other than Cable & Wireless Guernsey. It is expected that this project will continue through 2012.

Duties

To ensure utility services activities are carried out in such a way as best to serve and contribute to the economic and social development and well-being of the Bailiwick.

Performance

The OUR strengthened its collaboration with the JCRA with the objective of rationalising and aligning the existing allocations of radio frequencies to telecoms operators in Jersey and Guernsey. This will increase efficiency and facilitate the future allocation of the digital dividend — the radio spectrum that is becoming available for telecommunication services following the move to digital broadcasting. To date, the OUR and JCRA have obtained agreement from all operators in the two islands to the re-alignment of spectrum allocations in the 2.1 GHz band and to the principles that should inform further re-alignments in 2012 and beyond.

Duties

To introduce, maintain, and promote effective and sustainable competition in the provision of utility services in the Bailiwick, subject to any special of exclusive rights awarded to a licensee by the Director General pursuant to States' Directions.

Performance

The OUR developed a new licence for mobile operators which is the culmination of its review of mobile licensing which started in 2009. All mobile operators are now subject to the same licence conditions. This review was aimed at promoting fair competition and reducing the regulatory reporting obligations on operators. The new mobile licence also increases technology neutrality so that operators can be more efficient in choosing how they provide their services.

Duties

To improve the quality and coverage of utility services and to facilitate the availability of new utility services within the Bailiwick.

Performance

The OUR worked with that States of Guernsey and counterparts in Jersey to develop the legislative and regulatory framework necessary to the expansion of the islands' wireless communication services with Fourth Generation Networks. These depend on the availability and effective allocation of the radio spectrum previously used by analogue broadcasting and made available by the move to digital broadcasting. Further joint work with the States of Guernsey and Ofcom (the UK regulator) is expected in 2012.

Duties

To lessen, where practical, any adverse impact of utility activities on the environment.

Performance

The obligations on telecom operators to share masts are now firmly entrenched in any expansion of mobile networks through licence conditions. During 2011, the OUR also participated in the development of the States of Guernsey Energy Policy.

Report of the Director General and Financial Statements for the Year Ended 31 December 2011 for the Public Utilities Regulation Fund

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Fund Information for the Year Ended 31 December 2011

Director General:	Mr J Curran
Office Address:	Suites B1 & B2 Hirzel Court St Peter Port Guernsey GY1 2NH
Auditors:	Grant Thornton Limited PO Box 313 Lefebvre House Lefebvre Street St Peter Port Guernsey GY1 3TF

Public Utilities Regulation Fund

Report of the Director General for the Year Ended 31 December 2011

The Director General presents his report with the financial statements of the Fund for the year ended 31 December 2011.

Principal Activity

The principal activity of the Office of the Director General in the year under review was that of a utilities regulator.

Review of Business

The results of the year and the financial position of the Fund are as shown in the annexed financial statements.

Statement of the Director General's Responsibilities

The Director General is responsible for preparing the financial statements for each financial year which give a true and fair view of the state of affairs of the Fund and of the surplus or deficit of the Fund for that period. In preparing those financial statements the Director General is required to:

- Select suitable accounting policies and then apply them consistently;
- Make judgements and estimates that are reasonable and prudent; and
- Prepare the financial statements on the going concern basis unless it is inappropriate to presume that the Fund will continue in operation.

The Director General is responsible for keeping proper accounting records which disclose with reasonable accuracy at any time the financial position of the Fund and to ensure that the financial statements comply with the applicable accounting standards. The Director General is also responsible for safeguarding the assets of the Fund and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

In accordance with Section 13 of The Regulation of Utilities (Bailiwick of Guernsey) Law, 2001, the Director General shall keep all proper accounts and records in relation to those accounts and shall prepare in respect of each year a statement of account giving a true and fair view of the state of affairs of the Office of the Director General.

The Law also requires the Director General to have the accounts audited annually by auditors appointed with the approval of the Department of Commerce and Employment. The Director General, with the approval of the Department of Commerce and Employment, has appointed Grant Thornton Limited as the auditors of the Public Utilities Regulation Fund.

The audited financial statements shall be submitted to the Department of Commerce and Employment which shall in turn submit them together with the auditors' report thereon to the States of Guernsey with the Director General's annual report.

AUDITORS

The auditors, Grant Thornton, have indicated their willingness to continue in office.

.....
Mr J Curran
Director General of Utility Regulation

Dated:.....

Report of the Independent Auditors to the Director General of the Public Utilities Regulation Fund

We have audited the financial statements of Public Utilities Regulation Fund for the year ended 31 December 2011 which comprise the Income and Expenditure Account, the Balance Sheet and the related notes. The financial reporting framework that has been applied in their preparation is applicable law and Financial Reporting Standards for Smaller Entities (effective April 2008) (United Kingdom Generally Accepted Accounting Practice Applicable to Smaller Entities)

This report is made solely to the Office of the Director General in accordance with The Regulation of Utilities (Bailiwick of Guernsey) Law, 2001. Our audit work has been undertaken so that we might state to the Fund's members those matters we are required to state to them in an auditors' report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the Fund and the Office of the Director General as a body, for our audit work, for this report, or for the opinions we have formed.

Respective responsibilities of the Director General and Auditors

As described in the Statement of the Director General's Responsibilities on page 12, the Director General is responsible for the preparation of financial statements and for being satisfied that they give a true and fair view.

Our responsibility is to audit and express an opinion on the financial statements in accordance with applicable legal and regulatory requirements and International Standards on Auditing (UK and Ireland). Those standards require us to comply with the Auditing Practices Board's Ethical Standards for Auditors.

Scope of the audit of the financial statements

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to the Fund's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the Director General; and the overall presentation of the financial statements.

In addition, we read all the financial and non-financial information in the Report of the Director General to identify material inconsistencies with the audited financial statements. If we become aware of any apparent material misstatements or inconsistencies we consider the implications for our report.

Opinion

In our opinion the financial statements:

- give a true and fair view of the state of the Fund's affairs as at 31 December 2011 and of its surplus for the year then ended;
- have been properly prepared in accordance with United Kingdom Generally Accepted Accounting Practice Applicable to Smaller Entities; and
- have been properly prepared in accordance with The Regulation of Utilities (Bailiwick of Guernsey) Law, 2001.

