



**XXIV
2013**

BILLET D'ÉTAT

WEDNESDAY 11th DECEMBER 2013

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BILLET D'ÉTAT

TO THE MEMBERS OF THE STATES OF THE ISLAND OF GUERNSEY

I hereby give notice that a Meeting of the States of Deliberation will be held at **THE ROYAL COURT HOUSE**, on **WEDNESDAY**, the **11th DECEMBER, 2013** at **9.30 a.m.**, 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

1st November 2013

PROJET DE LOI

entitled

THE LIMITED LIABILITY PARTNERSHIPS (GUERNSEY) LAW, 2013

The States are asked to decide:-

I.- Whether they are of the opinion to approve the draft *Projet de Loi* entitled “The Limited Liability Partnerships (Guernsey) Law, 2013”, and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

EXPLANATORY MEMORANDUM

This *Projet de Loi* enables the formation of limited liability partnerships ("LLPs") in Guernsey, and gives effect to the recommendations in two States Reports. The original States Report was approved by the States in April 2009; a supplementary Report, addressing several issues which had arisen in the course of the drafting process, was approved by the States on 30th May, 2013.

In addition to the formation of LLPs, the *Projet* provides for the conversion of partnerships to LLPs, the registration of an overseas LLP as a Guernsey LLP, and the transfer of a Guernsey LLP to overseas. It also creates a power for the States by Ordinance to provide in the future for, *inter alia*, the conversion of other bodies into LLPs, and conversely, LLPs into other bodies; and for the amalgamation of LLPs. In provisions closely modelled on the Companies (Guernsey) Law, 2008, it also creates a Register of LLPs and the office of Registrar of LLPs, and provides for the winding up and dissolution of LLPs and their striking off the Register. Its other provisions – which are broadly consistent with equivalent provisions in other Guernsey commercial legislation - include the creation of several criminal offences, and a civil penalties regime.

In addition to the original consultation on the introduction of LLPs in 2008, drafts of the legislation have been the subject of two more recent rounds of consultation with local industry. The Guernsey Financial Services Commission has also been consulted throughout the drafting process.

PROJET DE LOI

entitled

THE LOI RELATIVE AUX DOUITS (AMENDMENT) LAW, 2013

The States are asked to decide:-

II.- Whether they are of the opinion to approve the draft *Projet de Loi* entitled “The Loi relative aux Douits (Amendment) Law, 2013”, and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

EXPLANATORY MEMORANDUM

This *Projet de Loi* gives effect to the recommendations relating to the Law entitled "Loi relative aux Douits" of 1936 ("**the Law**") contained in the report of the Working Group on Parochial Legislation. The conclusions and recommendations of the Working Group were endorsed by the Policy Council in a States Report which was approved by the States on 30th June 2010.

The amendments made by the *Projet* provide for defaulters under the Law to be dealt with by way of civil penalties rather than criminal sanction, for appeals to be made to the Appeals Tribunal established under the Parochial Administration Ordinance, 2013 and create an offence of impeding parish officials and others in the execution of their duty under the Law. It also amends a provision in the Law providing for the "Central Committee" (the Public Services Department) to execute work on watercourses in certain circumstances for the purpose of making it consistent with modern standards, including the introduction of human rights safeguards. The legislation has been the subject of consultation with the Parishes.

THE PAROCHIAL ADMINISTRATION ORDINANCE, 2013

The States are asked to decide:-

III.- Whether they are of the opinion to approve the draft Ordinance entitled “The Parochial Administration Ordinance, 2013”, and to direct that the same shall have effect as an Ordinance of the States.

EXPLANATORY MEMORANDUM

This Ordinance gives effect to the majority of remaining legislative amendments recommended in the report of the Working Group on Parochial Legislation. The conclusions and recommendations of the Working Group were endorsed by the Policy Council in a States Report which was approved by the States on 30th June 2010.

The background to the establishment of the Working Group is set out in paragraphs 4 to 11 of the Working Group's Report, which is appended to the States Report. It is explained therein that its genesis was a letter from Her Majesty's Procureur to the Advisory and Finance Committee sent in August 2003 in which the Procureur stated that legislation should be enacted clarifying and defining the functions and powers of the Constables and Douzaines; and that to facilitate the preparation of that legislation a Working Group should be established for the purpose of identifying those functions and powers, and determining whether each should be retained by the Parishes, transferred to the States, or abandoned. In its detailed Report the Working Group also recommended the introduction of civil penalties in place of certain criminal sanctions, the creation of revised obligations relating to the maintenance and auditing of Parish accounting records and the establishment of a Parochial Appeals Tribunal, recommendations which are implemented in the Ordinance.

The legislation has been the subject of extensive consultation with the Parishes.

**THE MEDICINES (HUMAN AND VETERINARY) (BAILIWICK OF
GUERNSEY) LAW, 2008 (COMMENCEMENT AND AMENDMENT)
ORDINANCE, 2013**

The States are asked to decide:-

IV.- Whether they are of the opinion to approve the draft Ordinance entitled "The Medicines (Human and Veterinary) (Bailiwick of Guernsey) Law, 2008 (Commencement and Amendment) Ordinance, 2013", and to direct that the same shall have effect as an Ordinance of the States.

EXPLANATORY MEMORANDUM

This Ordinance brings into force Part IV of the Medicines (Human and Veterinary) (Bailiwick of Guernsey) Law, 2008 ("the Law") which provides for the registration of a body corporate or any other person who carries on the business of a retail pharmacy.

The Ordinance also amends the Law to allow only pharmacists who have held UK-registration for 3 years or more to carry on a retail pharmacy business, be a superintendent pharmacist for a body corporate carrying on a pharmacy business, or have personal supervision of a retail pharmacy. An exception is made for pharmacists providing temporary locum cover for a principal pharmacist.

Further amendments to the Law made by the Ordinance clarify the powers of the Health and Social Services Department ("HSSD") to take regulatory action in relation to registration or disqualification, in the event of misconduct or offending by officers or employees of body corporate and superintendent pharmacists and others involved in a retail pharmacy business. Finally, the Ordinance clarifies procedures and grounds for appeal against regulatory decisions of HSSD.

The HSSD Minister will address the delay in commencement of this Ordinance (the States Resolution specified a commencement date of 1st June, 2013).

**THE HEALTH SERVICE (SPECIALIST MEDICAL BENEFIT)
(AMENDMENT) ORDINANCE, 2013**

The States are asked to decide:-

V.- Whether they are of the opinion to approve the draft Ordinance entitled “The Health Service (Specialist Medical Benefit) (Amendment) Ordinance, 2013”, and to direct that the same shall have effect as an Ordinance of the States.

EXPLANATORY MEMORANDUM

This Ordinance amends the Health Service (Specialist Medical Benefit) Ordinance, 1995 and modifies the Health Service (Benefit) (Guernsey) Law, 1990 ("the Law") in order to enable consultations, treatments, procedures and ancillary entitlements under the Law, to be provided by visiting medical specialists approved by the Social Security Department for the purpose of the Law, as specialist medical benefit.

**THE CHIEF ACCOUNTANT (TRANSFER OF FUNCTIONS) (GUERNSEY)
ORDINANCE, 2013**

The States are asked to decide:-

VI.- Whether they are of the opinion to approve the draft Ordinance entitled “The Chief Accountant (Transfer of Functions) (Guernsey) (Ordinance, 2013”, and to direct that the same shall have effect as an Ordinance of the States.

EXPLANATORY MEMORANDUM

This Ordinance, made under the Public Functions (Transfer and Performance) (Bailiwick of Guernsey) Law, 1991, substitutes any reference in an enactment to the office of "Chief Accountant" with a reference to "States Treasurer".

ELIZABETH COLLEGE BOARD OF DIRECTORS

NEW MEMBER

The States are asked:-

VII.- To elect a member of the Elizabeth College Board of Directors to fill the vacancy which will arise on 6th January, 2014 by reason of the expiration of the term of office of Ms Merise Wheatley, who is not eligible for re-election.

[N.B Each year the States elect a Member of the Elizabeth College Board of Directors, who does not need to be a sitting Member of the States, to serve a six year term. The College Statutes include a provision at Statute 13 that any person having served in the office of Director shall not be qualified for re-appointment until after the expiration of twelve months from the time of his going out of office.]

POLICY COUNCIL

SUCCESSION TO THE CROWN BILL

EXECUTIVE SUMMARY

1. At the Commonwealth Heads of Government Meeting held in Perth on 28 October 2011 it was announced that, with the agreement of the other Commonwealth Realms of which Her Majesty is also Head of State, the United Kingdom would be amending the rules of Royal succession to the Crown.
2. In May 2013, the Crown Succession Act 2013 was given Royal Assent. The Act gives effect to the following changes:
 - It ends the system of male preference primogeniture under which a younger son displaces an elder daughter in the line of succession.
 - It removes the statutory provisions under which anyone who marries a Roman Catholic loses their place in the line of succession.
 - It repeals the Royal Marriages Act 1772, which (with some exceptions) makes void the marriage of any of the descendants of George II who fail to obtain the Sovereign's permission prior to their marriage.
3. In respect of the Channel Islands, the rules of Royal succession follow those which apply to succession to the Crown under the law of the United Kingdom, largely as enacted by Parliament, and have effect on the Islands by necessary implication. Given the enactment of the Crown Succession Act 2013 (which does not apply to the Islands), it is considered expedient to confirm and entrench the established constitutional principle by way of legislation and it is proposed that an appropriate *Projet de Loi* be considered by the States.

BACKGROUND

4. The UK Prime Minister announced at the Commonwealth Heads of Government Meeting in Perth on 28 October 2011 that, with the agreement of the fifteen other Commonwealth Realms of which Her Majesty is also Head of State, the United Kingdom would change the rules of royal succession. The UK Prime Minister said:
 - a. *“Firstly, we will end the male primogeniture rule, so that in future the order of succession should be determined simply by order of birth...”*
 - b. *“Second, we have agreed to scrap the rule which says that no-one who marries a Roman Catholic can become monarch.”*
5. The third element of the Crown Succession Act 2013, on consent to royal marriages, was not mentioned in the Commonwealth Heads of Government Meeting in Perth but had been referred to the UK Government separately. The Royal Marriages Act 1772 probably applies to several hundred people, many of whom will be unaware of the Act or its impact on the validity of their marriages. The Royal Marriages Act 1772 is replaced with a provision requiring the consent of the Sovereign to the marriage of any of the six people nearest in line to the Crown, rather than anyone in the line of succession.

6. The Commonwealth Realms agreed to work together to bring forward the necessary measures and enable them to be effected simultaneously. The Government of New Zealand coordinated the interaction between all the sixteen Commonwealth Realms. The UK Government has also consulted in detail with the Crown Dependencies.
7. It was agreed that the United Kingdom would be the first to draft legislation of the Commonwealth Realms. The subsequent Bill had its first reading in UK Parliament on 13 December 2012. The Act was given Royal Assent on 25 April 2013. The Act amends certain historic UK Acts such as the Bill of Rights 1689 and Act of Settlement 1700, which define the rules of Royal succession.

EFFECT ON GUERNSEY

8. The Law Officers of the Crown in Guernsey have advised that the rules of Royal succession which apply in relation to succession to the Crown under the law of the United Kingdom, as defined by the UK Parliament, apply in relation to succession to the Crown in right of Guernsey to the Bailiwick by necessary implication. When a new Monarch accedes to the throne a proclamation is made by the Privy Council, this is then registered in the Royal Court. This process will still be followed.
9. The principle that it is for the UK Parliament to define rules of succession is recognised in the report of the Royal Commission on the Constitution in 1973 (the Kilbrandon Report) and in evidence submitted by the States of Guernsey to that Commission. There has been no change in the relationship with the Crown to suggest this observation should be revisited.
10. The explanatory notes to the Crown Succession Act 2013 expressly state that, “The Act has no provision on extent but it will extend to the Crown Dependencies and British Overseas Territories by necessary implication”.
11. Having considered these matters the Policy Council has concluded that because Her Majesty is the Sovereign in right of the Channel Islands there would be some benefit in expressly stating that under Guernsey's domestic law the rules of Royal succession that apply are those that apply under the law of the United Kingdom. Such legislation would not offend any established constitutional principles; however having such a constitutional principle expressly defined in domestic law would provide further clarity in respect of the relationship with the Crown and enhance the Island's identity.

CONSULTATION

12. The Office of the Lieutenant Governor, the Bailiff and the Law Officers have been consulted and have not raised any objection to the prospect of legislating in this manner.
13. The States of Alderney and Chief Pleas of Sark both agree to the proposal of legislating to provide expressly that the rules of succession to the Crown in right of both Alderney and Sark respectively shall be those which apply to succession to the Crown under the law of the United Kingdom. Both Alderney and Sark have agreed that separate Projets de Loi should be laid before their respective legislatures for approval in a form and

manner that ensures that the rules governing succession to the Crown are consistent across the Bailiwick.

14. The UK Government has also been consulted on this proposal and has agreed that no constitutional change will result in the relationship between Guernsey and the Crown, and is content with this approach, provided that it is adopted by all of the Channel Islands as a whole.
15. The States of Jersey have adopted an identical approach and agreed the “Draft Succession to the Crown (Jersey) Law 201-” in relation to this matter on 16 July 2013.

PRINCIPLES OF GOOD GOVERNANCE

16. Implementing Guernsey’s own legislation complies with the six core principles of Good Governance in particular by clarifying the functions and the role of the UK Parliament in defining rules of Royal succession.

FINANCIAL, LEGAL AND RESOURCE IMPLICATIONS

17. There are no legal, financial or resource implications as a result of these proposals. The proposed Law will define the constitutional position rather than making any constitutional change. This means that when the Crown Succession Act 2013 first comes to affect the succession in the UK the amended rules will be in place in respect of Guernsey.

RECOMMENDATION

18. The Policy Council recommends that the States of Deliberation resolve to direct the preparation of legislation expressly providing for the rules governing succession to the Crown in respect of Guernsey be determined in accordance with the law of the United Kingdom relating to succession to the Crown.

P A Harwood
Chief Minister

14th October 2013

J P Le Tocq
Deputy Chief Minister

G A St Pier
R Domaille
D B Jones
R W Sillars
P A Luxon

A H Langlois
K A Stewart
M H Dorey
M G O'Hara

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

The States are asked to decide:-

VIII.- Whether, after consideration of the Report dated 14th October, 2013, of the Policy Council, they are of the opinion to direct the preparation of legislation expressly providing for the rules governing succession to the Crown in respect of Guernsey to be determined in accordance with the law of the United Kingdom relating to succession to the Crown.

TREASURY AND RESOURCES DEPARTMENT

MISCELLANEOUS AMENDMENTS TO THE INCOME TAX LAW

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

23rd September 2013

Dear Sir

1. Executive Summary

1.1. This Report proposes a number of amendments to the Income Tax (Guernsey) Law, 1975, as amended (“the Income Tax Law”) as set out below:

1.1.1 When the Director of Income Tax (“the Director”) receives a request from another jurisdiction for assistance under an international tax agreement, which necessitates the Director issuing a Notice to a person in Guernsey to produce information, he is required to name the taxpayer whose affairs are under enquiry in the other jurisdiction in the Notice, if the taxpayer’s name is known to him. It is proposed that the Income Tax Law be revised to provide a process whereby, with the concurrence of at least one Member of the Guernsey Tax Tribunal, the Director may be authorised to issue a Notice which does not name the taxpayer concerned if it appears appropriate to the Director to proceed in this way, for example for reasons of confidentiality.

The Department has consulted with the Guernsey Tax Tribunal, which has confirmed that it is content with the obligations which will be placed upon the Tribunal under this proposal.

1.1.2. To protect the position of domestic pension schemes in light of developments in UK legislation since December 2011, it is proposed, in line with the Minister’s Statement dated 27 June 2012, to make benefits paid from occupational pension schemes approved under section 150 of the Income Tax Law taxable, irrespective of whether or not the recipient has ever been resident in, or worked in, Guernsey.

- 1.1.3. To amend section 71 of the Income Tax Law so that returns of persons lodging in local properties are required in circumstances where they would be deemed tax resident in a year, i.e. individuals who are accommodated for a period or periods amounting to 91 days or more rather than 182 days, as at present.
- 1.1.4. The Income Tax Law provides for late payment surcharges to be imposed automatically in respect of the late payment of tax charged in an assessment or where additional tax arises following late submission of a fully completed return. An amendment is proposed to clarify that a return will be considered late if it is not submitted by 15 January following the end of the year in which a notice has been issued to file a return. This follows a change to the process by which the Income Tax Office notifies taxpayers of the requirement to file a return.

The Department also recommends that the Law is amended to enable the Director, even if the return has not been submitted late, to impose surcharges from the original due date in circumstances where, in relation to an appeal against an interim assessment, the Director considers a request for a suspension of tax was excessive and (for example) not made in good faith, made negligently, or made without proper regard to the amount likely to be payable.

