



BILLET D'ÉTAT

WEDNESDAY, 25th JUNE, 2014

XII
2014

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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 **25th JUNE, 2014** 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

16th May 2014

PROJET DE LOI

entitled

THE SUPPLEMENTARY BENEFIT (GUERNSEY) (AMENDMENT) LAW, 2014

The States are asked to decide:-

I.- Whether they are of the opinion to approve the draft Projet de Loi entitled “The Supplementary Benefit (Guernsey) (Amendment) Law, 2014”, 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 Law amends the Supplementary Benefit (Guernsey) Law, 1971 ("the 1971 Law").

Clauses 2 and 3 make amendments to the arrangement of sections to the 1971 Law.

Clauses 4 and 5 amend sections 1 and 2 of the 1971 Law by substituting the existing section 1 with a new section entitled "Eligibility for a supplementary benefit" and substituting section 2 ("Persons to whom the Law applies") so that the Law applies to persons who are eligible under section 1. The provisions of the new section 1 set out revised criteria for eligibility for a supplementary benefit.

Clause 6 amends section 3 of the 1971 Law by, in effect, repealing the power to make an Ordinance under that section specifying the different classes of persons to whom the Law applies. That power is unnecessary given the amendments made to sections 1 and 2.

Clause 7 inserts new sections into the 1971 Law. The inserted sections empower the Social Security Department to make payments to meet the reasonable medical expenses of a person to whom the Law applies and to make repatriation payments for certain individuals, in the circumstances set out, who do not have a home in Guernsey.

Clause 8 amends section 9 of the 1971 Law in order to enable the Department to prescribe by regulation the description of benefits, allowances or pensions payable under the Social Insurance (Guernsey) Law, 1978 that may be abated to prevent duplication of payment of supplementary benefit.

Clauses 9 and 10 amend sections 10 and 11 of the 1971 Law so that the expression "disabled person(s)" is substituted for the expression "handicapped person(s)" and to enable the Department to provide disabled persons with equipment, aids and appliances.

Clause 11 repeals sections 12, 20 and 21 of the 1971 Law which are no longer necessary.

Clause 12 inserts into the 1971 Law a clause enabling certain provisions of the Law to be amended by Ordinance and a clause containing general provisions relating to Ordinances made under the Law.

Clause 13 amends section 22 of the 1971 Law in order to enable the Department to make recoveries of expenditure, incurred in consequence of any misrepresentation or failure to disclose any material fact, by way of deduction from any benefit payable under the Law or any other Law.

Clause 14 amends sections 25 and 26 of the 1971 Law by substituting "Minister" for "President" where appearing in those sections.

Clause 15 makes amendments to section 28 of the 1971 Law (interpretation) by the insertion in that section of further relevant definitions and the repeal of definitions that are no longer required.

Clause 16 is the interpretation clause.

Clause 17 repeals the Supplementary Benefit (Classes of persons to whom the Law applies) Ordinance, 2009, which will no longer be required given the amendments made by clauses 4 and 5 of this Law to sections 1 and 2 of the 1971 Law relating to eligibility for a supplementary benefit.

Clause 18 provides that the Law shall have no effect on the Supplementary Benefit (Implementation) Ordinance, 1971, which shall remain in force.

Clause 19 is the citation clause.

THE INCOME TAX (GUERNSEY) (APPROVAL OF AGREEMENTS WITH COSTA RICA, MAURITIUS, THE SEYCHELLES, THE UNITED STATES OF AMERICA AND THE UNITED KINGDOM) ORDINANCE, 2014

The States are asked to decide:-

II.- Whether they are of the opinion to approve the draft Ordinance entitled “The Income Tax (Guernsey) (Approval of Agreements with Costa Rica, Mauritius, the Seychelles, the United States of America and the United Kingdom) Ordinance, 2014”, and to direct that the same shall have effect as an Ordinance of the States.

EXPLANATORY MEMORANDUM

This Ordinance specifies the agreements providing for the obtaining and exchanging of information in relation to tax, made for the purposes of the Income Tax (Guernsey) Law, 1975.

The agreements specified as approved international agreements are (i) three Tax Information Exchange Agreements made between the States of Guernsey and the Governments of Costa Rica, Mauritius and the Seychelles, (ii) two Amendment Agreements to Tax Information Exchange Agreements previously made between the States of Guernsey and the Governments of the United Kingdom and the United States of America and (iii) one Intergovernmental Agreement made between the States of Guernsey and the United States of America.

The agreements were signed during the period from October 2013 to March 2014.

STATUTORY INSTRUMENTS LAID BEFORE THE STATES

The States of Deliberation have the power to annul any of the Statutory Instruments detailed below.

THE FOUNDATIONS (GUERNSEY) (STRIKE OFF) REGULATIONS, 2014

In pursuance of Section 51(4) of the Foundations (Guernsey) Law, 2012, The Foundations (Guernsey) (Strike Off) Regulations, 2014 made by the Commerce and Employment Department on 18th March 2014, are laid before the States.

EXPLANATORY NOTE

These Regulations set out the circumstances in which a foundation may be struck off from the Register of Foundations and the circumstances under which a struck off foundation may be restored to the Register under the Foundations (Guernsey) Law, 2012.

The Regulations came into force on 18th March, 2014.

THE FOUNDATIONS (ANNUAL RENEWAL) (GUERNSEY) REGULATIONS, 2014

In pursuance of Section 51(4) of the Foundations (Guernsey) Law, 2012, The Foundations (Annual Renewal) (Guernsey) Regulations, 2014 made by the Commerce and Employment Department on 18th March 2014, are laid before the States.

EXPLANATORY NOTE

These Regulations create a duty for Guernsey foundations to submit an annual renewal to the Registrar of Foundations in June each year. They specify the information to be provided in the annual renewal, enable the Registrar to require that information to be submitted in such form as the Registrar may require and provide for the consequences of not complying with the duty to submit a renewal, in accordance with the powers in the Foundations (Guernsey) Law, 2012.

The Regulations came into force on 18th March, 2014.

**THE COPYRIGHT (APPLICATION TO THE UNITED KINGDOM)
(BAILIWICK OF GUERNSEY) REGULATIONS, 2014**

In pursuance of Section 221(3) of the Copyright (Bailiwick of Guernsey) Ordinance, 2005, The Copyright (Application to the United Kingdom) (Bailiwick of Guernsey) Regulations, 2014 made by the Commerce and Employment Department on 18th February 2014, are laid before the States.

EXPLANATORY NOTE

These Regulations apply the provisions of the Copyright (Bailiwick of Guernsey) Ordinance, 2005, to all works originating in the United Kingdom, whether by reference to their author's residence or domicile, the country of first publication or the place of transmission.

These Regulations came into force on the 18th February, 2014.

THE BOARDING PERMITS FEES ORDER, 2014

In pursuance of Section 17 of the Tourist Law, 1948 as amended, The Boarding Permits Fees Order, 2014, made by the Commerce and Employment Department on 4th February 2014, is laid before the States.

EXPLANATORY NOTE

This Order prescribes the fees payable by the holder of a boarding permit under the Tourist Law, 1948 for the period commencing 1st April 2014 and replaces the Boarding Permit Fees Order, 2012. This Order came into force on 1st April 2014.

**POLICY COUNCIL
COMMERCE AND EMPLOYMENT DEPARTMENT
TREASURY AND RESOURCES DEPARTMENT**

GUERNSEY ELECTRICITY SUPPLY - FUTURE STRATEGY

1. Executive summary

- 1.1 For any developed and sophisticated economy the provision of a secure, reliable and reasonably priced electricity supply is essential. Such a supply can only be furnished if, amongst other things, the infrastructure involved is well planned, well maintained and replaced and enhanced as necessary to meet demand.
- 1.2 Guernsey Electricity Limited is entering a key strategic period when it will need to make decisions about major investment in the replacement of ageing local plant and/or the enhancement of the Island's power cable connectivity. This requires appropriate policy direction by the States to be able to make far reaching decisions in the middle of 2014.
- 1.3 The purpose of this report is to ensure that the States have an appropriate policy in place to guide Guernsey Electricity Limited in making investment decisions which are appropriate for the Island's aspirations, bearing in mind that all islanders will bear the cost of those investments in some way. It should be noted that this policy conforms with and will stand alongside the Energy Resource Plan approved by the States in 2012. The Energy Resource Plan provides the wider context for all energy demand and use and not solely electricity.
- 1.4 The provision of electricity requires the assessment and balancing of three main factors:
 - **Cost**
 - **Security**
 - **Environmental impact**
- 1.5 Each of these will affect the other and there is unlikely to be a perfect solution. Consequently, the report considers a number of key questions:
 - **Are States' members willing to consider a future where all electricity is imported or do they wish to retain local generation?**
 - **If it is decided that local generation should be retained, how much is required and what type of generation is appropriate?**
 - **How should the infrastructure costs required for electricity supply be met?**

- 1.6 The report presents information and analysis which is intended to assist the States to consider these questions and to frame appropriate policy to act as guidance for the industry.
- 1.7 This report notes that the Island has dependencies on Europe and France in particular, for imported electricity and on the international fuel supply system for supplies of fuel for local fossil fuelled generation.
- 1.8 The nature of the electricity supply industry in Europe makes forecasting the sufficiency of power generation and transmission infrastructure extremely difficult. However, there are significant uncertainties facing the industry including in particular those described in paragraphs 1.9, 1.10 and 1.11 below.
- 1.9 The decision to phase out nuclear generation in Germany and the present French government's stated desire to reduce nuclear generation to 50% of its electricity requirement, creates a situation where many observers are wondering how the continent will succeed in maintaining supplies.
- 1.10 Similarly, in the UK, the recent deal struck between the government and potential supplier Electricite de France for a new nuclear power station has been challenged by the European Commission, leading to further uncertainty.
- 1.11 Uncertainty also surrounds the development both of shale gas and of coal gasification; two new technologies that may offer significant increases in European indigenous fuel.
- 1.12 The report contains a review of renewable generation options. The review concludes that renewables are unlikely to make a major impact upon local supplies until the next decade at the earliest, but recognises that the Island has significant renewable resources. The report therefore focusses on local fossil fuelled generation which, for the time being, provides the Island with security and diversifies its risk, since the principal risk associated with local fossil fuelled generation is in obtaining the fuel itself.
- 1.13 Against this background of uncertainty, the report **recommends that the States should require local generation and that cable links to other jurisdictions should be added to and strengthened.**
- 1.14 It further **recommends that the infrastructure for electricity supply should continue to be paid for by electricity customers, without recourse to taxpayers.**
- 1.15 The report also **recommends the continuance of the "N-2" security criterion and the adoption of an additional criterion to govern the type of generation to be installed.**

- 1.16 With regard to renewable energy, the report **recommends continuing the mandate for the Commerce and Employment Department to investigate and prepare for the adoption of local renewable energy.**
- 1.17 Recent reports from the Intergovernmental Panel on Climate Change have emphasised the need for emissions from the burning of fossil fuels to be cut significantly. This objective of minimising atmospheric emissions, which is also contained within the Energy Resource Plan, can best be met (for the time being) within a policy which anticipates the strengthening of connectivity to Europe and the expectation that such connectivity will become the principal source of electricity supply to islanders.
- 1.18 This report was originally issued in draft form for public consultation and was drawn to the attention of those individuals and bodies likely to be interested. Within this process, nineteen responses to the consultation were received. The effort put into preparing these responses is greatly appreciated and their submission has led to some modifications to the report. Whilst the public consultation provided interested parties with an ability to comment on any aspect of the report, the consultation invitation asked respondents to provide answers to four specific questions. A summary of the questions and the responses is shown below, noting that some respondents chose not to answer all the questions:

Question: Should local generation continue to be provided?

Response: Fifteen said yes, one said no.

Question: Is it appropriate to enhance power cable connections to other jurisdictions?

Response: Fourteen said yes, one said no.

Question: Should research into renewables continue?

Response: Eleven said yes, nobody said no.

Question: Should electricity users continue to be responsible for all the cost of provision of electricity?

Response: Twelve said yes, one said no

The sponsoring departments have concluded that the essential elements of the strategy enjoy broad support.

2. Explanation of terms and relevant statistics

2.1 Explanation of terms

- 2.1.1 Energy – is the ability of any system to do useful work. In this report energy values are stated in kilowatt hours, abbreviation kWh, which is the unit of energy used on electricity accounts.

- 2.1.2 Power – is a measure of a system’s rate of doing useful work expressed as work done per unit time. In this report power is measured in kilowatts – abbreviation kW and in megawatts – abbreviation MW. A megawatt is a thousand kilowatts. As an example a domestic kettle with an element with a power rating of 1kW will use 1 kWh of energy in heating water if it were switched on continuously for an hour.
- 2.1.3 Similarly a 3kW immersion heater would use 3kWh of energy when heating water continuously for an hour.

2.2 Relevant statistics for Guernsey’s electricity industry

- 2.2.1 Annual total energy requirement – approximately 400 million kWh.
- 2.2.2 Maximum demand (2010/11) 85MW (*maximum demand usually occurs at approximately 17.30 on a weekday evening in January or February and is associated with cold weather*).
- 2.2.3 Minimum demand circa 23MW (*minimum demand usually occurs in the early hours of the morning in the summer months*).
- 2.2.4 Guernsey Electricity Limited (“GEL”) annual revenue from electricity sales circa £53 million (2012/13).
- 2.2.5 Percentage of Guernsey’s energy requirement supplied by electricity – circa 30%.

3. The establishment of policy for electricity

- 3.1 Since 2002 electricity has been delivered to islanders under a commercialised model, where GEL is effectively a monopoly supplier wholly owned by the States, with its own board of directors and subject to regulation, with both GEL and its regulator operating within a policy and legislative framework established by the States.
- 3.2 In this model the States exercises their policy making function by:
 1. Enacting legislation designed to enable the regulator to promote and balance a number of key statutory objectives.
 2. Providing strategic or general directions to the regulator in the exercise of their legal responsibilities through the Commerce and Employment Department.
 3. Providing directions to GEL through the role of shareholder exercised by the Treasury and Resources Department.
 4. Creating overarching policy, under the direction of the Policy Council, such as that contained within the Energy Resource Plan, which sets out the States’ aspirations for the energy sector as a whole.

- 3.3 The ability to give strategic or general directions to the regulator in the exercise of their powers is contained in law, Section 3(1A) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 provides as follows:

The States may, on the recommendation of the Commerce and Employment Department made after consultation with the Authority (CICRA), and without prejudice to the provisions of sub-section (1), by Ordinance give the Authority directions of a strategic or general nature including, without limitation, directions concerning the priorities to be taken account of by it in the exercise of its functions and powers under this law and any Sector Law in respect of any utility service.

- 3.4 The form of regulation is currently under review and a report on this from the Commerce and Employment Department is expected in the near future. Whilst such a review may change the mechanisms which provide for oversight of the electricity industry, it will not alter the need for appropriate States' policy on the provision of electricity.

- 3.5 With regard to shareholder guidance, in 2001 (Billet d'État XVIII of September 2001, annex 3) the States provided, amongst other things, the following guidance to the then Advisory and Finance Committee, predecessors to Treasury and Resources Department as shareholder:

"However electricity services are provided in future, they are to be provided within a policy of retaining sufficient on-Island generating plant to meet the total long term demand, to cover for the possibility of interruption or unavailability of power through the cable link to France."

- 3.6 The States refined this policy direction in November 2005 (Billet d'État XX of November 2005) when they considered a report from the Commerce and Employment Department discussing the Electricity Generation Investment Options for Guernsey.

- 3.7 The resolutions of the States were as follows:

1. *To confirm their commitment to the existing policy of retaining sufficient sources of electricity to meet requirements, in any circumstances where two such sources (on- Island generators or the CIEG cable link to France) were unavailable at the same time (the n-2 policy).*
2. *To agree that electricity pricing policies should be based on the assumption that, over the coming 25 years, generation requirements will be met by a combination of replacing on-Island generation plant and re-enforcement of the existing CIEG cable link to France via Jersey.*

3. *To agree that the above assumptions should be reviewed prior to any decision being taken on major expenditure on generating plant and/or re-enforcement of the existing CIEG cable link to France via Jersey.*
 4. *To agree that the Policy Council should initiate an Energy Policy Review Group to assess energy policy in general and possible future sources of renewable energy, including tidal power and that at least two members of the Group should be sitting members (other than Ministers) of the States.*
 5. *To agree that the Policy Council should report back to the States on energy policy, including what investment should be made to assess renewable energy sources and how such investment should be funded.*
- 3.8 The creation of these resolutions effectively provided guidance to both GEL and the regulator as to the investment to be made into the Island's electricity system and the manner in which the costs of these investments should be recovered from customers.
- 3.9 In January 2012 (Billet d'État III) the States considered and adopted the Energy Resource Plan. Amongst other things, the plan contains the following strategic objectives:
- *Maintaining the safety, security, affordability and sustainability of the Island's Energy Supplies*
 - *Reducing the environmental impacts locally as part of our contribution to international initiatives as part of the global community.*
- 3.10 Taken collectively these resolutions and policy directions underpin the present arrangements for electricity supply and form the framework against which to consider the future strategy.
- 4. Security criteria - definitions**
- 4.1 Throughout this report there are references to "N-2" and "N-1" security criteria.
- 4.2 An "N-2" security criterion requires that the supplier should maintain sufficient plant and importation facilities such that the Island maximum demand can still be met with the two largest sources of electricity simultaneously unavailable.
- 4.3 Similarly, an "N-1" security criterion requires that the supplier should maintain sufficient plant and importation facilities such that Island maximum demand can still be met with the single largest source of electricity unavailable.
- 4.4 The implications of these criteria are discussed further in section 19.

5. The timing of this report

- 5.1 It is nine years since the States last gave detailed consideration to matters pertaining to electricity supply. The nature of electricity utilities is that they must invest in expensive capital plant which is expected to last for many years. It is, therefore, essential that any strategic direction set by the States has a lifetime similar to the lifetime of the capital assets, which is expected to be between 25 and 40 years.
- 5.2 Increasing electricity demand, the ageing of the bulk of the on-Island fleet of generators and the interconnection cable failures of 2012 have all created a situation where GEL is faced with a need to invest substantial sums in the very near future, with any decisions required on cable reinforcements by the middle of 2014.
- 5.3 It is, therefore, appropriate for the States to again consider the strategic direction of the Island's electricity industry, whilst recognising that implementing this direction is the function of the company and its regulators.

6. Objectives in electricity supply

- 6.1 The Energy Resource Plan sets out three strategic objectives for the Island's energy sector as a whole:
- *Maintaining the safety, security, affordability and sustainability of the Island's energy supplies;*
 - *Using energy wisely, efficiently and not wasting it;*
 - *Reducing environmental impacts locally as part of our contribution to international initiatives as part of the global community.*

Objectives for the Island's electricity sector must align with these overall objectives but will necessarily be narrower and more focussed.

- 6.2 The overriding objective of any electricity supply system is to ensure that electricity is available to customers when and where they wish to use it. Beneath this top level requirement, undertakings strive to achieve a number of objectives in meeting the demand for electricity.
- 6.3 *Economy* – publically owned electricity undertakings normally seek to set prices at levels which are consistent with providing for their continuing operations and making such returns as their shareholder requires, allowing for continuous improvement in efficiency. Given the ownership structure of GEL, there is little motivation for excess profits to be made.
- 6.4 *Security and reliability* – undertakings seek to ensure that the supply is as secure as can reasonably be afforded. The requirement for security may well entail

additional cost and is frequently a matter of discussion, if not dispute, between undertakings and regulators.

- 6.5 Similarly the definition of what constitutes acceptable reliability and the potential additional costs of providing it is also a matter of debate.
- 6.6 To a significant extent the definition of acceptable reliability depends both on what a territory has become accustomed to and on the importance of electricity supply reliability to users of that supply. Guernsey has become accustomed to high reliability and has sophisticated industries, so it is reasonable to expect that the Island would not be well served by a reduction in this reliability.
- 6.7 *Environmental performance* – in past times this measure of an undertaking's achievement was given little consideration. However, undertakings now expect to have performance targets in this area. Such targets usually involve increased costs for the undertaking. For instance it is technically possible to remove many of the pollutants from diesel engine exhaust fumes, but there are significant capital and operating cost implications which must be paid for, almost inevitably by higher charges to customers.
- 6.8 **Given that these three objectives are all, to some extent, in conflict, it is essential that the States decide where the balance should be struck, recognising that islanders will all have their views about the correct balance and that those views may differ.**
- 6.9 In considering the issues, it may be convenient to keep in mind that the outcome desired from these considerations is a suitable balance of the three desirable qualities of electricity supply – **security/reliability, cost and environmental performance.**

7. Present sources of electricity

- 7.1 GEL currently has three main sources of electricity, each having a different blend of economy, security/reliability and environmental performance and also with differing technical characteristics which have an impact on how the sources may best be used:

7.2 The cable link to Jersey and France

- 7.2.1 This has costs directly related to European electricity markets. At the electricity and oil prices currently prevailing, it is the lowest cost source of supply for GEL. From an environmental point of view, the electricity purchased has a low carbon content because it is sourced, contractually and with a small price premium, from nuclear or hydroelectric power stations. From a technical perspective the electricity is delivered by a network which is not currently diverse, there being only a single power cable between Guernsey and Jersey, so its security and reliability are compromised. From a political perspective the electricity is

sourced in another jurisdiction and transmitted through a third, which may also be factors relevant to its security and reliability.

- 7.2.2 Whilst the addition of more cables can reduce the technical risk, the political risk of sourcing from another jurisdiction remains unchanged.
- 7.2.3 A simplified map of the present and potential future cable routes appears as Appendix 1.

7.3 Diesel engines

- 7.3.1 GEL operates a fleet of six large diesel engines, normally fuelled by heavy fuel oil. Their operating costs are heavily influenced by the price of that fuel oil, a cost which has been notoriously variable in recent years.
- 7.3.2 In present pricing terms the cost of electricity produced by a diesel engine is approximately 20 to 30% higher than importation.
- 7.3.3 In security terms the diesel engines are reliable devices, controlled locally and they can be expected to be available for service provided they are properly maintained and have fuel. The security risk for this plant is largely attributable to the risks associated with maintaining a supply of fuel.
- 7.3.4 From an environmental perspective the machines are major producers of carbon dioxide and also of oxides of nitrogen and sulphur, all gases of which atmospheric concentrations developed economies are generally seeking to reduce.
- 7.3.5 A requirement to improve the environmental performance, by reducing some of the exhaust emissions, would cause significant increases in costs which would need to be recovered.
- 7.3.6 On a localised basis, the diesel engines are also sources of noise and vibration which can affect neighbouring properties.
- 7.4.7 Of the 6 diesel engines currently in service, 3 are already over 30 years old, collectively representing some 45% of the available diesel capacity. Guidelines for similar heavy diesels of somewhat different design suggest a life of 25 years. Unfortunately there is little relevant external information to assist in determining the life of this particular plant, but it is reasonable to expect that plant of this age will suffer decreasing reliability and increasing maintenance costs as time goes by, ultimately leading to a position where it becomes unreasonable to expect continuing economic service.
- 7.4.8 The latest addition to GEL's fleet of diesel engines is of a different design to its immediate predecessors and offers an improved emissions performance and

lower capital costs, making it more suitable for the intermittent running expected when the majority of Island electricity is imported over the cable link.

7.5 Gas-turbines

- 7.5.1 GEL operates a fleet of three gas turbines, fuelled by diesel oil. These machines exist to provide a quick start ability to recover electricity supplies in the event of technical failures and as a last line of defence when other sources are not available for any reason.
- 7.5.2 They are characterised by high operating costs. Typically, based on current electricity prices, GEL loses money on every unit of electricity produced by these machines. The high costs are caused both by relatively expensive fuel and by poor efficiency of conversion from fuel to electricity – roughly half as efficient as a diesel engine. They are, however, significantly cheaper in capital cost terms than diesel engines, a new gas-turbine will cost something like 70% of the capital cost of an equivalent diesel engine.
- 7.5.3 In current cost terms the cost of electricity produced by a gas-turbine is approximately 350% higher than imported electricity.
- 7.5.4 From an environmental perspective, for each unit of electricity produced, the gas turbine produces even larger amounts of carbon dioxide than the diesel engine, but lesser amounts of oxides of nitrogen and sulphur.
- 7.5.5 A greater use of gas-turbines for power generation in the future would probably result in an increased need for diesel oil storage on the power station site, since present storage only allows for these machines to operate for relatively short periods with replacement diesel being obtained from stocks held by local suppliers.

7.6 The balance of economy, security/reliability and environmental performance for each of the current sources.

- 7.6.1 Each of the current sources has a different balance of these three desirable characteristics.
- 7.6.2 The balance for each can be summarised in the simplistic “traffic light” display below, with green implying a desirable performance and red undesirable.

CRITERION	IMPORTATION	DIESEL	GAS-TURBINE
LIFECYCLE COST	Amber	Amber	Red
SECURE/RELIABLE	Amber	Green	Green
ENVIRONMENT	Green	Red	Red

7.6.3 Whilst it is hoped that this display is helpful in explaining the issues, it should be appreciated that the cost of electricity from each of these sources changes significantly over time. The cost of imported electricity has dependencies on European market price and the exchange rate with the Euro. Local generation from diesel plant has cost dependencies particularly on the price of fuel oil and the exchange rate with the US dollar.

7.6.4 The 2012/13 annual report from GEL which comments on the events of 2012 contains the following paragraph:

“There have unfortunately been consequences of the cable failures and the reduction of imported electricity supplies for our customers. There has been a significant increase in our costs this year as a result of the change in the source of electricity we have supplied. Whilst the damage caused to the Guernsey-Jersey cable was insured, the costs of on-Island generation during the period of its repair were over £6m higher than would have been the case if imports were available. Imports of electricity have been restored but as we are currently generating approximately two thirds of our power requirements costs are also significantly higher this year. Whilst the costs associated with the cable link repair have been recovered and accounted for in these accounts, we are exploring all avenues to recover the additional £6m costs incurred as a result of on-Island generation following the failure of the Guernsey-Jersey cable”.

7.6.5 This statement demonstrates all too clearly the differing costs of the various sources of electricity.

7.7 Present performance

7.7.1 In considering future policy, it may be appropriate to understand how well Guernsey’s present electricity supply arrangements are performing. Three key criteria as performance measurements are the cost of the supply to users, its reliability and its environmental impact.

7.7.2 Information on GEL’s performance on these key criteria is available in Appendix 2.

8. Local generation and importation

8.1 From section 7 above it will be recognised that each of the present sources of electricity has a different balance of desirable characteristics. It would be technically quite feasible for the Island to seek to achieve a position where all electricity was imported. Similarly, if the States so wished, it would be equally feasible for the Island to return to being dependent on local generation for all, or the vast majority of local consumption.

8.2 The present position can reasonably be described as “mixed” since the Island has the ability to import both electricity and generate its own as circumstances may require. This position is in accordance with the wishes of the States expressed in

2005 and with the existing security policy adopted by the States. The position, however, may not be the cheapest solution to the provision of local electricity over a long period, since the need for local plant as well as importation facilities may entail capital and operating costs which exceed the lowest achievable.

- 8.3 The failure and repair of the link between Guernsey and Jersey in 2012 and the subsequent failure of the original Jersey to France cable have caused both Jersey and GEL to become acutely aware for the need to consider options for cable capacity going forward.
- 8.4 A project to install a third cable between Jersey and France was already underway in 2012 and is expected to be completed in early 2015, providing Jersey with much enhanced security and Guernsey with some additional capacity, owing to the fact that all cable-derived electricity is currently supplied via Jersey.
- 8.5 It should be noted that the failure of the first Jersey/France cable, installed in 1986, has resulted in both islands having inadequate import capacity and has reduced the amount of electricity that Guernsey has been able to import well below levels seen in the period 2001 to 2011. This reduced importation has had to be replaced by increased running of local plant and atmospheric emissions have increased as a result.
- 8.6 Whilst completion of the additional Jersey/France cable will provide Guernsey with welcome increased capacity, Guernsey is still faced with having a single cable connection to Jersey unless further investment is made.
- 8.7 In considering the value of both local plant and importation it is sensible to consider the characteristics of a supply system which is either wholly dependent on imports or wholly dependent on local generation, as set out in the following sections.

9. The “all-import” option

- 9.1 Under this option, GEL would be guided towards making all future investments in cables to allow **all** of the Island’s electricity to be imported. The regulator would respond accordingly.
- 9.2 The advantages of such an approach are:
 - 1. The carbon content of the electricity supplied (the amount of fossil fuel burnt in generating it) would be at least as good as the European grid, and better provided GEL can continue to contract for low carbon supplies as it currently does.
 - 2. The “footprint” of GEL’s operation on the Island would be much reduced – less land, less people and no noise, vibration and emissions since there would ultimately be no Island power station.

3. The Island would no longer need to import heavy fuel oil, which would have an effect on future harbour provision. There would also be less risk of pollution within the harbour areas and surrounding seas.
4. The price of electricity on the Island would be wholly dependent on European market prices and direct dependence on oil prices would end.
5. In the long term, the capital employed for electricity provision would probably be minimised since transmission cables may be expected to have long useful lives.
6. All costs associated with operating the local power station would be removed

9.3 The disadvantages of such an approach would be:

1. The Island would be completely dependent on supplies from and through other jurisdictions and potentially open to risk of influence by this dependence.
2. There would be no bargaining counter from local production to assist with price negotiations with suppliers in Europe.
3. In the event of a continental shortage of supply, the Island would be at the end of a long supply chain. Whilst such a shortage of supply may be improbable, an incident affecting France's nuclear capacity would cause major disruption across Europe.

10. The “all local” option

10.1 Section 17 below indicates that it is unlikely that widespread use of local renewables can happen before the early years of the next decade at the earliest. Accordingly in the following paragraphs it is assumed that local plant will continue to be fossil fuelled for the time being.

10.2 Under this option GEL would be guided to discontinue any plans to invest in further cables to Europe and to invest in local generation only. The regulator would respond accordingly.

10.3 The advantages of such an approach would be:

1. The Island would continue to have a local power station and security of supply could be wholly governed locally, albeit with major dependence on supplies of fuel.
2. Power station expansion would be required, creating employment.

10.4 The disadvantages of such an approach would be:

1. The cost of local electricity would depend largely on the international fuel markets, over which GEL has no control.
2. Power station noise and emissions would increase, as would the “footprint” of the organisation on the Island.