Matters on which we are required to report by exception

We have nothing to report in respect of the following matters where we are required to report to you, if in our opinion:

- the Fund has not kept proper accounting records; or
- the financial statements are not in agreement with the accounting records; or
- we have not received all the information and explanations, which to the best of our knowledge and belief, are necessary for the purposes of our audit.

Grant Thornton Limited
PO Box 313
Lefebvre House
Lefebvre Street
St Peter Port
Guernsey
GY1 3TF

Date:

Public Utilities Regulation Fund**Income and Expenditure Account**
for the Year Ended 31 December 2011

	Notes	2011 £	2010 £
INCOME			
Licence fees		826,612	680,458
Bank interest		<u>5,146</u>	<u>2,757</u>
		831,758	683,215
EXPENDITURE		<u>(647,108)</u>	<u>(949,118)</u>
SURPLUS / (DEFICIT) FOR THE YEAR ENDED 31 DECEMBER 2011		184,650	(265,903)
TRANSFER (TO) / FROM CONTINGENCY RESERVE	7	<u>(184,650)</u>	<u>265,903</u>
NET OPERATING RESULT FOR THE YEAR		<u><u>-</u></u>	<u><u>-</u></u>

The Fund has no other gains or losses for the current or preceding financial year other than those stated in the Income and Expenditure Account.

The results for the year relate to continuing operations.

Public Utilities Regulation Fund**Balance Sheet**
31 December 2011

	Notes	2011 £	2010 £
FIXED ASSETS			
Tangible assets	4	8,425	6,741
CURRENT ASSETS			
Debtors	5	41,959	20,967
Cash at bank and in hand		<u>449,547</u>	<u>382,473</u>
		491,506	403,440
CREDITORS			
Amounts falling due within one year	6	27,119	122,019
NET CURRENT ASSETS		<u>464,387</u>	<u>281,421</u>
TOTAL ASSETS LESS CURRENT LIABILITIES		<u>472,812</u>	<u>288,162</u>
RESERVES			
Contingency reserve	7	<u>472,812</u>	<u>288,162</u>

The financial statements were approved on and were signed by:

.....
Mr J Curran
Director General of Utility Regulation

Public Utilities Regulation Fund**Notes to the Financial Statements**
for the Year Ended 31 December 2011**1. ACCOUNTING POLICIES****Accounting convention**

The financial statements have been prepared under the historical cost convention and in accordance with United Kingdom Generally Accepted Accounting Practice.

Income

Income represents net invoiced licence fees and is accounted for on an accruals basis.

Tangible fixed assets

Depreciation is provided at the following annual rates in order to write off each asset over its estimated useful life.

Office equipment	- 20% on cost
Fixtures and fittings	- 20% on cost
Computer equipment	- 20% on cost
Website	- 33.3% on cost

2. NET OPERATING RESULT

The net operating result is stated after charging:

	2011	2010
	£	£
Depreciation - owned assets	5,567	4,952
Auditors & accountants' remuneration	<u>7,638</u>	<u>6,540</u>

3. TAXATION

Under Section 12 of The Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 the Fund is exempt from Guernsey Income Tax.

Public Utilities Regulation Fund**Notes to the Financial Statements - continued**
for the Year Ended 31 December 2011**4. TANGIBLE FIXED ASSETS**

	Office equipment £	Fixtures and fittings £	Computer equipment £	Website costs £	Totals £
COST					
At 1 January 2011	31,907	3,265	26,948	-	62,120
Transferred	(799)	-	799	-	-
Additions	-	-	3,126	4,125	7,251
Disposals	-	-	<u>(9,892)</u>	-	<u>(9,892)</u>
At 31 December 2011	<u>31,108</u>	<u>3,265</u>	<u>20,981</u>	<u>4,125</u>	<u>59,479</u>
DEPRECIATION					
At 1 January 2011	28,933	3,265	23,181	-	55,379
Charge for year	1,322	-	3,787	458	5,567
Eliminated on disposal	-	-	<u>(9,892)</u>	-	<u>(9,892)</u>
At 31 December 2011	<u>30,255</u>	<u>3,265</u>	<u>17,076</u>	<u>458</u>	<u>51,054</u>
NET BOOK VALUE					
At 31 December 2011	<u>853</u>	<u>-</u>	<u>3,905</u>	<u>3,667</u>	<u>8,425</u>
At 31 December 2010	<u>2,974</u>	<u>-</u>	<u>3,767</u>	<u>-</u>	<u>6,741</u>

5. DEBTORS: AMOUNTS FALLING DUE WITHIN ONE YEAR

	2011 £	2010 £
Accrued interest	1,984	77
Other debtors and prepayments	<u>39,975</u>	<u>20,890</u>
	<u>41,959</u>	<u>20,967</u>

6. CREDITORS: AMOUNTS FALLING DUE WITHIN ONE YEAR

	2011 £	2010 £
Trade creditors	6,070	55,721
Deferred income	1,000	23,771
Other creditors	<u>20,049</u>	<u>42,527</u>
	<u>27,119</u>	<u>122,019</u>

7. CONTINGENCY RESERVES

Any surpluses or deficits in the Income and Expenditure Account are either transferred to or from the contingency reserve.

	£
At 1 January 2011	288,162
Movement in the year	<u>184,650</u>
At 31 December 2011	<u>472,812</u>

Public Utilities Regulation Fund**Detailed Income and Expenditure Account
for the Year Ended 31 December 2011**

	2011		2010	
	£	£	£	£
INCOME				
Post office revenue	180,000		160,000	
Telecoms revenue	466,612		360,458	
Electricity revenue	180,000		160,000	
Other income	<u>-</u>		<u>-</u>	
		826,612		680,458
Other income				
Bank interest		<u>5,146</u>		<u>2,757</u>
		831,758		683,215
EXPENDITURE				
General overheads	121,494		94,631	
Salaries & staff costs	450,556		413,066	
Consultancy fees	51,744		297,431	
Legal costs	3,640		124,354	
Auditors & accountancy fees	7,638		6,540	
ARRC fees	6,411		8,000	
		<u>(641,483)</u>		<u>(944,022)</u>
		190,275		(260,807)
Finance costs				
Bank charges		<u>(58)</u>		<u>(144)</u>
		190,217		(260,951)
Depreciation				
Office equipment	1,322		1,527	
Fixtures and fittings	-		57	
Computer equipment	3,787		3,368	
Website costs	<u>458</u>		<u>-</u>	
		<u>(5,567)</u>		<u>(4,952)</u>
SURPLUS / (DEFICIT) FOR THE YEAR		<u>184,650</u>		<u>(265,903)</u>

Audit Risk and Remuneration Committee

Chairman's Report

The Committee continued to work under the terms of the 31 March 2007, The Projet de Loi entitled "The Regulation of Utilities (Bailiwick of Guernsey) (Amendment) Law, 2007, passed by the States of Guernsey. Section 6 of that Law introduced a new section 13A to the 2001 Law which set out the formal establishment of the Audit, Risk and Remuneration Committee.

