



# BILLET D'ÉTAT

WEDNESDAY, 28th OCTOBER, 2015

XVIII  
2015

## LEGISLATIVE BUSINESS

1. Projet de Loi entitled The Dog Licences (Guernsey) (Amendment) Law, 2015, p. 2709
2. The Renewable Energy (Guernsey) Ordinance, 2015, p. 2709
3. The Seafarer Recruitment and Placement Services (Maritime Labour Convention 2006) (Sark) Ordinance, 2015, p. 2710
4. The Forfeiture of Money, etc. in Civil Proceedings (Bailiwick of Guernsey) (Amendment) Law, 2012 (Commencement) Ordinance, 2015, p. 2711

## STATUTORY INSTRUMENTS LAID BEFORE THE STATES

The Companies (Transitional Provisions and Commencement) Regulations, 2015, p. 2712  
The Investor Protection (Designated Countries and Territories) (Amendment) (AIFMD) Regulations, 2015, p. 2712  
The Sea Fish Licensing (Documents and Notices) (Bailiwick of Guernsey) Regulations, 2015, p. 2713  
The Air Navigation (Restriction of Flying) (Bailiwick of Guernsey) Air Display Regulations, 2015, p. 2714  
The Air Navigation (Restriction of Flying) (Bailiwick of Guernsey) Alderney Royal Aero Club Air Racing Regulations, 2015, p. 2714  
The Bornement (Fees) Regulations, 2015, p. 2715  
The Elections (Presence of Candidates at Count) Rules, 2015, p. 2715

## ALL OTHER PARLIAMENTARY BUSINESS

5. Policy Council – Revision of the Financial Supervisory and Regulatory Laws, p. 2716
6. Policy Council – Appointment of an Ordinary Member of the Guernsey Financial Services Commission, p. 2757
7. Policy Council – Standardising the Measurement of Guernsey's Gross Domestic Product, p. 2760
8. Social Security Department – Benefit and Contribution Rates for 2016, p. 2783
9. Public Services Department – Wastewater Network Extension Programme, p. 2843

## APPENDIX

Culture and Leisure Department – Channel Islands Lottery - 2014 Report and Accounts, p. 2858

# BILLET D'ÉTAT

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## TO THE MEMBERS OF THE STATES OF THE ISLAND OF GUERNSEY

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I hereby give notice that a Meeting of the States of Deliberation will be held at **THE ROYAL COURT HOUSE**, on **WEDNESDAY**, the **28th OCTOBER, 2015** 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

18<sup>th</sup> September 2015

## **PROJET DE LOI**

entitled

### **THE DOG LICENCES (GUERNSEY) (AMENDMENT) LAW, 2015**

The States are asked to decide:-

I.- Whether they are of the opinion to approve the draft Projet de Loi entitled “The Dog Licences (Guernsey) (Amendment) Law, 2015”, 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 repeals section 6(2) of The Dog Licences (Guernsey) Law, 1969 which requires the Constables of a parish to publish a statement each March in La Gazette Officielle setting out the amount of dog tax received by them during the previous calendar year and the purposes for which such tax has been spent.

### **THE RENEWABLE ENERGY (GUERNSEY) ORDINANCE, 2015**

The States are asked to decide:-

II.- Whether they are of the opinion to approve the draft Ordinance entitled “The Renewable Energy (Guernsey) Ordinance, 2015”, and to direct that the same shall have effect as an Ordinance of the States.

#### **EXPLANATORY MEMORANDUM**

This Ordinance provides for the detailed regulation of large scale tidal, wave and wind power and other renewable energy projects any part of which are located in Guernsey waters. It is made under The Renewable Energy (Guernsey) Law, 2010 ("the Law") and has been finalised following public consultation on the Ordinance in late 2014/early 2015. It has been drafted so as to be broadly consistent with the renewable energy licensing regime provided for under The Renewable Energy (Alderney) Ordinance, 2008 although it contains further provisions in relation to declarations and civil notices not yet included in the Alderney Ordinance.

Part I gives the Commerce and Employment Department a power to amend by regulations the current exemptions from the application of the renewable energy legislation set out in Schedule 1 to the Law and to make provision by regulations in relation to the conduct, control and administration of renewable energy activities.

Part II sets out the detailed licensing regime including provisions concerning applications in relation to licences and publicity and required consultation in relation to the same. This includes the requirement for environmental statements and decommissioning

programmes to accompany applications relating to actual use or deployment of tidal or wind turbines and other renewable energy systems; the required content of such statements and programmes is set out in Schedules 1 and 2. Sections 4 and 7 set out the matters the Renewable Energy Commission ("the Commission") has to consider in deciding applications; section 5 sets out the persons who must be consulted in relation to applications and section 6 and Schedule 4 allow for the Commission to hold hearings or public inquiries concerning applications in relation to licences or the making of declarations under Part III where considered necessary. This part also provides powers to vary, revoke, suspend or transfer licences and allows for their surrender by licence holders.

Part III provides for the Commission to make declarations, for safety reasons, in relation to tidal or wave arrays for which the detailed procedure is set out in Schedule 6. Declarations can be made restricting or extinguishing rights of navigation and/or creating safety zones in the vicinity of arrays. This Part contains related prohibitions and offences of entering or remaining in a safety zone subject to the exceptions in Schedule 5.

Parts IV to VII provide for a full suite of civil and criminal enforcement provisions. The powers are comprehensive as if there were a proposal to install a major tidal array in Guernsey waters it may be necessary, for example, both to investigate the suitability of a prospective operator under Part IV and take physical enforcement action (inspection of arrays or service platforms) under Part VII following installation. Part VIII provides for rights of appeal against decisions of the Commission to the Royal Court.

Part IX provides for some additional offences to the general offence set out in section 32 of the Law. Part X provides for miscellaneous provisions including a power for the Commission to co-ordinate and act as a point of contact in relation to all consents required for a renewable energy project and to issue guidance on provisions in the Law and Ordinance.

### **THE SEAFARER RECRUITMENT AND PLACEMENT SERVICES (MARITIME LABOUR CONVENTION 2006) (SARK) ORDINANCE, 2015**

The States are asked to decide:-

III.- Whether they are of the opinion to approve the draft Ordinance entitled "The Seafarer Recruitment and Placement Services (Maritime Labour Convention 2006) (Sark) Ordinance, 2015", and to direct that the same shall have effect as an Ordinance of the States.

### **EXPLANATORY MEMORANDUM**

This Ordinance is made under The Employment Agencies (Enabling Provisions) (Bailiwick of Guernsey) Law, 2012 ("the enabling Law"). It has effect in Sark and gives domestic effect to the requirements of Regulation 1.4 of The Maritime Labour Convention 2006 ("the Convention") in that Island. Regulation 1.4 is concerned with the

conduct of seafarer recruitment and placement services. The rationale for giving domestic effect to its provisions within the Bailiwick - essentially to ensure relevant local businesses were not prejudiced by the coming into force of the Convention - is set out in the Policy Letter on the Enabling Law (article VII, Billet d'État No. I of 2015).

The enabling Law came into force in Sark on 7<sup>th</sup> October 2013, and requires that the relevant Committee of Chief Pleas (Finance and Resources Committee) be consulted before an Ordinance made under it having effect in Sark is made. That Committee has been duly consulted and is content with the Ordinance's terms.

The Ordinance is in essentially the same terms (with necessary modifications) as The Seafarer Recruitment and Placement Services (Maritime Labour Convention 2006) (Guernsey and Alderney) Ordinance, 2013 which came into force on 1<sup>st</sup> November 2013. Sark was not in a position to confirm that it wished to have an Ordinance under the enabling Law to extend to it when that Guernsey and Alderney Ordinance was made, so rather than delay the making of that Ordinance, the decision was made at that time to legislate for Sark separately.

**THE FORFEITURE OF MONEY, ETC. IN CIVIL PROCEEDINGS  
(BAILIWICK OF GUERNSEY) (AMENDMENT) LAW, 2012  
(COMMENCEMENT) ORDINANCE, 2015**

The States are asked to decide:-

IV.- Whether they are of the opinion to approve the draft Ordinance entitled “The Forfeiture of Money, etc. in Civil Proceedings (Bailiwick of Guernsey) (Amendment) Law, 2012 (Commencement) Ordinance, 2015”, and to direct that the same shall have effect as an Ordinance of the States.

**EXPLANATORY MEMORANDUM**

This Ordinance commences The Forfeiture of Money, etc. in Civil Proceedings (Bailiwick of Guernsey) (Amendment) Law, 2012 on the 28<sup>th</sup> October, 2015.

***STATUTORY INSTRUMENTS LAID BEFORE THE STATES***

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

**THE COMPANIES (TRANSITIONAL PROVISIONS AND COMMENCEMENT) REGULATIONS, 2015**

In pursuance of Section 537 of The Companies (Guernsey) Law, 2008, “The Companies (Transitional Provisions and Commencement) Regulations, 2015”, made by the Commerce and Employment Department on 6<sup>th</sup> August, 2015, are laid before the States.

**EXPLANATORY NOTE**

These Regulations bring The Companies (Guernsey) Law, 2008 (Amendment) Ordinance, 2015, which makes extensive amendments to The Companies (Guernsey) Law, 2008, into force on the 3<sup>rd</sup> September, 2015, subject to the savings and transitional provisions set out in the Regulations.

**THE INVESTOR PROTECTION (DESIGNATED COUNTRIES AND TERRITORIES) (AMENDMENT) (AIFMD) REGULATIONS, 2015**

In pursuance of Section 21(4) of The Protection of Investors (Bailiwick of Guernsey) Law, 1987, “The Investor Protection (Designated Countries and Territories) (Amendment) (AIFMD) Regulations, 2015”, made by the Policy Council on 3<sup>rd</sup> August, 2015, are laid before the States.

**EXPLANATORY NOTE**

The Protection of Investors (Bailiwick of Guernsey) Law, 1987 ("the Law") prohibits the carrying on of controlled investment business without a licence issued by the Financial Services Commission ("the Commission"), and provides that a licensee may carry on such business in connection with a collective investment scheme only if the scheme is authorised by the Commission.

Under section 29 of the Law, activities and schemes authorised in designated countries or territories can be exempted from those requirements. The Investor Protection (Designated Countries and Territories) Regulations, 1989 ("1989 Regulations") designated the United Kingdom, Jersey and the Isle of Man as such countries and territories in respect of schemes authorised under the laws of those jurisdictions. Later, The Investor Protection (Designated Countries and Territories) (Republic of Ireland) Regulations, 1992 added the Republic of Ireland to the list of designated countries and territories by amending the 1989 Regulations.

These Regulations further amend the 1989 Regulations to designate each European Union Member State ("designated Member State") that, in the opinion of the Policy Council, has implemented the European Union Alternative Investment Fund Managers Directive. These European Union Member States are designated in relation to Alternative Investment Funds ("AIFs") within the meaning of that Directive. The effect of these Regulations is that –

- (a) a person who (or a body which) does not have a permanent place of business in the Bailiwick and is recognised by the law of the designated Member State as a national of that Member State, and promotes an AIF in or from within that Member State in a manner permitted by the law of that Member State, would be entitled to similarly promote the AIF in or from within the Bailiwick without a licence once the person has notified the Commission that that person intends to do so and has complied in other respects with section 3(1) of the Law (which relates to licence applications); and
- (b) a licensee would be free to carry on any restricted activity for which the licensee has a licence in connection with any such AIF if that licensee observes any requirements subject to which that activity may be carried on in the designated Member State.

#### **THE SEA FISH LICENSING (DOCUMENTS AND NOTICES) (BAILIWICK OF GUERNSEY) REGULATIONS, 2015**

In pursuance of Section 22 (1) (c) of The Sea Fish Licensing (Bailiwick of Guernsey) Law, 2012, "The Sea Fish Licensing (Documents and Notices) (Bailiwick of Guernsey) Regulations, 2015", made by the Commerce and Employment Department on 16<sup>th</sup> July, 2015, are laid before the States.

#### **EXPLANATORY NOTE**

These Regulations relate to licences granted, varied, suspended or revoked under the provisions of The Sea Fish Licensing (Bailiwick of Guernsey) Law, 2012 and make provision for the manner in which documents are to be delivered, or notices to be given, for documents or notices to be treated as delivered or given if they are posted or otherwise communicated in accordance with the Regulations and for notices to be given by publication in newspapers or on websites.

These regulations came into operation on the 16<sup>th</sup> July 2015.

**THE AIR NAVIGATION (RESTRICTION OF FLYING) (BAILIWICK OF GUERNSEY) AIR DISPLAY REGULATIONS, 2015**

In pursuance of Section 151 (4) of The Air Navigation (Bailiwick of Guernsey) Law, 2012, “The Air Navigation (Restriction of Flying) (Bailiwick of Guernsey) Air Display Regulations, 2015”, made by the Director of Civil Aviation - Commerce and Employment Department on 20<sup>th</sup> August, 2015, are laid before the States.

**EXPLANATORY NOTE**

These regulations prohibit (subject to the granting of exemptions) all flights within four and a half miles of position:

N 49 27 18.1710  
W 002 31 27.0479

between 0950 and 1225 hours UTC on the 10<sup>th</sup> September, 2015 by reason of an air display. They impose other restrictions on flying and the use of Guernsey Airport in order to enable the display to be undertaken safely.

These regulations came into effect on 1<sup>st</sup> September, 2015.

**THE AIR NAVIGATION (RESTRICTION OF FLYING) (BAILIWICK OF GUERNSEY) ALDERNEY ROYAL AERO CLUB AIR RACING REGULATIONS, 2015**

In pursuance of Section 151 (4) of The Air Navigation (Bailiwick of Guernsey) Law, 2012, “The Air Navigation (Restriction of Flying) (Bailiwick of Guernsey) Alderney Royal Aero Club Air Racing Regulations, 2015”, made by the Director of Civil Aviation - Commerce and Employment Department on 20<sup>th</sup> August, 2015, are laid before the States.

**EXPLANATORY NOTE**

These regulations came into effect on 1<sup>st</sup> September, 2015.



**THE BORNEMENT (FEES) REGULATIONS, 2015**

In pursuance of Sections 1 and 5 of The Fees, Charges and Penalties (Guernsey) Law, 2007, “The Bornement (Fees) Regulations, 2015”, made by the Policy Council on 24<sup>th</sup> August, 2015, are laid before the States.

**EXPLANATORY NOTE**

These regulations increase the Bornement Fees from £15.00 to £25.00.

These regulations came into operation on the 1<sup>st</sup> September, 2015.

**THE ELECTIONS (PRESENCE OF CANDIDATES AT COUNT) RULES, 2015**

In pursuance of the powers conferred on it by Article 38A (4) of The Reform (Guernsey) Law, 1948, as amended, “The Elections (Presence of Candidates at Count) Rules, 2015” made by the States’ Assembly and Constitution Committee on 5<sup>th</sup> August, 2015, are laid before the States.

**EXPLANATORY NOTE**

These Rules set out the criteria for candidates or their representatives to be present when the votes are counted at Deputies’ and parochial elections. In line with the forthcoming change to The Reform (Guernsey) Law, 1948, as amended, to remove the “legal disability” which prevented certain people from participating in the electoral process anyone aged 18 or over (who is not in prison on the day of the count) can now act as a representative of a candidate. These Rules will come into force on the 1<sup>st</sup> November, 2015.

## POLICY COUNCIL

### REVISION OF THE FINANCIAL SUPERVISORY AND REGULATORY LAWS

#### 1. EXECUTIVE SUMMARY

- 1.1.1 The Guernsey Financial Services Commission (the “**GFSC**”) has undertaken an extensive public consultation on revising the Bailiwick’s supervisory and regulatory laws to maintain the Bailiwick’s reputation as an efficient and well-regulated international finance centre. This has been part of the GFSC’s Revision of Laws project.
- 1.1.2 The proposals in this Policy Letter represent the outcome of that public consultation process and follow discussions between representatives of the GFSC, the Commerce and Employment Department (the “**C&E Department**”), and the Policy Council.
- 1.1.3 The Finance Sector Strategy published by the C&E Department in 2014 advocates the retention of an internationally respected regulatory environment for the financial services industry. This environment should include a proportionate regulatory approach and facilitate innovation in the industry.
- 1.1.4 The proposals in this Policy Letter will help to ensure that goal is achieved by enabling the Bailiwick to continue to meet international regulatory standards, whilst at the same time being able to respond quickly to change and innovation in the financial services industry. In this way the Bailiwick will remain a well-regulated and attractive jurisdiction for financial services business.
- 1.1.5 The Policy Council recommends approval by the States of amendments to several of the Bailiwick’s financial supervisory and regulatory laws. The laws are:
  - (a) the *Banking Supervision (Bailiwick of Guernsey) Law, 1994 (as amended)* (the “**Banking Supervision Law**”);
  - (b) the *Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2000 (as amended)* (the “**Fiduciaries Law**”);
  - (c) the *Insurance Business (Bailiwick of Guernsey) Law, 2002 (as amended)* (the “**Insurance Business Law**”);
  - (d) the *Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002 (as amended)* (the “**Insurance Managers and Intermediaries Law**”); and
  - (e) the *Protection of Investors (Bailiwick of Guernsey) Law, 1987 (as amended)* (the “**Protection of Investors Law**”).

These laws are collectively referred to as the “**Supervisory Laws**” throughout this Policy Letter. (The Insurance Business Law and the Insurance Managers and Intermediaries Law are together referred to as the “**Insurance Laws**”).

- 1.1.6 The Policy Letter also recommends approval by the States of proposals for a new enforcement law, which to a significant extent would be based upon the enforcement powers currently set out in the Supervisory Laws (the “**Enforcement Law**”).
- 1.1.7 In addition, the Policy Letter recommends minor amendments to the *Financial Services Commission (Bailiwick of Guernsey) Law, 1987 (as amended)* (the “**FSC Law**”).
- 1.1.8 This Policy Letter:
  - (a) details the background to, and necessity of, the changes (see section 2);
  - (b) explains the proposed changes to the Supervisory Laws and the FSC Law, which are broken down into the following four broad categories:
    - (i) proposals to ensure compliance with international standards (including the new MiFID regime<sup>1</sup> introduced by the European Union (the “**EU**”) (see section 3);
    - (ii) proposals to create efficiencies and ensure effective supervision (see section 4);
    - (iii) proposals to eliminate unjustified inconsistencies (see section 5); and
    - (iv) proposals to support industry and look to the future (see section 6);
  - (c) sets out the proposed contents of the Enforcement Law (see section 7);
  - (d) outlines the consultation processes that have been undertaken (see sections 8, 9 and 10);
  - (e) recommends drafting of the necessary legislation (see section 12); and
  - (f) contains a list of definitions used in this Policy Letter (see Appendix 1).

## 2. WHY DO WE NEED TO MAKE CHANGES?

### 2.1 Changes to international standards

- 2.1.1 Since the 2010 assessment of the Bailiwick’s financial sector supervision and its legal framework by the International Monetary Fund (the “**IMF**”), the international standards against which the Bailiwick was assessed have advanced considerably, with all major international bodies involved in setting standards for

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<sup>1</sup> The new regime for the marketing of financial instruments within and to the European Union.

financial services supervision and regulation issuing revisions to those standards. Many of these changes have been driven by the global financial crisis, an increased emphasis on consumer protection, and the need to protect the economy and taxpayers from the economic costs of reckless financial risk-taking. The relevant international standards are detailed in Appendix 2.

- 2.1.2 A key driver behind the project timetable is the next IMF evaluation. The IMF will be interested in both the scope of the legislation and its effective implementation. For this reason action should be taken now so that the GFSC (and, therefore, the Bailiwick) has sufficient time to ensure it can demonstrate effective implementation of the new laws before the IMF evaluation. In order to meet this objective, the States are being asked to approve the recommendations in this Policy Letter.
- 2.1.3 The GFSC has identified a range of potential changes that must be made to the Supervisory Laws, supporting rules and regulations in order to ensure compliance with the revised international standards. This Policy Letter is limited to a consideration of issues that require a change to either laws or Ordinances. It does not, however, take into account measures that may be necessary to adapt the Bailiwick's anti-money laundering and countering the financing of terrorism ("AML/CFT") regime to meet the 2012 *International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation* issued by the Financial Action Task Force (the "**FATF Standards**"), or any work necessary as a result of the 2014 Moneyval evaluation of Guernsey's AML/CFT framework.
- 2.1.4 The development of supervisory and regulatory requirements by the international standard setters over the last 10 years has been significant. The Policy Council notes the steps taken by the GFSC to develop the changes necessary to maintain a risk-based and proportionate approach.

## **2.2 Changes to EU standards**

- 2.2.1 The EU has also been revising its requirements following the economic and financial crisis. Changes required to accommodate the new *Markets in Financial Instruments Directive II*<sup>2</sup> ("**MiFID II**") and the *Markets in Financial Instruments Regulation*<sup>3</sup> ("**MiFIR**") are discussed below.

## **2.3 Eliminating misunderstandings, creating efficiencies and seeking consistency**

- 2.3.1 The Bailiwick's financial services industry is governed by a range of supervisory and regulatory laws that were enacted over a number of years. The Supervisory Laws have developed sequentially and consequently evolved over time. As each law has been developed independently, there are differences within and between each of the laws. These differences and inconsistencies have created some

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<sup>2</sup> *Directive 2014/65/EU* of 15<sup>th</sup> May 2014. As a Directive it must be transported into domestic legislation by 3<sup>rd</sup> July 2016, at which time additional provisions may be introduced by the local legislature.

<sup>3</sup> *Regulation (EU) No 600/2014* of 15<sup>th</sup> May 2014. As a Regulation it applies uniformly across the EU and has direct effect in EU Member States.

misunderstandings. They also make the effective discharge of the GFSC's functions more difficult.

- 2.3.2 By way of example, the ability to surrender a licence was first introduced by the Banking Supervision Law, and the Protection of Investors Law was not at that point updated to introduce the power, although it was included in the subsequent laws. Indeed, the power evolved and by the time the Insurance Laws were drafted, the GFSC's consent was required for the surrender of a licence under those laws to take effect. There are, therefore, currently three different scenarios for the surrender of a licence across the five laws.
- 2.3.3 Greater consistency across the Supervisory Laws would result in efficiencies for both industry and the GFSC. This would help to control the fixed regulatory costs of those who hold a licence, consent, authorisation, registration or permission from the GFSC under any of the Supervisory Laws (the “**permission holders**”).

## **2.4 Supporting the financial services industry and looking to the future**

- 2.4.1 There is a symbiotic relationship between the financial services industry and its regulation. As new products and services evolve, regulation adapts to meet the risks they pose. Any alterations to the regulatory landscape can in turn allow new products to emerge, and so the pattern continues. Not every new product or service requires additional rules; indeed, the breadth of the legislative framework of the Bailiwick has been its strength, and has allowed new products to develop quickly, backed where necessary by the use of rules, codes and guidance. The Policy Council supports continuation of this approach. The Bailiwick framework must balance the need to meet both current and future standards, and must have an eye to the future to ensure that so far as possible the powers needed to address matters promptly by rules, regulations or codes are in place. In this way the GFSC will be able to provide a regulatory framework that is responsive, and which addresses developing issues in a proportionate and risk-based fashion.
- 2.4.2 The pace of change in the global financial services industry is such that the Bailiwick also needs to be able to respond quickly and appropriately to changes needed to ensure protection of the public and regulatory oversight. In addition, the Bailiwick must be able to support its industry as it seeks to extend the range of products and services on offer and the markets in which it operates.

## **2.5 Protection of the public**

- 2.5.1 The reforms proposed throughout this Policy Letter will help the GFSC further to achieve its objectives, including the protection of the public. Various proposals that will enhance consumer protection are included within each of sections 3 to 7.

## **2.6 Distinguishing between supervision and enforcement**

- 2.6.1 Supervision is one of the primary purposes of the GFSC; permission holders and others engaging with the GFSC should know that it has a proportionate and risk- and impact-based approach to supervision. Where a matter develops such that enforcement action becomes appropriate, the arrival at this stage needs to be

clearer than it has been historically. It is for this reason that the GFSC introduced a dedicated Enforcement Division in 2013.

- 2.6.2 In discussions with industry representatives it was suggested to the GFSC that the misunderstandings around when supervisory issues become matters that require sanction could be clarified by the introduction of a separate law focussing on sanctions and other enforcement powers (referred to in this Policy Letter as the Enforcement Law). This would also ensure a consistent legislative approach to enforcement, as opposed to the differing enforcement provisions in the Supervisory Laws, and would be simpler to follow, enabling the GFSC to operate more effectively. The Supervisory Laws would apply to all persons carrying on supervised activities, whilst the Enforcement Law would apply to persons as and when they become subject to some form of sanction or enforcement power.
- 2.6.3 The principal effect of having the Supervisory Laws and an Enforcement Law would be that an individual or regulated entity that becomes subject to the Enforcement Law would be certain (for example, from the name of the law cited) that its relationship with the GFSC has changed, and would thus be able to react appropriately. The GFSC also proposes to modify its internal procedures to improve clarity as to when a matter moves from supervision to enforcement. All of these changes will provide industry with a better understanding of the status of their relationship with the GFSC.
- 2.6.4 Under the framework outlined above, breaches of provisions of the Supervisory Laws, such as the minimum criteria for licensing would be actionable under the Enforcement Law.
- 2.6.5 The Enforcement Law and its contents are discussed in depth at section 7 below.

### 3. COMPLIANCE WITH INTERNATIONAL STANDARDS

#### 3.1 Changes to meet the Basel Core Principles

- 3.1.1 The Basel Committee Core Principles for Effective Banking Supervision (the “**Basel Core Principles**” or “**BCPs**”) are the international standards applicable to regulation of the banking sector. In order to meet these standards the Bailiwick must make the changes set out below.
- 3.1.2 ***Disclosure of information to foreign resolution authorities:*** An amendment to the Banking Supervision Law is required to enable the GFSC to disclose confidential information<sup>4</sup> to domestic and foreign resolution authorities, or third parties who are acting on their behalf, for the purpose of resolution planning and actions. Resolution is the process by which authorities may intervene to manage the failure of an entity in an orderly fashion.

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<sup>4</sup> For the avoidance of doubt, references in this Policy Letter to information include, where appropriate, references to documents.

- 3.1.3 **Significant shareholders:** As the definition of “*significant shareholder*” is currently drafted in the Banking Supervision Law there is some debate regarding to which institution the words “*incorporated in the Bailiwick*” apply. The Banking Supervision Law should be amended to provide a definition that applies in relation only to licensed institutions that are incorporated in the Bailiwick (i.e. subsidiaries), and not to Bailiwick branches of licensed institutions that are incorporated elsewhere.
- 3.1.4 **Objection to significant shareholders:** The Banking Supervision Law should be amended so that the GFSC may object to an existing significant shareholder on the basis that that person is no longer fit and proper to hold such a position. At the same time, wherever possible, the provisions of the *Banking Supervision Regulations 2010*<sup>5</sup> should be transferred into the body of the Banking Supervision Law. This is a technical redrafting exercise and would not change the application of the law in practice.
- 3.1.5 **Related parties:** The current definitions of related company and associate used in the Banking Supervision Law are too narrow. Amendments should therefore be made to ensure consistency with the BCPs.
- 3.1.6 **Bilateral meetings with auditors:** A provision should be included in the Banking Supervision Law to empower the GFSC to hold bilateral meetings with auditors. This change is also proposed in respect of the other Supervisory Laws and is discussed further at paragraphs 5.9.5 to 5.9.6.

## 3.2 Changes to meet the GIFCS Standard

- 3.2.1 The international standard applicable to regulation of the fiduciary sector is the *Standard on the Regulation of Trust and Corporate Service Providers* (the “**GIFCS Standard**”) issued by the Group of International Finance Centre Supervisors. The Bailiwick must make the changes below in order to meet this standard.
- 3.2.2 **Corporate directors:** According to the GIFCS Standard regulators should not permit a corporate director to be on the board of a trust and corporate service provider (“**TCSP**”). The purpose of this requirement is to ensure effective corporate governance of TCSPs. As a matter of practice, the Bailiwick’s fiduciary regime has developed the concept of lead and joint licensees, the latter generally being subsidiaries of a full (lead) licensee. However, joint licensees are still full licensees in the eyes of the law and those having a corporate director will therefore breach the GIFCS Standard.
- 3.2.3 It is proposed to dispense with the concept of lead and joint licensees, and instead introduce the concept of full and secondary licensees. The Fiduciaries Law should prohibit full licensees from having a corporate director, although secondary licensees may have a corporate director. In most cases the full licensee would

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<sup>5</sup> Regulation 3 of *The Banking Supervision (Bailiwick of Guernsey) Regulations, 2010* provides that section 14 of the Banking Supervision Law applies in relation to a significant shareholder as it applies in relation to a shareholder controller.

charge all fees and the secondary licensee would act in a non-trading capacity and facilitate the provision of services by the full licensee. A secondary licensee would generally be:

- (a) a company, partnership or limited liability partnership;
- (b) wholly owned by the full licensee or full licensee's parent; and
- (c) able to carry on such business as is allowed by the terms of any conditions placed on their licence.

3.2.4 Transitional arrangements will need to be introduced to accommodate those existing joint licensees affected by these changes.

3.2.5 ***Notification and approvals of directors and senior management:*** It is proposed that changes be made to the Fiduciaries Law to require prior notification of the appointment of directors, partners, money laundering reporting officers and compliance officers, and to provide for the GFSC to refuse approval for the appointment of such persons (in accordance with the GIFCS Standard). Further changes are proposed to the notification and approval regime across the Supervisory Laws. These are discussed at section 4.2.

3.2.6 ***Change of controllers and conflicts of interest:*** The GIFCS Standard imposes an obligation on regulators to give approval for the appointment of controllers. The Fiduciaries Law currently contains a no-objection provision in respect of a change of controller. This provision should be amended in order to bring it in line with the Standard.

3.2.7 ***Auditors and accounts:*** The GIFCS Standard requires auditors of licensees to report significant breaches of regulatory requirements to the regulator. This requirement could be satisfied by inserting into the Fiduciaries Law a provision similar to that already in the Protection of Investors Law. An auditor should be required to communicate to the GFSC matters that he or she has reasonable cause to believe are, or are likely to be, of material significance for determining whether a licensee is a fit and proper person to carry on fiduciary business, or whether the GFSC should exercise its power under the Fiduciaries Law in order to protect the reputation of the Bailiwick. The GFSC should be able to obtain copies of financial records, including audited financial statements, of parent entities and ultimate parent entities. For the avoidance of doubt, the GFSC would not routinely expect to see the accounts from the ultimate parent, and would only request these via the licensee when necessary and when they are readily available. This should not, however, impose an obligation to provide audited accounts where accounts would not otherwise be audited.

### **3.3 Change to meet IOSCO Principle 22 in relation to Credit Rating Agencies**

3.3.1 The *International Organization of Securities Commissions Objectives and Principles of Securities Regulation* (the “**IOSCO Principles**”) apply to the regulation of the investment sector.



- 3.3.2 The IOSCO Principles call for the ability to introduce a registration or licensing regime in relation to credit rating agencies. While there are currently no credit rating agencies operating from the Bailiwick, enabling provisions should be included in the Protection of Investors Law to allow the States to introduce such a regime by Ordinance if the States were to decide that this was appropriate.

### 3.4 Changes to accommodate the new MiFID regime

- 3.4.1 The primary objectives of the **new MiFID regime** are to increase transparency and improve investor protection in the EU, which includes the market in the United Kingdom (“UK”).
- 3.4.2 The new MiFID regime is in two parts:
- (a) MiFID II, aimed at providing increased protection for retail investors; and
  - (b) MiFIR, which is designed to provide common protections to professional and other investors.

This regime sets out to create a single equivalence regime for market access by providers of investment services from third countries, such as the Bailiwick, to the EU.

- 3.4.3 The new MiFID regime will come into force in the EU from 3<sup>rd</sup> January 2017. Transitional arrangements will apply for third countries until mid-2019. The regime will apply to, among others, investment firms, market operators and firms providing or performing investment services in the EU.
- 3.4.4 **Access to retail clients:** Continued access to the retail markets in a particular EU Member State will depend upon how MiFID II is adopted locally by that state and, in particular, whether that state has opted to require the establishment of a branch in its country for marketing to retail clients. To ensure branches of firms can access retail clients in an EU Member State (including the UK) under MiFID II, the Bailiwick may be required to implement an EU-equivalent investor compensation scheme. Whilst not yet forming a view as to whether or not the introduction of any such scheme is appropriate, it is recommended that the Protection of Investors Law should include enabling powers to create such a scheme by Ordinance if it is considered essential to do so.
- 3.4.5 **Access to professional and other investors:** For third countries, access to professional and other investors under MiFIR will require an assessment of jurisdictional equivalence by the European Commission (the “EC”). Whilst the principles of an equivalence assessment have been set out in MiFIR, the details remain to be determined. The degree of detail that the EC will insist upon for equivalence is still unknown and is likely to remain so until 2016. The equivalence criteria may require the GFSC to have powers of market intervention for prohibition of the sale, marketing and distribution of products, and other enforcement powers.

- 3.4.6 In order to provide flexibility, a targeted enabling power of amendment by Ordinance should be introduced into each of the Supervisory Laws, to enable the States to refine the necessary laws once the detailed requirements of the regime become clear.

#### **4. CREATING EFFICIENCIES AND ENSURING EFFECTIVE SUPERVISION**

##### **4.1 Relations between financial service businesses and the GFSC**

- 4.1.1 Co-operation, reasonableness and honesty are three key factors to ensuring the relationship between a regulator and those it regulates supports effective supervision. These factors are incorporated in the GFSC's rules and other standards including, among others, the GFSC's *Principles of Conduct of Finance Business*. For example, principle 10 states: "*A financial institution should deal with the Commission in an open and co-operative manner and keep the Commission promptly informed of anything concerning the financial institution which might reasonably be expected to be disclosed to [the Commission].*"
- 4.1.2 Provisions importing the obligations in principle 10 should be incorporated into each of the Supervisory Laws. This would balance the existing legal duty on the GFSC to act reasonably and proportionately in the exercise of its functions.

##### **4.2 Changes to the notification and authorisation regime**

- 4.2.1 The requirements to provide notification of, or seek authorisation for, a person being appointed to a position vary across the Supervisory Laws. The laws contain differing requirements in relation to a variety of positions, including auditor, director, controller, indirect controller, significant shareholder, manager, partner and shareholder controller. These differences can cause uncertainty, misunderstanding and inefficiency, particularly where an entity is licensed under more than one Supervisory Law. Some changes are required in this area to meet international standards. In addition, this is also an opportunity to standardise the Supervisory Laws.
- 4.2.2 Accordingly, the Supervisory Laws should be amended as necessary to (as far as is appropriate):
- (a) make it clear which positions require:
    - (i) express prior approval of the GFSC;
    - (ii) prior approval from the GFSC that may be deemed to have been given if it does not object within 60 days; and
    - (iii) notification to the GFSC (without any requirement for approval);
 (Collectively these roles are referred to in this Policy Letter as the "**Supervised Roles**");

- (b) ensure that where GFSC approval is required for a new appointment to a Supervised Role, it also has the power to object to an *existing* holder of such a role;
- (c) ensure that the Supervised Roles are consistent across the Supervisory Laws, and that, where possible, in each sector the notification requirements for the Supervised Roles are consistent;
- (d) include the ability to amend what constitutes a Supervised Role by Ordinance;
- (e) require a licensee to notify the GFSC of the fact that a person has become *or has ceased to* hold a Supervised Role;
- (f) permit the GFSC to determine the form, manner and content, means of transmission, and sign off for approval or notifications.
- (g) enable the GFSC to charge for change of controller applications, which require a considerable amount of work. This will avoid unfair cross-subsidisation of the scrutiny of change of control applications by other permission holders. The level of any fee to be charged would be the subject of consultation.

#### **4.3 Deemed withdrawal of an application for a permission**

- 4.3.1 The Supervisory Laws are structured such that an applicant must initiate steps in order to withdraw an application for a licence, consent, registration, authorisation or permission under the Supervisory Laws (a “**permission**”). The GFSC is able to refuse an incomplete application but is unable to deem it withdrawn. As a result, an application can sit in abeyance for an indeterminate period, a position that is not necessarily helpful to either the GFSC or the applicant. The GFSC should be able to notify any applicant under each of the Supervisory Laws that after a specified period of inactivity by the applicant the application is deemed to have been withdrawn.

#### **4.4 The ability to suspend a fiduciary licence**

- 4.4.1 The Fiduciaries Law should be amended to give the GFSC the ability to suspend (as well as to revoke) licences on request from a fiduciary licensee, or at the instigation of the GFSC, under specified circumstances. This would allow a licence to be held in abeyance and reactivated at a later date without the need to make a fresh application. This power already exists in the Protection of Investors Law, which would form the basis for the amendment.

#### **4.5 The interface between the investment and fiduciaries regimes**

- 4.5.1 From time to time some vehicles that are not part of the core of an investment structure may need to seek a discretionary exemption from the need for a licence under the Fiduciaries Law. Whilst these vehicles only exist as a consequence of the investment structure, they do not fall under the Protection of Investors

Law. The GFSC accepts that in appropriate circumstances these vehicles should not fall within the fiduciaries regime.

- 4.5.2 Amendments should be made to the Fiduciaries Law and the Protection of Investors Law (and any ancillary rules or regulations enacted) to ensure that these vehicles are excluded from the fiduciaries regime, and are instead considered to be unregulated vehicles under the Protection of Investors Law. The GFSC should have the power to make rules in relation to applications and the processing of applications, and to charge a fee for providing any associated services. The level of fee would be subject to the normal procedures for the setting of fees.

#### **4.6 Market abuse**

- 4.6.1 The GFSC can only consider market abuse in the context of the Protection of Investors Law<sup>6</sup>. The development of the international financial services industry has, however, led to a diversification in the range of market abuse practices (for example the LIBOR scandal). In light of this diversification, the GFSC is developing a code of market conduct which will, among other things, give guidance as to whether or not behaviour amounts to market abuse. The GFSC's ability to investigate suspected market abuse should be extended across all the Supervisory Laws.
- 4.6.2 There is a distinction in respect of the GFSC's current powers to investigate market abuse depending on whether the investigation arises following a request from an overseas authority or on the GFSC's own initiative. The scope of the GFSC's investigatory powers in respect of market abuse should be the same irrespective of the way in which the suspicion was first raised, and regardless of whether or not an overseas authority is also conducting an investigation. The provisions of the Protection of Investors Law on market abuse should therefore be made consistent, and similar provisions should apply to all of the Supervisory Laws.
- 4.6.3 Where a request for information is sought from a "*person involved*" and that person is completely outside the GFSC's regulatory framework, the power to obtain information may only be used with the agreement of a majority of the Commissioners. In order to streamline this process, this provision should be amended to require the approval of two Commissioners.

#### **4.7 Make directions more generally available**

- 4.7.1 Each of the Supervisory Laws includes varying powers to impose conditions on any permission. All of the Supervisory Laws other than the Protection of Investors Law also contain a power for the GFSC to impose or issue directions in specified and limited circumstances where a permission is being revoked or surrendered, or is otherwise expiring. Directions are a useful supervisory tool for remediating less serious issues where conditions might be unwieldy. In addition,

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<sup>6</sup> Market abuse is an act by which financial investors are unreasonably disadvantaged (directly or indirectly) by others who have used information that is not publicly available (insider dealing) or have distorted the price-setting mechanism of financial instruments.

directions may survive after the termination of a permission, and can also be helpful to define a required outcome without necessarily specifying the means to achieve it.