3. Reliable deliveries of fuel through harbours, or other means, would be required. A failure in the oil supply chain for any reason would immediately begin depleting oil stocks and would ultimately result in a failure of electricity supply. It is probable that increased oil storage would be required to reduce this risk. The risk of pollution would increase in proportion to the increased fuel burn.
4. As well as the physical risks leading to a failure of oil supplies, dependency on oil would also entail a risk from external legislation, such that the grades and quality of oil available might change to the Island's disadvantage.
5. A need to meet some form of internationally agreed emissions limits might result in the need for the installation of expensive emissions control equipment.
6. Manpower requirements for GEL would rise, leading to increased operating costs.
7. Electricity would be a high carbon fuel – a situation which would not be in accordance with the objectives of the Energy Resource Plan.
8. The reliability of supply would deteriorate compared to the current position, since local generation failures would immediately impact on customers. Note that the average time a Guernsey customer is without electricity supply each year typically runs at about 25% of the figure before connection of the first cable link, see Appendix 2.
9. The capital employed for electricity provision would probably be higher than for the 'all import' option since plant and machinery, used on a like for like basis, has a shorter life than cable assets.

11. The “mixed” option

- 11.1 The present position, as required by the 2005 States' resolutions, is that GEL has both an import ability and a local generation ability.
- 11.2 The advantages of this option are:
 1. GEL can reasonably choose which source to use according to its immediate cost.
 2. Unavailability of a source for whatever reason can be substituted by another within technical constraints.
 3. Sudden failure of a piece of local plant is unlikely to be noticed by customers because the importation system provides additional compensating power.
 4. Emissions from local plant are limited by importation.
 5. Noise and vibration from the power station site are minimised by use of imported power.

6. The existence of local generation can provide both a bargaining counter in negotiations with suppliers of imported electricity and an opportunity to supply the European markets at times of high demand and consequent high prices.
7. Dependency is spread between fuel and electricity markets and between fuel and European electricity suppliers.
8. The availability of imported power, particularly during the summer months, may assist both the scheduling and the provision of the necessary skilled labour for maintenance work on local plant.
9. The existence of local plant enables GEL to respond more quickly to sudden increases in demand – as might be caused by the commencement of a new local industry. Importation networks may be expected to have long lead times of between five and seven years whereas the lead time for local plant can be quicker.

11.3 The disadvantages of this option are:

1. Significant capital must be employed in building both importation and local generation facilities, with the certainty that one source or the other will be underutilised for much of the time.
2. The footprint and resourcing of GEL must continue at a level sufficient to ensure reliability of the local generation fleet, even if seldom used.
3. Whilst the volumes of fuel imported are much lower than for the “all-local” option, fuel importation facilities must still be available and risks associated with fuel delivery remain, albeit at the lower levels consistent with the lower volumes.
4. The importation of low volumes of fuel may lead to a lack of interest from commercial oil suppliers, with the potential result of higher prices.

12. The significance of maximum demand

- 12.1 Any debate about future electricity supply and consideration of options must have some view as to the likely course of maximum demand, since it is the level of maximum demand which ultimately determines the infrastructure required to maintain supply. Forecasting maximum demand many years into the future is far from simple, since electricity demand is affected by numerous features of Island life. It is normally the case that increased economic activity leads to greater demand, but with the recognition that increased efficiency in usage can reduce this effect. Since the financial turbulence of 2008, the demand for electricity in the EU has dropped along with economic activity.
- 12.2 The maximum demand forecast currently in use by GEL and its consultants for plant and importation planning purposes is shown in Fig 1 below.

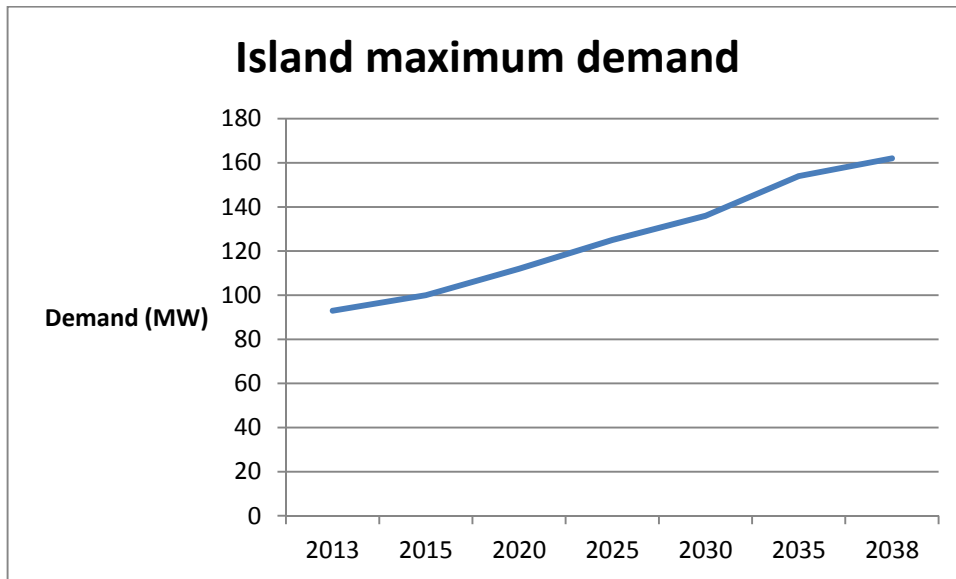


Fig. 1 Island maximum demand forecast 2013- 2038

- 12.3 This forecast represents the upper boundary of an uncertainty range, which is prudent for plant planning purposes, but development of maximum demand is monitored continually to ensure that investments are timed as appropriately as possible.
- 12.4 It does not allow for the increased demand that might be associated with the advent of a major new industry, such as a significant data centre. It does allow for normal organic growth in demand and for some switching from other fossil fuels as has been a feature of recent years. It also allows for the adoption of some electric vehicles requiring charging from the grid, albeit that this is not expected to have a major effect on maximum demand since charging is anticipated to take place mainly overnight when demand is low.
- 12.5 It should be appreciated that the major influence of actual levels of demand and forecasts of future demand is on the **timing** of infrastructure investment. The present investment needs, however, are being driven by a need to replace ageing plant, coupled with the desire for increased security from additional interconnections. In these circumstances, the forecast levels of maximum demand are less significant than might otherwise be the case.
- 12.6 In considering the need for future local plant, it may be relevant to examine what increases in local planting could be achieved within the existing footprint of the power station at the Vale. Whilst plant types and outputs may change, there is a reasonable expectation that additional diesel plant with an output of approximately 50MW could be fitted within the existing power station buildings, albeit with a possible need for temporary housings elsewhere on the site whilst existing plant is removed and replacement plant built. This figure could probably be enhanced to 70MW with extensions to the existing buildings.

- 12.7 These numbers would be increased if the plant type chosen was gas-turbine, rather than diesel, since gas turbine plant has a lower space requirement.
- 12.8 Whilst this may or may not be adequate to meet actual levels of maximum demand towards the end of the 25 year planning horizon, it is clear that there is no immediate space problem.

13. The role of energy efficiency and demand control

- 13.1 Consideration of future infrastructure needs often leads to debate about the cost-effectiveness of demand reduction techniques. In countries which have a large industrial base, very heavy users of electricity may well be able to turn off plant or schedule it to run outside peak demand periods, producing a useful contribution to managing peak demand. For Guernsey, however, where most demand is domestic or light commercial, the potential for this sort of activity is limited.
- 13.2 An alternative technique which assists with demand control, is the use of tariff structures which incentivise users to move demand to times of the day when demand may otherwise be expected to be low, such as overnight. The time of day tariffs in use in Guernsey have been notably successful at improving the overall utilisation of the electricity infrastructure and restricting the growth in maximum demand that might otherwise have occurred.
- 13.3 It remains the case, however, that peak demands in the Island are generated by particularly cold weather and in these circumstances customers must be expected and allowed to keep warm, so the infrastructure must exist to provide for this expectation.
- 13.4 Notwithstanding these issues of demand control, it is the case that improvements in energy efficiency normally present a compelling logic both on economic and environmental grounds. Given that most observers believe that energy prices will tend to increase at a faster rate than the retail prices index, energy efficiency measures will show even better economic performance as time goes by. Their effect, in infrastructure planning terms, will tend to be to reduce the rate of increase in maximum demand over time, which will quite naturally produce benefits in terms of reduced infrastructure costs and delayed investments.
- 13.5 A focus on energy efficiency was one of the features of the Energy Resource Plan approved by the States in 2012 and is a matter currently under consideration by the Policy Council's Energy Policy Group.

14. Financial appraisal of options

- 14.1 As part of its preparation for new investment GEL has engaged consultants to examine the probable financial impacts of the various options. Inevitably the consultants have had to make a large number of assumptions about the capital

and operating costs of the various different potential sources of energy, since their purpose has been to examine costs over a 25 year time horizon.

- 14.2 In particular they have had to forecast future prices for heavy fuel, against a background of changing international legislation for the use of such fuel. Similarly they have had to forecast both forward electricity prices on the European markets and associated exchange rates, despite the supply uncertainties discussed earlier.
- 14.3 In considering the cable investments under discussion, it should be noted that under the present commercial arrangements, Guernsey has a guaranteed minimum capacity through Jersey of 16MW, although much larger capacities have regularly been imported in the past, when such capacity has been available because Jersey has not required it.
- 14.4 For the purposes of this report the appraisal results are presented in summarised form since it is hoped this will aid clarity. Figure 2 below illustrates the net present value of capital and operating costs of various options for providing electricity to the Island over a 25 year time period.

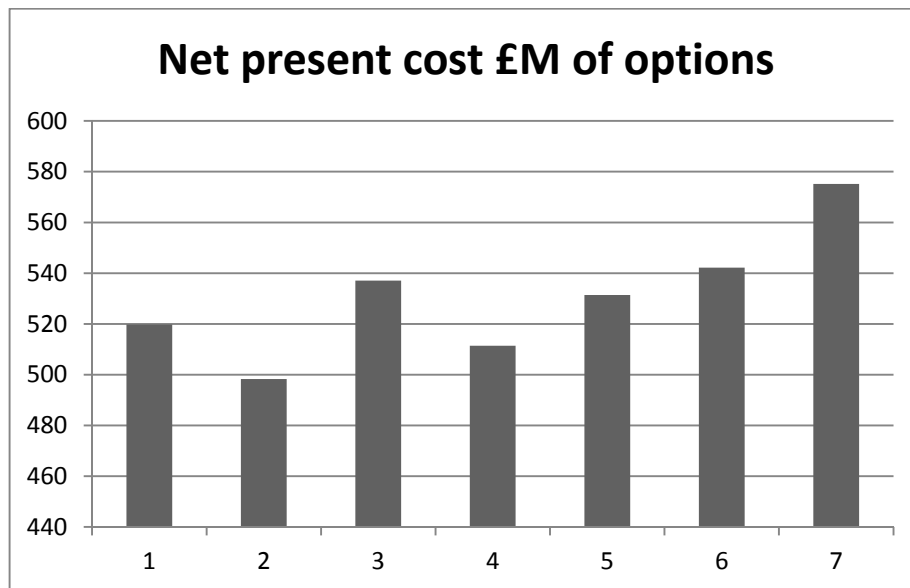


Fig. 2 Net present cost of various options for Island supply

NB: Projects have both different work contents and timing differences. Net Present Value (NPV) takes account of the timing of expenditure. On a Net Present Value assessment basis, larger costs taken later may still end up being cheaper overall.

14.5 In the above figure the options are as follows:

Option 1 – “Mixed” generation and importation with two 100MW cables installed direct to France, no further investment into connections via Jersey, local planting to “N-2” security standard.

Option 2 – “Mixed” generation and importation with a single 100MW cable installed direct to France, no further investment into connections via Jersey, local planting to “N-2” standard.

Option 3 – “All-local” option, no further investment in interconnectors, local planting to “N-2” standard.

Option 4 – “Mixed” generation and importation with two 100MW cables installed direct to France and capacity through Jersey enhanced to a minimum of 60 MW, local planting to “N-2” standard.

Option 5 – “Mixed” generation and importation with no direct cables to France but with capacity through Jersey enhanced to a minimum of 100MW, local planting to “N-2” standard.

Option 6 – “Mixed” generation and importation with a single 100MW direct cable to France, capacity through Jersey enhanced to a minimum of 100MW, local planting to “N-2” standard.

Option 7 – The “all-import” option, with a major cable installation program designed to obviate the need for local generation. The program would entail two 100MW circuits direct to France and the enhancement of capacity through Jersey to a minimum level of 100MW.

14.6 From this modelling it will be noted that the cheapest solution is to install a single cable direct to France (Option 2), without any upgrade to the connections via Jersey. However, such a solution would ultimately result in the Island having a major dependence on this one circuit just as it currently does on the single circuit to Jersey, a dependence which results in a lack of security.

14.7 The next cheapest solution (Option 4) is to upgrade the connections via Jersey to 60MW and install two 100MW circuits to France.

14.8 The “all-local” option (Option 3) is more expensive, mainly as a result of the forecast relatively high price of fuel oil.

14.9 The “all-import” option (Option 7) is the most expensive over a 25 year period due to the need to undertake a major programme of cable construction in a relatively short period, but might prove cheaper beyond the 25 year horizon as there would be no need for further local plant capital and operating costs.

14.10 The other options all illustrate potential differences in cost resulting from varying capital and operating costs, differing investment timings and differing abilities to import electricity.

- 14.11 The “all-import” option clearly leads to some medium term increases in cost.
- 14.12 The other options are actually quite close in cost terms, whilst the differences in costs displayed as net present values may look significant, the actual difference between the cheapest and most expensive of these options is approximately £44 million over a 25 year period. Expressed as pounds per customer per annum this difference equates to **approximately £58 or 7.7%** of the annual electricity bill for a domestic customer using 5000 units of electricity annually.

15. The international situation

- 15.1 In the event that the islands of Jersey and Guernsey choose to become wholly dependent on importation by cable and there is a shortage of supply in Europe generally or France more particularly, it is reasonable to suggest that the islands might receive rather less priority than other customers with a greater ability to influence their electricity supplier.
- 15.2 Historically, since the first importation of electricity into Jersey during the 1980s, the islands’ suppliers in France have proved to be extremely reliable and sensitive to the islands’ situation. It is very much to be hoped that this situation will continue, but in a changing world it may not be wise to consider historic performance as a wholly reliable guide to the future.
- 15.3 In considering what risk this brings to the Island it is pertinent to examine the circumstances of the major European countries, and in particular France since France is not only the supplier for Guernsey and Jersey but also a significant player in the European power market.
- 15.4 The electricity network operator in France – Réseau de Transport d’Electricite (“RTE”) periodically publishes an adequacy report. The executive summary of the 2012 report is attached as Appendix 4.
- 15.5 In brief this report concludes that system adequacy is regarded as secure until 2015, but after that date retirements of older fossil fuelled plant resulting from European emission control measures, coupled with uncertainty on commissioning new plant results in less certainty that electricity demand can be met according to RTE’s targets.
- 15.6 In the United Kingdom the Office of Gas and Electricity Markets – the industry regulator – periodically publishes its own system adequacy review. The autumn 2012 review contains the following wording in the executive summary:

We assess that the risks to electricity security of supply will increase in the next four years. In particular, we expect that electricity de-rated capacity margins will decrease significantly from the current historically high levels. In parallel, the risk of electricity customer disconnections will appreciably increase from near zero levels. This is primarily because of a significant reduction in

electricity supplies from coal and oil plants which are due to close under European environmental legislation.

- 15.7 As an indicator of concern that insufficient generation will be available for the winters of 2014/15 and beyond, the system operator in the UK, National Grid, has recently published a consultation paper inviting industry views on the establishment of a “supplemental balancing reserve”, in effect asking the industry to make available additional generation, or load reduction facilities, in return for payment. This consultation has created interest in the UK in the potential for new diesel power stations to be constructed purely to create reserve capacity.
- 15.8 At the European level, a supra-national organisation, the European Network of Transmission System Operators for Electricity (“entsoe”), broadly concludes that under most scenarios considered, system adequacy is likely to be assured for the whole period through to 2030, whilst acknowledging the difficulty of forecasting.
- 15.9 It will be appreciated that in the circumstances now prevailing in Europe where commercial operators engage in the market for profit and no organisation has fundamental responsibility for ensuring the reliability and security of supplies, making system adequacy forecasts is very difficult indeed, since the forecasters are attempting to take account of a large number of interconnected variables.
- 15.10 Drawing an overall conclusion from these forecasts is hardly straightforward, but it may be reasonable to recognise that Guernsey is a small community with little or no direct influence over the thinking of major players in the electricity markets. In such circumstances consideration needs to be given to the risks associated with dependency on the vagaries of the European electricity market with all its own uncertainties.

16. Emissions

- 16.1 In sections 9, 10 and 11 above the various options for policy are considered. It is evident that one of these options, the “all-local” option, would progressively move the Island back to a position where all electricity would be produced locally from fossil fuel, at least until local renewables could be deployed. Given that this would be replacing electricity currently imported and sourced from nuclear or hydroelectric sources, it is clear that this option would create a significant increase in atmospheric emissions which is inconsistent with the reduced emissions objective stated in the Energy Resource Plan.
- 16.2 On the other-hand the “all-import” option would offer the Island the potential for further emissions reduction by further reducing the volumes of fossil fuel used locally.

- 16.3 The “mixed” option clearly lies somewhere between these two, but the precise quantity of annual emissions will depend on the balance of electricity imported and produced locally. The mixed option is consistent with the States’ objective of reducing atmospheric emissions provided that it is within the context of an enhanced interconnection system which allows use of local generation to be the exception rather than the rule. On the basis that approximately 90% of local electricity requirements could be imported from low emission sources, or in the long term generated from local renewables, then Guernsey’s electricity would be associated with very low emissions by international standards.
- 16.4 Its present mandate and licence requirement requires GEL to source its electricity from the cheapest source. Given that the cheapest source is currently importation, then it so happens that the cheapest source is also that associated with the lowest emissions.
- 16.5 For this reason it is suggested that there is no present need for the States to consider and establish a changed mandate for GEL. This situation will be kept under review and should a situation occur where the objectives of the Energy Resource Plan are facing a long term threat, a paper will be presented to the States setting out the issues and recommending an appropriate change in policy.
- 16.6 It should be recognised that within the context of a “mixed” generation and importation policy with improved interconnection arrangements, total annual emissions should reduce as required by the Energy Resource Plan. Instantaneous emissions, however, will still be high if local generation is in use. It should be noted that the Energy Resource Plan requires that the possibility of importing natural gas to the Island be examined and this action will commence shortly. In the event that the investigation leads to such a supply becoming available and economical, then natural gas could be substituted for fuel oil at the Island’s power station, leading to lower emissions when that plant is in use. However, generating electricity from natural gas locally would still involve increased emissions if the alternative is importing electricity from non-fossil sources.
- 16.7 *Recommendation*
- It is recommended to continue the present policy of requiring there to be local generation, but with the expectation that there will also be enhancements to the Islands connections to other jurisdictions which will allow local generation to take a secondary role to imports in the normal provision of electricity to the community.*

17. The role of local renewables

- 17.1 Given that Guernsey has effectively no fossil fuel, then it is reasonable to note that the only major source of potential indigenous energy is the Island’s natural supply of sun, wind and tides. The States has previously recognised this and has given the Commerce and Employment Department charge of overseeing research into the various technologies to establish what part they might play in

Guernsey's energy future. Commerce and Employment has established the Renewable Energy Team ("RET") comprising States' members, staff and interested volunteers to further research into the technologies and legislation.

- 17.2 Whilst all these technologies differ in the manner in which they capture energy, they all share the characteristic that the energy delivered is intermittent and of variable amount. A tidal power device cannot generate at slack water, a wind turbine does not produce electricity on a calm day and a solar system does not generate electricity after dark.
- 17.3 This intermittent nature of renewables dictates that they are best used in a power system that possesses many other sources of supply. Guernsey's exploitation of its renewable potential is made much simpler and more effective if the Island has strong interconnections to a larger power system.
- 17.4 Even a modest local renewable generation system might well produce greater power than could be absorbed in the Island overnight.
- 17.5 The widespread adoption of renewable technologies is, therefore, wholly coherent with the Island adopting a strategy which involves strengthening its connectivity to Europe, but incoherent with a strategy which sees the Island with either weak or no connections to the outside world.
- 17.6 Use of renewables is also coherent with a strategy which requires the continuance of local generation in some form and could, in the right circumstances, see renewables being used, to some extent, instead of local fossil fuelled plant. Such a use of local renewables would contribute to the Island's energy security.
- 17.7 This strategy would also be wholly in accordance with the stated objectives of the Energy Resource Plan.
- 17.8 A review of the potential role for local renewables appears in Appendix 3.
- 17.9 The essential conclusions of that review are:
 - **The Island possesses significant resources of a number of forms of renewable energy.**
 - **The technology for harnessing these resources at a scale suitable to provide a significant proportion of the Island's electricity is not yet at an adequate state of development to allow the Island to use these resources without creating unreasonable additional costs.**
 - **The likely time scale for deployment of large scale renewable devices is in the decade beginning 2020, when it is forecast that technical progress will have led to major cost reductions and improved installation capabilities.**

- **This time scale could provide much synergy with the present electricity importation contract which runs until 2023.**
- **In the meantime further preparatory work is required to ensure that the Island has the necessary legislative and technical background to allow effective deployment.**
- **For small scale developments, solar electricity and heat production can offer acceptable economic performance today, but the contribution to the Island's total energy demand is likely to be modest.**

17.10 *Recommendation*

It is recommended to continue with the present mandate for the Commerce and Employment Department to investigate and prepare for the use of renewable energy as part of the Island's energy mix.

18. Financing the capital investment in infrastructure.

18.1 The nature of investment

18.1.1 Whilst this report is intended to create policy which will ultimately have an impact on the amount of capital investment required, the nature of the infrastructure projects which will be needed show common features which have a bearing on the total costs which must be met by islanders in some way.

18.1.2 The common features are:

- Capital investments tend to be large – a cable link to France is expected to cost between £60 and £80 million, a new 17megawatt diesel generator will cost in the region of £13 million. Although the calculation is simplistic, assuming the cable link costs £70 million and it is written off over 25 years with annual Island electricity demand of 400 million units, the additional cost per unit of electricity is 0.7pence.
- Capital investment on this scale does not occur every year, rather it occurs at intervals of something like 10 years, depending on the nature of the plant and equipment and on-Island demand.

18.1.3 These common features have a significant impact on the costs of providing an electricity service and on how those costs are recovered.

18.2 Recovery of investment costs

18.2.1 Given that GEL remains an entity in public ownership which exists for the benefit of islanders, there are only three mechanisms available for investments in electricity infrastructure to be recovered:

- Electricity customers meet all the costs;
- Taxpayers meet all the costs;
- A combination of the two sources above.

- 18.2.2 To date, taxpayers have not been asked to make any contribution to the financing of electricity infrastructure and customers for electricity have met all the costs associated with the provision and operation of the necessary equipment.
- 18.2.3 This approach can be described as the “user-pays” principle and can be readily justified. Whilst all islanders use electricity, the customer base for it is not exactly the same as taxpayers because some individuals and corporates may be major users of electricity but make little contribution to tax revenues.
- 18.2.4 Whilst the argument in favour of retaining this approach may be clear and persuasive, it can be challenged when a period of major investment leads to rapid rises in charges for customers. The discomfort associated with rapid rises can sometimes be made worse by simultaneous changes in wholesale energy prices which have the effect of creating an even more severe increase in final selling prices.
- 18.2.5 Despite this challenge, the “user pays” principle is regarded as the fairest method of recovering costs.
- 18.2.6 *Recommendation*

It is recommended to continue the existing practice of electricity infrastructure being funded entirely by electricity users.

19. The “N-2” security criterion and potential developments

- 19.1 In the event that the States require the continuance of local generation, then it is appropriate to consider the characteristics of that generation and how much might be required.

The present criterion

- 19.2 In section 3 above, the existing security criterion approved by the States in 2005 is set out. A mathematical explanation of the meaning of the criterion is given in Table (1) below, but in broad terms it provides that GEL is required to ensure that it has sufficient plant and import capability to meet the Island maximum demand with its two largest sources of supply simultaneously unavailable. Although the criterion was formalised and adopted by the States in 2005, it had been in existence for many years previously as the internal policy of the former States’ Electricity Board.
- 19.3 In current circumstances where the Island has only a single cable link and in the previous circumstances where the Island was dependent on its local power station the criterion was widely accepted as sensible and was recommended by consultants acting for the Commerce and Employment Department in 2005.

- 19.4 It is important to recognise that the purpose of a security criterion is to provide some margin of control over the **probability** that the power system will be able to cope with forecast maximum demand. The existence of the “N-2” criterion does not guarantee that supply will be sufficient, as it might be that three or four major sources of electricity might be unavailable at the same time and that this time might coincide with a time of maximum demand. It will be appreciated, however, that the greater degree of redundancy that is built into the system design reduces the probability that the system will not be adequate, but also increases the cost since more capital plant must be installed.
- 19.5 It is generally accepted that a criterion based on removing items of plant is reasonable for small power systems like Guernsey’s, more sophisticated mathematical techniques are used for large systems.
- 19.6 Table (1) below illustrates the operation of the criterion as presently understood between the States, GEL and its regulator.

Table (1)**THE “N-2” SECURITY CRITERION – PRESENT POSITION**

SOURCE	COMMISSIONING DATE	RATING MW
GENERATOR 1C	1979	12.2
GENERATOR 2C	1980	12.2
GENERATOR 3C	1982	12.2
GENERATOR 4C	1987	13.8
GENERATOR 1D	1993	14.5
GENERATOR 2D	2013	17
GENERATOR GT2	1996	19.5
GENERATOR GT3	1997	19.5
GENERATOR GT4	2003	11
GUERNSEY/JERSEY LINK 1 (see note 1)	2000	16
TOTAL CAPACITY		147.9
TOTAL CAPACITY MINUS TWO LARGEST SOURCES (N-2)		108.9
MAXIMUM DEMAND		85
PLANT CAPACITY N-2 IN EXCESS OF DEMAND		23.9

Note 1. For the purposes of security calculations the capacity of the link to Jersey is taken as the minimum commercial entitlement, currently 16MW.

- 19.7 The capacity margin of 23.9MW is healthy, but prior to the recent commissioning of generator 2D, the capacity margin was only 6.9MW. This position coupled with the ages of the older generators and forecasts of rising demand drove the decision to install generator 2D, at a cost of circa £14 million.
- 19.8 Applying a 35 year useful life to the generation fleet, results in the reserve margin becoming minus 0.5MW by 2015 and minus 12.7MW by 2017.
- 19.9 These figures should not be construed as implying that GEL has decided to apply a 35 year useful life, they are simply intended to illustrate the declining position of the reserve margin with the passage of time, unless further investment is made.
- 19.10 Table (2) below illustrates the position in the event that GEL and Jersey Electricity reach agreement to increase the guaranteed capacity available through the existing single Guernsey/Jersey link to 40MW, following reinforcement of the links between Jersey and France.

Table (2)

THE "N-2" SECURITY CRITERION - WITH G/J LINK INCREASED TO 40MW

SOURCE	COMMISSIONING DATE	RATING MW
GENERATOR 1C	1979	12.2
GENERATOR 2C	1980	12.2
GENERATOR 3C	1982	12.2
GENERATOR 4C	1987	13.8
GENERATOR 1D	1993	14.5
GENERATOR 2D	2013	17
GENERATOR GT2	1996	19.5
GENERATOR GT3	1997	19.5
GENERATOR GT4	2003	11
GUERNSEY/JERSEY LINK 1 (see note 1)	2014	40
TOTAL CAPACITY		171.9
TOTAL CAPACITY MINUS TWO LARGEST SOURCES (N-2)		112.4
MAXIMUM DEMAND		85
PLANT CAPACITY N-2 IN EXCESS OF DEMAND		27.4

- 19.11 It will be noted that the installed capacity margin has increased from 23.9MW to 27.4MW, a very minor increase considering the scale of investment required to achieve it. The small increase is caused by the working of the criterion, which requires the two largest sources to be excluded and the largest source in this calculation is now the Guernsey/Jersey link.
- 19.12 With the present system, where the failure of the single connection between Guernsey and Jersey is both foreseeable and has happened, it is reasonable that the security criterion removes all the importation capacity from the calculation since that would be the effect of the cable failing.
- 19.13 Moving forward, however, in the event that more than one interconnection between Guernsey and the outside world is constructed, it is pertinent to consider the workings of the security criterion in these revised circumstances.
- 19.14 Table (3) below illustrates the working of the present criterion in the event that a decision is made to install a direct cable to France from Guernsey with a continuous power rating of 90MW.

Table (3)

THE "N-2" SECURITY CRITERION - WITH G/J LINK INCREASED TO 40MW AND LINK TO FRANCE

SOURCE	COMMISSIONING DATE	RATING MW
GENERATOR 1C	1979	12.2
GENERATOR 2C	1980	12.2
GENERATOR 3C	1982	12.2
GENERATOR 4C	1987	13.8
GENERATOR 1D	1993	14.5
GENERATOR 2D	2013	17
GENERATOR GT2	1996	19.5
GENERATOR GT3	1997	19.5
GENERATOR GT4	2003	11
GUERNSEY/JERSEY LINK 1 (see note 1)	2014	40
GUERNSEY/FRANCE LINK	2019	90
TOTAL CAPACITY		261.9
TOTAL CAPACITY MINUS TWO LARGEST SOURCES (N-2)		131.9
MAXIMUM DEMAND		85
PLANT CAPACITY N-2 IN EXCESS OF DEMAND		46.9

- 19.15 It will be seen that despite very considerable investment in interconnections totalling 114MW of capacity, the N-2 criterion has only allowed the capacity margin to increase from the present 23.9MW to a revised level of 46.9MW. Given that the direct cable to France and the route through Jersey are physically and technically diverse so the probability of them both failing together is low, under this model the criterion would no longer be suitable to the revised circumstances where more than one interconnection and local generation exists.

20. Options for a revised security criterion

20.1 “All-local” strategy

- 20.1.1 The purpose of a security criterion is to enable the States to direct the probability that there will sufficient electricity system capacity to maintain supply and thus what level of costs the community must bear.
- 20.1.2 The nature of the criterion will depend to a large extent on the policy adopted by the States, be it “all-local, “all-import” or mixed.
- 20.1.3 In the event that the States decide to adopt the “all-local” strategy, then it is suggested that the present “N-2” criterion is perfectly adequate. It was originally devised in circumstances where the Island was wholly dependent on local generation and has been proven over time.
- 20.1.4 If the States wished to adopt a slightly lower cost solution then they could opt for “N-1” security, which would reduce the required local planting. The capital cost saved by such a move would probably be in the order of £10million, amortised over 25 years or circa £400,000 per annum. GEL’s total electricity sales volume is currently about 400 million units annually, so the additional cost represents about 0.1 pence per kWh on the cost of electricity, or about 0.6% on the present average electricity bill.

20.2 “All-import” strategy

- 20.2.1 In circumstances where the States has decided to progressively remove the need for local generation, then the security criterion will become all about the capacity of incoming cables.
- 20.2.2 Clearly a single cable without local backup would present an unacceptable probability of failure, given that the repair time for a submarine cable could be as long as six months.
- 20.2.3 In these circumstances, two cables becomes the minimum requirement, and it would appear reasonable that each cable should be capable of providing for the needs of the Island on its own, so the minimum capacity of each cable would need to be at least the level of maximum demand forecast to occur before any new cable could be brought into service.