The membership of the committee in 2011 was

- Mr Peter Woodward (Chairman)
- Deputy Martin Storey
- Ms Jane Needham

All members were considered to be independent of the OUR.

The committee met formally on four occasions in 2011 and carried out the following specific activities.

- Reviewing areas of potential risk and monitoring the implementation of agreed risk management actions.
- Reviewing the Financial Statements of the Public Utilities Regulation fund for 2010 and discussing the results thereof with the external auditors
- Meeting the external auditors to monitor their independence and to confirm the nature, scope, fees and timetable for the audit of 2011
- Monitoring and approving the recruitment and remuneration of staff
- Recommending, as required, improvements to employment contracts and the staff handbook and monitoring implementation
- Submitted formal feedback on the RPI report including inputs on Shareholder and Governance issues, the Adjudication Panel Proposal and provided other relevant commentary
- Reviewed current and planned workloads on a periodic basis and offered advice if applicable
- Gave inputs to the Commerce and Employment Department on the future governance of the OUR in light of the potential establishment of a pan-Channel Islands competition / regulatory authority

The Committee were pleased that their reviews, meetings and plans all produced positive results and thank the Director General and his staff for their co-operation and assistance throughout the year. The total annual costs of the committee were less than £7,000.

In light of the imminent formation of a pan-Channel Island board the current members of the Audit Risk and Remuneration Committee stood down at the end of 2011.

Peter Woodward
Chairman

OUR Corporate Governance

In 2005, the OUR established an independent Audit, Risk and Remuneration Committee (ARRC) and in May 2006 the States formally agreed a Resolution requiring its establishment.

The OUR complies with a very high standard of controls and the OUR's annual accounts are externally audited. The OUR's ARRC provides further independent scrutiny of the controls in place within the OUR.

The members of the OUR ARRC during 2011 were:

- Mr Peter Woodward (Chairman)
- Deputy Martin Storey
- Ms Jane Needham

The following sets out the instruction to the ARRC.

OUR Audit, Risk and Remuneration Committee Terms of Reference

The following sets out the terms of reference of the OUR's Audit, Risk and Remuneration Committee (ARRC) as agreed by the Director General and the ARRC.

Role of the Committee:

The role of the ARRC will be, as part of the ongoing, systematic review of the control environment and governance procedures within OUR to;

- oversee the external and internal audit function and advise the Director General in relation to the operation and development of that function;
- review and advise on the Office's risk management procedures;
- review and comment on the financial accounts of the Office; and
- review and comment on the remuneration policy of the OUR.

Membership

The ARRC will be appointed by the Director General with the approval of the Commerce and Employment Department and will consist of not more than four people, who shall be external appointees. One of the four will be appointed by Commerce and Employment.

Duties

The duties of the ARRC shall be:

- to approve and keep under review the Charter for Internal Audit services so as to ensure that it clearly defines the purpose, authority, roles and reporting relationships for internal audit;
- to review and approve the work programme for internal audit;
- to request the inclusion in the programme of Internal Audit reports as considered appropriate;
- to assess the outcome of the internal and external audit processes having regard to findings, recommendations and management responses;
- to assess the implementation of agreed corrective actions by management having regard to follow up audits;
- generally to foster the development of best practice in the conduct of internal audit, risk management and external reporting;
- to advise the Director General on all matters relating to risk management, internal control, governance, external financial reporting and remuneration; and
- to advise on and review the membership of the ARRC as necessary.

Annual Report of the External Auditors

The ARRC will consider any report issued by the external auditors.

Meetings

ARRC meetings will be held not less than twice each calendar year.

A quorum of two will be required for each meeting. The members shall decide on the appointment of the Chairperson. The Chairperson's appointment shall expire on 31 December 2011.

The ARRC may request any person who has been contracted to carry out an internal audit assignment to attend a Committee meeting. The Director General shall attend on the invitation of the ARRC. The ARRC will also have the authority to request staff members to attend meetings if necessary.

At least once a year, the ARRC will invite the external auditor to meet them to discuss matters of mutual interest including the audit approach.

The OUR will provide such administrative support to the ARRC as it may require.

Working Procedures

The ARRC will adopt its own working procedures.

Access

Any member of the ARRC will have right of access to the Director General and/or any staff member.

Reporting

The ARRC will formally report to the Director General and will offer such advice and recommendations as it may deem appropriate. The ARRC's activities will be recorded and reported in the Annual Report of the Director General.

The ARRC may report to any States Department or States Committee, including the Public Accounts Committee and the Scrutiny Committee.

Access to Independent Advice

The ARRC is authorised to:

- investigate any activity within its terms of reference;
- seek any information that it requires from any employee or external party, and all employees are directed to co-operate with any request made by the Committee; and
- obtain outside legal or other independent professional advice.

Amendment of Charter

This Charter may be amended or updated in joint consultation between the Director General and the ARRC. It shall be reviewed by 31st December 2008 and thereafter as required.

Internal Audit Charter

Introduction

This Charter sets out the purpose, authority and responsibilities of OUR's Internal Auditor. It is intended that internal audit assignments will be outsourced to an appropriate, qualified, third party and conducted under contract.

Purpose

The Internal Audit function is an independent appraisal function established to examine, evaluate and report on the adequacy and effectiveness of the OUR's systems of financial internal control. As such, it provides management and stakeholders with assurance over the financial management of the Office of Utility Regulation, and stewardship of the resources entrusted to it.

Authority

Internal Audit is authorised to have:

- unrestricted access (subject to the comments below) to all functions, records, property and personnel;
- full and free access to staff, the Audit Committee and the Director General;
- authority to require and receive such explanations from any employee as are necessary concerning any matter under examination; and
- sufficient resources and personnel with the necessary skills to perform the internal audit plan.