- 4.7.2 The availability of directions should be consistent across all of the Supervisory Laws, and should be of general, rather than limited, application, and not merely available in the limited circumstances of the revocation, surrender or expiry of a licence. The GFSC should also be able to publish information in relation to the imposition of directions where it thinks it desirable or expedient. The extension of directions in this way should not affect the ability of the GFSC to impose conditions on a permission in appropriate circumstances. All of the Supervisory Laws should therefore contain provisions so that generally:
- (a) the scope of directions is broadened so that they apply to permission holders (including investment funds) and Supervised Roles;
  - (b) directions should (where appropriate) continue to have effect after the termination of a permission;
  - (c) the issue of directions is without prejudice to, and may trigger, the GFSC's ability to apply regulatory sanctions in relation to a person who breaches the direction;
  - (d) a direction may be stated to have effect for a specified time period or until the occurrence of a specified event;
  - (e) the GFSC should be able to publish information in relation to the imposition of directions where it thinks it desirable or expedient for the performance of any of the GFSC's functions; and
  - (f) without prejudice to the other penalties and remedies available to it, the GFSC is able to apply to the Court for an order that a direction should be complied with when there is evidence, or a risk, of non-compliance by the party in question.

#### **4.8 Retention of documents**

- 4.8.1 There should be a standard requirement across the Supervisory Laws that a permission holder, or person connected with a permission holder, must retain information and documents for six years after the permission ceases to be held, in line with the GFSC's general power to require a former licensee to provide information and documents.
- 4.8.2 This obligation to retain documents should be wider than that imposed under the *Handbook for Financial Service Businesses on Countering Financial Crime and Terrorist Financing*. The scope of the information to be retained should be set out in rules of the GFSC, which it is anticipated will include, amongst other matters, documents such as board packs, management meeting materials, client lists, company accounts and complaints files. In the case of individual entities,

the GFSC should have the ability to extend this period by notice in writing to the entity at any time within the six year period.

#### **4.9 Annual reviews by licensed banks**

- 4.9.1 The Banking Supervision Law contains requirements for licensed banks to carry out annual reviews. These requirements lack flexibility with regard to the specific content of the review. They also impose an obligation on banks to provide the GFSC with information that is no longer required on a blanket basis under the risk- and impact-based approach to supervision that it has adopted.
- 4.9.2 The requirement concerning annual reviews should therefore be replaced with an obligation (a) to undertake an annual review in a form prescribed by rules made by the GFSC; and (b) to provide confirmation to the GFSC that the review has been completed. It should no longer be necessary for each bank to provide the GFSC with a copy of the annual review automatically, although the GFSC should retain the power to seek evidence of performance of the review and a copy of the review upon request.

#### **4.10 Electronic service of notices**

- 4.10.1 Some of the service of notice provisions under the Supervisory Laws are outdated and should be updated. Service of notices and documents by electronic transmission should also be expressly permitted under each of the Supervisory Laws.

#### **4.11 Public disclosure of financial statements of banks**

- 4.11.1 The Banking Supervision Law requires a bank to keep a copy of its most recent audited accounts at each office in the Bailiwick at which it accepts deposits and “*during normal business hours make that copy available for inspection by any person on request*”. This wording suggests that an enquirer would have to visit the bank’s Guernsey office during normal business hours to inspect a copy of the accounts. The wording of the Law should be changed to provide sufficient flexibility to accommodate those banks that wish to place a copy of their audited accounts on their website, and those that would prefer to react to individual requests via email, post or in person.

#### **4.12 Annual returns**

- 4.12.1 The GFSC currently requires returns or reviews to be submitted by permission holders under each of the Supervisory Laws. The basis for requiring these returns is set out in a variety of ways in each of the Supervisory Laws. The power to request information from each sector is also limited to information supporting the GFSC’s functions under that sector’s law. Each of the Supervisory Laws should include similar provisions, and these should extend to information sought from permission holders supporting the GFSC’s functions under any law.

#### **4.13 Information relating to financial crime**

- 4.13.1 The GFSC currently obtains statistical information relating to financial crime, money laundering and financing of terrorism issues in an ad-hoc manner. Information relating to financial crime is extremely important to enable the GFSC to fulfil its supervisory duties. All permission holders should therefore be required to submit an additional annual return relating to these and other financial crime issues. This will enable the GFSC to streamline the collection of relevant data on such issues. It will also improve data consistency and aid better analysis so as to enable the GFSC to enhance its risk-and-impact-based supervisory approach.
- 4.13.2 The GFSC is conscious of the additional work involved for firms and would keep the information requested to a minimum. The GFSC intends to issue guidelines on the information being sought; suitable timeframes for submitting information would be built into the process. One consolidated return may be appropriate for entities that hold multiple permissions.

#### **4.14 Recovery of monies due to the GFSC**

- 4.14.1 All monies due to the GFSC should be recoverable as a civil debt. Furthermore, in addition to the current power to charge administrative penalties, the GFSC should be able to charge interest on the late payment of money due to the GFSC. The level of interest should be clear and consulted on as part of the annual fee consultation process. It is believed that this would ensure fewer firms would be late in making payments. In addition, the fee-setting powers should be made uniform across the Supervisory Laws based, with appropriate modifications, upon the Insurance Laws model.

#### **4.15 Ancillary, incidental and consequential amendments**

- 4.15.1 In addition, consequential, ancillary or incidental amendments to the Supervisory Laws and the FSC Law will be required as a result of the changes proposed in this Policy Letter. A number of ancillary amendments to the Supervisory Laws should also be made, among other matters, to update references to statutory provisions or legislation that have since been updated and/or replaced, and for the rectification of minor typographical errors. In addition, there are administrative and procedural aspects of the GFSC's decision-making processes that may need clarification; as a consequence, a power should be included in the FSC Law for the GFSC to be able to make rules concerning the administration, practices and procedures of decision makers.

### **5. ELIMINATING UNJUSTIFIED INCONSISTENCIES**

#### **5.1 Definitions and clarification**

- 5.1.1 ***Designated manager:*** The Protection of Investors Law requires that both authorised and registered investment funds must appoint a locally licensed "*designated manager*". In most cases this role is limited to administration

functions. The term “*designated manager*” therefore causes misunderstanding to third parties, who do not understand that the designated manager does not necessarily have supervisory responsibility for the overall management of the investment fund or its assets. The distinction is also important in respect of the regime to be implemented following the introduction of the European Alternative Investment Fund Managers Directive (“**AIFMD**”). The term “*designated manager*” should therefore be replaced throughout the Protection of Investors Law by “*designated administrator*” to reflect the reality of the appointment. Any change should be the subject of transitional provisions, so that, for example, existing contracts would not need to be rewritten.

- 5.1.2 **Director:** The definition of “*director*” in the Insurance Laws includes “*any person in accordance with whose directions or instructions any director is accustomed to act*”. This category of person is not included within the definition of director in any of the other Supervisory Laws. Furthermore, the words are superfluous, as their meaning is already covered by the definition of “*indirect controller*” in each of the Insurance Laws. They should, therefore, be removed.
- 5.1.3 **Documents:** The same definition should be adopted across all the Supervisory Laws. This should be based on the definition contained in the Insurance Laws with any necessary clarification or amendment to ensure that it captures all information and documents recorded in any form whatsoever. It is important that definitions are fit for purpose and capable of timely amendment. This is especially so in respect of this definition, which goes to the heart of the GFSC’s ability to access information and documents necessary to carry out its functions. There should therefore be a power to enable the definition of “*documents*” to be amended by regulation, so that it remains fit for purpose and capable of timely amendment as technology advances.
- 5.1.4 **Auditor:** The Protection of Investors Law should be amended to include a definition of “*auditor*” that references the definition in the *Companies (Bailiwick of Guernsey) Law, 2008 (as amended)*.
- 5.1.5 **Amendment of definitions:** It is important that definitions can be introduced or (as mentioned in paragraph 5.1.3) updated in a timely manner as the need arises, for example, because new products have been developed. There should therefore be an enabling power included in the Supervisory Laws to allow for other definitions to be amended or inserted by Ordinance, except where other powers of amendment of definitions already exist.

## 5.2 General rule-making power with regard to applications

- 5.2.1 The Protection of Investors Law gives the GFSC the power to make rules in respect of applications for licences, authorisations or registrations under that law. An equivalent power does not, however, exist in all of the Supervisory Laws. The GFSC should have the power to issue rules relating to the application processes for all permissions with appropriate modifications across all of the Supervisory Laws.



### **5.3 Refusing consent to surrender of permissions**

- 5.3.1 The Insurance Laws both empower the GFSC to refuse consent to surrender of a licence in certain circumstances. The GFSC does not have an equivalent power in the other Supervisory Laws. In order to ensure a permission is only surrendered in appropriate circumstances and without prejudice to the interests of the public, each of the Supervisory Laws should include a power for the GFSC to refuse consent to the surrender of any permission in circumstances similar to those in the Insurance Laws. These provisions should include the power for the GFSC to refuse to allow the application for surrender of a permission to be withdrawn.

### **5.4 Information-gathering powers**

- 5.4.1 The current provisions in the Supervisory Laws relating to the power to obtain information and documents vary in their terms and scope. In some instances the provisions also combine references to different types of information sought for different purposes and from different people in a way that is no longer justified. In order to make the GFSC's powers more transparent, the current provisions relating to the power to obtain information and documents, investigations by inspectors and investigation of suspected offences should be repealed and replaced in each Supervisory Law by a general power to obtain information and documents, with only variations that are justified by reference to the specific sector. In addition, provisions relating to the investigation of specified suspected offences and the appointment of inspectors should be included in the Enforcement Law (more detailed proposals are set out in section 7).
- 5.4.2 The general power should relate to such information and documents as may be reasonably required by the GFSC for the performance of any of its functions. The GFSC should be able to request the provision of information to it from a broad range of persons and entities wherever they reside, and wherever possible these powers should be the same across all sectors. The GFSC should also have the power to specify the form and manner in which information is to be provided to it, as well as the deadline for its submission.
- 5.4.3 As the GFSC will have the power of compulsory interview under the Enforcement Law, it should have the power to request, but not compel, an interview under the Supervisory Laws.
- 5.4.4 A requirement to provide information and documents should have effect notwithstanding any obligation of confidentiality or other restriction upon the disclosure of information. However, nothing in the GFSC's information and document gathering powers should compel the disclosure of a communication subject to legal professional privilege, other than the name and address, including any email address, of any client.
- 5.4.5 The information and documents obtained under these powers should be admissible in civil proceedings (i.e. proceedings which are not criminal proceedings). However, such information and documents should not be

admissible in criminal proceedings except in specific circumstances recognised by law.

- 5.4.6 The power to require a person to produce any information or documents should include, among others, a power to require specified persons to provide a declaration or other statement as needed that addresses their custody and control over the documents prior to the service of the notice.
- 5.4.7 There is no time limit on the ability to require information from former licensees under the Banking Supervision Law or Fiduciaries Law. To the extent possible, a consistent time limit should be included in all of the Supervisory Laws.
- 5.4.8 **Relevant person:** Some of the Supervisory Laws contain provisions that require a “*relevant person*” to provide information and/or documents. This power does not, however, exist in all the Supervisory Laws, and there are inconsistencies between the various powers where they do exist. To the extent possible, a consistent definition should be adopted in each of the Supervisory Laws.
- 5.4.9 **Associated party:** Most of the Supervisory Laws currently include the ability to require information from “*associated parties*”, although the definition for these parties, and the criteria that must be met before a request can be made, differ across the laws. These provisions should be made consistent to the extent possible and included in all of the Supervisory Laws.
- 5.4.10 **Information from investment funds:** The GFSC has few powers in relation to investment funds. In order to enable it to supervise these entities appropriately, the GFSC should have the ability to obtain information from investment funds. Where information is already available from the designated managers/administrators, it would not be necessary for the GFSC to seek the same information from the investment fund.
- 5.4.11 **Unsupervised group entities and special purpose vehicles:** There are often unsupervised entities within a financial or other group, including special purpose vehicles (“*SPVs*”), present in the Bailiwick but neither the GFSC nor any other supervisory authority has any knowledge of the activities of these entities. Where they are not “*associated parties*” (which are subject to the GFSC’s powers to obtain information and documents) this lack of knowledge can present potentially significant risks to the Bailiwick as it may limit the GFSC’s ability to assess fully the position of another entity undertaking financial services business. The GFSC must be able to obtain information about, and from, these entities in order to fulfil its supervisory and regulatory functions properly.
- 5.4.12 The Supervisory Laws should enable the GFSC to obtain information from unsupervised entities of a group in the Bailiwick where one or more entities in the group undertake financial services business, and from SPVs used by such groups.
- 5.4.13 The GFSC should also be able to obtain information and documents of unsupervised entities of a group on behalf of another supervisory authority (so long as the requirements set out in the FSC Law for assisting a foreign supervisory

authority are met). (See also the discussion about providing information to foreign supervisory authorities at section 5.7.)

- 5.4.14 ***Information from discretionary exempted persons:*** The GFSC’s ability to obtain information from entities that have been granted any form of discretionary exemption (“**discretionary exempted persons**”) is one of the powers key to its ability to police the regulatory perimeter (see section 7.5). The GFSC grants an exemption on the basis of the facts presented to it; this often means no further involvement by an entity with the GFSC. Circumstances can, however, change so that it would be appropriate to bring a matter under the GFSC’s direct supervision.
- 5.4.15 In addition to powers proposed to be included in the Enforcement Law (see in particular paragraph 7.5.6), there should be an obligation on all discretionary exempted persons to notify the GFSC immediately if the circumstances justifying an exemption change. The GFSC should also have the ability to impose conditions on any discretionary exemptions, for example a condition that the discretionary exempted person must certify to it periodically that the circumstances justifying the exemption remain unchanged.

## 5.5 Power to request interviews

- 5.5.1 The Supervisory Laws include a variety of powers to require a relevant person or licensee to attend an interview with the GFSC. As part of the proposal to draw a clearer distinction between the exercise of supervisory and enforcement powers, the power to *compel* a person to attend an interview should be contained in the Enforcement Law.
- 5.5.2 With the move to a regime in the Supervisory Laws where the GFSC has the power to request individuals to attend an interview, refusal by the individual should not be an offence. This approach recognises the different focuses of supervision and enforcement. Each Supervisory Law should contain provisions so that generally:
- (a) the GFSC has the ability to request any “*relevant person*” (which includes any permission holder) or “*associated party*”, wherever they reside, to attend for questioning as may be reasonably required by the GFSC for the performance of any of its functions.
  - (b) refusal to agree to a request would not constitute an offence. Where, however, no good reason is offered, the GFSC will be entitled to draw reasonable inferences from a person’s refusal, and may rely on those inferences when making decisions. In appropriate circumstances the GFSC might decide the matter would then be an appropriate one for the use of its compulsory powers under the Enforcement Law. The circumstances of a refusal may also be a relevant consideration in any assessment as to whether a person is or remains fit and proper for the purposes of the Supervisory Laws.

- (c) a statement made by a person in response to a request should be admissible in civil proceedings (i.e. proceedings which are not criminal proceedings). However, it should not be admissible in criminal proceedings except in specific circumstances recognised by law.
- (d) the GFSC should have the power to require that those persons to be interviewed keep the request for an interview, what is provided in relation to it and the contents of the interview confidential for such period as the GFSC may reasonably require.

## 5.6 Skilled persons

- 5.6.1 The GFSC has the power under a number of the Supervisory Laws to appoint one or more competent persons (inspectors) to investigate and report to it on certain matters. In specified circumstances the GFSC may also require a permission holder to appoint an independent person to provide a report to it. These powers can be utilised by the GFSC for supervisory as well as enforcement matters. The inspector and independent person provisions also vary as between the Supervisory Laws.
- 5.6.2 It would be appropriate for the GFSC to take a different approach to supervisory matters and enforcement matters; each approach should be consistent across all sectors. In respect of a supervisory matter the GFSC should have the power to appoint, or require a permission holder to appoint, a “*skilled person*”<sup>7</sup> to provide a report of certain matters. Foreign regulators have used a corresponding power to obtain an independent view of aspects of a firm’s activities in their respective jurisdictions that cause them concern, or where further analysis is required. Repealing the various existing provisions relating to inspectors and independent persons and replacing them with a standardised provision relating to the appointment of a skilled person would simplify the legislation and ensure consistency across the Supervisory Laws. A GFSC-appointed inspector regime should be retained in relation to enforcement matters; this is addressed in paragraphs 7.2.5 to 7.2.6.
- 5.6.3 The key elements of a skilled person regime would probably be:
  - (a) the GFSC could give written notice to a permission holder requiring it to provide a report to the GFSC (on matters, and in a form, specified by the GFSC) that has been prepared by a skilled person nominated or approved by the GFSC;
  - (b) the report should be paid for by the recipient of the notice, and if any amount is invoiced to the GFSC that amount should be capable of being passed on to the recipient of the notice as a regulatory fee that is payable on demand (as occurs in the UK);

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<sup>7</sup> The “skilled person” proposals are simply a standardisation of the Commission’s current power to require a report from a nominated or approved independent professional person. The term “*skilled person*” has been inspired by the UK regime under *The Financial Services and Markets Act 2000 (UK)*.

- (c) the skilled person should be provided with all the assistance as may be reasonably required;
- (d) failure to procure a skilled person report would be an offence; and
- (e) skilled persons should not be liable in any civil proceedings in respect of anything done (or not done) in the preparation of the report unless the liability arises in respect of fraud, wilful misconduct or gross negligence<sup>8</sup>.

## **5.7 Information exchange with relevant supervisory authorities**

- 5.7.1 *Disclosure of information to foreign supervisory authorities:*** It is important for the GFSC in meeting its international obligations that it should, in appropriate circumstances, be able to obtain information on behalf of, and share information with, foreign supervisory authorities (which fall within the proposed definition of “*relevant supervisory authorities*”). There are currently specific (but differing) provisions in each of the Supervisory Laws and the FSC Law relating to the disclosure of information to foreign supervisory authorities. The GFSC should be permitted on request from an appropriate foreign supervisory authority, to use its information gathering powers for the purpose of enabling or assisting the requesting authority to carry out any of its functions.
- 5.7.2** Adopting a common definition of “*relevant supervisory authority*” is key to ensuring that the GFSC can cooperate with foreign supervisory authorities in a consistent fashion across all the supervisory sectors. This definition should be capable of amendment by regulation. It is also hoped that refining the definition of relevant supervisory authority may address the issues identified in respect of self-regulatory organisations and pan-jurisdictional authorities discussed below.
- 5.7.3 *Self-regulatory organisations:*** Self-regulatory organisations, including securities markets and stock exchanges, perform licensing functions to enable firms or individuals to carry on specified activities. These organisations often undertake vetting activities prior to permitting an activity to be conducted. The legal provisions that currently enable the GFSC to disclose confidential information to a foreign supervisory authority refer to an authority that appears to the GFSC to exercise functions corresponding to any of the functions of the GFSC. It is not clear, therefore, that the Supervisory Laws would allow the GFSC to pass confidential information to self-regulatory organisations including, among others, securities markets and stock exchanges, even when such disclosure would be likely to protect investors.
- 5.7.4** The Supervisory Laws should therefore be amended to specifically allow the GFSC to disclose confidential information to appropriate self-regulatory organisations (both inside and outside the Bailiwick).

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<sup>8</sup> The purpose of including “*gross negligence*” (an expression used, for example, in the Trusts (Guernsey) Law, 2007) is to set a standard higher than ordinary negligence.

- 5.7.5 ***Pan-jurisdictional authorities:*** In certain circumstances, the existing provisions in relation to the sharing of information with foreign supervisory authorities in the Supervisory Laws *could* potentially be used by the GFSC to disclose confidential information to pan-jurisdictional bodies, such as the European Banking Authority<sup>9</sup>, ESMA, the European Systemic Risk Board and the East Caribbean Central Bank. However, the existing provisions are not explicit that this is the case. It is important that the GFSC is able to provide information to bodies involved in ensuring financial stability and/or effective supervision of the financial services sector. Each of the Supervisory Laws should therefore include provisions enabling disclosure to appropriate pan-jurisdictional bodies.
- 5.7.6 ***Confidentiality of information received from foreign authorities:*** In 2010, the Insurance Laws were amended to provide additional protection for information provided to the GFSC by foreign supervisory authorities in relation to insurance supervision. Equivalent provisions were not, however, included in the other Supervisory Laws. The Protection of Investors Law, the Banking Supervision Law and the Fiduciaries Law should all be amended to include provisions in respect of the confidentiality of information received from any relevant supervisory authority similar to those contained in the Insurance Laws.

## 5.8 Permitted disclosures

- 5.8.1 Each of the Supervisory Laws and the FSC Law contains a list of limited circumstances in which disclosure of information will not breach the GFSC's confidentiality obligations. These lists are not in identical terms and, to the extent possible, the lists should be standardised.
- 5.8.2 The lists in the Supervisory Laws permit the GFSC to disclose information for the purpose of enabling or assisting the GFSC to discharge its functions conferred by or under that specific law. The complexities of international finance mean that, increasingly, different types of financial services business may all be involved in a single financial product or service. The GFSC should be permitted to make disclosures to enable or assist it to discharge its functions conferred by or under *any* law.
- 5.8.3 The lists of permitted disclosures do not currently permit the GFSC to disclose information to the Company Registrars of Alderney and Guernsey in appropriate circumstances. The GFSC is also limited in its ability to disclose information to the Legal Aid Service. There can be circumstances where it would be appropriate for the GFSC, like any other litigant, to provide information to the Legal Aid Service in respect of a matter in which both they and the legal aid recipient are involved. Additional categories of permitted disclosure to the Company Registrars and any Legal Aid Service in the Bailiwick should therefore be included in the lists of permitted disclosures.

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<sup>9</sup> The European Banking Authority is an independent EU Authority whose mandate is to ensure effective and consistent prudential regulation and supervision across the European banking sector.

## 5.9 Provisions in respect of auditors and actuaries

- 5.9.1 The audit provisions vary across the Supervisory Laws. As previously noted, some changes are required to meet international standards (see paragraph 3.1.6 in relation to the Banking Supervision Law and paragraph 3.2.7 in relation to the Fiduciaries Law). Indications are also that the next IMF assessment team will be specifically looking to ensure that auditors are “*demonstrably independent*” from the entities that they are auditing.
- 5.9.2 The current provisions should therefore be amended and new provisions implemented as necessary to provide consistency across the Supervisory Laws, and to ensure that the revised international standards are met. It is recognised that absolute uniformity may not be possible, or desirable, in certain circumstances.
- 5.9.3 **Notification requirements:** The Banking Supervision Law, the Fiduciaries Law and the Insurance Laws each impose notification obligations on both the licensee and the auditor. Generally, the requirement is that the licensee must give notice of the appointment, removal or replacement of an auditor, but the auditor must also give notice if he or she resigns, is removed, is not reappointed, does not seek reappointment or signs a qualified audit report. This requirement for the auditor to provide notification in certain circumstances is a useful supervisory check in circumstances where there may have been a breakdown in the relationship between the auditor and the licensee.
- 5.9.4 The notification requirements for auditors of licensees under the Protection of Investors Law are set out in rules, rather than the law. The Protection of Investors Law should be amended to include a similar requirement on an auditor to notify the GFSC in the same circumstances as set out in the other Supervisory Laws.
- 5.9.5 **Meetings with auditors and others:** All of the Supervisory Laws should include the ability for the GFSC to request a bi-lateral meeting with (as applicable) a licensee’s auditors, actuaries, general representatives or authorised insurance representatives by adapting the current provisions in section 60 of the Insurance Managers and Intermediaries Law. (As noted in paragraph 3.1.6, an amendment along these lines is required to the Banking Supervision Law in order to comply with international standards.)
- 5.9.6 The Supervisory Laws should be amended as necessary so that the GFSC may hold such meetings (bi-laterally or tri-laterally) to discuss any aspect of the operation, regulation or licensing of a permission holder whenever the GFSC thinks fit with a view to the performance of any of its functions; or if the GFSC considers it desirable to do so for the protection of the interests of the public, customers or consumers, or the reputation of the Bailiwick as a finance centre. The GFSC should, in appropriate circumstances, be able to impose confidentiality provisions around such communications. The auditors or others meeting with the GFSC (whether bi-laterally or tri-laterally) should not be in breach of their obligations of confidentiality in so doing.

## **5.10 The decision-making process in the supervisory context**

- 5.10.1 Under the Supervisory Laws, before the GFSC makes some decisions, it must serve the person(s) concerned with a notice in writing stating what decision the GFSC proposes to make, the grounds for the proposed decision, and that the person concerned may make representations about the proposed decision. These are known colloquially as “minded to” notices. A “minded to” notice is not, however, consistently required in respect of the same decisions under the different Supervisory Laws, and the detail of the provisions requiring these notices are different. In practice this causes great misunderstanding and leads to inconsistent treatment of different types of permission holders in the same circumstances. It can be particularly problematic when an entity holds more than one type of licence.
- 5.10.2 The requirement to issue “minded to” notices should be retained for appropriate decisions under the Enforcement Law. In the context of supervisory actions, the provisions relating to “minded to” notices should, as far as possible and appropriate, be consistent for the same decisions across the different supervisory sectors.
- 5.10.3 The current “minded to” provisions each require the notice to state that, within a period of 28 days, representations can be made to the GFSC in respect of the decision, and that the GFSC shall consider any such representations before giving further consideration to the proposed decision. While the Supervisory Laws generally provide for the representation period to be reduced, there is currently no ability for the period to be extended. This is inflexible and it is recognised that 28 days may be too short in a complex matter. The standard representation period should therefore remain at 28 days, but the GFSC should be able to extend, as well as reduce, the representation period.
- 5.10.4 In respect of urgent cases where the GFSC needs to act immediately (for example, to protect the interests of the public or the reputation of the Bailiwick) the GFSC should be able to shorten or dispense with the “minded to” notice procedure. Exercise of the discretion to dispense with the representation period altogether should require the approval of two Commissioners.
- 5.10.5 The recipient of a notice should be able to make written and/or oral representations. If no representations are made during the representation period the GFSC should be able to make the relevant decision on the basis of the information before it at that time. A failure to respond appropriately within the representation period may also be relevant to the GFSC’s consideration of whether a permission holder has complied with its obligation to deal with the GFSC in an open and co-operative manner (see the proposal at section 4.1). Breach of this obligation may in turn be a relevant consideration in an assessment as to whether a person remains fit and proper for the purposes of the Supervisory Laws.



## **5.11 Notice of, and reasons for, decisions of the GFSC**

- 5.11.1 The legal provisions on providing notice of a decision that has been made by the GFSC also differ across the Supervisory Laws. The provisions should be standardised, based upon the provisions that are currently in the Insurance Laws, and modified so as to encompass all relevant decisions.
- 5.11.2 The provisions relating to the circumstances in which the GFSC may be required to provide a written statement of the reasons for a decision also vary across the Supervisory Laws. People should have the same right to request a statement of reasons for a GFSC decision, whatever the sector in which they operate. The GFSC should only be able to withhold reasons in the limited circumstances already identified in the Insurance Laws and the Fiduciaries Law.

## **5.12 Codes of conduct under the Protection of Investors Law**

- 5.12.1 The Protection of Investors Law does not currently include a general power permitting the GFSC to issue codes of conduct. This is inconsistent with provisions in the other Supervisory Laws that allow codes of conduct to be issued in respect of licensees and a wider range of entities. A power should therefore be introduced into the Protection of Investors Law that would enable the GFSC to provide codes of conduct for the purpose of providing guidance to any persons carrying on by way of business any activity overseen by the GFSC, including activity in respect of registered and authorised investment funds.

## **5.13 Publication of lists**

- 5.13.1 The majority of the Supervisory Laws contain an express power for the GFSC to publish the fact that a particular person has been refused, does not hold, or has not held, a permission. However, these provisions differ in some respects and do not apply to all of the Supervisory Laws. For consistency, and to avoid any doubt about the GFSC's ability to publish such facts, standardised provisions should apply (as much as possible) across all of the Supervisory Laws.

# **6. SUPPORTING THE FINANCIAL SERVICES INDUSTRY AND LOOKING TO THE FUTURE**

## **6.1 New types of investment funds**

- 6.1.1 The Protection of Investors Law allows the GFSC to declare an investment fund to be an authorised or registered investment fund of a specified class. In order to facilitate development of different types of fund in the future, the law should enable the States to extend the designated categories of funds by Ordinance. If it were to be agreed that a new designation should be introduced in the future, the requirements for such a designation could then be inserted in Schedule 3 to that law by the same Ordinance.

## **6.2 Balancing certainty and flexibility under the Protection of Investors Law**

- 6.2.1 It would be useful if the GFSC could make declarations, on the basis of the evidence provided to it, that a particular scheme or arrangement is, or is not, in its opinion an investment fund. The GFSC should have the power to prescribe the mechanics of the regime by rules and charge a fee for making a declaration. The level of the fee would be subject to consultation.

## **6.3 Prime brokerage/custodial arrangements**

- 6.3.1 The use of prime brokers in open-ended investment funds<sup>10</sup> is addressed through a flexible policy for hedge funds and funds of hedge funds. Changes to the Protection of Investors Law should be made to facilitate the use of prime brokers in connection with any open-ended fund, and would be in keeping with regulatory and industry developments. The requirement to state the name of the designated trustee or designated custodian on the authorisation or registration of an investment fund should therefore be removed. The applicant for registration or authorisation would still be required to identify the designated trustee or custodian upon application, and this information would remain relevant to the GFSC's consideration of an application. Any change of designated trustee or custodian would also still require the prior approval of the GFSC.

## **6.4 Identification of designated managers (designated administrators)**

- 6.4.1 It has been suggested by industry that the requirement in the Protection of Investors Law for an authorisation or registration issued by the GFSC to identify the designated manager (designated administrator<sup>11</sup>) is also no longer fit for purpose following the introduction of AIFMD and should therefore be repealed.

## **6.5 Enabling the introduction of minimum criteria for authorisation or registration of investment funds**

- 6.5.1 The minimum criteria for licensing in the Protection of Investors Law do not extend to investment funds. This is a significant gap in the supervisory framework. In the interests of investors in Bailiwick investment funds the Protection of Investors Law should be amended to enable minimum criteria for registration or authorisation of investment funds to be introduced by regulation. An enabling provision should also be introduced to facilitate consequential amendments by regulation to the provisions in the law relating to the granting and revocation of any permission in relation to investment funds, together with any other necessary consequential amendments to accommodate the introduction of minimum criteria.

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<sup>10</sup> A brief description of prime brokerage is contained in the Appendix 1 definitions. Open-ended funds are funds in relation to which investors have the right to redeem their shares at specified times during the life of the fund.

<sup>11</sup> See the proposal in paragraph 5.1.1 to replace the term "*designated manager*" with the term "*designated administrator*" throughout the Protection of Investors Law.

## **6.6 Notifications and authorisations in respect of investment funds**

- 6.6.1 The GFSC does not have a direct power to object to an existing or proposed Supervised Role of an investment fund. The GFSC believes that, in some cases, its inability to do so hampers its ability to provide effective supervision of the investment funds industry. The GFSC has, however, acknowledged concerns raised by industry and is no longer suggesting that a prior “no objection” regime should be introduced at this time.
- 6.6.2 However there should be an Ordinance-making power to enable the States to introduce a prior “no objection” regime for the appointment of directors of investment funds, and a power to object to existing directors of investment funds, if it is considered appropriate in the future (for example where there are changes to international practice), and the introduction of the Ordinance, as with all other Ordinance-making powers suggested in this Policy Letter, would be the subject of consultation.

## **7. A NEW ENFORCEMENT LAW**

### **7.1 The proposal for a single law**

- 7.1.1 The advantages of a new enforcement law have been set out in section 2.6. The introduction of the law will involve repealing a number of provisions in the Supervisory Laws and the FSC Law and gathering together most of the enforcement and sanction powers of the GFSC in a single law. The Enforcement Law should apply to activities under each of the Supervisory Laws. The law should also include the power to extend by Ordinance its application to other laws and to make any consequential amendments.
- 7.1.2 In addition to the specific powers detailed below, the Enforcement Law should contain such other provisions as are necessary, including consequential, ancillary and incidental provisions required as a result of the introduction of the Enforcement Law, and which currently are set out in the individual Supervisory Laws, including (but not limited to) conditions, directions, penalties, offences, making of appeals, service of documents, notices, recovery of monies due to the GFSC, and certification. Such consequential, ancillary and incidental amendments as are required to any other laws, including the Supervisory Laws, as a result of the establishment of the Enforcement Law should also be made. Wherever possible, definitions in the Enforcement Law should be the same as they are in the Supervisory Laws.

### **7.2 Investigation**

- 7.2.1 *Notices to get information:* The GFSC should have the power to obtain information, however communicated or stored, in support of its investigations. As far as possible, the Enforcement Law should contain the same general powers to obtain information as are recommended to be in the Supervisory Laws (see section 5.4).

- 7.2.2 Documents which have been provided to the GFSC under a power contained in one of the Supervisory Laws should also be capable of use for enforcement purposes. The information gathering powers in the Supervisory Laws should remain although, where they relate to interviews, these will need to be amended to reflect their voluntary nature with powers of compulsion and offences removed. This Policy Letter has elsewhere addressed the need to ensure that the term “document” is defined sufficiently widely and is capable of amendment by regulation (see paragraph 5.1.3).
- 7.2.3 ***Compulsory interviews:*** The Enforcement Law should contain compulsory interview powers. This power should enable the GFSC to require “*relevant persons*” (which includes permission holders) and “*associated persons*”, wherever they reside, to attend to be interviewed by the GFSC, or someone duly appointed by the GFSC, with regard to the carrying on of any licensed activity. This power should be based on the provisions currently found in the Protection of Investors Law, with appropriate modification. The GFSC should also have the power to require that those persons to be interviewed keep the request for an interview, what is provided in relation to it and the contents of the interview confidential for such period as the GFSC may reasonably require.
- 7.2.4 Where the GFSC has reasonable grounds for suspecting that a person has committed an offence under any of the Supervisory Laws it should have the power to investigate and to require that person, or any other person, to attend an interview to answer relevant questions. The characteristics of this power should be similar, with appropriate modification, to those currently found in the Insurance Managers and Intermediaries Law. The GFSC should have the power to require that those persons to be interviewed keep the request for an interview, what is provided in relation to it and the contents of the interview confidential for such period as the GFSC may reasonably require.
- 7.2.5 ***Power to appoint inspectors:*** Section 5.5.2(d) above refers to the proposal to remove the provisions relating to inspectors and independent persons from each of the Supervisory Laws, and replace them with a standardised provision for skilled person reports. In relation to enforcement matters, however, a GFSC-appointed inspector regime, on terms broadly consistent with those currently contained in the Insurance Laws, should be retained.
- 7.2.6 The GFSC should be able to appoint an inspector if it considers it reasonable to do so in the interests of the public, customers, consumers, or the reputation of the Bailiwick as a finance centre, or when necessary for the performance of any of the GFSC’s functions. The inspection should be paid for by the entity being inspected, and any amount invoiced to the GFSC should be capable of being passed on to the entity being inspected as a regulatory fee that is payable on demand (as occurs in the UK). Inspectors should not be liable in any civil proceedings in respect of anything done (or not done) in the course of an investigation, unless the liability arises in respect of fraud, wilful misconduct or

gross negligence<sup>12</sup>. The provisions should be extended to apply in respect of investment funds and former permission holders.

- 7.2.7 **Warrants:** The GFSC currently has powers in many circumstances to obtain a warrant from a Court to enter premises. A general power to obtain a warrant should be included in the Enforcement Law.
- 7.2.8 **Announcements concerning enforcement investigations:** Whilst the GFSC can issue a public statement at the conclusion of enforcement proceedings, no mention of them can be made prior to that. In many other jurisdictions investigations are the subject of public notices. The inability to comment publicly in respect of an ongoing investigation, especially when matters related to it are in the public domain and clearly touch the Bailiwick, can damage the Bailiwick's reputation as an international finance centre.
- 7.2.9 The GFSC should therefore have the power to publish the fact that a person is being investigated for suspected breaches of any law covered by the Enforcement Law where the GFSC considers it desirable to do so in the interests of the public, customers, consumers or the reputation of the Bailiwick as a finance centre. Such announcements should only be made on the authority of the Director-General, and, if no further action is subsequently taken, a statement to this effect should also be published.
- 7.2.10 This power should not be used automatically to announce all enforcement investigations. Most investigations are best kept confidential until concluded.
- 7.2.11 **Whistle-blowing:** A risk-and-impact-based approach to regulation means that the GFSC's resources are utilised in a targeted manner. Intelligence can highlight areas of concern where resources are not currently deployed; this intelligence can arise in a number of circumstances, including the provision of information to the GFSC by a whistle-blower.
- 7.2.12 Where a person working for a financial services business, or providing professional services to that business, provides information to the GFSC or law enforcement authorities in good faith, that person should have employment law and civil law protection from claims or actions arising from the disclosure. As Guernsey is a leading international finance centre, it is necessary to introduce such protection. To do so will be to equal the culture that already exists within many of the global firms operating from the Bailiwick.
- 7.2.13 In the case of those employed in Guernsey the protection available under the UK *Public Interest Disclosure Act 1998* should be the guiding model. In respect of those making disclosures from Alderney and Sark (where there is no current employment protection), as well as anyone who is no longer employed by the relevant business, statutory protection from civil claims arising out of any contractual or other duty relating to confidence should be provided.

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<sup>12</sup> The purpose of including "gross negligence" (an expression used, for example, in the Trusts (Guernsey) Law, 2007) is to set a standard higher than ordinary negligence.

### 7.3 Decision-making

- 7.3.1 ***Relations between financial service businesses and the GFSC:*** Consistent with the proposal in respect of the Supervisory Laws (see section 4.1), a provision equivalent to principle 10 of the GFSC's *Principles of Conduct of Finance Business* should also be included in the Enforcement Law.
- 7.3.2 ***"Minded to" notices – enforcement:*** As is set out in section 5.10, "minded to" notices (notices that the GFSC is proposing to take a particular decision) and representation periods should be retained in the enforcement context. The regime should apply as appropriate to specified decisions under the Enforcement Law.
- 7.3.3 The provisions relating to the length of the representation period and the consequences of making no representations during this period should be the same as under the Supervisory Laws (see paragraphs 5.10.3 to 5.10.5). The recipients of a notice should be able to make written and/or oral representations, which the GFSC would take into account before making the relevant decision.
- 7.3.4 ***Senior Decision Makers:*** The GFSC has recently established a panel of Queen's Counsel from England and Scotland who are appointed as Officers of the GFSC and styled as "*Senior Decision Makers*". These Senior Decision Makers hear and make determinations in respect of appropriate enforcement cases. These cases were previously heard by a Commissioner Decision Committee comprising three Commissioners. The new system enables the GFSC to demonstrate the impartiality of its decision-making, and it increases the GFSC's capacity to handle complex enforcement cases. However, there are certain matters that cannot be delegated to the Senior Decision Makers because the FSC Law reserves them exclusively to Commissioners. Amendments should, therefore, be made to the FSC Law to enable the Commissioners to delegate to the Senior Decision Makers the GFSC's power to make a decision to cancel, revoke, suspend or withdraw any permission and to consider any representations made in relation to such a proposed decision.

### 7.4 Enforcement sanctions

- 7.4.1 ***Enforceable undertakings:*** In order to facilitate a responsive approach to early resolution of enforcement matters, the GFSC should be able to consider and accept undertakings made by persons to take measures to rectify non-compliant aspects of their activities or conduct, and at the same time stay any proceedings that may have been commenced under the Enforcement Law. Accepting such undertakings would be an important and proportionate alternative to imposing harsher sanctions such as the imposition of a discretionary penalty or prohibition order. These undertakings (referred to in this Policy Letter as "*enforceable undertakings*") would be a binding agreement entered into between the GFSC and another party.