- 20.2.4 To provide credibility in security terms, such cables would need to be geographically and technically diverse.
- 20.2.5 Even in these circumstances it is questionable whether adequate security has been achieved. If one cable failed, then the Island would be dependent on its “second string” until such time as the failed cable could be repaired, perhaps six months.
- 20.2.6 Realistically, therefore, in circumstances where the Island has no local generation, three cables would seem to be the sensible complement, each rated to provide the Island’s forecast maximum demand.
- 20.2.7 It will be rapidly appreciated that the “N-2” criterion has emerged again for circumstances of “all-import”.
- 20.2.8 For the reasons stated above the adoption of an “N-1” criterion in these circumstances can be seen to involve a high risk that supply could fail totally for an extended period of time.

20.3 “Mixed” strategy

- 20.3.1 Table (3) in 19.14 above illustrated the working of the present security criterion against a possible future system encompassing local generation, a 40MW cable to Jersey and a 90MW cable to France.
- 20.3.2 As was noted, the present criterion appears to be possibly unduly conservative in these circumstances because it is attempting to control both local generation and importation.
- 20.3.3 If the States resolves that they wish to see a continuance of the mixed strategy, and adopts a security criterion which ensures that local generation is always available to meet forecast maximum demand, then it is questionable as to whether any criterion need also be applied to importation capacity.
- 20.3.4 It will, however, still be necessary to establish what security criterion should apply to local generation. As set out in 20.1 above, the two credible alternatives are “N-1” and “N-2”, and it was noted in that section that the financial implications of maintaining the “N-2” criterion are relatively small in the overall financial package.
- 20.3.5 The arithmetic workings of these two options are set out in Table (4) below, where the importation capacity has been excluded from the calculation.
- 20.3.6 It will be seen that the potential relaxation from an “N-2” criterion for local plant to the “N-1” criterion allows the reserve margin at present generation complements and levels of maximum demand to increase from 7.9MW to

27.4MW. In practice this change would have the effect of delaying the need for further investment in local plant either to meet increasing maximum demand or to replace ageing plant, giving somewhat lower total investment costs over time.

- 20.3.7 The savings are, however, modest and it is questionable as to whether the community would be well served by increasing the risks to its electricity supplies, particularly in circumstances where the Island is seeking to promote itself as a location for sophisticated industries with a high dependency on electricity.

20.3.8 *Recommendation*

It is recommended to adopt a revised approach which will not seek to control importation infrastructure but will ensure that local plant is available to keep the lights on. With regard to the amount of local plant to be installed, it is recognised that it might be possible to reduce the security criterion to “N-1” and that such a decision would reduce the costs of local planting. The cost savings, however, are small at probably less than 1% of total costs. The States are therefore recommended to place their security criterion purely on local generation and to maintain the current “N-2” approach.

21. The nature of local plant

21.1 Planting options

- 21.1.1 In section 7 above the characteristics of present local plant were discussed against those features of economy, reliability/security and environmental performance which were considered as desirable.
- 21.1.2 It was noted that at present local plant was either diesel or gas turbine, with gas turbine plant being less expensive than diesel to purchase but more expensive to operate.
- 21.1.3 It was further noted that included in the advantages of the mixed strategy was the ability to continue local electricity supplies without dependence on third party jurisdictions and with some ability to negotiate the price of imported electricity, against a background of having local plant with an ability to supply the Island.
- 21.1.4 However, both of these advantages only accrue provided the Island has plant which is capable of full time operation at reasonable cost.
- 21.1.5 In the event that the States resolve to continue with the “mixed” strategy, then it is apparent that States’ policy would not be complete without some suitable guidance on the type of local plant to be installed and, thus, its operating cost. Such guidance is important both in the context of seeking to maintain a credible on-Island production base, but also in the context of guiding the regulatory authority as to what investment costs the States believes to be justified.
- 21.1.6 In the context of having invested in major importation assets, GEL could choose to meet the security criterion by fitting lower capital cost plant such as gas-turbines. Such a decision would meet the requirements of the security criterion but would not provide the Island with a credible long term generating ability except at very substantially increased costs – which would have to be met by the community in some way. It would also significantly degrade environmental performance.
- 21.1.7 It should be noted that this issue only occurs with the mixed strategy. In the event that the States wishes to see an “all-import” strategy then the question of local plant simply does not occur. In the event that the States selects the “all-local” option, then the regulatory authority would rightly demand some low operating cost plant and GEL could not be commercially successful if it did not install such.
- 21.1.8 It will be appreciated that the types of plant presently available may change going forward and it is not the purpose of States’ policy to attempt to dictate to the industry what type of plant should be used, rather the concern is with the operating cost of that plant.

21.2 A local plant cost criterion

- 21.2.1 The average selling price of electricity can be calculated from GEL's annual accounts by dividing the company's revenue from electricity by its total volume of electricity sales. This figure will change with time to reflect GEL's overall operating costs.
- 21.2.2 Accordingly, if the States wish to provide guidance on the operating costs of plant it seeks to have fitted locally they can do so by adopting a criterion which relates the operating cost of plant to be fitted with the average selling price of electricity.
- 21.2.3 It would be perfectly feasible for the States to require GEL to install low operating cost plant to meet all of the Island's maximum demand. However, the Island's maximum demand typically only occurs for a very few hours each year, so a requirement to meet all of it with low operating cost plant would imply the acceptance of a large fleet of plant which is expensive to buy and would operate for very few hours each year.
- 21.2.4 Accordingly it is normal practice for electricity generators to select plant for installation based upon the expected operating hours each year, accepting that plant with high operating costs but low capital cost will be suitable when running hours are low.
- 21.2.5 Adoption of a criterion that a minimum of 80% of the Island's maximum demand shall be met by plant having operating costs no more than 80% of the average selling price will provide guidance to GEL and the regulatory authority on the States' requirements in this respect but without imposing an unnecessarily large burden of capital cost requirements.
- 21.2.6 Table (5) below illustrates this criterion for the present plant complement.
- 21.2.7 In the table it should be noted that the principal source of data is GEL's annual report, but the calculation of the operating cost for plant installed would need to be agreed between the regulatory authority and GEL.
- 21.2.8 It will be appreciated that whatever type of plant may come along in the future, it can be examined for operating cost in this manner so the criterion should be capable of being used irrespective of plant type.

21.2.9 Recommendation

It is recommended to adopt the 80/80 criterion to ensure that a base of low operating cost plant continues to be installed locally.

Table (5)**PLANT OPERATING COST CRITERION**

SOURCE	INSTALL DATE	RATING MW	MEETS PRICE CRITERION
GENERATOR 1C Diesel	1979	12.2	Y
GENERATOR 2C Diesel	1980	12.2	Y
GENERATOR 3C Diesel	1982	12.2	Y
GENERATOR 4C Diesel	1987	13.8	Y
GENERATOR 1D Diesel	1993	14.5	Y
GENERATOR 2D Diesel	2013	17	Y
GENERATOR GT2 Gas-turbine	1996	19.5	N
GENERATOR GT3 Gas-turbine	1997	19.5	N
GENERATOR GT4 Gas-turbine	2003	11	N
TOTAL CAPACITY		131.9	MW
CAPACITY MEETING PRICE CRITERION		81.9	MW
MAXIMUM DEMAND		85.0	MW
SALES VALUE OF ELECTRICITY	£52,894,000		
SALES VOLUME OF ELECTRICITY	368,038,000	kWh	
AVERAGE PRICE OF ELECTRICITY SOLD	14.3719	p/kWh	
OPERATING COST OF DIESEL PLANT	9.8	p/kWh	approx
OPERATING COST OF GAS-TURBINE PLANT	32.0	p/kWh	approx
80% OF AVERAGE SELLING PRICE	11.4975	p/kWh	
PERCENTAGE OF MAXIMUM DEMAND MET BY PLANT LESS EXPENSIVE THAN PRICE CRITERIA		96.35	%

22. Summary and Conclusion

- 22.1 The purpose of this report is to enable the States to consider and determine the answers to three key questions:
1. **Are States' members willing to consider a future where all electricity is imported or do they wish to retain local generation?**
 2. **If it is decided that local generation should be retained, how much is required and what type of generation is appropriate?**
 3. **How should the infrastructure costs required for electricity supply be met?**
- 22.2 These conclusions and recommendations are structured to address these questions.
- 22.3 For convenience the recommendations have also been shown in the text of the report adjacent to the analysis to which they refer.

All-import or local generation

- 22.3 The report illustrates that whilst an “all-import” strategy is technically feasible, it could leave the Island vulnerable since it would be at the end of a long supply chain from a European grid which is facing its own uncertainties. The possession of local generation in addition to cable supply spreads the risks to supply between those associated with importing electricity and those associated with importing fuel. Local generation also provides greater flexibility for the Island to respond more quickly to changes in demand, such as those associated with the advent of new industries.
- 22.4 Despite these advantages of local generation, the option of returning to a situation where all or most electricity is generated by local fossil fuelled plant is not recommended, since such an option is likely to be associated with both higher costs and negative environmental impact.

22.5 Recommendation 1

The States is recommended to continue their present policy of requiring there to be local generation, but with the expectation that there will also be enhancements to the Islands connections to other jurisdictions which will allow local generation to take a secondary role to imports in the normal provision of electricity to the community.

The size and nature of local generation

- 22.6 The report examines the relative merits of the types of local fossil fuelled generation available to the Island and also provides information on the potential role for local renewables.
- 22.7 It is noted that diesel engines enjoy the particular benefit of offering electricity production at costs which would not be crippling to the local economy in the event that they must be run for significant periods because importation is not available. This benefit, however, comes at a cost since the capital cost of continuing to install diesel plant is greater than that of gas-turbines. It is recognised that both of these types of plant are heavy contributors to exhaust emissions, but this is considered acceptable in the context of their usage being limited by the availability of imported electricity.
- 22.8 Whilst Guernsey is endowed with plentiful resources of renewable energy, the present cost of utilising these sources is deemed excessive as a result of the technical immaturity of the production equipment. It is expected that this situation will change over the next decade and that local renewables will be able to play a part in Guernsey's electricity mix in the 2020s. The adoption of local renewables is entirely coherent with a policy which wishes to retain local generation but also expects greater connectivity with other jurisdictions.
- 22.9 The report considers in detail the merits of various possible security criteria. It is noted that the present criterion, which seeks to control both importation and local generation plant would be inappropriate for a system enjoying multiple cable connections.

22.10 Recommendation 2

The States is recommended to adopt a revised approach which will not seek to control importation infrastructure but will ensure that local plant is available to keep the lights on. With regard to the amount of local plant to be installed, it is recognised that it might be possible to reduce the security criterion to "N-1" and that such a decision would reduce the costs of local planting. The cost savings, however, are small at probably less than 1% of total costs. The States is therefore recommended to place their security criterion purely on local generation and to maintain the current "N-2" approach

22.11 Recommendation 3

The States is recommended to continue the present mandate for the Commerce and Employment Department to investigate and prepare for the use of renewable energy as part of the Island's energy mix.

- 22.12 The report also discusses whether the "N-2" criterion for local plant is adequate on its own or whether the States should also put in place a criterion designed to

ensure that local plant does not progressively have such high operating costs that, in reality, it cannot be used except in a dire emergency. A criterion is suggested which would relate the operating cost of plant to the average revenue from electricity sales, such that plant having an operating cost no more than 80% of the average selling price must be fitted to provide for at least 80% of the Islands maximum demand ("80/80 criterion"). The adoption of such criteria will provide GEL with certainty as to the States' requirements and a clear view of what planting will be required whilst allowing for the emergence of new technologies which might offer benefits including lower costs.

22.13 Recommendation 4

The States is recommended to adopt the 80/80 criterion to ensure that a base of low operating cost plant continues to be installed locally.

How should the Island community pay for the necessary infrastructure?

- 22.14 The report discusses the three options for payment – from electricity users, from taxpayers or a combination of the two. The report notes that whilst there is much synergy between the two groups, taxpayers and electricity users, there are also significant differences since some corporate electricity users make only modest contributions to taxation.

22.15 Recommendation 5

The States is recommended to continue the existing practice of electricity infrastructure being funded entirely by electricity users.

23. Recommendations

The Policy Council, the Commerce and Employment Department, and the Treasury and Resources Department recommend the States to:

- a) approve the continuation of the States of Guernsey's present policy of requiring there to be local generation, but with the expectation that there will also be enhancements to the Island's electricity connections to other jurisdictions which will allow local generation to take a secondary role to electricity imported through cable connections in the normal provision of electricity to the community as detailed in section 11 and outlined in sections 22.3 to 22.5 of this report;
- b) agree a framework that does not seek to control importation infrastructure but does ensure adequate local generation capacity exists to meet maximum demand as detailed in section 11 and outlined in sections 22.6 to 22.10 of this report;

- c) agree to apply security criterion to local electricity generation only and to maintain the current “N-2” approach as detailed in section 4.2 and outlined in sections 22.6 to 22.10 of this report;
- d) agree the continuation of the present mandate for the Commerce and Employment Department to investigate and prepare for the use of renewable energy as part of the Island’s energy mix as detailed in section 17 of this report;
- e) adopt the “80/80 criterion”, as defined in section 22.12 of this report, to ensure that a base of low operating cost plant continues to be installed locally;
- f) agree to the continuation of the existing practice of electricity infrastructure being funded entirely by electricity users as outlined in sections 22.14 and 22.15 of this report.

Yours faithfully

J P Le Tocq
Chief Minister

K A Stewart
Minister
Commerce and Employment
Department

G A St Pier
Minister
Treasury and
Resources
Department

28th April 2014

23rd April 2014

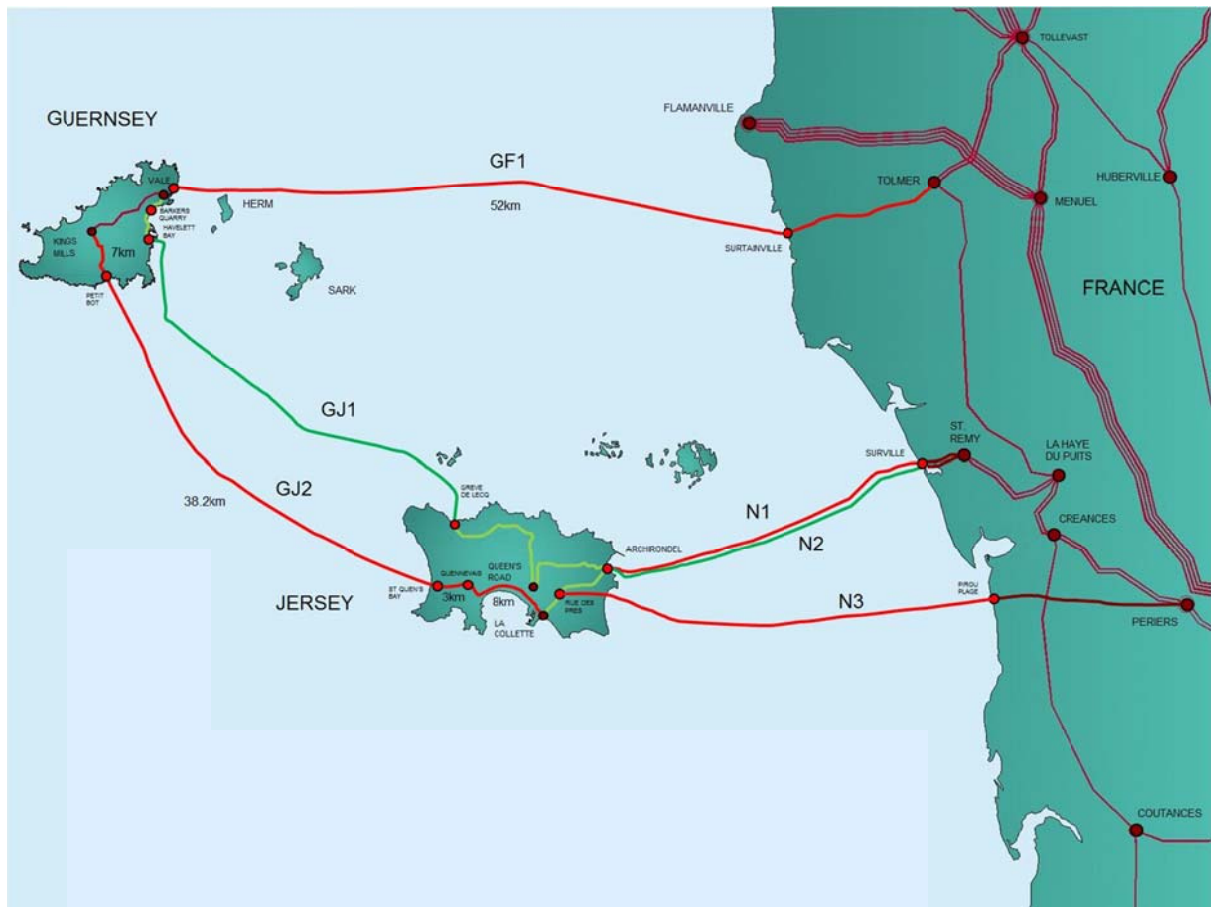
22nd April 2014

A H Langlois
M G O’Hara
R Domaille
M H Dorey
R W Sillars
P L Gillson
D B Jones
P A Luxon

A H Brouard
D de G De Lisle
L B Queripel
H J R Soulsby
Mr T Carey
(Non-States’ Member)

J Kuttelwascher
A Spruce
R A Perrot
A H Adam
Mr J Hollis
(Non-States’ Member)

Appendix 1



Routes of existing submarine cables and potential future connections.

Cables designated GJ1 and N2 are current connections. N3 is under construction and due to be commissioned in early 2015. GJ2, N1 and GF1 are potential future cables. A second Guernsey to France connection could be laid on approximately the same route as GF1 provided adequate physical security could be provided.

Appendix 2

Performance measurement of Guernsey's present electricity supply.

Figure 1 overleaf illustrates the cost of domestic electricity in the twenty eight European Union countries plus the Crown Dependencies of Jersey, Guernsey and the Isle of Man, and the islands of Bermuda, Barbados and St Lucia.

It will be noted that for domestic customers, as charted, the cost of electricity in Guernsey lies about mid table and very slightly below the "EU28" average number, whilst being slightly higher than Jersey and the Isle of Man. The price compares very favourably with the other islands charted, which do not enjoy the benefit of external connectivity.

It should be understood that the table presented is but one way of making such comparisons. It can be argued that the effects of local taxation should be accounted for because in some parts of Europe a large proportion of the final electricity price is actually taxation. Similarly it can be argued that the figures should be weighted to reflect the differing incomes and costs of living in the comparison countries.

The chart, however, reflects the actual amount domestic customers pay which it is hoped will be meaningful to the majority.

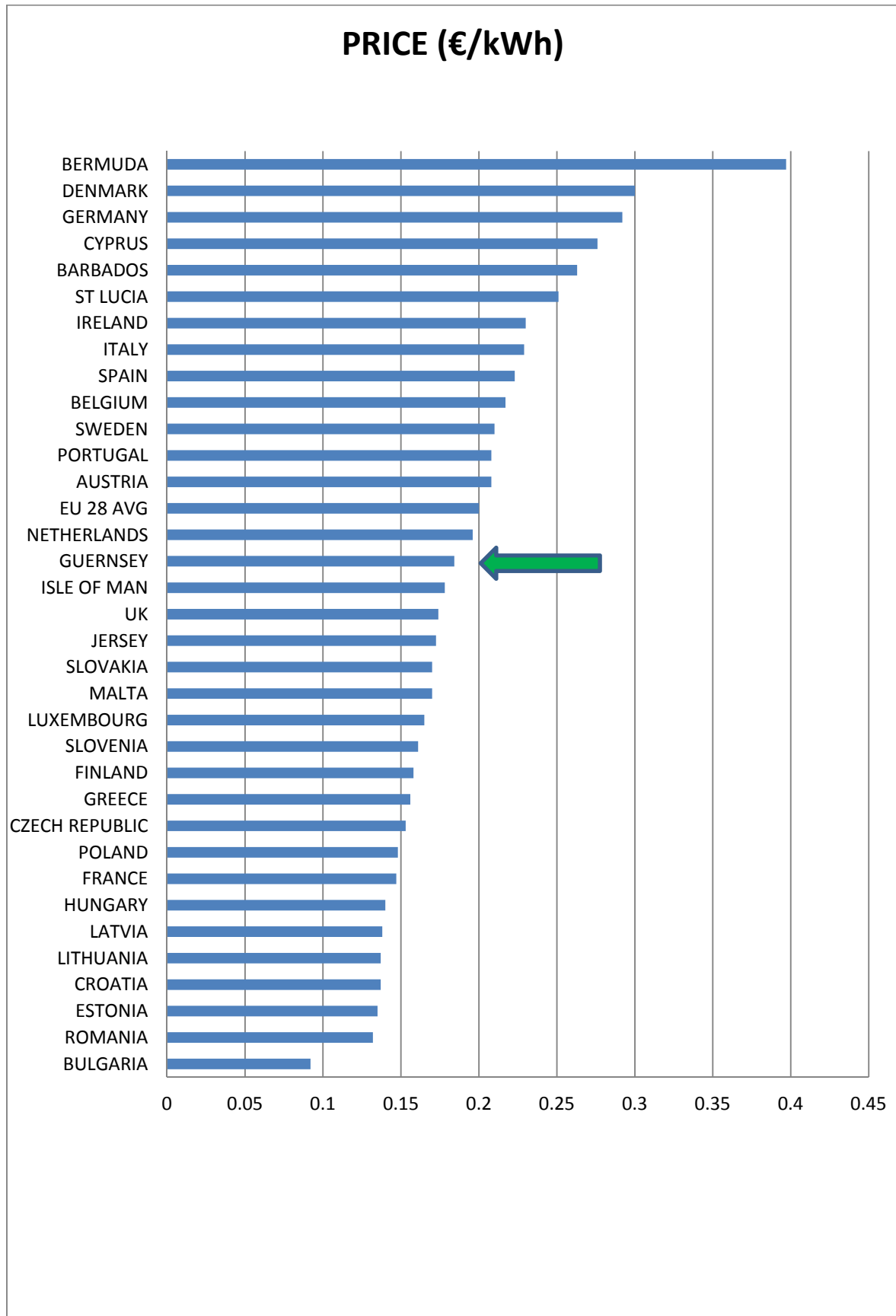


Fig 1 Cost of domestic electricity for 3500kWh per annum, first half 2013.

Source – EU countries, Eurostat, November 2013, data for Crown Dependencies assumes customers on time of day tariffs with assessed split of consumption between normal and low rates, other island data from supplier websites.

Figure 2 below illustrates a measure of the reliability of the electricity supply, relative to the performance in Jersey and the UK.

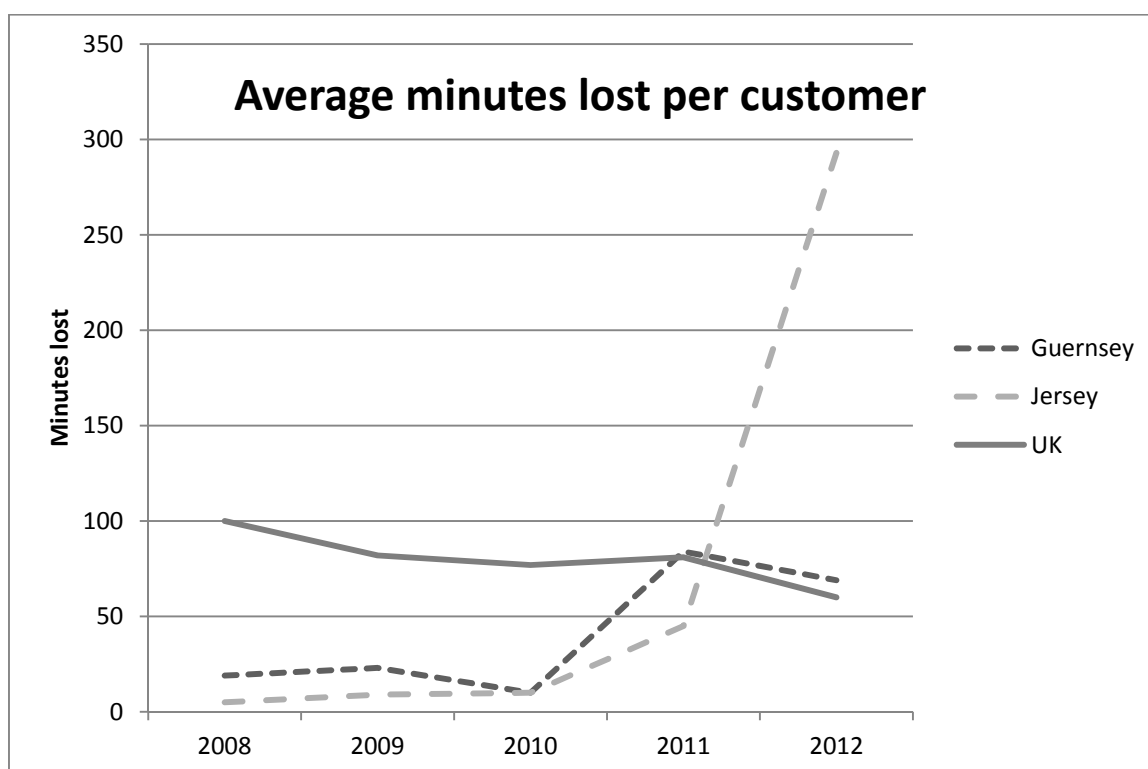


Fig.2 Average minutes of electricity supply lost per annum per customer.

Sources: GEL, Jersey Electricity Limited, UK Ofgem published data

Supply in both Jersey and Guernsey normally has good reliability compared with the UK, but both islands have suffered reduced reliability following the interconnection problems experienced in 2012. Jersey had a particularly disappointing year in 2012 following the failure of the original Jersey/France submarine cable which led to that island having a heavy dependency on the single remaining circuit to France.

The reliability of electricity supply in Guernsey has improved significantly as a result of the interconnection to Jersey and Europe that was completed in the year 2000. Statistics for years prior to, and following, this connection are shown in Figure 3 overleaf.

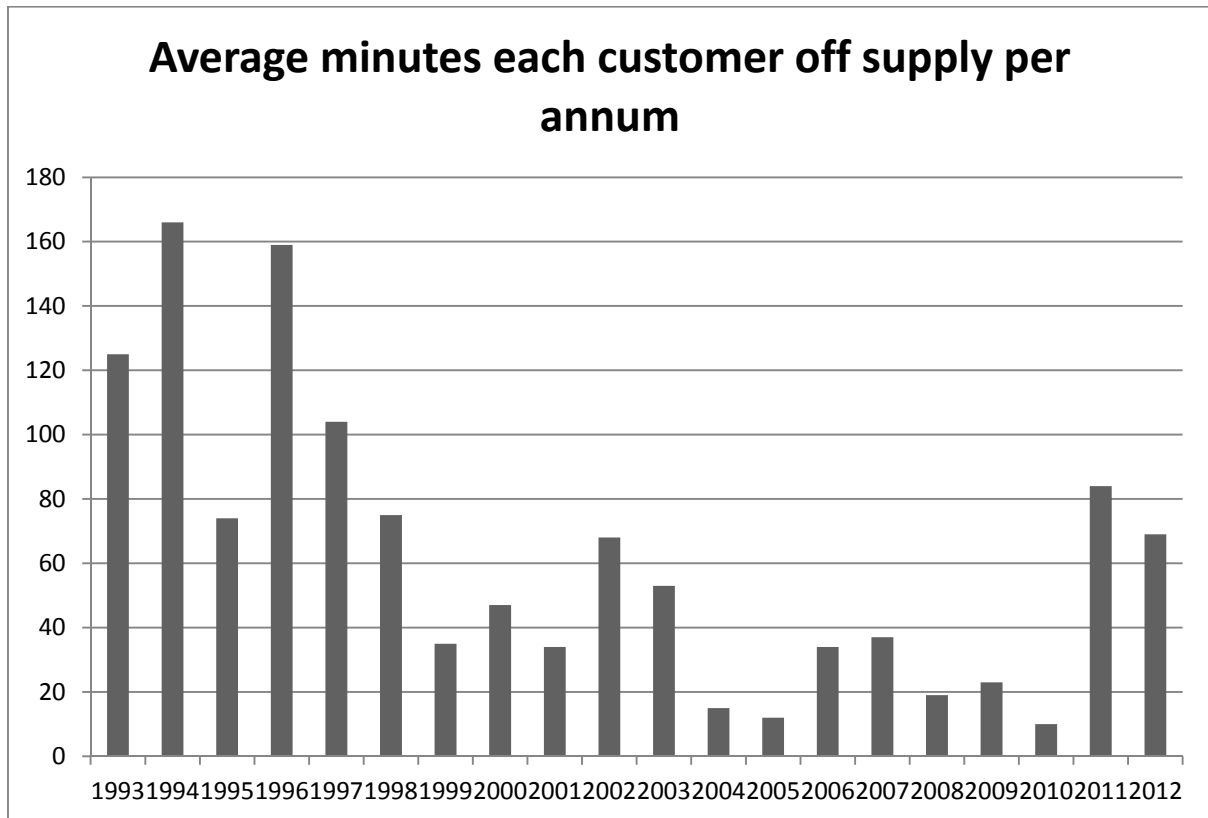


Fig 3. Average minutes each customer in Guernsey has been without an electricity supply for faults of all origins 1993-2012.

Source: GEL published data

The significant improvement created by the interconnection to Jersey and Europe will be noted.

From an environmental impact perspective, GEL's performance is critically dependant on its ability to import electricity. It has adopted an importation contract which requires its supplier to provide electricity sourced either from hydroelectric or nuclear sources, so that all electricity delivered to the island has very low associated atmospheric emissions.

Conversely, if local fossil fuelled generation is used then the atmospheric emissions associated with local electricity are high by international standards.

Appendix 3 Renewable energy.

1.0 Introduction

Renewable energy has been around in some form for centuries, ranging from the watermills used in the UK to the windmills of Scandinavia. Originally it was used for direct uses, such as to grind wheat to make bread, but now the phrase “renewable energy” is used to refer to the generation of electricity from resources that will not be destroyed by energy extraction.

The most often thought of is wind, an industry that, in modern form, has been around for over 30 years and solar energy. Tidal range (the rise and fall of the tides) is another technology that has been around for a number of decades. An example of this technology which will be familiar to many islanders is La Rance Barrage in Brittany, France.

Attempts to extract power from tidal stream (the speed of the flow of the tides) have been made since the mid 1990’s and also from wave power in various forms.