Access to confidential commercial information is permitted for the purpose of carrying out an internal audit solely in respect of enabling the auditors to ascertain that the Director General has carried out his functions as provided for within sections 2 and 4 of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001, the various sector specific laws and States Directions to the Director General. Access will not be given to confidential information unless it can be proven that its intended purpose falls within scope of the internal audit role.

Internal Audit is not authorised to perform any operational duties or initiate or approve accounting transactions.

Role and Scope

The primary responsibility for identifying and implementing an adequate system of internal control rests with the Director General. The role of internal audit is to appraise the adequacy and effectiveness of those controls.

In particular, its role is to understand the key financial risks of the organisation and to examine and evaluate the adequacy and effectiveness of the system of risk management and financial control as operated by the organisation so as to ensure that:

- the systems of financial control, and their operation in practice, are adequate and effective;
- follow-up action is taken to remedy weaknesses identified by Internal Audit;
- employees and organisation actions are in compliance with policies, standards, procedures and applicable laws and regulations; and
- the corporate governance arrangements of the organisation are appropriate to the organisation and comply with relevant requirements.

Annex A: States Directions; Telecommunications

Scope of Universal Service Obligation (USO)

The States resolved to give the following direction to the Director General in accordance with Section 3(1)(c) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001:

All users in the Bailiwick shall have available to them the services set out below at the quality specified, independently of geographical location and, in the light of local and national conditions, at an affordable price:

Access at Fixed Locations:

- *all reasonable requests for connection to the public telephone network at a fixed location and for access to publicly available telephone services at a fixed location shall be met by at least one operator;*
- *the connection provided shall be capable of allowing users to make and receive local, national and international telephone calls, facsimile communications and data communications, at data rates that are sufficient to permit Internet access;*

Directory enquiry services and directories:

- *at least one subscriber directory covering all subscribers of direct public telephone service providers shall be made available to users and shall be updated regularly and at least once a year;*
- *at least one telephone directory enquiry service covering all listed subscribers' numbers shall be made available to all users, including users of public pay telephones;*

Public Pay telephones:

- *public pay telephones shall be provided to meet the reasonable needs of users in terms of the geographical coverage, the number of telephones and the quality of services.*

Special measures for disabled users and users with special needs:

- *these provisions shall also apply to disabled users and users with special social needs, and specific measures may be taken by the Regulator to ensure this.*

Identity of First Licensee with USO

The States resolved to give the following direction to the Director General in accordance with section 3(1)(a) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001:

The Director General of Utility Regulation shall issue the first licence to contain a telecommunications Universal Service Obligation to Guernsey Telecoms Limited, the company established to take over the functions of the States Telecommunications Board pursuant to the States agreement to the recommendations of the Advisory and Finance Policy letter published in this Billet.

Special or Exclusive Rights

The States resolved to give the following direction to the Director General in accordance with section 3(1)(b) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001:

In accordance with section 3(1)(b) of that Law, the States directs the Regulator to decide the duration of any exclusive or special privilege granted to any licensee in relation to the provision of telecommunications networks and/or services with a view to ensuring that competition is introduced into all parts of the market at the earliest possible time.

The Regulator may decide on different terms for privileges granted in different markets or segments of the market. In any case, the States directs that the term of any such rights shall not exceed three years at most from the date of this Direction.

Annex B: States Directions; Post

Universal Service Obligation

The States resolved to give the following direction to the Director General in accordance with section 3(1)(c) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001:

The following universal postal service shall be provided by at least one licensee throughout the Bailiwick of Guernsey at uniform and affordable prices, except in circumstances or geographical conditions that the Director General of Utility Regulation agrees are exceptional:

- *One collection from access points on six days each week;*
- *One delivery of letter mail to the home or premises of every natural or legal person in the Bailiwick (or other appropriate installations if agreed by the Director General of Utility Regulation) on six days each week including all working days;*
- *Collections shall be for all postal items up to a weight of 20Kg;*
- *Deliveries on a minimum of five working days shall be for all postal items up to a weight of 20Kg;*
- *Services for registered and insured mail.*

In providing these services, the licensee shall ensure that the density of access points and contact points shall take account of the needs of users.

“access point” shall include any post boxes or other facility provided by the Licensee for the purpose of receiving postal items for onward transmission in connection with the provision of this universal postal service.

Identity of First Licensee with a USO

The States resolved to give the following direction to the Director General in accordance with section 3(1)(a) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001:

The Director General of Utility Regulation shall issue the first licence to contain a postal Universal Service Obligation to Guernsey Post Limited, the company established to take over the functions of the States Post Office Board pursuant to the States agreement to the recommendations of the Advisory and Finance Policy letter published in this Billet.

Post: Special or Exclusive Rights

The States resolved to give a direction to the Director General in accordance with section 3(1)(b) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 to award to Guernsey Post Office Limited the exclusive right to provide postal services in the Bailiwick to the extent that such exclusive right is necessary to ensure the maintenance of the universal postal service specified by States' directions under section 3 (1)(c) of that Law; and

To request the Director General to review and revise the award of exclusive rights from time to time with a view to opening up the Bailiwick postal services market to competition, provided that any such opening up does not prejudice the continued provision of the universal postal service.

Annex C: States Directions; Electricity

Universal Service Obligation (“Public Supply Obligation”)

The States did not make any Directions in relation to a Universal Service Obligation in the electricity markets, as it noted that the provisions of the Electricity Law adequately protected the interests of users by ensuring a Public Supply Obligation would be in place.

Identity of First Licensee with a USO

The States resolved to give the following direction to the Director General in accordance with section 3(1)(a) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001:

The Director General of Utility Regulation shall issue the first licence to contain an electricity Universal Service Obligation to Guernsey Electricity Limited, once that company is established to take over the functions of the States Electricity Board.

Special or Exclusive Rights

Conveyance

The States resolved to give a direction to the Director General in accordance with section 3(1)(b) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 to award to Guernsey Electricity Limited an exclusive electricity conveyance licence in respect of the conveyance of electricity in Guernsey for a period of 10 years once that company has been formed.

Subsequently, the States resolved to give a direction to the Director General to issue an exclusive licence to Guernsey Electricity Ltd for conveyance activities subject to any exemptions granted by the Director General under section 1(2) of the Electricity (Guernsey) Law, 2001 for the period ending 31 January 2012.