- 1.1.5. At present, where someone fails to submit a tax return when required to do so, the Director may either impose a financial penalty or submit the matter for prosecution to encourage compliance with the Income Tax Law. An amendment to the Income Tax Law is proposed to enable the Director to request that a person be prosecuted if they have failed to submit a tax return, even if a financial penalty has already been imposed for that failure by the Director under the Income Tax Law.
- 1.1.6. As set out in the Sixth Schedule to the Income Tax Law, any income derived from an exempt body (essentially, a collective investment scheme or fund or a related company) is “qualifying income”, and as such is income subject to the tax cap of £110,000. The intention of this provision was that it should relate to investment income received by an investor in a collective investment scheme or fund. It could currently apply also to income from offices or employments held or exercised in Guernsey (which, if paid by any other body, would be “non qualifying income” subject to the tax cap of £220,000). This was unintended. It is, therefore, proposed that the Sixth Schedule is amended to correct this anomaly to ensure that income derived from offices or employments held or exercised in Guernsey is “non qualifying income” when paid by an exempt body.

- 1.1.7. Following the repeal of the deemed distribution provisions and extension of the company intermediate tax rate, effective from 1 January 2013, it is proposed to make some amendments to the application of the tax cap in relation to distributions of profits from a company and income derived from Guernsey land and property, to ensure that beneficial members of companies are not incentivised to “roll up” profits over a number of years with a view to taking a single distribution to take advantage of the tax cap applicable to one year, with retrospect to the date of the Minister’s Statement on 24 September 2013.
- 1.1.8. That legislation is drafted to permit the Director to request, from financial institutions carrying on banking business (as defined in the Fourth Schedule of the Income Tax Law), information regarding interest paid to Guernsey resident individuals in respect of bank and savings accounts, and interest received from Guernsey resident individuals in respect of mortgage accounts, on an annual basis.
- 1.2. This report also proposes that the Income Tax (Tax Relief on Interest Payments) (Guernsey) Ordinance, 2007 (“the Interest Relief Ordinance”) is amended to clarify that a deduction in respect of the amount of interest paid on money borrowed in respect of a principal private residence shall only be allowed where the lender is an individual resident in Guernsey or a company deriving income from banking business (as defined in the Fourth Schedule).
- 1.3. Finally, it is proposed that item 1, Resolution 2(i) of Billet VI of 1999 is rescinded, as subsequent amendments made to the Income Tax Law, in order to meet international standards, have superseded the need to implement this States Resolution.

2. Report

- 2.1. Necessity to name the taxpayer in a Notice requiring production of information
 - 2.1.1 Under section 75B of the Income Tax Law, the Director is given the power to ask one person to provide information that he holds about another person, if he believes it is necessary or desirable to do so for the purposes of performing his functions. This includes situations where the Director is enforcing the domestic provisions of the Income Tax Law, as well as where he is responding to a request made by another jurisdiction under an agreement for the exchange of tax information with another country.
 - 2.1.2 Under the provisions of section 75B(8) of the Income Tax Law, any Notice that is issued by the Director for this purpose must name the taxpayer (although there are exceptions, such as when the identity of the taxpayer is not known to the Director, or the request relates to a class of taxpayers whose individual identities are not known to him).

- 2.1.3 In practice, based on the experience to date, the majority of requests received under Tax Information Exchange Agreements will name the taxpayer. In domestic tax compliance cases, the name of the person under enquiry will also generally be known (although there may be exceptions). It is a relatively rare occurrence, therefore, that the exceptions will apply to the general rule that the taxpayer should be named.
- 2.1.4. In many cases where a third party is asked to provide information about another person, whether for domestic tax purposes or in relation to a request under an agreement with another country, there will be a necessity for the Director to name the taxpayer simply because the information being requested relates directly to that person (and if the taxpayer was not named it would be impossible for the person being requested to provide the information to comply with the Notice).

An example could be where information is required concerning a bank account held in the taxpayer's own name.

- 2.1.5. There are some situations, however, where it could be envisaged that there is no need to identify the taxpayer himself in a Notice if the information being sought relates to a third party, and to do so may raise questions of a breach of confidentiality.

By way of illustration, an individual's tax affairs may be under examination in another country. That country has identified that the individual has been given use of assets belonging to a company for no cost, or at a cost less than the normal market value (such as use of a property, a boat, an aircraft, etc). The tax authorities in the jurisdiction where that taxpayer lives may have ascertained that those assets belong to a company registered in Guernsey and they have received no co-operation from the taxpayer in their enquiries. They have no alternative, therefore, but to seek certain information, from Guernsey, relating to the company, in order to determine whether a tax liability may arise on the individual concerned from the use of those assets (for example, under a Tax Information Exchange Agreement with Guernsey).

- 2.1.6. Whilst, in its request to Guernsey, the tax authorities of the other jurisdiction would provide the name of the taxpayer under enquiry, the question then arises whether it is necessary to include the name of the taxpayer when the Director issues a Notice to the person in Guernsey who is believed to be in possession of, or able to obtain, the information requested. The concern here is a matter of confidentiality. By naming the taxpayer in the Notice, the Director is, in effect, telling the person in Guernsey that the taxpayer's tax affairs are under investigation by the tax authorities in his home jurisdiction. The third party in Guernsey being asked to provide the information may, in any event, conclude that that is the case simply by having received a Notice to produce information. That

is different, however, from the Director overtly advising him that this is the case.

- 2.1.7. Guernsey is a Member of the Global Forum on Transparency and Exchange of Information for Tax Purposes (“Global Forum”) and, as a consequence, Guernsey has been subject to the Global Forum Peer Review process under which Guernsey’s legal and regulatory framework and implementation of the international standards on transparency and exchange of information for tax purposes are examined by a group of expert Assessors.

This process consists of two phases:

- Phase 1 examines the legal and regulatory framework (this was conducted in 2010); and
- Phase 2 examines the implementation of the standards in practice (this took place in 2012).

Guernsey’s Report has recently been adopted by the Global Forum, and of the essential elements of the international standards evaluated, Guernsey was found to have all of them in place. The assessment team did make some recommendations, however, one of which was that:

“The systematic disclosure to third parties of details that are not necessary for gathering the requested information is not in accordance with the principle that information contained in an [exchange of information] request should be kept confidential.

Guernsey should not disclose to third parties information that is not needed to obtain the information requested”.

- 2.1.8. Under the terms of the Peer Review process, Guernsey is expected to provide a report to the Global Forum on progress that it has made in relation to recommendations contained in its Report, within twelve months (that is, by April 2014).
- 2.1.9. The Director is content that in no case, to date, have the requirements under section 75B(8), that the taxpayer be named in a Notice to a third party, resulted in a breach of confidentiality. During the Peer Review process, none of the other Members of the Global Forum raised a concern that this was believed to have happened.
- 2.1.10. Nevertheless, it could be envisaged that circumstances may arise where, taking all of the facts of a particular case into account, it may be unnecessary for the Director to identify the taxpayer whose affairs are under enquiry when issuing a Notice to a third party. Conversely, where

that is not the case, it remains a valid expectation that the Director will identify the taxpayer. It should be recognised that, very often, when a person in Guernsey receives a Notice from the Director, requiring him to provide information, under section 75B, in relation to another person, the provision of that information would, ordinarily, be a breach of client or fiduciary confidentiality obligations. Section 75M of the Income Tax Law provides that a requirement imposed under, inter alia, section 75B has effect, notwithstanding any such obligations as to confidentiality, and such obligations are not contravened by the making of a disclosure pursuant to such a requirement. It is reasonable, however, to expect a third party to take whatever precautions may be appropriate to ensure that the information they are disclosing, in accordance with a Notice under section 75B, is being properly disclosed. For example, it may be that, in some cases, knowing the identity of the person under investigation may reveal the fact that the tax authorities in the other jurisdiction have made a mistake in the facts that they provided to justify their request for assistance from the Director which, if rectified, would mean that the information was no longer required to be disclosed. In such cases, it is perfectly proper for the name of the taxpayer to be disclosed.

- 2.1.11. Conversely, it may in some instances be apparent, based on the facts of the particular case, that the disclosure of the taxpayer's name is unnecessary and, if it is revealed, may breach that person's expectation of privacy, as envisaged in the recommendation made in Guernsey's Peer Review Report.
- 2.1.12. The Department is satisfied, therefore, that there are, and will continue to be, circumstances where it is appropriate for the provisions of section 75B(8) to apply, and where the taxpayer's name should be disclosed in a Notice issued to a third party.
- 2.1.13. The Department proposes, therefore, that the Income Tax Law should be revised to provide a mechanism whereby, if the Director is satisfied that, notwithstanding that he is aware of the name of the taxpayer, it would be appropriate, in the circumstances of any particular case, not to name that taxpayer in a Notice under section 75B, and with the consent of at least one Member of the Guernsey Tax Tribunal, the Director's obligation to name the taxpayer may be lifted.
- 2.1.14. In 2008, the States considered a recommendation, from the Department, following representations made by interested parties, that, prior to the Director executing a request for information, received from another country under a Tax Information Exchange Agreement, a person who was a Member of the Guernsey Tax Tribunal should review the request in order to confirm that it was properly formulated in accordance with the provisions of the relevant agreement.

When the first phase of Guernsey's Peer Review was conducted, that procedure was criticised on the basis that it could lead to unreasonable delays in providing information to other jurisdictions. As a consequence, during 2011, the Department proposed, and the States agreed, that the relevant part of the Income Tax Law could be repealed (indeed, the timing of the repeal was such that it took place before the provision ever took effect).

2.1.15. It may appear that the proposal contained in this Report is similar to that which the States agreed in 2008 and subsequently repealed in 2011. That mechanism would have applied to all requests received by the Director and may, therefore, have placed such a burden on the Guernsey Tax Tribunal that it is conceivable that timeous exchange of information could have been affected. The present proposal can be distinguished, however, as it would only apply in circumstances where the Director considered it appropriate to seek permission from a Member of the Guernsey Tax Tribunal for the provisions of section 75B(8) to be disapplied. Any potential delay in providing information to a third jurisdiction will be limited, therefore. In practical terms it should, in any event, be possible to arrange with the Guernsey Tax Tribunal for such matters to be expedited so that there is no substantive delay in the information exchange process.

2.1.16. In addition, there will need to be some minor ancillary legislative provision dealing with the functions and status of the single member of the Tribunal.

2.1.17. The Tribunal has been consulted and has agreed to the proposal.

2.2 Occupational Pension Schemes ("section 150 schemes")

2.2.1 Any pension benefits paid out of section 150 schemes (in essence, pension schemes for employees) are treated as income arising or accruing from a source in Guernsey and thus are taxable in Guernsey. However, section 153(3) of the Income Tax Law provides that if all services in respect of which the pension or annuity is payable were performed wholly outside Guernsey, that pension or annuity would not be deemed Guernsey source income and hence, under the provisions of section 153(4), could be paid gross to a non-resident, with no liability to Guernsey tax.

2.2.2 Because the effect of the provisions outlined at paragraph 2.2.1 above is to, in effect, apply different tax treatment dependent upon whether the recipient was resident or non-resident in Guernsey, on 6 April 2012, Her Majesty's Revenue and Customs ("HMRC") removed all Guernsey occupational schemes from the Qualifying Recognised Overseas Pension Schemes ("QROPS") list which is published on their website. It is this list which pension scheme administrators in the UK use to establish whether or not a transfer may be made to an overseas pension scheme; removal of

Guernsey schemes from the list meant that, in effect, no QROPS transfers would be made to Guernsey schemes. Following discussions at officer level, HMRC agreed to re-list those section 150 schemes that explicitly, in their rules, restricted membership to residents, as qualifying to be a QROPS. Since then, HMRC has been willing to reinstate other schemes on the QROPS list if they confirm to HMRC that the purpose of the scheme is to provide benefits for employees of the relevant employer, and the relevant employer only employs people in Guernsey (the consequence of which is that all pensions arising will be taxable in Guernsey, irrespective of where the recipient may live when the pension is paid).

2.2.3 As noted above, the effect of de-listing for QROPS purposes is that a Guernsey scheme may encounter difficulties in receiving pension transfers from the UK (such as when a new employee moves to the island from the UK). Therefore, to address these concerns, it is proposed that the provisions of sections 153(3) and (4) of the Income Tax Law are amended, so that non-residents would be subject to Guernsey tax on their pension income irrespective of whether they have performed services in Guernsey or not. It should be noted, however, that for UK residents receiving pension benefits from Guernsey, there would not be a Guernsey tax liability as the UK-Guernsey Double Taxation Arrangement cedes taxing rights on such pensions to the UK, and such an Arrangement overrides domestic tax law.

2.2.4 It is not uncommon for employers who operate in both Guernsey and Jersey, and in some instances the Isle of Man also, to establish one pension scheme, based in one of the Islands, to provide benefits for employees in all the Islands where they operate. Clearly, the effect of the proposal outlined in the previous paragraph would mean that, if a pension scheme was based in Guernsey, tax would need to be deducted from participating employees who did not live in, and had never worked in, Guernsey. Guernsey has signed new Double Taxation Arrangements with Jersey and the Isle of Man, ratified by the States on 29 May 2013, which address the issue by ceding taxing rights to either Jersey or the Isle of Man where all services in respect of which the pension is paid to a resident of one of those islands were performed outside of Guernsey. As a result there would not be a Guernsey income tax liability in these circumstances.

2.3. Returns as to lodgers

2.3.1. In 2005, when the States approved amendments to the sections of the Income Tax Law that define residence for tax purposes, section 71 was not updated to reflect this change. It is proposed that section 71 is now updated so that where a person is required to make a return concerning lodgers, the present requirement (that this should be for persons accommodated for a period or periods of more than 182 days) should be revised to a period or periods of more than 91 days.

2.4. Late payment surcharges

- 2.4.1. In May 2012, the States approved proposals to allow the Director to notify taxpayers of the requirement to file a tax return by way of a notice placed in “La Gazette Officielle”, rather than issuing all individual taxpayers with a paper return as a matter of course.
- 2.4.2. The Income Tax Law provides for late payment surcharges to be imposed automatically when tax is not paid by the due date. The same also applies to additional tax payable where a fully completed return is filed after 15 January in the year following the year in which taxpayers were issued with a notice to file a return (which, historically, has been the paper return) or after the expiration of one year after the date of issue of the return, if later.
- 2.4.3. It is proposed that the Income Tax Law is amended to clarify that a return is late if it is not submitted by 15 January following the year in which the notice to file a return is placed in La Gazette Officielle.
- 2.4.4. Upon receipt of an appeal against an interim assessment, provided the appeal proposes a recommended payment on account and the grounds or reason for the appeal, the Director will generally agree to suspend collection of the balance of the tax charged, until the relevant return has been submitted and a final assessment for that year has been issued. At present, if the return is submitted by 15 January in the year following the year in which the notice to file a return was issued, the Director is unable to impose surcharges on any unpaid tax arising from the original due date, even where it becomes apparent that the suspension request was excessive.
- 2.4.5. The Department therefore recommends that the Income Tax Law is amended to enable the Director, even if the return has not been submitted late, to impose surcharges from the original due date in circumstances where, in relation to an appeal against an interim assessment, the Director considers a suspension request was excessive and not made in good faith.
- 2.4.6. This amendment is proposed as a deterrent to ensure that taxpayers, and their advisors, only request a suspension of tax in circumstances where there are reasonable grounds to believe that they will ultimately have a lower liability than has been estimated, rather than requesting a suspension of tax to achieve a cash flow advantage. The Department therefore proposes that:
 - Where it is identified that the amount of tax suspended was excessive, and it is believed that the suspension request (for example) may not have been made in good faith, or was made negligently, or without proper regard to the amount likely to be payable, a notice will be issued to the taxpayer outlining the reasons why the Director intends to

impose surcharges from the original due date, and inviting a response within 30 days.

- If no response is received, the Director will impose surcharges from the original due date.
- If the taxpayer does respond, their comments will be considered fully before the Director imposes surcharges and the Director may decide not to impose surcharges if he accepts the points put forward in mitigation.
- It is proposed that the provisions of section 76(a) of the Law be amended to ensure that any person aggrieved by the application of surcharges, following the issue of a notice as described in subparagraph (a) above, shall be entitled to appeal to the Guernsey Tax Tribunal on the grounds that the imposition of the surcharges was unreasonable taking into account both the reasons stated in the notice and the person's response to the notice, as well as all other relevant facts and circumstances of the case including, without limitation, the amount of the interim assessment and suspension and the amount eventually found to be payable. The current rights of appeal in relation to surcharges would remain and be in addition to the above.