Guernsey is fortunate that, to some extent, it has potential in all of these renewable resources. With a climate more akin to northern France than mainland UK, Guernsey experiences higher levels of sunshine (irradiance) than the UK. Guernsey also, due to its geographical position exposed to the Atlantic to the west, has a reasonable wind and wave resource. Through the Big Russel there is an extractable tidal resource, as well as tidal potential in other areas - for example to the west of the island.

Renewables have a high capital cost (CAPEX) relative to most traditional generation methods with offshore wind being in the region of £3million per megawatt installed, compared to approximately £800,000 for diesel generation. This is because while conventional power stations are built as an enclosed system, the way renewables need to be open to the resource means that there must be a number of, potentially large, individual structures. This raises the initial cost and reduces any savings that would be evident in the scaling of a traditional plant. In addition, large scale renewables tend to be installed in increasingly harsh environments (offshore wind/wave/tidal) and this also raises the CAPEX.

Renewables should benefit from lower operational costs (OPEX) over the future as while turbines, and other equipment, need maintaining, so do traditional power stations. However, renewables do not have a fuel cost requirement – the raw resource (wind, sunlight, tide or wave) is “free” - it is the generation equipment (CAPEX) which comes at a relatively higher cost. However, some of the savings on the resource/fuel aspect are offset by the often remote and increasingly harsh environments that the devices are being installed in.

Commerce and Employment Department has been mandated by the States to investigate and prepare the groundwork for local renewables. In carrying out this mandate Commerce and Employment Department has created the Renewable Energy Team (RET), a team comprising interested volunteers, political members of the Commerce and Employment Department and staff. This appendix largely results from work carried out by RET.

This summary is not designed to be a full detailed status report of renewables but is designed to provide readers with a good overview of renewables and an idea of what part renewables may play in the island's energy future and what work still needs to take place.

2.0 Summary table of present and future cost ranges for renewables technologies.

In considering this table note that the current wholesale price of electricity in Europe is in the area of 5 to 6p/kWh, whilst production from diesel plant costs circa 9 to 10p/kWh depending on fuel price

Summary of estimated costs for the principal different renewable technologies

<u>Renewable source/technology</u>	<u>Potential Guernsey scale project</u>	<u>CAPEX – initial cost per MW of installed capacity (million £ per MW)</u>	<u>Current cost of power – per kWh</u>	<u>Predicted future cost – 2020 (unless stated) – per kWh</u>
<u>Onshore wind</u>	225kW – Circa 0.2% of island electricity	1.1-1.7	8-12.5 p	8-12p
<u>Offshore wind</u>	30MW Circa 25% of island electricity	2.5 – 3.5	14-16p	10-14p
<u>Tidal</u>	100MW Circa 65% of island electricity	5+	Circa 30 to 40p	20-30p see note 1
<u>Wave</u>	Unknown – multiple MW	5+	Circa 30 to 40p	20-30p see note 1
<u>Solar</u>	500kW (airport) Circa 0.1% of island electricity	1.1 - 1.35	8-10p	7-10p

Note 1. The price information in this table results from research carried out by RET and from international published sources. Price ranges for tidal and wave are very uncertain because there are no suitable installed device arrays to allow measurement and the technology has developed far more slowly than forecast. Other technologies are better proven but Guernsey conditions may produce different final costs.

3.0 Macro and micro renewables - definitions

Generally renewables are divided into macro (large or commercial scale) and micro (small scale or for home or small scale commercial buildings). Macro scale renewables tends to refer to large scale commercial projects, such as an offshore wind farm, a tidal array or a solar farm. Micro scale renewables tend to be located on, or in the grounds of, houses and places of business. In Guernsey it has been decided that macro is any development over 50 kW of installed capacity, and micro is any development of 50kW or less. Installed capacity is the maximum rated output that a system can provide, e.g. if a solar panel system is designed to be a 50kW system, it will never produce more than that, but at irradiance levels below a certain limit it will produce less.

For comparison purposes a typical micro system on a domestic property might be expected to have a maximum output in the region of 3kW, well below the 50kW limit.

In the context of overall policy for electricity, it appears unlikely that even the widespread adoption of micro renewable systems by islanders would make a significant difference to the overall strategic position, since the intermittent nature of renewable generation dictates that grid sourced electricity will still be used.

4.0 Overview of Technologies

4.1 Onshore Wind

Onshore wind is the most “mature” of the renewable technologies and can be found in many countries around the world at both macro and micro scales. With onshore wind, Guernsey does have a potential resource due to the islands location and local prevailing winds. Guernsey has decades of wind speed data from the airport, and has also been collecting data at Chouet headland for a little over two years in a more exposed part of the island for prevailing wind records more representative of conditions at sea.

However at a macro scale there are issues that would be difficult to overcome on an Island like Guernsey which is relatively small and relatively heavily populated. The primary limiting factor is that of noise in relation to property, and independent research has concluded that this (along with radar interference, communication links, grid infrastructure and rights of way) potentially limits the potential sites for macro deployment to the Chouet area, and various sites along the south coast cliffs. There may

be potential for micro wind for individual property or business use, but this would require further investigation on a case by case basis. The visual impact of onshore wind is also a major factor to be considered but general research has proven inconclusive in favour or against and specific elements of a project and site will affect views.

It should be noted that wind power systems generate electricity during periods when the wind is blowing. They do not require high speed winds to generate, although wind speed affects generated power quantity up to the devices rated capacity (whereby generation is then constant in stronger winds below a cut off limit). There may be times when there is insufficient wind to drive the turbines.

4.2 Offshore Wind

Offshore wind has evolved out of the onshore wind industry and it is still in the cost reduction phase. Costs are relatively higher than onshore because of the increased harshness and remoteness of the locations, operating at sea will always carry higher costs than on land. Again Guernsey has a good resource due to the islands location, although it is limited by current technology. Three sites have been identified within Guernsey waters that could host a 30MW (Guernsey scale) wind farm that fall within the current restrictions of needing less than 30- 40 metre water depth, although because of Guernsey's hydrography they are all within a few miles of the land. The industry is engaged in work to extend the depth range to 50 metres, but costs are presently very high. There is also potential for larger scale development further to the north east of Guernsey, but this is in deeper water and outside of the island's current territorial sea limit of 3 nautical miles.

4.3 Floating Offshore Wind

Floating offshore wind is still in its relative infancy – the basic difference is whereas traditional offshore wind turbine structures have foundations on the sea bed, a floating turbine does not touch the seabed but is secured in place by anchoring or mooring systems. The concept is still being trialled and tested but may be a future technology that reduces the cost and increases the areas that offshore wind turbines can access - as locations with water depths of greater than 30-40 metres will be suitable for such developments. If the technology comes to fruition there is potential for large scale local developments towards the 12 nautical mile limit in the future which would make use of the prevailing winds to the west.

4.4 Tidal Stream

Tidal stream energy is still in the research and development stage, albeit with reasonably advanced full scale single turbine units in recent years. Guernsey does have a useful resource in the Big Russel, and potentially in other areas with future technological advances. The levelised cost of electricity from tidal is currently

considerably higher than other renewable resources already mentioned, but the industry is looking to reduce costs so it becomes competitive with other renewable technologies. Tidal stream devices extract electricity from the flow of the tide, and currently developers are looking for flows in excess of 3 knots at peak spring tides.

It should be noted that tidal stream systems generate electricity during periods of tidal flow and do not require peak flows to generate, but the actual electricity generated is strongly correlated with the speed of the flows. There is no generation of electricity at slack tide and peak generation will occur at peak spring tides. This gives a pattern of four periods of generation and four periods of no generation per day. Unlike some other renewable technologies, this pattern and energy output at a given time are predictable.

4.5 Tidal Range

Tidal range extracts energy from the change in height of the sea from the movement of the tides. Guernsey is not well placed to take advantage of this as the geographical features of Guernsey do not really allow cost effective electricity generation. There are limited bays that could be used in Guernsey and these would require substantial concrete construction in order to generate, which would have a significant impact on the costs of generation and the local environment.

4.6 Wave

Wave power extracts energy from the wave motion, and so is related to general weather patterns and not related to the tidal cycle. It is reasonably correlated to the strength of winds, with offshore winds over the Atlantic generally creating the waves that reach Guernsey waters. There is currently not a universally consistent method for extracting wave energy, some devices float, some are sub surface, some extract from the surface rolling and some take advantage of the circular motion of the water within a wave. Guernsey does have a wave resource potential when the industry is more commercially mature, albeit that large scale measurement of the wave resource has not been undertaken.

It should be noted that wave devices extract energy from the circular motion of the sea due to wind acting upon it; therefore they will only generate power when there are waves. They do not require “big” seas necessarily, although the actual electrical output will be correlated to the wave amplitude and frequency.

4.7 Solar

Solar photovoltaic (PV) is the conversion of sunlight into electricity. This has generally been done in Europe at the micro scale, but some countries including Spain, Germany and the US have undertaken large scale farm projects to produce many megawatts of

electricity. This is potentially economically viable in Guernsey as the island has acceptable levels of irradiance, as shown by the adoption across northern Europe.

It should be noted that PV systems generate electricity during daylight hours and do not require full sunlight to generate – although the actual electricity generated is correlated with the amount of daylight peaking at sunny times in the middle of the day in summer. There is no generation of electricity after dark.

Floating PV installed on Guernsey's water storage sites has been suggested recently. While there are efficiencies which can be created from the cooling effect on the panels from the water, Guernsey has a limited supply of open water pools. The main reservoir is not suitable due to its limited depth and the need for solar irradiation to form the first part of the water treatment process. Currently costs are too high to make use of solar for the grid, so only water pools with a demand for electricity in the immediate vicinity are likely to be economically feasible.

Solar thermal uses sunlight to generate heat which is then used to heat water in properties. Again this tends to be on the micro scale, used to reduce water heating costs. The technology for this is well developed and robust and an economic case for it can be made.

4.8 Other renewable technologies

Anaerobic digestion ("AD") is the process by which micro-organisms break down organic material in the absence of oxygen. This results in the generation of biogas (methane and carbon dioxide, with other contaminant gases) produced by fermenting the organic material food source, usually farm or human waste (manure), slaughterhouse or food waste, or farm crops that have been grown specifically for digestion, such as forage maize. The methane is then used as a fuel for the generation of electricity with heat as a significant by-product. Both the electricity and the heat generated should be utilised.

The possibility of using AD to process either food or farm waste has been investigated in Guernsey but at the present time the small throughput and the quantity of electricity and heat that might be produced in a municipal plant suggests that it would not be an economically viable proposition, so an alternative recycling solution has been adopted for waste streams. This may be reviewed in the future if technology, recycling or farming practices change, but AD is unlikely to form a part of the Guernsey electricity strategy within the foreseeable future. In addition - an AD Plant receiving food waste (and other waste materials) would require a waste management licence as a waste disposal operation. Licences are administered by the Office of Environmental Health and Pollution Regulation. In considering an application for such a licence they would

have to consider other waste facilities on the Island, and it would require the consent of the Waste Disposal Authority and States' approval

The use of landfill gas to generate electricity is commonly used in the UK and elsewhere to reduce methane emissions and generate extra income. Previous studies in Guernsey have suggested that due to the flooding of the current landfill site it may not be economic to extract the gas for electricity. This is currently being reviewed.

5.0 Analysis of the technologies and their suitability for Guernsey

5.1 Onshore wind:

- Onshore wind is a commercially developed technology which is present in many countries around the world.
- However potential development in Guernsey is limited by a general lack of space on land – it is more likely as a series of micro projects than macro.
- The devices at macro scale are the commonly thought of three blade turbines of varying sizes and hub heights, depending on the power output of the device. At micro scale the devices are more varied, some come in the form of helix shaped vertical turbines, while others have a large number of small blades.
- Onshore wind is likely to increase the cost of electricity if done at a commercial scale, as it would be size limited. There is potential for a small macro device (250kW) to provide power to the grid at just under 10p/kWh and be profitable in future. For micro it would need to offset owners use in order to be worthwhile.
- The annual yield of a 225kW device would be around 870,000 kWh which is around 0.2% of Guernsey's electricity requirement.

5.2 Offshore wind:

- Offshore wind is a maturing technology which has been heavily adopted in northern Europe. It is currently the only large scale commercially available renewable technology that is readily expanding. It does not suffer from the same planning constraints as onshore wind, but does have higher costs.
- Guernsey has potential for offshore wind within the 3 nautical mile limit, to the west and the north of the island. Both would be visible from the coast, but could be scaled to meet local demand.
- The devices are similar in appearance to the onshore wind devices, but due to the increased energy production tend to be of a much larger construction. Hub heights are in excess of 100 metres- for comparison, the present power station chimneys are 55 metres in height.
- The likely cost of electricity from offshore wind is in the region of 15p/kWh currently, although this is predicted to fall in the coming years with the price forecast to be approaching 10p/kWh in the early 2020's.

- Guernsey has potential for a 30MW near shore wind farm that would provide around a quarter of Guernsey's electricity, of which virtually all would be used on island. There is also potential for a 100MW or greater wind farm to the north east of Guernsey and south west of the Schole bank which could generate in excess of Guernsey's electricity demand and so would require export.
- RET has undertaken a large amount of work looking at offshore wind and sites and economic appraisals. RET also understands the likely timeline for a project from conception to completion is around 7 years. Any local development will require about two years detailed wind data from the site of the potential development.

5.3 Floating Offshore Wind:

- Floating offshore wind is in its relative infancy, but is seen as providing potential for the industry to expand the areas that can be exploited since it will permit uses of areas with greater than 50 metres water depth. There are currently test rigs in Scandinavia, and potentially devices will be deployed at "wavehub" in Cornwall in the near future.
- Should floating wind become commercial then there is potential off the west coast of Guernsey for large scale development, providing the territorial limit is extended to 12 nautical miles. This has not yet been quantified, but Guernsey has a good wind resource, so there would be potential for many hundreds of MW.
- The devices themselves would be similar to standard offshore wind turbines, but will probably be larger. The structure will be a floating moored platform (potentially utilising anchoring techniques from the oil and gas industry) rather than piled like current offshore wind.
- Currently cost would be relatively more expensive due to the experimental nature of floating wind; however it is hoped that in the future it will help reduce the cost of the wind industry.
- The potential production is likely to exceed the islands demand, so any project would probably be for export.

5.4 Tidal Stream:

- Tidal stream is still in the research and development phase, with a large number of developers present in the market with a number of different designs. There are test devices in the water in various countries all across the world, from Canada to the UK to China. The industry needs to consolidate on a potential design, a mooring system and a method of deployment in order to start to become commercial.

- Although there are a number of single devices in the water and some are generating power there are still no arrays anywhere in the world. The installation of arrays is an essential next step for the industry to prove the technology and solve other challenges before full scale deployment can take place.
- Guernsey has a reasonable resource in the Big Russel that would be extractable using current technology. There is also a potential resource to the west of the island, and Sark holds potential to the East. However, both of these latter areas would require advancement in technology.
- While there are numerous designs, the basic principle has been to take a wind turbine and place it underwater. The mooring systems are varied and the installation methods are related to the mooring system. The industry appears to be moving towards easy access to the turbines, which may lead to floating or surface piercing devices becoming the most economical.
- In the UK tidal stream electricity is currently subsidised by receiving five Renewable Obligation Certificates (ROCs) (in excess of 25p/kWh) and when the UK market system changes to Contract for Difference (CfD) they will have a strike price of 30.5p/kWh. The wholesale price of electricity on the UK markets is currently in the order of 5p/kWh, illustrating that tidal is still a very expensive technology. The tidal industry is fully aware of the need to reduce costs and has identified a pathway to achieve this, but until arrays start to be deployed this is unlikely to happen quickly.
- France also offers financial support for tidal – at a lower rate than the UK per unit of power produced, but in addition there are capital grants which the UK does not offer.
- There are two potential avenues Guernsey is looking to explore, one is a next stage array – this is dependent on whether Guernsey would be attractive to a developer – and the second is waiting for commercial maturity for a large scale potentially 100MW scale array.
- The scale of the resource is difficult to estimate, being very dependent on the tidal regime and the efficiency of technologies. Research using data about the tidal streams taken from the Big Russel and knowledge of the current technologies indicates that there is potential to generate about a quarter to one third of Guernsey's current electricity demand within around half of the Big Russel – the half analysed had the best tidal conditions and the remaining half is unlikely to produce as much power.
- RET is staying fully appraised of the industry, has undertaken resource assessments and is undertaking work to fully understand the commercial attractiveness of development in Guernsey waters.
- Guernsey has a very promising tidal resource which is relatively close to shore in relatively sheltered conditions. Guernsey should be able to generate power

from the tides when the cost reduces and the technology has made advances – these should happen in the future but are outside Guernsey’s control.

5.5 Tidal Range:

- Tidal range is a well understood technology that has been around for many decades. The costs are high, but the lifetime of a project can be extended to a significant timeframe, La Rance has been operational since 1966. However there are potentially large environmental issues with tidal range and this, along with the huge capital cost, have stopped recent proposals such as those in the Severn estuary. This has brought much smaller tidal lagoons more into the focus as they should be relatively environmentally unimposing, although the capital costs will still be high.
- The devices are tidal turbines encased in a large concrete dam. Modern turbines operate in both directions whereas historically they only operated on the out flow, driving the turbines through a reduction in the head of water.
- Guernsey has little potential in tidal range, the tidal ranges are only sufficient to make it economical on spring tides. This combined with the natural geography of the island not having areas of deep water (such as river estuaries) or readily floodable areas make it have little local appeal.
- Cost would be high even with a 60 year project life.

5.6 Wave

- Current wave technology is slightly less well developed than tidal – there is no consistent idea on the best way to extract energy from the waves. There has been an “array” off the coast of Portugal, however this has not been followed up by further arrays, and there are no devices currently in Cornwall’s “wavehub” site, set up to test small scale arrays.
- There are numerous different designs, most plan to be floating in some manner, but the Oyster device sits on the seabed. There are point absorbing devices which make use of the rise and fall caused by the waves; attenuating devices which use the bending motion of the waves on hydraulics; rotating devices that utilise the rotation of the waves and other methods as well. As such there is no real design that is common to all – but most appear to be surface piercing in some capacity.
- In the UK wave energy also has access to five renewable obligation certificates, so generators receive in excess of 25p/kWh and when the system changes to contracts for difference they will have a strike price of 30.5p/kWh. This indicates that the cost of wave, like tidal, is currently much in excess of wholesale market prices, and so would cause an increase in electricity prices.

The cost is predicted to come down, and the potential deployment for wave technologies is huge.

- Guernsey has a good wave potential off the west coast thanks to the exposure to the Atlantic Ocean. Potential is limited to the west coast as seabed friction reduces wave amplitude, and seabed depth decreases approaching the French coastline.
- Initial studies in Guernsey indicate that a small number of devices, 8-12, could provide approximately 1% of Guernsey's energy consumption. Further work is needed to full understand the potential for Guernsey, but it appears most likely that wave power would be used primarily for Guernsey consumption, not export.

5.7 Solar PV

- Solar PV is present in many countries across the world. It is more prevalent at commercial scale between the tropics, but countries such as the UK and Germany have commercial solar farms. Solar is also present at micro scale.
- Guernsey has a good potential for macro where the electricity produced can be used locally, replacing electricity purchased from the grid. This is also the case for micro. One challenge for solar is that solar panels require space (either on the ground or on roofs) and a farm of 1MW requires approximately 6-7 acres.
- With micro there are currently no subsidies locally so it would be used for offsetting electricity costs for the owner of the PV system. Businesses and properties that use electricity throughout the day would be well suited to this, while homes which are empty throughout the day with minimal electricity demand are less well suited.
- Electricity produced from solar would cost about 10p/kWh, rather higher than the wholesale market price but close to the cost of diesel generation at present fuel prices. However this is cheaper than the price a consumer pays for electricity at certain times of the day so it makes sense economically if the electricity is used on site.
- Solar is not easily scalable and due to the limited land availability on Guernsey it is unlikely there will ever be more than 10-15MW installed, representing around 2.5 -4% of Guernsey's electricity requirements.

5.8 Solar Thermal

- Solar thermal is a micro scale energy form, generally for heating domestic hot water. A solar thermal system can extract energy from sunlight with a greater efficiency than a solar PV system.
- Used in this way an economic case can be made, with typical payback periods in the order of 7 to 10 years.

5.9 Landfill gas

- Electricity from landfill gas is commonly used as a method to reduce emissions and generate energy, and therefore income, from the methane that is produced during the anaerobic breakdown of waste.
- Landfill gas escapes naturally from a landfill site while in operation, while closed cells tend to have pipes which allow the landfill gas to escape rather than build up to potentially dangerous levels. These pipes can be connected to a flare which is used to heat water and drive a steam turbine or directly to a gas fuelled diesel generator. One consideration is that there are other chemicals contained within landfill gas, and these vary from site to site based on what waste is landfilled. In the landfill at Mont Cuet there was a deliberate flooding with sea water to put out an underground fire. This has changed the makeup of the landfill gas.
- There is currently work underway looking at whether the current landfill site would be suitable for electricity production going forward.
- Guernsey has historic landfill sites which are not suitable for electricity generation due to the age; the electricity production would not offer a suitable return over the remaining “life” of the methane production.

6.0 Timelines for most promising technologies (listed in order of quickest first)

From the research carried out by RET, the team has formed the following views on the likely timings of the various renewable technologies.

Solar power is the technology that can be deployed in the shortest time, with a project taking as little as 3-6 months to set up from initial investigations (although this can be much longer for more complicated sites)..

There is potential for land to be used for solar farms, at about 6-7 acres required per MW installed.

Offshore wind is the only other commercial scale development that is likely to be possible to develop prior to 2020, however if this is to be the case a project would have needed to have been agreed early in 2014. There is definite potential for a near shore development of in the region of 30MW which would provide electricity for Guernsey. The cost of electricity produced would be higher than import prices, but it would provide a degree of security for this part of Guernsey’s electricity supply that would not be affected by cost fluctuations.

The costs for offshore wind projects are presently in excess of current sources but they are continuing to decrease so it is appropriate to delay investigation until the early 2020’s when costs are forecast be closer to 10p/kWh. In any event, outside development expertise and finance would be needed and a project would only take place if it was

economically viable relative to other offshore wind projects. A “near shore” site may also prove controversial as the turbines would be more visible from the shore than a site further offshore. RET is performing analysis into understanding islanders’ views on renewable energy generation including the aesthetics from all technologies including offshore wind.

There is also potential for a large scale deployment which would require export potential of 200-300MW although this has other challenges as it is in deeper water, is less accessible and is in an area which is used for other activities. Such a project may also need to be eligible for support mechanisms from outside Guernsey, since the majority of electricity produced would be exported.

Tidal stream power has not reached maturity as expected, and as such remains relatively expensive and still experimental. RET is working to understand if Guernsey would be a good site for first generation arrays, as the resource is good, but not as strong as other areas. If this is the case then, depending on how the industry progresses, there could be small scale development in our waters around 2020, however further work is being undertaken to assess this. An alternative option is to wait for commercialisation and this could lead to a project closer to around 2030 for the first arrays to be installed in Guernsey waters – when the cost becomes more competitive with conventional generation.

Wave power is potentially going to be slightly later than tidal and no development is expected before the 2020s, with any potential project dependent upon the advancement of the industry. More work is required to fully understand the wave resource and therefore to understand the potential power available.

7.0 Synergy with the present Guernsey Electricity import contract

It is understood that the present importation contract provides both low- carbon electricity from nuclear production and also a guaranteed quantity of certified renewable electricity from hydroelectric sources. It is further understood that this contract runs until the end of 2022. Based on RET’s views on timescales, there appears to be some synergy between the timing of the end of this contract and the potential for local renewables to begin to provide supplies at reasonable cost.

8.0 Conclusions

Renewables are an intermittent resource, increasingly predictable but ultimately uncontrollable. If future on island renewable generation was from a mixture of sources it is likely that there would be times when Guernsey could generate more than it would use on island. However, the different renewable sources also act as a balance against each other, with the likelihood of no wind, wave, tide or sunshine being lower than any individual resource.

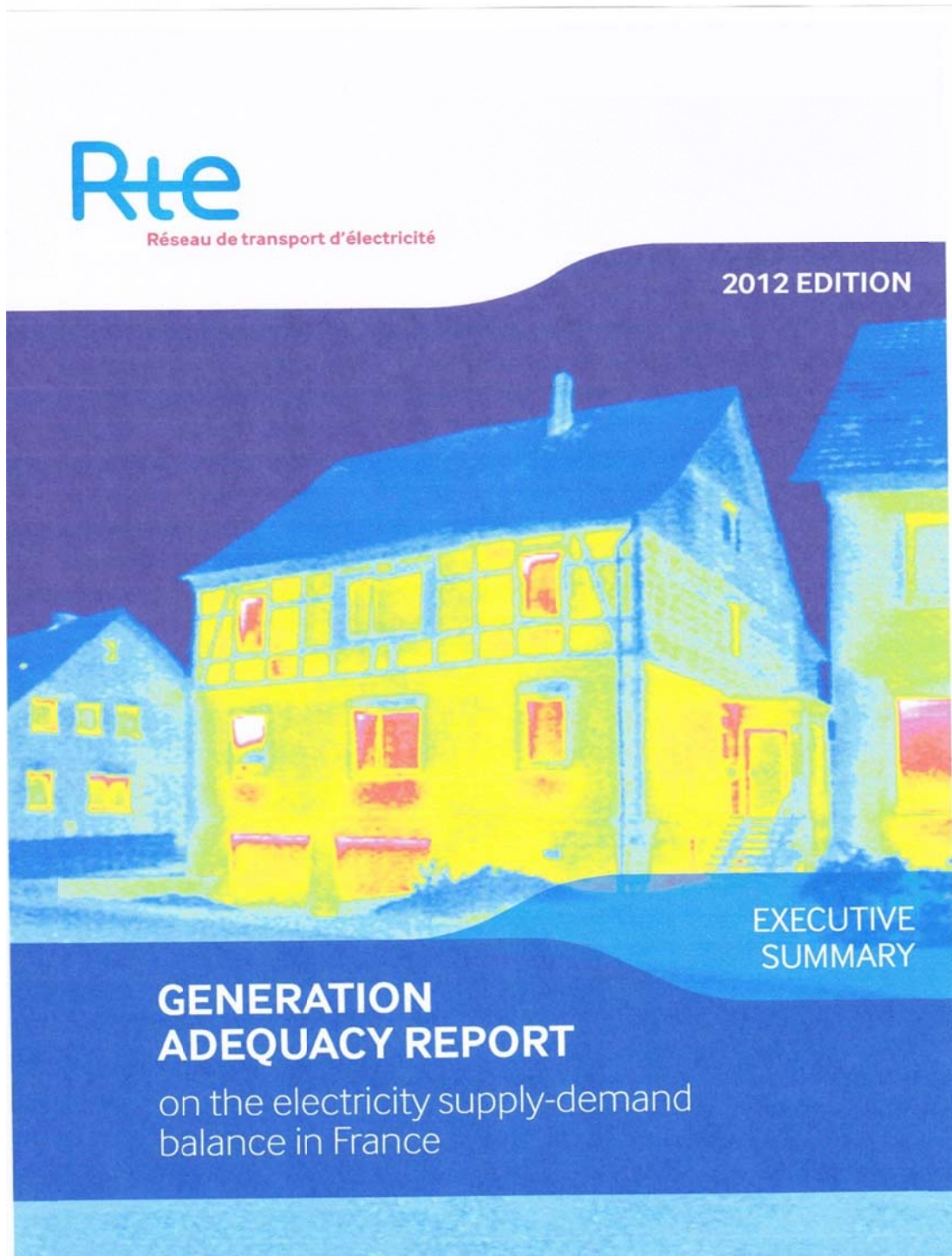
With appropriate local political will, support and investment, at the appropriate time renewables should be able to play a real role in increasing energy security into the energy mix as locally sourced electricity. Due to their intermittency it is always going to be preferable to have a way to balance the load, whether through a robust cable strategy with another jurisdiction, or through energy storage, a technology which is not available currently.

Given that any deployment of local renewables may well have effects upon the costs of local electricity and potentially on other aspects of island life, it would be necessary to consider a fresh policy approach before large scale deployment could be undertaken. This issue will be kept under continuous review.

Small scale renewables are unlikely to play a major part in the island's electricity future, but are nevertheless desirable in the context of diversifying electricity sources and reducing global emissions. The revised planning system should ease the path for small scale solar.

Appendix 4 System adequacy report for France.

(NB A colour version of this report is available to view on the Réseau de transport d'électricité website - www.rte-rance.com/en/mediatheque/documents/operational-data-16-en/annual-publications-98-en/generation-adequacy-reports-100-en)



GENERATION ADEQUACY REPORT on the electricity supply-demand balance in France

2012 EDITION



Chairman's message

As required by law, RTE periodically prepares and publishes a forecast of the balance between electricity supply and demand in France every two years. This document is submitted to the Minister responsible for energy to assist in the planning of multi-annual programmes for investing in electricity generation (*Programmation Pluriannuelle des Investissements de production – PPI*).

The purpose of the Generation Adequacy Report is twofold: provide a realistic picture of how the system will evolve over five years and analyse long-term supply-demand balance scenarios. RTE also uses these scenarios for studies conducted on the safety of the electricity system and on upgrades and development of the transmission network.

This year, in comparison to previous editions, a main feature of the analysis on a five-year timeframe is the drop in demand growth that has resulted from the economic crisis since 2011. Lower demand growth can, by nature, ease tensions in the supply-demand balance in Europe and France. However, the crisis has also caused a number of generation capacity projects to be postponed, and the retirement of some plants considered not profitable enough earlier than originally planned. Meanwhile, the exceptional cold spell of February 2012 drove peak demand above the symbolic 100 GW mark for the first time ever. This is proof that the French power system is very sensitive to temperature swings, and that an extreme climate event could create a shortfall situation in France.

Long-term forecasts underscore the potential impact of the main drivers available to adapt France's power mix: energy efficiency, the development of renewable energy sources and changes in the nuclear fleet. The options considered here are not intended to be exhaustive, but rather to provide sufficiently differentiated long-term views of the energy mix in order to analyse the potential consequences on the electricity system. The electricity transmission grid can be adapted in time to changes resulting from energy policy decisions, provided that these decisions leave sufficient room for advance planning.

Managing peak electricity demand must remain a top priority in planning energy efficiency measures, so that switches can be made between energy end-uses to electricity-based solutions while guaranteeing security of supply. In this respect, the development of demand flexibility mechanisms (load shedding, transferring consumption to low-demand periods, etc.) is one of the promising solutions upon which RTE is conducting experiments.

Wider penetration of renewable energy sources, which are intermittent by nature, would necessarily require making changes to how the safety of the system is managed (reserves, demand response and load shedding, etc.). A shift in the geographic breakdown of generation sites (renewable or nuclear) would also require structural changes to the electricity transmission grid. Current changes being effected in Germany are a striking example.