- 7.4.2 The details of enforceable undertakings would not be published. However, the agreements would still form part of the regulatory history of the relevant person and, where appropriate, the regulatory history of those individuals involved in its control and direction at the time the enforceable undertaking was agreed upon.
- 7.4.3 Enforceable undertakings should require agreement between the GFSC and the person concerned (the “**promissor**”) and so the GFSC would not be able to impose them unilaterally. There need be no restriction on the parties with whom the GFSC can enter into an undertaking. The undertakings could be proposed by either party. In appropriate circumstances, undertakings could therefore form part of a negotiated settlement of an enforcement matter. The terms of the undertakings should be at the discretion of the parties and may include, without limitation, an agreed statement of facts and an agreement as to the consequences of a breach of the undertaking. Where the terms of an undertaking include a stay of any proceedings, breach of it would result in the stay being lifted. In addition, a breach of the undertaking could be taken into account by the GFSC in determining how to proceed in the carrying out of its supervisory and enforcement functions in relation to the promissor.
- 7.4.4 **Private reprimands:** The *Registration of Non-Regulated Financial Services Businesses (Bailiwick of Guernsey) Law, 2008* (the “**NRFSB Law**”) and the *Prescribed Business (Bailiwick of Guernsey) Law, 2008* both contain the power to issue private reprimands. The Enforcement Law should also include a power to issue private reprimands based upon the power contained in the NRFSB Law. A private reprimand would be an acceptance or determination by the GFSC that a person has failed to comply with a requirement under a Supervisory Law, regulation or rule, etc. The use of private reprimands under the Supervisory Laws would be discretionary in appropriate cases, rather than as the entry point to sanctions.
- 7.4.5 A private reprimand would not be published. It is substantially different from a public statement. However, as with enforceable undertakings, the imposition will still form part of the regulatory history of the relevant person and appropriate associated individuals and could be taken into account by the GFSC in determining how to proceed further should that be necessary.
- 7.4.6 **Enforcement requirements:** Conditions and directions are currently used in both a supervisory and enforcement context. In order to ensure that the GFSC is fully equipped to undertake all of its functions under the Supervisory Laws and to preserve flexibility in dealing with licensees (and others) who need not be subject to the stronger philosophy of the Enforcement Law, conditions and directions should be retained in the supervisory context (see section 4.7).
- 7.4.7 “*Enforcement requirements*” conferring similar requirements to those which may be contained in conditions and directions should be introduced in the Enforcement Law. Enforcement requirements could impose an obligation to take specified actions, or not to take specified actions. For example, they could require a permission holder not to distribute funds to clients, not to accept new business, or to provide its staff with training in relation to specified areas.

- 7.4.8 **Prohibition orders:** A prohibition order made under the Supervisory Laws is a permanent order that an individual subject to it can apply to have revoked. The powers in respect of prohibition orders when they are re-enacted in the Enforcement Law should also enable the GFSC to specify any term of duration for the prohibition as it sees fit.
- 7.4.9 The Protection of Investors Law enables the GFSC to make prohibition orders in respect of individuals performing functions in relation to controlled investment business carried on by a licensee, but the GFSC does not currently have the ability to make prohibition orders against directors of investment funds. This is a significant handicap to the GFSC's ability to protect the interests of investors and the reputation of the Bailiwick. Historically, there have been cases where prohibition of a person associated with an investment fund would have been the appropriate sanction to use. The application of prohibition orders should therefore be extended to directors of investment funds.
- 7.4.10 The NRFSB Law provides that an individual who contravenes a disqualification order against him or her under the NRFSB Law<sup>13</sup> is not only guilty of an offence, but also personally liable for the debts and liabilities of the business incurred when he or she was acting in contravention of the order. This provision enhances the level of protection available to the public. The Enforcement Law should contain a similar provision, which would apply where an individual breaches a prohibition order. The GFSC should be given notice of any proceedings in which it is alleged that such personal liability arises from a breach of a prohibition order and be able to apply to the court in appropriate circumstances for orders for the general protection of the public (for example, to seek an injunction with necessary consequential orders).
- 7.4.11 **Other sanctions:** In addition to the matters above, the Enforcement Law should include enforcement powers drawn, as appropriate, from the Supervisory Laws and, without limitation, make provision for the following:
- (a) **Removal of permissions:** Each of the Supervisory Laws contains its own powers for the GFSC to cancel, revoke, suspend or withdraw a permission granted under the law in question. These provisions should be replaced by a provision in the Enforcement Law.
  - (b) **Fines and public statements:** The enforcement powers of the GFSC that currently appear in the FSC Law, including the powers to issue fines and public statements, should be transferred and re-enacted in the Enforcement Law.
  - (c) **Injunctions and remedial measures:** The Enforcement Law should permit the GFSC to seek injunctions or an order for remedial measures if it is satisfied that a person has or will contravene provisions of the

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<sup>13</sup> This is a different power to the disqualification powers in the *Companies (Alderney) Law, 1994 (as amended)* and the *Companies (Bailiwick of Guernsey) Law, 2008 (as amended)*.



Supervisory Laws, or any directions, rules or regulations made under any of those laws.

- (d) ***Clarifying administration and intervention powers:*** The GFSC should be able to apply to the Court to appoint an administration manager in respect of a permission holder across all sectors, although the circumstances in which the power applied to each sector would need to be different. The power would replace and broaden that currently available to the GFSC under an Ordinance made under the Protection of Investors Law for the purposes of the protection of investors in certain circumstances<sup>14</sup>. This power allows the GFSC to apply to the Court for the appointment of an administration manager to do all such things as may be necessary or expedient for the management of the affairs, business and property of the entity concerned.
- (e) ***Powers and liabilities of receivers:*** The powers and liabilities of receivers under each of the Supervisory Laws are currently inconsistent. There is no justification for a receiver in respect of banking assets having lesser powers, and being at greater risk of litigation, than a receiver in respect of insurance assets. The Enforcement Law should contain, as far as possible, the powers and protections which are included in the Insurance Laws and the Fiduciaries Law, with appropriate modifications to apply to all sectors.
- (f) ***Dissolution etc of entities other than companies:*** The Enforcement Law should contain provisions relating to the winding up of entities that extend to encompass the termination, dissolution or winding up of both companies, and entities and arrangements other than companies (for example foundations, trusts, partnerships and limited partnerships), whether with or without legal personality.

7.4.12 ***Appeal processes in the enforcement context:*** Central to any enforcement process is the ability of those subject to its jurisdiction to be able to challenge sanctions imposed (for example) where there have been material errors of fact, procedure and law. Appropriate provisions should therefore be included in the Enforcement Law. Unless there is good reason to the contrary, the presumption should be that all appeals should be heard in public. This is consistent with the Bailiwick's human rights obligations.

7.4.13 ***Practices and procedure:*** A rule-making power should also be included within the Enforcement Law in relation to the administration, practices and procedure in respect of enforcement.

## 7.5 Policing the regulatory perimeter

7.5.1 ***What is policing the perimeter?:*** "Policing the perimeter" refers to the GFSC's role in monitoring the carrying on of regulated activities, and investigating and pursuing enforcement actions against any individual or business that carries out regulated activities without appropriate permission. These actions are required so

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<sup>14</sup> The Protection of Investors (Administration and Intervention) Ordinance, 2008.

that those undertaking lawful financial services business are not disadvantaged by those who seek to avoid regulation and supervision, and flout appropriate standards to the detriment of the public and their commercial counter-parties.

- 7.5.2 The GFSC can investigate potential offences and in some cases obtain an injunction to restrain unlicensed activities. The emergence of more web-based providers of financial services means that there is greater scope for the perimeter to be breached. Strong powers are therefore needed to address this problem.
- 7.5.3 ***Powers in respect of persons who should be licensed, authorised or registered:*** In order to “police the perimeter” of regulation effectively, the GFSC should have the power to obtain information from entities, and persons connected with those entities, that are reasonably suspected of undertaking activities for which they should be but are not licensed, authorised or registered.
- 7.5.4 Provisions should also be included within the Enforcement Law so that the GFSC has all the powers (i.e. not just information-gathering powers) in respect of any individual or business who carries out activities without the appropriate permission as it has in respect of permission holders. This is necessary to deliver effective protection of the public and the reputation of the Bailiwick’s financial services industry.
- 7.5.5 The FSC Law contains provisions allowing the GFSC to issue public statements in certain circumstances in relation to, among others, permission holders, former permission holders and relevant officers. The Enforcement Law should also include a similar provision to the effect that the GFSC may publish a statement where it is satisfied that a specified person has materially contravened a requirement of the laws subject to the Enforcement Law (including where a person or entity has been carrying on business without a necessary permission) or does not fulfil any applicable minimum criterion for licensing.
- 7.5.6 ***Discretionary exempted persons:*** As noted above, the grant of any form of discretionary exemption often means no further involvement by the entity with the GFSC. The GFSC should be able to obtain information from persons connected with discretionary exempted persons, and those entities themselves, in support of the exercise of any of the GFSC’s functions. These include ensuring that the discretionary exempted person remains entitled to the exemption.
- 7.5.7 ***Restrictions on descriptions and use of names:*** The Supervisory Laws each provide for various restrictions on descriptions and the use of certain names. Each of the laws, however, contains different provisions and there is no statutory centralised list of restricted descriptions or names that applies to all sectors. Furthermore, the GFSC does not currently have the ability to add descriptions or names to a list. This is particularly relevant in relation to emerging products and developing sectors.

- 7.5.8 The Enforcement Law should include a power to make rules or regulations in relation to specified descriptions and names that cannot be used without the GFSC's consent. Restrictions would only apply where use of the word or description would falsely suggest that a permission from the GFSC is held.
- 7.5.9 It would be an offence for a person to use a restricted name or description (or any similar expression), or otherwise falsely suggest or imply that they hold a permission from the GFSC. The GFSC should also have the power currently found in some of the Supervisory Laws to apply to the court for a direction to require an entity to change its name.

## **8. CONSULTATION**

### **8.1 Consultation carried out by the GFSC**

- 8.1.1 The Revision of Laws process began with a degree of informal stakeholder consultation being carried out in July and August 2014. The Revision of Laws External Working Party was formed at the same time. This group includes representatives of the GFSC, industry and government. Members from outside the GFSC were also included on the GFSC's Project Board. Thus industry (through the former-Chairman of the Guernsey International Business Association) and government (through the Chief Officer of the C&E Department) have been working alongside the GFSC to exercise oversight over these proposals. Throughout this process the GFSC has recognised that in taking forward the revision of the Supervisory Laws it needs to work together with government and industry to achieve the changes necessary to make the Supervisory Laws fit for the future and compatible with digital business.
- 8.1.2 The *Discussion Paper on the Revision of Laws Project: Revising the Bailiwicks' financial and regulatory laws to maintain the Bailiwick's reputation as an efficient and well-regulated international finance centre* was published on the GFSC's website on 10<sup>th</sup> November 2014 and a discussion period ran until 19<sup>th</sup> December 2014. After reviewing the feedback to the discussion paper, the GFSC revised some of its proposals and on 10<sup>th</sup> February 2015 published the *Consultation Paper on the Revision of Laws Project: Revising the Bailiwicks' financial and regulatory laws to maintain the Bailiwick's reputation as an efficient and well-regulated international finance centre*. The consultation period ran until 24<sup>th</sup> April 2015. Thirty-eight formal responses to the consultation paper were received and reviewed. Informal soundings were also conducted outside the Bailiwick, by way of meetings with prominent London lawyers in November 2014 and March 2015.
- 8.1.3 Members of the project team have also made presentations to the Fiscal and Economic Policy Group (a sub-group of the Policy Council), the C&E Department, the Finance Sector Forum and industry.

- 8.1.4 The responses to the consultation paper indicated strong industry support for the vast majority of the GFSC's proposals. Following the consultation period the GFSC conducted a public feedback session at St Pierre Park Hotel in June 2015. Representatives from approximately 150 licensees attended this session.

## **8.2 Consultation carried out by the Policy Council**

- 8.2.1 The Law Officers have been consulted and raise no legal objection to the proposals.
- 8.2.2 The Policy Council has consulted with the C&E Department in the production of this Policy Letter, the contents of which are supported by the C&E Board.
- 8.2.3 As noted in sections 9 and 10, representatives of the governments of the islands of Alderney and Sark have been consulted with and support the proposals included in this Policy Letter.
- 8.2.4 The GFSC has been instrumental in developing the proposals contained in this Policy Letter.

## **9. ALDERNEY**

- 9.1.1 The proposals in this Policy Letter represent an important project for all the islands of the Bailiwick and the views of the three governments are important. The GFSC has therefore necessarily taken the time to visit and consult with representatives of the States of Alderney on the proposals that it has recommended to the Policy Council. The Policy Council has also consulted the Policy and Finance committee of the States of Alderney. That committee is supportive of the proposals contained within this Policy Letter.

## **10. SARK**

- 10.1.1 The GFSC has also visited and consulted with representatives of the Chief Pleas of Sark on the proposals that it has recommended to the Policy Council. The Policy Council has also consulted the Policy and Performance Committee in Sark, which supports the proposals contained within this Policy Letter.

## **11. RESOURCE IMPLICATIONS**

- 11.1.1 There are no additional financial or staff resource implications for the States associated with the proposals and recommendations set out in this Policy Letter.

## 12. RECOMMENDATIONS

### 12.1.1 The States are recommended to:

- (a) Agree to the proposals set out in this Policy Letter, as highlighted in paragraphs 1.1.8(b) and (c) of the Policy Letter.
- (b) Direct the preparation of such legislation as may be necessary to give effect to the above decisions, and of any necessary consequential, incidental, supplementary and transitional provisions not specified above, including, but not limited to, amendments to other legislation.

J P Le Tocq  
Chief Minister

24<sup>th</sup> August 2015

A H Langlois  
Deputy Chief Minister

G A St Pier  
Y Burford  
D B Jones

P L Gillson  
K A Stewart  
M G O'Hara

R W Sillars  
P A Luxon  
S J Ogier

## APPENDIX 1 - DEFINITIONS

**AIFMD:** *Alternative Investment Fund Managers Directive 2011/61/EU*;

**Bailiwick:** the Bailiwick of Guernsey, including the islands of Guernsey, Alderney and Sark, and their dependencies;

**Banking Supervision Law:** the *Banking Supervision (Bailiwick of Guernsey) Law, 1994 (as amended)*;

**Basel Core Principles:** the Basel Committee *Core Principles for Effective Banking Supervision*, a copy of which can be found at <http://www.bis.org/publ/bcbs230.pdf>. Also referred to as “BCP”;

**C&E Department:** the Commerce and Employment Department of the States of Guernsey;

**EC:** the European Commission: the executive body of the European Union responsible for proposing legislation, implementing decisions, upholding the EU treaties and managing the day-to-day business of the EU;

**the Enforcement Law:** the new financial services enforcement law proposed in this Policy Letter;

**ESMA:** the European Securities and Markets Authority. An independent European Union regulatory authority with the objective, among other things, of enhancing investor protection in the financial sector;

**EU:** European Union. A list of current EU member states can be found at [http://europa.eu/about-eu/countries/index\\_en.htm](http://europa.eu/about-eu/countries/index_en.htm);

**FATF:** Financial Action Task Force. An inter-governmental body established in 1989, the objectives of which are to set standards and promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system;

**FATF Standards:** International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation issued by FATF in February 2012, a copy of which can be found at [http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF\\_Recommendations.pdf](http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf);

**Fiduciaries Law:** the *Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2000 (as amended)*;

**FSC Law:** the *Financial Services Commission (Bailiwick of Guernsey) Law, 1987 (as amended)*;

**GFSC:** the Guernsey Financial Services Commission;

**GIFCS Standard:** Group of International Finance Centre Supervisors' *Standard on the Regulation of Trust and Corporate Service Providers*, a copy of which can be found at <http://gifcs.org/images/Documents/GIFCSStandardonTCSPs1.pdf>;

**GIFCS:** the Group of International Finance Centre Supervisors;

**Guernsey Companies Law:** the *Companies (Bailiwick of Guernsey) Law, 2008 (as amended)*;

**IMF:** the International Monetary Fund. An organisation of 188 countries, working to promote, among other things, international financial stability and global monetary cooperation;

**IOSCO Principles:** the *International Organization of Securities Commissions Objectives and Principles of Securities Regulation* revised in 2010, a copy of which can be found at <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD323.pdf>.

**Insurance Business Law:** the *Insurance Business (Bailiwick of Guernsey) Law, 2002 (as amended)*;

**Insurance Laws:** collective reference to the Insurance Business Law and the Insurance Managers and Intermediaries Law;

**Insurance Managers and Intermediaries Law:** the *Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002 (as amended)*;

**investment fund:** a collective investment scheme falling within paragraph 1 to Schedule 1 of the Protection of Investors Law;

**licensee:** any person who holds a licence under any of the Supervisory Laws;

**market abuse:** an act by which financial investors are unreasonably disadvantaged (directly or indirectly), by others who have used information that is not publicly available (insider dealing) or have distorted the price-setting mechanism of financial instruments;

**Member State:** A member state of the European Union. A list of current member states can be found at [http://europa.eu/about-eu/countries/index\\_en.htm](http://europa.eu/about-eu/countries/index_en.htm);

**MiFID I:** the European *Directive 2004/39/EC on markets in financial instruments*. A copy of MiFID I can be found at <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1398325978410&uri=CELEX:02004L0039-20110104>;

**MiFID II:** the European *Directive 2014/65/EU on markets in financial instruments*. A copy of MiFID II can be found at <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0065&from=EN>;

**MiFIR:** *Regulation (EU) No 600/2014 on markets in financial instruments*. A copy of MiFIR can be found at <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014R0600&qid=1415201548328&from=EN>;

**Moneyval:** the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism, established by the Council of Europe's European Committee on Crime Problems.

**the new MiFID regime:** the changes to the regime for marketing financial instruments into Europe brought about by the implementation of MiFID II and MiFIR;

**NRFSB Law:** the *Registration of Non-Regulated Financial Services Businesses (Bailiwick of Guernsey) Law, 2008 (as amended)*;

**permission:** any licence, consent, authorisation, registration or permission from the GFSC under any of the Supervisory Laws;

**permission holder:** any person who holds a licence, consent, authorisation, registration or permission from the GFSC under any of the Supervisory Laws;

**Policy Council:** the States of Guernsey Policy Council;

**Protection of Investors Law:** the *Protection of Investors (Bailiwick of Guernsey) Law, 1987 (as amended)*;

**prime brokerage:** the generic name for a bundled package of services offered by investment banks and securities firms to hedge funds and other professional investors needing the ability to borrow securities and cash to be able to invest on a netted basis and achieve an absolute return. The services provided under prime brokerage usually includes securities lending, leveraged trade executions, and cash management amongst other things;

**the States:** the States of Deliberation;

**Supervised Role:** a position for which, pursuant to any of the Supervisory Laws, an appointment requires the express prior approval of the GFSC, or prior approval of the Commission that may be deemed to have been given if the GFSC does not object within 60 days or notification to the GFSC (without any requirement for approval);

**Supervisory Laws:** the Protection of Investors Law; the Banking Supervision Law; the Fiduciaries Law; the Insurance Business Law; and the Insurance Managers and Insurance Intermediaries Law;

**TCSPs:** trust and corporate service providers.



## APPENDIX 2 – INTERNATIONAL STANDARDS APPLICABLE AS AT 10 AUGUST 2015

1. The Basel Committee Core Principles for Effective Banking Supervision (the Basel Core Principles or BCPs), revised 2012. A copy of which can be found at <http://www.bis.org/publ/bcbs230.pdf>.
2. The Insurance Core Principles issued by the International Association of Insurance Supervisors on 1 October 2011 and revised in October 2013. A copy of which can be found at [http://iaisweb.org/modules/icp/assets/files/Insurance\\_Core\\_Principles\\_Standards\\_Guidance\\_and\\_Assessment\\_Methodology\\_October\\_2011\\_revised\\_October\\_2013.pdf.pdf](http://iaisweb.org/modules/icp/assets/files/Insurance_Core_Principles_Standards_Guidance_and_Assessment_Methodology_October_2011_revised_October_2013.pdf.pdf).
3. The International Organization of Securities Commissions Objectives and Principles of Securities Regulation (the IOSCO Principles), revised 2010. A copy of which can be found at <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD323.pdf>.
4. The Standard on the Regulation of Trust and Corporate Service Providers issued by the Group of International Finance Centre Supervisors (the GIFCS Standard), September 2014. A copy of which can be found at <http://gifcs.org/images/Documents/GIFCSStandardonTCSPs1.pdf>.
5. International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation issued by the Financial Action Task Force (the FATF Standards), February 2012. A copy of which can be found at [http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF\\_Recommendations.pdf](http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf).

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

The States are asked to decide:-

V.- Whether, after consideration of the Policy Letter dated 24<sup>th</sup> August, 2015, of the Policy Council, they are of the opinion:-

1. To agree the proposals set out in that Policy Letter, as highlighted in paragraphs 1.1.8(b) and (c) of that Policy Letter.
2. To direct the preparation of such legislation as may be necessary to give effect to the above decisions, and of any necessary consequential, incidental, supplementary and transitional provisions not specified above, including, but not limited to, amendments to other legislation.

## **POLICY COUNCIL**

### **APPOINTMENT OF AN ORDINARY MEMBER OF THE GUERNSEY FINANCIAL SERVICES COMMISSION**

#### **1. Executive Summary**

- 1.1 This Policy Letter proposes the appointment of Mrs. Wendy Dorey as an ordinary member of the Guernsey Financial Services Commission (“GFSC”) for a three year term with effect from 1<sup>st</sup> November 2015.

#### **2. New Commissioner**

- 2.1 The Policy Council wishes to nominate Mrs. Wendy Dorey as an ordinary member of the GFSC, following the retirement of Mrs. Sally-Ann Farnon (known as Susie Farnon) from that role. Mrs. Dorey was one of the applicants who applied to be a Commissioner and was interviewed by a panel that included the Chief Minister and the Chairman of the GFSC.
- 2.2 Mrs. Dorey is a Director of the investment consultancy firm Dorey Financial Modelling, where she consults on strategic marketing as well as business strategy and development. She has over 15 years’ experience within the financial services industry.
- 2.3 During the period 2006 to 2010, Mrs. Dorey was Head of Retail Business Planning for M&G Asset Management Limited. In this role she led a strategic review of the Direct Business Channel, and managed and led the retail distribution strategy for the European Property Fund. She also sat on the liquidity management boards for the Property and Leveraged Finance funds. She was also responsible for risk reporting across the Retail Business Channels, embedding new Treating Customers Fairly (“TCF”) processes to ensure M&G was TCF-compliant, and reporting these compliance processes to the FSA. From 2003 to 2006, Mrs Dorey was Head of Intermediary Marketing for M&G. During this period the company was awarded three consecutive annual awards from Money Marketing for “Best Intermediary Campaign”. She was responsible for the launch and ongoing promotion of the Guernsey-domiciled M&G Property Fund to the UK retail market. She also assisted the Investment Management Association to develop a new investment management syllabus for independent financial advisers. Prior to 2003, her roles included that of Senior Consultant for Pfour Consultancy, Acting Head of Group Marketing on secondment to Friends Ivory and Sime, Marketing Manager for Robert Fleming/Save and Prosper, and Junior Brand Manager for Yves Rocher Limited.
- 2.4 Mrs. Dorey is an experienced professional in the financial services industry and has considerable experience in dealing with external regulators and internal audit departments. She offers the GFSC extensive regulatory and risk reporting skills

and strong technical fund knowledge across multiple asset classes. Her experience will enable her to contribute valuably to the overall governance and strategic direction of the GFSC.

### **3. Conclusion**

- 3.1 The Policy Council is pleased to nominate Mrs. Wendy Dorey as an ordinary member of the GFSC.

### **4. Recommendation**

- 4.1 The Policy Council recommends the States to appoint Mrs. Wendy Susan Dorey as an ordinary member of the Guernsey Financial Services Commission for a three year term with effect from 1<sup>st</sup> November 2015.

J P Le Tocq  
Chief Minister

24<sup>th</sup> August 2015

A H Langlois  
Deputy Chief Minister

Y Burford  
P L Gillson  
S J Ogier

R W Sillars  
M G O'Hara  
K A Stewart

P A Luxon  
D B Jones  
G A St Pier

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

The States are asked to decide:-

VI.- Whether, after consideration of the Policy Letter dated 24<sup>th</sup> August, 2015, of the Policy Council, they are of the opinion to appoint Mrs. Wendy Susan Dorey as an ordinary member of the Guernsey Financial Services Commission for a three year term with effect from 1<sup>st</sup> November 2015.

## POLICY COUNCIL

### STANDARDISING THE MEASUREMENT OF GUERNSEY'S GROSS DOMESTIC PRODUCT

#### 1. Executive Summary

- 1.1. Economic output, commonly measured via Gross Domestic Product ("GDP"), is an important macroeconomic indicator and is integral to the Fiscal Framework. It is used by the States of Guernsey to set targets for capital investment and overseas aid and also to set limits on borrowing, should there be any. In addition, it is used to monitor economic growth (in the Island as a whole, as well as within individual sectors) and to inform related policy decisions.
- 1.2. The data used to calculate Guernsey's GDP has degraded over time and the methodology has not been updated since the 1980s. Temporary fixes have been used in recent years to counteract the data degradation and enable historically comparable figures to be calculated and published. However, some fundamental changes are needed in order to ensure that the published GDP provides an internationally comparable representation of the Island's economic output.
- 1.3. The Policy Council, with assistance from the United Kingdom Office of National Statistics, has identified the methodological changes that would be required for the Guernsey method of GDP calculation to be aligned with the latest version of the System of National Accounts ("SNA")<sup>1</sup>. These changes could also enable the calculation of GDP for Alderney.
- 1.4. The purpose of this Policy Letter is to inform the States of the issues surrounding the calculation of GDP, and highlight the recommended solution and its associated timetable for implementation.
- 1.5. The States are asked to support the progression of a data collection project and its associated expenditure, which is currently anticipated to be in the region of £9,000 for the initial set up and approximately £2,000 per year thereafter (including estimated costs of staff time). The project will result in staff time cost savings equating to approximately £3,000 per year.

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<sup>1</sup> The System of National Accounts (SNA) is the internationally agreed standard set of recommendations on how to compile measures of economic activity. The SNA describes a coherent, consistent and integrated set of macroeconomic accounts in the context of a set of internationally agreed concepts, definitions, classifications and accounting rules.

- 1.6. The States are also asked to approve the drafting of new primary legislation to ensure that the investment in the data collection project gains maximum return in the form of good response rates. Good response rates will be essential to the success of the data collection project and the subsequent improvements to the accuracy of calculation of GDP.
- 1.7. The States are also asked to note that, in the process of reviewing the calculation of GDP, some additional data requirements have been identified that it would be beneficial to collect from businesses. However, based on consultation responses, this may prove more difficult and therefore further investigations will be undertaken as to how to resolve these difficulties.

## **2. Drivers for change**

### **2.1. The importance of GDP**

- 2.1.1 Economic output, GDP, is an important macroeconomic indicator and is integral to the Fiscal Framework<sup>2</sup>, a policy document which sets strict numerical parameters for the States' revenue funded expenditure with the aim of achieving 'permanent balance'. It is used by the States to set targets for capital investment and overseas aid, and also to set limits on borrowing, should there be any. It is the key measure of economic growth (in the Island as a whole, as well as within individual sectors) and informs related policy decisions. As such, its accuracy is paramount.
- 2.1.2 An example of this would be the resolution of the States, following consideration of the Personal Tax, Pensions and Benefits Review, that the Treasury and Resources Department should continue to closely monitor the appropriateness of the current corporate tax regime. In order to deal with this efficiently and with confidence in the conclusions drawn, the Department will require accurate GDP figures, to be used in addition to other economic performance indicators, such as company profits data.
- 2.1.3 Guernsey's GDP forms the basis of several of the key performance indicators for the Fiscal and Economic Policy Plan, which are reported each year in the States Strategic Monitoring Report<sup>3</sup>. The published figures are often used by third parties to compare the economy of Guernsey with that of other jurisdictions. Any inaccuracies in the published figures can therefore impact on the reputation of the Island.
- 2.1.4 The Economic Development Framework<sup>4</sup> identifies the importance of the continued development of Guernsey's economic performance indicators. Objective 4 of the Framework, "*Tracking the development of Guernsey's economy*", included the following two aims:

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<sup>2</sup> See [www.gov.gg/fiscalframework](http://www.gov.gg/fiscalframework)

<sup>3</sup> See [www.gov.gg/kpi](http://www.gov.gg/kpi)

<sup>4</sup> See [www.gov.gg/EconomicFramework](http://www.gov.gg/EconomicFramework)

- Continue the development of the economic data set in order to measure and track the performance of the economy in the Bailiwick of Guernsey
- Achieve a greater understanding of the various business needs in the Island.

## **2.2. Issues with GDP accuracy and international comparability**

- 2.2.1 The method used to calculate GDP has not been updated since the 1980s and, therefore has not kept pace with changes to the international SNA, which was last updated in 2008. As a result, over time Guernsey's measure has become less comparable with figures published by other jurisdictions.
- 2.2.2 More crucially, the States' ability to calculate GDP figures that are comparable with its own historically published figures has also reduced over time. This is due to changes in the content and timing of data available from Income Tax as a result of tax regime changes (most notably zero/10). This affects the accuracy of the first published estimates of GDP, which can give a considerably different picture to the final figures which are only available three years later.
- 2.2.3 Further details regarding each of these issues are provided in Appendix 1.

## **2.3. Opportunity to calculate GDP for Alderney**

- 2.3.1. The Alderney Economic Development Study report, completed by Frontier Economics in August 2014, identified that, "there is a lack of good economic data on Alderney on which to base policy and measure the impact of any development or other strategy." The assessment was that, "improving the accuracy and availability of data is central to setting and monitoring appropriate policy."
- 2.3.2. Following on from this, a recommendation was included in a States Report for debate in December 2014. The resolution was to, "Direct the Policy Council and Commerce and Employment Department to work with the States of Alderney Policy & Finance Committee, as appropriate and where resources allow, to improve the collection and analysis of more robust economic data pertaining to Alderney."
- 2.3.3. Independently, Alderney States Members have previously raised concerns informally about the inability to calculate a separate GDP for Alderney. This has not been attempted to date, due to the known issues with the Guernsey methodology, which could not be avoided for Alderney, since the same data limitations (referred to in section 2.2 above) would apply.



- 2.3.4. The improved methodology proposed in this Policy Letter can equally be applied to Alderney, so it is intended that the project will encompass Guernsey (including Herm and Jethou) and Alderney. This will enable the calculation of a separate GDP for Alderney, which will greatly help the monitoring of economic trends in Alderney.
- 2.3.5. The legislation required (see section 3 below) will cover both Guernsey and Alderney.

### **3. Improvements to GDP methodology and legislative requirements**

- 3.1. Advice from the United Kingdom Office of National Statistics has enabled the Policy Council to identify how its method of calculating GDP could be updated to bring it in line with the SNA 2008. Some elements which are not currently included can be implemented relatively easily e.g. rental incomes and owner occupied imputed rents<sup>5</sup>, can be calculated using data collected to monitor the Corporate Housing Programme. However, other changes would require access to data which is not currently available from any States' department or regulatory authority.
- 3.2. The advice indicated that the necessary additional data would need to be collected directly from businesses<sup>6</sup>, as is the case in the United Kingdom and the Isle of Man, where there is legislation<sup>7</sup> which enables this information to be required from businesses for the purposes of calculating GDP. At present, the States of Guernsey does not have any such statutory powers and voluntary surveys asking for data of this kind have not provided enough responses to be statistically reliable.
- 3.3. It has therefore been concluded that there is a need for new legislation to be put in place to ensure data collection is both comprehensive and timely. The legislation in the form of a Law would be modelled loosely on the Statistics of Trade Act 1947<sup>8</sup>. In broad outline it is proposed that a Statistics (Guernsey and Alderney) Law would be enacted that would enable the Policy Council, by notices served on relevant businesses in Guernsey and Alderney, to require those businesses to submit periodical estimates or returns about economic output . Additional essential elements of the Law would include –
- A statutory duty placed on the Policy Council to undertake a census of economic output or production and to produce statistics at regular intervals.

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<sup>5</sup> Owner occupied imputed rent is the theoretical value an owner occupier pays to itself instead of paying rent to a landlord.

<sup>6</sup> “Businesses” includes all resident corporations and self employed people that employ others, along with not for profit organisations.

<sup>7</sup> The UK Statistics of Trade Act 1947 and The Isle of Man Statistics Act 1999

<sup>8</sup> The UK Statistics of Trade Act is introduced as “An Act to enable certain government departments to obtain more readily the information necessary for the appreciation of economic trends...”. It describes how (subject to various conditions and given due notice) people are required to provide the information requested via “census” forms issued by the UK government.

- A statutory duty placed on relevant businesses to submit estimates or returns when requested by the Policy Council.
- Powers for the Policy Council to determine the form of estimate or return and the matters about, and period within, which businesses must submit information and to determine the businesses or classes of businesses that are obliged to submit estimates or returns and those that are exempt from obligation.
- Powers for civil penalties to be imposed on businesses that fail unreasonably to submit estimates or returns when requested.
- Powers for the Policy Council by regulation to add to or amend the matters about which estimates or returns must be made.
- Restrictions on the disclosure of information, or certain types or classes of information, obtained further to powers exercised under the Law

3.4. In practice it is envisaged that many of the administrative functions under the Law will be delegated to officers for them to exercise on behalf of the Policy Council.

3.5. Before, however, making such a recommendation, research has been carried out into the feasibility of collecting the additional necessary information directly from businesses on a statutory basis.

#### **4. Consultation with businesses regarding potential additional data requirements**

4.1. In early 2014, businesses in Guernsey and Alderney were asked for their views on the provision of data to the States. Responses were received from 117 businesses and business groups (105 in Guernsey and 12 in Alderney), which represents a sample of approximately 5% of employers. The responses were generally positive and the majority (63%) of those businesses were in favour of the States having statutory powers to require the data needed to improve GDP calculation. Businesses also provided feedback regarding the logistics of providing the information. This feedback has been used to inform the proposals put forward in this Policy Letter.

#### **5. Proposed Changes**

5.1.1. The Policy Council is proposing the implementation of a much improved methodology for the calculation of GDP. From 2016 onwards, this will allow a more accurate calculation of GDP within a reasonable timeframe each year, bringing it closer to international standards (to make it more easily comparable with other jurisdictions); and enabling a separate GDP to be calculated for Alderney.

5.1.2. The proposal involves collecting profits and up to two other key pieces of information from businesses each year (see section 5.2 below). It entails using this information along with other data that is already available to implement methodological updates.

- 5.1.3. It should be noted that, since these proposed methodological changes are likely to impact on the headline GDP figure, a transition period of at least three years will be needed in order for there to be a smooth introduction of the figures calculated using the revised method. The aim will be to calculate GDP for 2015, 2016 and 2017 using both methods. The transition will be completed in 2018 (when the 2017 figures are calculated).

## **5.2. Obtain profits data directly from businesses**

- 5.2.1. If company profits information for all Guernsey based companies could be made available at the time of the tax return submission (for which the deadline is November following the year in question), rather than following tax assessment, the element of estimation required for the timely publication of GDP could be greatly reduced.
- 5.2.2. As highlighted in paragraph 2.1.2, there is also now a requirement for more complete profits information for the purpose of monitoring the appropriateness of the current corporate tax regime. If the information is requested jointly by Income Tax and Policy Council, both requirements could be met, while minimising the effort required of businesses.
- 5.2.3. When consulted<sup>9</sup>, 82% of the businesses that responded indicated that it would be “easy” for them to provide the Policy Council with profits information (referred to in the survey as gross operating surplus). On this basis, it is felt that it could be made mandatory for all businesses to provide this information.
- 5.2.4. Respondents indicated that they could provide the information annually (or more frequently) in 94% of cases and 88% of businesses would prefer to provide the information online. A web-based mechanism for collecting this data on an annual basis would need to be developed (see Appendix 2 for indicative costs). The intention would be to develop the data collection mechanism in advance of any statutory powers being introduced, so there can be a year of voluntary data submissions and testing (depending on how quickly the legislation can be drafted), while businesses familiarise themselves with the new requirements.

## **5.3. Obtain up to two other key pieces of information directly from businesses**

- 5.3.1. In addition to the profits information referred to above, if up to two other key pieces of information could be collected from businesses it would enable the Policy Council to realign the GDP calculation method with the latest version of the SNA (albeit a simplified version, more appropriate to the comparable size of the jurisdictions of Guernsey and Alderney). This other information can be summarised as follows:

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<sup>9</sup> See Appendix 3 for a full summary of consultation questions and responses.

- Employers would be asked for the value of employer contributions to pension schemes (to give the full picture of the remuneration package provided to employees). The consultation responses indicated that this would be easy for 84% of those businesses responding.
- Further information relating to net interest income (the value and the breakdown by source (local vs. non local) is required from finance corporations, which would be easy for 93% of businesses, according to the consultation responses.

5.3.2. On the basis of the consultation responses, it is felt that it could be made mandatory for all employers to provide the value of employer contributions to pension schemes and for all finance businesses to provide information on net interest income.

5.3.3. Responses regarding the logistics of providing all of this information were similar to those regarding the provision of profits information, so the intention would be to collect the information at the same time via a web-based mechanism (further details in Appendix 2). It is not anticipated that collecting these additional pieces of information will significantly affect the development or on-going costs.

5.3.4. Finally, an assessment of the depreciation of assets held by not-for-profit organisations is desirable, although this is less significant in terms of its proportion of total GDP. More not for profit organisations indicated that this would be difficult or not possible than the number that indicated it would be easy (the latter represented 40%); therefore, it is intended to make collection of data on depreciation of assets voluntary rather than mandatory.

## **5.4. Methodological updates**

5.4.1. If the data referred to above were to become available to the Policy Council, not only would the method used to calculate GDP be brought in line with international standards, but other methodological and presentational updates, not reliant on sourcing the information referred to above, could be introduced at the same time. For example, the economic sectors into which total GDP can be broken down could be updated in line with the internationally comparable economic sectors used to present all the other economic information published by the Policy Council.

## **6. Need for additional information**

6.1. As part of this review, it became apparent that there were other data needs that could be met by combining these requirements with improved GDP data collection. It was indicated that some investment and policy making decision processes could be improved if additional data broken down by economic sector (and finance sub-sector) were available on a regular basis.

6.2. Consequently, during the consultation, businesses were also asked about the potential of providing some specific additional information (listed below) on a voluntary basis.

- Hours worked by employees
- Level of participation in employee health insurance schemes
- Level of participation in employee company pension schemes
- Details of premises
- Turnover/sales by geographic area
- Costs by geographic area
- Looking ahead – factors that it is foreseen will affect growth.

6.3. This list of information was compiled in consultation with the Commerce and Employment Department and the Environment Department. It also contains some information which the Policy Council has been asked to provide during recent years and information on hours worked by employees, which Policy Council has long sought, in order to improve the measurement of median earnings.

6.4. The consultation responses indicated that the ease of providing this information varies from one piece of information to the next. Businesses which responded to these questions indicated that it would be easy to provide information on levels of participation in employee health insurance and company pension schemes in 82% and 87% of cases respectively. Hours worked by employees, details of premises and the forward looking questions were reported to be more challenging, with between 63% and 67% of businesses saying this would be easy. Providing turnover and costs by geographic area was reported to be even more problematic, with between 41% and 47% of respondents saying it would be easy, but the majority indicating it would be difficult or not possible.

6.5. Businesses were also asked how likely they would be to provide this information if it were to be requested on a voluntary basis and again the responses varied considerably.