Generation

The States made no resolution giving a direction to the Director General in relation to the period of exclusivity of any generation licence to be granted under the Electricity (Guernsey) Law, 2001.

Supply

The States resolved to give a direction to the Director General in accordance with section 3(1)(b) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 to award to Guernsey Electricity Limited (once that company has been formed) an exclusive electricity supply licence in respect of the supply of electricity in Guernsey for a period of one year.

The States also resolved to request the Director General to investigate the impact of the introduction of competition into the electricity supply market further and to provide a recommendation and advice to the Board of Industry on the introduction of such competition.

The States subsequently resolved to give a direction to the Director General to issue an exclusive licence to Guernsey Electricity Ltd for supply activities subject to any exemptions granted by the Director General under section 1(2) of the Electricity (Guernsey) Law, 2001 for the period ending 31 January 2012.

The Chief Minister
Policy Council
Sir Charles Frossard House
La Charroterie
St Peter Port
Guernsey
GY1 1FH

1 June 2012

Dear Sir

The Public Trustee (Bailiwick of Guernsey) Law, 2002 provides, in section 6(1) that the Commerce and Employment Department is required to submit the report and accounts to the States of Guernsey on the exercise of the Public Trustee's functions for the preceding year.

I am pleased to enclose a copy of his report and audited accounts for the period 1 January to 31 December 2011.

Section 6 of the Law also provides that the Department may, at the same time, submit its own report commenting on the activities of the Public Trustee during this period.

The Department does not wish to add further comments on the activities of the Public Trustee.

I would be grateful if you would arrange to publish this submission as an Appendix to the next available Billet.

Yours faithfully

Kevin A Stewart
Minister

**REPORT OF THE PUBLIC TRUSTEE
TO THE DEPARTMENT OF COMMERCE AND EMPLOYMENT
FOR THE YEAR ENDED 31 DECEMBER 2011**

Introduction

1. Under Section 6(1) of The Public Trustee (Bailiwick of Guernsey) Law, 2002 (“the Law”), the Public Trustee is required in each calendar year to submit to the Department of Commerce and Employment a report on the exercise of his functions in the preceding year together with the audited accounts of the Office of the Public Trustee.

Appointments and Assets held in Trust

2. As set out in the report for the previous year, the Public Trustee was trustee of six trusts at the end of that year, with assets estimated in the region of £8 to £9 million. It was also reported that there had been discussions during 2010 concerning a situation which was likely to result in one or more appointments being made in 2011.
3. In September 2011, on the application of the administrators of Claridges Trust Company (Guernsey) Limited (“Claridges”), a local fiduciary company, and following a lengthy period of administration, the Public Trustee was appointed by the Royal Court to act as trustee of seven of the trusts formerly administered by the company, bringing the total number of trusts in the care of the Public Trustee to thirteen.
4. The major part of Claridges’ trust business was transferred to other fiduciary companies. However, there were problems associated with the above seven trusts which, for regulatory reasons, prevented their transfer.
5. When the Office of the Public Trustee was established by the States in 2004, it was envisaged that in most cases trusts would be administered on behalf of the Public Trustee by professional providers of trust services. As was the case with the trusts to which the Public Trustee was appointed to act as trustee in 2010 (the “ex-Kingston trusts”), a local fiduciary company with appropriate experience was engaged to administer the ex-Claridges trusts.
6. One of the trusts has liquid assets of about US\$100,000. However, the other six trusts have no assets realisable at the present time and it is considered unlikely that any realisable value will materialise in the foreseeable future.
7. There were no other appointments of the Public Trustee to act as trustee during the year. At the time of writing, there were no situations of which the Public Trustee is aware which are likely to result in further appointments being made in 2012.

Accounts and Auditors' Report

8. The accounts of the Office of the Public Trustee for the year to 31 December 2011, together with the auditors' report thereon, accompany this report.
9. Work levels during the year were similar to those of 2010. Two of the ex-Kingston trusts continue to present significant and complex problems and account for the bulk of the Trust and company administration fees (£82,036) charged during the year by professional providers of trust services working on behalf of the Public Trustee.
10. These fees, together with the Public Trustee's own charges make up the Trustee fees of £100,387 charged to the trusts. For the reasons set out below, it will not be possible to recover this entire sum and a provision of £25,944 for bad debts has been made.
11. Approximately half of the provision relates to work in connection with one of the ex-Kingston trusts, which has a single asset in the form of real property. Although the amount may eventually be recoverable, the costs of doing so if the asset is sold are unlikely to be justified.
12. The remainder of the provision is made in respect of the ex-Claridges trusts. The Law states that the fees that may be recovered in any particular case shall not exceed the costs actually and reasonably incurred on that case. Thus, shortfalls arising on individual cases cannot be recovered by increases in fees charged elsewhere. Since only one of the seven trusts has realisable assets, the costs relating to the appointment of the Public Trustee apportioned to the other trusts, being mainly the time of the Public Trustee and legal fees, together with some administrative expenses, cannot be recouped at the present time, if at all. It is anticipated that no or minimal costs will be incurred in respect of these trusts in the future.
13. There are likely to be some delays in recovering the remainder of the amounts due to the Office of the Public Trustee, due to the lack of liquid assets in the trusts concerned. However, there are other assets whose value can be realised and steps are presently being taken to that end.
14. Overall, the cost of the Office of the Public Trustee to the States, as measured by the grant received from the States, has shown a small increase from £26,011 in 2010 to £27,042 in 2011.

Conclusion

15. As pointed out in the report for 2010, the Public Trustee is primarily a trustee of last resort. As such, the trusts to which he is appointed when a fiduciary company is unable to continue in business, for whatever reason, are almost invariably those which are the most problematic, other trusts being taken on by other fiduciary companies. There are therefore inevitable consequences for costs, as outlined above.

16. However, it should be borne in mind that there have only been two instances since the Office of the Public Trustee was established in 2004 where the discontinuation of a fiduciary business has resulted in the appointment of the Public Trustee to act as trustee for some of its client trusts. This represents an insignificant proportion of the Bailiwick's trust industry and can be seen as an indication of its continuing health and good conduct.