Contrary to popular belief, growth in local renewable energy sources does not result in a decrease in transmission network requirements, but rather makes grids more necessary than ever since they are the available and economically sensible solution for managing intermittent generation and sharing backup supply.

An increasingly large share of RTE's investments is being devoted to developing capacity for accommodating and facilitating the transmission of renewable energy on the grid. Along these lines, RTE is notably preparing plans for connecting renewable sources in cooperation with producers, local authorities and distributors.

The challenge for RTE is to keep pace with changes in the energy landscape. New wind and photovoltaic generation projects are up and running in just a few years on average, whereas the administrative procedures RTE must complete can take more than a decade. Therefore, approval processes for new network transmission infrastructure must be streamlined and shortened to match the time required to bring new generation infrastructure on line if RTE is to be able to keep up.

This Generation Adequacy Report thus contains RTE's analysis of the medium-term supply-demand balance as well as its technical contribution to the debate being held about the energy transition, addressing those issues that relate to the French electricity system in Europe.



Dominique Maillard

GENERATION ADEQUACY REPORT on the electricity supply-demand balance in France

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Summary

1. TRENDS IN POWER DEMAND OVER FIVE YEARS

Medium-term analyses rest on four scenarios for demand trends, which are, in decreasing order of energy requirements, "High", "Baseline", "Stronger DSM" and "Low".

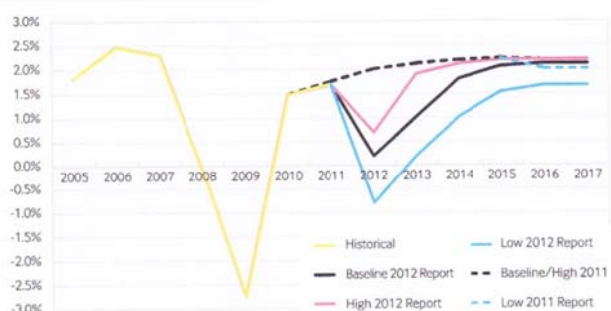
Economic crisis translating into lower domestic demand in the short term...

Economic growth slowed sharply in 2008 and then again in 2011, putting downward pressure on electricity demand, especially in the industrial sector.

This slowdown has raised a good deal of uncertainty about future growth forecasts. The decision made here was to base GDP growth estimates for the short and

medium terms on a wide range of forecasts (economists' consensus opinions), working with the median and highest and lowest forecasts. The median growth assumptions applied in the "Baseline" scenario for 2012 and 2013, +0.2% and +1.0%, respectively, match those of the IMF (published in January 2012).

Average annual GDP growth by volume



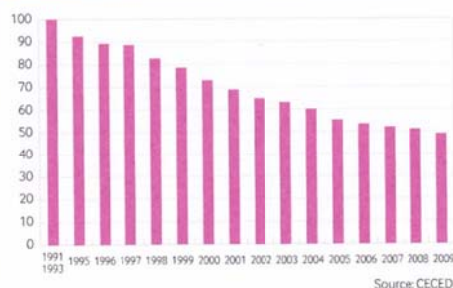
... slowing over the medium term, reflecting the implementation of the thermal regulation and energy efficiency measures...

The effects of energy efficiency measures can only be evaluated over time since they profoundly alter the structure of demand.

By way of illustration, energy labels, now required for a vast array of household devices (appliances, light bulbs, etc.), have substantially improved the performances of these devices.

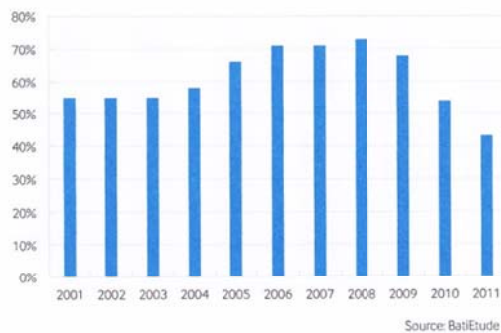
At the same time, there are plans to apply new, more stringent standards not only to household appliances but also to equipment used in industry.

Improvement in average efficiency for appliances thanks to energy labelling – Example of domestic refrigeration (demand by unit of volume, baseline 100 in 1991)



SUMMARY

Share of electric heating in new residential units



In terms of national regulations, two measures have had a noteworthy effect: the elimination of incandescent lights and the 2012 building energy regulation, scheduled to take effect later this year. Though not yet implemented, the latter has already substantially reduced the share of electric heating in new construction, as shown in the adjacent graph. In 2011, only some 40% of heating systems installed in new build were electric, an even lower share than in 2001. And the percentage should continue to decline in the years ahead.

The table below, showing results for the residential sector, illustrates how RTE's scenarios predict the effects demand-side management efforts will have on different sectors.

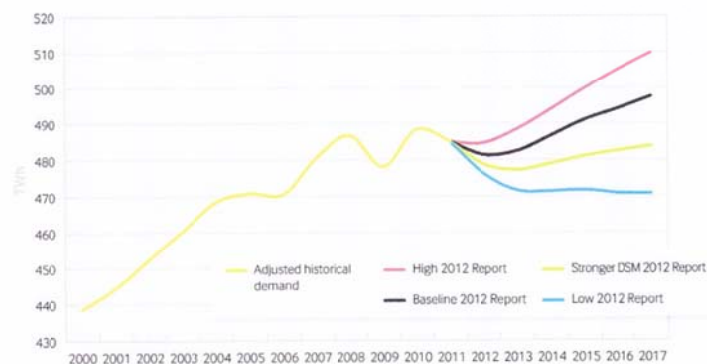
Quantification of the effects of energy efficiency in the residential sector, by scenario

By 2017						
TWh	Residential*	o/w heating	o/w sanitary hot water	o/w lighting	o/w electric appliances (cold/washing)	o/w computers and TV
Baseline	-8.9	-2.1	-2.4	-1.6	-3.3	-1.2
Stronger DSM	-15.3	-2.6	-3.6	-3.2	-4.2	-2.4

* Total energy efficiency effects are calculated factoring in faster development of some end-uses (controlled mechanical ventilation, distributed uses, etc.) that will reduce their overall impact on demand.

... leading to new demand forecasts for 2017...

Domestic demand forecasts for France (TWh)



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Taking into account the current economic environment, the new energy demand forecast applied to the "Baseline" scenario for 2017 is 497 TWh.

The economic assumptions included in this scenario reflect the downturn in activity currently being caused by the global financial crisis. It drives a slowdown in the short

term followed by a gradual and partial recovery starting in 2015, as global demand picks up, with economic growth rates more or less returning to the pre-crisis level.

These new forecasts also impact estimates of future peak loads, with the "one-in-ten" peak now set at around 102.3 GW for 2017.

Peak load forecasts under the "Baseline" scenario

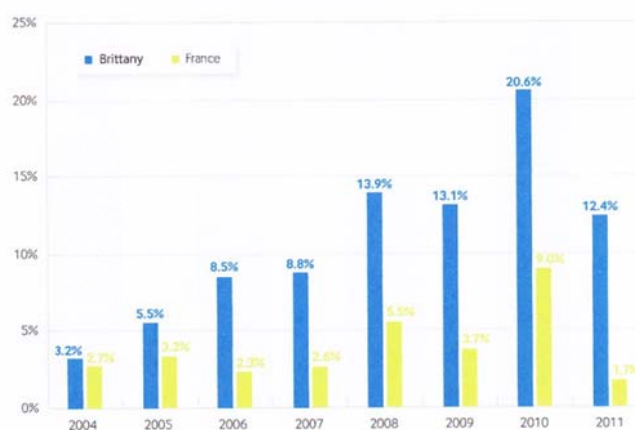
GW	2014	2015	2016	2017
Peak at reference temperatures	85.3	86.0	86.5	87.0
"One-in-ten" peak	100.2	101.1	101.7	102.3

The demand peak recorded in February 2012 was higher than the "one-in-ten" peak forecast, the cold spell of that month having been an exceptional climate event the

duration and intensity of which had not been seen in more than 20 years.

... with wide discrepancies remaining between demand trends in different regions...

An example of particularly dynamic regional demand – relative cumulative trend in demand in Brittany and France compared to 2003



Energy demand is nonetheless evolving at very different rates from one region to the next, reflecting local economic growth dynamics and the power of attraction of the regions. Brittany and Provence-Alpes-Côte d'Azur (PACA) are two examples of regions where demand is increasing

fast and networks need to be strengthened considerably in order to ensure electricity supply.

As shown in the chart above, electricity demand growth in Brittany has been twice the national average since 2003.

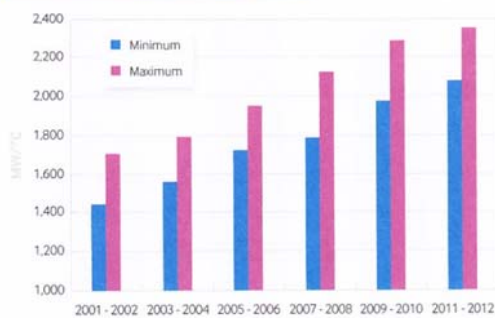
SUMMARY

... while temperature sensitivity across France makes caution crucial during cold spells.

While the building energy regulation has recently had an undeniable impact on growth in electric heating, and should help moderate the rise in temperature-sensitivity going forward, the fact remains that France has one of the most temperature-sensitive fleets in Europe.

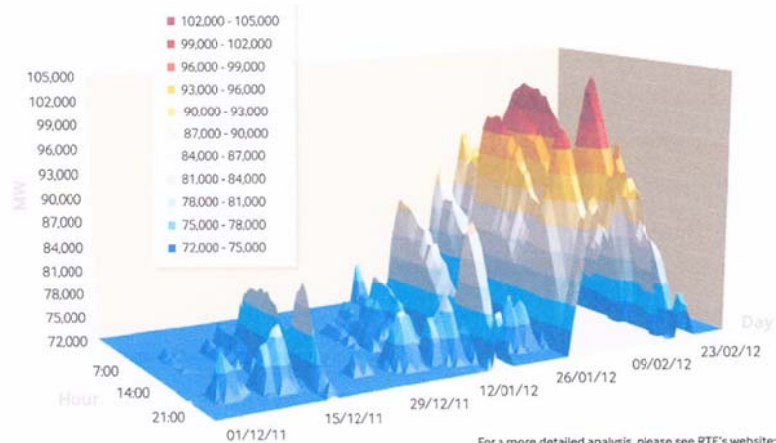
Based on our newest estimates for the winter of 2011-2012, the gradient varied according to the time of day around an average value of 2,300 MW/°C at 7pm, when demand peaks on winter days. This winter gradient has been steadily rising since the early 2000s, as illustrated in the chart adjacent. It accounts for almost half of the European gradient.

Trend in winter temperature gradient



This sensitivity of demand to temperatures is such that when weather is exceptionally cold, the demand peaks seen in France may pose a risk to the supply-demand balance and also lead to operational difficulties. During the cold spell of February 2012, demand in France peaked at 102.1 GW, and demand could only be met because the generation fleet showed a good availability rate and thanks to imports from neighbouring countries. The latter reached a record high of more than 9 GW, which was not far from the physical limitations of the interconnection network.

"Load mountain" in the winter of 2011-2012 – Demand in France



In a word, France must continue to be vigilant about situations of exceptional temperatures, knowing that peak demand might not necessarily be able to be met

by a generation fleet designed to do no more than meet the adequacy criterion (loss of load expectation of three hours per year).

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To remedy these situations, new demand-response measures must be encouraged, especially as the number of historical load-shedding tariff options is steadily declining. This is the purpose of the experiment RTE will be

launching in the winter of 2012-2013 in Brittany, a region where generation only covers about 10% of demand, making the challenge of meeting peak demand particularly pressing.

2. TRENDS IN SUPPLY OVER THE MEDIUM TERM

Significant shifts ahead for the generation fleet with the decommissioning of fossil-fired units, the development of renewable energies and the closure of Fessenheim in 2017.

The biggest change affecting the generation fleet over the medium term will be the sharp contraction in fossil-fired generation capacity, with more than half of the coal- and oil-fired units and combined heat and power plants currently in service being taken off line by 2016.

- In accordance with the EU directive on large combustion plants (LCP Directive), the 15 coal-fired units commissioned prior to 1975 will be retired in 2016, resulting in a 3.9 GW reduction in total capacity between 2012 and 2016
- Implementation of the Industrial Emissions Directive could result, by 2016, in six of the eight centralised

oil-fired facilities being taken out of service, reducing installed capacity by 3.8 GW

- As for combined heat and power (CHP) units, feed-in tariffs are ceasing to apply to a large share of output as the contracts signed some 12 years ago expire. The 2012 Generation Adequacy Report once again assumes that capacity will be reduced by about 3 GW from the early-2012 level.

Four new combined-cycle gas turbines (CCGTs) are due to come on line by 2017, while the OCGT fleet will remain stable.

Centralised fossil-fired capacity - Installed capacity under Baseline scenario



The pace of development of renewable energies has slowed somewhat but remains robust. Approximately 1 GW of wind power had been added annually in France for several years, but in 2011 wind power growth was substantially lower, a trend that carried over to the first

quarter of 2012. The expansion of the photovoltaic fleet had been extremely strong in 2011 and early in 2012 but is slowing sharply now due to adjustments made to support mechanisms early in 2011.

SUMMARY

Estimated onshore wind power capacity in service in 2017 (Total = 11 GW)


For the 2012 Generation Adequacy Report, it is assumed that wind and photovoltaic capacity will expand by 800 and 500 MW a year, respectively, implying that growth in both industries will remain buoyant yet substantially lower than in the recent past. Connection of offshore wind farms is envisaged after 2017.

Lastly, as agreed with the government, it is assumed here that, with regard to the nuclear fleet, the two reactors at Fessenheim will be taken offline in 2017 (1.8 GW). The commissioning of the new Flamanville facility (1.6 GW), currently under construction, is taken into account, with commercial service scheduled to start in 2016.

Connecting renewable energy to the grid: an increasingly important driver of network development

Growth in renewable energy source capacity, especially photovoltaic and wind power, necessarily requires an adaptation of the transmission network, even when connection is to distribution networks. To this end, RTE is preparing regional renewable energy connection plans that will help the country meet its 23% RES target for 2020.

Following the publication of the first regional plans for the climate, air and energy late in June 2012, RTE is currently conducting studies on the first connection plans in liaison with local players (producers, local authorities and distributors). These plans will be used to better coordinate the development of the transmission network with that of renewable energies.

3. MEDIUM-TERM FORECASTS

Security of supply should be guaranteed through 2015, with the commissioning of several combined-cycle gas turbine plants offsetting the retirement of fossil-fired capacity over this timeframe.

Starting in 2016, security of supply will be tighter, taking into account the planned shutdown of coal- and oil-fired and CHP plants after the Industrial Emissions Directive goes into effect on 1 January 2016. At this horizon, the annual loss of load expectation rises to five hours, with the capacity shortfall reaching 1.2 GW. This is lower than the 2.7 GW shortfall identified in the 2011 Generation Adequacy Report. The decline is attributable chiefly to the drop in demand growth caused by the economic crisis.

In 2017, the annual loss of load expectation increases to 6.5 hours, as the scheduled shutdown of the two nuclear reactors at Fessenheim will not be offset in full by the commissioning of a CCGT plant and the expansion of the wind and photovoltaic power fleets. The capacity shortfall for that year is estimated at 2.1 GW.

Capacity shortfalls projected for 2016 and 2017 could be covered if projects that are already in an advanced stage, or new peak-load facilities, are brought on stream by that time, or if the decommissioning of some generation facilities is postponed.

It thus seems that supply and demand could be balanced at national level after a shutdown of the Fessenheim reactors in 2017, but only with support measures planned in

GENERATION ADEQUACY REPORT on the electricity supply-demand balance in France

2012 EDITION

Summary of shortfall analyses for different demand and exchange scenarios

Capacity shortfall (GW)	2014	2015	2016	2017
Baseline scenario with exchanges	0	0	1.2	2.1
Baseline scenario "without exchanges"	3.1	4.6	7.5	8.6
High scenario with exchanges	0	0	2.3	3.4
Stronger DSM scenario with exchanges	0	0	0	0
Low scenario with exchanges	0	0	0	0

* "Central scenario" mentioned in article 5 of Decree No. 2006-1170 of 20 September 2006

advance. Additional technical studies must also be carried out to assess the consequences decommissioning could have on the operations of the electricity system (distribution of flows, voltage stability, etc.), factoring in trends in electricity supply and demand close to Fessenheim, on both sides of the Franco-German border.

Estimates of additional capacity requirements at national level take into account the central role interconnection plays in security of supply, allowing generation capacity to be pooled across the continent. As such, the development of 2 GW of additional capacity by 2017, along the Spanish and Italian borders, would help reduce the shortfall risk.

If exchanges are excluded, the capacity shortfall would be significantly higher, reaching an estimated 7.5 GW in 2016 and 8.6 W in 2017. These results demonstrate the major contribution made by European interconnections to security of supply in France. The estimates are

comparable to the ones included in previous editions of the Generation Adequacy Report.

The different variants used show the high degree to which the adequacy criterion is sensitive to the assumptions applied, in particular to trends in demand. Numerous uncertainties can influence this result going forward: the choices made by generators or policy decisions about retiring specific units or keeping them in service, the pace of development of renewable sources, the availability of the fossil-fired fleets, etc.

It should be noted that even if the loss of load expectation is kept under three hours, the risk of imbalance between supply and demand is not totally eliminated: the occurrence of very unfavourable contingencies, particularly an extremely intense cold spell such as that seen in February 2012, could result in even more significant power cuts, reflecting trends in temperature-sensitivity and peak demand.

4. PROSPECTIVE SCENARIOS FOR THE LONG TERM

Whereas for the medium-term horizon (five years) the structure of demand and supply can be more or less estimated based on decisions already taken, forecasts for the long term require the creation of prospective scenarios incorporating differentiated assumptions.

RTE has chosen to establish four prospective supply and demand scenarios that are consistent and balanced, yielding as many visions of what the electricity mix could

be in 2030 and providing data for future analyses of the network's robustness:

- The "Median" scenario involves continuity with current trends, with a gradual reduction in installed nuclear capacity (down to 56 GW in 2030, per the "moderate" trajectory identified by the Parliamentary Office for the Evaluation of Scientific and Technological Options in its report, "The Future of Nuclear in France", published in

SUMMARY

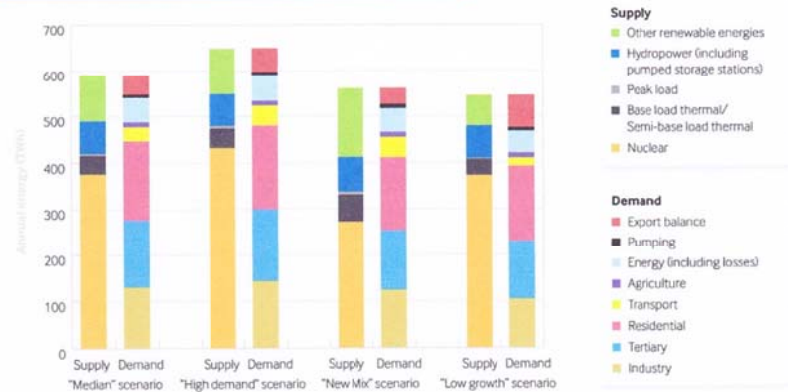
December 2011), moderate demand growth and the steady development of renewable sources

- The "High Demand" scenario, characterised by an acceleration of demand (notably from the development of electric vehicles), with nuclear continuing to account for a large share of electricity generation

► The "New Mix" scenario, detailed later on, considers a significant reduction in the nuclear generation fleet

- Lastly, the "Low Growth" scenario, under which economic growth remains sluggish.

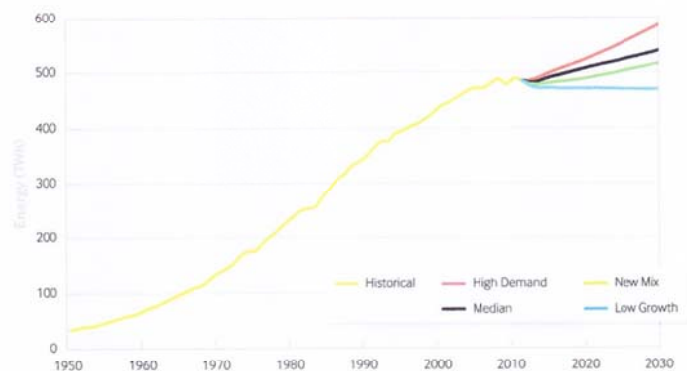
Comparison of the different scenarios in the 1212 Generation Adequacy Report – Energy balance through to 2030



These scenarios lead to very different outcomes in 2030. Domestic power demand would reach 590 TWh that

year if the "High Demand" scenario came to fruition, or 468 TWh if the "Low Growth" scenario proved accurate.

Forecasts of French domestic demand by 2030 based on the different scenarios



The trend in the "one-in-ten" peak converges toward that of energy demand thanks to ever-stricter thermal regulations for buildings. Even under the "High Demand"

scenario, annual average growth in peak demand remains below the 3% of the 2000s, when it grew faster than energy.

GENERATION ADEQUACY REPORT on the electricity supply-demand balance in France

2012 EDITION

Regarding trends in supply, renewable energy growth is robust under all scenarios, with the share of RES doubling or tripling from current levels. The share of nuclear

generation varies under the different scenarios, ranging from about 50% under the "New Mix" scenario to almost 70% in the "High Demand" scenario.

"One-in-ten" peak load forecasts, in GW

Scenario	2014	2030	2014-2030 CAGR*, %
High Demand	100.7	119.2	1.1
Median	100.2	110.4	0.6
New Mix	98.8	105.7	0.4
Low Growth	97.5	97.7	0.0

* Compound annual growth rate

In keeping with the approach taken in the 2011 Generation Adequacy Report, the "New Mix" scenario explores several of the consequences of an assumption of significant nuclear capacity decommissioning in France, with the installed base contracting by 23 GW from the current level to 40 GW in 2030. This scenario incorporates a series of complementary assumptions that combine in a balanced electricity system, including:

- Maximal assumptions of demand-side management measures, pulling demand downwards, in spite of robust growth in end-uses like electric vehicles and heat pumps
- More sustained development of RES capacity, with capacities of 40 GW of wind power and 30 GW of photovoltaic power by 2030 and increases in biomass, biogas and marine power fleets. The share of renewable sources rises to 40% in this scenario
- The development of 2 GW of semi-base load generation and the construction of 10 GW of new peak-load capacity, either in the form of generation capacity or load-shedding, to ensure power balance at all times
- A strengthening of cross-border exchange capacity to 27 GW from 15 GW today, to efficiently manage

intermittency by pooling the generation resources of different countries.

RTE has also investigated, in liaison with the government, the possibility of 40 GW of nuclear capacity in 2025, in the "New Mix" scenario.

Under all of these scenarios, the network will have to be expanded and upgraded to keep up with trends in demand and supply. This will be all the more important if a break with historical trends occurs.

If renewable energies are to be accommodated and new end-uses developed, including electric vehicles, then additional power transmission capacity will be more necessary than ever.

The electricity transmission network can adapt in time for the implementation of energy policy decisions as long as they are defined sufficiently in advance. Therefore, the elaboration of the schedule and trajectory of generation fleet trends, especially in terms of siting, are as important as the target defined.

SUMMARY

Network development

New generation capacity is not necessarily located near demand centres, meaning the network has to be adapted to carry the energy produced. This is evident throughout Europe. By way of illustration, a study conducted in Germany by national energy agency DENA (Deutsche Energie-Agentur) shows that some 4,000 km of additional extra high-voltage (EHV) lines will have to be created as quickly as possible for renewable energies to be integrated. Overall, at European level, ENTSO-E's ten-year transmission network development plan calls for the creation or replacement of about 51,000 km EHV lines by 2020 to accommodate renewable energies.

It should be recalled that France's network was rolled out quickly in the 1980s to accommodate the nuclear development programme. Future changes in the energy landscape will also require an expansion of the transmission grid, though the challenges will be different due to intermittency.

RTE's ten-year development plan calls for €10 billion to be invested between now and 2020 in key transmission infrastructure. The integration of onshore wind power (19 GW target set in Grenelle environmental plan) and offshore wind (call for tenders for 3 GW) represent around €1bn each out to 2020.

One of the scenarios in this Generation Adequacy Report calls for the share of nuclear power in the energy mix to contract between now and 2030, making it necessary to double interconnection capacity in order to optimise the development of

new generation capacity and load-shedding. Above and beyond the financial implications (cost evaluated at €350 million a year for interconnections), the biggest challenge would be the time required to build the interconnection capacity and new infrastructures. Obtaining permits for new lines can take up to ten years, notably because many administrative procedures are redundant and overlap one another; only 5,000 MW of interconnection capacity has been built in the past two decades.

In Germany, network construction times also pose a challenge to renewable energy projects; the government passed a law in 2011 that accelerates permitting procedures for grid expansion projects (Netzbaubeschleunigungsgesetz – NABEG); the number of administrative layers has been reduced, allowing the relevant authorities to focus more on other priorities.

This law considerably simplifies authorisation procedures for new power lines. A single procedure will reportedly be introduced to reduce the time required for approval of overhead and underground 110 kV lines. The German government is seeking to reduce the total time required for permitting to four years in order to improve the implementation of energy policy decisions.

The European Commission is aware of the difficulties these lengthy administrative procedures create in many European countries and recommends, in its "Infrastructure Package", that they be reduced to three years.



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The States are asked to decide:-

III.- Whether, after consideration of the Report dated 28th April, 2014, of the Policy Council, the Commerce and Employment Department and the Treasury and Resources Department, they are of the opinion:-

1. To continue the States of Guernsey's present policy of requiring there to be local generation, but with the expectation that there will also be enhancements to the Island's electricity connections to other jurisdictions which will allow local generation to take a secondary role to electricity imported through cable connections in the normal provision of electricity to the community as detailed in section 11 and outlined in sections 22.3 to 22.5 of that report.
2. To agree a framework that does not seek to control importation infrastructure but does ensure adequate local generation capacity exists to meet maximum demand as detailed in section 11 and outlined in sections 22.6 to 22.10 of that report.
3. To agree to apply security criterion to local electricity generation only and to maintain the current "N-2" approach as detailed in section 4.2 and outlined in sections 22.6 to 22.10 of that report.
4. To continue the present mandate for the Commerce and Employment Department to investigate and prepare for the use of renewable energy as part of the Island's energy mix as detailed in section 17 of that report.
5. To adopt the "80/80 criterion", as defined in section 22.12 of that report, to ensure that a base of low operating cost plant continues to be installed locally.
6. To continue the existing practice of electricity infrastructure being funded entirely by electricity users as outlined in sections 22.14 and 22.15 of that report.

HEALTH AND SOCIAL SERVICES DEPARTMENT

INTRODUCTION OF RESPONSIBLE OFFICER LEGISLATION TO STRENGTHEN MEDICAL PRACTITIONER QUALITY ASSURANCE

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

7th April 2014

Dear Sir

EXECUTIVE SUMMARY

1. Registered medical practitioners (doctors) are a key part of the health professional workforce, and they have a major impact on the health and well-being of islanders. To practise in Guernsey or Alderney, doctors are required to be on the register of the General Medical Council (GMC), which is their professional regulator.
2. The biggest change in the regulation of doctors for 150 years was introduced by the GMC in November 2009, when it introduced a Licence to Practise. To retain their licences, doctors will be required to undergo a process called “revalidation”. Revalidation will normally occur every 5 years. In order to retain their licences, doctors will need to demonstrate to the GMC that they are up to date and fit to practise by the provision of positive information from their annual appraisals. The process of appraisal, however, is not just about an annual appraisal. It is an ongoing and continuous process, to ensure that doctors continue to deliver high standards of care. The UK is the first country in the world to introduce such a system across its whole healthcare system, covering General Practitioners (“GPs”), hospital doctors, locums and those working in the independent sector.
3. In the UK, the GMC will receive recommendations from Responsible Officers (“RO”), appointed by designated bodies, on whether or not the doctors for whom they are responsible should be revalidated. The RO function was created by law in the UK, and ROs will typically be senior doctors in healthcare organisations, who have a responsibility for revalidation recommendations in addition to some other related duties.
4. Following negotiations, the GMC has agreed to recognise revalidation recommendations from Crown Dependency-based ROs, provided that those ROs are appointed under (local) legislation and have duties and responsibilities equivalent to those held by ROs in the UK.

5. As the UK legislation in this regard does not extend to the Crown Dependencies, Guernsey is under no statutory obligation to introduce an RO role. However, without that role in place to support the “revalidation” process, Guernsey would not have the same professional regulatory system as the UK. Doctors’ GMC licences to practise would be put at risk, and negative consequences would be likely for the recruitment and retention of doctors locally and the quality of the Island’s health services.
6. The Health and Social Services Department (HSSD), in consultation with the Medical Specialist Group, States-employed Consultants and Primary Care, has already taken steps to introduce an interim “RO” role on a non-statutory basis and an interim RO has been appointed commencing 1 February 2014. The interim role is intended to last for up to two years, while statutory arrangements are made. Without this role in place, Guernsey doctors would be unable to participate in the GMC’s revalidation programme from 2015 onwards. This interim process will enable HSSD and the medical practitioners to refine the role in the light of experience, and establish the cost of delivering this effectively.
7. An RO function will help maintain a coherent healthcare system in line with the aspirations of the 2020 Vision and the States Strategic Plan. By introducing an RO function, the States will indirectly increase their governance and oversight (e.g. concerning complaints, clinical audit, practitioner performance and staff recruitment) of healthcare across the whole system, rather than just in public sector services. This should in turn provide the States with opportunities to improve outcomes for islanders across the whole system.

This Report therefore requests the States to agree to the drafting of RO legislation for Guernsey.

BACKGROUND TO THE RO PROPOSALS

8. All doctors are currently required to be registered with the GMC and registered with HSSD to practise in Guernsey, under the Doctors, Dentist and Pharmacists Ordinance, 1987.
9. In line with its mandate for protecting and improving the health of the population, HSSD considers it important to take advantage of the UK changes in order to increase its assurance of the quality and safety of patient care. One of the primary reasons why these changes are being pursued is that, if Guernsey-based doctors do not follow the UK model for revalidation, they may need to undergo an onerous assessment if they ever wish to go back to practise in the UK. This is likely to seriously affect the recruitment and retention of the medical workforce in Guernsey.
10. The section below, entitled ‘RO Functions and Related Duties’ (paragraph 12), sets out the proposed RO function, and therefore the basis on which the new RO legislation would be drafted. It reflects the scope of the interim role which has

already been introduced. Minor departure from and modifications of this content might be necessary in the process of drafting the legislation, for example to take into account any arrangements agreed with or mandated by the GMC.