2.5. Prosecution for failure to submit a tax return

- 2.5.1. In September 2011, the States approved proposals that enabled the Director to encourage completion of tax returns by the automatic imposition of a penalty where a tax return has not been submitted by the relevant deadline. There are certain persons, however, for whom the imposition of financial penalties by the Director is insufficient incentive to encourage them to comply with their obligations under the Income Tax Law, and who still persistently fail to submit a return.
- 2.5.2. At present, section 201 of the Income Tax Law states that a prosecution for an offence under that section is instead of any penalty proceedings that might be taken by the Director. Accordingly the Director may only refer a person to HM Procureur, for consideration of a prosecution for failure to submit a return, where financial penalties have not already been imposed by the Director. As the Island's tax revenues are heavily reliant on timeous and accurate reporting of financial information to the Director, it is proposed that the Director should have the ability to refer those who fail to submit a return for prosecution, if the returns are still not submitted following the imposition of a financial penalty, if he considers that the circumstances warrant such action.

- 2.5.3. In practice, based on experience to date, the majority of taxpayers will submit their returns on time and many of those who do not do so will correct that situation following the imposition of a financial penalty, and so it is anticipated that it should be a relatively small number of cases that necessitate a case being put forward for prosecution.

2.6. Income derived from an exempt body and the tax cap

- 2.6.1. The Sixth Schedule to the Income Tax Law sets out the limit on tax payable in respect of “qualifying” and “non-qualifying” income. At present, any income derived from a body which has been granted exempt status by the Income Tax (Exempt Bodies) (Guernsey) Ordinance, 1989, as amended (“the Exempt Bodies Ordinance”) falls within the definition of “qualifying income”, and therefore any tax due is capped at £110,000. The bodies which are exempt are, essentially, collective investment schemes and funds and related companies.
- 2.6.2. If, therefore, an individual were to derive income from an office or employment held or exercised in Guernsey, which was paid by an exempt body, rather than this being deemed “non qualifying income”, as would be the case for other employments carried out in Guernsey (and so subject to the tax cap of £220,000) it would be “qualifying income” and the individual’s tax liability could be capped at £110,000.
- 2.6.3. It was not the Department’s intention that the tax cap of £110,000 should apply to any income derived from an office or employment exercised or held in Guernsey; it is proposed, therefore, that the Sixth Schedule be amended to correct this anomaly.
- 2.6.4. The Department also intends to take this opportunity to update the reference to the Exempt Bodies Ordinance in the Sixth Schedule to the Income Tax Law, in order to remove the reference to categories A, B or C, following the revisions to the Exempt Bodies Ordinance that were approved by the States on 30 May 2012.

2.7. Amendments to the tax cap following the repeal of deemed distributions

- 2.7.1. The tax cap was introduced with the aim of encouraging high net worth individuals to relocate to Guernsey, and thereby contribute to the island’s tax revenues. This policy was based on the principle that the contribution of very wealthy individuals to the public purse often far outstrips the benefit they receive from it and there should be a limit to how much tax they should be expected to contribute.

- 2.7.2. The States also decided, however, when introducing Zero-10, to tax in full income derived from Guernsey's fixed assets, namely its land and property, at 20%. The Department therefore proposes to exclude income from Guernsey land and property from the tax cap, because a reduction in, or repayment of, any part of this tax, by operation of the tax cap, dilutes this principle.
- 2.7.3. It is further proposed that any tax credit attached to a distribution which is derived from income that has been subject to tax at the company intermediate rate, applicable to banks and certain fiduciary businesses (10%), or the company higher rate, applicable to property owning companies and regulated activities of utility companies (20%), is restricted to the amount of the income tax liability of the person claiming the credit and that any excess is not repayable, to again ensure that this principle is not diluted. All other credits (e.g. from tax paid under the ETI scheme) would be set-off before any credit relating to such company distributions is applied.
- 2.7.4. The impact of this is best illustrated by an example of a Guernsey property owning company. Assume the company has assessable income in 2013 of £1,250,000, and therefore a tax liability, at 20%, of £250,000. At present, if the company distributed those profits to a Guernsey resident beneficial member by way of dividend, the individual would be assessable on the £1,250,000 gross and would claim credit for Guernsey tax of £250,000, i.e. no further tax is payable by the individual on that distribution. In addition, as the individual's liability will be restricted to £220,000 under the tax cap, the individual is entitled to a repayment of £30,000. Restricting the repayment of any credit, as proposed above, will ensure that income from Guernsey land and property remains fully subject to tax at 20%.
- 2.7.5. With a tax cap applying to distributions (and, historically, deemed distributions also) from Guernsey companies, it was recognised that Guernsey resident beneficial members may be incentivised not to make distributions from their companies but instead to "roll up" the profits with a view to taking a single distribution to take advantage of the tax cap. Anti-avoidance measures were introduced in 2009 to discourage this behaviour by charging the additional tax that would have been payable by the individual in the years of charge in which the relevant income arose/accrued to the company, from the carrying on of a business in Guernsey, had the income been distributed by the company to the beneficial member in those years of charge.

- 2.7.6. Following the repeal of the deemed distribution provisions, a tax capped individual could now limit their liability by rolling-up the profits of an investment company. This is because an investment company was previously subject to deemed distributions on all of its income and is not treated as carrying on a business, and so is not covered by the existing anti-avoidance provisions. The Department therefore proposes to extend the anti-avoidance provisions that prevent the “roll-up” of profits in a company in order to take advantage of the tax cap, to all classes of income, not just income that arose or accrued to the company from the carrying on of a business in Guernsey.
- 2.7.7. The Minister, Treasury and Resources Department, made a Statement to the Assembly on 24 September 2013, outlining the Department’s intentions in respect of the extension of the anti-avoidance provisions, and this Report seeks approval of the proposals, and authority for preparation of the necessary legislation.

2.8. Domestic Reporting of Interest

- 2.8.1. As part of the ongoing initiative to reduce the burden on taxpayers having to submit annual returns, the Department is seeking to enhance the information the Income Tax Office receives automatically (which is currently restricted to only details of income from employment, occupational pensions, retirement annuities and company distributions).
- 2.8.2. The Director has been investigating the automated reporting by financial institutions, of details of interest received and interest paid by Guernsey residents, to the Director, and the Department is also working closely with the Social Security Department in order to determine the viability of automatically receiving details of the amounts of Guernsey Old Age Pension paid to each taxpayer.
- 2.8.3. It is intended that this information will then be processed directly into the core systems at the Income Tax Office and used to pre-populate assessments. This should enable a large proportion of individuals (approximately 13,000, one quarter of the “employed/pensioner” population) to be relieved of the burden of having to complete annual income tax returns, as the relevant information will already have been obtained from third parties.
- 2.8.4. This information will also be used to validate data submitted in an online return as part of the automatic assessing process (i.e. an assessment is issued, without human intervention, as the information disclosed on the return satisfies certain parameters and is validated to the data held internally). Even where a return filed online cannot be automatically assessed, which may be for a variety of reasons, automatic validation of

parts of the return reduces the number of manual checks that assessing staff have to complete for an online return as compared to a paper return.

- 2.8.5. By way of background, other jurisdictions, such as the Isle of Man and the UK, have long since required their financial institutions to report interest paid to residents annually to the tax authority. In these jurisdictions the information which is obtained is then used as a compliance tool to ensure the tax authorities can effectively identify cases of potential risk of tax evasion as a result of the omission/ misreporting of that source of income. It follows that this enhancement in the information the Income Tax Office will receive will also enable the Director to ensure that the taxpayers who will continue to submit tax returns are correctly reporting bank interest and pension income.
- 2.8.6. Financial institutions in Guernsey already disclose to the Director information on an EU resident individual's savings income (under the bilateral agreements which bring into effect provisions equivalent to the EU Savings Directive), which the Director then transmits to the tax authority in the individual's home EU Member State. This follows the decision of the States, in June 2004, to implement measures equivalent to those contained in the EU Savings Tax Directive, as part of Guernsey's willingness to participate in the development of genuine international standards in relation to transparency and exchange of information in tax matters. As these financial institutions assist in combating tax evasion on a global scale, it is appropriate that they also assist in combating domestic tax evasion.
- 2.8.7. The Department therefore proposes that those financial institutions carrying on banking business in Guernsey (as defined in the Fourth Schedule of the Income Tax Law) are required to provide to the Director information regarding interest paid to Guernsey residents in respect of bank and savings accounts and interest received from Guernsey residents in respect of mortgage accounts on an annual basis. For the avoidance of doubt, reporting will also be required by a Guernsey branch of an overseas bank.
- 2.8.8. This information will be submitted via an electronic return, developed in conjunction with the Association of Guernsey Banks ("AGB"). The AGB has been consulted on these proposals and a working party has been set up, to ensure that the resource burden for the relevant financial institutions is kept to a minimum.
- 2.8.9. To facilitate the automatic processing of this information, it will be necessary to mandate that a person is required to provide a financial institution with their tax identification number ("TIN") for all new accounts set up following the introduction of the relevant legislation and mandatory for financial institutions to communicate the TIN to the

Director when reporting information regarding interest paid and interest received. It will also be necessary to enable the Director to share a person's TIN with the relevant financial institution, if that is the institution's preferred method of collecting its existing customers' TINs. It will be necessary, therefore, for the Director to be empowered to require taxpayers and financial institutions to comply with the above duties in cases of default. These proposals have been discussed with the Guernsey Financial Services Commission which has not raised any objections.

2.9. Tax Relief on Interest Payments for Principal Private Residence

- 2.9.1. The Interest Relief Ordinance currently states that a deduction in respect of interest paid on borrowed money for an individual's principal private residence is only allowable where the lender is "a person resident in Guernsey or a company subject to tax in respect of income of Class 2(2)(a) (income from banking business, as defined in the Fourth Schedule to the Income Tax Law) at the company intermediate rate". This was intended to limit tax relief to interest payments where the lender would be subject to tax at either 10% or 20% on the interest received, in order to protect domestic revenues.
- 2.9.2. From a legal perspective, the term "person" includes a company; however, the Director has interpreted the term "person" in the context of the Interest Relief Ordinance as referring to an "individual", as otherwise there would be no need to also separately refer to a company that derives income from banking business. It is proposed, however, to put it beyond doubt, that the Interest Relief Ordinance be amended to clarify that the lender must be either an individual resident in Guernsey or a company that is subject to tax in respect of income from banking business.

2.10. Rescinding an obsolete Resolution

- 2.10.1. The Department has an outstanding States Resolution to amend section 201 of the Income Tax Law, as set out in Billet VI of 1999 (item 1, resolution 2(i) on page 192), to ensure that the legislation enabling prosecution for false accounting was no longer an "indictable offence". At that time, the amendment was proposed in order to bring Guernsey's legislation into line with other comparable jurisdictions.
- 2.10.2. Section 201 of the Income Tax Law has subsequently been further amended, in order to meet international standards, by the Income Tax (Zero-10)(Guernsey) Law, 2007, rendering the amendment required by this Resolution obsolete. The States are therefore requested to approve the rescinding of this 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 all of the proposals in this Report comply with those principles.

4. Legislation

- 4.1. Following Royal Assent to the Income Tax (Zero 10) (Guernsey) Law, 2007, the Income Tax Law was amended to introduce section 208C, which permits the States to amend the Income Tax Law by Ordinance. This is the process which will be used to give effect to all the amendments proposed in this Report, except for the amendment proposed in 6.9.3.
- 4.2. It is intended that a Projet de Loi be enacted to implement the proposal, contained in paragraph 6.9.3. of this Report, as this proposal requires retrospective legislation. Therefore, when the States approve the Projet, they will be asked to resolve that it should have effect from the date of the Ministerial Statement, that is, the 24th September, 2013, as if it were a Law sanctioned by Her Majesty in Council and registered on the records of the island of Guernsey.
- 4.3. The Law Officers have been consulted about these proposals.

5. Resource Implications

- 5.1. There will be a minimal detrimental impact on staff resources at the Income Tax Office if these proposals are approved.
- 5.2. Whilst a revision of section 75B(8) of the Income Tax Law, as set out in section 2.1., will require the Director to make applications, on occasion, to the Guernsey Tax Tribunal, the resource implications of this are not expected to be significant and can be managed within the existing resources available to the Director.

The Director has consulted with the Guernsey Tax Tribunal, which has confirmed that it does not consider the resource implications in complying with an obligation to act in the capacity proposed in paragraph 2.1.13 of this Report to be significant and can be managed within the existing resources available to the Tribunal.

- 5.3. It is not anticipated that any of the proposals will give rise to any overall significant loss of, or increase to, the revenue of the States, although the amendments proposed to the tax cap, set out in section 2.7., are intended to prevent individuals with significant property portfolios from taking advantage of the tax cap to limit their liability in future, following repeal of the deemed distribution provisions.

- 5.4. It is anticipated that changes required to the income tax systems to enable domestic interest information to be reported, held and processed, as set out in section 2.8, will cost approximately £50,000. With approximately 13,000 individuals expected to be relieved of the burden of having to submit annual income tax returns, it is expected that there will be annual savings of £30,000, comprised of one staff post at £20,000 and a reduction in the overtime budget of £10,000, from the associated costs of scanning and processing those returns. These savings will not be fully achievable until the transition period for obtaining and processing this information has been completed, which it is estimated should be in 2016. The Department will monitor staff levels once the full benefits of this proposal are known, although the immediate priority would be to eliminate the element related to overtime.

It is also expected that the reporting of this information will enable the Income Tax Compliance and Investigation Unit to identify cases of potential high risk of tax evasion in order to prioritise and target their investigations accordingly.

6. Recommendations

The Treasury & Resources Department recommends that the States agree that:

- 6.1. The Income Tax Law should be revised to provide a process whereby, with the concurrence of at least one Member of the Guernsey Tax Tribunal, the Director may be authorised to issue a Notice requiring production of information under section 75B of the Income Tax Law which does not name the taxpayer concerned in cases where it appears to the Director and the single Member that it is unnecessary for the purposes of the performance of the Director's functions, whether in respect of an approved Tax Information Exchange Agreement or otherwise, to name the taxpayer or it is necessary or desirable to omit the name to avoid a potential breach of confidentiality.
- 6.2. Sections 153(3) and (4) of the Income Tax Law are amended to ensure the taxation of pension benefits, irrespective of where the services in respect of which those benefits were paid was performed, as set out at paragraph 2.2.1 above.
- 6.3. Section 71 of the Income Tax Law is amended so that a return as to lodgers is required where an individual has been accommodated for a period or periods amounting to 91 days or more.
- 6.4. Section 199 of the Income Tax Law is amended to ensure that late payment surcharges may be imposed when a return is submitted late, following the giving of notice to file a return rather than requiring the issue of the return itself.
- 6.5. The Income Tax Law is amended to enable the Director to impose surcharges from the original due date in circumstances where the Director considers a suspension request was excessive and was (for example) not made in good faith,

made negligently, or made without proper regard to the amount likely to be payable, even if the return was not submitted late.

- 6.6. Section 201 of the Income Tax Law is amended to enable the prosecution of a person who fails to submit a tax return, notwithstanding that penalty proceedings have been taken under section 190 or section 200 in relation to that contravention.
- 6.7. The Sixth Schedule to the Income Tax Law is amended so that income derived by an individual from an exempt body, in respect of offices or employments held or exercised in Guernsey, is treated as “non qualifying income”.
- 6.8. The reference to categories A, B and C is removed from the Sixth Schedule to the Income Tax Law to reflect the removal of these categories when the Exempt Bodies Ordinance was revised in May 2012.
- 6.9. The Income Tax Law is amended to implement the Department’s proposals in relation to the tax cap as set out in section 2.7 above, namely that:
 - 6.9.1. Income derived from Guernsey land and property is excluded from the tax cap.
 - 6.9.2. The tax credit available to tax capped individuals on a distribution from a company subject to tax at the company intermediate or higher rate is restricted and is not repayable.
 - 6.9.3. Following the repeal of the deemed distribution provisions, the anti-avoidance provisions that prevent the “roll up” of profits in a company in order to take advantage of the tax cap are extended to all sources of income with retrospect to the date of the Minister’s Statement on 24 September 2013.
- 6.10. Legislation is drafted to implement the Department’s proposals in relation to reporting of domestic interest as set out in section 2.8 above, namely that:
 - 6.10.1. Financial institutions carrying on banking business (as defined in the Fourth Schedule of the Income Tax Law) may be required to provide to the Director information regarding interest paid to Guernsey residents in respect of bank and savings accounts and interest received from Guernsey residents in respect of mortgage accounts on an annual basis.
 - 6.10.2. From a date specified by the legislation, and where the Director requires, it becomes mandatory for individuals to provide financial institutions with their TIN (“Tax Information Number”) for all new accounts set up and mandatory for financial institutions to communicate the TIN to the Director when reporting information regarding interest paid and interest received.

6.10.3. The Director shall be empowered to require taxpayers and financial institutions to comply with the above duties in cases of default.

6.10.4. The Director may disclose a person's TIN to their financial institution to facilitate the reporting and processing of this information.

6.11. The Interest Relief Ordinance is amended to clarify that a deduction in respect of the amount of interest paid in respect of money borrowed shall only be allowed where the lender is either an individual resident in Guernsey or a company subject to tax in respect of income from banking business.