6.6. In light of the consultation responses, it is proposed that this information should not be requested initially alongside GDP data. However, providing there continues to be a valid need for obtaining this data, it is proposed that potential approaches for collecting this information should be further investigated. The mechanism implemented to collect GDP data would be sufficiently flexible that it could be expanded to include further data collection. It should be noted that there may be a cost for this expansion if it is pursued.

## **7. Resource Implications**

7.1. The cost to implement these proposals would be in the region of £9,000 for the initial set up and approximately £2,000 per year thereafter, including estimated costs of staff time (see Appendix 2 for further details). These costs can be met from existing resources.

- 7.2. From 2018 onwards, after implementation, the staff time costs will reduce from £3,000 (as per the current method) to £2,000 per year (using the new method). This offers a savings of £1,000 of staff time per year and so the project would break even 13 years after implementation. It is proposed that the time saved would be redeployed for other essential research work.
- 7.3. The Law envisaged is unlikely to be particularly lengthy and the substantive provisions should be relatively straightforward to draft. In the circumstances, roughly 5 working days might be required for the legislative drafter of the Law to prepare a working draft. There will be additional time required to prepare some of the documents (e.g. the relevant form of estimate or return) that will be needed for the purposes of practical implementation of the legislation and proposed policy. This administrative work will fall to be undertaken by officers of the Policy Council.

## **8. Consultations**

### **8.1. Commerce and Employment Department and Treasury and Resource Department**

- 8.1.1. The Commerce and Employment Department Board supports the proposals outlined in this Policy Letter, considering them to represent a pragmatic approach.
- 8.1.2. Staff at Income Tax were consulted regarding the proposals in this Policy Letter and, since 80% of company income tax returns are filed by accountants on behalf of their clients, the Guernsey Society of Chartered and Certified Accountants was also consulted. It was highlighted that, if submission of the data were to be via the income tax online services (one of the options included in Appendix 2), accountants would need to collate that information from their clients, which would have an inevitable cost to the accountants. This information will be borne in mind when the preferred option is determined.
- 8.1.3. Income Tax staff also highlighted that, whilst online filing of company income tax returns is mandatory, self-employed individuals (including those in partnership) may file their personal income tax returns online or on paper. At present only 37% of those in business file their personal income tax return online. As such, a paper alternative to the online GDP data collection form would also be made available and the additional cost of this is included in the estimates provided.

### **8.2. Alderney Policy and Finance Committee**

- 8.2.1. The Policy and Finance Committee fully supports the proposed changes to enable a GDP to be calculated specifically for Alderney.

### **8.3. Law Officers of the Crown**

- 8.3.1. The Law Officers have been consulted about the proposals contained within this Policy Letter. They have advised that the proposed Law can be drafted within the timetable required to facilitate the introduction of the first mandatory data collection in January 2017 provided that the drafting is given the necessary priority by the Policy Council.

## **9. Compliance with Principles of Good Governance**

- 9.1. The Policy Council is satisfied that the proposals conform with the six Principles of Good Governance, particularly as they will facilitate compliance with: Core Principle 1, focusing on the organisation's purpose and on outcomes for citizens and service users; Core Principle 4, taking informed transparent decisions and managing risks and; Core Principle 5, developing the capacity and capability of the governing body to be effective.

## **10. Conclusions**

- 10.1. The issues surrounding the calculation of GDP described in this Policy Letter can only be resolved by collecting some additional data directly from businesses. If the States wish to safeguard the accuracy of GDP, Guernsey's core qualitative measure of economic growth, some (relatively small) investment will be needed in order to develop a mechanism to collect the necessary data. Legislation will also be required to ensure that the data is provided in a timely and comprehensive manner, and is robust enough to enable the publication of accurate GDP data within a reasonable timeframe.
- 10.2. By collecting this data from Alderney businesses alongside those based in Guernsey, it will be possible to separately calculate the GDP of Alderney, enabling economic performance in Alderney to be monitored in a way which is not possible at present.

## **11. Recommendations**

- 11.1. The States are asked to:
- i) Agree that the method of calculating GDP be updated as set out in this Policy Letter; and
  - ii) Direct the preparation of such legislation as may be necessary to facilitate the collection of data as outlined in sections 3.3, 5.2.3 and 5.3.2 of this Policy Letter.

J P Le Tocq  
Chief Minister

27<sup>th</sup> July 2015

A H Langlois  
Deputy Chief Minister

Y Burford  
P L Gillson  
S J Ogier

R W Sillars  
M G O'Hara  
K A Stewart

P A Luxon  
D B Jones  
G A St Pier



## **Appendix 1**

### **GDP Issues**

#### **Issues with accuracy of first estimates of GDP / time taken to finalise GDP figures**

The two largest components in the calculation of GDP are employee wages and business (including self-employed and company) profits. Accurate and relatively timely information on wages is available each quarter as a result of the returns submitted by employers for the payment of social security contributions and income tax. However, business profits information (which constitutes about 25% of total GDP) is only currently available after income tax assessments have been issued. Businesses have until November of the year after the year in question to submit their tax returns. As a result, it can take several years for this information to become available, since it is only after the data has been processed and aggregated that the information on businesses can be passed on due to confidentiality clauses in the Income Tax (Bailiwick of Guernsey) Law, 1975.

There is an expectation that the States will publish a first estimate of GDP for the previous year during the third quarter of each year. However, at this point in time, as explained above, the available business profits data is incomplete. It takes a significant amount of staff time to estimate values for the missing elements of the information needed to calculate the GDP. In 2014, it took staff a total of around 100hrs, at a cost of approximately £3,000, to estimate values for the missing elements of the information needed to calculate GDP for 2013. In comparison, the time taken to compile all the other data needed for the calculation is in the order of 5hrs (a cost of approximately £100).

The first estimate may be revised significantly over the three year period before it can be finalised, which impacts on confidence in the first estimates. The element of estimation required was significant enough to move the nominal change in GDP between 2012 and 2013 from minus 4.3% (if the raw, incomplete data were used unaltered) to plus 3.3% (which was the published figure). This illustrates the potential impact of any inaccuracy in the estimated element of GDP on the headline published figure, which leads to substantial concerns about the reliability of this data and consequently for the reputation of the States.

#### **Issues regarding international comparability**

National accounting best practice (documented in the SNA) has changed over the years, but Guernsey's method has not been updated since the 1980s. As a result, there are now significant methodological differences between the GDP published in Guernsey and those published by other jurisdictions, including Jersey. The size of this difference cannot be quantified at present, since the data required to bring the Guernsey method back in line with the latest SNA is not currently available.

## **Appendix 2**

### **Data collection mechanism options and costs**

Section 5 of this report refers to developing a primarily web-based data collection mechanism (although a paper option would be made available if required). It is proposed that an additional e-form be developed and made available in the same area of [www.gov.gg](http://www.gov.gg) as (but separate to) the online annual income tax return.

Profits data may be requested via the online annual tax return itself, since there may be a minor amendment to the company income tax return for next year, to enable the collation of relevant profits data in order to monitor the appropriateness of the current corporate tax regime. However, it will not be appropriate to request other data, which will not be relevant to Income Tax via this route, as such a range of options for collecting the additional information have been investigated. A login system and e-form could be developed in house, using the existing gov.gg software, although an upgrade to the security of the site would be required to ensure the security of information during transfer. Work is already underway on this upgrade, which will have wider benefits, and any costs associated with this will be borne by a separate project underway to develop the States online presence.

If the same company that provides the online tax return, with which the States of Guernsey already has a maintenance and support contract, is engaged to create a login system and e-form there would be a set up cost of £5,600 and no additional IT costs after set up. If the existing Income Tax login were to be shared, the cost would be reduced to £3,000.

Since the costs of each of the above options are of a similar magnitude, more details will be gathered in order to decide which of the above options should be pursued, once it is known whether the recommendations in this Report are supported by the States. An alternative option investigated was an extension to the quarterly returns creator used by Income Tax and the Social Security Department. It would be possible to design the extension in such a way that the information submitted would be ring-fenced in a suitably secure manner (either via a totally separate form or as per the single system used by employers to submit separate quarterly returns to Income Tax and Social Security at present).

However, this had an indicative cost of around £45,000 for the set up and £15,000 per annum thereafter and therefore has been rejected.

There would be staff time and incidental costs e.g. printing, in addition to the costs of either of the options above. It is estimated that these would equate to approximately £3,000 during the set up and £2,000 each year thereafter.

### **Appendix 3**

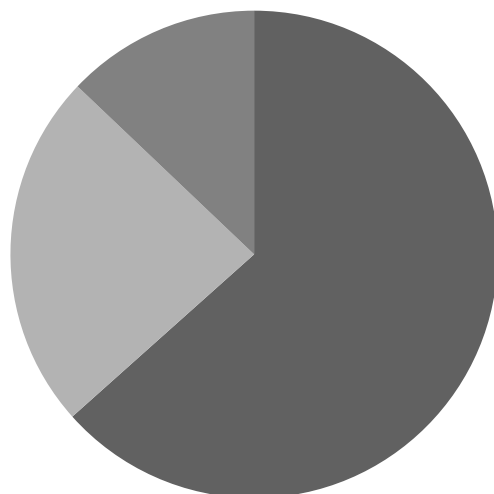
#### **Survey responses**

The tables below show the survey question responses as a percentage of the total respondents to that question. The bottom row of each table shows the number and percentage of total survey respondents that answered that particular question.

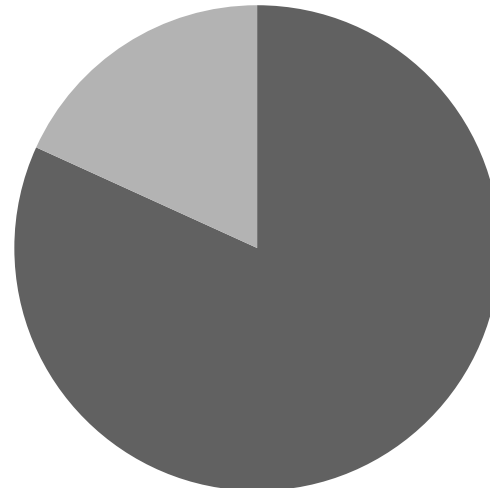
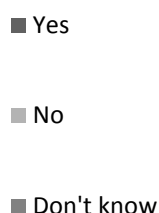
##### **1. Statutory powers for data collection**

Do you think that the States of Guernsey/Alderney should have the legal power to collect data for the purpose of measuring economic growth (similar to the legal power which exists in other jurisdictions, including the UK)?				
Answer Options	Guernsey Response Percent	Guernsey Response Count	Alderney Response Percent	Alderney Response Count
Yes	63.4%	59	81.8%	9
No	23.7%	22	18.2%	2
Don't know	12.9%	12	0.0%	0
Survey respondents answering this question	88.6%	93	91.7%	11

**Guernsey Responses**



**Alderney Responses**



## 2. Gross operating surplus

How easy would it be for your business to provide this?				
Answer Options	Guernsey Response Percent	Guernsey Response Count	Alderney Response Percent	Alderney Response Count
Easy	82.2%	60	80.0%	8
Difficult	15.1%	11	20.0%	2
Not possible	2.7%	2	0.0%	0
Survey respondents answering this question	69.5%	73	83.3%	10

How often could it be provided?				
Answer Options	Guernsey Response Percent	Guernsey Response Count	Alderney Response Percent	Alderney Response Count
Quarterly (or more frequently)	26.8%	19	10.0%	1
Annually	66.2%	47	90.0%	9
Less often or never	7.0%	5	0.0%	0
Survey respondents answering this question	67.6%	71	83.3%	10

Which would be the easiest method for you to provide the information?				
Answer Options	Guernsey Response Percent	Guernsey Response Count	Alderney Response Percent	Alderney Response Count
Online	77.6%	59	11.8%	9
Paper	9.2%	7	1.3%	1
Phone	1.3%	1	0.0%	0
Other (please specify)	11.8%	9	0.0%	0
Survey respondents answering this question	63.8%	67	83.3%	10

If the States of Guernsey made it compulsory for this data to be provided, what do you think the penalty should be for non-compliance?				
Answer Options	Guernsey Response Percent	Guernsey Response Count	Alderney Response Percent	Alderney Response Count
A civil penalty e.g. a fine or other penalty but no criminal record	93.2%	55	63.6%	7
A criminal penalty e.g. a fine or other penalty and a criminal record (which is the case in the UK)	6.8%	4	9.1%	1
Other (please specify)	0.0%	0	27.3%	3
Survey respondents answering this question	56.2%	59	66.7%	8

### 3. Employer contributions to occupational pensions

How easy would it be for your business to provide this?				
Answer Options	Guernsey Response Percent	Guernsey Response Count	Alderney Response Percent	Alderney Response Count
Easy	87.1%	61	63.6%	7
Difficult	4.3%	3	18.2%	2
Not possible	8.6%	6	18.2%	2
Survey respondents answering this question	66.7%	70	91.7%	11

How often could it be provided?				
Answer Options	Guernsey Response Percent	Guernsey Response Count	Alderney Response Percent	Alderney Response Count
Quarterly (or more frequently)	37.1%	26	10.0%	1
Annually	54.3%	38	70.0%	7
Less often or never	8.6%	6	20.0%	2
Survey respondents answering this question	66.7%	70	83.3%	10

Which would be the easiest method for you to provide the information?				
Answer Options	Guernsey Response Percent	Guernsey Response Count	Alderney Response Percent	Alderney Response Count
Online	76.0%	57	10.7%	8
Paper	10.7%	8	1.3%	1
Phone	0.0%	0	0.0%	0
Other (please specify)	13.3%	10	1.3%	1
Survey respondents answering this question	61.9%	65	75.0%	9

If the States of Guernsey made it compulsory for this data to be provided, what do you think the penalty should be for non-compliance?				
Answer Options	Guernsey Response Percent	Guernsey Response Count	Alderney Response Percent	Alderney Response Count
A civil penalty e.g. a fine or other penalty but no criminal record	74.3%	55	10.8%	8
A criminal penalty e.g. a fine or other penalty and a criminal record (which is the case in the UK)	5.4%	4	1.4%	1
Other (please specify)	20.3%	15	4.1%	3
Survey respondents answering this question	56.2%	59	75.0%	9

#### 4. Depreciation of assets (non-profit & charitable organisations only)

How easy would it be for your business to provide this?				
Answer Options	Guernsey Response Percent	Guernsey Response Count	Alderney Response Percent	Alderney Response Count
Easy	40.0%	2	0.0%	0
Difficult	40.0%	2	0.0%	0
Not possible	20.0%	1	0.0%	0
Survey respondents answering this question	4.8%	5	0.0%	0

How often could it be provided?				
Answer Options	Guernsey Response Percent	Guernsey Response Count	Alderney Response Percent	Alderney Response Count
Quarterly (or more frequently)	0.0%	0	0.0%	0
Annually	100.0%	4	0.0%	0
Less often or never	0.0%	0	0.0%	0
Survey respondents answering this question	3.8%	4	0.0%	0

Which would be the easiest method for you to provide the information?				
Answer Options	Guernsey Response Percent	Guernsey Response Count	Alderney Response Percent	Alderney Response Count
Online	75.0%	3	0.0%	0
Paper	25.0%	1	0.0%	0
Phone	0.0%	0	0.0%	0
Other (please specify)	0.0%	0	0.0%	0
Survey respondents answering this question	3.8%	4	0.0%	0

If the States of Guernsey made it compulsory for this data to be provided, what do you think the penalty should be for non-compliance?				
Answer Options	Guernsey Response Percent	Guernsey Response Count	Alderney Response Percent	Alderney Response Count
A civil penalty e.g. a fine or other penalty but no criminal record	75.0%	3	0.0%	0
A criminal penalty e.g. a fine or other penalty and a criminal record (which is the case in the UK)	0.0%	0	0.0%	0
Other (please specify)	25.0%	1	0.0%	0
Survey respondents answering this question	2.9%	3	0.0%	0

### 5. Detail on net interest income (financial corporations only)

How easy would it be for your business to provide this?				
Answer Options	Guernsey Response Percent	Guernsey Response Count	Alderney Response Percent	Alderney Response Count
Easy	93.1%	27	100.0%	1
Difficult	0.0%	0	0.0%	0
Not possible	6.9%	2	0.0%	0
Survey respondents answering this question	27.6%	29	8.3%	1

How often could it be provided?				
Answer Options	Guernsey Response Percent	Guernsey Response Count	Alderney Response Percent	Alderney Response Count
Quarterly (or more frequently)	36.7%	11	100.0%	1
Annually	53.3%	16	0.0%	0
Less often or never	10.0%	3	0.0%	0
Survey respondents answering this question	28.6%	30	8.3%	1

Which would be the easiest method for you to provide the information?				
Answer Options	Guernsey Response Percent	Guernsey Response Count	Alderney Response Percent	Alderney Response Count
Online	75.9%	22	100.0%	1
Paper	10.3%	3	0.0%	0
Phone	3.4%	1	0.0%	0
Other (please specify)	10.3%	3	0.0%	0
Survey respondents answering this question	24.8%	26	8.3%	1

If the States of Guernsey made it compulsory for this data to be provided, what do you think the penalty should be for non-compliance?				
Answer Options	Guernsey Response Percent	Guernsey Response Count	Alderney Response Percent	Alderney Response Count
A civil penalty e.g. a fine or other penalty but no criminal record	78.6%	22	100.0%	1
A criminal penalty e.g. a fine or other penalty and a criminal record (which is the case in the UK)	3.6%	1	0.0%	0
Other (please specify)	17.9%	5	0.0%	0
Survey respondents answering this question	21.9%	23	8.3%	1

## 6. Hours worked by employees

How easy would it be for your business to provide this?				
Answer Options	Guernsey Response Percent	Guernsey Response Count	Alderney Response Percent	Alderney Response Count
Easy	62.3%	43	81.8%	9
Difficult	30.4%	21	18.2%	2
Not possible	7.2%	5	0.0%	0
Survey respondents answering this question	65.7%	69	91.7%	11

How likely would you be to provide this information if the States of Guernsey asked for it on a voluntary basis?				
Answer Options	Guernsey Response Percent	Guernsey Response Count	Alderney Response Percent	Alderney Response Count
Very likely	53.8%	35	90.9%	10
Not very likely	33.8%	22	9.1%	1
Don't know	12.3%	8	0.0%	0
Survey respondents answering this question	61.9%	65	91.7%	11

## 7. Employee health insurance schemes

How easy would it be for your business to provide this?				
Answer Options	Guernsey Response Percent	Guernsey Response Count	Alderney Response Percent	Alderney Response Count
Easy	85.1%	57	63.6%	7
Difficult	7.5%	5	18.2%	2
Not possible	7.5%	5	18.2%	2
Survey respondents answering this question	63.8%	67	91.7%	11

How likely would you be to provide this information if the States of Guernsey asked for it on a voluntary basis?				
Answer Options	Guernsey Response Percent	Guernsey Response Count	Alderney Response Percent	Alderney Response Count
Very likely	65.6%	42	77.8%	7
Not very likely	26.6%	17	11.1%	1
Don't know	7.8%	5	11.1%	1
Survey respondents answering this question	61.0%	64	75.0%	9



## 8. Employee company pension schemes

How easy would it be for your business to provide this?				
Answer Options	Guernsey Response Percent	Guernsey Response Count	Alderney Response Percent	Alderney Response Count
Easy	89.2%	58	72.7%	8
Difficult	4.6%	3	9.1%	1
Not possible	6.2%	4	18.2%	2
Survey respondents answering this question	61.9%	65	91.7%	11

How likely would you be to provide this information if the States of Guernsey asked for it on a voluntary basis?				
Answer Options	Guernsey Response Percent	Guernsey Response Count	Alderney Response Percent	Alderney Response Count
Very likely	69.8%	44	88.9%	8
Not very likely	25.4%	16	0.0%	0
Don't know	4.8%	3	11.1%	1
Survey respondents answering this question	60.0%	63	75.0%	9

## 9. Premises

How easy would it be for your business to provide this?				
Answer Options	Guernsey Response Percent	Guernsey Response Count	Alderney Response Percent	Alderney Response Count
Easy	64.6%	42	81.8%	9
Difficult	30.8%	20	18.2%	2
Not possible	4.6%	3	0.0%	0
Survey respondents answering this question	61.9%	65	91.7%	11

How likely would you be to provide this information if the States of Guernsey asked for it on a voluntary basis?				
Answer Options	Guernsey Response Percent	Guernsey Response Count	Alderney Response Percent	Alderney Response Count
Very likely	61.3%	38	72.7%	8
Not very likely	33.9%	21	27.3%	3
Don't know	4.8%	3	0.0%	0
Survey respondents answering this question	59.0%	62	91.7%	11

**10. Turnover/sales by geographic area**

How easy would it be for your business to provide this?				
Answer Options	Guernsey Response Percent	Guernsey Response Count	Alderney Response Percent	Alderney Response Count
Easy	46.2%	30	54.5%	6
Difficult	43.1%	28	36.4%	4
Not possible	10.8%	7	9.1%	1
Survey respondents answering this question	61.9%	65	91.7%	11

How likely would you be to provide this information if the States of Guernsey asked for it on a voluntary basis?				
Answer Options	Guernsey Response Percent	Guernsey Response Count	Alderney Response Percent	Alderney Response Count
Very likely	41.3%	26	50.0%	5
Not very likely	50.8%	32	40.0%	4
Don't know	7.9%	5	10.0%	1
Survey respondents answering this question	60.0%	63	83.3%	10

**11. Costs by geographic area**

How easy would it be for your business to provide this?				
Answer Options	Guernsey Response Percent	Guernsey Response Count	Alderney Response Percent	Alderney Response Count
Easy	40.0%	26	45.5%	5
Difficult	40.0%	26	27.3%	3
Not possible	20.0%	13	27.3%	3
Survey respondents answering this question	61.9%	65	91.7%	11

How likely would you be to provide this information if the States of Guernsey asked for it on a voluntary basis?				
Answer Options	Guernsey Response Percent	Guernsey Response Count	Alderney Response Percent	Alderney Response Count
Very likely	35.1%	20	55.6%	5
Not very likely	56.1%	32	44.4%	4
Don't know	8.8%	5	0.0%	0
Survey respondents answering this question	54.3%	57	75.0%	9

## 12. Looking forward

Would you be able to provide this information on a regular basis?				
Answer Options	Guernsey Response Percent	Guernsey Response Count	Alderney Response Percent	Alderney Response Count
Yes	64.2%	43	54.5%	6
No	13.4%	9	18.2%	2
Don't know	22.4%	15	27.3%	3
Survey respondents answering this question	63.8%	67	91.7%	11

How likely would you be to provide this information if the States of Guernsey asked for it on a voluntary basis?				
Answer Options	Guernsey Response Percent	Guernsey Response Count	Alderney Response Percent	Alderney Response Count
Very likely	80.5%	33	100.0%	6
Not very likely	14.6%	6	0.0%	0
Don't know	4.9%	2	0.0%	0
Survey respondents answering this question	39.0%	41	50.0%	6

## 13. Data collection

Would you prefer it if the collection of data such as that referred to above (i.e. that collected for statistical and research purposes only) was kept completely separate from the other returns you have to make at present?				
Answer Options	Guernsey Response Percent	Guernsey Response Count	Alderney Response Percent	Alderney Response Count
Yes, I'd prefer it to be separate, i.e. stand alone	69.4%	43	90.9%	10
No, I'd prefer if it was combined with an existing collection, e.g. Social Security or Income Tax	30.6%	19	9.1%	1
Survey respondents answering this question	59.0%	62	91.7%	11

**(N.B. The Treasury and Resources Department supports the proposed improvements to the measurement of Guernsey's Gross Domestic Product which are essential in order to reduce the size of the revisions that have been necessary between initial estimates and final figures. Improved data, and hence improved Gross Domestic Product figures, are essential in order to enhance the ability to forecast, monitor and review economic performance.**

**The Department considers that the data collection mechanisms should be developed to be as efficient as possible for both businesses and the States utilising, wherever possible, "tell us once" principles.**

**In respect of resource implications, the Treasury and Resources Department notes that the Policy Council is intending to fund the initial one-off costs of £9,000 from its existing budget. After two years of running both systems (costing £4,000 which Policy Council will meet from existing resources), the revised system will cost £1,000 less per annum.)**

The States are asked to decide:-

VII.- Whether, after consideration of the Policy Letter dated 27<sup>th</sup> July, 2015, of the Policy Council, they are of the opinion:-

1. To agree that the method of calculating Gross Domestic Product be updated as set out in that Policy Letter.
2. To direct the preparation of such legislation as may be necessary to facilitate the collection of data as outlined in sections 3.3, 5.2.3 and 5.3.2 of that Policy Letter.

## SOCIAL SECURITY DEPARTMENT

### BENEFIT AND CONTRIBUTION RATES FOR 2016

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

10<sup>th</sup> August 2015

Dear Sir

#### **Executive summary**

1. The Social Security Department ('the Department') has undertaken its annual review of the social security, health and long-term care benefits paid under the various schemes for which it is responsible. The Department is recommending that, with the exception of family allowance, the rates of the non-contributory benefits funded from General Revenue be increased in 2016 by 1.5%, being the annual rate of 'core' inflation (RPIX) in June 2015. The Department is also recommending increases in the rates of all contributory benefits of 1.7%, being approximately one third of the difference between the June 2015 RPIX figure of 1.5% and the 2014 median earnings index of 2.2%.
2. The Report includes, amongst other things, an update on the income and expenditure of the Guernsey Insurance Fund, the Health Service Fund and the Long-term Care Fund for 2014; updates on the actual costs in 2014 and the expected costs in 2015 of the various benefits, grants and allowances administered by the Department; updates on the financial sustainability of the Guernsey Insurance Fund, the Health Service Fund and the Long-term Care Fund; and proposed rates of contributory and non-contributory benefits and contribution rates and limits to take effect from January 2016.

#### **Key recommendations**

3. This report contains the following key recommendations:
  - (a) to establish a guideline for the annual uprating of pensions, set initially at one third of the real increase in median earnings, with the intention to reduce this to RPIX subject to suitable policies to enhance personal provision being in place (paragraphs 5 to 46);

- (b) from 1<sup>st</sup> January 2017, to increase the percentage contribution rate for both employees and employers by 0.1%, to fund the additional costs of the new parental benefits (paragraph 99)
- (c) subject to approval of (b) above, to decrease the grant from General Revenue to the Guernsey Insurance Fund, from 15% of contribution income to 14.7%, from 1<sup>st</sup> January 2017 (paragraphs 102 to 103);
- (d) to increase the upper earnings limit for employed and self-employed people and employers and the upper income limit for non-employed people from £135,252 to £137,592, from 1<sup>st</sup> January 2016 (paragraphs 52 to 53 and paragraph 62);
- (e) to increase the lower earnings limit from £131 per week to £133 per week, from 1<sup>st</sup> January 2016 (paragraph 60);
- (f) to increase the lower income limit at which non-employed contributions become payable from £17,030 per year to £17,290 per year, from 1<sup>st</sup> January 2016 (paragraph 65);
- (g) to increase the non-employed allowance, which is subtracted from the annual income figure before liability is calculated, from £7,223 to £7,336, from 1<sup>st</sup> January 2016 (paragraph 66);
- (h) to increase the prescription charge by 30p, taking the cost of a prescription to £3.70 per item, from 1<sup>st</sup> January 2016 (paragraph 141);
- (i) to increase supplementary benefit requirement rates as set out in tables 15 and 16, from 8<sup>th</sup> January 2016 (paragraph 178);
- (j) to decrease the supplementary fuel allowance for the 26 week period commencing from the last week in October 2015, from £30.00 per week to £27.66 per week, in line with the change in the cost of fuel and light in the year to June 2015 (paragraph 187);
- (k) from 1<sup>st</sup> January 2016, or as soon as practicable thereafter, to make no new grants of free TV licences to persons aged 75 or over, except to householders in receipt of supplementary benefit who will remain eligible for a free TV licence from the date that they attain pension age (paragraphs 229 to 237).

## **REPORT**

### **PART I SOCIAL INSURANCE**

#### **Summary of the financial position**

4. The social insurance benefits and administration, costing £129.5m in 2014, were financed by £99.1m from contributions allocated to the Guernsey Insurance Fund and £14.9m from the States' grant from General Revenue. There was an operating deficit, before investment income, of £15.6m.

#### **Uprating policy**

5. In considering the uprating policy, it may help to restate the intention of the old age pension. The pension is a partial income replacement benefit, principally intended for years in retirement when employment has ceased, but not conditional on retirement, and paid when reaching pension age. The pension is intended as a platform for retirement income, with the expectation that it will be added to by the pensioner's occupational or private pension, savings or, where necessary, from supplementary benefit. The extent to which people can manage on their pension without other sources of retirement income depends to a large extent on whether they are homeowners or whether they are having to pay rent. It should be noted that in order to receive the full rate of pension (£201.03 in 2015) the pensioner needs to have paid an average of 50 weekly contributions per year over a 45 year period. Only 25% of Guernsey old age pensions are paid at the full rate.
6. The report of the Treasury and Resources Department and the Social Security Department entitled 'Planning a Sustainable Future - The Personal Tax, Pensions and Benefits Review' ('the Joint Report') (Billet d'État IV of 2015) included propositions relating to the annual uprating of old age pensions. The propositions, which were not carried (see below) were as follows:

‘ ...

10. *To agree to establish a guideline for the annual uprating of statutory old-age pensions, set initially at 1/3rd of the real increase in median earnings, with the intention to reduce this to RPIX subject to suitable policies to enhance personal provision being in place.*
11. *To direct the Social Security Department to take the above guideline in Proposition 10 into account in its recommendations for the annual uprating of statutory old-age pensions, and to provide the States of Deliberation with detailed reasoning for any recommendation to deviate from it in its annual uprating report.*

*12. To direct the Social Security Department to review the guideline for the annual uprating of statutory old-age pensions no later than 2020, having regard to progress made in establishing supporting policies to enhance personal pension provision and the actuarial projections for the Guernsey Insurance Fund at that time.'*

7. Following an amendment proposed by Deputy Mark Dorey being carried, the States deleted the foregoing propositions and instead resolved:

*'10–12. To direct the Social Security Department to include in the 2015 uprating report the advantages, disadvantages and financial consequences of adopting a policy of uprating pensions annually at the midway point between increases in median earnings and increases in prices.'*

8. The following paragraphs address that Resolution.
9. In developed economies, there is an assumption of long-term economic growth and a related assumption that the increase in average earnings will exceed the increase in prices. This has implications for the policies concerning the periodic uprating of benefits in retirement.
10. There are two aspects to this. First, there is what happens to the level of pension while a person in the workforce is contributing and building an entitlement to a pension. Second, there is what happened to the level of pension once the person has retired and is receiving it.
11. For countries where the national pension is directly related to the individual's earnings (e.g. France, Germany and much of continental Europe) the value of a pension at the point of retirement is likely to have substantially preserved its value throughout the individual's working career. In other words, a pension awarded today would be substantially the same related to pre-retirement earnings as it would have been for someone with an identical employment retiring, say, 10, 20 or 40 years earlier.
12. However, for countries and territories such as the UK and Guernsey, where the basic old age pension is a flat rate, unrelated to the individual's earnings, the value of the pension when retirement age is reached will depend entirely on the uprating policy that has been applied to pensions in payment for the period over which the individual has been working and contributing.
13. To illustrate the effect of uprating policy, take 2014 as the year in which a young person joins the workforce, with a 45 year career ahead. Assume that, over those 45 years, RPIX increases on average by 3% per year, and median earnings increase by 4.5% per year (1.5% real). These are reasonable long-term assumptions, consistent with those used in the recent Personal Tax, Pensions and Benefits Review.



14. In 2014, the full rate pension of £196.90 (£10,238.80 p.a.) equated to 34% of median earnings of £30,290 p.a.
15. By 2060, at the end of the 45 year career, the full rate pension, if uprated annually by RPIX of 3%, will have reached £745 per week. Median earnings, if increasing by the assumed 4.5% per year, will have reached £4,222 per week. At that point, the old-age pension would equate to 18% of median earnings, compared to 34% at the starting point in 2014. If the basic old age pension is intended as a platform on which to build provision in retirement, then in the illustrative example, that platform has fallen by nearly 50% over the individual's career, insofar as that platform is measured as a replacement ratio of pre-retirement earnings.
16. A half-way uprating between prices and earnings would produce a pension in 2060 of £1,032 per week, equating to 24% of median earnings.
17. A one-third uprating between prices and earnings would produce a pension in 2060 of £926 per week, equating to 22% of median earnings.
18. The erosion of the value of the pension, relative to median earnings, is summarised in table 1 below, showing the progression at ten-year intervals to 2054, then the five years to 2059:

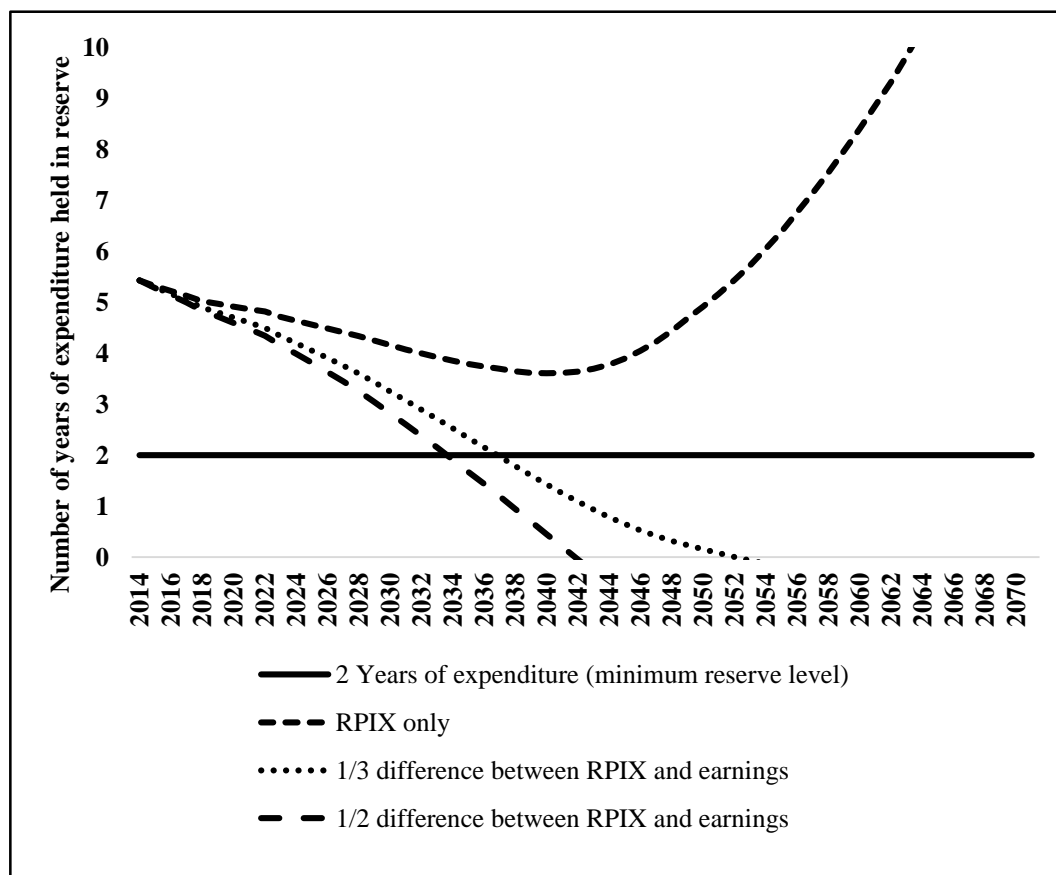
**Table 1 - Value of the old age pension from 2014 to 2059 based on three different uprating scenarios, relative to median earnings**

Year	Pension +3% (RPIX)	Pension +3.5% (1/3 <sup>rd</sup> uprating)	Pension +3.75% (1/2 uprating)	Median Earnings +1.5%
2014	£197	£197	£197	£583
2024	£265	£278	£285	£905
2034	£356	£392	£411	£1,406
2044	£478	£553	£594	£2,184
2054	£643	£780	£859	£3,391
2059	£745	£926	£1,033	£4,226

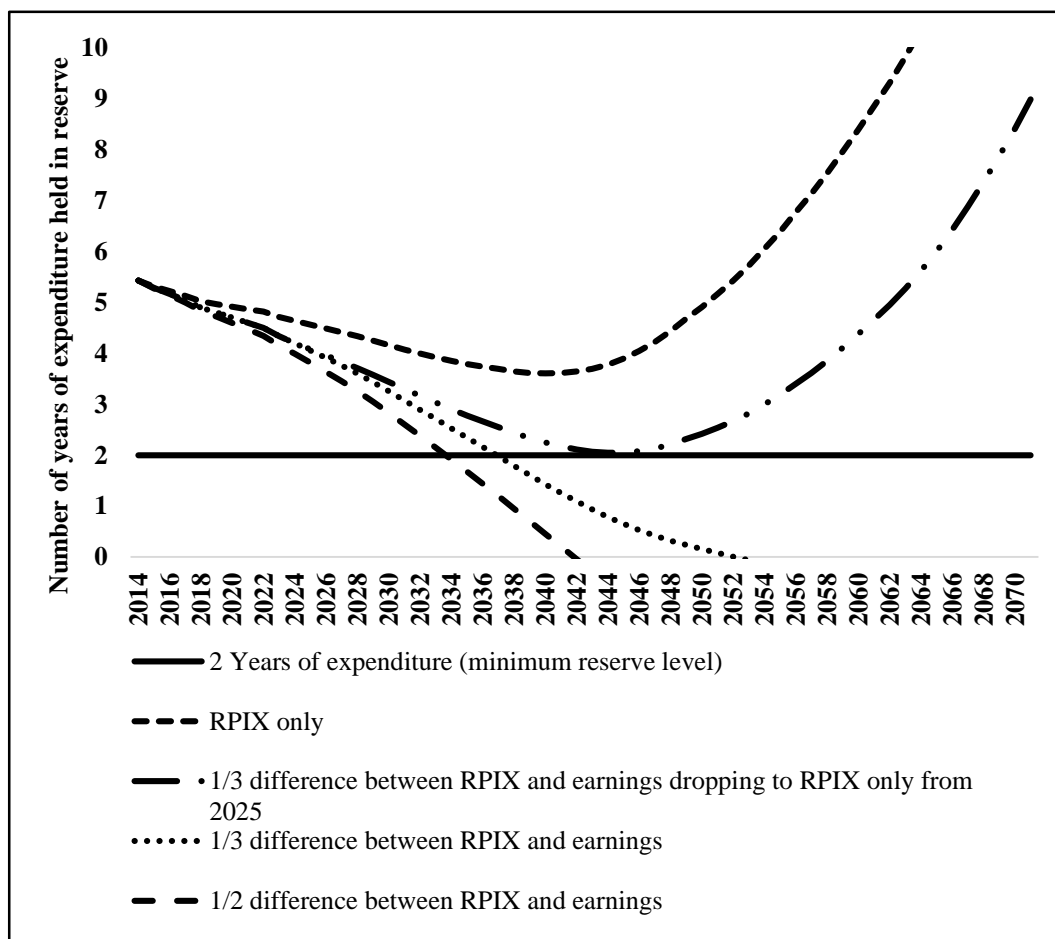
19. The Dorey amendment (see paragraph 7 above) required the Department to report on the advantages, disadvantages and financial consequences of adopting a policy of uprating pensions annually at the midway point between increases in median earnings and increases in prices.
20. There are obvious merits in having an uprating policy, which is more than an annual decision based on prevailing circumstances. It is important for the Department, and the States, to understand the liabilities of the Guernsey Insurance Fund, and old age pension in particular. The uprating policy is a key factor in the long-term liability and consequently a key assumption within the actuarial projections. The actuarial projections, in turn, inform decision making on the contribution rates, which constitute the main source of funding. The projections also inform decisions concerning the target rate of return for the

investments of the Guernsey Insurance Fund, having regard to future cashflows, liquidity requirements and minimum balance of the Fund to provide a buffer against cyclical economic downturn.