11. A definition of all the technical terms has been included in Appendix 1.

RO FUNCTIONS AND RELATED DUTIES

12. Under proposed new legislation, medical practitioners in Guernsey would be required to be revalidated from time to time by the GMC, in order to remain registered in Guernsey and to continue to practise in Guernsey.
13. Domestic legislation would establish an RO regime in Guernsey to support the revalidation process for Guernsey-registered practitioners, taking into account the general objectives set out in paragraph 35. The intention is for this regime to be applied to Alderney, if agreed by the States of Alderney. The RO regime can be extended to Sark and there have been discussions with Sark which favour this arrangement.
14. The RO regime would impose duties and obligations on organisations / legal entities engaged in the provision of treatment or prevention of disease, disorder or injury by or under the supervision of a medical practitioner ("**designated bodies**").
15. Designated bodies would be allocated a set of organisational responsibilities and duties in relation to medical practitioners with whom they have a prescribed connection. This includes ensuring that organisational systems are in place to support the RO function, in particular: appraisals, complaints and compliments, risk management, clinical audit, medical recruitment, managing concerns, and monitoring conduct and performance. Designated bodies would be given appropriate duties to ensure that the discharge of functions by the RO is adequately supported.
16. The regime would define a hierarchy of prescribed connections between designated bodies and medical practitioners. If a medical practitioner has a prescribed connection with more than one designated body in Guernsey, the designated body with the prescribed connection which is higher in the hierarchy would have precedence and would be given organisational responsibilities and duties in relation to the medical practitioner concerned.
17. All medical practitioners who cross a prescribed threshold (e.g. based on proportion of practice time in Guernsey) would be required to have an RO in Guernsey. A medical practitioner who already has an RO in another jurisdiction may also be required to have an RO in Guernsey if the period spent in Guernsey exceeds an amount defined under the legislation. There will be put in place special arrangements by order for the RO role for the Medical Officer of Health and other medical practitioners if deemed necessary.

18. Policy Council would appoint one or more ROs, on behalf of the States of Guernsey. It is anticipated that:
- The nomination and appointment process would follow good practice for a senior medical appointment;
 - An RO would be required to be a medical practitioner who has been registered with the GMC for at least 5 years;
 - ROs would not need to be affiliated to a designated body in Guernsey for their own revalidation (they would be revalidated under arrangements made with the GMC);
 - ROs would be excluded from personal liability in the absence of bad faith (in the same manner as other statutory officers or members of statutory bodies);
 - ROs would be accountable to the States of Deliberation, and approved by the GMC to perform this role. They would be regulated by the GMC in the performance of their responsibilities as far as the revalidation of medical practitioners is concerned.
19. ROs would be given the following core responsibilities (which are in line with those held by ROs in the UK) in relation to every medical practitioner who has a prescribed connection with a designated body. All medical practitioners must have a prescribed connection with a designated body. The responsibilities of the RO would be:
- (a) to verify whether designated bodies are carrying out regular appraisals on their medical practitioners, that take into account the whole of a medical practitioner's practice and include all available information relating to the medical practitioner's fitness to practise during the appraisal period;
 - (b) to verify whether designated bodies have established and are carrying out appropriate procedures (using persons independent of the designated body, where appropriate) to investigate complaints and concerns about a medical practitioner's fitness to practise raised by patients or staff, or arising from any other source;
 - (c) to communicate to the designated bodies concerned any concerns regarding the discharge or adequate discharge of responsibilities and duties of designated bodies;
 - (d) where appropriate, to refer any concerns about medical practitioners to the GMC;
 - (e) to monitor compliance with any conditions or undertakings imposed by the GMC on, or agreed with, medical practitioners;
 - (f) to make recommendations to the GMC or, in appropriate cases, to ROs in the UK (or other sister jurisdictions), about each medical practitioner's fitness to practise;

- (g) to maintain records concerning the medical practitioner's fitness to practise, evaluations (including appraisals) and any other investigation into or assessment of a medical practitioner's fitness to practise.
20. Appointed ROs for Guernsey will have an additional responsibility to submit an annual report on their activities to the States of Deliberation.
 21. Medical practitioners registered to practise in Guernsey would be given the following duties (in addition to requiring revalidation by the GMC at appropriate intervals, in order to remain registered in Guernsey):
 - (a) to notify and update the registrar of relevant matters, such as:
 - the proportion of time they practise in Guernsey;
 - the name and contact details of their designated body (Guernsey-based or elsewhere);
 - the name and contact details of their RO (Guernsey-based or elsewhere);
 - (b) to collect supporting evidence for revalidation, reflecting on their practice and engaging in whole practice appraisal;
 - (c) to maintain their registration in Guernsey, by paying the prescribed RO charge if required.
 22. The registration regime for medical practitioners in Guernsey would be amended or replaced as necessary to give effect to and reflect the above proposals and support the RO functions (e.g. registration would lapse if the annual RO charge is not paid).
 23. The Health and Social Services Department would be required to monitor the functioning of the RO regime. This includes making recommendations to the States of Deliberation, after appropriate consultation, on any systemic changes (including changes to legislation) which would improve the effectiveness and efficiency of the regime. The Chief Officer of HSSD will be responsible for monitoring the RO regime on behalf of the Department, and managing the HR requirements of the RO, to ensure that the role remains independent of all the designated bodies. The RO will remain governed by the GMC for the professional performance of the responsibilities of the role.

OFFENCES AND PENALTIES

24. If designated bodies or medical practitioners do not comply with their duties and obligations, then medical practitioners are at risk of losing their Licences to Practise. In addition, non-compliance could place designated bodies and medical practitioners at risk, e.g. if a patient brought civil proceedings against these bodies or practitioners. These existing sanctions are considered sufficient to ensure the effective operation of the RO legislation for the time being, and no new offences or statutory penalties are proposed at this stage.

FINANCIAL IMPLICATIONS

25. The costs of introducing the RO function are estimated as follows:

Item	Overall Cost
Medical Practitioner approved by the GMC 0.3wte	£45,000
Administrative Support ex HSSD Corporate Services	£5,000
Running costs/expenses	<u>£15,000</u>
TOTAL COST	£65,000

26. In other jurisdictions, the costs of the RO function are generally funded through taxation. However, given that there is also a significant benefit to medical practitioners themselves (and that medical practitioners have a responsibility for the quality of their own practice), the Department has concluded funding should be sourced from the medical practitioners. The Department has considered the advice on charges issued by Policy Council, but in this case the aim of the levy is only to cover the costs of providing the role fairly across the different sectors.
27. The RO charge for all will be raised by a levy on all the participating medical practitioners. This levy is based on the Whole Time Equivalent numbers of practitioners in each setting.
28. This levy will be paid by the individual practitioners in primary care. The Social Security Department will pay for the Medical Specialist Group consultants in accordance with current arrangements. HSSD will pay for the States-employed Consultants. HSSD will also carry some administrative costs. The total cost for HSSD will be £20,000 in a full year which will be met from existing budgets.
29. Any costs of improvements to governance systems of designated bodies required by the RO(s) to meet defined standards, practitioner time, and remediation of a medical practitioner would be met by the designated body and/or medical practitioner.
30. In addition, an annual fee may be charged to doctors who do not have a Guernsey RO but wish to be included on the Guernsey register of medical practitioners. This will depend on their length of time in Guernsey and what arrangements they already have in place to maintain their licence to practise.
31. It is proposed that the RO charge will be reviewed annually. Any proposed increase above RPIX will be consulted on.
32. In the medium to long term, it is envisaged that the States will recoup its investment through the reduction of some healthcare costs such as a streamlined recruitment and retention process with the UK. The cumbersome requirements for overseas registration will also be avoided. The impact of improved assurance of

the quality of medical services cannot be stated in financial terms, but it will improve healthcare quality and may, for example, catalyse the development of more cost-effective care and referral pathways.

33. If an RO function is not introduced, this is likely to lead to increased costs within the health system. These costs may include: unregulated medical services not recognised by neighbouring jurisdictions of Jersey and the UK, and increased difficulty in recruiting and retaining doctors; increasing indemnity costs for medical litigation (there is already an indemnity premium in Guernsey because of non-medical court cases); a preventable escalation of diagnostic and hospital treatment costs; lower quality of care leading to inferior outcomes and the costs associated with these; and a reduction in Guernsey's attractiveness to international business, particularly if standards of healthcare are perceived to be lower than in Jersey and the Isle of Man.

CONSULTATION

34. The Department has consulted with the representatives of the medical profession in Guernsey and with the GMC in the development of these proposals.

The Department has consulted with the Social Security Department.

The Law Officers' Chambers have been consulted and have no further comments to add.

OBJECTIVES OF NEW LEGISLATION

35. Generally, the long-term objectives of the new legislation are over time to improve the quality of work of medical practitioners and patient experience and outcomes; to raise the confidence of patients and the public in the quality of work of medical practitioners; to improve organisational support for medical practitioners; to enable local doctors to participate in the process of revalidation of medical practitioners carried out by the GMC; and to ensure a medical service which meets recognised standards achieved by sister jurisdictions, therefore maintaining a high quality of service for islanders and ensuring the quality of the 'Guernsey offer' to international business.

LAW DRAFTING

36. The Department has been advised that the necessary legislation could be drafted within 4 to 5 months, assuming no unforeseen difficulties emerge during the drafting process.

CONCLUSION AND SUMMARY

37. The purpose of this Report is to introduce a statutory RO function for Guernsey which will assist in the quality assurance of medical practice and in the revalidation of medical practitioners by the GMC.

38. The drafting of legislation will establish the role of the RO in Guernsey, which will enable the GMC to recognise and take into account recommendations for revalidation from Guernsey ROs.
39. The proposals set out in this States Report follow extensive consultation with Guernsey's Social Security Department, States-employed Consultants, the Medical Specialist Group, Primary Care, the British Medical Association, local healthcare managers, the GMC and legislative counsel.
40. HSSD has complied with the six principles of corporate governance in the preparation of this States Report.

RECOMMENDATIONS

41. The Health and Social Services Department recommends that the States agree:
 - (1) To introduce a Responsible Officer regime in Guernsey, as set out in paragraphs 12 to 24 above;
 - (2) To amend or replace the regime for registration of medical practitioners in Guernsey, as set out in paragraph 21 above; including to require medical practitioners not employed by the States of Guernsey to pay registration and/or annual fees, to be prescribed by Regulations;
 - (3) To require the Health and Social Services Department through the Chief Officer of HSSD to monitor the functioning of the Responsible Officer regime as set out in paragraph 23 above;
 - (4) That no new offences or statutory penalties should be introduced at this stage, other than those relating to registration or maintaining annual registration;
 - (5) To direct the Law Officers' Chambers to draft the preparation of such legislation as may be necessary to give effect to the recommendations in paragraphs 12 to 31.
 - (6) To approve the proposal for funding the Responsible Officer regime as set out in paragraphs 25 to 31 above.

M H Dorey
Minister, Health and Social Services Department

M J Storey
Deputy Minister

E G Bebb

B L Brehaut

A H Brouard

Appendix 1

Definitions and explanations of various titles used throughout the States Report.

Titles	Meaning
<i>Designated Bodies</i>	Most licensed doctors have a common connection with one organisation that will provide them with a regular appraisal and help them revalidate. This organisation is called a “designated body”.
<i>Responsible Officer (RO)</i>	<p>The RO will play a crucial role in the process of medical revalidation when it is introduced.</p> <p>There are two principal processes for which the RO has prime responsibility. These are:</p> <ul style="list-style-type: none"> • processes that will underpin the retention of doctors’ licences; and • processes underpinning referral of doctors to the GMC in those cases where there are doubts concerning fitness to practise. <p>The regulation of doctors is, and will remain, a matter for the GMC. Decisions about a doctor’s fitness to practise will be taken by the GMC only after the appropriate procedures have been followed.</p>
<i>Revalidation</i>	Revalidation is the process by which licensed doctors are required to demonstrate on a regular basis that they are up to date and fit to practise. Revalidation aims to give extra confidence to patients that their doctor is being regularly checked by their employer and the GMC.
<i>Prescribed Connection</i>	Each doctor will have a “prescribed connection” to a designated organisation.
<i>GMC</i>	The purpose of the General Medical Council (GMC) is to protect, promote and maintain the health and safety of the public by ensuring proper standards in the practice of medicine.

(NB The Treasury and Resources Department notes that the Health and Social Services Department (HSSD) is recommending that the cost of the Responsible Officer regime is funded by way of a levy on all participating practitioners and that the cost to General Revenue will be in the region of £20,000 per annum (the levy on States-employed consultants and some administrative costs) which HSSD plans to meet from its existing resources.

Furthermore, it is noted that the Health and Social Services Department believes there is potential for a future unquantified reduction in healthcare costs arising indirectly from the introduction of a Responsible Officer regime and the associated impact of improved assurance of the quality of medical services.)

(NB The Policy Council whilst supporting the objectives of the introduction of Responsible Officer legislation to strengthen medical practitioner quality assurance, believes that this would be better developed in conjunction with Alderney, and Sark, if they are minded to do so, enabling a Bailiwick system to be established.

The Health and Social Services Department Report explains it intends to fund any additional costs through existing budgets and the Policy Council is mindful that this will add to the existing savings that will need to be found in 2014 from these budgets.

The Policy Council considers that the Report has met the required standards of good governance.)

The States are asked to decide:-

IV.- Whether, after consideration of the Report dated 7th April, 2014, of the Health and Social Services Department, they are of the opinion:-

1. To introduce a Responsible Office regime in Guernsey, as set out in paragraphs 12 to 24 of that Report.
2. To amend or replace the regime for registration of medical practitioners in Guernsey, as set out in paragraph 21 of that Report; including to require medical practitioners not employed by the States of Guernsey to pay registration and/or annual fees, to be prescribed by Regulations.
3. To require the Health and Social Services Department through the Chief Officer of the Department to monitor the functioning of the Responsible Officer regime as set out in paragraph 23 of that Report.
4. That no new offences or statutory penalties be introduced at this stage, other than those relating to registration or maintaining annual registration.

5. To direct the preparation of such legislation as may be necessary to give effect to the recommendations in paragraphs 12 to 31 of that Report.
6. To approve the proposal for funding the Responsible Officer regime as set out in paragraphs 25 to 31 of that Report.

HOME DEPARTMENT

PROPOSED AMENDMENTS TO THE FIRE SERVICES (GUERNSEY) LAW, 1989

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

28th April 2014

Dear Sir

1. EXECUTIVE SUMMARY

- 1.1 This report sets out a number of proposed amendments to the Fire Services (Guernsey) Law, 1989 (“**the Fire Services Law**”).
- 1.2 The proposed amendments, if approved by the States of Deliberation, will provide the Guernsey Fire & Rescue Service (“the Fire Service”) with prescribed circumstances in which it can charge for certain functions that it performs.
- 1.3 The February 2013 Guernsey Fees and Charges Policy, V2.2 (“the Fees and Charges Policy”) was drafted as a result of the Fundamental Spending Review, 2009 (Billet d’État XXV, October 2009). The review recommended that a consistent, coherent, transparent and predictable policy on fees and charges should be provided based upon the recommendations taken by the Treasury and Resources Department to the States of Deliberation in 2007 (Billet d’État III, January 2007). This included guidance on how and when fees and charges should be introduced, reviewed and revised.

The Fees and Charges Policy states that the introduction of fees “may be levied, following approval by a Department or the States, as an alternative funding method in order to recover costs from the provision of specific goods and services to identifiable consumers”. All charges proposed by the Department will be compliant with the Fees and Charges Policy.

- 1.4 The Fire Service currently performs a number of functions for premises put to a designated use, otherwise known as “controlled premises” (e.g. commercial properties such as places of work or hotels). In addition to this, the Service also performs other tasks, for example the delivery of fire training for local businesses and providing consultations. These services are statutory functions as set out in the Fire Services Law and they are currently provided free of charge. However, these functions represent a significant cost to the Fire Service in terms of time and resources.

- 1.5 The Department believes that it is appropriate for the Fire Service to introduce a “Fees and Charges Schedule” for the provision of the services which are highlighted in Section 3 of this report. The charges in the schedule would be priced at market value and would be set in order to recover the full cost to the Fire Service (unless the cost is less than market value, in which case it would be increased to meet market value) as per the fees and charges schedule. The charges within the schedule would be based on the Fire Service staffing costs and would be updated on a biannual basis according to inflationary uplift of RPI.
- 1.6 The Fees and Charges Policy highlights that, when considering the introduction of fees and charges, Departments must “pay particular attention to the potential impact upon those on lower incomes”. In this regard, the Department considers it appropriate to ensure that the Department is given the power to waive or reduce any of the fees and charges highlighted in this report, at its discretion. These waivers or reductions would be made at the discretion of the Fire Service subject to predetermined criteria. This would ensure that appropriate exemptions or reductions may be given in deserving cases, e.g. vulnerable individuals or lower income commercial entities.
- 1.7 There will be no charging for emergency services or for services of a humanitarian nature.
- 1.8 If approved, the legislative amendments will be brought back to the States of Deliberation at a later date. It is anticipated that the drafting of these amendments will take two to three months, barring any unforeseen circumstances.

2. BACKGROUND

- 2.1 The Fire Services Law was enacted in Guernsey on 2nd October 1989. The provision of charging for services was not considered at the time of drafting.
- 2.2 The Department considers it appropriate to introduce a charge to recover the cost of performing the functions which are listed below:
 - Registrations under the Fire Services Law;
 - Inspections of Pre-schools;
 - Testing of fire safety related items on request (i.e. fire alarms, lighting systems and other equipment);
 - Commercial fire safety related training (e.g. fire extinguisher/fire marshal training);
 - Testing of fire safety facilities;
 - Testing and maintenance of equipment (e.g. dry risers¹); and
 - Use of fire services equipment/staff.

¹ A vertical pipe intended to distribute water to multiple levels of a building structure

3. PROPOSED LEGISLATIVE AMENDMENTS

3.1 It is recommended that the Fire Services Law is amended as set out in sections 3.2.1 to 3.2.4 of this report. It is not considered that there will be any additional consequence of amending this legislation, other than to carry out the recommendations.

3.2.1 **Registration under the Fire Services Law:**

- (a) **Summary of service:** Currently, under section 12(4)(b)(i) of the Fire Services Law, a person is required to notify the Fire Service each time the person takes over the occupation of, or ceases to become the occupier of, controlled premises. The Fire Service is also required to maintain a public register of controlled premises which shows the name and address of the occupier of controlled premises.
- (b) **Proposed Amendments and Justification for changes:** Originally, section 12(4)(b)(i) of the Fire Services Law enabled the Fire Service to identify and track down occupiers of controlled premises so that they could be contacted for the service of notices and inspections and enforcement of their duties as occupiers of controlled premises.

However, since the introduction of the on-line States of Guernsey Cadastre Register of property ownership, the Fire Service no longer has any difficulty tracing the owner and (through the owner) the occupier, of such premises.

As advised by the Fire Service, the requirement for a person to notify the Fire Service each time the person takes over occupation of controlled premises is now redundant and would be costly to administer. Consequently, it has fallen into disuse.

Rather, the Fire Service has indicated that it only needs to be notified in the following circumstances:

- when premises that are not controlled premises become controlled premises,
- when premises that are controlled premises cease to be controlled premises, or
- when premises are erected that are controlled premises.

Accordingly, the public register which is required to be kept under section 12(1) to (3) of the Fire Services Law should also be simplified to include only the address of the controlled premises, and not the names and addresses of occupiers or the use to which those premises are put.

Further, as the Fire Service maintains the register and administers the overall process of such notifications, it would be reasonable to introduce a fee to recover the cost of providing such a service. It would also be desirable to impose a time limit for notifications to be made.

(c) Recommendation:

To amend the Fire Services Law, so that it:

- (i) requires occupiers (or owners, in the case of controlled premises in multiple occupation) to notify the Fire Service only in the following circumstances:
 - when premises that are not controlled premises become controlled premises,
 - when premises that are controlled premises cease to be controlled premises, or
 - when premises are erected that are controlled premises,
- (ii) requires such notifications to be made within 14 days of the event and to be accompanied by a fee prescribed by regulations made by the Department (other than in respect of notifications of premises ceasing to be controlled premises), and
- (iii) ceases to require the public register of controlled premises to include names and addresses of occupiers of controlled premises and the use to which such premises are put.

3.2.2 Inspections of Pre-schools:

- (a) Summary of service:** The Fire Service registers all child minding premises (i.e. pre-schools) that have facilities for 5 or more children (“controlled premises” under section 4(2)(h) of the Fire Services Law). In practice, this is done following the consultation mandated by section 24(2) of the Fire Services Law, in relation to the registration of any premises, where the premises will be put to a designated use (i.e. will become controlled premises).

The Fire Service undertakes inspections alongside a written report on an annual basis to satisfy the needs of the Health & Social Services Department (HSSD) under Part III of the Child Protection (Guernsey) Law, 1972 (HSSD registers child-care premises under that Law).

The HSSD currently charges the provider of the child-care services a registration fee which is based upon the number of children at the facility. This fee does not include the work undertaken by the Fire Service, that currently does not receive payment for any of the assessment work that it carries out.

- (b) **Recommendation:** It is recommended that provision be made in the Fire Services Law for the Home Department (Fire Service) to withhold its views on applications for registration of child-care premises that are currently required to be provided under section 24(2) of the Fire Services Law, until any fees prescribed by regulations made by the Home Department are paid to the Department. This would only apply to premises that have facilities for five or more children. See appendix 1 for an indication of the likely level of fees based on a review of the requests for such inspections received by Guernsey Fire & Rescue Service over the last three years.

3.2.3 **Recovering costs for the use of Fire Services equipment/staff:**

- (a) **Summary of service:** At present the Fire & Rescue Service receives ad hoc requests for the use of equipment (for example the use of a turntable ladder²).
- (b) **Recommendation:** It is recommended that the Department (Fire Service) be specifically authorised under the Fire Services Law to enter into agreement with any person for the hire or loan of any equipment and/or personnel or for the provision of any services in connection with any equipment (regardless whether or not the equipment or services are in any way connected with fire).

The fees or applicable rates for fees, to be charged for those services would be prescribed by regulations made by the Department (see appendix 1 for an indication of the likely level of fees based on a review of the requests for such inspections received by Guernsey Fire & Rescue Service over the last three years).

- (c) **General recommendation:** As the services and equipment provided on a fee-paying basis will be provided on a commercial or near-commercial basis, it would be necessary to amend the exclusion of liability in section 25 of the Fire Services Law, so that the provision of these services and equipment will be subject to the general law on civil liability. That is the statutory exclusion of liability in section 25 should not apply to equipment and services provided under a commercial agreement.

3.2.4 **General Recommendation:**

- (a) **Summary of service:** At present the Fire & Rescue Service receives ad hoc requests for advice and assistance with the services listed below. All of these services are available from other commercial businesses or consultants. It is recommended that the Department (Fire Service) be specifically authorised under the Fire Services Law to enter into

² A vehicle with a fixed ladder and a cage which is capable of reaching up to 30 metres

agreement with any person for the provision of services in connection with the following (this does not include fire safety education as part of the School's Education Programme):

- Inspection, testing or maintenance of, and consultation in relation to, fire alarm systems (including alarm receiving centres) or emergency lighting systems;
- Inspection, testing or maintenance of, and consultation in relation to, any equipment or other thing or substance used for fire-fighting, for preventing fires or restricting the spread of fire or otherwise related to fire;
- Inspection of, and consultation in relation to, controlled premises on which the systems or equipment, things or substances mentioned above are installed or proposed to be installed;
- Training or consultation in relation to fire safety, preventing fires or restricting the spread of fire, or otherwise related to fire; and
- Preliminary assessments and consultation on drafts of plans of controlled premises proposed to be deposited with the Environment Department (as mentioned in section 24(1) of the Law or on applications proposed to be made to an Authority (as mentioned in section 24(2) of the Law).

The above services would include the provision of written reports where necessary.

Some specific examples of the types of services alluded to above are:

- Inspection and sign off of fire alarm and emergency lighting systems;
- Inspection of fire alarm systems (prior to accepting a link from an Alarm Receiving Centre (ARC³));
- Testing and maintenance of fire equipment (for example dry risers);
- Commercial fire safety related training (for example fire marshal/fire extinguisher training); and
- Inspection and consultation of controlled premises.

The fees or applicable rates for fees, to be charged for those services would be prescribed by regulations made by the Department (see appendix 1 for an indication of the likely level of fees based on a review of the requests for such inspections received by Guernsey Fire & Rescue Service over the last three years).

As the types of services for which charges may be made might need to be varied in the future, provision should be made for the States to amend

³ A permanently manned centre, usually provided by a commercial organisation, the staff of which, upon receipt of a fire signal notify the fire service

by Ordinance the types of services which may be provided on a fee-paying basis.

As the services provided on a fee-paying basis will be provided on a commercial or near-commercial basis, it would be necessary to amend the exclusion of liability in section 25 of the Fire Services Law, so that the provision of these services will be subject to the general law on civil liability. That is the statutory exclusion of liability in section 25 should not apply to services provided under a commercial agreement.

4. CONSULTATION

- 4.1 The Home Department has consulted with the Health & Social Services Department, which has an interest in the proposed amendments to the Fire Services Law with regards to section 3.2.2 which relates to the inspection of pre-schools.

The Health & Social Services Department is fully supportive of the aims and objectives of this Report and have endorsed the recommendations that have been made.

- 4.2 The Law Officers have been consulted and their comments have been incorporated in this Report.
- 4.3 The Treasury and Resources Department has been consulted regarding insurance in relation to the proposal for hiring of equipment from the Fire Service. It has confirmed, after consultation with the States' insurer, that there will be no impact upon the States' policy.
- 4.4 Assistance provided by the Fire Service to the Islands of Alderney and Sark is not detailed within the Fire Services Law, but is the subject of written agreements between the Islands. These agreements already detail mechanisms for cost recovery and will not be affected by this proposal; therefore no consultation has taken place with the Fire Services in these Islands.

5. FINANCIAL IMPLICATIONS

- 5.1 All costs of providing the services within these proposals have been identified and accounted for, in accordance with the Fees and Charges Policy. All services will be carried out within existing staff resources.
- 5.2 It is not envisaged that there will be any significant depreciation implications on equipment which may be utilised as result of these proposals.
- 5.3 It is anticipated, should the States approve the recommendations that are proposed by this Report, that these legislative amendments will generate income and recover costs which will enable a net reduction in the Home Department's

budget of approximately £12,500 per annum. This will contribute towards the Home Department's FTP Savings Target. There are no other financial implications to be considered as part of these proposals.

6. RISKS / BENEFITS OF PROPOSALS

- 6.1 The main benefit of amending the legislation would be to enable cost-recovery and charging for non-emergency/humanitarian services currently provided free of charge, thus enabling efficient and effective use of resources.

The following risks to amending the legislation have been identified:

- the Fire Service could use its States-funded position to disadvantage commercial operators by using its position to compete unfairly with private operators. This has been addressed by ensuring that charges will be set on a cost-recovery or market prices basis (whichever is the higher);
- the Fire Service could potentially introduce charges for functions that should be provided free of charge e.g. advising householders on fire risks in the house and other activities of a humanitarian nature. No charge will be levied for services of this nature and they will not be included in the "Fees and Charges Schedule".

7. PRINCIPLES OF GOOD GOVERNANCE

- 7.1 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, 2011). The Department believes that all of the proposals in this Report comply with those principles.

8. CONCLUSION

- 8.1 The Fire Service is currently providing a number of services (as part of its general functions) which bring specific benefits to many individuals and commercial entities free of charge. However, when considered in their entirety, these services represent a cost to the Fire Service in terms of both time and resources.
- 8.2 The Department, therefore, considers it appropriate for the Fire Service to introduce a charge to recover the cost for providing the services which are highlighted in Section 3 of this Report. It is also appropriate to give the Department power to waive or reduce the applicable charge, in accordance with criteria set by the Department (Fire Service).

9. RECOMMENDATIONS

9.1 The States are recommended to agree that the Fire Services Law should be amended (and any consequential amendments to other legislation should be made and any other necessary legislation made):

- (a) to require occupiers (or owners in the case of controlled premises in multiple occupation) to notify the Home Department (Fire Service) only in the following circumstances:
 - when premises that are not controlled premises become controlled premises;
 - when premises that are controlled premises cease to be controlled premises; or
 - when premises are erected that are controlled premises;
- (b) to require the notification to be made within 14 days of the occurrence of any event mentioned in paragraph (a);
- (c) to require a fee to be paid each time a notification is made in respect of:
 - premises that are not controlled premises becoming controlled premises; or
 - premises having been erected that are controlled premises;
- (d) to cease to require the public register of controlled premises to include names and addresses of occupiers of controlled premises and the use to which such premises are put;
- (e) to provide for the Home Department (Fire Service) to withhold its views on applications for registration of child-care premises that are currently required to be provided to the Health & Social Services Department under section 24(2) of the Fire Services Law, or on any other applications that fall within the scope of that provision, until fees or charges are paid to the Home Department (Fire Service);
- (f) to provide for the Home Department (Fire Service) to enter into agreements with any person and impose a fee or charge -
 - (i) for the hire or loan of any equipment or the provision of any services in connection with any equipment (regardless whether or not the equipment or services are in any way connected with fire);

- (ii) for the provision of services in connection with the following (including written reports where necessary but excluding fire safety education as part of the School's Education Programme) -
- inspection, testing or maintenance of, and consultation in relation to, fire alarm systems (including alarm receiving centres) or emergency lighting systems;
 - inspection, testing or maintenance of, and consultation in relation to, any equipment or other thing or substance used for fire-fighting, for preventing fires or restricting the spread of fire or otherwise related to fire;
 - inspection of, and consultation in relation to, controlled premises on which the systems or equipment, things or substances mentioned above are installed or proposed to be installed;
 - training or consultation in relation to fire safety, preventing fires or restricting the spread of fire, or otherwise related to fire; or
 - preliminary assessments and consultation on drafts of plans of controlled premises proposed to be deposited with the Environment Department (as mentioned in section 24(1) of the Fire Services Law) or on applications proposed to be made to an Authority (as mentioned in section 24(2) of the Law);
- (g) to authorise the States of Deliberation to amend by Ordinance the types of equipment or services which could be provided by the Home Department (Fire Service) on a fee-charging basis, as provided by paragraph (f);
- (h) to provide for the fees or charges, or rates for calculating the fees or charges, mentioned in paragraphs (c), (e) and (f) to be prescribed by regulations made by the Home Department;
- (i) to provide for the Home Department to waive or reduce any fee or charge mentioned in paragraph (c), (e) or (f), at its discretion;
- (j) to provide that nothing in the proposed amendments to the Fire Services Law restricts or otherwise affects agreements which are in existence (or which may in future be made) for the Fire Service to provide assistance to Sark and Alderney; and
- (k) to exclude equipment and services provided by commercial agreement (as mentioned in paragraph (f)) from the scope of the exclusion of liability provided for under section 25 of the Fire Services Law.

- 9.2 The States are recommended to direct the preparation of legislation to give effect to the recommendations in the foregoing paragraph.