6.12. Item 1, resolution 2(i) of Billet VI of 1999 is rescinded.

Yours faithfully

G A St Pier
Minister

J Kuttelwascher (Deputy Minister)
R A Perrot
A Spruce
A H Adam

Mr J Hollis (non States Member)

(NB The Policy Council supports the Report.)

The States are asked to decide:-

IX.- Whether, after consideration of the Report dated 23rd September, 2013, of the Treasury and Resources Department, they are of the opinion:-

1. To agree to the revision of the Income Tax (Guernsey) Law, 1975, to provide a process whereby, with the concurrence of at least one Member of the Guernsey Tax Tribunal, the Director may be authorised to issue a Notice requiring production of information under section 75B of the Income Tax (Guernsey) Law, 1975, which does not name the taxpayer concerned in cases where it appears to the Director and the single Member that it is unnecessary for the purposes of the performance of the Director's functions, whether in respect of an approved Tax Information Exchange Agreement or otherwise, to name the taxpayer or it is necessary or desirable to omit the name to avoid a potential breach of confidentiality.
2. That Sections 153(3) and (4) of the Income Tax (Guernsey) Law, 1975, be amended to ensure the taxation of pension benefits, irrespective of where the services in respect of which those benefits were paid was performed, as set out at paragraph 2.2.1 of that Report.
3. That Section 71 of the Income Tax (Guernsey) Law, 1975, be amended so that a return as to lodgers is required where an individual has been accommodated for a period or periods amounting to 91 days or more.
4. That Section 199 of the Income Tax (Guernsey) Law, 1975, be amended to ensure that late payment surcharges may be imposed when a return is submitted late, following the giving of notice to file a return rather than requiring the issue of the return itself.
5. That the Income Tax (Guernsey) Law, 1975, be amended to enable the Director to impose surcharges from the original due date in circumstances where the Director considers a suspension request was excessive and was (for example) not made in good faith, made negligently, or made without proper regard to the amount likely to be payable, even if the return was not submitted late.
6. That Section 201 of the Income Tax (Guernsey) Law, 1975, be amended to enable the prosecution of a person who fails to submit a tax return, notwithstanding that penalty proceedings have been taken under section 190 or section 200 in relation to that contravention.

7. That the Sixth Schedule to the Income Tax (Guernsey) Law, 1975, be amended so that income derived by an individual from an exempt body, in respect of offices or employments held or exercised in Guernsey, is treated as “non qualifying income”.
8. That the reference to categories A, B and C be removed from the Sixth Schedule to the Income Tax (Guernsey) Law, 1975, to reflect the removal of these categories when the Income Tax (Exempt Bodies) (Guernsey) Ordinance, 1989, was revised in May 2012.
9. That the Income Tax (Guernsey) Law, 1975 be amended to implement the Department’s proposals in relation to the tax cap as set out in section 2.7 of that Report, namely that:
 - Income derived from Guernsey land and property be excluded from the tax cap.
 - The tax credit available to tax capped individuals on a distribution from a company subject to tax at the company intermediate or higher rate be restricted and be not repayable.
 - Following the repeal of the deemed distribution provisions, the anti-avoidance provisions that prevent the “roll up” of profits in a company in order to take advantage of the tax cap be extended to all sources of income with retrospect to the date of the Minister’s Statement on 24 September 2013.
10. To agree that legislation be drafted to implement the Department’s proposals in relation to reporting of domestic interest as set out in section 2.8 of that Report, namely that:
 - financial institutions carrying on banking business (as defined in the Fourth Schedule of the Income Tax (Guernsey) Law, 1975) may be required to provide to the Director information regarding interest paid to Guernsey residents in respect of bank and savings accounts and interest received from Guernsey residents in respect of mortgage accounts on an annual basis.
 - from a date specified by the legislation, and where the Director requires, it becomes mandatory for individuals to provide financial institutions with their TIN (“Tax Information Number”) for all new accounts set up and mandatory for financial institutions to communicate the TIN to the Director when reporting information regarding interest paid and interest received.
 - the Director shall be empowered to require taxpayers and financial institutions to comply with the above duties in cases of default.

- the Director may disclose a person's TIN to their financial institution to facilitate the reporting and processing of this information.
11. That the Income Tax (Tax Relief on Interest Payments) (Guernsey) Ordinance, 2007, be amended to clarify that a deduction in respect of the amount of interest paid in respect of money borrowed shall only be allowed where the lender is either an individual resident in Guernsey or a company subject to tax in respect of income from banking business.
 12. To rescind Item 1, resolution 2(i) of Billet VI of 1999.

COMMERCE AND EMPLOYMENT DEPARTMENT**STRATEGIC DEVELOPMENT FUND – NEW MARKET DEVELOPMENT**

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

17th September 2013

Dear Sir

Executive Summary

1. This report recommends that Guernsey Finance be allocated £900,000 from the Strategic Development Fund to embark on a new markets development program over the next three years with the following key objectives:
 - i) to stimulate and further diversify the economy by developing new markets and revenue streams for the financial services industry;
 - ii) to ultimately support the marketing efforts of and facilitate opportunities for financial services firms on the Island to create additional employment and profits in the financial services industry by increasing the volume of business carried out by the Island's financial services firms;
 - iii) and which in turn should generate additional government revenue by increasing Employee Tax Instalments, and increasing direct taxation derived from profits of the finance industry.
2. The report includes:
 - i) a brief outline of the proposed activities which will be carried out with the additional funding;
 - ii) a business case for the allocation of additional resources to Guernsey Finance for specific projects;
 - iii) an explanation of the overall benefits that Guernsey Finance provides to the Island.

Introduction

3. The work of Guernsey Finance protects and enhances the reputation of the Island's finance industry by creating awareness, opening doors and building confidence in the marketplace. This work takes place in long standing markets where Guernsey Finance's reputation is established and also increasingly in new markets. This change in emphasis is because the level of new business that is attainable from long standing markets is relatively lower than it has been in the past, particularly given present economic conditions in those markets. This reduced level is forecast to continue into the future. Long standing markets, in particular the UK, can no longer be relied on to generate the same levels of new business they have in the past.
4. The poor short to medium term growth prospects for Guernsey's historically most important market present a challenge to the Island's prosperity and the industry as a whole, as the relative and real growth of Guernsey's finance sector is strongly linked to that of the UK financial services sector.
5. In the absence of a sustained economic recovery or the development of new markets, a failure to achieve real growth in the finance industry will result in lower economic output and reduced employment in the sector. Indeed for Guernsey's finance industry to achieve growth in the short to medium term, **there is a fundamental need to support the sector's prospects for success in new markets** in addition to continuing to support develop and work in long standing markets.
6. At this point in time the global marketplace is changing rapidly, with strategically important new markets, particularly the emerging markets, having developed to a level of prosperity where individuals and companies are increasingly looking for the sophisticated financial expertise which Guernsey firms offer. This presents a significant opportunity for Guernsey but timing and resourcing is of the essence.
7. To enable Guernsey businesses to take advantage of this important development, essential groundwork needs to be undertaken by Guernsey Finance before competitor jurisdictions take hold and the doors to these markets become closed. Put simply, without action and additional support from the States, the opportunity for new business in these markets will be exhausted before most Guernsey firms ever get to them. Guernsey Finance must act now to create awareness, open doors and build confidence.
8. For this reason the Department is asking for an allocation of £900,000 from the Strategic Development Fund, drawn down over a three year period, in order to increase Guernsey Finance's resources to carry out this essential work as well as bolster activity in long standing markets to help combat the effects of the recession.
9. The funds for these activities are not available to Guernsey Finance from its existing budget or that of the Commerce and Employment Department where any potential reallocation of financial resource at this level would significantly damage the

performance of ongoing activities in other sectors. It is also not appropriate to ask local finance companies to contribute towards this initiative as there are significant costs pressures across the industry and most have been forced to cut their own marketing budgets. To seek to increase the funding raised by the Guernsey Finance Funding Law would damage Guernsey's competitiveness and potentially encourage business to locate in competitor jurisdictions which are heavily promoting themselves in these new markets. In addition, with industry marketing budgets under pressure, asking industry to make a contribution could risk losing industry support for existing marketing activities such as Guernsey Finance events and initiatives, which are attended at the industry's own expense. This could also negatively impact on the effectiveness of any new market initiatives as having support and attendance by industry, at appropriate events, is critical to the success of any new market development work.

10. There is a strong case for funding to be provided to Guernsey Finance from the Strategic Development Fund, particularly at this point in time when the global financial services industry is undergoing significant change. The 2013 Budget Report states that **“This Fund would be used for funding significant strategic policy developments which have been approved by the States and..... produce substantial new or enhanced growth for the economy and revenue for the States”**.
11. In addition the Fiscal and Economic Plan as part of the wider States' Strategic Plan talks of a 'diversified, broadly balanced economy', 'promoting long term economic growth' and 'maintenance of a competitive position for Guernsey' being 'imperative for future economic success'. It also mentions specifically the 'importance of financial services to Guernsey's economy'. It is also recognised in the plan that 'reallocation of resources from high to low value activities would both reduce Guernsey's overall economic output and reduce taxation revenues'.
12. This request is also in support of the findings of the recent Oxford Economics report in which recommendation no.7 is for Guernsey to **‘diversify key trading markets towards emerging economies, in finance and beyond’** (page 6) and its call to action to not waste opportunity through **‘not fixing the roof when the sun was shining’** (page 5).
13. Guernsey Finance believes additional new markets work is essential and cannot be delayed as it will be a source of competitive advantage. Domicile marketing in financial services is now commonplace and regarded as essential to protect and develop business flows in an environment where technology has enabled the entrance of many more competitors as well as diminished the importance of geographic location.
14. The mandate of Guernsey Finance is ‘to promote the core competencies and values of Guernsey as an international finance centre and ensure they are accepted and

respected by the international community so that finance business flows are enhanced'. In doing so, Guernsey Finance plays a unique and vital role by acting as a central marketing and development unit for the finance industry helping to ensure the continued operation of some 270+ firms on the Island.

15. In 2011, the finance industry contributed 42% of GDP (£800 million), had the highest contribution per employee (£116,000) and provided the highest tax take in terms of ETI and direct tax.
16. Despite its economic importance, the funds available towards the development and promotion of the finance industry are significantly lower than other sectors of the economy, e.g. in 2012 the funding allocated for the promotion of tourism, which generated circa 2% of GDP in 2011, is £2.2m while for the finance industry it is £1.269m. The figure of £1.269m represents the combined funding of Guernsey Finance (£800k) as well as Commerce and Employment's Finance Sector Development Unit (£469k).

Guernsey Finance also receives additional funding through the Guernsey Finance Levy (£351k in 2012) as well as a time contribution from industry in the significant number of business hours they spend assisting in the promotion of the jurisdiction (this was equivalent to £800k in 2012).

Summary

Proposed activities with additional funding

17. **£900,000 of funding** from the Strategic Development Fund **over a three year period** would enable Guernsey Finance to do two things:
 - i) Target two new and strategically important markets (where Guernsey Finance has been able to undertake only initial research and development to date) in a meaningful way over a three year period. While Guernsey Finance does already undertake new market development work, there are insufficient funds to undertake the scope and scale of work needed to position the Island positively for the longer term, particularly when current work to develop other markets (such as China, the US, cleantech) is already putting strain on existing resource.
 - ii) Allocate additional funds and resource to "recessionary protection", i.e. increase promotional activities in Guernsey's main markets of the UK and the wider EU to ensure that we maintain market share in those mature markets which are still so important to the Island's economy. This will help maximise the current potential business available in these key markets, protect what we have and limit the negative effect of insufficiently diversified income streams.

Why existing resources cannot be reallocated

18. While reducing expenditure in existing markets in order to fund the proposed new markets work is possible this would be a very high risk strategy. In the short term this would potentially have a negative impact on the financial services industry and the economy of Guernsey as a whole.
19. In the future, once local finance companies are achieving steady income streams from emerging markets, then reducing the expenditure in longer standing markets may be feasible but this needs to be a longer term approach and based on market assessment at that time. Funding from the Strategic Development Fund, for three years, is needed to get to this stage as this initiative is largely about managing the difficult transition to alternative sources of new financial services income with as little impact on Guernsey's economy as possible.
20. If Guernsey Finance were to significantly reduce expenditure in existing markets now the likely impact is a sharper decline in new business levels from these markets than would otherwise be the case and it could result in a significant contraction in most sectors. At the same time if Guernsey is not visible in the marketplace then there is a high risk of losing the existing business on the Island; this risk is particularly high in recessionary times. We have seen evidence of decline in other competitor international finance centres as a result of a lack of jurisdictional promotional work, which evidences the clear benefits of deploying additional expenditure on marketing financial services to both minimise the risk to, and help maximise the potential of, future economic growth on the Island. This is particularly important during a sustained period of global economic downturn.
21. In the wake of the financial crisis, and following fiscal pressures faced by some international finance centres, some chose to reduce budgets allocated for the promotion of financial services. The result has been a lack of visibility in the marketplace for some international finance centres and, as a result, a marked contraction in all areas of the financial services industry which were previously marketed heavily.
22. The leading index on the competitiveness of international finance centres, the Global Financial Services Index indicates that between 2008 and 2013 Guernsey has increased its rating by 6.1% from 622 to 660. It is also apparent that Guernsey and Jersey have broadly maintained or increased the size of their finance industries during the period due to a continuing commitment to support promotional activities, despite the pressures of the financial crisis.

Benefits of proposed activities

23. Enabling Guernsey Finance to undertake additional work would be an investment in the future health of the Island's economy over the longer term. The proposed work

will help open the door to new income streams which will offer economic growth and risk management benefits by:

In the medium to long term

24. Creating a higher number of income streams for the Island by broadening the geographic scope of financial services business, the largest contributor to Guernsey's economy and lessening the Island's dependency on key markets, as well as lessening the exposure to economic downturns in mature markets or regional trading blocks.

In the short to medium term

25. A short term boost of established marketing activities to increase profile in mature markets is important for the following reasons:
 - To create growth as a whole thus ensuring that no parts of the economy are contracting. Short term additional marketing in the UK can only be a boost to the economy.
 - There is proven economic benefit of enhancing such activity during recessionary times.
 - This is especially important at the present time given reputational issues facing all international finance centres. It is crucial to promote a positive message to Guernsey's key markets that we are still 'open for business'.
 - It is also important to try to minimise the weak short to medium term growth prospects for the industry caused by its strong linkage and reliance on the relatively poorly performing UK financial sector and;
 - Avoid any potential contraction of the industry due to a loss in visibility in the marketplace such as that experienced by other international finance centres, given that many will also be increasing their marketing activities at this time (for example Jersey).

Action now will increase the potential benefits of new markets work

26. From a strategic perspective, if Guernsey Finance receives additional funding, it will be able to act swiftly at a time when the potential gain from promotional activity offers the highest future return and the greatest chance of success. A primary driver for action is that business referral patterns, which are a key factor in establishing new business flows, are in the process of being established in many emerging markets by other international finance centres. Investing now will mean less expenditure is needed to achieve a similar or greater result overall than if market entry is delayed due to lack of adequate funding.

Impact on States Revenues

27. The States of Guernsey would realise significant benefits from increasing the volume of business flowing through the Guernsey finance industry. Those benefits are threefold:
 - i) Increase in level of employment in the finance industry,
 - ii) Increase in tax revenues, both directly (through tax on company profits and finance industry employment) and indirectly (through increased demand for those services that support the finance industry),
 - iii) Decrease in unemployment and those claiming unemployment benefits.

Increasing levels of employment

28. Between 2009 and 2012 the total level of employment in the financial services sector has fallen from 7,113 to 6,815. That represents a loss of **298** jobs over a period of three years, or a 4% reduction in the size of the workforce in the financial services industry.
29. If it were possible to bring in additional business flows to the sector it is possible that this trend could be reversed and additional jobs created. That would add a significant amount to the overall GDP and the total salaries flowing through the economy. GDP per employee in the financial services industry is comparatively high compared to the broader economy. Based on 2012 GDP estimates from the Policy Council it is clear that current GDP per employee is £110,000, which is much higher than the industry wide average of £59,000. It has also been estimated by the Economics and Statistics unit that each finance industry job supports approximately 1.5 jobs in the broader economy.

Increased tax revenues

30. Average salaries in the finance industry are substantially higher than those in the broader economy. Given the median earnings figure for an employee in the financial services industry is currently £43,000 per annum, higher than any other sector, the growth of financial services business and the resultant expected increase in number of employees could generate significant additional direct tax revenue.
31. The addition of additional jobs created indirectly to support a growing finance industry would also generate additional tax revenues, albeit that due to the lower median the total return would be proportionately lower.
32. Under the current tax regime banks currently pay 10% tax on certain banking profits. In 2011 direct tax on banking profits generated £24 million in revenue for the States on total taxable profits of £240 million. As banking profits are largely dependent on the volume of business which flows through the financial services industry, increasing business flows through a concerted marketing push would be expected to

increase overall profits in the banking industry. Any new market initiative would generate additional revenues for the banking sector; however, determination of the level of profits that those revenues would generate is difficult to predict with certainty.