21. Until the 'one third' uprating policy was proposed in the PTR report, the 'half-way' uprating policy had emerged through custom and practice over many years. Although there had been occasions when the Social Security Department had proposed, and the States approved, more substantial increases, the periodic actuarial reviews confirmed retrospectively that the medium term average annual uprating had been at around the mid-point of the increase in prices and the increase in earnings.
22. Ideally, from the beneficiary's perspective, pensions should be uprated fully in line with the increases in median earnings. This maintains the pensioner's level of prosperity relative to median earnings as when the individual first reached pension age. However, from the perspective of the financing of the scheme, an uprating policy matching the increase in median earnings is costly.
23. Uprating pensions in line with RPIX only, preserves the purchasing power of the pensioner for the basket of goods that makes up the prices index. But, as shown in paragraphs 13 to 18 above, it erodes the value of the pension relative to median earnings and, consequently, erodes the relative prosperity of the pensioner. From the perspective of the financing of the scheme, an uprating policy matching the increase in retail prices is less costly than earnings.
24. The 'half-way' uprating that has become the norm in Guernsey is a compromise. It allows pensioners a partial share in the general prosperity of wage earners, while moderating overall expenditure on the Fund and assisting long-term sustainability.
25. The 'one-third' uprating, proposed in the PTR report shifts the compromise a little more in favour of the financial sustainability of the Fund and further reduces the pensioner's share of the earnings prosperity.
26. The effect of the three uprating policy scenarios; prices, one-third, and half-way between prices and earnings are shown in figure 1 overleaf:

**Figure 1 - Impact of uprating policy on Guernsey Insurance Fund Reserves**

27. Figure 1 shows that, all other underlying assumptions holding good, an uprating based on RPIX only, produces a very sustainable position, where the balance of the Fund reaches a minimum of around 4 times benefit expenditure by 2040, thereafter increasing very rapidly to reach around 10 times annual expenditure by 2060.
28. The one-third uprating, at one-third of the difference between prices and earnings, shows a projection that is just about sustainable, but with the balance of the Fund entirely drawn down by 2058 and remaining at zero, with no buffer whatsoever against cyclical economic downturn, before showing the first signs of accumulation around ten years later.
29. The half-way uprating, at the mid-point of earnings and prices, shows an unsustainable projection, with the balance of the Fund entirely drawn down by 2042.
30. Figure 2 overleaf, adds a fourth uprating scenario. This is the 'one-third' uprating until 2024, with RPIX thereafter, which was proposed, but not approved, in the PTR debate. This shows a sustainable projection situation, with the balance of the Fund not reducing below two times annual benefit expenditure.

**Figure 2 - Impact of uprating policy on Guernsey Insurance Fund Reserves**

31. The foregoing paragraphs on uprating policies have presupposed the annual movement in average earnings exceeding the movement in prices. However, there have been two occasions in the last nine years of price rises (from 2005 to 2014) when prices have exceeded earnings, those years being 2010 and 2013. Over the nine year period in total, the real increase in earnings has been 5.3%, which is far short of both the 18% customary assumption of 2% per annum growth in earnings and the 13.5% moderated assumption in the PTR report of 1.5% per annum growth.
32. In recent years when the increase in earnings has been less than the increase in prices, the Department has recommended increases in pensions in line with prices (RPIX).

***Uprating policies in UK and Jersey***

33. In order to address the situation where prices exceed earnings, both Jersey and the UK currently have ‘triple lock’ uprating policies meaning that pensions will be increased by the higher of:
- Prices; or
  - Earnings; or
  - 2.5%
34. In Jersey, the relevant prices index is the RPI for Pensioners.

***Further consideration of uprating policy for Guernsey Old Age Pension***

35. The Department has given further consideration to an appropriate uprating policy for Old Age Pension in the light of the debate on the Joint Report and the Dorey amendment.
36. The Department notes that sustainability of the Guernsey Insurance Fund can be achieved through a number of measures, the principal ones being:
- increasing the grant from General Revenue of the States to the Guernsey Insurance Fund;
  - increasing Pension Age;
  - increasing contribution rates;
  - reducing the rate of annual increases in the old age pension and other social insurance benefits.
37. The following paragraphs explain the Department’s thinking on each of these measures.
38. The Guernsey Insurance Fund currently receives a grant from General Revenue equal to 15% of the total amount collected in contributions. This means that for every £1 of contribution income received, a 15 pence grant from General Revenue is paid to the Fund. In 2014, the cost of the States grant to the Guernsey Insurance Fund was £14.86m. An increase in the grant would need to be funded either from expenditure cuts or increased revenues. Neither option is considered desirable so the Department is recommending no change to the States grant.
39. As regards pension age, in April 2014 the States approved an incremental increase in pension age from 65 to 70, starting in 2020 and ending in 2049.
40. In July 2009 the Department recommended increasing the employers’ contribution rate by 0.5%, from 6.5% to 7.0%, as part of a package of measures designed to secure the long-term financial sustainability of the Guernsey Insurance Fund (Billet d’État XXI of 2009). This proposal was rejected by the States. The Department again recommended a 0.5% increase in the employers’

contribution rate in October 2013 (Billet d'État XX of 2013), but again, this was not approved.

41. In last year's Upating Report (Billet d'État XXI of 2014), the Department stated its intention to propose that the percentage contribution rate for employers be increased by 0.5%, from 6.5% to 7.0% from 1<sup>st</sup> January 2016, unless in its opinion the measures approved by the States following consideration of proposals arising from the Personal Tax, Pensions and Benefits Review were adequate to secure the long-term financial sustainability of the Guernsey Insurance Fund.
42. As shown in figure 2 above, if the States were to approve the upating policy recommended by the Treasury and Resources Department and the Social Security Department in the Joint Report (i.e. to establish a guideline for the annual upating of pensions, set initially at one third of the real increase in median earnings, with the intention to reduce this to RPIX from 2025 subject to suitable policies to enhance personal provision being in place), this would create a sustainable projection situation, with the balance of the Fund not reducing below two times annual benefit expenditure. This is in accordance with the resolution of the States, following consideration of the Joint Report, *"To agree the long-term planning for statutory old age pension provision be designed to maintain a buffer of at least two year's expenditure within the Guernsey Insurance Fund."* Therefore, if this upating policy were to be approved by the States, it would not be necessary to increase the employers' contribution rate at this time.
43. However, if a policy of upating by the midway point between increases in prices and increases in median earnings were adopted, contribution rates would need to increase by:
  - 0.8% (applied to the employer or the employee or split between both) to achieve a minimum of 2 years of reserves if the States grant remains at 15%, or
  - 1.0% (applied to the employer or the employee or split between both) if the monetary value of the States grant is kept at approximately 2015 levels by reducing it to 13.3% of contribution income - noting that the States grant has traditionally been a whole number.
44. On balance, the Department remains of the view set out in the Joint Report that measures to reduce projected benefit expenditure would be more appropriate than measures to increase the annual income of the Guernsey Insurance Fund. This position has regard to the consultation feedback received during the Personal Tax, Pensions and Benefits Review, the Fiscal Framework, which was recently amended, following States approval, to place an upper limit on total government income of 28% of Gross Domestic Product, and other significant expenditure pressures which are on the horizon, such as funding of long-term health and social care services.

45. Therefore, the Department recommends that a guideline be established for the annual uprating of pensions, set initially at one third of the real increase in median earnings, with the intention to reduce this to RPIX from 2025 subject to suitable policies to enhance personal provision being in place, as was proposed in the Joint Report. Provided that the States agrees to establish this guideline, the Department will not be recommending any increases to contribution rates for 2016.
46. However, in light of the protracted nature of recent long-term decision making by the States, the Department suggests that the Committee for Employment and Social Security should consider reviewing the two-year expenditure buffer policy outlined in paragraph 42 with a view to potentially increasing the minimum expenditure buffer to at least four years and introducing a maximum cap on the value of the buffer in order to prevent the reserves of the Fund accumulating excessively.

#### **Proposed benefit rates for 2016**

47. In accordance with the proposed long-term uprating policy set out above, the Department is recommending that the standard rates of pension and other contributory social insurance benefits be increased by 1.7% for 2016, being approximately one third of the difference between the June 2015 RPIX figure of 1.5% and the 2014 median earnings index of 2.2%.
48. The proposed new weekly rates of benefit are set out in table 2 overleaf:

**Table 2 – Proposed weekly rates of contributory social insurance benefits for 2016**

<b>Weekly paid benefits</b>	<b>2016</b>	<b>2015</b>
Old Age Pension -		
Insured person	£204.45	£201.03
Increase for dependant wife or pension for wife over 65 based on husband's record <sup>1</sup>	<u>£102.41</u> £306.86	<u>£100.70</u> £301.73
Widow's/Survivor's Benefits -		
Widowed Parent's Allowance	£214.99	£211.40
Bereavement Allowance/Widow's Pension	£184.86	£181.77
Unemployment Benefit, Sickness Benefit, Maternity Allowance and Industrial Injury Benefit	£150.43	£147.91
Invalidity Benefit	£180.81	£177.80
Industrial Disablement Benefit -		
100% disabled <sup>2</sup>	£164.75	£162.00
<b>One-off grants</b>		
Maternity Grant	£376.00	£370.00
Death Grant	£587.00	£577.00
Bereavement Payment	£1,856.00	£1,825.00

49. These rates of weekly benefit and grants apply to persons who have fully satisfied the contribution conditions. Reduced rates of benefit are payable on incomplete contribution records, down to threshold levels.
50. The proposed 1.7% increase in old age pension will add £3.42 per week to the full rate single pension, will add £1.71 per week to the so called 'married woman's pension' and will mean a £5.13 per week increase for a pensioner couple on full-rate pension. The joint increase will be £6.84 per week in cases where both spouses were paying full-rate contributions throughout their working lives as they will receive two full pensions totalling £408.90 per week.

### **Proposed contribution rates for 2016**

51. The Department is recommending no changes to the contribution rates for 2016 (see paragraph 99 for details of proposed rate changes from January 2017). The current contribution rates and the proposed contribution rates for 2016 are set out in table 3 overleaf:

<sup>1</sup> For men/women, as appropriate, whose marriages took place before 1<sup>st</sup> January 2004 and who reached pension age before 1<sup>st</sup> January 2014.

<sup>2</sup> Lower rates are payable based on degree of disability.



**Table 3 – Current contribution rates and proposed contribution rates for 2016**

<b>Contribution rates for employed persons</b>	<b>2016</b>	<b>2015</b>
Employer	6.5%	6.5%
Employee	6.0%	6.0%
Total	12.5%	12.5%

<b>Contribution rates for self-employed persons</b>	10.5%	10.5%
-----------------------------------------------------	-------	-------

<b>Contribution rates for non-employed persons under pension age</b>	9.9%	9.9%
----------------------------------------------------------------------	------	------

<b>Contribution rates for non-employed persons over pension age</b>	2.9%	2.9%
---------------------------------------------------------------------	------	------

***2016 upper earnings limit for employers, employed and self-employed persons***

52. The Department recommends that, from 1<sup>st</sup> January 2016, the upper earnings limit for employed persons, employers and self-employed persons be increased from £135,252 per year to £137,592 per year.
53. For people paid weekly, this means an increase of £45 per week, taking it from £2,601 per week to £2,646 per week. For people paid less frequently than weekly, this means an increase of £195 per month, taking it from £11,271 per month to £11,466 per month.
54. This represents an increase in the upper earnings limit of 1.73% - slightly above the proposed general uprating increase of 1.7%. The reason for this is because the annual upper earnings limit needs to be divisible by 52, for people paid weekly, and by 12, for people paid monthly.
55. The effect of the proposed new upper weekly earnings limit on employees, employers and self-employed people who pay a contribution at the new upper earnings limit are set out in table 4 below:

**Table 4 - Maximum 2016 weekly contributions for employees, employers and self-employed persons (2015 in brackets)**

<b>Class 1</b>			<b>Class 2</b>
<b>Employer</b>	<b>Employee</b>	<b>Total</b>	<b>Self-employed</b>
£171.99	£158.76	£330.75	£277.83
(£169.06)	(£156.06)	(£325.12)	(£273.10)

56. For an employee with earnings of £136,968 per year or more, the additional contribution is £2.70 per week, which equates to £0.39 per day. For their employer, the additional contribution is £2.93 per week, which equates to £0.42 per day.
57. For a self-employed person with earned income of £137,592 per year or more, the additional contribution is £4.73 per week, which equates to £0.68 per day.
58. Self-employed people who have applied to pay earnings-related contributions, and whose earned income from self-employment is less than £137,592 per year, will pay less than the maximum contribution.

***Number of contributors paying at upper earnings limits***

59. In 2015, with an upper earnings limit of £135,252 per year, there were 2.5% of employed persons and 11.5% of self-employed persons paying on earnings at or above that level.

***2016 lower earnings limit for employed and self-employed people***

60. The Department recommends that the lower earnings limit for employed and self-employed people be increased from £131 per week to £133 per week. The corresponding monthly limit would be £576.33 and the corresponding annual limit would be £6,916 (£133 x 52) (£6,812 in 2015).
61. The effect of the foregoing changes on a contribution at the lower earnings limit is set out in table 5 below:

**Table 5 - Minimum 2016 weekly contributions for employees, employers and self-employed persons (2015 in brackets)**

<b>Class 1</b>			<b>Class 2</b>
<b>Employer</b>	<b>Employee</b>	<b>Total</b>	<b>Self-employed</b>
£8.64	£7.98	£16.62	£13.96
(£8.51)	(£7.86)	(£16.37)	(£13.75)

***2016 upper and lower income limits for non-employed people***

62. The Department recommends that, from 1<sup>st</sup> January 2016, the upper income limit for non-employed persons be increased from £135,252 per year to £137,592 per year, in line with the proposed upper earnings limit for employed and self-employed persons.
63. As with the self-employed, non-employed contributors are liable to pay non-employed, Class 3 contributions, at the maximum rate unless an application is made to the Department and authorisation given for the release of the relevant information by the Director of Income Tax. This allows an income-related contribution to be calculated.

64. There are two categories of non-employed contributions:

- Full percentage rate contributions to cover social insurance, health service and long-term care insurance liabilities. This is the rate of contribution that non-employed adults under pension age are liable to pay, based on their personal income. The contribution rate is 9.9% of income, after the deduction of an allowance, up to the upper income limit;
- Specialist health insurance and long-term care insurance contributions. These contributions, which are payable by people over pension age, go towards funding the specialist health insurance scheme and the long-term care insurance scheme. The contribution rate is 2.9% of income, after the deduction of an allowance, up to the upper income limit. 1.3% goes towards the specialist health insurance scheme and 1.6% goes towards the long-term care insurance scheme.

65. The Department recommends that the lower income limit at which non-employed contributions become payable be increased from £17,030 per year to £17,290 per year from 1<sup>st</sup> January 2016.

***Non-employed person's allowance***

66. There is an allowance for non-employed persons, which is subtracted from their annual income figure with liability being calculated on the balance. The Department recommends increasing the allowance from £7,223 to £7,336.

67. Table 6 below, shows the minimum and maximum weekly contributions payable in 2016 by non-employed people. People with income at some point between the upper and lower income limits will pay pro-rata.

**Table 6 – 2016 non-employed weekly contributions (2015 in brackets)**

<b>Annual income</b>	<b>Full rate (under pension age)</b>	<b>Specialist health and long- term care only (over pension age)</b>
Less than £17,290	Zero	Zero
(Less than £17,030)	(Zero)	(Zero)
£17,290	£18.95	£5.55
(£17,030)	(£18.67)	(£5.47)
£137,592	£247.99	£72.64
(£135,252)	(£243.75)	(£71.40)

***Voluntary contributions***

68. As shown above, where a non-employed person's annual income is below £17,290, that person will be exempted from the payment of contributions. However, this could affect old age pension entitlement. A voluntary contribution which counts towards old age pension can be paid by or on behalf of non-employed people, resident in Guernsey and under pension age, with personal income below the lower income limit.
69. The voluntary contribution in 2015 is £18.67 per week. The rate is calculated by applying the social insurance element of the non-employed contribution rate, being 5.7% of the total 9.9%, to the lower income limit. With a proposed lower income limit of £17,290 per annum in 2016, the voluntary contribution will increase to £18.95 per week.

***Overseas voluntary contributions***

70. People living outside of the Island are able to pay contributions in order to maintain their entitlement to old age pension. The rate payable in 2015 is £88.94 per week for the non-employed and £98.32 for the self-employed. It is recommended that, from 1<sup>st</sup> January 2016, the overseas voluntary contribution should be increased in line with the general 1.7% increase. This means that from 1<sup>st</sup> January 2016 the voluntary overseas contributions would rise from £88.94 to £90.45 per week for non-employed people and from £98.32 to £99.99 per week for self-employed people.

***Special (minimum) rate Class 3 contributions***

71. A special rate non-employed contribution is payable by insured persons who would normally rely upon employed contributor's employment for their livelihood, but have a small gap in their record where they were neither employed nor receiving an unemployment contribution credit. The rate of this contribution is aligned with the rate of the voluntary contribution. The special rate Class 3 contribution will, therefore, be £18.95 per week in 2016.

**States Grants to Contributory Funds**

72. The Guernsey Insurance Fund currently receives a grant from General Revenue equal to 15% of the total amount collected in contributions. The Guernsey Health Service Fund receives a grant equal to 12% of the contributions collected for that Fund. In 2014, the cost of the States grant to the Guernsey Insurance Fund was £14.86m and the cost of the States grant to the Guernsey Health Service Fund was £4.52m.
73. The Department is recommending no changes to the States grants to the Contributory Funds for 2016 (see paragraphs 102 to 103 for details of a proposed change to the States grant to the Guernsey Insurance Fund from January 2017).

The estimated cost to General Revenue of the States grants to the two Funds in 2015 and 2016 is shown in table 7 below:

**Table 7 – Estimated cost to General Revenue of the States grants – 2015 and 2016**

<b>Fund</b>	<b>Estimated cost of States grant - 2016</b>	<b>Estimated cost of States grant – 2015</b>
Guernsey Insurance Fund	£15.41m	£15.11m
Guernsey Health Service Fund	£ 4.68m	£ 4.59m
<b>Total</b>	<b>£20.09m</b>	<b>£19.70m</b>

### **Number of pensioners**

74. As at 6<sup>th</sup> June 2015, the Department was paying pensions to 17,270 pensioners, 5,466 of whom were not resident in the Bailiwick. Overseas pensioners will have resided in Guernsey, Alderney, Herm or Jethou and paid social insurance contributions to Guernsey for all or part of their working lives and, therefore, are entitled to a full or partial pension, depending on their insurance records.
75. In 2014, benefit expenditure on old age pensions amounted to £106.2m and constituted approximately 85% of the total expenditure of £125.1m on social insurance benefits.

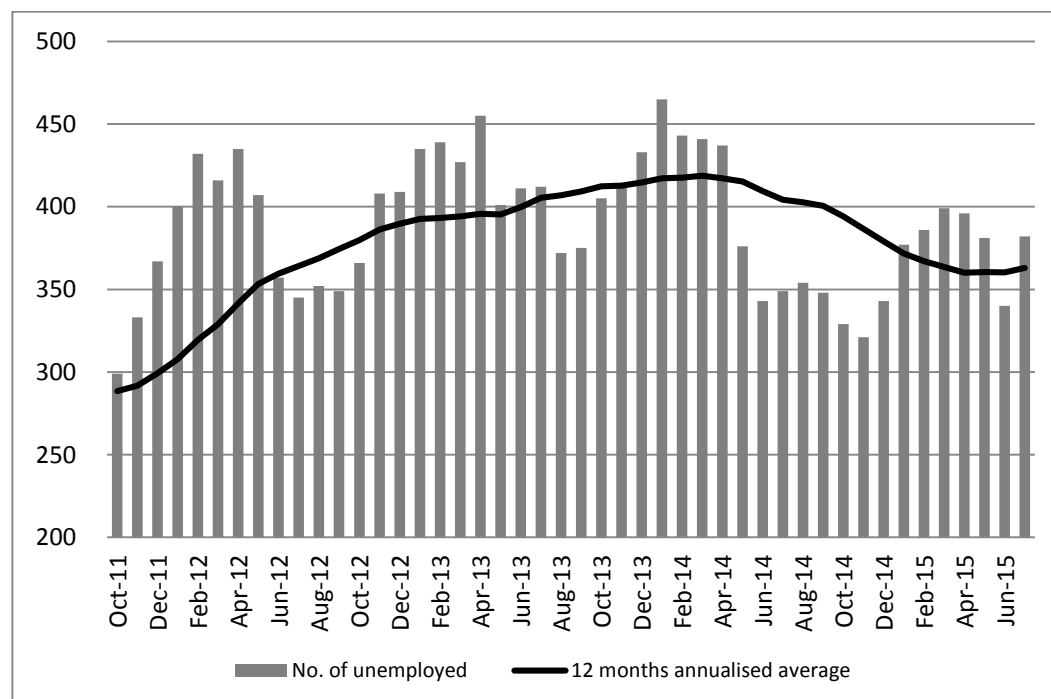
### **Investigating the feasibility of a second pillar pension scheme**

76. In last year's uprating report (Billet d'État XXI of 2014), the Department reported that it had commenced a project to assess the feasibility of introducing a second pillar (or secondary) pension scheme in Guernsey.
77. The Department is intending to report to the States before the end of this term of government seeking approval in principle to develop a system of voluntary or compulsory second pensions which, if approved, would take effect from 2020, or as soon as practicable thereafter. This report will set out the results of a public consultation exercise which the Department intends to undertake during August and September 2015.
78. The Department acknowledges that, once established, it will take many years for significant retirement incomes to be provided from these individual, second pension accounts. However, once established, and along with it an increased focus on personal provision, the Department could begin to reduce the uprating policy to RPIX only.

## Update on the number of people unemployed

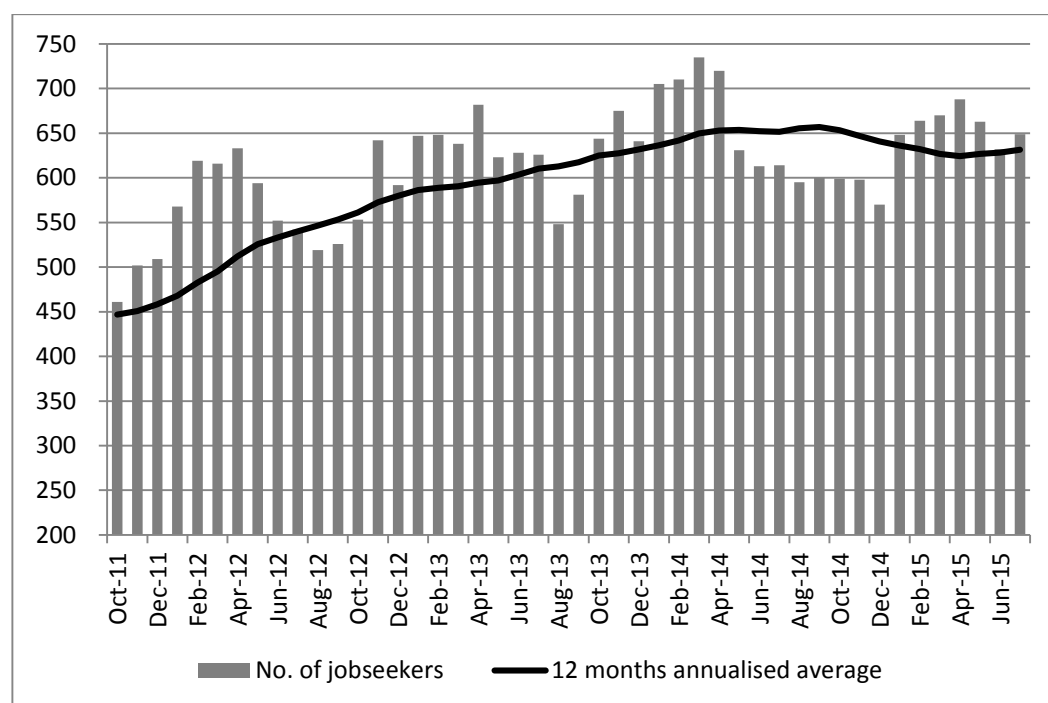
79. The number of unemployed persons at the end of July 2015, excluding anybody on a government training scheme and anybody who carries out at least one hour's paid work in a week (which could be the case for someone claiming supplementary benefit as a jobseeker), was 382, or 1.2% of the working population. This included 135 people claiming contributory unemployment benefit only, 102 people claiming contributory unemployment benefit and a supplementary benefit top up and 145 people without entitlement to the contributory unemployment benefit but receiving supplementary benefit. Figure 3 below, shows the total number of unemployed persons, excluding anybody on a government training scheme and anybody who carries out at least one hour's paid work in a week, during the last week of the month, and the annualised average, from October 2011 to July 2015. The line which shows the annualised view takes a twelve month rolling average of the number of unemployed. Each month, the latest monthly figure is added and the oldest month removed, so that a new twelve month average is produced. This approach smooths out the seasonal variations and so leaves a trend line indicating whether unemployment is stable, rising or falling.

**Figure 3 – Total number of unemployed persons (excluding anybody on a government training scheme and anybody who carries out at least one hour's paid work in a week) and annualised average – October 2011 to July 2015**



80. The total number of jobseekers at the end of July 2015, including people in part time or casual employment or on a government training scheme, was 649, which is approximately 2.0% of the working population. 232 of these were in part-time or casual employment and 35 of these were temporarily employed on the Community and Environmental Projects Scheme or other training scheme. Figure 4 below, shows the total number of jobseekers during the last week of the month, and the annualised average, from October 2011 to July 2015.

**Figure 4 – Total number of jobseekers (including people in part time or casual employment or on a government training scheme) and annualised average – October 2011 to July 2015**



81. The Department continues to develop and expand the range of initiatives that it offers to assist and support jobseekers to secure employment, as set out in table 8 overleaf:

**Table 8 – Employment initiatives run by the Social Security Department**

<b>Initiative</b>	<b>Description</b>	<b>Does benefit remain in payment?</b>
Work trial	Chance to demonstrate capability to an employer where a real job is on offer.	Yes
Work experience	Extended work experience with learning goals.	Yes
Gradual return to work	Phased return to work following long-term sickness.	Partial payments
Kick start	On the job training with employers aimed at people at risk of long-term unemployment.	Minimum wage rates apply
Basic skills training	Help with basic I.T., literacy and numeracy skills.	Yes
Short-term training courses	A selection of courses aimed at the long-term unemployed, those requiring retraining following illness and parents re-entering the job market (e.g. customer service, interview skills, selling yourself to an employer).	Yes
Pathways	A part-time course (two mornings per week for six weeks) which introduces delegates to basic administration tasks, customer service and workplace etiquette.	Yes
Flexible learning IT	Provides delegates with the opportunity to learn IT skills at a pace which reflects their capability and fits around other commitments.	Yes
GOALS	Motivational course aimed at tackling barriers to employment by improving self-esteem and developing a positive mental attitude.	Yes
Back to work bonus	One-off lump sum payable following a return to work and claim closure in cases of long-term unemployment and long-term sickness.	N/A
Job start expenses	Help with some of the costs associated with starting work, such as tools, boots, clothing, etc.	N/A
Community and Environmental Projects Scheme (CEPS)	Paid work and training opportunities for people who are not working due to unemployment or long-term illness.	Minimum wage rates apply
Recruitment grant	Staged payments to an employer to recognise the extra training and support required when recruiting someone who has been long-term unemployed or long-term sick.	N/A
The “Get into...” range of training course	Short courses aimed at unemployed young people to help identify their skills and aptitude.	Yes



Job Centre Support Contract	Professional recruitment consultants working with employers and jobseekers to improve recruitment opportunities.	N/A
Food and Retail Skills Shop	Promoting work opportunities within the food and retail sectors and provision of advice, support and training. Venue for Job Fair events and for training courses delivered to jobseekers.	N/A
Job Fairs	A targeted means of bringing employers and jobseekers together to fill vacancies and secure employment respectively.	N/A
“Stepping In” Scheme	On the job training in low skilled roles which will become vacant when short-term housing licences expire.	Minimum wage rates apply
“Work2Benefit”	A mandatory work and training scheme for unemployed persons in receipt of supplementary benefit.	Yes

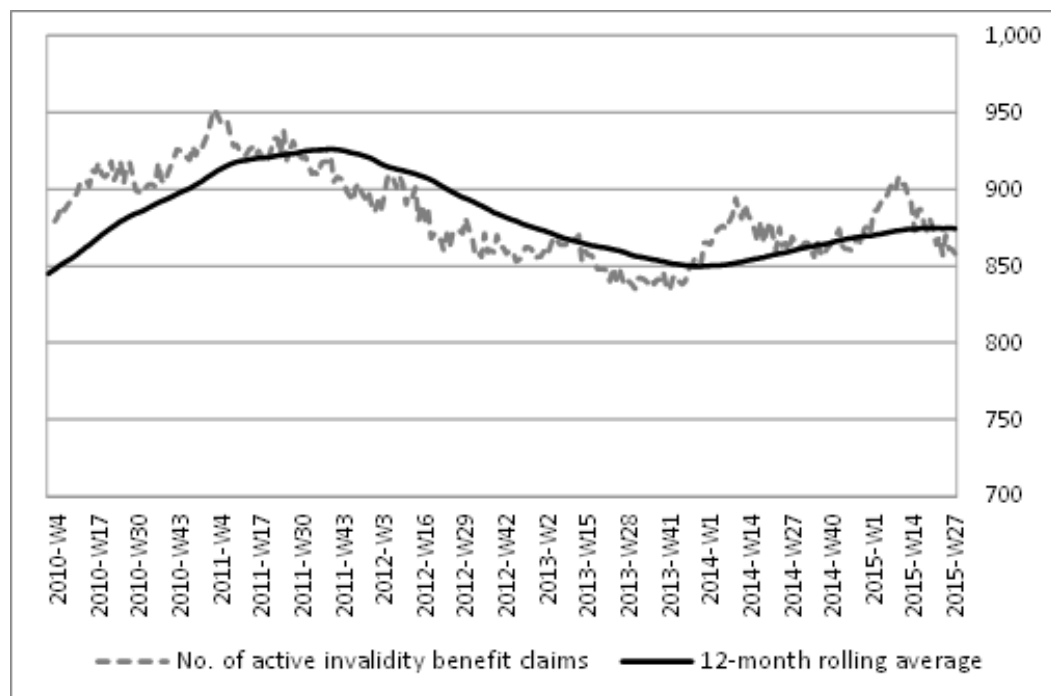
82. The most recent addition to this list of initiatives is the Work2Benefit Scheme which was launched by the Department in December 2014 as part of its Progress to Work project. Work2Benefit is a mandatory work and training scheme for unemployed persons in receipt of supplementary benefit. Participants carry out work on projects which are of benefit to the community or the environment.
83. Work2Benefit placements are tailored to address an individual’s specific barriers to work. Participation on the scheme is not intended to be punitive; rather it is a work rehabilitation tool aimed at reintroducing a work routine, increasing confidence and providing valuable work experience or training for people who have been out of work for a long time or who have demonstrated a persistent lack of commitment to preparing for or finding work. Placements are unpaid, but benefit remains in payment provided that the participant’s behaviour, conduct, attendance and timekeeping are of an acceptable standard.
84. From 1<sup>st</sup> July 2014 to 30<sup>th</sup> June 2015, the Job Centre placed a total of 666 jobseekers into employment. The Department continues to outsource a significant proportion of its job placement activities to a local recruitment agency. Of the total number of jobseekers placed into employment from 1<sup>st</sup> July 2014 to 30<sup>th</sup> June 2015, 153 were placed by the agency.

#### **Update on the number of people receiving invalidity benefit**

85. Invalidity benefit is an insurance-based cash benefit paid at a higher rate than sickness benefit or industrial injury benefit, to employed and self-employed workers who are incapable of work for more than 26 weeks because of bodily or mental illness or disablement.

86. Figure 5 below, shows the number of active invalidity benefit claims for the period from January 2009 to the end of June 2015, including the 12-month rolling average. Figure 5 shows clear seasonal peaks in the number of active invalidity benefit claims during the first quarters of 2014 and 2015 with claim numbers reducing during the second quarters of both years. The number of active claims peaked in early 2015 at 908, 44 less than the peak experienced in early 2011. The 12-month rolling average trend line shows that there has been a gradual increase in the average number of invalidity benefit claims since the start of 2014. This is a worrying trend which the Department is working hard to address through a number of initiatives, including the Supporting Occupational Health and Wellbeing project, as explained in more detail in paragraphs 87 to 91.

**Figure 5 – Number of active invalidity benefit claims – January 2010 to June 2015**



### **Supporting Occupational Health and Wellbeing**

87. The Department's Supporting Occupational Health and Wellbeing project (SOHWELL) was launched in 2014. This project has transformed the way in which the Department manages sickness claims. The focus is on earlier intervention to support people who may need extra help to stay in work or get back to work more quickly.
88. With expert input from Dr Leslie Smith, the Department's newly appointed Medical Adviser who is a Consultant Occupational Physician and Accredited Specialist in Occupational Medicine, the Department has changed its case management processes, changed the way incapacity for work is assessed and redesigned the medical certificate so that it supports earlier return to work.

89. A key factor in the success of the project has been the way in which GPs, through the Primary Care Committee have welcomed the opportunity to work with the Department to identify patients who might be able to return to work more quickly. Over the last 12 months, the Department's Medical Adviser has delivered training sessions to GPs and other healthcare professionals who issue medical certificates and to GPs who carry out, on behalf of the Department, the new work capability assessment.
90. In 2014, expenditure on sickness benefit (claims lasting less than 26 weeks) was £3.5m and expenditure on invalidity benefit (claims lasting more than 26 weeks) was £7.6m. In addition, expenditure on sickness-related claims through the supplementary benefit scheme was £4.45m.
91. Given the high sums involved, the Department recognises that it cannot simply assume that changing its case management processes, redesigning the medical certificate and delivering training to GPs and other healthcare professionals will result in an immediate decrease in the overall level of sickness absence across the Island. This is just the beginning of a process which is seeking to improve approaches to sickness absence management and, moving forward, will require the Department to engage with employers in a much more proactive way to support them in helping people to stay in work or return to work more quickly. However, the Department recognises that many small employers may not have access to occupational health advice and through this project the Health and Social Services Department has provided an occupational health advice line.

**Maternity and paternity provisions and the United Nations Convention on the Elimination of All Forms of Discrimination Against Women**

92. The States considered the Policy Council's report on Maternity and Paternity Provisions and the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in February 2012 (Billet d'État No IV of 2012). States Members resolved, among other things, to direct the Social Security Department to report back to the States, at the same time it reported on funding other benefits, with proposals for funding and requesting the preparation of the necessary legislation to provide for:-
  - changes to the maternity grant to make it available to all new mothers;
  - changes to maternity allowance to split it into a maternal health allowance, available only to mothers, and a new born care allowance, available to either parent;
  - a new adoption grant at the same rate as maternity grant;
  - a new benefit of parental allowance available to adoptive mothers or fathers.

93. The Joint Report (Billet d'État IV of 2015) included a proposition relating to the implementation of the above resolution. The proposition, which was not carried (see below) was as follows:

‘ ...

*16. To direct the Social Security Department to review the funding of parental benefits with reference to propositions 9 to 14, where agreed, as part of the Personal Tax, Pensions and Benefits Review, before any change to such benefits resulting from its review entitled ‘Changes to Parental Care Provisions’ are laid before the States of Deliberation.’*

94. Following an amendment proposed by Deputy Yvonne Burford being carried, the States deleted the foregoing proposition and instead resolved:

‘ ...

*16. To direct the Social Security Department to bring into effect as soon as possible the various parental benefits as described in resolutions VI.10a to 10d of Billet d'État IV 2012, either by the levying of an additional 0.1% on employee social security contributions and an additional 0.1% on employer social security contributions, or by any other means deemed desirable and appropriate by the Department, in order to achieve the objective of implementation of the said resolutions, independent of other pension and benefit considerations, and to report to the States on the progress that has been made towards such implementation, including timescales, in their 2015 annual uprating report.’*

95. The following paragraphs address that Resolution.
96. The Department has appointed a Change Manager on a contract basis to co-ordinate this project with a view to implementing the new parental benefits on 1<sup>st</sup> January 2017.
97. The Department intends to report to the States before the end of this term of government recommending the preparation of the necessary legislation to repeal the existing maternity benefits, to introduce the new parental benefits and to provide for transitional arrangements which will apply to individuals who have a maternity allowance claim in payment as at 31<sup>st</sup> December 2016. The Department has consulted with the Law Officers of the Crown regarding the timetable for the preparation and approval of the necessary legislation and they have indicated that the target implementation date of 1<sup>st</sup> January 2017 is achievable.
98. It has been estimated that the enhanced package of parental benefits will cost in the order of an additional £1.35m per annum (2016 levels) if average claim durations are 26 weeks, i.e. the maximum duration. It has been estimated that a 0.1% increase in either the employees’ or the employers’ contribution rate alone would provide a shortfall in income of approximately £100,000 assuming no change to the percentage rate of the States grant. If both the employees’ and the

employers' contribution rates are increased by 0.1% and if the States grant were to remain at 15%, approximately £1.14m more income than is required would be collected. It is not possible to alter contribution rates to the second decimal place in order to more finely control the amount of additional income that will be raised. However, a proposal to reduce the States grant appears at paragraph 103 below, reducing the overall income collected.

99. Mindful that the annual operating deficit of the Guernsey Insurance Fund, before investment returns, continues to grow year on year and is expected to be in the order of £21.6m in 2016 (see paragraph 129), the Department has decided to recommend that the percentage contribution rates for employees and employers both be increased by 0.1%. This will increase the employees' contribution rate to 6.1% and the employers' contribution rate to 6.6%. It is proposed that these rate changes be implemented with effect from 1<sup>st</sup> January 2017. Although this will collect more income than is necessary for the provision of the new parental benefits in isolation, the income will make a minor contribution to reducing the operating deficit of the Guernsey Insurance Fund.
100. Maternity allowance is a wage replacement benefit, intended to provide working women with a basic level of income during a period of absence from work arising from the birth of a child. By definition, persons classified as non-employed do not work and, therefore, do not need to receive a wage replacement following the birth of a child. Consequently, non-employed women do not contribute towards and are not eligible to receive maternity benefits at present and non-employed persons will not be eligible to receive the new parental benefits when they are introduced. Therefore, the non-employed contribution rate will remain unchanged when the new parental benefits are introduced.
101. Self-employed persons currently contribute towards the provision of maternity benefits through their social insurance contributions and self-employed women are currently eligible to receive maternity allowance during a period of absence from work arising from the birth of a child, subject to meeting the relevant contribution conditions. Self-employed persons will be eligible to receive the new parental benefits when they are introduced, again, subject to meeting the relevant contribution conditions. However, given that only 3.5% of maternity benefit claims are from women classified as self-employed, and that the self-employed contribution rate is already considered by some to be rather high, at 10.5%, the Department is not recommending any change to this contribution rate.
102. If the States approves the Department's proposals to increase both the employees' and the employers' contribution rates by 0.1%, and the States grant to the Guernsey Insurance Fund were to remain at 15% of contribution income, the amount of the grant from General Revenue would increase by an estimated £325,000 per annum (i.e. 15% of the estimated £2.17m extra contribution income raised per annum by increasing the employees' and the employers' contribution rates by 0.1%).