D P Trestain B.Com., F.C.A.
Public Trustee
Bailiwick of Guernsey

11 May 2012

2008

OFFICE OF THE PUBLIC TRUSTEE

STATEMENT OF ACCOUNT

31st DECEMBER, 2011

LINCE SALISBURY

Chartered Accountants

Avenue House,

St. Julian's Avenue,

St. Peter Port,

GUERNSEY

OFFICE OF THE PUBLIC TRUSTEE

Statement of responsibilities for the preparation of financial statements

In accordance with The Public Trustee (Bailiwick of Guernsey) Law, 2002 the Public Trustee is responsible for the preparation of a statement of account for each financial year which gives a true and fair view of the state of affairs of The Office of the Public Trustee. He is responsible for selecting suitable accounting policies and, in preparing the statement of account the Public Trustee is expected to:

- * apply suitable accounting policies on a consistent basis;
- * make judgements and estimates that are reasonable and prudent;
- * state whether applicable accounting standards have been followed subject to any material departures disclosed and explained in the accounts; and
- * prepare the statement of account on a going concern basis, unless it is inappropriate to do so.

The Public Trustee acknowledges responsibility for keeping proper accounting records which disclose with reasonable accuracy at any time the financial position of The Office of the Public Trustee.

It is the responsibility of The Office of the Public Trustee to identify and install a system of internal controls, including financial controls, which is adequate for its own purposes. Thus The Office of the Public Trustee is responsible for safeguarding the assets in its care and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

INDEPENDENT AUDITORS' REPORT TO THE OFFICE OF THE PUBLIC TRUSTEE

We have audited the financial statements of The Office of Public Trustee for the year ended 31st December, 2011 on pages 3 to 5 which have been prepared in accordance with United Kingdom Generally Accepted Accounting Practice, under the historical cost convention and the accounting policies set out on page 5.

This report is made solely to The Office of Public Trustee. Our audit work has been undertaken so that we might state to the you those matters we are required to state in an auditor's report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than The Office of Public Trustee for our audit work, for this report, or for the opinions we have formed.

Respective responsibilities of The Office and Auditors

As explained in the Statement of Responsibilities The Office is responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view. Our responsibility is to audit the financial statements in accordance with applicable law and International Standards on Auditing (UK and Ireland). Those standards require us to comply with the Auditing Practices Board's Ethical Standards of Auditors.

Scope of the audit of the financial statements

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to The Office's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the Public Trustee; and the overall presentation of the financial statements. In addition, we read all the financial and non-financial information in the Public Trustee's Report to identify material inconsistencies with the audited financial statements. If we become aware of any apparent material misstatements or inconsistencies we consider the implications for our report.

Opinion on the financial statements

In our opinion the financial statements:

- give a true and fair view of the state of The Office's affairs as at 31st December, 2011 and of its result for the year then ended,
- have been prepared in accordance with United Kingdom Generally Accepted Accounting Practice,
- the financial statements have been properly prepared in accordance with The Public Trustee (Bailiwick of Guernsey) Law, 2002.

Lince Salisbury Limited

13th April 2012
Avenue House,
St. Julian's Avenue,
St. Peter Port,
GUERNSEY

LINCE SALISBURY LIMITED
CHARTERED ACCOUNTANTS


OFFICE OF THE PUBLIC TRUSTEE
INCOME AND EXPENDITURE ACCOUNT
FOR THE YEAR ENDED 31st DECEMBER, 2011

	Note	2011	2010
		£	£
Income	1		
Grant from States of Guernsey	1, 3	27,042	26,011
Trustee fees		<u>100,387</u>	<u>85,102</u>
		<u>127,430</u>	<u>111,113</u>
Expenditure	1		
Audit fees		3,000	2,500
Bank charges		63	63
Legal fees		6,315	2,355
Office administration		616	501
Public Trustee remuneration		12,010	13,548
Provision for doubtful debts		25,944	20,059
Trust and company administration fees		<u>82,036</u>	<u>73,162</u>
		<u>129,984</u>	<u>112,188</u>
Operating deficit before tax		(2,554)	(1,075)
Tax	2	-	-
Deficit for the year		<u>£(2,554)</u>	<u>£(1,075)</u>

OFFICE OF THE PUBLIC TRUSTEEBALANCE SHEET AT 31st DECEMBER, 2011

	Note	2011 £	2010 £
Current assets			
Debtors		115,553	65,042
Bank		<u>1,597</u>	<u>2,639</u>
		117,150	67,681
Current liabilities			
Potential liability - grants	3	115,553	64,503
Accruals	3	3,478	2,505
Creditors	3	<u>61</u>	<u>61</u>
		119,092	67,069
Net (liabilities)/assets		<u>£(1,942)</u>	<u>£612</u>
Funded by:			
The Public Trustee Fund	4	<u>£(1,942)</u>	<u>£612</u>

The balance sheet was approved on *13 April* 2012



 D Trestain
 Public Trustee

OFFICE OF THE PUBLIC TRUSTEE
NOTES TO THE FINANCIAL STATEMENTS
YEAR ENDED 31ST DECEMBER, 2011

1. ACCOUNTING POLICIES

Historical Cost Convention

The statement of account is prepared under the historical cost convention and in accordance with UK applicable accounting standards.

Grants

Grants from the States of Guernsey Commerce and Employment Department are included on a received basis. Grants have been recognised as revenue items where they are not expected to become repayable to the States of Guernsey. Where grants have been received and a corresponding debtor is considered recoverable from the underlying client the potential liability has been recognised.

Other income and expenditure

Other income and expenditure is included on an accruals basis.

2. TAXATION

The Office of the Public Trustee is not subject to States of Guernsey Income Tax.

3. CREDITORS AND ACCRUALS

	2011 £	2010 £
<u>Creditors</u>		
Professional trust administration fees and Deputy Trustee charges from Commerce & Employment Department	£ 61	£ 61
<u>Accruals</u>		
Audit fee	3,000	2,500
Public Trustee	473	-
Bank charges	5	5
	£ 3,478	£ 2,505
<u>Potential Liabilities - Grants</u>		
Grants from States of Guernsey	£ 115,553	£ 64,503

In previous years the potential liability was shown as a creditor. The repayable amount is now disclosed separately reflecting the understanding of the contingent nature of the corresponding debtor.

The Grant from the States of Guernsey is paid in accordance with section 8 of The Public Trustee (Bailiwick of Guernsey) Law, 2002. Any amounts paid by the States of Guernsey to cover expenditure that are subsequently recouped from the structures within the responsibility of the Public Trustee become repayable to States of Guernsey. The potential liability due to the States of Guernsey represents the debts the Public Trustee expects to be recoverable from those structures.

