

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

21st February, 2024

Proposition No. 2023/137

Policy & Resources Committee

Public Services Ombudsperson

AMENDMENT

Proposed by: Deputy G St Pier
Seconded by: Deputy H Soulsby

To insert new propositions as follows:

“2. To note that the June 2020 ‘Review of the Governance Arrangements of the Arm’s Length Bodies of the States of Guernsey’ recommended that: *“The establishment of either a public service Ombudsman or a health Ombudsman would not at this juncture be proportionate for Guernsey and the Review Panel does not recommend doing so, but rather a watching a brief should be kept on developments in relation to the development of such models in other comparable jurisdictions.”*

“3. To note that on 26th March 2021, following the debate on the Government Work Plan – Stage 1 P.2021/21, the States resolved *inter alia* to rescind the resolution that: *“The Policy Council should redouble its efforts to present proposals for the establishment of appropriate processes for hearing complaints and appeals against States Departments and Committees, having set out the merits or otherwise of a Centralised Tribunal Service and an Ombudsman”* because the work was to be *“incorporated into the subsequent work on the Review of the Role and Governance of Arm’s Length Bodies.”*

“4. To direct that having regard to the Government Work Plan resolutions of 26th March 2021, the Committee considers the recommendations in the June 2020 ‘Review of the Governance Arrangements of the Arm’s Length Bodies of the States of Guernsey’ and to report back by March 2025 with any further recommendations and an implementation timetable for the States’ consideration that the Committee deem appropriate.”

Rule 4(1) Information

- a. The proposition contributes to the States' objectives and policy plans by ensuring the most efficient operation of the Arm's Length Bodies of the States of Guernsey.
- b. There has been consultation with the Committee who advised on 20th February 2024, that: *"the Policy & Resources Committee took opportunity to consider your draft amendment during their meeting this morning and agreed that they had no objections to its content."*
- c. The proposition has been submitted to His Majesty's Procureur for advice on any legal or constitutional implications.
- d. There are no additional funding costs associated with the amendment as the work can be undertaken within existing budgeted resources.

Explanatory note

[Append: 'Review of the Governance Arrangements of the Arm's Length Bodies of the States of Guernsey]

A REVIEW OF THE
GOVERNANCE
ARRANGEMENTS OF THE
ARM'S LENGTH BODIES OF THE
STATES OF GUERNSEY

FINAL REPORT

Adv. Peter Harwood (Chairman)

Adv. Peter Atkinson, Hayley Cooper and Rob Jones

CONFIDENTIAL

29 June 2020

Foreword

We are delighted to have been given this opportunity to support government, through the Policy & Resources Committee with this analysis of the governance arrangement of Guernsey's Arm's Length Bodies. The degree to which such vastly different bodies need to operate independently of government, in the public's best interest is the key question that this work addresses. There is little overarching government policy on the governance arrangements for Guernsey's Arm's Length Bodies. Whilst this is not a unique position for Guernsey given the size of our jurisdiction, the Policy & Resources Committee, on behalf of the government, clearly appreciates the value and benefit of setting policy to ensure that these important bodies tasked with key functions are able to support the Island as best they can, in line with government strategy for these sectors. Drawing on our collective experience of government, the private and the third sector, we propose by way of example, a number of practical measures including:

- a test which can be used by the government to determine whether a body which currently exists or is in the process of being created is or should be classed as an Arm's Length Body;
- A new taxonomy or classification system which reflects the appropriate degree of operational separation from government necessary for such bodies to carry out their functions successfully and transparently;
- Recommendations for the classification of the use of Arm's Length Bodies that we analysed; and
- General guidance on the administration of ALBs to best reflect to the public the performance that they should rightfully expect from these publicly fully or partly-funded bodies.

Aside from some of the bodies which were excluded from this review, more Arm's Length Bodies have been created during the latter part of this work stream, such as the Social Investment Commission, which the Panel has not had an opportunity to consider. We trust however that the test, taxonomy and general guidance that we have developed will prove a useful guide on the necessary governance arrangements for all ALBs in the future.