Yours faithfully

P L Gillson
Minister

F W Quin
Deputy Minister

M K Le Clerc

M M Lowe

A M Wilkie

Mr A Ozanne
(non States' Member)

Appendix 1 – Indication of likely charges for services based on three year average and cost to the service

Cost Recovery

Service	Expenses			Cost recovery
	Average number of requests	Unit Cost to the Service ⁴	Indicative Charge	Predicted cost recovery based on Guidance ⁵ and 2014 costs
Registrations under the Fire Law				
Registration under the Fire Law, 2011-13 Average	16	£51	£55 to 65	£898
Marquee Registrations, 2011-13 Average	13	£35	£35 to 45	£500
Pre-School inspections				
Inspections of Pre-schools (small) , 2011-13 Average	25	£37	£40 to 50	£1,018
Inspections of Pre-schools (large) , 2011-13 Average	9	£50	£50 to 60	£495
Liquor License Inspections				
Liquor License Inspections, 2011-13 Average	81	£50	£55 to 65	£4,455
Salle Publique Inspections				
Salle Publique Inspections, 2011-13 Average	29	£43	£45 to 55	£1,372
Testing of Fire Safety related items on request				
Fire alarm/Emergency lighting/etc.	6	£69	£75 to 85	£455
Preliminary Consultations	10	£46	£50 to 60	£506
				£9,699

⁴ Excludes administration overheads and indirect costs

⁵ As per the States Fees and Charges Policy V2.2

Income Generation

Service	Expenses	Income			
	2014 Cost of Providing Service ⁶	Indicative Charge per Dry Riser ⁷	Charge based on min 10 people per course ⁸	Frequency	Total income less expense
Testing of Fire Safety Facilities					
Testing Dry Risers	-£87	£200		10	1,130
Training Provider					
Provide Fire Marshal Training	-£156		£300	10	1,440
Provide Fire Extinguisher Training	-£263		£300	10	370
					£2,940

⁶ Excludes administration overheads

⁷ Based on market price research and as per the States Fees and Charges Policy V2.2

⁸ Based on market price research and as per the States Fees and Charges Policy V2.2

- (NB The Treasury and Resources Department supports this States Report and commends the Home Department for proposing the introduction of charges, in line with the Fees and Charges Policy issued by the Policy Council, for certain functions carried out by the Guernsey Fire & Rescue Service that are not emergency services or services of a humanitarian nature.)**
- (NB The Policy Council supports the proposals as set out in this Report and is of the view that they comply with the Principles of Good Governance.)**

The States are asked to decide:-

V.- Whether, after consideration of the Report dated 28th April, 2014, of the Home Department, they are of the opinion:-

1. to agree that the Fire Services (Guernsey) Law, 1989, be amended (and any consequential amendments to other legislation be made and any other necessary legislation made):
 - (a) to require occupiers (or owners in the case of controlled premises in multiple occupation) to notify the Home Department (Fire Service) only in the following circumstances:
 - when premises that are not controlled premises become controlled premises;
 - when premises that are controlled premises cease to be controlled premises; or
 - when premises are erected that are controlled premises;
 - (b) to require the notification be made within 14 days of the occurrence of any event mentioned in paragraph (a);
 - (c) to require a fee be paid each time a notification is made in respect of:
 - premises that are not controlled premises becoming controlled premises; or
 - premises having been erected that are controlled premises;
 - (d) to cease to require the public register of controlled premises to include names and addresses of occupiers of controlled premises and the use to which such premises are put;
 - (e) to provide for the Home Department (Fire Service) to withhold its views on applications for registration of child-care premises that are currently required to be provided to the Health & Social

Services Department under section 24(2) of the Fire Services (Guernsey) Law, 1989, or on any other applications that fall within the scope of that provision, until fees or charges are paid to the Home Department (Fire Service);

- (f) to provide for the Home Department (Fire Service) to enter into agreements with any person and impose a fee or charge -
 - (iii) for the hire or loan of any equipment or the provision of any services in connection with any equipment (regardless whether or not the equipment or services are in any way connected with fire);
 - (iv) for the provision of services in connection with the following (including written reports where necessary but excluding fire safety education as part of the School's Education Programme) -
 - inspection, testing or maintenance of, and consultation in relation to, fire alarm systems (including alarm receiving centres) or emergency lighting systems;
 - inspection, testing or maintenance of, and consultation in relation to, any equipment or other thing or substance used for fire-fighting, for preventing fires or restricting the spread of fire or otherwise related to fire;
 - inspection of, and consultation in relation to, controlled premises on which the systems or equipment, things or substances mentioned above are installed or proposed to be installed;
 - training or consultation in relation to fire safety, preventing fires or restricting the spread of fire, or otherwise related to fire; or
 - preliminary assessments and consultation on drafts of plans of controlled premises proposed to be deposited with the Environment Department (as mentioned in section 24(1) of the Fire Services (Guernsey) Law, 1989) or on applications proposed to be made to an Authority (as mentioned in section 24(2) of the Fire Services (Guernsey) Law, 1989);
- (g) to authorise the States of Deliberation to amend by Ordinance the types of equipment or services which could be provided by the Home Department (Fire Service) on a fee-charging basis, as provided by paragraph (f);

- (h) to provide for the fees or charges, or rates for calculating the fees or charges, mentioned in paragraphs (c), (e) and (f) to be prescribed by regulations made by the Home Department;
 - (i) to provide for the Home Department to waive or reduce any fee or charge mentioned in paragraph (c), (e) or (f), at its discretion;
 - (j) to provide that nothing in the proposed amendments to the Fire Services (Guernsey) Law, 1989, restricts or otherwise affects agreements which are in existence (or which may in future be made) for the Fire Service to provide assistance to Sark and Alderney; and
 - (k) to exclude equipment and services provided by commercial agreement (as mentioned in paragraph (f)) from the scope of the exclusion of liability provided for under section 25 of the Fire Services (Guernsey) Law, 1989.
2. To direct the preparation of such legislation to give effect to the above decisions.

PANEL OF MEMBERS

(Constituted by the Administrative Decisions (Review) (Guernsey) Laws, 1986-1993)

REPORT OF THE REVIEW BOARD FOR 2013

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

7th April 2014

Dear Sir

1. Executive Summary

1.1 In accordance with the provisions of Section 8 of the Administrative Decisions (Review) (Guernsey) Laws, 1986-1993 (“the Law”), I hereby submit a report on the complaint received by the former Chief Executive of the States of Guernsey which was referred to me as Chairman of the Panel of Members during the period 1st January 2013 to 31st December 2013.

1.2 Section 1 of the Law provides that:

“ where any person...aggrieved by any decision made, or act done or omitted, relating to any matter of administration by any Committee of the States or by any person acting on behalf of any such Committee, he may apply to have the matter reviewed by a Review Board..”

1.3 The Law also states that applications for a matter to be reviewed by a Review Board shall be made to the Chief Executive of the States, except where the matter complained of relates to the Policy Council and its staff, in which case application is made to HM Greffier.

2. Enquiries and Complaints received in 2013

2.1 The Panel of Members noted that over the course of 2013, the former Chief Executive received several general enquiries from Members of the Public about the Law.

2.2 It also notes that no complaints were received by HM Greffier during 2013 relating to the Policy Council and its staff.

2.3 The Panel of Members is informed that the former Chief Executive received five complaints against States Departments in 2013.

2.4 As a result of his detailed enquiries, the former Chief Executive was satisfied that the circumstances surrounding one such complaint, the matter of Mr C. Rolfe against the Health and Social Services Department, justified a review of the matter by a Review Board in accordance with section 2 of the Law.

2.5 Accordingly, the former Chief Executive referred the matter to the Chairman of the Panel of Members, who appointed the following members to a Review Board to hear the complaint on 23rd May 2013:

Deputy Matt Fallaize (Chairman)

Deputy Scott Ogier

Richard Heaume, Esq. (MBE) (Dean of the Douzaine)

3. Decisions of the Administrative Review Board

3.1 The Review Board's decision in the matter of Mr C. Rolfe against the Health and Social Services Department dated 25th June 2013 is appended to this report.

4. Recommendation

4.1 Sir, I should be grateful if the States of Deliberation were of the opinion to note the contents of this report.

Yours faithfully

R A Perrot

Chairman of the Panel of Members

APPENDIX

REVIEW BOARD

(Constituted under The Administrative Decisions (Review) (Guernsey) Law, 1986)
("the Law")

Review Board Members:

Deputy Matt Fallaize (Chairman)

Deputy Scott Ogier

Mr. Richard Heaume, MBE (Dean of the Forest Douzaine)

(together as "**The Review Board**")

Decision - Issued on Tuesday, 25th June, 2013

Parties ("the Parties"):

(1) The Complainant: Mr. C Rolfe ("the Complainant")

and

(2) The Department: Health and Social Services ("the Department")

**Following the Hearing at The Cambridge Room, Beau Sejour Leisure Centre
on Thursday 23rd May, 2013 ("the Hearing")**

The Review Board is grateful to both parties for the clear, concise and helpful way in which they presented their respective cases. The Review Board also wishes to thank the members of the public, the media and States Members who attended the Hearing, including for their patience and understanding during the two short closed sessions of the Hearing.

1. Issue

- 1.1 The submission from the Complainant relates to a decision of the Department regarding its application of States' policy on the funding of referrals for second opinions obtained off-island and consequent treatment.

2. Background

- 2.1 The Complainant made an application to the Chief Executive of the States of Guernsey on 9th December, 2012 under Section 1 of the Law for a review of decisions taken by the Department in 2012 and confirmed on 24th October, 2012 ("the Department's Decision"), which resulted in the Department's refusal to reimburse Mr Rolfe approximately £13,000 for fees and expenses paid in respect of obtaining:
 - i) a second opinion with a consultant in Cambridge ("the Cambridge Consultant"); and
 - ii) further, resultant off-island consultations and treatment received at Addenbrooke's Hospital and Spire Cambridge Lea Hospital in Cambridge ("the Cambridge hospitals").

3. Process for Complaints under the Law

- 3.1 The Chief Executive enquired into the matter in accordance with the provisions of Section 2 of the Law and satisfied himself that the matter complained of was within the jurisdiction of a Review Board. Accordingly, he requested the Chairman of the Panel of Members, Deputy R A Perrot, to appoint a Review Board to enquire into the complaint. A Review Board was established with the following members: Deputy M J Fallaize (Chairman), Deputy S J Ogier and Mr R Heaume, MBE.

4. Introduction

- 4.1 The Review Board convened at 10 a.m. on Thursday 23rd May, 2013 to consider the Complainant's application for a review of the Department's Decision. The Hearing ended at approximately 3.45 p.m. that day.
- 4.2 The Complainant chose not to be legally represented at the Hearing. He was accompanied by his spouse.
- 4.3 The Department was represented by Mr. Richard Evans (Director of Corporate Services), assisted by Mr. Ed. Freestone (Assistant Director, Policy) and Advocate Laura de Lisle of St James Chambers.

5. **Procedural matters**

- 5.1 The Hearing commenced with the Chairman setting out the arrangements, the scope of the Review Board under the legislation and what would happen at the conclusion of the Hearing.
- 5.2 The Review Board considered the Complainant's concerns regarding a letter that was addressed to the Chairman of the Review Board from the Department dated 20th May, 2013 ("the Letter"), a copy of which the Department sent to the Complainant on the same date. The Complainant explained to the Review Board that he had interpreted the letter as an attempt by the Department to prevent him from truthfully presenting all the circumstances of his complaint and explaining the reasons for taking the action that he did. He stated that he viewed the Letter to be unhelpful and another example of how poorly the Department had treated him. His view was that the Department had sufficient time to submit the Letter earlier than two days before the Hearing. The Complainant remarked that the effect of the Letter would be to discourage him from explaining and justifying the reasons for his complaint.
- 5.3 The Review Board noted the Complainant's views.
- 5.4 The Review Board informed the Parties that it shared similar views to that of the Complainant in respect of both the timing and effect of the Letter. The Board would refer the Letter to the Chairman of the Panel and its legal advisers for further consideration.
- 5.5 The Department later apologised for the lateness of the Letter. The Department stated that the purpose of the Letter was to explain the Department's opinion of the scope of the Hearing and was not an attempt to inhibit the Complainant or the Review Board. The Department further confirmed that the Letter was not a request for the meeting to be held in private, but was intended to establish clarity that the scope of the Hearing would be limited to the review of administrative decisions, in accordance with the Law, and would not extend to reviewing medical discussions and decisions, in accordance with the Law.
- 5.6 The Review Board confirmed that the Hearing would be held in public in the interest of adhering to the general principle of openness and transparency and in acknowledgement of the public interest in Review Board Hearings. However, the Review Board noted that there may be certain aspects of the matter, such as personal medical information, which should not be discussed in public.
- 5.7 The Review Board considered that measures could be taken to meet particular concerns and therefore:
 - (a) It was agreed that, as far as was possible, any medical staff should remain anonymous during the Hearing. No medical practitioner or members of staff, other than those who appeared at the Hearing, have been named in this Decision;
 - (b) The Review Board also agreed that in order to balance the conflicting public and private interest in the matter, it would limit the exclusion of the public to

a particular part of the Hearing only. The Complainant and the Department were requested to advise the Review Board if at any time during the course of the Hearing they became concerned that the confidential nature of the matter being discussed (e.g. medical information) justified the exclusion of the public from the Hearing. Review Board members would then, if necessary, adjourn to resolve upon any such requests.

5.8 During the Hearing, the Complainant and the Department were each given the opportunity to present their cases to the Review Board and each given the opportunity to ask both initial questions and then supplementary questions of the other party. The Review Board also asked initial questions and then supplementary questions of the Parties.

5.9 The Complainant addressed the Review Board first; followed by the Department.

6. Adjournments

6.1 There were three adjournments during the Hearing, two of which arose out of requests by the Complainant for the Hearing to be held in private. Having carefully considered the merits of each request, the Review Board was not satisfied that a public hearing, albeit with reporting restrictions, would sufficiently protect the confidential nature of the medical issues to which the Complainant needed to refer and therefore, under section 7(1) of the Law, the Review Board approved both requests.

7. The Department's Complaints Procedure

7.1 It emerged during the Department's submission that the Complainant had not exhausted the Department's Complaints Procedure – because the Department had failed to draw the complaints procedure to his attention. Therefore, the Review Board gave the Complainant the opportunity to withdraw his complaint in order to allow him to take advantage of the Department's complaints procedure. The Complainant declined, which the Review Board respected, and the Hearing continued.

8. The Complainant's Submission to the Review Board

What follows is based exclusively on the chronology and details of the case which were presented to the Hearing by the Complainant:

8.1 In June 2012, the Complainant awoke one morning to find that he was unable to see out of his right eye.

8.2 On 10th July, 2012, the Complainant was seen by a consultant ophthalmologist ("the Guernsey Consultant") at the Medical Specialist Group ("MSG") and was advised that the sight in his right eye was permanently impaired and that no medical procedure was available which would repair the damage.

8.3 The Complainant was told by the Guernsey Consultant that he could have a second opinion from another, off-island consultant and proposed the Cambridge

Consultant who worked at the Cambridge Hospitals. Other eye centres within the south of England were also discussed, but not Southampton. The Guernsey Consultant was aware of (a) the Complainant's previous poor experience with one of the consultants at Southampton Hospital and (b) the location of a house owned by the Complainant in the UK which was close to the Cambridge Hospitals.

- 8.4 On 23rd July, 2012, whilst at his house in the UK, the Complainant notified the MSG by email that he had arranged of his own accord an appointment with the Cambridge Consultant to take place on 1st August, 2012. He requested that the results of his tests in Guernsey be sent to the Cambridge Consultant. He acknowledged that he may have to pay for the consultancy as a private patient but he was very worried about his eye and did not wish to delay obtaining a second opinion, and in any event he fully expected to be reimbursed for the consultation in due course.
- 8.5 Late in July, 2012, the Complainant telephoned the MSG and was informed by a member of staff that his request for funding of the second opinion with the Cambridge Consultant had been rejected. The Complainant assumed that the Guernsey Consultant would challenge the Department's decision, as would he upon his return to the island. The Guernsey Consultant had not led him to expect a rejection of the request for funding. The Complainant fully expected that ultimately he would be reimbursed.
- 8.6 On 27th July, 2012, a referral letter from the Guernsey Consultant to the Cambridge Consultant was copied to the Complainant. It confirmed the refusal to fund the second opinion with the Cambridge Consultant on the basis that the Department was unprepared to fund a second opinion with the Cambridge Consultant when a consultant was available at Southampton. The information was also sent by email. The Complainant did not read the letter or email until his return to Guernsey on 4th September, 2012.
- 8.7 On 1st August, 2012, the Complainant had his appointment with the Cambridge Consultant. He claims that the Cambridge Consultant did not make him aware of the letter dated 27th July in which the Department advised that it would not fund the cost of the second opinion.
- 8.8 On 9th August, 2012, following his initial consultation in Cambridge eight days earlier, the Complainant had a procedure on his eye carried out, also in Cambridge.
- 8.9 On 5th September, 2012, the Complainant emailed the Department requesting clarification about why funding for the second opinion had been rejected and additional information about the decision in order that he could consider whether to appeal against the decision.
- 8.10 On 17th September, 2012, the Complainant rejected an appointment offered to him to see his Guernsey Consultant as a private out-patient. At that stage the only information the Complainant was awaiting was in respect of whether the

Guernsey Consultant had challenged the Department's decision not to provide funding and in respect of any appeals process related thereto.

- 8.11 On 27th September, 2012, having received no further information from the Department nor MSG, the Complainant emailed the Department to lodge a complaint.
- 8.12 In October and November, 2012, the Complainant had further appointments and procedures carried out in Cambridge. Happily, the Complainant's sight has been restored to its condition before the sudden loss of vision in June, 2012.
- 8.13 On 24th October, 2012, the Chief Officer of the Department responded to the Complainant's complaint to confirm that the Department was unprepared to reimburse any expenditure incurred by the Complainant.
- 8.14 On 9th December, 2012, the Complainant made an application to the Chief Executive of the States of Guernsey to have the decisions of the Department considered by a Review Board. This Review Board was subsequently convened.
- 8.15 The Complainant submitted that, in view of the exceptional circumstances of his case, the Department should reimburse the costs incurred by him in obtaining a second opinion and undergoing subsequent treatment. The Complainant advised that by accommodating himself at his house in the UK and paying for his own flights he had saved the States of Guernsey some money. He had pursued his complaint with the Department unsuccessfully, though not as far as he could have on account of the Department's failure to avail him of its complaints procedure, and he felt that he had no option but to make an application to a Review Board.
- 8.16 The Complainant had understood that the Guernsey Consultant referred him to the Cambridge Consultant because it was the most appropriate course of action.
- 8.17 The Complainant trusted the Guernsey Consultant and felt that, in the event of problems with the referral to the Cambridge Consultant, the Guernsey Consultant would have contacted him and discussed alternative options. The Guernsey Consultant did not do so.
- 8.18 The Complainant explained that he had not been advised of the distinction made for funding purposes between second opinion referrals and off island treatment referrals. Therefore he assumed that one application covered both.
- 8.19 The Guernsey Consultant had recommended the Cambridge Consultant and therefore the Complainant was satisfied that the medical criteria of the application process would be met.
- 8.20 The Complainant recognised that the Department would not be able to make the necessary funding arrangements in advance of his initial appointment in Cambridge, but he fully expected that he would be reimbursed.

- 8.21 The Complainant advised that it was not possible in hindsight to say whether he would have gone to Southampton had he known that the Department regarded it as the only legitimate option for which funding would be made available. Potentially he may have agreed to obtain a second opinion at Southampton but, given his previous experiences there, he would not have consented to receive their treatment.
- 8.22 The Complainant submitted that the procedures for obtaining off -island second opinions and treatment, and the appeal processes relating thereto, were not clearly communicated to him by the Guernsey Consultant or Department staff. The Complainant further submitted that such procedures were unclear in any event.
- 8.23 The Complainant believed that the Department had applied policies relating to second opinions and resultant treatment off-island too rigidly and, given the circumstances of his case, possibly unjustly too. Had he complied with the Department's application of policy he would have received treatment at the same hospital – and quite possibly from some of the same staff – where he is of the opinion that he received extremely poor treatment previously, which he considers to have been an unreasonable imposition.
- 8.24 The Complainant was aggrieved at what he considered to be a lack of support by the MSG and the Department. Although by November he was aware that the Department had refused to fund his treatment, he had expected them to review their decision and in any event he had to focus on his recovery from a significant eye operation and had therefore decided to leave the matter of pursuing reimbursement of costs until he had made a full recovery.

9. The Department's Submission

- 9.1 The Department's submission was read out verbatim at the Hearing. The Review Board has reproduced it overleaf.

**“REVIEW HEARING UNDER THE ADMINISTRATIVE DECISIONS
(REVIEW) (GUERNSEY) LAW, 1986**

HEALTH AND SOCIAL SERVICES DEPARTMENT'S SUBMISSIONS

IN RELATION TO MR ROLFE'S COMPLAINT

23 MAY 2013

PRELIMINARY MATTERS

1. *Before the Department makes its principal submissions, it would like to highlight that the Review Board's powers under section 1 of the Administrative Decisions (Review) (Guernsey) Law, 1986 ("**Administrative Decisions Law**") [Tab A] relate to the review of "any decision made, or any act done or omitted, relating to any act of administration by any Committee of the States, or by any person acting on behalf of any such Committee". The scope of the Review Board's powers are therefore limited to the review of administrative decisions and do not extend to reviewing medical decisions. Mr Rolfe's complaint before the Review Panel is in relation to the application of the States Policy regarding the funding of off-island second opinions and treatment. The Department has refrained from using specific consultants' names and invites the Review Panel to do the same.*
2. *I think it is also important to notify the Review Panel that Mr Rolfe was a colleague of mine when he worked for the Department in Human Resources. In fact, due to Mr Rolfe's role, he was known to a large number of individuals who currently work for the Department. It is with regret therefore that we are in these circumstances today. I hope the Review Panel and Mr Rolfe have no objections to me speaking on behalf of the Department.*

INTRODUCTION

3. *This Review Hearing is in relation to the decisions made by the Health and Social Services Department ("**the Department**") -*
 - (a) *on 26th July 2012, and confirmed on the 24th October 2012, not to fund an off island second opinion with a Cambridge Consultant ("**Second Opinion Funding Decision**"), and*
 - (b) *on 24th October 2012 not to reimburse the fees and charges amounting to approximately £13,000 incurred by Mr Rolfe as a result of off island consultations and treatment received at Addenbrooke's Hospital and Spire Cambridge Lea Hospital in Cambridge ("**Off Island Treatment Funding Decision**") ("**both decisions are together referred to as the "Funding Decisions"**).*

Mr Rolfe's complaint before the Review Panel today is therefore in relation to the application of the States Policy regarding the funding of off-island second opinions and treatment.

4. *The Review Board has the power in certain circumstances detailed under section 7(3) of the Administrative Decisions Law [Tab A] to request that the Department reconsiders its decisions. The Department submits that none of the circumstances detailed in section 7(3) of the Administrative Decisions Law apply in relation the Funding Decisions, and therefore the Review Board is respectfully invited to find the same, and therefore decline to make a declaration requesting that the Department reconsiders the Funding Decisions.*

STATES POLICY AND LEGAL FRAMEWORK

5. *It is important, before looking at the detail of the particular facts in this case, that the Review Panel Members have an understanding of the States Policy and legal framework in relation to the funding of off-island second opinions and treatment, so that the Review Panel can properly consider whether there was a correct and reasonable application of the law and policy in relation to the Department's Funding Decisions.*
6. *The two reports within the Billet D'État of 1992 [Tab B] set out the background to the States health care and health proposals schemes. After consideration of the reports, the States resolved on the 7th May 1992 [Tab 27] to agree in principle that there shall be established a Health Insurance Scheme and to direct the States Insurance Authority to report back with recommendations for a health insurance scheme.*
7. *On the 27th January 1994, after considering the Report submitted by the Guernsey Social Security Authority [Tab C] the States resolved that States health insurance cover should extend to specialist medical care which would cover treatment in Guernsey only and that objectives of cost containment and value for money were integral to the scheme [see paragraph 95 report]. The Authority were instructed to submit a further report to the States containing full details of a scheme of health insurance. It is worth noting that in making this decision, the States were referred to a Medical Specialist Group letter dated 9 December 1993 [Tab C, page 52, par. 7] which states that the "cost of treating Guernsey residents in the United Kingdom has risen significantly. It is clearly in the interests of the States and the Medical Specialists to seek to reduce the number of referrals off the Island".*
8. *On the 29th June 1995, the States approved the final details of the Scheme [Tab 27]. It was decided that the categories of benefit provided under section 4 of the Health Service (Benefit) Law, 1990, should extend to include special medical benefit under the specialist health insurance scheme as follows [Tab 28]:*
 - *including: "specialist, acute care, consultations, treatment and procedures undertaken in Guernsey or Alderney by a specialist approved by the Board of Health". [paragraph 24, p. 548],*

- and specifically excluding : "treatment outside Guernsey or Alderney, with the exception of a specialist escorting a patient to the UK or Jersey", [paragraph 26, p.549]

- but that "availability of specialist treatment in the UK [under the Reciprocal Health Convention] or under contracts which the Board of Health has with UK health authorities for specialist treatment ...will continue." But that this was not part of the specialist medical benefit available under the specialist health insurance scheme [paragraph 23, p. 548].

9. In 1995, the States further authorised the States Board of Health and the Guernsey Social Security Authority to, on behalf of the States, enter into a contract with the Guernsey Medical Specialist Group ("MSG") in accordance with the heads of agreement set out in the Report, which include specific provisions on off island second opinions and referrals for off island treatment. This contract was entered into in 1995 for seven years [Tabs 27 and 28].
10. This States policy is reflected in the Health Service (Benefit) (Guernsey) Law 1990, as amended by the Health Service (Specialist Medical Benefit) Ordinance, 1995, and the Health Service (Specialist Medical Benefit) Regulations, 2002 [Tabs D, E and 24]. Section 5A of the 1990 Law confers the right for certain persons to be entitled to specialist medical benefit. Regulation 2 of the 2002 Regulations clarifies that "specialist medical benefit" comprises "the provision of all such specialist consultations, treatment, procedures and ancillary entitlements within the skill and competencies of the Medical Specialist Group and undertaken at (i) the Princess Elizabeth Hospital; (ii) the Mignot Memorial Hospital; (iii) Les Bourgs Hospice; or (iv) the Group's Premises". Specialist medical benefit is therefore constrained to consultations and treatment in Guernsey and Alderney.
11. It is important to note that one of the key objectives behind the introduction of reforms to the health care delivery system in Guernsey was to ensure a degree of cost containment in the future. This was identified in the King's Institute Commentary to the Guernsey Health Reform Proposals [Tab 28, p. 608] and discussed in paragraph 21 of the 1995 Report [Tab 28, p.547]. This provides a strong rationale as to why specialist medical benefit was restricted to treatment and consultations in Guernsey and Alderney, and the formulation of controls in relation to off island second opinions and referrals for treatment under the contract.
12. In 2002, the contract with MSG was up for renewal and therefore the Guernsey Social Security Authority presented Heads of Agreement which are set out in the States Report dated 18th January 2002 [Tab 23]. The States on the 28th February 2002 resolved to authorise the Guernsey Social Security Authority and the States Board of Health to enter a contract with MSG for 15 years in accordance with the Report [Tab 27]. The contract was entered into on 19 December 2002 [Tab 26] ("the Contract").

13. *The key provisions of the Contract for the purposes of this Review Hearing are as follows:*

*- **Extent of Specialist Medical Benefit** [clause 5 Contract/ paragraph 42 Report] – confirms that consultations and treatment must be in Guernsey or Alderney and that any off island treatment is not included within the terms of the Contract.*

*- **Second Opinions Off Island** [clause 36 Contract/ paragraph 148 of the Report] - Under the Contract, patients are entitled to a second opinion. This shall be obtained from another local MSG specialist. If there is no other specialist in Guernsey to give a second opinion, the patient may be referred off island for a second opinion under the provisions of other contractual arrangements entered into by the States of Guernsey with UK providers. Where an opinion is sought off island from a consultant in private practice, the costs of obtaining that opinion shall be met by the Patient.*

*- **Referrals for Treatment Off Island** [Clause 8 and Paragraph 10 of Appendix 2 of the Contract and paragraph 147 of the Report] - Under the Contract, referrals for treatment off island are limited to those UK hospitals with which the Department has a contract with and any referrals outside of that list must receive the prior agreement of the Department's Manager.*

14. *The States Policy and legal framework surrounding the specialist health insurance scheme and what is and what is not covered within the scheme is clearly communicated and reflected in leaflets issued by the Department and the Social Security Department.*

15. *For example, the Specialist Health Insurance Scheme Leaflet 2 [Tab F] communicates the policies in relation to off island second opinions [5th bullet point on page 2] and off island referrals [last bullet point on page 4].*

CHRONOLOGY OF THE PRINCIPAL FACTS

16. *The Department submits that the key facts and dates which relate to, and surround the Funding Decisions, are as follows –*

17. *On 10th July 2012, Mr Rolfe was seen by a consultant ophthalmologist at MSG ("MSG Consultant") [Tab 5]. Mr Rolfe requested a second opinion for the review of the fundi of his right eye. He indicated that he did not wish to be seen at Southampton General Hospital ("Southampton") and that instead he would like to be referred by MSG to Addenbrooke's Hospital in Cambridge ("Addenbrooke's") for a second opinion due to (a) previous poor experience with one of the consultants at Southampton; and (b) the location of his UK home was close to Addenbrooke's and this would therefore be convenient [Tab 6, 17].*

18. On 19th July 2012, the MSG Consultant contacted the Department's Off-Island and Visiting Service for approval for an off island second opinion in accordance with the States policy [Tab 17].
19. On 23rd July 2012, Mr Rolfe arranged an appointment with a consultant at Addenbrooke's ("**Cambridge Consultant**") on 1st August 2012 on the understanding that funding might not be forthcoming and that he may have to pay for the consultancy as a private patient [Tab 4].
20. On 26th July 2012 the Department's Off-Island and Visiting Service communicated the Second Opinion Funding Decision to MSG (i.e. that funding would not be available for an off island second opinion with the Cambridge Consultant) [Tab 17]. On or around this same date, Mr Rolfe called the MSG and he was told over the telephone that his request for funding in relation to the second opinion with the Cambridge Consultant had been rejected [Tab 6].
21. On 27th July 2012 the referral letter from the MSG Consultant to the Cambridge Consultant was copied to Mr Rolfe which confirmed the Second Opinion Funding Decision – and that the Department would not be prepared to fund the off island second opinion with the Cambridge Consultant when "Southampton is on our doorstep" [Tab 5, 9].
22. On 1st August 2012, Mr Rolfe had an appointment and sought a second opinion with the Cambridge Consultant on a private basis [Tab 4].
23. On 9th August 2012, Mr Rolfe had a procedure carried out on his eye in Cambridge [Tab 10].
24. On 5th September 2012, the Department's Off-Islands and Visiting Service Department received its first communication from Mr Rolfe after his appointments and procedures in Cambridge in August, and requested clarification as to why funding was rejected. [Tab 6]
25. On 27th September 2012, Mr Rolfe made a formal complaint under the Department's Complaints Policy. An investigation was conducted by the Department in accordance with the Complaints Policy. [Tab 10]
26. On 24th October 2012, the Chief Officer of the Department responded to Mr Rolfe's complaint and confirmed the Second Opinion Funding Decision and also made the Off Island Treatment Funding Decision. [Tab 12]
27. In October and November 2012, Mr Rolfe had further appointments and procedures carried out at the Private Hospital, Spire Cambridge Lea Hospital ("**Spire Cambridge**"). MSG were advised of the Cambridge Consultant's findings. [Tabs 13, 14]
28. In December 2012, following communication from the press of Mr Rolfe's grievances, the Department and MSG further reviewed the complaint [Tab 17], and further to the review the Department was satisfied with the Funding

Decisions for the same reasons as set out in the letter dated 24th October 2012.