4. THE PUBLIC TRUSTEE FUND

	2011 £	2010 £
Balance brought forward	612	1,687
Deficit for year	(2,554)	(1,075)
Balance carried forward	£(1,942)	£ 612

APPENDIX 6

STATES ASSEMBLY AND CONSTITUTION COMMITTEE

**RECORD OF MEMBERS' ATTENDANCE AT MEETINGS OF
THE STATES OF DELIBERATION,
THE POLICY COUNCIL, DEPARTMENTS AND COMMITTEES**

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

25th June 2012

Dear Sir

On the 29th October, 2010 the States resolved, inter alia:

1. ...
2. *That departments and committees shall maintain a record of their States Members' attendance at, and absence from meetings and that the reason for absence shall also be recorded.*
3. *That the records referred to in 2 above, together with a record of States Members' attendance at meetings of the States of Deliberation, shall be published from time to time as an appendix to a Billet d'État.*

I should be grateful if you would arrange for this report, in respect of statistics provided by Her Majesty's Greffier, Departments and Committees for the six months ended 30th April 2012, to be published as an appendix to a Billet d'État.

Yours faithfully

M. J. FALLAIZE

Chairman
States Assembly and Constitution Committee

PART I - REPORT BY DEPARTMENT/COMMITTEE

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

POLICY COUNCIL

L. S. Trott	14	9	1			4	
B. M. Flouquet	14	11	1		1	1	
A. H. Adam	14	14					
M. H. Dorey	14	12	1		1		
D. B. Jones	14	14					
G. H. Mahy	14	14					
C. S. McNulty Bauer	14	11			2	1	
M. G. O'Hara	14	14					
C. N. K. Parkinson	14	13	1				
P. R. Sirett	14	14					
C. A. Steere	9	7	2				
R. W. Sillars	5	4					1 conflicted
Alternate Members:							
M. S. Lainé	3	3					
S. J. Ogier	1	1					

COMMERCE AND EMPLOYMENT DEPARTMENT

C. S. McNulty Bauer	14	13			1		
R. W. Sillars	3	2			1		
M. S. Lainé	14	12	2				
M. J. Storey	14	12		1		1	
R. R. Matthews	14	12	1	1			
A. H. Brouard	11	10			1		

CULTURE AND LEISURE DEPARTMENT

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

EDUCATION DEPARTMENT

C. A. Steere	10	9	1				
R. W. Sillars	19	18	1				
A. Spruce	19	15			1	3	
D. de G. De Lisle	19	18				1	
J. M. Tasker	19	18			1		
S. J. Ogier	9	9					

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

ENVIRONMENT DEPARTMENT							
P. R. Sirett	14	14					
J. M. Tasker	14	10	3		1		
J. Honeybill	14	8	4	1		1	
J. M. Le Sauvage	14	14					
B. J. E. Paint	14	13				1	

HEALTH AND SOCIAL SERVICES DEPARTMENT							
A. H. Adam	10	10					
P. L. Gillson	10	10					
M. M. Lowe	10	9				1	
S. L. Langlois	10	10					
M. P. J. Hadley	10	8	1			1	

HOME DEPARTMENT							
G. H. Mahy	14	14					
F. W. Quin	14	12	1			1	
J. M. Tasker	14	14					
M. S. Lainé	14	12		2			
B. N. Kelly	14	10			2		2 unable to travel from Alderney

HOUSING DEPARTMENT							
D. B. Jones	15	13		1		1	
G. Guille	15	13			1	1	
T. J. Stephens	15	15					
G. P. Dudley-Owen	15	15					
S. J. McManus	15	14			1		

PUBLIC SERVICES DEPARTMENT							
B. M. Flouquet	9	8			1		
S. J. Ogier	9	8	1				
T. M. Le Pelley	9	9					
A. Spruce	9	8				1	
J. Kuttelwascher	9	8		1			

SOCIAL SECURITY DEPARTMENT							
M. H. Dorey	23	23					
A. H. Brouard	23	22				1	
S. J. Ogier	23	15	4		2	2	
A. R. Le Lièvre	23	21	1		1		
M. W. Collins	23	23					

TREASURY AND RESOURCES DEPARTMENT							
C. N. K. Parkinson	20	18				2	
A. H. Langlois	20	19	1				
S. L. Langlois	20	19				1	
R. Domaille	20	17				3	
J. Honeybill	20	18				2	

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

LEGISLATION SELECT COMMITTEE

J. A. B. Gollop	5	5					
R. R. Matthews	5	2		3			
L. R. Gallienne	5	2				3	
T. J. Stephens	5	5					
J. Kuttelwascher	5	5					

PUBLIC ACCOUNTS COMMITTEE

L. R. Gallienne	12	11			1		
M. G. G. Garrett	12	11			1		
B. J. E. Paint	12	11				1	
T. J. Stephens	12	9	2		1		
M. J. Storey	12	9	1	2			

PUBLIC SECTOR REMUNERATION COMMITTEE

A. H. Langlois	4	4					
R. W. Sillars	4	4					
S. J. Ogier	4	3					1 unknown
B. J. E. Paint	4	3				1	
T. J. Stephens	4	4					

SCRUTINY COMMITTEE

B. L. Brehaut	10	10					
D. de G. De Lisle	10	8	1		1		
M. J. Fallaize	10	8	2				
M. G. G. Garrett	10	9	1				
J. A. B. Gollop	10	9	1				
M. P. J. Hadley	10	6	1		2	1	
J. Kuttelwascher	10	8	2				
S. J. McManus	10	9	1				
R. R. Matthews	10	8		2			

STATES ASSEMBLY AND CONSTITUTION COMMITTEE

I. F. Rihoy	7	5				2	
M. M. Lowe	7	6				1	
M. J. Fallaize	7	5		1		1	
S. L. Langlois	7	5	1		1		
T. M. Le Pelley	7	6				1	

INHERITANCE LAW REVIEW COMMITTEE

M. M. Lowe	0						
P. R. Sirett	0						
R. W. Sillars	0						

PAROCHIAL ECCLESIASTICAL RATES REVIEW COMMITTEE

T. M. Le Pelley	3	3					
J. A. B. Gollop	3	3					
B. M. Flouquet	3	2	1				
M. M. Lowe	3	1				2	
S. L. Langlois	3	3					

PART II - REPORT BY MEMBER/ELECTORAL DISTRICT**Summary of Attendances at Meetings of the Policy Council, Departments and Committees**