The Panel is mindful of the impact that the Covid19 pandemic has had on the Island. We note that the government's new priority is to work closely with community, business and third sector groups, to develop three actions plans which together will form the core of the overall 'Revive and Thrive' Recovery Strategy. Several tools supporting Good Governance arrangements, such as Memoranda of Understanding and Key Performance Indicators are not expensive to adopt. Whilst investing in new arrangements may not be a top priority, the Panel hopes that this work will assist both Arm's Length Bodies and

the government in maintaining and improving good working relationships resulting in the delivery of the best services and representing the best *value for money* to Islanders. This important work does not end here. This is only the beginning and we are honoured to have played a small part in it.

On behalf of the members of the Panel I would like to express our thanks to Lisette Ellis and Steve Wakelin and those who have worked with them over the past two years without whose valuable assistance we would not have been able to bring this review to fruition.

Peter Harwood
Chairman
Guernsey, 29 June 2020

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Executive summary

- Underpinning the Review Panel’s observations and recommendations are the following themes and objectives:
 - Consistency based on the Principles of Good Governance as set out in Appendix 4
 - Proportionality
 - Accessibility – for the public
 - Equality – of opportunity to serve as a member of ALB boards
- There needs to be greater differentiation between Arm’s Length Bodies (“ALBs”) and government. For significant independent public interest bodies, independent watchdogs and adjudicative bodies and tribunals, governance will be enhanced by the establishment of oversight boards.
- Further work should be done in order to set out the case and plan for implementing a consolidated single Tribunals Service that has political oversight from the Policy & Resources Committee.
- An appointments commission should be established to ensure that a pool of competent and qualified individuals are available to serve on ALBs; that there is equality of opportunity and access to those positions; that there is no age limit on members of ALBs; and that individuals with the requisite capability and capacity could be a member of more than one oversight board and/or tribunal. In addition, opportunities for individuals to serve on counterpart ALBs in both Guernsey and Jersey should be sought.
- The majority of ALBs should operate under either a Memorandum of Understanding or a Service Level Agreement with defined performance indicators with the committee that provides political oversight or commissions the service. They should also produce an annual budget and work plan. All should produce an annual report that is proportionate to their activities and scale.
- Once the reorganisation of the civil service’s senior tiers is complete, statutory officials should report to Strategic Leads as appropriate.
- The establishment of either a public service Ombudsman or a health Ombudsman would not at this juncture be proportionate for Guernsey and the Review Panel does not recommend doing so, but rather a watching a brief should be kept on developments in relation to the development of such models in other comparable jurisdictions.
- The two new oversight boards proposed by this Review might also fulfil a role in the States of Guernsey’s developing performance reporting mechanisms for ALBs, including complaints procedure, as part of maximising their value to government.

1. Introduction and scope of work

1.1 In March 2018 the Policy & Resources Committee appointed a Review Panel to examine Arm's Length Bodies ("ALBs").

1.2 The Review Panel was comprised of:

- Advocate Peter Harwood
- Advocate Peter Atkinson
- Hayley Cooper
- Robert Jones

The secretariat for the review was provided by officers supporting the Policy & Resources Committee.

1.3 The Review Panel examined the following six key elements (as per the Terms of Reference set out in Appendix 5) of ALBs which are central to the governance of all entities including:

- Purpose - what (if any) improvements may be required to ALBs' purpose, objectives, roles and functions to enable ALBs to carry out their services independently but not in conflict with the States' Strategies and Policies and Principles?
- Accountability - what (if any) improvements may be required to ALBs' accountability mechanisms to enable ALBs to demonstrate accountability to the public and to their sponsoring committees for the independent services that they provide?
- Performance - what (if any) improvements may be required to ALBs performance regime to enable ALBs to carry out their services independently but effectively and efficiently, in line with the States' Strategies and Policies and Principles?
- Oversight - what (if any) other improvements are required to the ALBs and their operations overall to enable a more effective oversight of ALBs from both their internal governing bodies and their sponsoring committees (including civil servants and states members)?
- Transparency - what (if any) improvements may be required for ALBs to demonstrate more transparency in their operations to the public and their sponsoring committees?
- Maximising Value in the Future - what (if any) improvements, may be required for ALBs to enhance their overall impact and for sponsoring committees to demonstrate that they are capitalising on the operational experience and know-how of their ALBs, in line with international best practice, demonstrating value for money and the States' strategies, policies and principles?