103. In view of the current severe constraints on General Revenue expenditure, and in consultation with the Treasury and Resources Department, the Department recommends that, subject to the States approving the Department's proposals to increase the employees' and the employers' contribution rates by 0.1%, the States grant to the Guernsey Insurance Fund be reduced from 15% to 14.7% of contribution income, with effect from 1<sup>st</sup> January 2017. The effect of this proposed reduction will be to leave the cash amount of the grant to be approximately the same as it would have been without the increases in the contribution rates. This will also have the effect of reducing the overall amount of income that is collected for the parental benefit changes and reduce the additional income of £1.14m, referred to in paragraph 98, to £0.85m.
104. The cost to the States, as an employer, will increase by an estimated £170,000 per annum. The Department is of the view that the States grant should not be reduced further to offset the additional employers' contributions with a view to creating an entirely cost-neutral position for General Revenue and that the States should bear this additional cost along with all other local employers.
105. Therefore, the net impact on General Revenue of the proposed 0.2% aggregate increase in the Class 1 contribution rate and the proposed reduction in the States grant from 15% to 14.7% of contribution income is estimated to be £197,000 per annum.

### **Proposed Reciprocal Agreement on Social Security with Latvia**

#### ***Background***

106. Following exchange visits of delegations between Guernsey and Latvia in 2014, the Chief Minister received a formal request from the Latvian Ministry of Welfare to commence negotiations on a reciprocal agreement on social security.
107. Guernsey is currently party to 21 reciprocal agreements on social security. Most of the agreements are historic, although still valid, and in nearly all cases the agreements were entered with the foreign country by the UK, with Guernsey, Jersey and the Isle of Man accepting an invitation to be included in the agreements. In the cases of Canada and New Zealand, the UK, at Guernsey and Jersey's request, entered agreements which apply only to Guernsey and Jersey.
108. Over the last decade, there has been a reduction in the level of activity of the UK in bilateral social security agreements, not least because a pan-European agreement on social security applies to all members of the European Union, superseding the numerous bilateral agreements between the UK and the member countries. Over the same period, Guernsey has been increasing its international profile, principally through the entering of Tax Information Exchange Agreements directly with other countries.

109. In-principle approval has been given by the UK Ministry of Justice for Guernsey to be entrusted to negotiate reciprocal agreements on social security with other countries. The entrustments would be subject to certain conditions in order to ensure continuing oversight by the UK. The External Relations Group has requested from the UK an entrustment to enter negotiations with Latvia.
110. Although the word ‘negotiations’ is used, in the context of reciprocal agreements this has little to do with bargaining and far more to do with understanding the systems of the parties, the scope for reciprocity and how to apply Articles belonging to such agreements, either in standard form or modified as necessary.
111. The negotiation of a reciprocal agreement has an overhead in staff resources for both parties. Typically, negotiations involve a number of rounds of negotiations with gaps of several months in between to allow for follow-up correspondence, translations and checking of points of law.
112. In view of this commitment of resources, and the far more substantial cost of the agreement in operation, it is sensible that the approval of the States is sought for an agreement with Latvia before negotiations commence.

*The purpose of reciprocal agreements*

113. One of the main purposes of reciprocal social security agreements is to protect the pension position of people who work in two or more countries during their career.
114. In the absence of a reciprocal agreement, it is necessary to have a minimum of 450 weekly contributions on an individual’s Guernsey contribution record. That number of contributions gives title to a 20% pension, amounting to £40.21 in 2015. The 100% full-rate of Guernsey old age pension is £201.03 per week.
115. 450 weekly contributions equates to 8.65 years of working and paying contributions. A person who pays contributions for, say, exactly 8 years, whether a lifelong Guernsey resident or an incoming worker, will not receive a pension from Guernsey. This is where reciprocal agreements come into play. If the person in question had worked for, say, one year in the UK, the agreement with the UK would allow the contributions paid to both territories to be totalised, making 9 years of contributions. This would cross the hurdle of the necessary 450 weekly contributions. Guernsey and the UK would then both pay small pensions to the individual concerned, pro-rata to the contributions paid in either territory. Guernsey would pay a pension of approximately £36 per week.
116. At the end of 2014, the Social Security Department was paying a total of 17,072 old age pensions in Guernsey and worldwide. Of that number, 3,235 pensions were being paid by virtue of a reciprocal agreement, of which 2,636 pensions were being paid under the agreement with the UK.

117. Pensions paid under reciprocal agreements are individually of low value and bound to be less than 20% of the maximum pension amount. If the pension were over 20%, it would mean that the person had a sufficient contribution record for a pension without needing the assistance of a reciprocal agreement. The average amount of the 3,235 reciprocal pensions in payment at the end of 2014 was £16 per week.
118. In aggregate, however, the cost of the reciprocal pensions becomes significant and at the end of 2014 was approximately £2.7m per year.
119. The cost of all pensions paid in 2014 was £106.1m.

***Potential costs to the Guernsey Insurance Fund***

120. In considering the merits of a reciprocal social security agreement with Latvia, the costs to the Guernsey Insurance Fund need to be considered as well as the case for social protection of the migrant workers.
121. In attempting to estimate the long-term costs of an agreement with Latvia, the Department looked at the current costs of the agreement with Portugal, which has been a major source of incoming labour to Guernsey since the late 1970s. This has not proved useful, as there are currently only 19 pensions being paid by virtue of the agreement with Portugal. The obvious deduction is that the majority of the Portuguese migrant workers are not yet of pension age. It should be further noted that there will be migrant workers of all nationalities who have worked in Guernsey and paid contributions in excess of the 450 weeks necessary for a minimum pension, thereby not needing a reciprocal agreement.
122. The Department has concluded that the best estimate of the future cost of an agreement with Latvia is by reference to the agreement with the UK.
123. The UK remains Guernsey's main source of migrant labour and a reciprocal agreement has been in place since 1972. Contributions paid to Guernsey since 1952 apply to the agreement. The effect of having an agreement with the UK is therefore fully mature. The weekly cost of the agreement with the UK is £44,400 per week, equivalent to approximately £2.3m per year. This is 2.2% of the total annual expenditure of £106.1m on Guernsey old age pensions.
124. It would appear reasonable to suggest that the cost of an agreement with Latvia might ultimately reach one third of the cost of the UK agreement. This would equate to approximately £0.75m per year in 2014 prices, which would be 0.7% of overall pension costs. This ultimate position would be reached many years hence, perhaps as many as 40, as the influx of large numbers of Latvian workers is fairly recent history, most having occurred in the last 15 years.



*Proposed in-principle approval for an agreement with Latvia*

125. In the light of the above information and financial estimates, the Department recommends that the States approve in principle the entry into a reciprocal agreement on social security with Latvia. If the States gives that approval, the Department will undertake the necessary negotiations with Latvia. The agreement which will in due course be produced from such negotiations will not take effect until an Ordinance has been put to the States and approved.

**Financing of Guernsey Insurance Fund**

126. As shown in table 9 below, the operating deficit of the Guernsey Insurance Fund continues to grow year on year, albeit at a slower rate in 2014 than in previous years, and as at 31<sup>st</sup> December 2014 stood at £15.6m before investment returns. The deficit was covered by income arising from investment activities which would otherwise have been re-invested in the Fund, resulting in a net annual surplus of £9.8m.

**Table 9 – Five-year financial performance of the Guernsey Insurance Fund**

	<b>2014 £m</b>	<b>2013 £m</b>	<b>2012 £m</b>	<b>2011 £m</b>	<b>2010 £m</b>
Income	113.9	110.9	109.1	106.2	101.8
Expenditure	(129.5)	(125.5)	(119.1)	(110.1)	(105.4)
<b>Operating deficit</b>	<b>(15.6)</b>	<b>(14.6)</b>	<b>(10.0)</b>	<b>(3.9)</b>	<b>(3.6)</b>
Investing activities	25.4	54.7	50.8	(19.6)	67.2
Net surplus/(deficit) in the Fund during the year	9.8	40.1	40.8	(23.5)	63.6
Net assets of the Fund at 1 January	692.3	652.2	611.4	634.9	571.3
<b>Net assets of the Fund at 31 December</b>	<b>702.1</b>	<b>692.3</b>	<b>652.2</b>	<b>611.4</b>	<b>634.9</b>
Expenditure cover in number of years	5.4	5.5	5.5	5.6	6.0

127. As at 31<sup>st</sup> December 2014, the net assets of the Guernsey Insurance Fund stood at £702.1m. Although the net assets of the Fund have increased by £67.2m between 31<sup>st</sup> December 2010 and 31<sup>st</sup> December 2014, expenditure cover has reduced from 6.0 years to 5.4 years. This was in line with expectations.
128. The next full actuarial review of the Fund, covering the period 1<sup>st</sup> January 2010 to 31<sup>st</sup> December 2014, is due to be carried out during 2015 and this will provide the opportunity to verify the modelling work and interim actuarial projections carried out during the Personal Tax, Pensions and Benefits Review.

### **Estimated operating surplus/deficit on Guernsey Insurance Fund**

129. Taking into account all of the foregoing, including the proposed revised rates of contributions and benefits, for the Guernsey Insurance Fund, it is estimated that:
- a) there will be an operating deficit in 2015 in the order of £18.9m before investment returns; and
  - b) there will be an operating deficit in 2016 in the order of £21.6m before investment returns.
130. Subject to the satisfactory performance of the Department's investments, the estimated operating deficits in 2015 and 2016 will be covered by investment income which would otherwise have been re-invested in the Guernsey Insurance Fund.

## **PART II HEALTH SERVICE BENEFITS**

### **Summary of the financial position**

131. The health service benefits and administration, costing £38.3m in 2014, were financed by £37.6m from contributions allocated to the Health Service Fund and £4.5m from the States' grant from General Revenue. There was an operating surplus, before investment income, of £3.8m.

### **Medical Benefit Grants**

132. The total benefit expenditure on consultation grants in 2014 was £3.55m. This represented an increase of around 1.7% on the 2013 cost. The consultation grants remained unchanged at £12 towards a consultation with a doctor and £6 towards a consultation with a nurse.
133. The Department will not be recommending any change in the level of the consultation grants for 2016.

### **Pharmaceutical Service**

134. Prescription drugs cost a total of £16.8m in 2014, before netting off the prescription charges paid by patients. This was an increase of 1.7% from the previous year.
135. The total cost to the Health Service Fund of the drugs dispensed was reduced by £1.91m collected in prescription charges.
136. The number of items prescribed under the pharmaceutical service increased by 3.15% in 2014 to 1.53 million items.

## Prescription charge

137. The prescription charge for 2015 is £3.40 per item. Persons aged 65 and over and persons in receipt of supplementary benefit or severe disability benefit are currently exempt from paying the prescription charge. In 2014, 62.6% of prescriptions were issued to people who were exempt from the prescription charge.
138. The appropriateness of continuing to exempt persons aged 65 and over from the prescription charge was considered by the Social Security Department and the Treasury and Resources Department ('the Joint Board') as part of the Personal Tax, Pensions and Benefits Review. As age is not necessarily an indicator of low income and many pensioners could well afford to pay the prescription charge, the Joint Board was of the view that this benefit should be phased out by 2020, starting with the introduction in 2016 of a nominal fee of £1.00 per item payable by all persons currently exempt from prescription charges, including persons in receipt of supplementary benefit or severe disability benefit.
139. The States resolved, following consideration of the Joint Report (Billet d'État IV of 2015):
  - "20. *To note that in the opinion of the Treasury and Resources Department and the Social Security Department the universal exemption from prescription charges for those over the age of 64 should be phased out by 2020.*
  21. *To note that in the opinion of the Treasury and Resources Department and the Social Security Department from 2016 a nominal fee should be introduced for prescriptions of up to £1 per item for all those currently exempt from prescription charges, but to direct the Social Security Department to reflect on the views expressed on this matter during debate of this Report before presenting to the States a firm proposal in its annual uprating report in October 2015.*
  22. *To note that in the opinion of the Treasury and Resources Department and the Social Security Department that prescription charges should increase to £4.40 per item in 2016 and thereafter be reviewed annually, but to direct the Social Security Department to reflect on the views expressed on this matter during debate of this Report before presenting to the States a firm proposal in its annual uprating report in October 2015."*

140. Further, the States directed the Social Security and Treasury and Resources Departments:

*“...to reflect on the views expressed during debate of this Report before presenting to the States any firm proposals on the matters dealt with by Propositions 19, 20, 23 and 24, and to outline the mitigating actions to be taken in respect of any group of people disadvantaged by those proposals.”*

141. Pending further research into the potential impacts on persons with chronic conditions of increasing the prescription charge by £1 from £3.40 per item to £4.40 per item and the development of potential mitigation measures, the Department recommends a 30p increase in the prescription charge for 2016, taking the charge to £3.70 per item, effective from 1<sup>st</sup> January 2016. This is 20p more than the customary 10p annual increase in the charge and is expected to raise an additional £110,000 in income to the Guernsey Health Service Fund in 2016. While this is considerably less than the £1 increase mooted in the Personal Tax, Pensions and Benefits Review it is the most that the Department feels able to recommend at this time pending further research.
142. The Department regrets that it is not yet in a position to be able to present any firm proposals to the States on phasing out the universal exemption from prescription charges for those over the age of 64 or on introducing a nominal fee for prescriptions of up to £1 per item for all those currently exempt from the charge. Further work is necessary to examine the potential impacts of these proposed policy changes on persons who are currently exempt from paying the prescription charge and to develop mitigation measures to minimise their impact.

### **Prescription fraud**

143. In late 2014, the Department carried out an audit of prescriptions dispensed in October 2014 where exemptions from charges were claimed by patients or their representatives. More anomalies than expected were found. Some of the wrongful claims may have arisen through misunderstanding and some may have been knowingly fraudulent. Either way, there was a loss of income to the Health Service Fund.
144. The Department wrote to approximately 200 people who had wrongfully claimed that they were exempt from the prescription charge requesting that they provide an explanation and, where appropriate, pay back the amount due. The Department also wrote to and visited all pharmacies requesting that they be vigilant in this area and that they ensure that patients or their representatives who claim exemption from prescription charges complete the declaration on the back of their prescription forms fully and accurately.
145. An audit of prescriptions that were dispensed in January 2015 was subsequently carried out to gauge whether the increased vigilance had been effective in reducing the level of wrongful claims. This showed that there had been little or

no improvement and, in retrospect, this follow-up audit was probably carried out too soon. The Department then issued a press release publicising that prescription charge checks were being made and reminding the public of the three exemption categories set out in paragraph 137 above. A further audit of prescriptions dispensed in June 2015 will be carried out in August.

146. All incidences of apparently wrongful claims are being investigated by the Department. If there is evidence of fraud, legal proceedings will be pursued.

### **Specialist Medical Benefit**

147. The contract with the Medical Specialist Group ('MSG'), cost £15.60m in 2014, £1.04m (7.2%) more than the 2013 cost. The contract is expected to cost £17.35m in 2015.
148. The contract with the Guernsey Physiotherapy Group cost £2.04m in 2014 and is expected to cost £2.14m in 2015.
149. Responsibility for funding visiting medical specialists was transferred from the Health and Social Services Department to the Social Security Department with effect from 1<sup>st</sup> January 2014. The cost of visiting medical specialists was £0.69m in 2014 and is expected to be £0.77m in 2015.
150. In November 2014, the States agreed that the Primary Care Mental Health and Wellbeing Service (PCMHWS) should be established on a permanent basis following completion of a successful three year trial period. The Health Service (Specialist Medical Benefit) (Amendment) Ordinance, 2014, which entered into force on 1<sup>st</sup> January 2015, enabled consultations, treatments and procedures provided by primary care mental health and wellbeing practitioners under arrangements approved by the Social Security Department, to be funded as specialist medical benefit from the Guernsey Health Service Fund. The PCMHWS cost £0.3m in 2014 and the 2015 budget for the service is £0.33m including a 10% contingency.

### **Secondary Healthcare Project**

151. The contract between the States and the Medical Specialist Group is in the last five-year segment of its overall 15 year term, and is due to expire on 31<sup>st</sup> December 2017.
152. A Secondary Healthcare Project Board was established at the end of 2014. The Project Board is chaired by the Chief Executive of the States and its membership includes the Ministers of the Health and Social Services Department and the Social Security Department, some Members of the Departments and senior officers.

153. The Secondary Healthcare Board has met monthly throughout 2015. The Board provides the governance for the work being done, principally by Health and Social Services Department officer teams, in identifying and evaluating the options available to the States for provision of secondary healthcare following the expiry of the current contract with the Medical Specialist Group. The Project Board will make a recommendation to the Health and Social Services Department and the Social Security Department for the preferred way forward. The Departments are intending to report to the States, by the end of 2015, seeking the endorsement of the States for that preferred approach.

### **Financing of Guernsey Health Service Fund**

154. As shown in table 10 below, income to the Guernsey Health Service Fund increased by £1.3m (3.2%) in 2014, but expenditure increased by £2.4m (6.7%). The operating surplus of the Guernsey Health Service Fund as at 31<sup>st</sup> December 2014 was £3.8m before investment returns, £1.1m less than the operating surplus as at 31<sup>st</sup> December 2013. This was mainly due to an increase of £1.04m in the cost of the contract with the MSG (see paragraph 156 below) and the transfer of responsibility for funding visiting medical specialists from the Health and Social Services Department to the Social Security Department, as referred to in paragraph 149 of this report.

**Table 10 – Five-year financial performance of the Guernsey Health Service Fund**

	<b>2014 £m</b>	<b>2013 £m</b>	<b>2012 £m</b>	<b>2011 £m</b>	<b>2010 £m</b>
Income	42.2	40.9	40.1	38.9	37.4
Expenditure	(38.4)	(36.0)	(35.8)	(35.6)	(34.8)
<b>Operating surplus</b>	<b>3.8</b>	<b>4.9</b>	<b>4.3</b>	<b>3.3</b>	<b>2.6</b>
Investing activities	3.6	7.3	6.5	(2.0)	7.3
Net surplus/(deficit) in the Fund during the year	7.4	12.2	10.8	1.3	9.9
Net assets of the Fund at 1 January	95.2	83.0	72.2	70.9	61.0
<b>Net assets of the Fund at 31 December</b>	<b>102.6</b>	<b>95.2</b>	<b>83.0</b>	<b>72.2</b>	<b>70.9</b>
Expenditure cover in number of years	2.7	2.6	2.3	2.0	2.0

155. As at 31<sup>st</sup> December 2014, the net assets of the Guernsey Health Service Fund stood at £102.6m, providing 2.7 years' expenditure cover.
156. The cost of the contract with the Medical Specialist Group increased from £14.56m in 2013 to £15.60m in 2014. This increase was accounted for by an RPI increase of 2.7% in accordance with the contract, the addition of a consultant cardiologist and the addition of a locally provided treatment service for Age Related Macular Degeneration and Macula Oedema. Furthermore, from November 2014, as an urgently required measure following the initial findings of the Nursing and Midwifery Council and the Royal College of Obstetricians and Gynaecologists, concerning maternity services, the Department agreed to

reimburse MSG with the costs of two locum Obstetricians and Gynaecologists in order to allow 24 hour presence on-site at the Princess Elizabeth Hospital.

157. Payment for the locum Obstetricians and Gynaecologists has continued throughout 2015, pending the completion of the reviews and consideration of the findings by the Health and Social Services Department. As reported in the Health and Social Services Department's Policy Letter concerning Maternity Services and Other Key Reviews, presented to the States at the July 2015 meeting (Billet D'État XIV) of 2015, there could be additional costs to the Guernsey Health Service Fund of up to £4m per year to meet the requirement of additional consultants in Obstetrics and Gynaecology, in Paediatrics and in Anaesthetics.
158. These matters are of great concern to the Department, and no doubt the whole of the States. The effects of an ageing population and an increased future demand for health and social care have been well understood and anticipated through our periodic actuarial reviews and projections. These known future pressures have been material in our consideration of the adequacy of contribution rates and the necessary level of reserves to be held in the Health Service Fund. The sudden and substantial requirement for additional medical consultants consequent upon the review of maternity services had not been envisaged and therefore not budgeted for in our financial projections. The affordability of secondary healthcare, in particular the cost of our contract with the MSG in these changing circumstances, is at the heart of the Secondary Healthcare Project, which was referred to in paragraphs 151 to 153 above.
159. The next full actuarial review of the Fund, covering the period 1<sup>st</sup> January 2010 to 31<sup>st</sup> December 2014, is due to be carried out during 2015.

### **PART III**

### **LONG-TERM CARE INSURANCE**

#### **Introduction**

160. The Long-term Care Insurance Scheme pays benefits to assist with fees in private residential and nursing homes. The Department is recommending increases of 1.7% in the benefit rates, being approximately one third of the difference between the June 2015 RPIX figure of 1.5% and the 2014 median earnings index of 2.2%.

#### **Summary of the financial position**

161. Contribution income to the Long-term Care Insurance Fund was £18.6m in 2014. With benefit and administration expenditure of £18.3m for the year, the Fund had an operating surplus of £0.3m.

### Co-payment by person in care

162. It is a condition of entitlement to benefit under the long-term care insurance scheme that the person in care should make a co-payment. The 2015 co-payment is £190.75 per week. The Department recommends a co-payment of £193.97 per week from 4<sup>th</sup> January 2016.
163. It should be noted that the co-payment to the long-term care insurance scheme also sets the level of fees to be charged for accommodation in States-run homes/long-stay wards including the Duchess of Kent, the Corbinerie (or Lighthouse) Wards, and the long-stay beds at the Mignot Memorial Hospital, Alderney.

### Long-term care benefit rates

164. The Department recommends that the rates of long-term care benefit be increased by 1.7%, with effect from 4<sup>th</sup> January 2016, as set out in table 11 below:

**Table 11 – Weekly rates of long-term care benefit**

	<b>2016</b>	<b>2015</b>
<b>Nursing care benefit</b>	£802.55	£789.11
<b>Elderly Mentally Infirm (EMI) benefit</b>	£566.37	£556.92
<b>Residential care benefit</b>	£429.87	£422.66

### Respite care benefit

165. Persons needing respite care in private sector residential or nursing homes are not required to pay a co-payment. The long-term care fund pays instead. This is to acknowledge the value of occasional investment in respite care in order to allow the person concerned to remain in their own home as long as practicable. It also acknowledges that persons having respite care also continue to bear the majority of their own household expenditure. The respite care benefits, therefore, are the sum of the co-payment and the residential care benefit (with or without EMI care) or nursing care benefit, as appropriate. The Department, therefore, recommends the rates of respite care benefit set out in table 12 below, with effect from 4<sup>th</sup> January 2016.

**Table 12 – Weekly rates of respite care benefit**

	<b>2016</b>	<b>2015</b>
<b>Nursing care respite benefit</b>	£996.52	£979.86
<b>EMI respite benefit</b>	£760.34	£747.67
<b>Residential care respite benefit</b>	£623.84	£613.41



### Financing of Long-term Care Insurance Fund

166. As shown in table 13 below, the operating surplus of the Long-term Care Insurance Fund is dwindling year on year, and as at 31<sup>st</sup> December 2015 was just £0.3m before investment returns, although the net annual surplus was bolstered by income arising from investment activities.

**Table 13 – Five-year financial performance of the Long-term Care Insurance Fund**

	<b>2014</b>	<b>2013</b>	<b>2012</b>	<b>2011</b>	<b>2010</b>
	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>
Income	18.5	18.1	17.6	17.0	16.4
Expenditure	(18.2)	(17.4)	(16.8)	(16.4)	(15.3)
<b>Operating surplus</b>	<b>0.3</b>	<b>0.7</b>	<b>0.8</b>	<b>0.6</b>	<b>1.1</b>
Investing activities	2.0	4.2	3.9	1.3	4.5
Net surplus/(deficit) in the Fund during the year	2.3	4.9	4.7	(0.7)	5.6
Net assets of the Fund at 1 January	53.3	48.4	43.7	44.4	38.8
<b>Net assets of the Fund at 31 December</b>	<b>55.6</b>	<b>53.3</b>	<b>48.4</b>	<b>43.7</b>	<b>44.4</b>
Expenditure cover in number of years	3.1	3.1	2.9	2.7	2.9

167. As at 31<sup>st</sup> December 2014, the net assets of the Long-term Care Insurance Fund stood at £55.6m, providing 3.1 years' expenditure cover.
168. The actuarial review of the Long-term Care Insurance Fund for the years 2006 to 2009, inclusive, and projections to 2070, appeared in the appendix to the Billet d'État XV of 2011. The review showed that the current rate of contribution for the Long-term Care Insurance Fund, which is 1.3% of earnings for an employed person, is unsustainable. Based on the assumptions used in the review, if the rate remained unchanged, the reserves of the fund would be exhausted by around 2027.
169. Based on an interim review of the Long-term Care Insurance Fund, which was fully reported in paragraphs 130 to 134 of the Department's Report regarding Benefit and Contribution Rates for 2015 (Billet d'État XXI of 2014), an increase in the rate of social security contributions of anywhere between 0.6% and 1.9% may be required to make the Fund sustainable in the long-term, depending on the particular assumptions applied concerning contribution income, permanent nursing care benefit expenditure and benefit uprating policy. At the level of contributions and grant received today this is equivalent to approximately £7m to £22m of additional funding per year.
170. The funding of long-term health and social care services was considered by the Social Security Department and the Treasury and Resources Department as part of the Personal Tax, Pensions and Benefits Review. Following consideration of the Joint Report (Billet d'État IV of 2015), the States resolved:

- ‘17. *To acknowledge that the present model of provision of long-term residential and nursing care for older people is financially unsustainable and to direct that the Policy Council give consideration to the suggestions outlined in paragraphs 5.2.42 to 5.2.48 of that Report [i.e. increasing the co-payment for those who can afford to pay more and including in the assessment some form of equity release], when reporting to the States of Deliberation on a Supported Living and Ageing Well Strategy.*
18. *To direct the Policy Council to ensure that the outputs of the Supported Living and Ageing Well Strategy can be achieved within the financial limitation set out in the Fiscal framework and any extension of those limitations to incorporate income from Social Security contributions agreed by the States of Deliberation’s approval of proposition 6’ [which was to amend the Fiscal Framework to place an upper limit on aggregate government income, incorporating General revenue, Social Security contributions and fees and charges, such that total government income should not exceed 28% of Gross Domestic Product.]*
171. On 12<sup>th</sup> November 2014, following consideration of the Department’s Report on Benefit and Contribution Rates for 2015 (Billet d’État XXI of 2014), the States directed the Social Security Department to report to the States of Deliberation after the conclusion of the Personal Tax Pensions and Benefits Review and the publication of the Supported Living and Aging Well Strategy, with proposals to achieve the long-term sustainability of the Long-term Care Insurance Fund.
172. At the time of writing, the Policy Council anticipated that the Supported Living and Ageing Well Strategy would be laid before the States of Deliberation before the end of this term of government.
173. The next full actuarial review of the Fund, covering the period 1<sup>st</sup> January 2010 to 31<sup>st</sup> December 2014, is due to be carried out during 2015 and this will also inform the development of proposals to achieve the long-term sustainability of the Long-term Care Insurance Fund.

## **PART IV**

### **NON-CONTRIBUTORY SERVICES FUNDED FROM GENERAL REVENUE**

#### **Introduction**

174. For the non-contributory benefits contained in this part of the report, which are funded entirely from General Revenue, the Department recommends general increases of 1.5%, in line with the published RPIX figure for June 2014.

## Supplementary benefit

### *Expenditure and claim data*

175. Supplementary benefit expenditure amounted to £20.27m in 2014. The expected outturn for 2015 is £21.36m.
176. As at 6<sup>th</sup> June 2015, there were 2,383 active supplementary benefit claims, as set out in table 14 below. These claims also support 1,457 dependants, thereby giving a total supplementary benefit population of 3,840.

**Table 14 - Supplementary benefit claims and expenditure - 2014 and 2015**

<b>Classification</b>	<b>Claims at 6 June 2015</b>	<b>Claims at 7 June 2014</b>	<b>2014 expenditure (£m)</b>	<b>2015 latest forecast (£m)</b>	<b>2016 budget (£m)</b>
Pensioner	736	719	2.46	2.85	3.00
Incapacitated	515	543	4.45	4.40	4.50
Jobseeker or low earner	545	485	4.35	4.90	5.10
Single parent	295	322	3.85	3.75	3.85
Disabled	201	216	1.86	1.90	1.95
Incapable of self-support	54	59	0.65	0.66	0.67
Carer	20	25	0.05	0.27	0.32
Pregnant	2	1	0.03	0.03	0.05
Prisoner's spouse	3	4	0.27	0.04	0.05
Partner in hospital	1	0	0	0	0
<b>Total (excluding dependants)</b>	<b>2,383<sup>3</sup></b>	<b>2,376</b>	<b>17.97</b>	<b>18.80</b>	<b>19.49</b>
Special Grants (e.g. medical, disability, funeral) and other miscellaneous expenses			2.30	2.56	2.72
<b>Total</b>			<b>20.27</b>	<b>21.36</b>	<b>22.21</b>

### *Supplementary benefit requirement rates*

177. The Department recommends that supplementary benefit requirement rates be increased by approximately 1.5%.
178. The recommended short and long-term requirement rates, to take effect from 8<sup>th</sup> January 2016, are set out in tables 15 and 16 overleaf:

<sup>3</sup> Includes 11 claimants whose classification is unknown.

**Table 15 – Proposed long-term supplementary benefit requirement rates for 2016**

<b>Long-term supplementary benefit (after payment of short-term rates for 6 months)</b>	<b>2016</b>	<b>2015</b>
Married couple	£249.75	£246.06
Single householder	£172.79	£170.24
Non-householder:		
18 or over	£134.13	£132.15
16 – 17	£72.82	£71.73
Member of a household -		
18 or over	£134.13	£132.15
16 – 17	£113.61	£111.93
12 – 15	£70.29	£69.25
5 – 11	£50.96	£50.20
Under 5	£37.56	£37.00

**Table 16 – Proposed short-term supplementary benefit requirement rates for 2016**

<b>Short-term supplementary benefit rates (less than 6 months)</b>	<b>2016</b>	<b>2015</b>
Married couple	£202.42	£199.43
Single householder	£140.58	£138.50
Non-householder:		
18 or over	£107.02	£105.44
16 – 17	£72.82 <sup>4</sup>	£71.74
Member of a household -		
18 or over	£107.02	£105.44
16 – 17	£90.87	£89.53
12 – 15	£56.29	£55.46
5 – 11	£40.88	£40.28
Under 5	£29.77	£29.33

A rent allowance, on top of the above short-term or long-term rates, will apply to people living in rented accommodation.

<sup>4</sup> Since 1<sup>st</sup> December 2014, when the Supplementary Benefit (Guernsey) (Amendment) Law, 2014 entered into force, supplementary benefit has only been available to *new* claimants under the age of 18 by exception. Existing claimants who do not fall into one of the exception categories will receive this rate until their claim closes or they reach the age of 18, whichever is the sooner. This rate will be varied upwards in relation to 16 and 17 year olds who qualify by exception. This footnote also applies to the long-term supplementary benefit rate for 16 - 17 year old non-householders.

***Benefit limitations***

179. The benefit limitation is the maximum level of income that a person in receipt of supplementary benefit is allowed per week from all sources, excluding family allowances and the £30.00 earnings disregard. Different benefit limitations apply depending on where the claimant resides, reflecting the fact that claimants in different accommodation settings have different financial needs.
180. Table 17 below sets out the weekly benefit limitations which currently apply and the proposed limitations from 8<sup>th</sup> January 2016. The proposed limitations are in line with the general uprating policy for non-contributory benefits for 2016.

**Table 17 – Weekly supplementary benefit limitations**

<b>Benefit limitation</b>	<b>2016</b>	<b>2015</b>
Community	£609.00	£600.00
Residential homes <sup>5</sup>	£531.00	£523.00
Nursing homes, EMI residents and Guernsey Cheshire Home <sup>6</sup>	£761.00	£750.00

181. It should be noted that very few claimants receive supplementary benefit equal to the benefit limitation. This is because either their needs are not this great and/or because they have income from other sources, e.g. earnings, pension, etc.

***Personal allowances***

182. The Department pays a personal allowance to residents of residential or nursing homes who qualify for supplementary benefit. The personal allowance is intended to allow modest purchases of, say, newspapers, confectionery, toiletries, small family presents and so on.
183. The Health and Social Services Department pays for Guernsey and Alderney residents to be placed in UK hospitals and specialized institutions if their mental or physical health needs cannot be met on-Island. While the Health and Social Services Department meets the cost of accommodation and care, residents are expected to pay for items of personal expenditure from their own resources. Residents who cannot afford these things can apply to the Social Security Department for a personal allowance.

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<sup>5</sup> This limitation applies to a person residing in a residential home who does not satisfy the residence requirements for long-term care benefit and may, therefore, need to rely on financial support from supplementary benefit.

<sup>6</sup> This limitation applies to a person residing in a nursing home or a residential home with EMI care needs or the Guernsey Cheshire Home who does not satisfy the residence requirements for long-term care benefit and may, therefore, need to rely on financial support from supplementary benefit.

184. There is a need for this particular personal allowance to be higher than the rate which applies in Guernsey residential and nursing homes, because the people living temporarily off-Island tend to be a much younger age group, more active and with more opportunities for using a personal allowance in the course of their supervised activities and outings.
185. Table 18 below sets out the weekly personal allowances which currently apply and the proposed allowances to apply from 8<sup>th</sup> January 2016. The proposed allowances are in line with the general uprating policy for non-contributory benefits for 2016.

**Table 18 – Weekly personal allowances**

<b>Personal allowance</b>	<b>2016</b>	<b>2015</b>
Residents of local residential and nursing homes	£30.37	£29.92
Guernsey residents in UK hospitals and care homes	£51.16	£50.40

***Supplementary fuel allowance***

186. A supplementary fuel allowance is paid from General Revenue to all householders in receipt of supplementary benefit for 26 weeks from the last week in October until the last week in April of the year following. The fuel allowance was £30.00 per week for the winter of October 2013 to April 2014. The rate of the fuel allowance was not increased for the winter of October 2014 to April 2015 as the cost of fuel, light and power did not change in the year to June 2014<sup>7</sup>.
187. In the year to June 2015, the cost of fuel and light decreased by 7.8%<sup>8</sup>. The Department, therefore, recommends a decrease of 7.8% in the fuel allowance taking it to £27.66 per week for the winter of October 2015 to April 2016.
188. In October 2013, following consideration of the Department's Uprating Report for 2014 (Billet d'État XX of 2013, volume 2), the States resolved that the Department be authorised to make the first payment of the supplementary fuel allowance at the proposed new rate in 2014 and in future years, on the last Friday in October, noting that this might be prior to approval of the rate of the allowance by the States.
189. The fuel supplement will cost in the region of £0.98m over the 26 week payment period.

<sup>7</sup> Source: Guernsey Quarterly Inflation Bulletin – 30<sup>th</sup> June 2014.

<sup>8</sup> Source: Guernsey Quarterly Inflation Bulletin – 30<sup>th</sup> June 2015.

***Maximum rent allowances***

190. Maximum rent allowances were introduced for new claims from single people and couples with no children (tenancy group 1) and for people living in shared accommodation (tenancy group 5) with effect from 4<sup>th</sup> January 2013. Maximum rent allowances are upper limits of rental support, rather than fixed amounts, given to all people within the two groups. The actual rent allowance paid never exceeds the rent of the property occupied and indeed, in accordance with legislation, the Administrator often awards a lower rent allowance if he considers that this is reasonable having regard to the circumstances of the claimant and the nature and standard of the accommodation.
191. The maximum rent allowances for 2015 are set out in table 19 below. These rates are based on the highest rents charged in social housing for appropriately sized properties.

**Table 19 – Maximum rent allowances for 2015**

<b>Tenancy Group</b>	<b>Description</b>	<b>Maximum rent allowance – 2015</b>
Group 1	Single or couple with no children	£207.00
Group 5	Living in shared accommodation	£166.87

192. It is proposed that the maximum rent allowances for people in tenancy groups 1 and 5 be increased in 2016 in line with rents charged by the Housing Department or the Guernsey Housing Association once these have been set.
193. The Department proposed in its report entitled ‘Benefit and Contribution Rates for 2014 and Modernisation of the Supplementary Benefit Scheme’ (Billet d’État XX of 2013, volume 2), that maximum rent allowances for families (i.e. tenancy groups 2, 3 and 4) be introduced from January 2015. However, this proposition, along with all other propositions pertaining to the section of the report regarding the modernisation of the supplementary benefit scheme, were deleted and replaced with alternative propositions concerning the formation and mandate of the Social Welfare Benefits Investigation Committee following a successful Amendment placed by Deputy Le Lièvre.
194. The Department remains of the view that maximum rent allowances for families should be introduced, but considers that it is not appropriate to recommend their introduction while the Social Welfare Benefits Investigation Committee is in the process of developing proposals for a single, comprehensive social welfare benefits model.

***Social Welfare Benefits Investigation Committee***

195. The Social Welfare Benefits Investigation Committee was constituted as a Special Committee by the States in December 2013 (Billet d'État XXVI of 2013, under the Chairmanship of Deputy Andrew Le Lievre. In accordance with the constitution, two Members of the Department, Deputy Gollop and Deputy Le Clerc, are Members of the Committee. The Committee also has two Members representing the Housing Department, Deputy Hadley and Deputy Le Pelley, one Member representing the Treasury and Resources Department, Deputy Perrot, and an independent Member, Deputy Gillson.
196. The Committee had been expected to report to the States by March 2015. In a statement made at the February 2015 States Meeting, the Chairman apologised to the States for not being able to report by the original target date. The Chairman expressed the intention of the Committee to report by the end of 2015.
197. The Department, through its representatives on the Committee, understands the challenges being faced by the Committee in meeting its timetable. The Department, and its predecessor Department, have both undertaken a substantially similar task in the reports that they brought to the States in October 2013 and March 2012 respectively.
198. The Department is awaiting the Committee's report with interest, particularly as regards the proposed timescale for the unification of the Housing Department's rent rebate scheme with the supplementary benefit scheme of rent allowances. The Department remains concerned by the perpetuation of those two separate forms of support, which treat low income families differently, depending on whether they are in social housing or renting in the private sector.

***Update on Progress to Work***

199. The Department's Progress to Work initiative was launched in 2014 in order to implement a number of 2012 States Resolutions aimed at incentivising work within the Supplementary Benefit Scheme.
200. As a result, working age people claiming supplementary benefit, including working age dependants, must be in full-time remunerative work or complying with work requirements relating to them as specified within the Supplementary Benefit (Guernsey) Law, 1971 as amended. However, some people, including dependants, are not able to work full-time due to caring responsibilities or physical, mental or sensory impairment. There is provision within the Law which enables the Department to exempt these people from full compliance with the work requirements.
201. The introduction of the work requirement means that all working age people supported by Supplementary Benefit must engage in full-time remunerative work (defined as a minimum of 35 hours of work per week remunerated at no less than



the minimum wage) or work related activities, including work focused meetings and training deemed appropriate by the Department.

202. Through the Progress to Work initiative about 400 working age people have so far been referred to the Job Centre to engage in regular work focused meetings and return to work activities. It should be noted that this is in addition to the number of unemployed jobseekers already registered with the Job Centre and who are reported on monthly through media statements.
203. The group of 400 includes more than 250 single parents (youngest child under age 7) and over 80 partners of benefit claimants. Although the single parents are not required by the Department to be working while their youngest child is under the age of 7, so far, about 10% of the single parent group have been helped in to work and about 15% of the single parent group who were already working part-time are actively seeking to increase their hours of work. In addition, about 15% of the single parent group have engaged in training initiatives to improve their work opportunities.
204. As part of the Progress to Work initiative the Department launched its new Work2Benefit scheme during the latter part of 2014. This is a mandatory work scheme which requires some long-term jobseekers to carry out daily work-related activities in return for their weekly cash benefit. Work2Benefit has been designed to provide a variety of work opportunities which act as a stepping stone to other social security training schemes or paid employment. The Work2Benefit scheme currently provides placements within States Works and the GSPCA. Further placements are planned within the voluntary sector towards the end of 2015.