Business Case

The current promotional work that Guernsey Finance can presently manage within its existing budget

33. With its small team, Guernsey Finance works very hard to provide the maximum value from the work it undertakes. The scope of Guernsey Finance work is extensive and the scale of work achieved is also. Amongst other work, during 2012 with a nine strong team, Guernsey Finance promoted the Guernsey brand at 30 third party events, put on nine Guernsey Finance events and conducted four jurisdiction visits to China, India Russia and the US.
34. For the latest period where figures are available (1 July 2012 to 30 June 2013), £1.3million was generated in terms of the advertising equivalent of editorial through the issue of 135 press releases, the writing of 122 articles and visiting 70 journalists. This is more than the total funding received by Guernsey Finance from the Department and from industry. In addition, the number of unique visitors to the Guernsey Finance website increased by 21% and over 7,500 site visitors were connected to relevant firms on the Island through Guernsey Finance's web business directory. All these Guernsey Finance activities are closely monitored in the form of KPIs which are regularly reported to the Guernsey Finance Board.

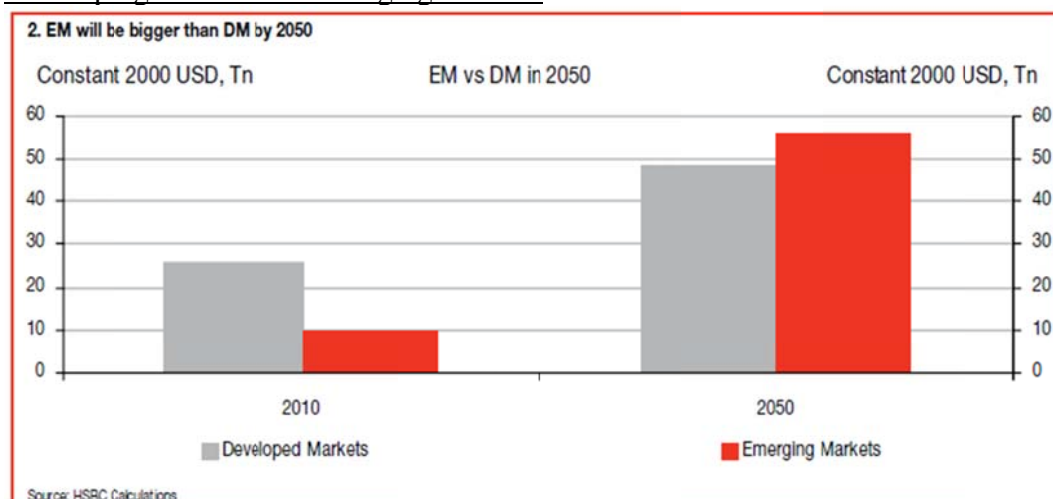
The balance of activity

35. Taking its lead from industry, the main focus of Guernsey Finance's promotional work has traditionally been, and remains, market penetration in mature markets to grow market share where the Island has a profile and business flows have already been established. Figures from the Guernsey Financial Services Commission show this strategy has been successful with the amount of fiduciary business on the Island originating from the UK and continental Europe accounting for some 67% of all business in June 2012. Today this work continues and is particularly important given the need to preserve and protect existing business flows during tough economic times, however attributing the majority of Guernsey Finance's marketing budget to market penetration does leave the industry very exposed if these markets are near saturation point and will not be the engines for future business growth.
36. In conjunction with market penetration, Guernsey Finance has, since late 2007, also undertaken some market development work to develop new lines of business flows for the Island which has become increasingly important. Guernsey Finance has

undertaken significant promotional work in China and to a lesser extent in other jurisdictions due to resource constraints.

37. In 2012, expenditure on new market development work was circa £224k which represents only 24% of promotional spend of £920k. This is an increase of 50% from the previous year, which has put an increasing strain on resources and required Guernsey Finance to draw on its reserves.
38. Guernsey Finance assessment is that this figure is considerably below the investment needed to effectively position the Island for the future. As shown in the graph below, HSBC's prediction is that emerging markets will be bigger than developing markets by 2050. Given this seismic shift, Guernsey Finance's new market development work should ideally account for around 50% of promotional spend, allowing a 50/50 split in activity between preserving what we have and investing for the future.

Developing Markets vs. Emerging Markets



Source: HSBC Global Research – The world in 2050

39. An amount of £900k granted over the next three years would equip Guernsey Finance with sufficient funds to balance its activities between short and long term. Based on 2012 figures, this sum would enable a spend nearing 50% on promotional work in new markets, with the remaining funds being allocated to mature markets, to address current reputational and recessionary issues that threaten our share of key markets at the present time.
40. While a continued grant of this size would be ideal, there would still be distinct benefits to a finite three year grant of this amount. As is borne out by Guernsey Finance's historical expenditure for China, there are high initial outlays in concentrated market development work which reduce and stabilise over time. A three year grant, albeit finite, would allow significant initial steps to be made in the key areas on which Guernsey Finance and the financial services industry wish to focus.

What other key markets have been identified by Guernsey Finance or industry?

41. The primary emerging markets Guernsey Finance has identified as targets to date are China, India, Russia and the Middle East. In addition to these, industry are also asking Guernsey Finance to look at several other key markets and specific initiatives, particularly in relation to promoting Guernsey's capabilities under the AIFM Directive which should present an opportunity for the Island if the marketing can be resourced.
42. However, all of these markets are important but must be prioritised if Guernsey's economy is to obtain the most benefit from any funds allocated, in line with the objective in the 2013 Budget Report that **the Strategic Development Fund should 'produce substantial new or enhanced growth for the economy and revenue for the States'**.
43. Through a number of methods, including an industry-wide questionnaire, exploratory visits to certain countries, technical research and working with industry associations and individual firms, Guernsey Finance has identified two key markets, not currently adequately resourced, from which it believes it will derive the most return via a contribution from the Strategic Development Fund.

What opportunities are being missed through lack of resources?

44. The Board of Guernsey Finance expressed a wish for Guernsey Finance to undertake high level of work in three jurisdictions at a time, as early as 2008; however Guernsey Finance has been unable to undertake this strategy due to resource constraints.
45. China aside, opportunities are being missed in all selected markets as Guernsey Finance is not sufficiently resourced to capitalise on all of them. Where a formal program of visits, events and press activity may be appropriate, Guernsey Finance is unable to pay more than 'lip service' in some jurisdictions at the present time.
46. In particular, competitors are already publicly making plans to undertake development work in the regions we have previously identified. Many international finance centres, including Jersey, have several permanent representatives on the ground in some of these markets and Guernsey cannot compete equally in terms of the way in which such activity raises profile in the market.
47. The application of resource at the right time is a key factor in success that is widely recognised. Guernsey Finance's assessment is that delays in initiating work to raise awareness and establish networks in target jurisdictions is placing the Island at a competitive disadvantage. Entering markets later is more difficult, more expensive and less effective.
48. One key reason for this is that time poor professionals tend to go with what they know. If they have established a structure and relationship with a provider in a

particular jurisdiction that has worked, they will not hesitate to recommend that route again unless there is a specific request from a client or a different jurisdiction offers a clear advantage. This means getting into markets early on to promote Guernsey's offerings is vital. Later market entry will mean working harder to create awareness and demand through promotional work.

49. The benefit of first mover advantage is widely recognised and has been illustrated locally by Guernsey's successful innovation with the Protected Cell Company (PCC) and in Jersey with Jersey Property Unit Trusts (JPUTs). Both were first to market and established large market share as well as a lasting reputational advantage which is still in evidence today. In new markets the importance of first mover advantage is borne out by Guernsey Finance's experience in China, where the Chinese have traditionally used British Virgin Islands (BVI) and Cayman as their preferred financial centres. This preference exists for no other reason than because providers from these locations were the first to market their offering in China and as a result have a high market share and embedded referral patterns. These established patterns make it harder to achieve market entry and, while Guernsey Finance has made successful inroads, the process has been much harder than it need have been.

What analysis has been done on the benefits of increasing promotional activity in those key markets?

50. Raising the profile and expertise of the sector with a strong brand and key messaging is essential to ensure Guernsey Finance conveys Guernsey's reputation and competitiveness to both new and existing business customers. Presenting the range of Guernsey financial products and services, under a destination promotion, is vital to bring business back to our highly professional business centre. It also works to demonstrate Guernsey is a real community jurisdiction with a highly regarded regulatory framework and impressive levels of expert resource. This generates confidence within the market.
51. Without Guernsey Finance promotional efforts into new markets, this will significantly impact opportunities and chances of success of Guernsey finance business. Without this support, to a large degree, these companies can be standalone business entities without the reassurance of a Government/sector framework. The commitment of Government is necessary, to remain competitive.
52. Guernsey Finance monitors the effectiveness of marketing spend on an ongoing basis. Guernsey Finance endeavours to achieve feedback in relation to value for money across the range of marketing activity and events undertaken. Tangible data is sometimes challenging to ascertain as the business conversions for Guernsey will be achieved through commercially confidential deals. Guernsey Finance, however, has performance indicators to demonstrate excellent return on investment in terms of marketing spend.

53. To understand the benefits of promotional activity in new markets, it is important to establish that Guernsey Finance's role is to create conditions where business flows are enabled and facilitated. It is the service providers themselves who secure the business.
54. Guernsey Finance undertakes three types of work to enable business flows and these apply to all markets:
 - i) Assess market conditions and access and develop targeted messages.
 - ii) Raise awareness and profile.
 - iii) Establish a network of informed business introducers.
55. There are distinct benefits to each of these activities as can be shown through current development work in China which was always seen as a project with huge potential but one that required a long lead time to see results.

Assess market conditions and access and develop targeted messages

56. This is an essential stage to market development where the complexities involved in new market entry need to be fully understood. It prevents misallocation of resource, increases speed to market, and provides targeted messages for each market to convincingly sell a product or service.

Raising awareness and profile

57. This is measured through the level of awareness and interest in the jurisdiction. Upon market entry in China the level of awareness of Guernsey was extremely low in relevant circles but this has changed over time.
58. Through sustained development, positive awareness has grown to the point that political and industry delegations are now visiting the Island from China with good feedback. In addition, Chinese trade journals are now doing features on the Island and Guernsey events in China are much better attended – showing that Guernsey is now accepted as a relevant and credible jurisdiction in the marketplace. This is reinforced by recent figures for the Island's fiduciary sector, supplied by the Guernsey Financial Services Commission, which show that business flows from China are increasing. With a starting point of zero when development work started, China now accounts for 3.45% of new fiduciary business coming to the island.

Establishing a network of informed business introducers

59. A key requirement for business flows is a broad pool of business referrers (mainly lawyers and accountants) who are meeting the needs of their clients within their geographic network. The KPI used to judge success is the number of quality contacts we have established.

60. It is worth making the point that meaningful contacts are not easy to achieve. Due to the specialised nature of the Island's financial services industry, contact lists of decision makers cannot be purchased and must be earned through engagement and promotional activity.
61. In late 2007 when the China initiative started, Guernsey Finance had very few contacts in the region. Today, nearly 6 years on, over 1,000 contacts have been established each of whom is aware of Guernsey and may consider the Island as a potential place to do business.
62. This number is significant as the pool of relevant individuals who could refer business is not huge in financial services, particularly in developing markets. What Guernsey Finance has achieved, is to find key people and create an informed network of service providers by providing them with regular updates and news. This broadens the scope and scale of opportunities for the Island which has been demonstrated by new fiduciary business coming to the Island.
63. Guernsey Finance's work also provides a focus and an easy platform for Guernsey firms to initiate their own business development programs. In addition to Guernsey Finance's network, there are also those of the local service providers to consider. These have been developed through visiting China initially with Guernsey Finance and then subsequently on their own.
64. Networks have been further extended and strengthened by the resulting Guernsey firms who have set up offices in China on the back of Guernsey Finance's work and are promoting Guernsey on an ongoing basis. For example International Fund Administration Group and Richmond Fiduciary Services have established representative offices in China as part of developing further business in the region.

Additional new markets work presents an opportunity

65. Guernsey Finance believes additional new markets work is essential and cannot be delayed as it will be a source of competitive advantage for the Island's financial services industry. Domicile marketing in financial services is now commonplace and regarded as essential to protect and develop business flows in an environment where technology has enabled the entrance of many more competitors as well as diminished the importance of geographic location.
66. The work to be undertaken with additional funds will generate positive outcomes and a high return for the Island, over and above many other investment opportunities available. A relatively small investment could influence the flows of business for 20+ years and over time could be worth millions in terms of revenue for Island providers. The returns will take time to come to fruition but will be evident in a renewed and healthier industry with broadened and diversified income streams.

Guernsey Finance creates opportunities when individual firms cannot



67. Guernsey Finance's market development work is an investment for the future of Guernsey financial services which most firms are independently unable to make.
68. Guernsey Finance opens the door to markets for Island providers which they would be unlikely to consider otherwise. This is through market development work to break down barriers to entry at an individual jurisdictional level, by creating market awareness, and providing a promotional springboard for firms.
69. Island firms are under pressure to perform and meet targets set for each budget year. As a result they will only focus on countries where it is fairly straight forward to do business and they can see a return in the short term. This is particularly so in the current difficult economic climate where a lot of firms have no budget for development work.

Economic benefits of the finance industry

70. The primary economic benefit of the work of Guernsey Finance is to help maintain and enhance the financial business flows coming into the Island. This helps ensure the continuation of firms choosing to operate out of Guernsey.
71. Guernsey Finance's role is of utmost importance when the enormous value of the industry to the Island's economic well-being is considered and the negative impacts of its potential contraction are taken into account.

Overall value added of the finance industry

72. The finance sector accounts for:
 - Over 40% of GDP
 - Over 20% of employment

80% of GDP growth of the last 20 years

100% of net new employment in the last 15 years

73. Indirectly each job in the finance sector supports one and a half jobs in the broader economy.
74. Directly, it accounts for 35% of total remuneration (2011 figure £398m); indirectly, as legal and business services are directly supported by finance, this adds a further £140m of remuneration; plus a further £40m in self employed profits from these sectors; then total direct tax take from finance, legal and business services is around £110m accounting for just over 60% of direct personal taxes.

Effects of contraction of the finance industry

75. Any direct contraction of the industry would have serious economic consequences and this is more likely without more diversified income streams within the industry:

Loss of 1% in Employee Income Tax Receipts by sector:

• Agriculture / Horticulture	£26,750
• Tourism / Leisure	£96,300
• Finance Industry	£984,000

Source: Estimated based on remuneration from Guernsey Facts and Figures 2011 and applying 20% rate for employees' ETI receipts.

76. In addition a contraction affects the industry's spend on second tier services.
 - The finance industry spends around £109m per year in Guernsey on second tier services, ranging from accountancy and legal advice through to IT, business travel and charities.
 - The total spend (including off-island) on such services is £138m. Therefore 79% of the finance industry's spend on second tier services is on-island.

Source: KPMG study 'Economic impact of the Guernsey finance industry' for the States of Guernsey, Policy Council, August 2004. Figures inflated to represent 2011 values.

77. The current and historical budget of Guernsey Finance

	Forecast					
	2012	2011	2010	2009	2008	2007
C&E grant	£800,000	£800,000	£800,000	£767,000	£605,000	£600,000
Industry Levy	£351,068	£345,892	£361,911	£378,000		
Guaranteed funding	£1,151,068	£1,145,892	£1,161,911	£1,145,000	£605,000	£600,000
Accountant contributions	£30,150	£30,150				
Voluntary contributions	£30,150	£30,150				
Self generated income	£187,000	£174,842	£168,227	£47,118		
Total	£1,368,218	£1,350,884	£1,330,138	£1,192,118	£605,000	£600,000
Expenditure exceeded income					-£254,754	-£122,690
Negative reserves					-£51,275	

Notes:

- Voluntary contributions are from accountancy firms at their discretion and are therefore not guaranteed income.
- Self generated income varies from year to year as it derives mainly from event sponsorship and participation by industry. Like voluntary contributions, it is not a fixed and reliable source of income that can be used for planning purposes.

Further supporting documentation is available upon request.

Good Governance

78. The Department believes that it has fully complied with the six principles of good governance in the public services in the preparation of this Report (set out in Billet D'État IV, 2011 and approved by the States).

Recommendation

79. The Commerce and Employment Department recommends the States to resolve:
- i) To approve transfers from the Strategic Development Fund to the revenue budget of the Commerce and Employment Department totalling up to £900,000 over the period 2014 to 2016 to fund an increased grant to Guernsey Finance to finance the activities detailed in this Report.

Yours faithfully

K A Stewart
Minister

A H Brouard
Deputy Minister

D de G De Lisle
L B Queripel
H J R Soulsby
States Members

Advocate T Carey
Non States Member

- (NB The Treasury and Resources Department recognises the importance of the finance sector to Guernsey's economy and fiscal position and as such supports, in principle, the need to invest further funds through Guernsey Finance to promote the Island's financial services sector.