29. *On 9th December 2012, Mr Rolfe made an application to the Chief Executive of the States of Guernsey to have the Funding Decisions reviewed by a Review Board under the Law. [Tab 1]*
30. *On the 14th February 2013, the Department wrote to the Chief Executive of the States of Guernsey confirming the Funding Decisions [Tab 15].*
31. *On the 26th February 2013, the Department received confirmation that the Review Board would be formed to review the Funding Decisions.*

Reasonable Communication of the Department's Second Opinion Funding Decision

32. *Before the Department makes its submissions in relation to the Funding Decisions themselves, the Department would like to submit that the communication of the Department's Second Opinion Funding Decision was clearly made to Mr Rolfe by the MSG before Mr Rolfe's appointment with the Cambridge Consultant.*
33. *It is worth noting there was a relatively short period of time between the request for an off island second opinion and the appointment date with the Cambridge Consultant and all reasonable efforts were made by the Department to communicate the decision in the timeframe available.*
34. *In the papers submitted by Mr Rolfe, it is accepted by Mr Rolfe that he called MSG on or around the 26th July 2012 – where he was given oral confirmation of the Second Opinion Funding Decision (i.e. that the funding request had been refused) [Tab 6]:*

"A week or so after I last saw [MSG Consultant] in mid/late July I phoned his office for information and was told orally that an email had just been received from your good self which said that the referral was refused and would have to be made to Southampton."

35. *In addition, the MSG referral letter that Mr Rolfe had requested was sent to the Cambridge Consultant on the 27th July 2012 – this included a written communication that the consultation would not be funded by the Department [Tab 5] –*

"Finally, and this is probably more for Mr Rolfe than yourself, I have been in contact with our Off-Island Referral Department and they are not prepared to cover this consultation when we have Southampton on our doorstep".

36. *The letter was copied to Mr Rolfe and sent to his address in the UK and by email so it should have been received by Mr Rolfe prior to his appointment in August. It is noted by the Department that Mr Rolfe contends that he did not*

receive the letter until he returned back to Guernsey in September. The Department has been unable to confirm this, but even if, due to an unfortunate administrative error, that was the case, Mr Rolfe received oral confirmation from MSG of the Department's Second Opinion Funding Decision prior to his consultation, and therefore received effective communication that the Department would not fund the consultation. The fact that it was not a formal written decision is irrelevant as communication of the decision had been made, and therefore, what is critical is that Mr Rolfe was aware of the Second Opinion Funding Decision before his appointment with the Cambridge Consultant.

37. *For these reasons, the Department submits that the communication of the Department's Second Opinion Funding Decision was clearly, and in the circumstances reasonably, made to Mr Rolfe by the MSG before Mr Rolfe's private appointment with the Cambridge Consultant.*
38. *The Department notes that Mr Rolfe is disappointed that that the Second Opinion Funding Decision did not come directly from the Department. By way of explanation, the Department's existing procedures do not involve it communicating individual decisions to patients for reasons of confidentiality. When the requests for funding are made to the Department, they are anonymously made by MSG to the Department. The Department then communicates its funding decision to MSG, who then in turn communicate the funding decision to the patient.*

THE COMPLAINT TO THE REVIEW BOARD : THE FUNDING DECISIONS

Correct and Reasonable Application of the States Policy and the Contract

39. *Having explained the formulation of the relevant States Policy behind the existing legal framework in relation to the funding of off-island second opinions and referrals for off island treatment and a brief chronology of the principal facts in this case, the Department submits that, in making its Funding Decisions in relation to off island second opinions and referrals for off island treatment, it acted in accordance with the legal framework, and applied the States Policy and Contract reasonably.*
40. *The Department shall look at the application of the States Policy and the Contract in relation to Off Island Second Opinions and Referrals in turn -*

Off Island Second Opinions

41. *As referred to above the States Policy in relation to second opinions is set out in section 148 of the Policy Report (Tab 23) and confirmed in clause 36 of the Contract (Tab 26) :*

Policy Report

148. Each patient shall be entitled to request a second opinion. Under normal circumstances, this shall be obtained from another local specialist

under the contract. Where another specialist opinion is not available locally, the patient may be referred off-Island under the reciprocal health agreement or other Board of Health off-island contract, at no charge to the patient.

Contract

"36. Each patient shall be entitled to request a second opinion. This shall be obtained from another Consultant in the specialty concerned and the cost of obtaining that opinion shall form part of this Agreement. Where there is no other Consultant in the specialty concerned available in Guernsey to give a second opinion, the Patient may be referred off-island for that opinion. That opinion shall be sought from a specialist working in the UK NHS and the cost of that opinion shall be met by the States either under the provisions of the United Kingdom Reciprocal Health Convention or any other contractual arrangements entered into by the States with United Kingdom providers. Where an opinion is sought off-island from a consultant in private practice, the costs of obtaining that opinion shall be met by the Patient;"

42. *Under the Contract, Mr Rolfe was entitled to a second opinion. This shall be obtained from another local MSG specialist. If there is no other specialist in Guernsey to give a second opinion, the patient may be referred off island for a second opinion under the provisions of other contractual arrangements entered into by the States of Guernsey with UK providers. Where an opinion is sought off island from a consultant in private practice, the costs of obtaining that opinion shall be met by the Patient.*
43. *In Guernsey, the MSG has three specialist eye consultants. In this case, there were therefore two other specialists which Mr Rolfe could have seen locally for a second opinion.*
44. *In the case of off island eye specialists, the contract for ophthalmology that the States of Guernsey has is with Southampton. Southampton's Eye Unit is claimed by the NHS's website to be the leading provider of eye care services on the south coast and consists of over 15 eye specialists, 3 of which who specialise in Vitreoretinal surgery (the same speciality as the Cambridge Consultant). Please note that the Department is not aware of it having received any complaints in the last five years of a clinical nature from Guernsey patients who have had consultations or received treatment at Southampton. It is important to note that the States of Guernsey does not have a contract with Addenbrooke's or Spire Cambridge.*
45. *It follows that in accordance with the Contract, Mr Rolfe, or any other individual requiring a second opinion in respect of eye treatment, was entitled to a second opinion by an eye specialist either in Guernsey or, if such a specialist was not available, with Southampton as this is the hospital with which Guernsey has a contract. Therefore, a second opinion was available to Mr Rolfe which was "independent and objective" to both the MSG Consultant and the Southampton Consultant.*

46. *The Department rejects Mr Rolfe's contention that "any independent second opinion must by definition exclude referral to Southampton" [Tab 18]. Although it is acknowledged that Mr Rolfe had lost confidence in Southampton due to his experience with one of the eye consultant's in Southampton [Tab 10] there were two other leading eye specialists at Southampton that he could have obtained a second opinion from under the Contract.*
47. *Mr Rolfe's request to have a second opinion from a specialist eye consultant in Cambridge was therefore outside the Contract, and therefore the States Policy's funding arrangement for second opinions. In rejecting Mr Rolfe's request to fund this off island second opinion, and therefore in making the Second Opinion Funding Decision, the Department therefore acted in accordance with the States Policy and the provisions of the Contract.*
48. *The Department makes every effort to apply the funding policies fairly, consistently and reasonably with all of its patients. Due to the fact that both a local and off island second opinion were available to Mr Rolfe from independent eye specialists, the Department's decision to reject Mr Rolfe's request for funding for an off island second opinion with a hospital with which the Department had no contractual arrangements with, was fair and reasonable in the circumstances.*
49. *It follows that, in accordance with the Contract, the costs of obtaining a second opinion sought off island from a Consultant in private practice, shall be met by the patient. In this case, Mr Rolfe was aware that this was the policy when he made the appointment for a second opinion – as demonstrated by Mr Rolfe's email to MSG dated 23rd July 2012 where he states that he appreciates "that this may mean having to pay for the consultancy as a private patient, even if the approval from Guernsey is forthcoming by then." [Tab 4]. Mr Rolfe's understanding of the personal financial implications of his making an appointment with the Cambridge Consultant is further demonstrated in Mr Rolfe's letter dated 8 January 2013 to the Policy Council [Tab 2] where he states –*
- "When I informed the Eye Clininc of the date and requested a medical letter of referral I was orally told that an email refusing funding approval had just been received from the HSSD....In the meantime I went ahead with the consultant's appointment to avoid delay, accepting that it would initially, at least, have to be a private consultation".*
50. *It is therefore fair and reasonable in the circumstances that Mr Rolfe funds the second opinion that he received from the Cambridge Consultant in private practice.*

Referrals for Treatment Off Island

51. As referred to above the States Policy in relation to referrals for treatment off island is set out in section 147 of the Policy Report [Tab 23] and confirmed in section 8 and paragraph 10 of Appendix 2 of the Contract [Tab 26] :

Policy Report

"147. It is proposed that the referral route for treatment under the reciprocal health agreement and contracts which the Board of Health has with UK hospitals will only be through the Medical Specialist Group or other Specialists employed or contracted by the Boards of Health or that Group".

Contract

"8./Appendix 2(10). In normal circumstances it will be expected that any off-island referral will be made to a consultant working for one of the institutions with which the Board has a service level agreement. A list of such institutions will be provided to the Group by the Board on an annual basis. Referral to an institution outside this list will only be made with the prior agreement of the Board's Manager.

52. Under the Contract any referrals for treatment off island are limited to those UK hospitals with which the Department has a contract. As explained above, in the case of off island eye specialists, the contract for ophthalmology that the States of Guernsey has is with Southampton. The States of Guernsey does not have a contract with the Eye Unit in Addenbrooke's or Spire Cambridge. In instances in which a patient would like to have an off-island referral to a hospital outside of the Department's contractual arrangements, prior agreement of the Department's Manager has to be obtained (this is the Department's Director of Finance and Performance). These are exceptionally authorised when the expertise and/or facilities cannot be provided by one of the Department's contracted providers. In practice, referrals outside of contracted UK hospitals are the exception, in accordance with the States objective of ensuring a degree of cost containment in relation to specialist medical care and off island treatment.
53. In Mr Rolfe's case, the Department can see no evidence that Mr Rolfe made a separate request to the Department or MSG for a referral for off-island treatment at Addenbrooke's or Spire Cambridge Hospitals. The original request was for an off island second opinion only and therefore the Second Opinion Funding Decision was solely in relation to the second opinion with the Cambridge Consultant. This is demonstrated by the letter which was sent by the MSG Consultant to the Cambridge Consultant which was limited in scope to a second opinion and made no mention of treatment [Tab 5].
54. Secondly, as Addenbrooke's and Spire Cambridge are not one of the States contracted hospitals, prior agreement would be required from the Department's Manager before any referral for treatment can be made. However, no such prior agreement was obtained in Mr Rolfe's case. It is

worth noting that in cases where off island referral for treatment is authorised, a letter is sent to the UK Consultant [Tab 25]. However, in this case no such authorisation was given and therefore no authorisation letter was sent to the UK Consultant. It follows that there was no authorisation obtained in relation to any of the off island treatments which Mr Rolfe received in Cambridge.

55. *In the event that the Department had received a request for a referral for off island treatment, it is unlikely that any such request would have been approved as the contracted hospital, Southampton, has the necessary expertise and facilities in relation to specialist eye care treatment (approximately 700 appointments or treatments per annum are held in Southampton by Guernsey patients, and to the best of the Department's knowledge, it has no record of any clinical complaints regarding treatment received in Southampton over the past five years).*
56. *Mr Rolfe's subsequent request that the Department should fund the off island treatment in Addenbrooke's and Spire Cambridge is therefore outside the scope of the Contract, and the States funding policy in relation to off island referrals for treatment. In rejecting Mr Rolfe's request to fund the off island treatment, and therefore in making the Off Island Treatment Funding Decision, the Department therefore acted in accordance with the States Policy and the provisions of the Contract.*
57. *The Department makes every effort to apply the funding policies fairly, consistently and reasonably with all of its patients. The Department's mandate includes being "accountable to the States for the management and safeguarding of public funds and other resources entrusted to the Department" [Tab 22]. It would not be acceptable or good governance for patients to elect to have off island opinions or be treated at hospitals where the Department does not have a contract and still expect to be funded by the States. The Department would quickly find itself open to requests for payments for unproven treatments or procedures, and/or scales of charges that are simply not acceptable or affordable, particularly in the current economic climate.*
58. *In addition, if the Department agreed to reimburse Mr Rolfe outside of the provisions of the Contract, and States Policy, this would initiate a precedent where other patients could be referred off island outside of the ambit of the Contract yet expect reimbursement. This would quickly lead to there being little control over off island expenditure.*
59. *Taking all of these considerations into account, due to the fact that off island treatment would have been available to Mr Rolfe from independent eye specialists at Southampton, that no request was made by Mr Rolfe for referrals for off island treatment either before or soon after the treatment, and that therefore no off island treatment was authorised by the Department, the Department's decision to reject Mr Rolfe's request for funding for off island second treatment with two hospitals with which the Department had no contractual arrangements with, was fair and reasonable in the circumstances.*

In Summary

60. *In summary, the Department therefore submits that in making the Funding Decisions not to reimburse the fees and charges incurred by Mr Rolfe as a result of consultations and treatment received at Addenbrooke's and the Spire Cambridge, the Department –*

- acted in accordance with the current States Policy and Contract in relation to the funding of off island Second Opinions and Referrals, and

- secondly, applied the States Policy and Contract in relation to the funding of off island Second Opinions and Referrals reasonably in the circumstances.

61. *It follows that the Department submits that none of the circumstances detailed in section 7(3) of the Administrative Decisions Law apply in relation to the Funding Decisions. Taking each of the criteria in turn -*

62. *Section 7(3)(a)* - *the Funding Decisions were not contrary to law, as the Department's decisions were in accordance with the legislative framework set out under the Health Service (Benefit) (Guernsey) Law, 1990, the Contract and the various Resolutions made by the States of Guernsey in relation to the funding of off island second opinions and treatment,*

63. *Section 7(3)(b)* – *the Funding Decisions were not unjust, oppressive or improperly discriminatory – the Funding Decisions applied the existing States policy on off island second opinions and treatment fairly and proportionately in the circumstances,*

64. *Section 7(3)(c)* – *the Funding Decisions were not based on a mistake of law or fact,*

65. *Section 7(3)(d)* – *the Funding Decisions were reasonable decisions and within the range of reasonable responses available to the Department at the time in which it made its decisions. In the event that the Review Board focuses on section 7(3)(d), the Department would like to remind the Review Board that the concept of reasonableness must be viewed in light of the range of reasonable decisions available to a decision maker. The Department would like highlight a section of the Review Boards Guidance Note for Departments [page 2] which clearly explains that –*

"It is important to recognise that it is possible for different groups to reach different decisions on the same facts. This does not mean that one decision is reasonable and the other is not. This is because there is usually a range of reasonableness, where even a detractor of a decision can objectively agree that a decision is not unreasonable based on the facts, even though he disagrees with the decision. Therefore the fact that the Review Board might have decided the same matter differently had it make the original decision does not mean that the original decision was unreasonable" and

"It is therefore a serious step for a Review Board to effectively cancel a decision and so is one which should not be taken lightly. This underlines the principle that the review is to determine if something significantly has really "gone wrong rather than a lower threshold of something like "this would be a better decision".

- 66. The standard of healthcare available to Guernsey residents compares favourably with many other developed countries and territories, particularly for a small Island with approximately 63,000 inhabitants. However, in order to deliver and sustain a high quality and sophisticated health care service to all residents, this does necessitate the implementation of certain boundaries in relation to the service provided. The Review Board is reminded that one of the main objectives behind the introduction of reforms to the health care delivery system in Guernsey was to ensure a degree of cost containment in the future. This provides a strong rationale as to why specialist medical benefit is restricted to treatment and consultations in Guernsey and Alderney, and why there are restrictive terms in relation to off island second opinions and referrals for treatment under the Contract. Together with the Department's mandate to safeguard public funds, the Department has a responsibility to ensure that the Contract provisions relating to off island opinions and treatment are applied consistently.*
- 67. The Department submits that the Funding Decisions were within the range of reasonable decisions available to the Department.*
- 68. Section 7(3)(e) – the Funding Decisions applied the States policy fairly and consistently and therefore were not contrary to the generally accepted principles of natural justice.*
- 69. Therefore the Review Board is respectfully invited to find that none of the circumstances in section 7(3) of the Administrative Decisions Law apply in relation to the Funding Decisions, and therefore requests that the Review Board declines to make a declaration requesting that the Department reconsiders the Funding Decisions.*

OTHER ISSUES RAISED BY MR ROLFE

INTERNAL PROCEDURES

- 70. The Department submits that its current internal procedures in relation to the application of the States Policy and Contract on the funding of off island second opinions and referrals for off island treatment are fair and reasonable.*
- 71. However, the Department is keen to listen to the comments that Mr Rolfe has in relation to considerations that the Department should have in relation to "off-island referral policies, patient choice, various MSG/HSSD administrative arrangements and procedures and the equipment resources available to the MSG eye consultants" [Tab 2].*

72. *The Department is always looking to improve existing procedures and therefore thanks Mr Rolfe for his valuable input in relation to his experiences.*
73. *For example, Mr Rolfe submits that there should be more involvement of patients in the decision making process in relation to funding decisions and that patients should have sight of the request made by MSG for off island funding, and a detailed explanation for any refusal. Currently, the MSG Consultant is responsible for representing the patient's case to the Department, and the Department then communicates its decision to the MSG Consultant, who in turn communicates this to the patient [Tab 1, 2].*
74. *Further, Mr Rolfe contends that, despite the presence of a complaints procedure, he would like to see a separate appeal mechanism in place for funding decisions [Tab 1, 2].*
75. *The Department is currently reviewing its existing procedures in relation to off island referrals and opinions, and will therefore ensure that Mr Rolfe's comments together with feedback from any other patients or individuals are taken into account during its review.*
76. *However, it is important to note that any amendment to States policies or a provision of the Contract in relation to the funding of off island opinions or referrals for treatment would have to be put before the States, as it does not have the mandate to amend any such policies unilaterally either contractually (due to the existing contract with MSG) or constitutionally (due to the fact that it has an obligation to adhere to the existing States resolutions).*

THE DEPARTMENT'S COMPLAINTS POLICY

77. *The Department submits that it has an extensive and independent complaints policy in place. This is set out in the document entitled "Dealing with Complaints". The Department's complaints procedure incorporates a first and second stage process which has been developed in conjunction with the Jersey Health and Social Services whereby unresolved complaints originating in Guernsey can be independently reviewed in Jersey (and vice versa). The policy therefore allows complaints to be independently reviewed by individuals who have no involvement in the original decision, and allows complainants to present their grievance in detail to an independent panel.*
78. *The Department therefore contests any claim from Mr Rolfe that the Department's complaints process is not independent or does not meet accepted international standards [Tab 1, 2].*
79. *Mr Rolfe's complaint was investigated by the Department and it was established in the first part of the First Stage of the complaints procedure, that, in accordance with the States Policy, and the Contract, that the Department could not authorise reimbursement of the expenses incurred. This*

decision was communicated by way of letter from the Chief Officer to Mr Rolfe on the 24th October 2012 [Tab 12].

80. *However, having reviewed Mr Rolfe's recent submissions, the Department can see why Mr Rolfe has been disappointed by the way in which his complaint has been handled in that it would appear from the papers that he was not made aware of the full extent of the appeals process within the Department's complaints policy, or of the fact that the complaints process had not yet been fully exhausted. This is unfortunate as the complaints process would have given Mr Rolfe access to a review by an independent body and the ability to set out his grievance in full.*
81. *The Department would like to take this opportunity to apologise to Mr Rolfe for the fact that he was not made aware of the full extent of the complaints procedure and that not all of the steps within the complaints procedure were completed, and would like to suggest that Mr Rolfe's complaint is, at Mr Rolfe's request, either reinvestigated or referred to the Appeal Panel under the Complaint's Policy in order that the appropriate complaints channels available to Mr Rolfe are fully exhausted.*
82. *The Department would also like to acknowledge that it is currently reviewing its internal procedures in relation to the handling of complaints, particularly the communication of the Department's complaints process to patients, so that they are fully aware of the process.*

CONCLUSION

83. *In conclusion, the Review Board is respectfully invited to find that none of the circumstances detailed in section 7(3) of the Administrative Decisions Law apply in relation to the Funding Decisions, and therefore requests that the Review Board declines to make a declaration requesting that the Department reconsiders the Funding Decisions.*

Health and Social Services Department

23 May 2013”

10. Decision of the Review Board

- 10.1 The Review Board has considered all the evidence submitted to it by the Parties, both written and verbal, and unanimously finds as follows:

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| <p>(a) The Review Board agrees that sections 7 (3) (a), (c) and (e) of the Law do not apply to the Department's Decision.</p> <p>(b) The Review Board is of the view that section 7 (3) (d) is applicable in that the decision is one which could not have been made by a reasonable body of people after proper consideration of all the facts.</p> <p>(c) In addition, giving the words in section 7 (3) (b) their ordinary meaning, the Review Board considers that the Decision was unjust.</p> <p>The Review Board unanimously requests that the Department should reconsider its decision.</p> |
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- 10.2 The Review Board agrees that the Department must act in accordance with States' policy and its contractual arrangements.
- 10.3 The Review Board appreciates that the Department is concerned that the correct formalities should be observed in respect of patients obtaining off-island treatment.
- 10.4 The Review Board agrees that it would not be acceptable for patients routinely to elect to be treated at hospitals with which the Department does not have a contract and still expect to be funded or reimbursed by the States. The Review Board notes that the Department has a duty to safeguard public funds. The Review Board, as a result of its decision, would not wish the Department to be open to requests for payments for unproven treatments or procedures or to charges which would be wholly unreasonable.
- 10.5 However, the Review Board must make its decision on the merits of the case before it and in accordance with the provisions of the Law.
- 10.6 The Department's mandate makes it responsible for, inter alia:

“preventing or diagnosing and treating illness, disease and disability”; and “caring for the sick, old, infirm and those with disabilities” .

In respect of secondary healthcare, the MSG provides services on behalf of the Department.

- 10.7 The Review Board regards the specialist health scheme to be a compact between the States of Guernsey and the people of Guernsey as set out in the relevant

Billets d'État of the 1990s. The States has chosen to provide secondary healthcare through contracting with a service provider, the MSG, but nonetheless it remains a service under what the Review Board regards as that compact, for which the Department and ultimately the States must accept full responsibility.

- 10.8 Therefore, in the opinion of the Review Board, it is the obligation of the Department and any agent which it has contracted – rather than the obligation of the patient – to ensure that correct procedures are followed or at least to ensure that everything reasonable is done to bring those correct procedures to the attention of the patient and make clear the consequences, including in respect of funding, of any deviation from those correct procedures. It cannot be appropriate to require a patient, who may be unwell or vulnerable, to become an expert in referrals policy and to expect a patient to question advice provided, or a course of action suggested, by the Department or any service provider acting on its behalf lest that such advice or suggestions should contravene the Department's and the States' policies. And yet it seems that was what the Department expected of the Complainant in this case.
- 10.9 The Department stated that its *“existing procedures do not involve it communicating individual decisions to patients for reasons of confidentiality. When the requests for funding are made to the Department, they are anonymously made by the MSG to the Department. The Department then communicates its funding decision to MSG, who then in turn communicate the funding decision to the patient.”*
- 10.10 While the Review Board appreciates that patient confidentiality is of the utmost importance, where it cannot be confirmed to the patient that all of the personal and medical circumstances of his case have been taken into account by the decision-maker(s) at the Department, it is difficult to see how the Department can maintain that its decision is objective and has been made by a reasonable body of persons after proper consideration of all the facts. The Review Board understands that in such cases the decision-maker(s) at the Department are administrative rather than medical staff, which adds further weight to the concerns of the preceding sentence.
- 10.11 The Review Board is convinced that in establishing the secondary healthcare scheme the States would have expected the Department to apply its discretion objectively in the case of certain claims for funding which on a strict interpretation might fall outside of the list of procedures clearly covered by the scheme but where there are exceptional circumstances. However, the Review Board is not remotely persuaded that all of the relevant facts of the Complainant's claim for funding – and especially his previous experience at Southampton – were taken into account by the Department. At the Hearing the Department was firm in stating that the Complainant could have been seen by an alternative consultant at Southampton, but it appears that was not made clear when perhaps it should have been, at the time when the off-island referral was being made in the summer of 2012. All things considered, the Review Board is inclined to believe that it was in the unjust application of its policy that the Department made a decision which in the circumstances was wholly unreasonable.

- 10.12 In view of this and a previous Review Board decision, and in the interests of its patients, the Review Board hardly needs to emphasise to the Department the importance of ensuring that service providers with which it has contracted comply with policies regarding off-island referrals.
- 10.13 In its submission, the Department drew the attention of the Review Board to that part of its contract with the MSG which states that: *“In normal circumstances it will be expected that any off-island referral will be made to a consultant working for one of the institutions with which the [Department] has a service level agreement. A list of such institutions will be provided to the Group by the [Department] on an annual basis. Referral to an institution outside this list will only be made with the prior agreement of the [Department] Manager.”*
- 10.14 The words “in normal circumstances” rather imply a recognition that occasionally there may be abnormal or unusual circumstances which will demand some discretion in the application of the policy. The Review Board is of the opinion that in view of his previous poor experiences at Southampton – which he described in detail during a closed part of the Hearing – the Complainant’s circumstances could be described as “abnormal”.
- 10.15 The Review Board wishes to emphasise that the Department, in its submission, conceded the following:
- “...the Department can see why Mr Rolfe has been disappointed by the way in which his complaint has been handled in that it would appear from the papers that he was not made aware of the full extent of the appeals process within the Department's complaints policy, or of the fact that the complaints process had not yet been fully exhausted. This is unfortunate as the complaints process would have given the Complainant access to a review by an independent body and the ability to set out his grievance in full.*
- “The Department would like to take this opportunity to apologise to Mr Rolfe for the fact that he was not made aware of the full extent of the complaints procedure and that not all of the steps within the complaints procedure were completed...”*
- 10.16 The Complainant first raised his grievances with the Department in September, 2012 and at that time specifically requested information about how he could appeal against or complain about the funding decisions. The Department was notified about the Review Board Hearing in February, 2013. Yet neither the Complainant nor the Review Board was afforded access to the Department’s complaints procedure until two days before the Hearing at the end of May, 2013. This failure was no doubt an oversight or omission, but it was extremely unfair and unjust on the Complainant. Preparing for a Review Board and presenting evidence in public must be taxing for any Complainant, perhaps especially for those whose complaints concern their health, and Review Boards should be used only when all Departmental appeals procedures have been exhausted. The Review Board notes that the Department is currently reviewing the way in which it handles complaints and appeals, and the Review Board wishes to encourage the Department in the strongest possible terms to ensure the full and proper

application of appeals processes in order to avoid a repeat of the very poor experience of the Complainant in this case.

- 10.17 The Department was unable to demonstrate that the Complainant was provided with relevant information relating to the correct procedures, including funding procedures, for second opinions and treatment off-island. The Complainant had no recollection of having received any such information. A patient would probably look no further, and might not be expected to look any further, than a leaflet which is in the public domain about secondary healthcare and the funding thereof. The leaflet states that funding does not extend to private specialist care provided by someone not under contract to the States. In this case there is no reason to believe that the Complainant knew that by visiting the Cambridge Consultant he was entering private specialist care provided by someone not under contract to the States; indeed, if anything, the reverse is likely.
- 10.18 Therefore the Review Board is of the opinion that the only reasonable conclusion it can draw from the evidence put before it is that the Complainant believed that he would be reimbursed for medical costs incurred in visiting the Cambridge Consultant and that neither the Department nor its service provider acted with the clarity that was required to disabuse the Complainant of that not unreasonable belief at an early stage.
- 10.19 The Review Board is of the opinion that in refusing to reimburse the Complainant, the Department placed too much emphasis on what it seems to have regarded as the Complainant's wish to go to Cambridge for reasons of convenience (vis-à-vis his home there) and placed too little emphasis on what the Review Board believes to have been the Complainant's more material consideration: his wish to avoid going to Southampton, where he felt he had such a poor experience previously. The Review Board considers that in the circumstances it was not unreasonable for the Complainant to wish to avoid having to attend at Southampton again. At times during the Department's submission the Review Board felt that the Complainant was being portrayed as virtually having forced the Guernsey Consultant to refer him to Cambridge – and it is stretching the bounds of probability to believe that a consultant/patient relationship would work in such a way.
- 10.20 This case turns upon its own facts. In the Review Board's opinion, it is of particular relevance that the MSG consultant had told the Complainant that in his opinion no further treatment would restore his vision. Yet, the second opinion and subsequent treatment by the Cambridge Consultant resulted in the restoration of the Complainant's sight to the condition that it was in prior to June 2012. Therefore, the Review Board is of the opinion that a reasonable body of persons, having considered objectively all the facts of this case, would at the very least have reimbursed the Complainant up to a value equal to that which the States would have expended had the second opinion and subsequent treatments been obtained from Southampton rather than Cambridge.

10.21 Therefore, the Review Board respectfully requests the Department to reconsider its decision and to reimburse the Complainant at the very least along the lines set out in the preceding paragraph.

10.22 The Review Board should be grateful for a response from the Department by 31st July, 2013.

Deputy Matt Fallaize (Chairman)

Deputy Scott Ogier

Richard Heaume, Esq MBE

Date: 25th June 2013

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

(NB The Policy Council has no comment to make on this report.)

The States are asked to decide:-

VI.- Whether, after consideration of the Report dated 7th April, 2014, of the Panel of Members (constituted by the Administrative Decisions (Review) (Guernsey) Laws, 1986-1993), they are of the opinion to note the contents of the Report.