***Treatment of pension contributions in the supplementary benefit means test***

205. When calculating a claimant's weekly requirement, the current policy is to take account of weekly earnings net of tax and social security contributions, but no deduction is made in respect of contributions made to an occupational or personal pension scheme. This means that individuals in receipt of supplementary benefit who contribute to a pension scheme have less disposable income on a weekly basis than other claimants who do not pay into a pension scheme.
206. In the UK, 50% of contributions to occupational and personal pensions are disregarded for the purpose of calculating net earnings in respect of claims for Income Support and Income-based Job Seekers Allowance. These, and other, means-tested benefits and tax credits are currently being phased out and replaced by the Universal Credit. Under Regulation 55(5) of the Universal Credit Regulations, 2013, when calculating the amount of a person's employed earnings "*any relievable pension contributions made by the person in that period*" are deducted from earnings.

207. The Department supports this approach as a means of incentivising individuals in low paid employment to save for their retirement, thereby reducing their possible future reliance on welfare benefits when over pension age. It also ensures that people who contribute to pension schemes are not financially worse off than other claimants who are not making financial provision for their future while of working age.
208. The Department recommends that the First Schedule to the Supplementary Benefit (Guernsey) (Implementation) Ordinance, 1971 be amended to allow any relievable pension contributions made by the person in that period to be deducted from the net remuneration or profit derived by him from any occupation, for the purpose of calculating a person's weekly earnings in respect of a claim to supplementary benefit.
209. Based on a two-month audit of the payslips of supplementary beneficiaries in work commencing on 19<sup>th</sup> March 2015, the annual cost of this proposal is estimated to be £19,000.

***Cost of proposals for supplementary benefit***

210. The expected outturn for supplementary benefit expenditure for 2015 is £21.36m. It is estimated that benefit expenditure in 2016, taking account of the above proposals and allowing for current trends, will increase by £0.85m to £22.21m.

**Family Allowance**

211. Family allowance is a universal benefit that is paid to all families with qualifying children, irrespective of the level of their household income. The weekly rate of family allowance has been £15.90 per child since January 2013.
212. Expenditure on family allowance amounted to £9.71m in 2014. The expected outturn for 2015 is £9.85m.
213. The appropriateness of continuing to provide universal benefits, such as family allowance, was considered by the Social Security Department and the Treasury and Resources Department as part of the Personal Tax, Pensions and Benefits Review.
214. One of the so called 'Green Paper' resolutions approved by the States following consideration of the Joint Report (Billet d'État IV of 2015) was:

*"19. To note that, in the opinion of the Treasury & Resources Department and the Social Security Department, between 2016 and 2025 the payment of a universal Family Allowance under the Family Allowances (Guernsey) Law, 1950, should be phased out through gradual reductions in the amount paid having regard to the increases in personal tax allowances as outlined in Proposition 27 below."*

215. Further, the States directed the Social Security and Treasury and Resources Departments:

*“...to reflect on the views expressed during debate of this Report before presenting to the States any firm proposals on the matters dealt with by Propositions 19, 20, 23 and 24, and to outline the mitigating actions to be taken in respect of any group of people disadvantaged by those proposals.”*

216. The Department is not yet in a position to be able to present any firm proposals to the States on this matter. Given the Treasury & Resources and Social Security Departments’ view that this benefit should be phased out through gradual reductions in the amount paid, the Department is recommending no increase in the rate of family allowance for 2016.
217. It is estimated that expenditure on family allowance in 2016 will be the same as 2015 (i.e. £9.85m) with no projected increase or decrease in demand. If the States agrees to continue to apply a freeze to the rate of family allowance in 2016, this policy will have resulted in a saving of approximately £550,000 during the three year period from 2014 to 2016 (inclusive).

### **Severe Disability Benefit and Carer’s Allowance**

#### ***Rates and annual income limit***

218. The Department recommends that severe disability benefit and carer’s allowance be increased by 1.5%, with effect from 4<sup>th</sup> January 2016, as shown in table 20 below:

**Table 20 – Current and proposed annual income limit and weekly rates of severe disability benefit and carer’s allowance**

	<b>2016</b>	<b>2015</b>
Severe disability benefit - weekly rate	£100.45	£98.98
Carer’s allowance - weekly rate	£81.28	£80.08
Annual income limit for both allowances	£93,000	£92,000

219. The annual income limit is the upper limit of income that a family may have, while still being entitled to receive either severe disability benefit or carer’s allowance. The annual income limit has traditionally been rounded to the nearest thousand pounds. For 2016, this results in a £1,000 (or 1.1%) increase in the limit taking it to £93,000.
220. Benefit expenditure on severe disability benefit and carer’s allowance in 2014 was £4.48m. The expected outturn for these benefits for 2015 is £4.98m. It is estimated that expenditure in 2016 will be £5.30m.

***Review of eligibility of residents of extra care housing developments for Severe Disability Benefit***

221. In the Uprating Report for 2015 (Billet d'État XXI of 2014), the Department proposed:

‘ ...  
(xxix) *that Section 9 of the Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 1984 be amended to provide that Regulations may provide that an allowance [in this case, severe disability benefit] shall not be payable in respect of a person for any period when he is a person for whom accommodation or care services are provided at locations prescribed by regulation, wholly or partly funded out of public funds.*’

222. This would have allowed the Department to exclude from eligibility for severe disability benefit people accommodated in extra care housing by Regulation if it was considered appropriate to do so having regard to all the circumstances and, in particular, the level of publicly funded support available to residents of the developments. The purpose of the proposed amendment to the Law was to address the perceived inequality between people living in extra-care housing who qualify for Severe Disability Benefit and people living in residential or nursing homes who do not.

223. Following an amendment proposed by Deputy Arrun Wilkie being carried, the States instead resolved:

‘ ...  
29. *That following conclusion of its review of the needs of beneficiaries of allowances under the Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 2014 for whom accommodation or care services are provided at public expense, as described in paragraphs 222 to 224 of the Report, the Social Security Department shall report its findings to the States of Deliberation, by no later than 31 October 2015, together with any recommendations it may have for disqualifying such beneficiaries from entitlement or reducing allowances.*’

224. The Department has carried out investigations to better understand the extra-care housing model in Guernsey and the financial needs and support available to people accommodated in residential/nursing homes compared to people accommodated in extra care housing.

225. The Department has concluded, following consultation with the Chairwoman of the Guernsey Disability Alliance and health and social care professionals, that persons accommodated in extra-care housing should not be excluded from eligibility for severe disability benefit solely on the basis of the location of, or the type of, the accommodation in which they live. The basic premise of the extra-

care model is that it provides ‘a community within a community’ and as such residents should not be considered to be any different from those people living in the wider community who are receiving the same level of care and support via a different model of provision. The extra care housing model was designed to enable people with a wide range of conditions to live as independently as possible, and is therefore quite different from the long-term care model (i.e. residential and nursing homes).

226. Therefore, the Department will not be proposing any changes to the Severe Disability Benefit and Carer’s Allowance (Guernsey) Law, 1984. Persons accommodated in extra care housing who are ‘so severely disabled mentally or physically’ that they require frequent attention throughout the day or night in connection with bodily functions (such as breathing, hearing, seeing, eating, drinking, walking, sitting, dressing, undressing, getting in and out of bed and going to the toilet) or constant supervision throughout the day or night in order to avoid substantial danger to themselves or others, will continue to be eligible to receive severe disability benefit.

### **Community and Environmental Projects Scheme**

227. The Department administers the Community and Environmental Projects Scheme (CEPS), which offers short-term employment opportunities for unemployed people. The Department contracts with States Works for the necessary supervision of the work teams and also for the provision of transport, equipment and tools.
228. The hourly wage rates for the CEPS scheme are set by the Department and do not require a resolution of the States. From 1<sup>st</sup> October 2010 the rates payable were brought into line with minimum wage rates. From 1<sup>st</sup> October 2015, the rates payable will mirror the minimum wage rates agreed by the States.

### **Free TV licences**

229. In accordance with the resolutions of the States on the 2001 budget (Billet d’État XXIV of 2000), the Department administers a scheme to provide free TV licences for Guernsey and Alderney residents aged 75 or over and residents aged 65 or over and in receipt of supplementary benefit. Benefit expenditure under this scheme was £0.61m in 2014. The scheme is expected to cost £0.61m in 2015.
230. The appropriateness of continuing to provide universal benefits, such as the provision of free TV licences, was considered by the Social Security Department and the Treasury and Resources Department as part of the Personal Tax, Pensions and Benefits Review. As age is not necessarily an indicator of low income and this service is provided to many who could better afford a TV licence than some who do not receive one, it was the view of the Joint Board that this benefit could be withdrawn with minimal impact to the individuals concerned.

231. One of the so called ‘Green Paper’ resolutions approved by the States following consideration of the Joint Report (Billet d’État IV of 2015) was:

*“23. To note that in the opinion of the Treasury & Resources Department and the Social Security Department the provision of free TV licences for those over the age of 74 and those over the age of 64 claiming Supplementary Benefit should be phased out by closing the scheme to new members in 2016 and closing the scheme to all by 2020.”*

232. Further, the States directed the Social Security and Treasury and Resources Departments:

*“...to reflect on the views expressed during debate of this Report before presenting to the States any firm proposals on the matters dealt with by Propositions 19, 20, 23 and 24, and to outline the mitigating actions to be taken in respect of any group of people disadvantaged by those proposals.”*

233. Having reflected on the views expressed during debate of the Joint Report, the Social Security Department remains of the view that free TV licences should no longer be universally available to persons aged 75 and over as age alone does not determine a person’s ability to pay the licence fee<sup>9</sup>. However, recognising that the withdrawal of this benefit would be most keenly felt by low income households, the Department is of the view that free TV licences should continue to be available to householders in receipt of supplementary benefit who have attained pension age, without upper age limit.
234. On 8<sup>th</sup> July 2015, the Chancellor of the Exchequer announced that, in respect of the UK, the BBC had agreed to take on responsibility for funding free TV licences for persons aged 75 and over in return for being allowed to increase the licence fee in line with inflation for at least the next five years, until 2020. This will be phased in from 2018-19, with the full liability being met by the BBC from 2020-21. The BBC will absorb this cost from within their licence fee revenue.
235. At the time of writing this report, discussions with the UK Department of Culture, Media and Sport had been initiated by the Crown Dependencies, to establish whether the Crown Dependencies would likewise receive the benefit of free TV licences at the expense of the BBC instead of through reimbursement of the BBC by the States. Early discussions indicated that this would not be an automatic extension to the Crown Dependencies of the arrangement that will apply in the UK.
236. Although it is hoped that this arrangement will be extended to the Crown Dependencies, until such time as this is known the Department recommends that, from 1<sup>st</sup> January 2016, or as soon as practicable thereafter, there be no new grants of free TV licences for persons aged 75 or over, except to householders in receipt

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<sup>9</sup> The UK Government has frozen the licence fee at its 2010 level of £145.50 until 31<sup>st</sup> March 2017.

of supplementary benefit, and that householders in receipt of supplementary benefit who have attained pension age continue to receive a free TV licence without upper age limit.

237. It is anticipated that targeting this benefit on low income pensioner households will save in the order of £34,000 per year. This is a cumulative saving as existing recipients of a free TV licence who die will be ‘replaced’ by fewer new recipients (i.e. only pensioners in receipt of supplementary benefit). Therefore the cost of the scheme will naturally reduce over time.

### **Consultation**

238. The Department has consulted with the Treasury and Resources Department regarding reducing the States grant to the Guernsey Insurance Fund with effect from January 2017 and, through joint working on the Personal Tax, Pensions and Benefits Review, regarding the proposed long-term uprating policy. The Department has consulted with the Policy Council’s External Relations Group regarding the proposal to enter into a reciprocal agreement on social security with Latvia. The Department has also consulted with the Chairwoman of the Guernsey Disability Alliance and with health and social care professionals regarding the review of severe disability benefit.
239. The Law Officers have been consulted and have not identified any legal difficulties with the recommendations contained in this Report. They have advised that 5 separate Ordinances will need to be prepared in order to implement the proposals set out in this Policy Letter. The Ordinances are relatively straightforward and are unlikely to take more than 2 working days in total to prepare in consultation with the Department.

## **PART V RECOMMENDATIONS**

240. The Department recommends:
- (i) that a guideline for the annual uprating of statutory old-age pensions be established, set initially at one third of the real increase in median earnings, with the intention to reduce this to RPIX subject to suitable policies to enhance personal provision being in place;  
(paragraphs 5 to 46)
  - (ii) that the Social Security Department be directed to take the above guideline in Proposition (i) into account in its recommendations for the annual uprating of statutory old-age pensions, and to provide the States of Deliberation with detailed reasoning for any recommendation to deviate from it in its annual uprating report;  
(paragraphs 5 to 46)

- (iii) that the Social Security Department be directed to review the guideline for the annual uprating of statutory old-age pensions no later than 2020, having regard to progress made in establishing supporting policies to enhance personal pension provision and the actuarial projections for the Guernsey Insurance Fund at that time;  
(paragraphs 5 to 46)
- (iv) that, from 1<sup>st</sup> January 2017, the percentage contribution rate for employers be increased by 0.1%, from 6.5% to 6.6%, to fund the additional costs of the new parental benefits;  
(paragraph 99)
- (v) that, from 1<sup>st</sup> January 2017, the percentage contribution rate for employees be increased by 0.1%, from 6.0% to 6.1%, to fund the additional costs of the new parental benefits;  
(paragraph 99)
- (vi) that, subject to recommendations (iv) and (v) being approved, from 1<sup>st</sup> January 2017, the grant from General Revenue to the Guernsey Insurance Fund be decreased from 15% to 14.7% of contribution income;  
(paragraphs 102 to 103);
- (vii) that, for employed persons and employers, the upper weekly earnings limit, the upper monthly earnings limit and the upper annual earnings limit, from 1<sup>st</sup> January 2016, shall be £2,646, £11,466 and £137,592 respectively;  
(paragraph 52 to 53)
- (viii) that, for employed persons and employers, the lower weekly earnings limit and the lower monthly earnings limit, from 1<sup>st</sup> January 2016, shall be £133 and £576.33 respectively;  
(paragraph 60)
- (ix) that, for self-employed persons, the upper and lower annual earnings limits, from 1<sup>st</sup> January 2016, shall be £137,592 and £6,916 per year respectively;  
(paragraphs 52 to 53 and paragraph 60)
- (x) that, for non-employed persons, the upper and lower annual income limits, from 1<sup>st</sup> January 2016, shall be £137,592 per year and £17,290 per year, respectively;  
(paragraphs 62 and 65)
- (xi) that the allowance on income for non-employed people from 1<sup>st</sup> January 2016, shall be £7,336 per year;  
(paragraph 66)



- (xii) that the voluntary contribution from 1<sup>st</sup> January 2016, shall be £18.95 per week for non-employed people;  
(paragraphs 68 to 69)
- (xiii) that the overseas voluntary contribution from 1<sup>st</sup> January 2016, shall be £90.45 per week for non-employed people and £99.99 for self-employed people;  
(paragraph 70)
- (xiv) that, from 4<sup>th</sup> January 2016, the standard rates of pension and contributory social insurance benefits shall be increased to the rates set out in table 2 in this Report;  
(paragraph 47 to 48)
- (xv) that the States approve in principle the entry into a reciprocal agreement on social security with Latvia;  
(paragraph 106 to 125)
- (xvi) that, from 1<sup>st</sup> January 2016, the prescription charge per item of pharmaceutical benefit shall be £3.70;  
(paragraph 141)
- (xvii) that, from 4<sup>th</sup> January 2016, the contribution (co-payment) required to be made by the claimant of care benefit, under the long-term care insurance scheme, shall be £193.97 per week;  
(paragraph 162)
- (xviii) that, from 4<sup>th</sup> January 2016, nursing care benefit shall be a maximum of £802.55 per week for persons resident in a nursing home or the Guernsey Cheshire Home and residential care benefit shall be a maximum of £429.87 per week for persons resident in a residential home;  
(paragraph 164)
- (xix) that, from 4<sup>th</sup> January 2016, elderly mentally infirm (EMI) care benefit shall be a maximum of £566.37 per week for qualifying persons resident in a residential home;  
(paragraph 164)
- (xx) that, from 4<sup>th</sup> January 2016, respite care benefit shall be a maximum of £996.52 per week for persons receiving respite care in a nursing home or the Guernsey Cheshire Home, an elderly mental infirm rate of £760.34 for persons receiving respite care in a residential home and a maximum of £623.84 per week for persons receiving respite care in a residential home;  
(paragraph 165)

- (xxi) that, from 8<sup>th</sup> January 2016, the supplementary benefit requirement rates shall be as set out in tables 15 and 16 of this Report;  
(paragraph 178)
- (xxii) that, from 8<sup>th</sup> January 2016, the weekly benefit limitations for supplementary benefit shall be:
  - (a) £609.00 for a person living in the community;
  - (b) £531.00 for a person who is residing in a residential home; and
  - (c) £761.00 for a person who is residing as a patient in a hospital, nursing home, the Guernsey Cheshire Home or as an elderly mental infirm resident of a residential home;
 (paragraphs 179 to 180)
- (xxiii) that, from 8<sup>th</sup> January 2016, the amount of the personal allowance payable to persons in Guernsey and Alderney residential or nursing homes who are in receipt of supplementary benefit shall be £30.37 per week;  
(paragraph 185)
- (xxiv) that, from 8<sup>th</sup> January 2016, the amount of the personal allowance payable to persons in UK hospitals or care homes who are in receipt of supplementary benefit shall be £51.16 per week;  
(paragraph 185)
- (xxv) that a supplementary fuel allowance of £27.66 per week be paid to supplementary beneficiaries who are householders from 30<sup>th</sup> October 2015 to 29<sup>th</sup> April 2016;  
(paragraph 187)
- (xxvi) that the First Schedule to the Supplementary Benefit (Guernsey) (Implementation) Ordinance, 1971 be amended to allow any relievable pension contributions made by a person in that period to be deducted from the net remuneration or profit derived by him from any occupation, for the purpose of calculating that person's weekly earnings in respect of a claim to supplementary benefit;  
(paragraphs 205 to 209)
- (xxvii) that, from 4<sup>th</sup> January 2016, the rates of severe disability benefit and carer's allowance and the annual income limits shall be as set out in table 20 of this Report;  
(paragraph 218)

- (xxviii) that, from 1<sup>st</sup> January 2016, or as soon as practicable thereafter, there be no new grants of free TV licences for persons aged 75 or over, except to householders in receipt of supplementary benefit, and that householders in receipt of supplementary benefit who have attained pension age continue to receive a free TV licence without upper age limit.

(paragraphs 229 to 237)

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

Yours faithfully

A H Langlois  
Minister

S A James  
Deputy Minister

J A B Gollop  
D A Inglis  
M K Le Clerc

M J Brown  
Non-States Member

- (N.B. The Treasury and Resources Department supports the proposed guideline for the annual uprating of statutory old-age pensions which is in line with that proposed in 'the Joint Report' and would oppose any deviation which would have the effect of increasing contributions to the Social Insurance Fund.

In respect of the proposal to fund the costs of introducing various parental benefits, the Treasury and Resources Department is strongly of the view that the increased contribution necessary should be solely borne by the employee. In addition to the potential impact on businesses and the economy arising from an increase in the costs of employing staff, Members noted that employers will inevitably be bearing other costs associated with parental benefits.

In respect of Non-Contributory benefits funded from General Revenue (as a formula-led budget), it is noted that the overall increase in estimated cost between 2015 (as per the 'Benefit and Contribution Rates for 2015' Policy Letter) and 2016 (as included in this Policy Letter) is 4.38% which, after taking into account the proposed 1.5% increase in benefit rates, is a real terms increase of nearly 3%. This increase in demand means that approximately £1million will need to be cut in real terms from other Departmental Cash Limits or the Budget Reserve.)

- (N.B. The Policy Council notes the additional analysis of the Guernsey Insurance Fund undertaken by the Social Security Department in fulfilment of the successful amendment placed by Deputy Dorey to Billet d'État IV, 2015 and supports the restatement of the policy to adopt a moderate guideline of one-third of the annual increase in earnings in relation to the annual uprating of pensions in the medium term.

This support is offered in the light of the States' decision to place an overall limit on aggregate income of 28% of GDP (Billet d'État IV, 2015) and the potential funding requirements which are likely to arise from the States' consideration of the Supported Living and Ageing Well Strategy (SLAWS) and the deliberations of the Social Welfare Benefits Investigation Committee (SWBIC).

In particular, the Policy Council wishes to highlight the potential for the cumulative effect of successive increases in contributions that could arise from the consideration of each work stream in isolation. In this context, the SLAWS Working Party has advised the Policy Council that it is minded to recommend an increase in contributions of 0.5% from 1<sup>st</sup> January 2017 to address the worsening position of the Long-term Care Insurance Fund.

**In addition, while fully supportive of the initiative, the Policy Council is conscious that any recommendations to enforce the uptake of private pensions could also impact both on the disposable income of Island households and exert an additional pay cost on local employers.**

**The Policy Council, therefore, asks Members to be mindful of the above when considering the recommendation to increase contributions for both employers and employees by 0.1% in 2017 for the purpose of funding parental benefits.**

**Notwithstanding the above comments, the Policy Council supports the proposals in this Policy Letter and confirms that it complies with the Principles of Good Governance as set out in Billet d'État IV of 2011.)**

The States are asked to decide:-

VIII.- Whether, after consideration of the Policy Letter dated 10<sup>th</sup> August, 2015, of the Social Security Department, they are of the opinion:-

1. That a guideline for the annual uprating of statutory old-age pensions be established, set initially at one third of the real increase in median earnings, with the intention to reduce this to RPIX subject to suitable policies to enhance personal provision being in place.
2. That the Social Security Department be directed to take the above guideline in Proposition 1 into account in its recommendations for the annual uprating of statutory old-age pensions, and to provide the States of Deliberation with detailed reasoning for any recommendation to deviate from it in its annual uprating report.
3. That the Social Security Department be directed to review the guideline for the annual uprating of statutory old-age pensions no later than 2020, having regard to progress made in establishing supporting policies to enhance personal pension provision and the actuarial projections for the Guernsey Insurance Fund at that time.
4. That, from 1<sup>st</sup> January 2017, the percentage contribution rate for employers be increased by 0.1%, from 6.5% to 6.6%, to fund the additional costs of the new parental benefits.
5. That, from 1<sup>st</sup> January 2017, the percentage contribution rate for employees be increased by 0.1%, from 6.0% to 6.1%, to fund the additional costs of the new parental benefits.

6. That, subject to Proposition 4 and 5 being approved, from 1<sup>st</sup> January 2017, the grant from General Revenue to the Guernsey Insurance Fund be decreased from 15% to 14.7% of contribution income.
7. That, for employed persons and employers, the upper weekly earnings limit, the upper monthly earnings limit and the upper annual earnings limit, from 1<sup>st</sup> January 2016, shall be £2,646, £11,466 and £137,592 respectively.
8. That, for employed persons and employers, the lower weekly earnings limit and the lower monthly earnings limit, from 1<sup>st</sup> January 2016, shall be £133 and £576.33 respectively.
9. That, for self-employed persons, the upper and lower annual earnings limits, from 1<sup>st</sup> January 2016, shall be £137,592 and £6,916 per year respectively.
10. That, for non-employed persons, the upper and lower annual income limits, from 1<sup>st</sup> January 2016, shall be £137,592 per year and £17,290 per year, respectively.
11. That the allowance on income for non-employed people from 1<sup>st</sup> January 2016, shall be £7,336 per year.
12. That the voluntary contribution from 1<sup>st</sup> January 2016, shall be £18.95 per week for non-employed people.
13. That the overseas voluntary contribution from 1<sup>st</sup> January 2016, shall be £90.45 per week for non-employed people and £99.99 for self-employed people.
14. That, from 4<sup>th</sup> January 2016, the standard rates of pension and contributory social insurance benefits shall be increased to the rates set out in table 2 in that Policy Letter.
15. That the States approve in principle the entry into a reciprocal agreement on social security with Latvia.
16. That, from 1<sup>st</sup> January 2016, the prescription charge per item of pharmaceutical benefit shall be £3.70.
17. That, from 4<sup>th</sup> January 2016, the contribution (co-payment) required to be made by the claimant of care benefit, under the long-term care insurance scheme, shall be £193.97 per week.
18. That, from 4<sup>th</sup> January 2016, nursing care benefit shall be a maximum of £802.55 per week for persons resident in a nursing home or the Guernsey Cheshire Home and residential care benefit shall be a maximum of £429.87 per week for persons resident in a residential home.

19. That, from 4<sup>th</sup> January 2016, elderly mentally infirm (EMI) care benefit shall be a maximum of £566.37 per week for qualifying persons resident in a residential home.
20. That, from 4<sup>th</sup> January 2016, respite care benefit shall be a maximum of £996.52 per week for persons receiving respite care in a nursing home or the Guernsey Cheshire Home, an elderly mental infirm rate of £760.34 for persons receiving respite care in a residential home and a maximum of £623.84 per week for persons receiving respite care in a residential home.
21. That, from 8<sup>th</sup> January 2016, the supplementary benefit requirement rates shall be as set out in tables 15 and 16 of that Policy Letter.
22. That, from 8<sup>th</sup> January 2016, the weekly benefit limitations for supplementary benefit shall be:
  - (a) £609.00 for a person living in the community;
  - (b) £531.00 for a person who is residing in a residential home; and
  - (c) £761.00 for a person who is residing as a patient in a hospital, nursing home, the Guernsey Cheshire Home or as an elderly mental infirm resident of a residential home.
23. That, from 8<sup>th</sup> January 2016, the amount of the personal allowance payable to persons in Guernsey and Alderney residential or nursing homes who are in receipt of supplementary benefit shall be £30.37 per week.
24. That, from 8<sup>th</sup> January 2016, the amount of the personal allowance payable to persons in United Kingdom hospitals or care homes who are in receipt of supplementary benefit shall be £51.16 per week.
25. That a supplementary fuel allowance of £27.66 per week be paid to supplementary beneficiaries who are householders from 30<sup>th</sup> October 2015 to 29<sup>th</sup> April 2016.
26. That the First Schedule to the Supplementary Benefit (Guernsey) (Implementation) Ordinance, 1971 be amended to allow any relievable pension contributions made by a person in that period to be deducted from the net remuneration or profit derived by him from any occupation, for the purpose of calculating that person's weekly earnings in respect of a claim to supplementary benefit.
27. That, from 4<sup>th</sup> January 2016, the rates of severe disability benefit and carer's allowance and the annual income limits shall be as set out in table 20 of that Policy Letter.

28. That, from 1<sup>st</sup> January 2016, or as soon as practicable thereafter, there be no new grants of free TV licences for persons aged 75 or over, except to householders in receipt of supplementary benefit, and that householders in receipt of supplementary benefit who have attained pension age continue to receive a free TV licence without upper age limit.
29. To direct the preparation of such legislation as may be necessary to give effect to the above decisions.



**PUBLIC SERVICES DEPARTMENT****WASTEWATER NETWORK EXTENSION PROGRAMME**

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

28<sup>th</sup> August 2015

Dear Sir

**1. Executive Summary**

- 1.1 The issue of wastewater network extensions (known internally as the Network Extension Programme, or “NEP”, but more colloquially known as “the main drain” or “sewer”) has been discussed in the States Assembly for many years now and opinions on how the NEP should progress, at what expenditure level and to what timeframe have changed periodically owing to financial pressures and other external factors.
- 1.2 In October 2000 the States of Deliberation were asked to note the NEP which included a long term aim of connecting 95% of Island properties to the public sewer network by 2020. This Policy Letter explains why that is no longer an achievable, or appropriate target.
- 1.3 Currently, 85% of Island properties are connected to the public sewer, with the remainder of properties relying on cesspits which are emptied at regular intervals by sewage tankers. The sewage is then transported to strategically placed emptying points which join into the public sewer.
- 1.4 All customers contribute to the NEP through water charges, whether or not they are connected to the public sewer. Customers connected to the public sewer pay only the wastewater charge, while customers on cesspits pay both the wastewater charge and a cesspit emptying charge because they use both services. Currently around 10% of customers’ charges are invested in the NEP.
- 1.5 While the shift from cesspits to main drain has positive impacts for the property owner or occupier, such as convenience, cost of collection, reduced tanker movements, the NEP is a relatively expensive, time intensive and disruptive programme of works, which presents little financial payback and in most cases has minor environmental benefit.

- 1.6 At the current rate of progress, the NEP could be extended to 95% of Island properties by 2079, at an estimated capital cost of £80 million. This does not meet the current target noted by the States in 2006, although this was recognised by the States in 2007 (Billet d'Etat XXI) *see Section 3*. Shortening this timescale would either increase customer bills, or reduce capital investment in other higher priority areas such as improving the existing sewerage network.
- 1.7 Extension beyond approximately 90% would result in a proliferation of wastewater pumping stations and significant associated whole life costs (Table 1 and Appendix 1).

**Table 1. Connection Targets Capital Cost and Pumping Station Requirements**

Connection Target	Number of additional properties/units connected	Capital Costs	Unit Capital Cost	Number of Pumping Stations required (from existing figs)
87.5%	800	£ 16,740,410	£ 20,952	1
90.0%	1510	£ 38,710,744	£ 25,602	7
92.5%	2225	£ 63,320,684	£ 28,472	18
95.0%	2750	£ 79,019,624	£ 28,734	32

- 1.8 It is recommended that the current delivery target of 95% property connection to main sewer by 2020 is no longer appropriate and further work to connect more properties is only undertaken when funds are available within a prioritised programme of investment in Guernsey's water and wastewater infrastructure. This would represent better value and will enable re-prioritisation of investment to address higher priority needs such as flooding and pollution, which will provide greater customer and environmental benefit.

## **2. Introduction and Overview**

- 2.1 At present, about 85% of Island properties are directly connected to the public sewer. Various plans in the past have detailed how a certain percentage of properties would be connected to the public sewer within a certain timeframe. Further information on the history of the NEP within the States is detailed in the next section.
- 2.2 The NEP is currently implemented by assessing the priority of an area based on a number of scoring criteria, up to an expenditure level of £1.5 to £2m per year. (See Appendix 2 for details of the scoring criteria.) Guernsey Water, a Division of the Public Services Department, carries out the work through a contract with a local civil engineering company.
- 2.3 There will always be a small percentage of properties on the Island (circa 5 to 10%) that will be economically unviable to connect because of their distance from the public sewer.

- 2.4 From a purely financial perspective, at around 10% of annual income the NEP is a significant capital expense to Guernsey Water customers. Benefits are either, minor (such as reduction in the number of sewage tankers on the road) or subjective and anecdotal (reduced potential for pollution of raw water supply; reduced odours; visitor perception). The benefit of meeting the 95% target would not balance out the resulting cost pressure on customers' bills, which could deliver greater benefit if invested in other priorities such as improving our existing sewerage infrastructure.
- 2.5 Given the above, the most common argument for progressing the NEP appears to be that being on the main drain is a minimum modern expectation.

### **3. Background**

- 3.1. The subject of the NEP has been raised a number of times in the States Assembly over the years. The Public Thoroughfares Committee Business Plan of 1998 (Billet d'Etat VII March 1998) stated that 95% of properties would be connected to the public sewer by 2018 at a cost of circa £20m (the remaining 5% being too cost-prohibitive to connect). At the States Meeting of October 2000 (Billet d'Etat XXI) the above Business Plan was noted by the Assembly and it was agreed that extending the foul water network should be prioritised.
- 3.2. At the States Meeting of January 2006 (Billet d'Etat I), the Assembly again noted the strategy of the former Public Thoroughfares Committee, with the target of 95% connection to the public sewer, this time by 2020. However, this target has proven unachievable, largely due to reassessment of the overall cost needed to achieve this connection rate, combined with a significant reduction in the £3-3.5 million per annum capital allowance in the intervening period.
- 3.3. In October 2007 (Billet d'Etat XXI), the Assembly resolved "*to allocate priority within the limited financial resources available for wastewater services to those measures necessary to sustain and develop the existing sewerage network, including measures to reduce ingress of saline and surface water.*" Therefore, further extension of the sewerage network was not considered a priority and, in view of the need for fiscal restraint, could be undertaken over a longer period. It was also noted that funding restrictions and the identification of extensive upgrading work at the Belle Greve wastewater headworks would result in the original network completion targets not being met.
- 3.4. In addition, funding for the upgrading of the Creux Mahie wastewater pumping station between 2008 and 2010 was diverted from the NEP allocation. It was also agreed that funding for the NEP would reduce from £3m per annum to £1m. It was acknowledged that it would take another 50 years to connect 95% of the population to the public sewer at this level of funding.

- 3.5. In 2009 Guernsey Water was amalgamated with the Public Services Department's wastewater function, and a revised Wastewater Business Plan was devised for 2012 to 2019. This plan states that owing to the limited availability of capital funding, the timeframe for 95% connection would need to be put back to 2079. Present estimates put the cost of this work at circa £79m.
- 3.6. Within the context of this history, it should be noted that the capital cost of circa £79m is clearly a significant increase over the circa £20m quoted in 1998 for the 95% connection target. This is due not only to inflation, but also further work by Guernsey Water Engineers to scope each scheme required to meet this target, and much greater knowledge of the sheer scope and complexity of some of the NEP schemes.

#### **4. Benefits & Outcomes of Progressing the NEP**

##### **4.1. Environmental**

- 4.1.1. The NEP can protect bathing waters and streams from pollution arising from poor cesspit maintenance.
- 4.1.2. Integrating the wastewater function with Guernsey Water in 2009 has led to the identification and remedy of a large number of leaking cesspits, thereby reducing the likelihood of potential contamination of raw water sources. Hence many environmental benefits of the NEP can be realised through enforcement of cesspit maintenance, without any significant capital investment.
- 4.1.3. A shift from cesspits to the public sewer would result in a reduction of the 'nuisance' factor of odour associated with cesspits and their emptying, including emptying points. Also, the reduction in sewage tankers on the roads would have a minor beneficial impact on traffic levels, as well as a reduction in the overall carbon footprint of the Island's traffic, and vehicle CO<sub>2</sub> emission levels.
- 4.1.4. The Office of Environmental Health and Pollution Control has been consulted on this letter, and whilst the ideal situation would be for all properties to be connected to main drain, they acknowledge that under current financial constraints, there are other priorities that need to be addressed first, such as flooding of property and pollution of receiving waters. The Water Pollution Ordinance, agreed by the States in 2012 (Billet d'Etat XXI), is currently being drafted and this will require cesspits to be managed and maintained through 'general binding rules' so that they do not cause pollution to their surroundings and ground water. This will be a proportionate system for any cesspits on island. The Director has reflected on the current proposals and economic situation and has confirmed her support for the policy set out in this report.

- 4.1.5. Sewage collection is currently provided by a fleet of 36 tankers. Achieving an 85% to 90% connection could lead to a 25-33% reduction in the demand for cesspit emptying by tankers. However, the relationship between connection rate and demand for tankers is not linear. Therefore, detailed transport modelling would be needed to determine the potential savings more precisely. It should also be recognised that there is a value in having sufficient tankers available for flooding and pollution prevention during emergencies (such as the recent water main bursts at St Sampsons and Cobo).
- 4.1.6. Reference has also been made to the Strategic Land Use Plan (SLUP) and the draft Island Development Plan (dIDP). The major areas identified for housing and office development in the dIDP, within the two main centres of St Peter Port and St Sampsons and the six local centres have been considered to review whether they are currently served by sewers, or not.
- 4.1.7. In general the two main centres and all the local centres identified are already served by public sewer, except for the Forest area which has a very limited sewerage system and further development here would rely heavily on continuing cess-pit emptying.

## 4.2. **Public Health**

- 4.2.1. Any improvements in public health are likely to be negligible and are largely similar to the points made above, i.e. potential reduction in the risk of infectious disease associated with pollution to streams and bathing waters.
- 4.2.2. The reduction in odour and improvement to air quality levels (albeit trace levels of improvement) are also minor public health issues that would arguably see a small improvement.

## 4.3 **Capital Maintenance**

- 4.3.1. Sewage from cesspits is held in situ for a period of time until it is collected by a sewage tanker, and because of this, the oxygen levels in the sewage decrease, making it 'septic'. Sewage in this state has a much higher hydrogen sulphide (H<sub>2</sub>S) content than 'fresh' sewage, and this gas is very aggressive to concrete structures and pipes. As a result, Guernsey Water experiences deterioration of sewers and manholes downstream of emptying points, which therefore have to be refurbished or replaced more frequently than otherwise would be the case. It also creates operational issues downstream, with high levels of hydrogen sulphide meaning that man entry cannot be carried out while emptying points are in use.
- 4.3.2. Reducing the number of cesspits would alleviate this problem. However, it should be noted that hydrogen sulphide only attacks concrete, so corrosion resistant liners are increasingly used in affected manholes to provide

protection from the negative impact that the gas has on these assets. There would need to be a considerable amount of network extension work (and therefore H<sub>2</sub>S damage reduction) before noticeable capital maintenance savings would be realised.

#### 4.4 Cost

- 4.4.1. The NEP creates no direct revenue stream for Guernsey Water so there is very limited recovery of capital expenditure. The process of digging deep trenches and laying long stretches of sewer is relatively expensive, and Guernsey Water generally receives no additional income once the work is complete. In terms of cesspit emptying, Guernsey Water pays a subsidy of £10.02 per load at 2015 rates (£16.66 - the true cost of cesspit emptying, minus £6.64, the charged rate) for cesspit collection. This subsidy is no longer paid once connection takes place, which results in a small saving.
- 4.4.2. The only revenue that is brought in from the NEP is if a sewer is laid near a property and the property owner chooses not to connect within 12 months. As a 'penalty' this property's cesspit charge is increased from £6.64 per load to £16.66 (the 'true' rate of cesspit emptying when unsubsidised by Guernsey Water).
- 4.4.3. However, this increase in income is counteracted by the fact that the higher charge will catalyse many property owners to connect to the public sewer.
- 4.4.4. Continuing the NEP would reduce the number of cesspits on the Island, and therefore offer potential for the reduction in the number of sewage tankers, drivers, emptying points and associated maintenance costs. However, before reaching the current target of 95% connection the potential savings would be dwarfed by the capital cost of the extensions themselves, leading to a payback period of around 100 years.
- 4.4.5. From a customer's perspective, the cost to connect to the public sewer can be significant, ranging from a straightforward connection (circa £3-£4k) to a more complex one where the property's wastewater flow cannot be gravity-fed into the sewer, meaning that a small private pumping station is required (circa £5/6k). In the latter case, ongoing maintenance costs will apply to the customer.
- 4.4.6. Calculations carried out by Guernsey Water show that a straightforward connection to the public sewer at a cost of £4k would have a payback period of around 5 years, taking into account the cesspit emptying costs that would no longer be paid (including the increased rate that would apply after 12 months).

- 4.4.7. The current advice from local estate agents is that a property gets little or no increase in value if it is connected to the public sewer in comparison to a property with a cesspit. Previous advice has stated that there may be a slight increase in value.
- 4.4.8. Whether an NEP scheme is gravity fed or pumped is a very important cost consideration. The current 95% target includes many schemes that require pumping stations (Appendix 1). Guernsey Water has developed a strategic programme that minimises the required number of NEP pumping stations. However, it is still estimated that a further 32 are required to reach 95% connection. (For details see Table 1 in section 7.) Around 80% of these pumping stations will be required to progress from 90% to 95% connection. The whole life cost associated with this proliferation of pumping stations would place a considerable long term operational and maintenance burden on all Guernsey Water customers (it is estimated that in Guernsey the average cost to operate and maintain a pumping station is £12,500 per annum).