The Department recommended the establishment of the Strategic Development Fund in order that significant strategic policy developments which have been approved by the States and produce substantial new or enhanced growth for the economy and revenue for the States could be progressed at a time when revenue funding is limited.

Investment in Guernsey Finance has the potential to preserve Guernsey's market share in difficult economic times and promote new business in growing economies. However, the Commerce and Employment Department has not attempted to quantify the direct benefit from this investment in this report and it is therefore not a clear cut investment decision.

In addition, as previously advised to the Commerce and Employment Department, it remains the view of the Treasury and Resources Department that any investment should also be supported by additional contributions from industry.

On balance, the Treasury and Resources Department supports the proposal to invest an additional £900,000 in Guernsey Finance over the next three years and will work with the Commerce and Employment Department to ensure that best value for any taxpayer investment can be demonstrated.)

- (NB The Policy Council supports the provision of greater resource to Guernsey Finance to assist in its promotion activities. Development of new products and new markets is key to growth in ordinary times and more so in the tougher new normal economic environment post 2008. The health and success of the finance sector benefits the whole Island. The Policy Council therefore fully supports the Report.)

The States are asked to decide:-

X.- Whether, after consideration of the Report dated 17th September, 2013, of the Commerce and Employment Department, they are of the opinion that transfers from the Strategic Development Fund to the revenue budget of the Commerce and Employment Department totalling up to £900,000 over the period 2014 to 2016 be made to fund an increased grant to Guernsey Finance to finance the activities detailed in that Report.

HEALTH AND SOCIAL SERVICES DEPARTMENT

CHILDREN AND YOUNG PEOPLE'S PLAN 2014 - 2016

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

23rd September 2013

Dear Sir

Executive Summary

1. On 4th January 2010 the Children (Guernsey and Alderney) Law, 2008 (referred to as the Children Law) came into force, which put a duty on the Health and Social Services Department to prepare a Children and Young People's Plan every three years.
2. The first Children and Young People's Plan was approved by the States on 24th November, 2010 (Billet d'Etat XXIII Vol 1, November 2010, pp 1712 to 1771) and expires on 31st December, 2013.
3. This Plan with updates, including those on the actions taken since it commenced, is also provided as the appendix to this report.
4. The Health and Social Services Department requests the extension of the current plan by up to three years.

Background

5. The Children Law came into force on 4th January 2010 and created a duty on the Health and Social Services Department to prepare, and submit to the States, at least once every three years, a plan setting out a strategy for the provision of services to promote and safeguard the welfare of:
 - a. the children of Guernsey and Alderney, and
 - b. the families of those children.
6. It was a requirement, under Section 28 of the Children Law, that the Plan should relate to:
 - a. physical, emotional and mental health, which was covered under the key outcome of **"healthy and nurtured"** in the first Plan;
 - b. protection from harm and neglect, which was covered under the key outcome of **"safe"** in the first Plan;

- c. education, training and recreation, which was covered under the key outcome of **“achieving and active”** in the first Plan;
 - d. contribution to society, which was covered under the key outcome of **“respected and responsible”** in the first Plan;
 - e. social and economic well-being, which was covered under the key outcome of **“included”** in the first Plan; and
 - f. such other matters as may be prescribed by regulation.
7. The Children Law also places an obligation on all States Departments to implement any recommendations made in the Plan, including the identification, assessment and provision of services which may be necessary for children in need and at risk and the sharing of financial and other resources.
 8. The first Plan was required to be prepared and submitted to the States within one year of the Children Law coming into force. The Plan can be found on the States website at: <http://www.gov.gg/article/6650/Children-and-Young-Peoples-Plan> or in Billet d’Etat XXIII Vol 1, November 2010, pp 1712 to 1771.
 9. The Children and Young People’s Plan is the key document for everyone helping support, or delivering services to, children, young people and their families in Guernsey and Alderney.

Extension

10. The Health and Social Services Department are recommending the extension of the current plan by up to three years. It is intended that a new Plan will be submitted to the States well before the end of this period.
11. During the life of the current Plan a great deal of work has been undertaken, much of which was required following the introduction of the Children Law in 2010. Updates are provided in appendix 1 of this report under each key outcome.
12. Whilst some work under the current Plan, once started, will continue, some issues are on- going or have not commenced because they are reliant on other changes having to be made. This includes work on improving shared understanding, planning and delivery of services for the needs of all children and young people. This involves a fundamental partnership approach to how services work together for children.
13. The request for an extension to the existing plan is therefore being made to enable this shared understanding to be developed following the introduction of the Children Law. This will enable thinking to be challenged and new solutions to joint working to be developed, as well as barriers to good working practice to be identified to enable more effective working together. This may require reprioritisation of some work to enable staff time to be spent on bringing services together to respond, plan and develop joint working with a more child and family centred approach.
14. The extension will also enable other organisations that work with children, young people and families to be more engaged in the development and

implementation of the Plan, particularly third / voluntary and community sector organisations.

15. In a similar vein it has always been the intention that the voices of children should be listened to in the decision making process where the outcomes affect them. The extension will allow for more consultation with children, young people and families before any changes are made to the current Plan.

Governance

16. Whilst the Health and Social Services Department has a statutory responsibility for producing the Plan, it affects all Departments that provide services, benefits or administer legislation affecting children and families. As such the Policy Council's Social Policy Group has prioritised the Children and Young People's Plan as one of four areas it wants to focus on, linked to the States Strategic Plan. This prioritisation also reflects the complex cross departmental structure as well as third sector and business involvement.
17. A steering group for the Children and Young People's Plan comprises of staff level representatives from Health and Social Services Department, Policy Council, Education Department, Home Department, the Office of the Children's Convenor, the Islands' Child Protection Committee, and a representative of the Youth Partnership. This group will continue to steer the implementation of the extended plan and members have been consulted on this report.

Resources

18. As this Report requests the extension of the existing Children and Young People's Plan, there are no new resource implications.

Recommendation

19. The Health and Social Services Department recommends the States to agree to the extension of The Children and Young People's Plan 2011 to 2013 by up to 3 years.

Yours faithfully

M H Dorey
Minister, Health and Social Services Department

M J Storey
Deputy Minister

E G Bebb
Member

B L Brehaut
Member

S A James
Member

Guernsey and Alderney

The Children and Young People's Plan

Introduction

The children and young people of Guernsey and Alderney form a major part of our community, and they represent the whole of our future. While their experience of life varies greatly, our hopes are the same for all of them. We want them to be healthy and nurtured, to be safe, to achieve and be active, be respected and responsible and to be included. This will hopefully enable them to achieve their potential.

The first Plan laid the foundations, so that agencies could continue to work together in an effective and efficient manner. This Plan extends the vision, key outcomes and priorities from the first Plan for a further three years to allow this work to continue. It also contains an update section for each of the five key outcomes to provide information on what has been achieved since the first Plan was introduced.

Parents play the key role in ensuring that their children achieve their full potential. By working in partnership with families, agencies will support parents in bringing up their children as successfully as possible.

For the purpose of this Plan, any reference to children and young people means the children and young people of Guernsey and Alderney.

Why Plan?

The Children (Guernsey & Alderney) Law 2008 created a duty to publish a multi-agency plan for services for children. The Health and Social Services Department has a duty to ensure the plan is presented and published, however, all organisations working with children have a responsibility to work together to ensure the outcomes are achieved.

Many different agencies, professionals and volunteers play different roles in the lives of children, young people and families. Some children and families, for instance those with complex disabilities or with many different needs, are supported by many agencies. These agencies will work together most effectively, if they plan their services together.

The Children and Young People's Plan is the key document for all partners delivering services to children, young people and their families in Guernsey and Alderney. It sets out:

- the vision that we have for our children and young people
- the improved outcomes we want to achieve for children and young people
- the key priorities and actions we commit to undertaking in partnership

What's in this Plan?

This Plan is based on a set of 5 outcomes for all Guernsey and Alderney children. They have been adapted from similar plans that have been established throughout the United Kingdom after wide consultation with children and young people. The outcomes are shown on the next page.

The Plan sets out 14 priorities that all organisations working with children, young people and families will work on. The needs of every Guernsey and Alderney child have been considered in drawing up this Plan. However, some children will need more help than others to achieve these outcomes. The

priorities in this Plan are therefore, mostly targeted on children in need and children at risk. The priorities and actions are shown on pages 4-10.

Key Outcomes

THE VISION:

All children and young people of Guernsey and Alderney have the best possible start in life

HEALTHY AND NURTURED

We want children and young people to enjoy the highest achievable standards of physical and emotional health, with access to suitable healthcare and support for safe and healthy lifestyle choices

SAFE

We want children and young people to be protected from abuse, neglect and harm and given strategies to protect themselves and stay safe

ACHIEVING AND ACTIVE

We want children and young people to have access to positive learning, play and leisure environments to develop their skills, confidence and self esteem to the fullest potential

RESPECTED AND RESPONSIBLE

We want children and young people to be involved in the decisions that affect them and encourage them to play an active and responsible role in the community

INCLUDED

We want children and young people to have access to high quality services. We want to enable them to overcome the social, physical, geographic, environmental and economic barriers that create inequality

Priorities and Actions

HEALTHY AND NURTURED	
Priority	Action
1. The physical health of all children will improve.	<p>1.1 Engage parents, particularly those of children in need, in healthy lifestyles choices for their children.</p> <p>1.2 Ensure children have access to good nutrition throughout infancy, childhood and adolescence, to offset eating disorders/obesity and related health problems and poor dental health.</p> <p>1.3 Encourage all schools to follow the National Healthy Schools Standard and School Food Trust Guidelines for food provided in schools.</p> <p>1.4 To assess the impact of the interventions by the Health Promotions & Health Equalities Project, with a view to making recommendations for longer term projects to help alleviate inequalities.</p>
2. Children's mental health and emotional needs will improve.	<p>2.1 Reduce substance misuse in under 18's by utilising prevention strategies.</p> <p>2.2 Introduce substance misuse treatment service for young people within the Child and Adolescent Mental Health Service.</p> <p>2.3 Review provision of information available for children and young people and their families experiencing emotional difficulties.</p> <p>2.4 Pilot and evaluate the Intensive Outreach Service for young people with complex mental health needs.</p> <p>2.5 Investigate the feasibility of trained mental health workers in the Primary Care setting.</p>

HEALTHY AND NURTURED	
Priority	Action
3. Children will have a safe place to live within a supportive environment.	<p>3.1 Investigate local priorities for the Children's Environment and Health Action Plan to create positive environments, which nurture better health and wellbeing and reduce inequalities.</p> <p>3.2 Pilot and evaluate Family Group Conferencing.</p> <p>3.3 Achieve appropriate and effective information sharing across professionals and agencies.</p> <p>3.4 Develop a strategy for homeless young people in need – age 16-18 and care leavers (including young offenders).</p> <p>3.5 Provide accommodation as per legislation for young people up to 18 years of age.</p>
4. Children will enjoy a positive and rewarding childhood.	<p>4.1 Develop a multi-agency strategy for Looked After Children.</p> <p>4.2 Improve health outcomes for Looked After Children.</p> <p>4.3 Develop strategies to improve education outcomes for Looked After Children.</p> <p>4.4 Prepare a multi-agency strategy for children affected by disability.</p> <p>4.5 Investigate the feasibility for a range of respite provision for families of children in need.</p> <p>4.6 Develop a multi-agency strategy for young people who are primary carers for family members.</p>

Update on Healthy and Nurtured Key Outcome

Under priority 1 the following work has been undertaken to improve the physical health of all children:

- Princess Elizabeth Hospital accredited by the United Nations Children's Fund (UNICEF) UK Baby Friendly Initiative.
- Extra support provided by maternity services for teenage mothers.
- Monitoring of smoking, recreational drug use and alcohol use in pregnancy.
- Clinics provided by maternity services for support and advice on alcohol and drug misuse, smoking cessation and healthy lifestyles.
- Healthy lifestyle education in schools. Over half the Primary schools in Guernsey hold National Healthy School status, with Amherst holding the enhanced standard.
- Specialist school nurse for weight management, community dietician and 8 new Health Trainers appointed.
- Part-time Quitline advisor appointed.
- Personal, Social and Health Education advisory teacher appointed. Training programme for all schools Personal, Social and Health Education co-ordinators.
- Preventive strategy for children's dental health incorporating regular dental hygiene talks in school, fluoride painting for those most at risk, dental surveys and school screening programmes which are having a positive effect.

Under priority 2 the following work has been undertaken to improve children's mental health and emotional needs:

- Appointment of specialist nurse in the Child and Adolescent Mental Health Service to lead on substance misuse treatment and preventive strategies.
- Multi-disciplinary Intensive Outreach Service established in Child and Adolescent Mental Health Service for children and young people presenting with severe mental health difficulties and those who present a high risk of harm to themselves or others.
- Intensive Outreach Service had over 1,000 patient contacts last year and in first year of operation was estimated to have saved over £500,000 in off-Island placements.

Under priority 3 the following work has been undertaken to ensure children have a safe place to live within a supportive environment:

- Research has been undertaken with regard to environmental influences on accidental injuries and asthma. Data will continue to be collected over the next three years.
- Family Group Conferencing service was piloted with positive feedback but there were insufficient funds to continue beyond the one-year pilot.
- Interagency information sharing protocol agreed and available on the Islands' Child Protection Committee (ICPC) guidelines.
- Training on information sharing included in all the Islands' Child Protection Committee interagency courses.
- Monitoring and Evaluation sub-committee of the Islands' Child Protection Committee monitors referrals, child protection plans and case conferences.

- Housing Department and Action for Children have been working together to provide supported housing for young people at risk of homelessness, through building up a network of sympathetic landlords.
- Children are being accommodated where necessary, as per legislation. Increase in availability of on-island residential care from 12 to 15 places, with a further 3 places being sought.

Under priority 4 the following work has been undertaken to ensure children enjoy a positive and rewarding childhood:

- A multi-agency Looked After Children Strategy has been developed. It seeks to improve the range of placements available to children and young people as well as the multi-agency support available, in order to improve placement stability. The development of this strategy is ongoing and is intended to generally improve the quality of care, aftercare and outcomes for children and young people who are looked after.
- Disability and Inclusion Strategy has been developed.
- A 'short breaks' fostering service has been developed with three sets of carers currently assessed, trained and approved.

SAFE	
Priority	Action
5. Children will be protected from abuse, neglect and harm.	<p>5.1 Ensure that the ICPC responds quickly to issues raised by contributing agencies.</p> <p>5.2 Develop and implement protocols to protect children from, and help them overcome, the effects of domestic abuse.</p> <p>5.3 Develop the Child's Plan as an assessment and planning tool for Child Youth and Community Tribunal.</p> <p>5.4 Establish the use of the Child's Plan as a universal assessment and planning tool for multi-agency working with children and their families.</p> <p>5.5 Explore further the needs of children whose parents are affected by substance misuse or other mental health issues.</p> <p>5.6 Ensure that agencies are effectively working together to meet the needs of Looked After Children to keep them safe.</p>

SAFE	
Priority	Action
	<p>5.7 Ensure continuation of Supervised Contact Service.</p> <p>5.8 Support initiatives to inform children and parents regarding e-safety.</p>
6. Children will be given strategies to protect themselves and stay safe.	<p>6.1 Support initiatives to inform children and parents regarding safety.</p> <p>6.2 Provide children with strategies to make assessment of risk and to make safer choices.</p> <p>6.3 Carry out a feasibility study to look at introducing a named person for every child.</p>
7. Children will get the help they need when they need it.	<p>7.1 Ensure adherence to follow multi-agency Child Protection Guidelines.</p> <p>7.2 Develop post abuse support to children and young people.</p> <p>7.3 Develop an anti-bullying strategy.</p> <p>7.4 Support to professionals to ensure children are listened to, respected and their concerns are taken seriously.</p>

Update on Safe Key Outcome

Under priority 5 the following work has been undertaken to ensure children will be protected from abuse, neglect and harm:

- Child protection guidelines are in place, available on the internet.
- The Islands' Child Protection Committee have established a business planning process and report to the Chief Officers Child Protection Group.
- Through the joint Local Safeguarding Children Board Chairs meeting for the South East region the Islands' Child Protection Committee are developing performance measures that will be comparable with other areas.

- Procedures for safeguarding children affected by domestic abuse have been produced and are now part of the supplementary guidance on the Islands' Child Protection Committee child protection guidelines.
- A Child's Plan has been developed and is used as an assessment and planning tool for Child Youth and Community Tribunals.
- Drug Concern have developed the use of the Moving Parents and Children Together (M-PACT) programme in order to support children and families affected by substance misuse.
- The E-safety sub-committee of the Islands' Child Protection Committee provide ongoing support to children and parents with regard to internet safety. They also sponsor an internet safety awareness event each year, monitor areas of risk and incidents causing concern.