NAME OF MEMBER	TOTAL NUMBER OF MEETINGS	MEMBER PRESENT		MEMBER ABSENT			
		Whole Meeting	Part of Meeting	Indisposed	States business	Personal/ business/ holiday	Other
ST PETER PORT SOUTH							
B. L. Brehaut	10	10					
C. S. McNulty Bauer	28	24			3	1	
J. M. Tasker	47	42	3		2		
R. Domaille	20	17				3	
A. H. Langlois	24	23	1				
J. Kuttelwascher	14	13		1			
ST PETER PORT NORTH							
J. A. B. Gollop	23	22	1				
R. R. Matthews	29	22	1	6			
C. A. Steere	19	16	3				
M. J. Storey	26	21	1	3		1	
J. Honeybill	34	26	4	1		3	
L. R. Gallienne	17	13			1	3	
M. W. Collins	23	23					
ST. SAMPSON							
P. L. Gillson	10	10					
S. J. Maindonald	0						
S. J. Ogier	46	36	5		2	2	1 unknown
I. F. Rihoy	7	5				2	
L. S. Trott	14	9	1			4	
T. J. Stephens	36	33	2		1		
VALE							
M. J. Fallaize	17	13	2	1		1	
G. H. Mahy	28	28					
A. Spruce	28	23			1	4	
M. M. Lowe	20	16				4	
G. Guille	15	13			1	1	
D. B. Jones	29	27		1		1	
A. R. Le Lièvre	23	21	1		1		
CASTEL							
M. H. Dorey	37	35	1		1		
A. H. Adam	24	24					
T. M. Le Pelley	19	18				1	
S. J. McManus	25	23	1		1		
B. J. E. Paint	30	27				3	
B. M. Flouquet	26	21	2		2	1	
M. G. G. Garrett	27	25	1		1		

NAME OF MEMBER	TOTAL NUMBER OF MEETINGS	MEMBER PRESENT		MEMBER ABSENT			
		Whole Meeting	Part of Meeting	Indisposed	States business	Personal/ business/ holiday	Other
WEST							
A. H. Brouard	34	32			1	1	
D. de G. De Lisle	29	26	1		1	1	
M. S. Lainé	31	27	2	2			
S. L. Langlois	40	37	1		1	1	
P. R. Sirett	28	28					
G. P. Dudley-Owen	20	19	1				
SOUTH-EAST							
C. N. K. Parkinson	34	31	1			2	
F. W. Quin	19	17	1			1	
M. G. O’Hara	19	18	1				
R. W. Sillars	31	28	1		1		1 conflicted
J. M. Le Sauvage	14	14					
M. P. J. Hadley	20	14	2		2	2	
ALDERNEY REPRESENTATIVES							
B. N. Kelly	14	10			2		2 unable to travel from Alderney
P. Arditti	0						
TOTAL							
Number of meetings	1,108	980	41	15	25	43	4*
		88%	4%	1%	2%	4%	1%
AVERAGE PER MEMBER							
	24	21	<1	<1	<1	<1	<1

* 2 unable to travel from Alderney
1 conflicted
1 unknown

PART III – REPORT OF ATTENDANCE AND VOTING IN THE STATES OF DELIBERATION

NAME OF MEMBER	TOTAL NUMBER OF DAYS (or part)	DAYS ATTENDED (or part)	TOTAL NUMBER OF RECORDED VOTES	RECORDED VOTES ATTENDED
ST PETER PORT SOUTH				
B. L. Brehaut	18	18	64	64
C. S. McNulty Bauer	18	18	64	61
J. M. Tasker	18	18	64	61
R. Domaille	18	12	64	39
A. H. Langlois	18	18	64	63
J. Kuttelwascher	18	18	64	64
ST PETER PORT NORTH				
J. A. B. Gollop	18	18	64	64
R. R. Matthews	18	17	64	51
C. A. Steere	18	14	64	36
M. J. Storey	18	18	64	63
J. Honeybill	18	18	64	57
L. R. Gallienne	18	18	64	61
M. W. Collins	18	18	64	64
ST SAMPSON				
P. L. Gillson	18	18	64	64
S. J. Maindonald	18	18	64	63
S. J. Ogier	18	18	64	64
I. F. Rihoy	18	15	64	53
L. S. Trott	18	18	64	63
T. J. Stephens	18	18	64	62
VALE				
M. J. Fallaize	18	18	64	64
G. H. Mahy	18	18	64	64
A. Spruce	18	18	64	64
M. M. Lowe	18	18	64	63
G. Guille	18	17	64	57
D. B. Jones	18	18	64	63
A. R. Le Lièvre	18	17	64	62
CASTEL				
M. H. Dorey	18	18	64	64
A. H. Adam	18	18	64	64
T. M. Le Pelley	18	18	64	64
S. J. McManus	18	18	64	64
B. J. E. Paint	18	18	64	64
B. M. Flouquet	18	17	64	61
M. G. G. Garrett	18	18	64	64

NAME OF MEMBER	TOTAL NUMBER OF DAYS (or part)	DAYS ATTENDED (or part)	TOTAL NUMBER OF RECORDED VOTES	RECORDED VOTES ATTENDED
WEST				
A. H. Brouard	18	18	64	64
D. de G. De Lisle	18	18	64	64
M. S. Lainé	18	14	64	50
S. L. Langlois	18	18	64	62
P. R. Sirett	18	18	64	63
G. P. Dudley-Owen	18	18	64	63
SOUTH-EAST				
C. N. K. Parkinson	18	18	64	59
F. W. Quin	18	18	64	64
M. G. O'Hara	18	18	64	64
R. W. Sillars	18	18	64	63
J. M. Le Sauvage	18	18	64	64
M. P. J. Hadley	18	15	64	38
ALDERNEY REPRESENTATIVES				
B. N. Kelly	16	15	55	46
P. Arditti	13	11	32	26
W. Walden	2	2	9	4
G. Sargent	5	4	32	15

Note:

The only inference which can be drawn from the attendance statistics in this part of the report is that a Member was present for the roll call or was subsequently *relévé(e)*.

Some Members recorded as absent will have been absent for reasons such as illness.

The details of all recorded votes can be found on the States' website –
<http://www.gov.gg/article/80939/States-Members-Voting-Records>