## **5. Customer Engagement**

- 5.1. Before carrying out the latest NEP scheme to be completed (the Naftiaux area in St Andrews) a questionnaire was sent out to properties in the area in order to gauge their feelings on the scheme; in particular, whether they would connect if given the opportunity, and how much they would be willing to pay for their part of the connection.
- 5.2. The results show that the majority of customers felt it was important to connect to the public sewer and that for a £3k connection, 90% were likely to proceed. However, if the cost was £5k or more, this percentage drops to under 50%.
- 5.3. The same questionnaire was sent out to properties in the Longfrie area in St Peters, where a current scheme is progressing. Again, the majority of customers felt it was important to connect to the public sewer, and that for a £3k connection, 80% were likely to go ahead with it. When the cost rose to £5k or more, this percentage dropped to 25%.
- 5.4. Whilst these customers may not be representative of the Island as a whole, the results suggest that cost is a key factor in customer motivation when it comes to connecting to the public sewer.
- 5.5. Aside from the above, apart from anecdotal comments, there is little evidence of public perception of cesspits and sewage emptying, either negative or otherwise. The assumption is that connections to the public sewer are preferable to cesspits and sewage emptying, but it seems that this can be dependent on the cost of connection to customers.

## 6. Financial Considerations

- 6.1. The total NEP is estimated to cost in excess of £79m capital for 95% connection, with a unit cost per property connected of over £20k. This cost is offset by a reduction in Guernsey Water's subsidy of emptying costs, and savings from reduced cesspit emptying services which currently costs circa £2.7m per annum for the tanker fleet that serves these properties.
- 6.2. The majority of properties not on main sewer have been assessed and prioritised as a programme of suitable projects that could be implemented as the availability of capital funding allows. These projects have been estimated generically, based on length of sewer and pumping requirements, together with an assessment of the type of ground to be encountered. The projects have been classified to two main groups: a) major projects and/or "enabler"<sup>1</sup> projects; and b) "infill" projects which are smaller independent, stand-alone schemes with an estimate of generally less than £0.3 million.
- 6.3. Current estimates indicate that the major projects will facilitate the connection of approximately 2,500 properties at a capital cost of around £75 million (2014 prices), with the infill projects providing around 270 properties with potential connections for a further capital cost of £5 million. These figures equate to an average of around £30,000 per property for major projects and £19,000 per property for infill projects.
- 6.4. Operation and maintenance costs have also been considered. Where possible, properties have been grouped to avoid the need for pumping of flows. This avoids excessive power, maintenance and replacement costs. The infill projects do not involve the installation of any additional pumping stations. However it is estimated that 32 pumping stations would be required on 29 schemes to complete the major project programme.
- 6.5. From the data shown in Appendix 1 it can be seen that most of the projects requiring pumping stations are ranked lower in priority, largely because of the higher whole life costs associated with these projects. Appendix 2 sets out the other criteria that are used in the prioritisation of the NEP programme. The environment score relates to the risk of water pollution; it should be noted that this can also be dealt with through enforcement of cesspit maintenance. Disruption is also an important consideration as NEP schemes can require lengthy road closures, and associated road repairs can impact on the life of road surfaces. Indeed, the need to carefully manage road closures is a limiting factor on the speed with which this programme can be delivered.
- 6.6. All Guernsey Water bill-payers contribute to the cost of the NEP through customer charges, which includes those that are already connected to the public sewer as well as those that are not. For the NEP to continue, it will of course be funded by

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<sup>1</sup> NEP projects that may not facilitate significant numbers of connections, but are required before more cost effective or higher priority projects can be connected to the sewer network



water charges, which means that every customer will pay for these connections, whether they are already connected or not. Currently around 10% of Guernsey Water annual income is invested in the NEP.

- 6.7. The current NEP includes £2m for 2014 and 2015, which reduces to £1.5m for 2016 and 2017. It is proposed that this rate of investment be further reduced until the priority of the NEP within Guernsey Water's investment programme changes. This will enable re-prioritisation of investment to address higher priority needs such as flooding and pollution, which will provide greater customer and environmental benefit. A full review of this investment programme will take place as part of the next review of the States Capital Investment Portfolio.
- 6.8. At this time, recommendations for the NEP should be considered in conjunction with other commitments that Guernsey Water are likely to advise upon, which may be seen as a higher priority, which include, for example, flooding of property from foul or surface water, and review of the performance of combined sewer overflows (CSO's) as part of work to meet the pending Water Pollution Ordinance legislation.

## **7. Connection Target**

- 7.1. The NEP is an expensive and time-intensive capital programme, which has little or no financial payback. Its benefits are minimal or in many cases negligible. However, these benefits could be considered sufficient to continue a programme of investment. Therefore, perhaps the fundamental question to be considered is 'how far the NEP should be progressed?'
- 7.2. In considering this it is worth noting where Guernsey lies in relation to other European countries and selected other "western" countries in terms of sewerage connection rates. The chart in Appendix 3 indicates the known percentages of population worldwide connected to wastewater collection systems. The information has been taken from the United Nations Statistics website and covers many jurisdictions; the data is taken from latest information available which it should be noted in some cases may be more than ten years old.
- 7.3. Guernsey, whilst being some way off the highest connected population (Spain, Andorra and Monaco); is far from being an outlier. Other countries with similar levels of connection are Sweden, France, Norway and Finland. Jersey currently stands at 87.5% with an aspiration in its Wastewater Strategy to undertake the connection of 1,400 additional properties at an estimated £30k per property to reach a target of 90% connection.
- 7.4. If the connection target is reduced from 95%, capital cost reduces significantly. This exponential cost reduction is due to the more difficult and costly schemes being towards the 'end' of the programme.

- 7.5. Based on current estimates the capital costs to achieve these reduced targets are as shown in Table 1 (reproduced below):

**Table 1. Connection Targets Capital Cost and Pumping Station Requirements**

Connection Target	Number of additional properties/units connected	Capital Costs	Unit Capital Cost	Number of Pumping Stations required (from existing figs)
87.5%	800	£ 16,740,410	£ 20,952	1
90.0%	1510	£ 38,710,744	£ 25,602	7
92.5%	2225	£ 63,320,684	£ 28,472	18
95.0%	2750	£ 79,019,624	£ 28,734	32

- 7.6. From Table 1 and Appendix 1, it can be seen that the lower priority (see Appendix 2 for prioritisation criteria) and more difficult schemes require increasing numbers of pumping stations. To avoid the disproportionately higher whole life costs (see sect 4.4.8) that would come with a proliferation of pumping stations, it is unlikely that implementing those schemes above the approximate 90% position would be appropriate.
- 7.7. This option is recommended as it provides a much more cost beneficial NEP programme. It would also reduce the long term burden on Guernsey Water customers, and enable alternative higher priority investment to address property flooding from increased storm intensities and the risk of pollution from sewer overflows.

## **8. Recommendation**

- 8.1 The Public Services Department recommends the States to note that future connection of Island properties to the public sewer will be achieved according to the availability of funding within a prioritised programme of investment in Guernsey's water and wastewater infrastructure and is unlikely to exceed 90%.

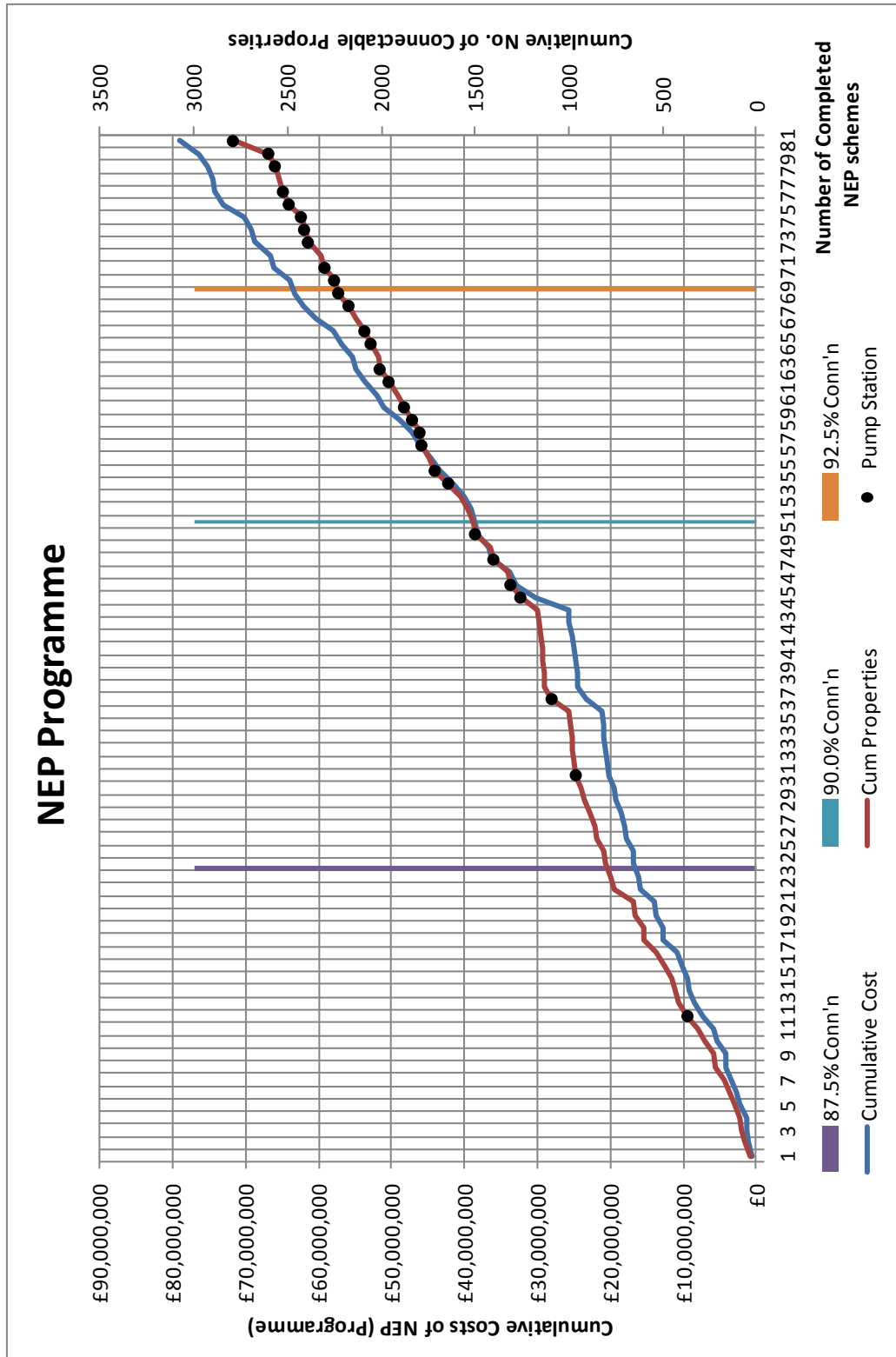
Yours faithfully

S J Ogier  
Minister

D J Duquemin  
Deputy Minister

M H Dorey  
P A Harwood  
R A Jones

# Appendix 1. Cost & Connection Profile for a Prioritised NEP Programme



## Appendix 2. NEP Prioritisation Criteria<sup>2</sup>

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### Costs

Gravity sewer, good dig =	£870	/ m	£856.55/metre for 225mm diameter sewer at an average depth of 2.5 - 3.0m in good ground & 'Traffic Priority Route', includes dayworks and contingency sums (Assume £870)
Gravity sewer, medium dig =	£1,100	/ m	Assumed value
Gravity sewer, bad dig =	£1,400	/ m	£1,376.69/metre for 225mm diameter sewer at an average depth of 2.5 - 3.0m in bad ground & 'Traffic Priority Route', includes dayworks and contingency sums (Assume £1,400)
Rising main =	£670	/ m	£642.15/metre for 500m welded 160 dia foul water rising main in good ground on Traffic Priority Route inclusive of Washout, Airvalve & Discharge Chambers, includes dayworks and contingency sums (Assume £670)
Pump station =	£320,000	each	£317,023.92/Foul water Pump Station (Double Well) Shells, M&E Allowance, Penstock Chamber & Hard Standing Allowance (Assume £320,000)

### Economic (Cost Per Property)

30	Less than £10,000 cost of a connection per property
27	£10,000 to £15,000 cost of a connection per property
24	£15,001 to £20,000 cost of a connection per property
22	£20,001 to £25,000 cost of a connection per property
20	£25,001 to £30,000 cost of a connection per property
15	£30,001 to £35,000 cost of a connection per property
10	£35,001 to £40,000 cost of a connection per property
8	£40,001 to £45,000 cost of a connection per property
6	£45,001 to £50,000 cost of a connection per property
4	£50,001 to £55,000 cost of a connection per property
2	£55,001 to £60,000 cost of a connection per property
0	£60,001 and above cost of a connection per property

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<sup>2</sup> The numbers listed under the Prioritisation Criteria headings (Economic, Environmental etc.) refer to the range of points available for each category. Each project is scored out of a maximum of 100 points over the six categories, which forms the prioritisation of each scheme within the programme.

**Economic (Cost Per Cesspit Load)**

25	<i>Less than £250 cost per cess pit load</i>
23	<i>£250 to £500 cost per cess pit load</i>
20	<i>£501 to £750 cost per cess pit load</i>
18	<i>£751 to £1,000 cost per cess pit load</i>
15	<i>£1,001 to £1,250 cost per cess pit load</i>
13	<i>£1,251 to £1,500 cost per cess pit load</i>
10	<i>£1,501 to £1,750 cost per cess pit load</i>
8	<i>£1,750 to £2,000 cost per cess pit load</i>
5	<i>£2,001 to £2,250 cost per cess pit load</i>
3	<i>£2,251 to £2,500 cost per cess pit load</i>
0	<i>£2,501 and above cost per cess pit load</i>

**Environmental**

15	<i>Adjacent to beach or controlled stream</i>
10	<i>Adjacent to normal stream or water course</i>
5	<i>Uphill from stream</i>

**Disruption to traffic**

15	<i>Minor disruption, Local Priority Route</i>
10	<i>Some disruption, Traffic Priority Route</i>
5	<i>Major disruption, Inter-Island Route or tourist route</i>

**Physical difficulty**

10	<i>Very good conditions</i>
8	<i>Fairly good conditions</i>
6	<i>Average conditions</i>
4	<i>Poor conditions</i>
2	<i>Very poor conditions</i>

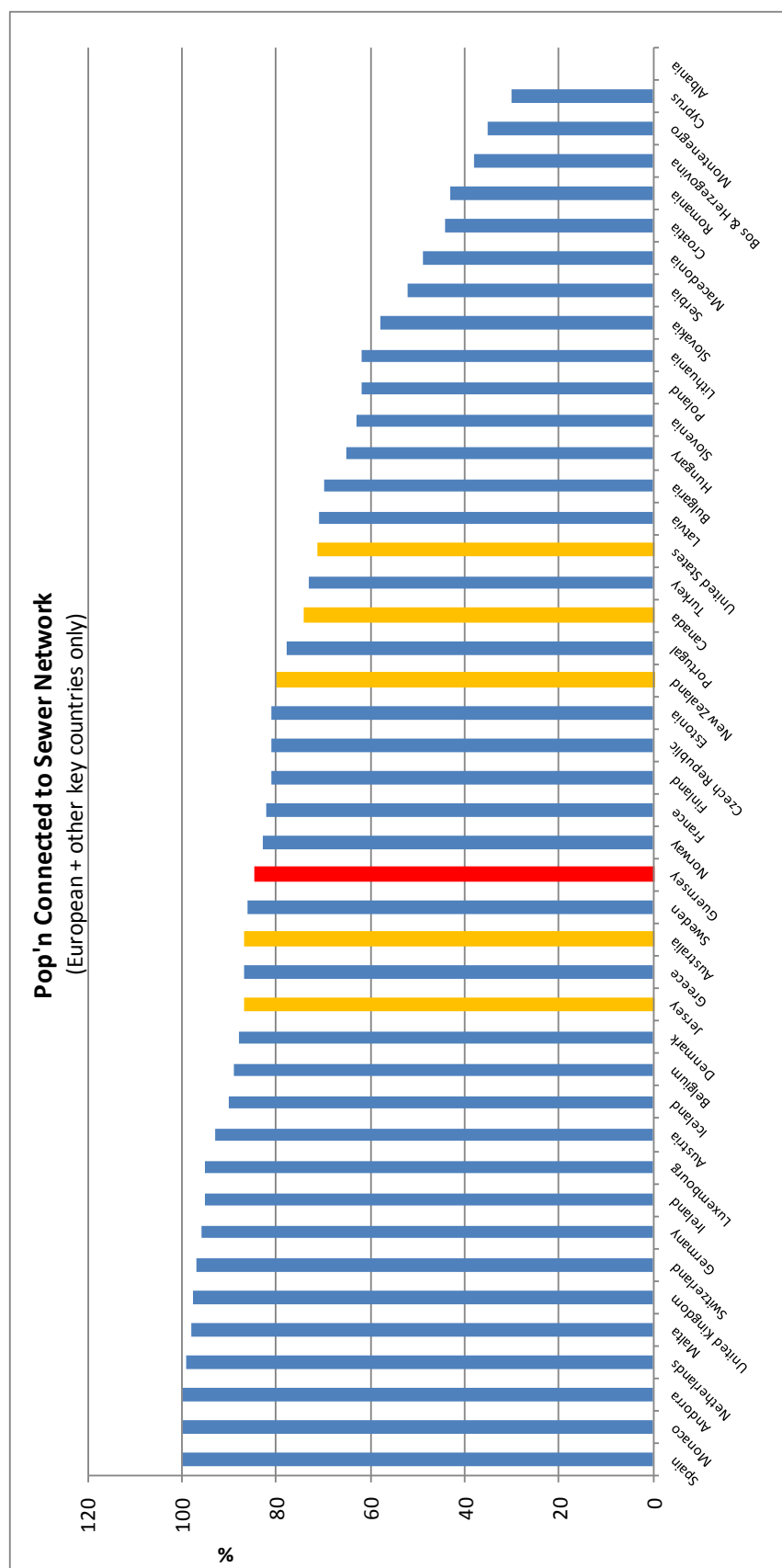
**Impact on Tourism**

5	<i>Hotel or Attraction</i>
4	<i>Holiday cottages</i>
3	<i>Restaurant</i>
2	<i>Cafe</i>
1	<i>Other tourist related</i>

**Business Impact**

<i>High</i>	<i>Major impact</i>
<i>Medium</i>	<i>Some disruption</i>
<i>Low</i>	<i>Minor impact</i>

**Appendix 3. European & Other Key Countries' Sewerage Connection Rates**  
*(Available Online from United Nations Statistics Division)*



**(N.B. The Treasury and Resources Department notes that the Public Services Department has carried out detailed work to review the existing target of 95% property connection to the main sewer by 2020 and has considered a number of factors, including environmental; public health; operational issues and customer expectations as well as financial issues. The Public Services Department has presented a clear and comprehensive Policy Letter which recommends that further work to connect more properties is only undertaken when funds are available within a prioritised programme of investment in Guernsey's water and wastewater infrastructure.**

**It is noted that the Public Services Department considers the revised arrangements represents better value and will enable re-prioritisation of investment to address higher priority needs such as flooding and pollution, which will provide greater customer and environmental benefit.)**

**(N.B. The Policy Council notes that the Public Services Department has considered the achievability of the existing target for the connection of properties to the sewerage network and concluded that it does not represent good value for money. Having looked at a number of different targets, the Public Services Department has concluded that a more realistic approach would be to prioritise connection works over such period as capital funding allows. The Policy Council is supportive of the recommended approach, particularly as it will enable the reprioritisation of funding to address higher priority needs, such as flooding and pollution, which will provide greater customer and environmental benefit. Consequently, the Policy Council commends the States to support the proposals.)**

The States are asked to decide:-

IX.- Whether, after consideration of the Policy Letter dated 28<sup>th</sup> August, 2015, of the Public Services Department, they are of the opinion to note that future connection of Island properties to the public sewer will be achieved according to the availability of funding within a prioritised programme of investment in Guernsey's water and wastewater infrastructure and is unlikely to exceed 90%.

**APPENDIX****CULTURE AND LEISURE DEPARTMENT****CHANNEL ISLANDS LOTTERY – 2014 REPORT AND ACCOUNTS**

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

10<sup>th</sup> August 2015

Dear Sir

I am pleased to be able to provide a report on the Bailiwick of Guernsey's performance within the Channel Islands Lottery for 2014. The requirement to report is contained within section 2 (5) of the Gambling Channel Islands Lottery Ordinance. The report is included as an appendix to a Billet d'État.

**LOTTERY FORMAT**

Throughout 2014, the Lottery continued to operate on an instant prize scratch card basis, with the exception being the 'double chance' Charity Christmas Draw, containing both instant-win and drawn prizes.

In 2011 the Channel Islands Lottery entered into a partnership with Scientific Games International Limited with the primary objective of addressing falling sales. Upon commencement of the partnership the scratch card portfolio was enhanced and, at the end of 2014, consisted of two £2 tickets (with top prizes of £7,777 and £10,000), two £5 tickets (with top prizes of £27,777 and £25,000) and one £10 ticket (with a top prize of £100,000).

Following a marked reduction in sales in 2014, a decision was taken to withdraw production of £1 tickets, with no further £1 game print runs planned.

As a general rule, prior to 2012, scratch cards were allocated in a 40:60 ratio between the Bailiwick of Guernsey and Jersey in line with population numbers in the two Islands. The past three years, 2012-14, has seen a notable shift in the scratch card sales ratio, with Bailiwick of Guernsey scratch card sales representing 66.5% of total Channel Islands scratch card sales in 2014. The distribution ratio of recent scratch card orders has been altered to reflect this distribution of scratch card sales between the two Islands.



Changes to the structure of the game and prize structure are routinely monitored by Lottery representatives from Guernsey, Jersey and Scientific Games, with regular meetings held to discuss key operational matters and strategies.

### CHANGES TO DISTRIBUTION OF LOTTERY PROCEEDS

In September 2014, the States considered a report from the Culture and Leisure Department (Billet d'État XX, dated 15<sup>th</sup> August 2014) to change a number of administrative arrangements from which nine resolutions arose. The majority of these resolutions concerned changes to the distribution of Lottery proceeds or to provide flexibility to conduct special draws, namely:

1. To agree that the proceeds from the annual Christmas Draw be donated to registered, local charitable bodies as authorised by the Treasury and Resources Department upon the recommendation of the Culture and Leisure Department.
2. To confirm that the annual proceeds of the Channel Islands Lottery, aside from the annual Christmas Draw, continue to be transferred to the Beau Sejour Centre up to the level of the Centre's operating deficit for that same calendar year.
3. To direct that any Channel Islands Lottery proceeds exceeding the operating deficit of the Beau Sejour Centre, excluding the Christmas Draw, is to be retained within the Appropriation Account to be used either for major projects that will enhance the Department's properties or for the funding of events which have a particularly special significance to the Island's heritage and unique cultural identity.
4. To delegate authority to the Treasury and Resources Department to approve use of the Appropriation Account.
5. To approve the closure of the Forfeited Prizes Account, with effect from 1<sup>st</sup> January 2014 and for its balance as of 31<sup>st</sup> December 2013 to be distributed proportionately to the Association of Guernsey Charities, Alderney, Sark and the Appropriation Account.
6. To direct the preparation of an Ordinance under the Gambling (Guernsey) Law, 1971 to enable additional public lotteries to be conducted by the Culture and Leisure Department in support of such community, sporting or other events, or such public purposes for the benefit of Guernsey and its inhabitants, as the Department may determine with the approval of the Treasury and Resources Department, without necessitating the involvement of the States of Jersey and the banner of the Channel Islands Lottery.
7. To direct that the operating surplus from any such additional public lotteries be transferred to the Appropriation Account.

These changes are reflected in the presentation of the annual accounts, which follow later in this report.

## SALE OF TICKETS

Five main Agents are appointed to sell Lottery tickets within the Bailiwick of Guernsey; three in Guernsey, one in Alderney and one in Sark. The Agents purchase tickets from the Department and ensure that the tickets are on sale as widely as possible through a chain of sub-agents and retail outlets.

Ticket revenue since 2010 has been as follows:-

Year	Scratch Card Revenue		Christmas Draw Revenue	
	Bailiwick of Guernsey	Jersey	Bailiwick of Guernsey	Jersey
2010	640,400	796,000	880,000	1,420,000
2011	891,300	794,509	927,200	1,379,702
2012	2,815,100	1,933,900	815,000	1,307,000
2013	4,198,800	2,013,950	1,177,000	1,785,200
2014	6,788,500	3,422,700	1,225,900	2,260,000

This table illustrates, in particular:

1. Substantial annual growth in scratch card sales revenue in Guernsey since 2010, coinciding with the commencement of the partnership agreement with Scientific Games;
2. A significant growth in scratch card sales revenue in Jersey between 2011 and 2014;
3. A marked shift in the scratch card revenue ratio between Guernsey and Jersey, from 45:55 in 2010 to 66:34 in 2014;
4. A consistent pattern of Jersey outselling Guernsey for the Christmas Draw, with a ratio of 35:65 in Jersey's favour in 2014.

## Scratch Cards

Ticket revenue in the period 2010-14 was as follows:-

	2014	2013	2012	2011	2010
Guernsey	6,788,500	4,198,800	2,815,100	891,300	640,400
Jersey	3,422,700	2,013,950	1,933,900	794,509	796,000
<b>Total Sales</b>	<b>10,211,200</b>	<b>6,212,750</b>	<b>4,749,000</b>	<b>1,685,809</b>	<b>1,436,400</b>

In 2014, revenue from the sale of scratch cards increased by £3,998,450 (64.4%) against the previous year. The Bailiwick of Guernsey accounted for £2,589,700 of this 2014 growth, with sales revenue increasing by 61.7%. Sales growth in the period 2010-14 was £8,774,800 across the Channel Islands (610.9%). The Bailiwick of Guernsey sales revenue in this period grew by £6,148,100 (960.0%). This dramatic growth can be directly attributed to the new game formats released in August 2011 under the new arrangement with the strategic working partner.

The following table shows a comparison of Bailiwick of Guernsey scratch card sale volumes across the different price points between 2013 and 2014.

<b>PRICE POINT</b>	<b>2014</b>	<b>2013</b>	<b>Increase / Decrease(-)</b>
£1	71,900	245,500	-142,800
£2	972,300	779,900	192,200
£5	611,950	478,700	133,300
£10	171,225	-	171,225
<b>Totals</b>	<b>1,827,375</b>	<b>1,504,100</b>	<b>323,125</b>

The following table shows a comparison of Bailiwick of Guernsey scratch card sale value across the different price points between 2013 and 2014.

<b>PRICE POINT</b>	<b>2014</b>	<b>2013</b>	<b>Increase / Decrease(-)</b>
£1	71,900	245,500	-142,800
£2	1,944,600	1,559,800	384,400
£5	3,059,750	2,393,500	666,500
£10	1,712,250	-	1,712,250
<b>Totals</b>	<b>6,788,500</b>	<b>4,198,800</b>	<b>2,589,550</b>

#### Christmas Draw

	<b>2014</b>	<b>2013</b>	<b>2012</b>	<b>2011</b>	<b>2010</b>
Guernsey	1,225,900	1,177,000	815,000	927,200	880,000
Jersey	2,260,000	1,785,200	1,307,000	1,379,702	1,420,000
<b>Total Sales</b>	<b>3,485,900</b>	<b>2,962,200</b>	<b>2,122,000</b>	<b>2,289,902</b>	<b>2,300,000</b>

In 2014 total Christmas Draw sales revenue across the Channel Islands rose by £523,700 (17.7%), with Jersey accounting for £474,800 of that growth. Overall Christmas Draw growth in the period 2010-2014 was £1,185,900 (51.6%), Jersey growth being £840,000 (59.2%) and Bailiwick of Guernsey £345,900 (39.3%).

#### PRIZES UNCLAIMED

Prizes which are not claimed are forfeited after a given period of time, this being 12 months after the final issue of tickets for each game/draw. The proportion of the total value of prizes unclaimed across the Channel Islands attributable to the Bailiwick of Guernsey amounted to £124,122 in 2014.

### Closure of the Forfeited Prizes Account

From 2000 to 2013, the Guernsey apportionment of unclaimed prizes was assigned to a Forfeited Prizes Account. From that Account, an annual contribution was made to the Christmas Draw.

The States of Guernsey resolved on 26<sup>th</sup> September 2014:

*To approve the closure of the Forfeited Prizes Account, with effect from 1<sup>st</sup> January 2014 and for its balance as of 31<sup>st</sup> December 2013 to be distributed proportionately to the Association of Guernsey Charities, Alderney, Sark and the Appropriation Account.*

The balance of unclaimed prizes as at 31<sup>st</sup> December 2013 stood at £307,941 and was distributed in accordance with sales in the period 2010-13 as follows:

Association of Guernsey Charities - £97,239  
 States of Alderney – £2,026  
 Chief Pleas of Sark – £1,653  
 Appropriation Account - £207,023

### DONATION TO THE ASSOCIATION OF GUERNSEY CHARITIES

The profits from the Christmas Charity Draw are paid to the Association of Guernsey Charities for distribution to charitable groups. Profits from the 2014 Christmas Draw amounted to £192,968, an increase of £8,682 (4.7%) on the 2013 figure.

In accordance with the September 2014 States Resolution to close the Forfeited Prizes Account and distribute the account balance as at the end of 2013, an additional £98,545 was paid to the Association, representing the Christmas Draw apportionment of total unclaimed prizes attributable to Guernsey. In previous years, a contribution was made from the Forfeited Prizes Account in order to boost the Christmas Draw prize structure.

Payment of £97,239 was made to the Association in January 2015, representing Guernsey's share of the Forfeited Prizes Account balance attributable to the Christmas Draw as at the end of 2013.

	<b>2014</b>	<b>2013</b>
Distribution of Forfeited Prizes Account balance as at 31.12.13	97,239	-
Contribution from Forfeited Prizes Account	-	24,600
Forfeited prizes for the year (Guernsey portion)	98,545	-
Christmas Draw proceeds	192,968	184,286
<b>TOTALS</b>	<b>388,752</b>	<b>208,886</b>

With the Department's agreement the Association of Guernsey Charities has distributed the funds as detailed in Appendix 1 of this report.

TABLE OF LOTTERY PROCEEDS (BAILIWICK OF GUERNSEY) SINCE 1999

Year	Proceeds (£000's)	Year	Proceeds (£000's)
2014	1,075	2006	311
2013	751	2005	264
2012	592	2004	271
2011	362	2003	129
2010	313	2002	153
2009	293	2001	177
2008	278	2000	208
2007	285	1999	211

ACCOUNTS

The accounts for the Channel Islands Lottery (Guernsey) Fund for 2014 are detailed in Appendix 2 of this report. These reveal that the promotion of the Lottery in the Bailiwick of Guernsey produced proceeds of £1,082,489 in 2014 (scratch cards and Christmas Draw combined), which was shared within the Bailiwick in proportion to the number of tickets sold in each Island as follows:-

	<b>2014</b>
States of Guernsey	1,074,662
States of Alderney	4,303
Chief Pleas - Sark	3,524
<i>Totals</i>	<i>1,082,489</i>

Yours faithfully

M G O'Hara  
Minister

D A Inglis  
Deputy Minister

D J Duquemin  
P R Le Pelley  
F W Quin

J Vidamour (Non-States Member)

**APPENDIX 1 – Channel Island Christmas Lottery – 2014****Guernsey Charitable Grant Allocation - The Association of Guernsey Charities**

This grant allocation includes £291,512.31 from the 2014 Christmas Lottery, plus the balance of the closed forfeited prize fund attributable to the Christmas Lottery £97,239.00.

<b>Charity Name</b>	<b>AGC No.</b>	<b>Purpose</b>	<b>Allocation</b>
Active (Menfun)	044	Towards rental for storage, van insurance, a van motor service and public insurance	3,099.21
Alderney Community Sport Centre Charitable Trust	273	Building disabled changing room with accessible facilities for the new Alderney pool / gym	26,051.00
Allied Aircrew Memorial Fund Committee	388	Purchase of a Roll of Honour Screen Kiosk to be housed inside the Airport Terminal	5,500.00
Autism Guernsey LBG	373	Towards costs of Autism Guernsey Outreach Service	12,000.00
Caritas Community LBG	359	A grill for the Caritas Community Café together with the purchase of Seeds	950.00
Drug Concern	153	Towards employment of a part time Client Worker to work closely with recently released prisoners providing after care	11,000.00
Every Child our Future	362	Training three reading recovery teachers and working with pre-schools providing an introduction to both reading and numeracy	5,000.00
Friends of the Priaulx Library	264	Towards the cost of repairing and laminating six volumes of the Guernsey Weekly Press between 1914 to 1919	9,000.00
Grow Limited	052	Employment of woodwork specialist/tutor	20,000.00
GSF Mental Health Fellowship	108	Towards employing a part time secretary/co-ordinator for 12 months	6,000.00
Guernsey Alcohol and Drug Abuse Council	019	Install an electro-osmotic damp proof course as part of renovation of residential room	2,840.00
Guernsey Arts Commission	322	Towards a children and young people art project	7,935.00

<b>Charity Name</b>	<b>AGC No.</b>	<b>Purpose</b>	<b>Allocation</b>
Guernsey Cancer Support	398	Charity rebrand with new logo, stationery, collection boxes. Gifts for patients and their families as well as profile raising activities	3,000.00
Guernsey Cardiac Action Group	222	Raising awareness of PAD sites, provide free CPR training and a leaflet mailshot to all homes and workplaces	2,600.00
Guernsey Cheshire Home	035	Towards the utility costs of the Home including gas/electricity/water and petrol for transport of residents	24,313.00
Guernsey Hard of Hearing Association	050	Purchase Hearing Aids, collection boxes and towards the Hearing Matters Seminar/Workshop on 18th April 2015	6,159.52
Guernsey Literacy Festival	397	Towards the cost of Prison Literary initiative and a shared reading initiative with the Guille-Allez Library	1,000.00
Guernsey Mencap LBG	018	Towards refurbishing flats allocated to people with learning disabilities	10,000.00
Guernsey Neuro Concern Society	158	Replacement and upgrade of equipment in order to assist patients	6,000.00
Guernsey Post Natal Depression Support Group	254	Design and produce information/advice booklets about post-natal depression	1,235.00
Guernsey Rugby Academy LBG	343	Funding to assist young people taking part in Jersey rugby competition.	2,500.00
Guernsey Sailing Trust	117	Replace Pico sailing Dingy	2,235.43
Guernsey Society for the Prevention of Cruelty to Animals	003	Towards the rebuild and redevelopment plan launched in April 2014	5,200.00
Guernsey Town Centre Partnership	234	Towards cost of the Candie Gardens Concerts	2,000.00
Guernsey Voluntary Service	057	Servicing and running costs for vehicle fleet	15,180.00
Guernsey Welfare Service	020	Providing basic living essentials and assistance to those facing difficulties in the community	15,000.00

<b>Charity Name</b>	<b>AGC No.</b>	<b>Purpose</b>	<b>Allocation</b>
Home-Start Guernsey LBG	305	Towards the employment costs of Home-Start co-ordinators	15,000.00
Le Rondin School Parents, Staff & Friends Association	278	To assist Le Rondin Year 6 pupils attending the Calvert Trust Exmoor Residential Trip	4,500.00
Maison Saint Pierre	125	Towards insurance premium, staffing costs, fuel and electricity charges	15,000.00
National Autistic Society Guernsey Branch	293	Towards rental/maintenance/materials costs for the Sensory Library at the Western Community Hall	3,500.00
North Youth Centre	367	Replacement carpet in the main activity and office area	2,550.00
Parkinson UK (Guernsey Branch)	134	Monthly drop in clinics, nurse, room hire, plus transport as needed	2,990.00
Philippi Guernsey LBG	270	Towards the funding for part- time office secretary	4,000.00
Safer LBG	246	To employ a Refuge Support Worker	14,269.00
St John Ambulance and Rescue Service LBG	021	Purchase 6 scoop stretchers	3,791.32
St Matthew's Community Centre LBG	341	Towards redevelopment costs for Cobo Community Centre	20,000.00
West United Agricultural & Horticultural Society	172	Purchase of market stall type tents for West Show	1,500.00
Western Parishes Youth and Community Centre Trust	130	Redecoration of the large sports hall	3,780.00
Young People Guernsey	345	Childhood bereavement training costs for support worker	2,175.00

The total allocated so far is £298,853.48. The balance will be distributed in a second allocation later in 2015.



**APPENDIX 2 – CHANNEL ISLANDS LOTTERY (GUERNSEY) FUND  
ACCOUNTS FOR THE YEAR ENDED 31 DECEMBER 2014**

Forfeited Prizes Account

	<b>2014 Actual £'000s</b>	<b>2013 Actual £'000s</b>
Balance at 1 January	308	227
Share of forfeited prizes	-	106
Transfer to Operating Account	-	(25)
Distribution of Forfeited Prizes Account:		
Association of Guernsey Charities	(97)	-
States of Alderney	(2)	-
Chief Pleas of Sark	(2)	-
Appropriation Account	(207)	-
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<b>Balance at 31 December</b>	<b>-</b>	<b>308</b>
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Operating Account

	<b>2014 Actual £'000s</b>	<b>2013 Actual £'000s</b>
Sale of Tickets	8,017	5,376
Forfeited prizes	124	25
Contribution to prize fund including forfeited prizes	(5,446)	(3,580)
Agents' commission	(1,084)	(723)
Sales commission	(418)	(245)
Staff costs	(49)	(45)
Handling and storage charges	(45)	(34)
Other expenses	(16)	(18)
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Gross surplus	1,083	756
States of Alderney – share of surplus	(4)	(3)
Chief Pleas of Sark – share of surplus	(4)	(2)
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<b>Net surplus transferred to Appropriation Account</b>	<b>1,075</b>	<b>751</b>
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Appropriation Account

	<b>2014 Actual £'000s</b>	<b>2013 Actual £'000s</b>
Balance at 1 January	7	15
Net surplus transferred from Operating Account	1,075	751
Transfer from Forfeited Prizes Account	207	-
Donation to Association of Guernsey Charities	(292)	(209)
Transfer to Beau Sejour Centre	(550)	(550)
<b>Balance at 31 December</b>	<b>447</b>	<b>7</b>

## Notes:

In accordance with the States resolutions of 26 September 2014 made following consideration of the Culture and Leisure Department's Report entitled "Channel Islands Lottery – Administration Arrangements, Forfeited Prizes Account and 2011-13 Accounts" (Billet d'État XX, 2014):

- 1) The Forfeited Prizes Account was closed, with effect from 1 January 2014 and its balance was distributed proportionately to the Association of Guernsey Charities, Alderney, Sark and the Appropriation Account;
- 2) The Guernsey proceeds of the Channel Islands Lottery Christmas Draw are donated to the Association of Guernsey Charities for subsequent distribution to registered, local charitable bodies;
- 3) A transfer is made from Guernsey's proceeds of the Channel Islands Lottery (excluding the Christmas Draw) to the Beau Sejour Leisure Centre up to the level of the Centre's operating deficit for that same calendar year;
- 4) Guernsey proceeds of the Channel Islands Lottery (excluding the Christmas Draw) which exceed the operating deficit of the Beau Sejour Leisure Centre are retained within the Appropriation Account.