Under priority 6 the following work has been undertaken to help provide children with strategies to protect themselves and stay safe:

- The Health Promotion Unit organise and run an annual safety awareness day for all Year 6 school children.
- The Health Promotion Unit also host a multi-agency accident prevention meeting and over the next three years will develop an accident prevention strategy for children and young people in the Islands.
- The e-safety curriculum has been revised, updated and distributed to all schools. Risk assessment is supported as part of the Personal, Social and Health Education (PSHE) curriculum in both Primary and Secondary schools.

Under priority 7 the following work has been undertaken to ensure children get the help they need when they need it:

- The Monitoring and Evaluation sub-committee of the Islands' Child Protection Committee continually review cases and monitor child protection processes through the Child Protection Case Conference Quality Control Group.
- The Islands' Child Protection Committee have reviewed the use of a Child Death Overview Panel and are committed to continual improvement through looking at lessons learnt following each case review including how procedures might be changed over the next three years.
- The Children and Maternity Post Abuse Therapeutic Service has been established.
- A review of Child Protection training has taken place and a new strategy, reaching a wider audience, has been running throughout 2013.
- 168 members of staff have undertaken Family Partnership Model training, which promotes the use of listening skills in health and social care work.

ACHIEVING AND ACTIVE	
Priority	Action
8. Children will become effective contributors and confident individuals.	8.1 Enhance play facilities and activities for all children.

ACHIEVING AND ACTIVE	
Priority	Action
	<p>8.2 Enhance the play based elements of the Foundation/Early Years Curriculum.</p> <p>8.3 Extend the range of out of school arts activities in order to engage more children and young people.</p> <p>8.4 Engage socially excluded young people in opportunities to enjoy the arts.</p> <p>8.5 Extend the range of sporting activities out of school, in order to engage more children and young people.</p> <p>8.6 Engage socially excluded young people in opportunities to enjoy sports.</p> <p>8.7 Promote the programme of Museum, Education, outreach and activities aimed at children, young people and families.</p> <p>8.8 Extend the holiday activity provision for secondary age pupils in need.</p>
9. Children will become successful learners.	<p>9.1 Promote and recognise the achievement of all children and young people.</p> <p>9.2 Increase levels of participation in all learning opportunities.</p> <p>9.3 Enhance information, advice and guidance for those young people going through key transitional phases, specifically 14-16 year olds and 16-19 year olds.</p> <p>9.4 Broaden the range of accredited learning programmes for 14-19 year olds.</p> <p>9.5 Improve communication about early learning in Guernsey.</p>

Update on Achieving and Active Key Outcome

Under priority 8 the following work has been undertaken to help children become effective contributors and confident individuals:

- New play facilities provided at Delancey Park and at Saumarez Park.
- Early Years Foundation Stage data is being used to support schools self evaluation.
- Training delivered for practitioners and headteachers on the role of continuous provision, including guidance on developing quality play.
- Guernsey Arts Commission delivering community arts programme, including outreach work on social housing estates.
- Guernsey Sports Commission run after school clubs, lunchtime clubs and try-sports events.
- Multi agency working with support from community policing, the Street Sports programme and arts programmes on Les Genats Estate, at St Martins and at the Youth Service Les Ozouets Campus has had a positive effect in helping to reduce crime and anti-social behaviour, and improve the self esteem of young people. As well as anecdotal evidence that St Martins has been quieter in 2013 than in previous years, there were 71 calls for service at Les Genats between September and December 2011 with 95 officers attending which reduced to 41 calls with 55 officers attending for the same period in 2012.
- Funding provided to extend holiday activity provision for secondary age pupils, e.g. Sports Commission 'Quids in', Youth Justice Summer Activity programmes.

Under priority 9 the following work has been undertaken to help children become successful learners:

- Continued support from all sections of the media in recognising and publicising the achievements of children and young people.
- Development of Youth Forum and the establishment of the Young People's Awards through the Youth Partnership for Guernsey and Alderney.
- Young People's Survey. - Pilot Survey in 2012. Main Survey 2013.
- Development of Careers Service to incorporate an all age service.
- Development of the Education Vision to broaden range and increase participation in learning opportunities.
- Research was carried out on pre-school provision.

RESPECTED AND RESPONSIBLE	
Priority	Action
10. Children's views will be considered in decisions about themselves and Guernsey.	<p>10.1 Maximise the opportunities for young people to engage in political and public debate.</p> <p>10.2 Provide opportunities to enable young people to engage with key stakeholders to represent the views of young people.</p>

RESPECTED AND RESPONSIBLE	
Priority	Action
	<p>10.3 Establish a Children and Young People's Reference Group to monitor implementation of this Plan, ensuring representation from a range of backgrounds and specific needs.</p> <p>10.4 Design and implement a strategy to enable children and young people who need services, to participate in both strategic and individual service planning.</p> <p>10.5 Establish an evidence base which articulates young people's views, attitudes and expectations.</p>
11. The behaviour of children at risk of, or displaying offending behaviour, will be addressed and their needs will be met.	<p>11.1 Identify children and young people who may be at risk of offending and devise preventative interventions</p> <p>11.2 Develop an integrated strategy to address the needs and behaviour of children and young people who offend, as required by the Convenor, CYCT and Juvenile Court.</p> <p>11.3 Agree and implement protocols for the use of Restorative Justice within the CYCT system and increase the use of Restorative Justice Interventions in all appropriate cases.</p> <p>11.4 Deliver evidence based interventions with young people who offend.</p>
12. Children will become responsible citizens.	<p>12.1 Develop informal learning opportunities for young people.</p> <p>12.2 Promote volunteering amongst all young people.</p>
13. Children will learn to build healthy, respectful relationships.	<p>13.1 Develop parenting programmes for parents of children in need or at risk.</p> <p>13.2 Develop therapeutic services for children affected by domestic abuse.</p>

RESPECTED AND RESPONSIBLE	
Priority	Action
	<p>13.3 Investigate the need for therapeutic help for children affected by living with parents or carers abusing alcohol or drugs.</p> <p>13.4 Promote respect for children in the community and within families.</p>

Update on Respected and Responsible Key Outcome

Under priority 10 the following work has been undertaken to ensure children's views will be considered in decisions about themselves and Guernsey:

- Ongoing work to develop youth forums and a children and young people's reference group.
- Plans to have half-termly youth forum meetings with politicians, business leaders and/or other decision makers based on issues identified by young people, current public consultations or topics in the news.
- Participation of children and young people included in the Looked After Children Strategy.
- Young People's Survey 2013.

Under priority 11 the following work has been undertaken to ensure the behaviour of children at risk of, or displaying offending behaviour, will be addressed and their needs will be met:

- A Youth Crime Prevention Strategy has been developed. This may go on to become part of the prevention component of the wider Criminal Justice Strategy.
- Restorative Justice is being used and the increased use of Restorative Justice interventions is developing.
- Evidence based interventions with young people who offend are being delivered, evaluated and developed.

Under priority 12 the following work has been undertaken to help children become responsible citizens:

- Duke of Edinburgh Award registrations increased (which includes requirement to undertake volunteering).
- Youth Achievement Awards also launched by Youth Service for intensive work with most difficult/ challenging pupils within schools and Link centre.
- Youth Partnership for Guernsey & Alderney established with new committee. Website launched 2012 to promote work of clubs/projects and encourage more volunteers.
- Youth Service has also extended reach of its training programme for volunteers and young people.
- Total of 53 participants under age 25 yrs completed training courses through Youth Service in academic year 2011-12.

Under priority 13 the following work has been undertaken to help children learn to build healthy respectful relationships:

- Incredible Years Parenting Programme, Guernsey Parenting Partnership, Moving Parents and Children Together (M-PACT) all developed for parents of children in need or at risk.
- Post Abuse Therapeutic Service developed.
- Working Group of Islands' Child Protection Committee beginning to look at impact of parenting factors –such as mental health, substance misuse and domestic violence.
- The Islands' Child Protection Committee has developed a media engagement protocol and are seeking to comment more on issues involving children. The Islands' Child Protection Committee runs on-island conferences for professionals in order to promote the interests and rights of children.

INCLUDED	
Priority	Action
14. Children will be supported to help them overcome social, educational, physical and economic inequalities.	<p>14.1 Identify and implement strategies to help children and young people to move out of poverty, as part of the wider review of benefits.</p> <p>14.2 Ensure workforce development strategies include a focus on young people who are not in employment, education or training (NEET).</p> <p>14.3 Report back to the States on improving the quality, availability and affordability of childcare.</p> <p>14.4 Develop a multi-agency on-line survey, similar to the Young People's Survey to gauge parent's views.</p> <p>14.5 Monitor whether young people identified in Alderney can access appropriate services.</p>

Update on Included Key Outcome

Under priority 14 the following work has been undertaken to help support children to overcome social, educational, physical and economic inequalities:

- Skills Guernsey has identified supporting young people not in education, employment or training (NEET) as a priority for 2012/13.
- One-off parents' survey conducted - findings published in November 2011.
- HSSD monitor services provided in Alderney – appropriate services available.
- Monitoring to continue by the Safeguarding Children in Alderney Group.

Glossary

A child “at risk”	<p>Section 23 of the Children (Guernsey & Alderney) Law 2008 states that a child is “at risk” if s/he:</p> <ul style="list-style-type: none"> • is believed to satisfy the grounds of compulsory intervention; • has suffered, or is likely to suffer, significant impairment to health or development; • has suffered, or likely to suffer, sexual or physical abuse; • has misused drugs or alcohol or inhaled a volatile substance; • exposed or likely to be exposed to moral danger; • has displayed violent or destructive behaviour and is likely to be a danger to himself or others or is otherwise beyond control; • is 12 or over and has committed a criminal offence; • is failing to attend school without good reason. •
A child “in need”	<p>Section 23 of the Children (Guernsey & Alderney) Law 2008 states that a child is “in need” if s/he:</p> <ul style="list-style-type: none"> • needs additional services in order to either achieve or maintain a reasonable standard of health or development; • is disabled; • is adversely affected, or likely to be, by the disability or illness of a family member.
Children and young people	<p>Persons under 18 years (except for Part V of the Criminal Justice (Children & Juvenile Court Reform) (Bailiwick of Guernsey) Law 2008) dealing with remand where the age is under 17 years.</p>
Childcare	<p>Childcare includes the use of a childminder, a nursery, a crèche, pre-school, play scheme or other school holiday scheme, an au pair, a nanny or</p>

	informal childcare by someone outside your household, such as a friend, relation or former partner, but not just the occasional babysitting.
Child Youth & Community Tribunal (CYCT)	The CYCT replaces court in most cases of child protection and child offending. Cases are heard by a lay panel of three people drawn from the local community. Guided by the law's basic principles, with the welfare of the child as the paramount concern. The CYCT will consider whether children at risk need compulsory intervention to ensure they receive sufficient care, protection, guidance or control. The Children (Guernsey & Alderney) Law 2008 (Part VI Sections 30-34)
Children's Convenor	Independent official, employed by the States of Guernsey, acting as gatekeepers to the Youth & Community Tribunal (CYCT). The Children (Guernsey & Alderney) Law 2008 (Part VI Sections 30-34)
Children affected by disability	People with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which, in interaction with various barriers, may hinder their full and effective participation in society on an equal basis
Young People's Survey	A triennial survey of 2,000+ students in years 6, 8, 10 and 12 to gauge the behaviour, beliefs and attitudes of young people in Guernsey.
School Food Trust Guidelines	National guidance regulating the provision of food in all English schools.
Looked After Child (LAC)	A "looked after child" is a child who is subject to: <ul style="list-style-type: none"> • a community parenting order; • emergency child protection order; • secure accommodation order; • subject to police powers and accommodated by the department;

	<ul style="list-style-type: none"> • fit person order to the department; • a care requirement and accommodated by the department; <p>or is voluntarily accommodated by the department to fulfil its social services functions.</p>
Primary Care	There are three primary care groups in Guernsey and two practices in Alderney. Primary care doctors are in private practice. Patients are required to pay for their visits to the surgery, for house calls and care provided in the Accident and Emergency Department.
Child's Plan	Any child whose needs are being addressed collaboratively by more than one agency has a multi-agency Child's Plan constructed with the child, family, carers and relevant people involved with the family and recorded by the Lead Professional.
Environment & Health Action Plan	The aim of this plan is to create positive environments, which nurture better health and wellbeing and reduce inequalities.
Restorative Justice (RJ)	Is an approach to justice that focuses on the needs of victims and offenders. It works to resolve conflict and repair harm.
Islands Child Protection Committee (ICPC)	The establishment of the Islands Child Protection Committee is a requirement of the Children (Guernsey & Alderney) Law 2008 (Part V, section 29). The principle objective of the Islands Child Protection is to co-ordinate what is done by each person or organisation represented on the Committee, for the purpose of protection and promoting the welfare of the children of Guernsey and Alderney.

- (NB **As there are no resource implications in this Report, the Treasury and Resources Department has no comments to make.**)
- (NB **The Policy Council supports the Report and is committed to working closely with the Health and Social Services Department to bring proposals back to the States of Deliberation at the earliest opportunity within the next two years.**)

The States are asked to decide:-

XI.- Whether, after consideration of the Report dated 23rd September, 2013, of the Health and Social Services Department, they are of the opinion to agree to the extension of “The Children and Young People’s Plan 2011 to 2013” by up to 3 years.

COMMERCE AND EMPLOYMENT DEPARTMENT

GUERNSEY FINANCIAL SERVICES COMMISSION – COMPULSORY ELECTRONIC TRANSACTIONS

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

17th September 2013

Dear Sir

1. Executive Summary

- 1.1 The Commerce and Employment Department has been asked by the Guernsey Financial Services Commission (“the Commission”) to bring a proposal to the States for legislation mandating the submission of certain documents electronically.

2. Background

- 2.1 The Commission has recently been undertaking extensive research into enhancing its Information Technology (“IT”) capability, with the aim of improving efficiencies and ensuring that the Commission maintains systems that are fit for the purposes of supervision.
- 2.2 This research project is known within the Commission by the generic name of Sentinel, and has been the subject of on-going discussion and consultation with representatives of industry and government. The project is supported by the financial services sector.
- 2.3 Electronic communications and transactions are now widely used and are not just desirable, but part of everyday business.
- 2.4 The aim of the project is that there will be more on-line activity, electronic engagement and information sharing between the Commission and the licensed entities which it regulates and the other businesses which register with the Commission for AML/CFT purposes, introducing a number of efficiencies to benefit both the Commission and industry and streamlining the supervisory notification process.
- 2.5 Sentinel’s first objective is to enable on-line submission from licensees and other persons of the information currently contained in Personal Questionnaires (‘PQs’) and Personal Declarations (‘PDs’) and, shortly thereafter, other applications, notifications and returns.

3. Current position

- 3.1 As part of its function under supervisory requirements for licensees and others to be fit and proper, the Commission requires that individuals complete a PQ to evidence their fitness and propriety. The information requested in a PQ reflects the requirements described in the minimum licensing criteria for a licensee.
- 3.2 Supervisory requirements also require that individuals remain fit and proper and the Commission therefore requires a PD to be submitted whenever any of the information disclosed on the original PQ changes.
- 3.3 In terms of volumes, currently the Commission receives, in paper format, approximately 4,000 such submissions annually, split 30% as to PQs and 70% as to PDs.
- 3.4 Other applications, notifications and returns are also currently made in paper format.

4. Core Proposal

- 4.1 The Commission has determined that the submission process for the information contained in PQs and PDs and, in time, other applications, notifications and returns would be greatly improved through the introduction of an on-line portal. The portal will be designed with appropriate levels of validation in order to minimise the risk of incomplete information being submitted, eliminating delays in processing, and other delays caused by postal delivery.
- 4.2 This will have the following advantages:
 - 4.2.1 It will give individuals greater flexibility in managing their supervisory obligations.
 - 4.2.2 The data will be immediately and securely updated to the Commission's records; and
 - 4.2.3 It will promote efficiencies for both the Commission and industry, removing the need for a separate PD form to be completed whenever information changes, as individuals will be able to update their information through an on-line portal.
- 4.3 The development of an on-line portal by the Commission involves investment, the return on which offers greater efficiency to all as well as reflecting in its wider sense that Guernsey is "open for business" much as is presently demonstrated by the Companies Registry.
- 4.4 The Commission believes that the efficiency gains will only arise if such documents are submitted electronically and is of the view that electronic submission of specified documents should be compulsory.
- 4.5 It is acknowledged by the Commission that a very small number of individuals may lack full IT capability. The Commission accepts that there will be a period during which some firms will need to be encouraged to update and equip. The

Commission therefore proposes that it should be permitted, at its discretion, to allow submissions to be made in hard copy, although it is anticipated that this discretion will only need to be exercised in practice in very few instances.

5. Legislation

- 5.1 The Commission does not, at present, have a general power to compel the submission of information in electronic format.
- 5.2 As a result, the Commission is of the view that legislation under section 9(2) of the Electronic Transactions (Guernsey) Law, 2000 ('the Law') is the most appropriate means of ensuring that electronic submissions via Sentinel are compulsory. This will have the advantage of creating a clear legal basis for imposing a mandatory requirement to submit documents to the Commission in electronic format.
- 5.3 Section 9(2) of the Law provides that the States "*may, from time to time, by Ordinance make such provision as they deem necessary or expedient prescribing circumstances in which a person shall be obliged to do or accept something in electronic form or by electronic means.*"
- 5.4 The Department therefore proposes that an Ordinance should be made under section 9 of the Electronic Transactions (Guernsey) Law, 2000, to require the electronic submission of the information contained in PQs and PDs to the Commission by licensees and other persons.
- 5.5 The Ordinance should also permit the extension of the requirement for electronic filing by licensees and other persons to other applications, notifications and returns in the future. The precise mechanism for enabling this extension will be determined following further discussion with the Law Officers but it is probable that a schedule will identify the specific circumstances in which a person is required to submit a specific document in electronic form. The provisions of the schedule can then be brought into force as required.
- 5.6 Finally, the Ordinance should make any necessary consequential, incidental, supplemental and/or transitional provisions as are necessary to ensure the effective implementation of the above policy proposal.
- 5.7 The Commerce and Employment Department recommends that the States enact legislation to give effect to the proposals set out above.

6. Supplemental Issue – legal effect, validity, enforceability and admissibility of information provided electronically

- 6.1 Given the nature of the submissions in question, it is crucial that the information and declarations provided as part of the submissions in question have full legal effect, validity, enforceability and admissibility. This will ensure that the Commission can rely on the information provided and that sanctions for providing false, deceptive or misleading information are effective.
- 6.2 Sections 1 to 5 and section 8 of the Electronic Transactions (Guernsey) Law, 2000 provide, in effect, that information, contracts, declarations, statements,

signatures and documents shall not be denied legal effect because they are in electronic form.

- 6.3 However, section 1 of the Electronic Transactions (Exemptions) Order, 2001 provides that the provisions of sections 1 to 5 and section 8 of the Law do not apply in certain circumstances including, in section 1(f) of the Order, statutory declarations.
- 6.4 There is some room for doubt as to the correct interpretation of the term 'statutory declaration' at present. It is arguable that it should be interpreted as having the same technical meaning that it has in English Law, where the term refers to a declaration verifying a document which has been affirmed rather than sworn on oath. However, in the absence of a definition in Guernsey Law it is also arguable that it could be interpreted as any declaration provided pursuant to a requirement of a Guernsey statute.
- 6.5 It is therefore proposed that the Law be amended to define 'statutory declaration' with general effect for the purpose of the Law, to remove any possible doubt about the legal effect of information that is provided in electronic form pursuant to a requirement of a Guernsey statute.
- 6.6 Amendment of the Law in this way is permitted by section 23(1) of the Law, which permits amendment of section 1 to 11, 20 and 22 of the Law as the States may from time to time deem necessary or expedient.

7. Good Governance and Consultation

- 7.1 The Department believes that it has fully complied with the six principles of good governance in the public services in the preparation of this Report (set out in Billet D'État IV, 2011 and approved by the States).
- 7.2 The Commission has discussed these proposals with, and has received support from, the financial services sector.
- 7.3 The Law Officers have been consulted regarding this proposal and have raised no issues.

8. Recommendations

- 8.1 The Commerce and Employment Department recommends the States resolve:
 - (a) to approve the proposals outlined in this Report; and
 - (b) to direct the preparation of legislation to give effect to the proposals.

Yours faithfully

K A Stewart	A H Brouard	D de G De Lisle	L B Queripel	H J R Soulsby
Minister	Deputy Minister	States Members		

Advocate T Carey
Non States Member

- (NB As there are no resource implications in this report, the Treasury and Resources Department has no comments to make.)
- (NB The Policy Council supports the report. It notes and welcomes this move by the Guernsey Financial Services Commission to improve processes and achieve operational efficiencies. The Policy Council also notes and welcomes that this development has been undertaken the full engagement and support of industry.)

The States are asked to decide:-

XII.- Whether, after consideration of the Report dated 17th September, 2013, of the Commerce and Employment Department, they are of the opinion:-

1. To approve the proposals outlined in that Report.
2. To direct the preparation of such legislation as may be necessary to give effect to the above decision.

HEALTH AND SOCIAL SERVICES DEPARTMENT

EARLY YEARS SERVICE - ORDINANCE FOR REGISTRATION OF CHILDMINDERS AND DAY CARE PROVIDERS UNDER THE CHILDREN (GUERNSEY AND ALDERNEY) LAW, 2008

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

23rd September 2013

Dear Sir

Executive Summary

1. The Health and Social Services Department ("**the Department**") has the responsibility under the Child Protection (Guernsey) Law, 1972 ("**the 1972 Law**") for ensuring a safe environment for the care of children outside formal educational environments. This is currently up to the age of 5. The Department, in response to the changing childcare environment and the proposals set out in the Education Department's Vision for Education, decided to update the legislation which governs the registration, monitoring and inspection of childcare providers who provide services outside formal education settings. The aim is to bring it into line with best practice and the new standards which Jersey and the UK have adopted. The Department believes these changes are in the best interests of children in childcare settings and would enhance the powers of the Early Years Team of the Department to protect children and scrutinise and monitor providers to give parents as much confidence as is possible in the safety of the system.
2. The Department wishes to repeal Part III of the Child Protection (Guernsey) Law, 1972 and replace it with a new ordinance to be made under the Children (Guernsey and Alderney) Law, 2008 ("**the 2008 Law**"), which will enable the Department to regulate the childcare sector more thoroughly and holistically, and will extend the Department's supervision to providers of care of children up to the age of eight years in line with Jersey and the UK.
3. These proposals are aimed at the regulation of day care providers (a person or organisation other than those with parental responsibility) where the sole intention is the provision of care for children aged 5 – 8 years. However, the proposals are not intended to and will not impact upon providers of activities such as sporting clubs (football, tennis, athletics etc) or dance schools where the primary aim of

the activity is the delivery of training and education such as those provided through youth organisations and similar bodies.

The need to replace existing childcare regulation with an Ordinance under the Childrens (Guernsey and Alderney) Law, 2008

4. This new ordinance will enable the Department to update and modernise the standards and controls used to help ensure safe delivery of childcare in Guernsey. The existing legislation restricts the Department in how it can develop the system and the ages of children whose childcare falls within the Early Years Monitoring and Registration System. The key changes are to increase the age to 8 years and to provide for a structured method of managing providers, and provide new protections for such providers which do not exist in the existing legislation (e.g. providing for both an internal complaints and review of decisions process as well as a formal appeals process against decisions relating to registration). It has been welcomed by all providers who responded as a positive step and will bring Guernsey's framework for childcare into line with the UK and Jersey.

Reasons for Recommendations

5. Childminders, nurseries, pre-Schools and crèches are currently regulated under the 1972 Law and it is proposed that they now be regulated under an Ordinance made under the 2008 Law. This will bring them into line with other areas of childcare provision. The effect of this is to bring the legislative environment surrounding these services very much into line with the modern regulatory and protection concepts enshrined in the 2008 Law.
 - a. The age range that providers have to be registered for is currently birth to 5 years. It is proposed that the registration system should be expanded to bring it into line with the UK and register facilities, childminders and day care providers providing care for children from birth to 8 years. This will provide protection not currently available to children accessing after school clubs and pre-school services. These children are young and vulnerable and deserve equal protection. The cut off age of 8 years has been used and as this is congruent with the position in the UK, and the Department feels is proportionate in that it covers the youngest and hence most vulnerable school age children but does not over regulate the child care market by including older children.
 - b. The process of de-registration is currently difficult to operate and unclear. The Department aims to enshrine a clear and transparent process with proper appeal mechanisms. This is proposed to include the power of suspension (which is new) to deal with urgent matters of concern, which was not included in the 1972 Law. This is following advice from the Law Officers.
 - c. The Department believes there is no good argument for the exclusion of

services provided by the States of Guernsey from these controls. It believes all premises and providers, including the States of Guernsey should be registered and subject to the same regulatory burden and oversight. This has the effect of creating a level playing field in the child care market. The current 1972 Law excludes the States of Guernsey, which has primary schools which may expand further in the future to deliver pre-school education.

- d. The Department believes that re-registration which requires day care providers and childminders to re-register every 2 years is proportionate and not overly burdensome for these persons. This process enables HSSD to continue to ensure that the persons registered remain 'Fit Persons' to care for children. A fee prescribed by regulations made by the Department would be charged, to cover the costs of administration, monitoring, inspections and enforcement.

The proposed Ordinance should exclude activities which fall below a minimum amount of contact time, as set out in Recommendation (c). The proposed Ordinance should provide for other exemptions such as parents, guardians and relatives and foster carers approved by the Department. The Ordinance should also authorise the Department to make regulations to provide for further exemptions. At this stage, the Department proposes to exempt premises used for supervised outings and excursions.

- e. The new Ordinance should include a provision to enable the Department to set standards which would have to be met in relation to premises and staff providing childcare services. This would ensure as far as is possible that premises are fit places for the care of children and those providing the service (both proprietors and their employees) and any person closely connected to the business (e.g. partners) are checked to ensure they are 'fit' persons to provide childcare.
- f. The new Ordinance should give the Department powers to enforce the new requirements and standards, including the power to revoke or vary the registration of premises or persons providing childcare, subject to due process. In order to be able to deliver this responsibility the Department's officers would need the power to enter and inspect premises providing childcare. These powers would ensure the Department would be able to fulfil its core responsibility of ensuring the safety of children being cared for by a provider.
- g. In cases where immediate action is necessary, the new Ordinance should authorise the Department to apply to the Royal Court to give immediate effect to a revocation or variation of registration, in order to protect children from an unsafe provider or facilities or unsuitable staff. In addition, in emergencies, the Department should have the power to suspend a registration or vary the conditions of registration for up to 3 days at a time,

with the consent of a Law Officer.

- h. The new Ordinance should include a series of penalties for those childminders or day care providers who fail to comply with the conditions of their registration or who fail to register. The wide range of powers in paragraphs (f) and (g), together with these penalties, will enable the Department to take the appropriate and necessary action to assure the safety of children in the care of childminders or day care providers.
- i. Part III of the 1972 Law would be repealed, subject to appropriate transitional and savings provisions for premises and child minders registered under that Law, and replaced by this new ordinance. This will transfer the regulation of childcare providers from the 1972 Law to the more up to date 2008 Law. The repeal of Part III of the 1972 Law would ensure there is no duplication or confusion over the powers of the Department and duties and responsibilities of registered childcare providers or childminders.

Financial Implications and Funding

- 6. The Department is of the view that the proposed new childcare regulation regime would not require an increase in the existing revenue budget allocation, as the Department would prescribe fees for registration and related services.
- 7. As a result of these proposals, the Department has no intention at this time to levy fees higher than the current scales in use (except as part of the annual indexation).

Consultation with Childcare Providers

- 8. Internal consultation with the Children and Maternity Services has been carried out and the proposals were endorsed by the HSSD Board on 27 November, 2012 for consultation with interested parties. The following groups and organisations were consulted between the 7th January and the 8th March 2013:

Education Department
Guernsey Pre-school Learning Alliance
Child minders
After School Club Providers
Nurseries
Crèches
Pre-schools
HSSD Childrens Services

- 9. All parties who responded were very supportive and a number of minor points were identified which resulted in the inclusion of the Department's proposal to exempt premises used for supervised outings and visits from the requirement to be registered.

Consultation with the Law Officers

10. The Law Officers have been consulted and have helped the HSSD prepare the proposals set out in this Report.
11. The Department has no reason to believe that these proposals will have any impact on Legal Aid expenditure.

Principles of Good Governance

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

Recommendations

13. The Health and Social Services Department recommends that the States agree:
 - (a) That child minders, nurseries, pre-schools and crèches which are currently regulated under the Child Protection (Guernsey) Law, 1972 would be regulated by and under an Ordinance made under the Children (Guernsey and Alderney) Law, 2008;
 - (b) That child minders and day care providers providing care for children at any time from birth up to the age of 8 years (instead of the current upper limit of 5 years) would be required to be registered by the Department in respect of each premises used for such purposes, if they cross the threshold for registration;
 - (c) That the threshold for registration be caring for children of the relevant age for 2 hours or longer each day, on six or more days in any 12-month period;
 - (d) That all premises, child minders and day care providers that cross the threshold (including the States of Guernsey) would need to be registered, unless expressly exempted by Ordinance or by Regulations made by the Department. Examples of exemptions include parents, guardians or relatives, foster carers authorised by the Department, and premises used for outings or visits supervised by a registered child-minder or day care provider;
 - (e) That registration would be subject to applicants, premises and personnel being fit AND meeting standards published by the Department; persons who are disqualified on certain grounds would need the Departments' specific consent and in any event registration would be subject to conditions specified by the Department in particular cases;

- (f) That re-registration would be required every 2 years to ensure that applicants, premises and personnel remain fit AND continue to meet the Department's standards; child-minders and day care providers would be required to effect registration and re-registration and to pay the fees prescribed by regulations;
- (g) That the Department would be empowered to vary conditions of a registration or revoke a registration on specified grounds, subject to appropriate notice; and that the Department's officers be given adequate powers of entry and inspection, to enforce the new childcare regulation regime;
- (h) That, on application by the Department, the Royal Court (Ordinary Court) would be able to order a variation or revocation by the Department to take immediate effect, if children are suffering or are at risk of suffering significant harm;
- (i) That provision be made for the emergency protection of children by empowering the Department to suspend a registration or vary conditions of a registration with immediate effect, if the Department believes this is necessary to avoid significant harm to children. This power would be subject to safeguards such as a 72 hour time-limit, and the consent of a Law Officer;
- (j) That provision be made for internal review by the Department of its registration, variation, suspension, and revocation decisions, together with provision for appeals to the Royal Court (Ordinary Court);
- (k) That appropriate offences and penalties be prescribed to enforce the new childcare regulation regime;
- (l) That Part III of the Child Protection (Guernsey) Law, 1972 will be repealed, subject to appropriate transitional and savings provisions for premises and child minders registered under that Law; and
- (m) To direct the Law Officers' Chambers to draft such legislation as may be necessary to give effect to the above recommendations.

Yours faithfully

M H Dorey
Minister, Health and Social Services Department

M J Storey
Deputy Minister

E G Bebb
Member

B L Brehaut
Member

S A James
Member

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

(NB The Policy Council supports the Report.)

The States are asked to decide:-

XIII.- Whether, after consideration of the Report dated 23rd September, 2013, of the Health and Social Services Department, they are of the opinion:-

1. That child minders, nurseries, pre-schools and crèches which are currently regulated under the Child Protection (Guernsey) Law, 1972 be regulated by and under an Ordinance made under the Children (Guernsey and Alderney) Law, 2008.
2. That child minders and day care providers providing care for children at any time from birth up to the age of 8 years (instead of the current upper limit of 5 years) be required to be registered by the Department in respect of each premises used for such purposes, if they cross the threshold for registration.
3. That the threshold for registration be caring for children of the relevant age for 2 hours or longer each day, on six or more days in any 12-month period.
4. That all premises, child minders and day care providers that cross the threshold (including the States of Guernsey) be registered, unless expressly exempted by Ordinance or by Regulations made by the Department. Examples of exemptions include parents, guardians or relatives, foster carers authorised by the Department, and premises used for outings or visits supervised by a registered child-minder or day care provider.
5. That registration be subject to applicants, premises and personnel being fit and meeting standards published by the Department; persons who are disqualified on certain grounds would need the Departments' specific consent and in any event registration would be subject to conditions specified by the Department in particular cases.
6. That re-registration be required every 2 years to ensure that applicants, premises and personnel remain fit AND continue to meet the Department's standards; child-minders and day care providers would be required to effect registration and re-registration and to pay the fees prescribed by regulations.
7. That the Health and Social Services Department be empowered to vary conditions of a registration or revoke a registration on specified grounds, subject to appropriate notice; and that the Department's officers be given adequate powers of entry and inspection, to enforce the new childcare regulation regime.

8. That, on application by the Health and Social Services Department, the Royal Court Ordinary Division would be able to order a variation or revocation by the Department to take immediate effect, if children are suffering or are at risk of suffering significant harm.
9. That provision be made for the emergency protection of children by empowering the Health and Social Services Department to suspend a registration or vary conditions of a registration with immediate effect, if the Department believes this is necessary to avoid significant harm to children; such power to be subject to safeguards such as a 72 hour time-limit, and the consent of a Law Officer.
10. That provision be made for internal review by the Health and Social Services Department of its registration, variation, suspension, and revocation decisions, together with provision for appeals to the Royal Court Ordinary Division.
11. That appropriate offences and penalties be prescribed to enforce the new childcare regulation regime.
12. That Part III of the Child Protection (Guernsey) Law, 1972 be repealed, subject to appropriate transitional and savings provisions for premises and child minders registered under that Law.
13. To direct the preparation of such legislation as may be necessary to give to give effect to the above decisions.