1.4 In addition, the Review Panel's recommendations were to represent value for money and to align with the States' strategies, policies and principles.

1.5 The Review Panel was also required to consider established best practice in governance frameworks for ALBs or similar non-departmental government bodies from other jurisdictions and assess their applicability on the island's ALBs, ensuring that any corresponding recommendations based on best practice were proportionate to the island's needs and circumstances and especially to the scale and purpose of the ALBs under review.

1.6 Community participation was an important part of the review. It is important that islanders (including as service users and customers across the Bailiwick) and the ALBs and States' sponsoring committees have confidence in its contents and recommendations. For that reason stakeholders' views were sought after the Review Panel had made initial observations and recommendations. The views of the Scrutiny Committee were also sought at that stage of the review.

1.7 The States of Alderney and the Chief Pleas of Sark were also consulted as having an interest in particular functions delivered from Guernsey, including as intra-bailiwick services. The States of Jersey were consulted as part of assessing the opportunities for closer working.

1.8 The Review Panel agreed at the beginning of the review process to ensure that its considerations were closely informed by the application of the Nolan Principles. The Nolan Principles and the Principles of Good Governance refer to transparency, objectivity, equality and fair competition. Further detail is set out at Appendix four.

2. Review process

2.1 During March and April 2018 the Review Panel agreed a plan of work, a working definition of ALBs¹, and a questionnaire that was sent to ALBs and the Committees of the States that provide their political oversight². Work in that early phase also included undertaking research into the governance arrangements of ALBs in other jurisdictions, to inform the panel in good practice elsewhere.

2.2 During May to October 2018 the Review Panel looked at the points made from the returns of the questionnaire and began meeting with committee members, officers and representatives of ALBs.

2.3 From October through to December 2018, the Review Panel held a series of follow-up meetings and began to set out its findings and to analyse them across the main review criteria.

¹ See appendix one

² See appendix two

2.4 The findings and recommendations were then tested and revised with follow-up discussions and further revisions made. A targeted public and political engagement programme was undertaken from December 2019 to February 2020. In the last few months, the Panel has met to analyse and discuss the outcome of the public consultation and made proportionate changes to this final report.

3. Purpose of Arm's Length Bodies

3.1 One of the starting points for the review is that there is not a clear and consistent understanding of what constitutes a public body in Guernsey and which of these public bodies operate or need to operate as independent Arm's-Length public bodies. The next step is to understand and define what ALBs are, what they do, how they do it and how their performance should be measured. This is not unique to Guernsey. On that basis the Review Panel considered an apt starting point to be to define and categorise the different types of ALB in Guernsey and the Bailiwick. For the purposes of this report, an ALB also includes officers with specific independent statutory functions.

3.2 Following the returns from the questionnaire issued in March 2018, the Review Panel was able to consider a taxonomy of ALBs. The starting point was the work undertaken by the UK Cabinet Office³ which set out the different forms and functions of public bodies. This analysis enabled the Review Panel to:

- Consider the degree of operational independence from government required for each public body, in order to determine which bodies are ALBs and to help define the relationship that they should have with their sponsoring committees;
- Group different ALBs by form, function and purpose;
- Consider the appropriate accountability for each, for example through the use of oversight boards (see section six); and
- Consider opportunities for greater collaborative working between ALBs in order to maximise their value to government.

3.3 The Review Panel considered that there were five types of ALB:

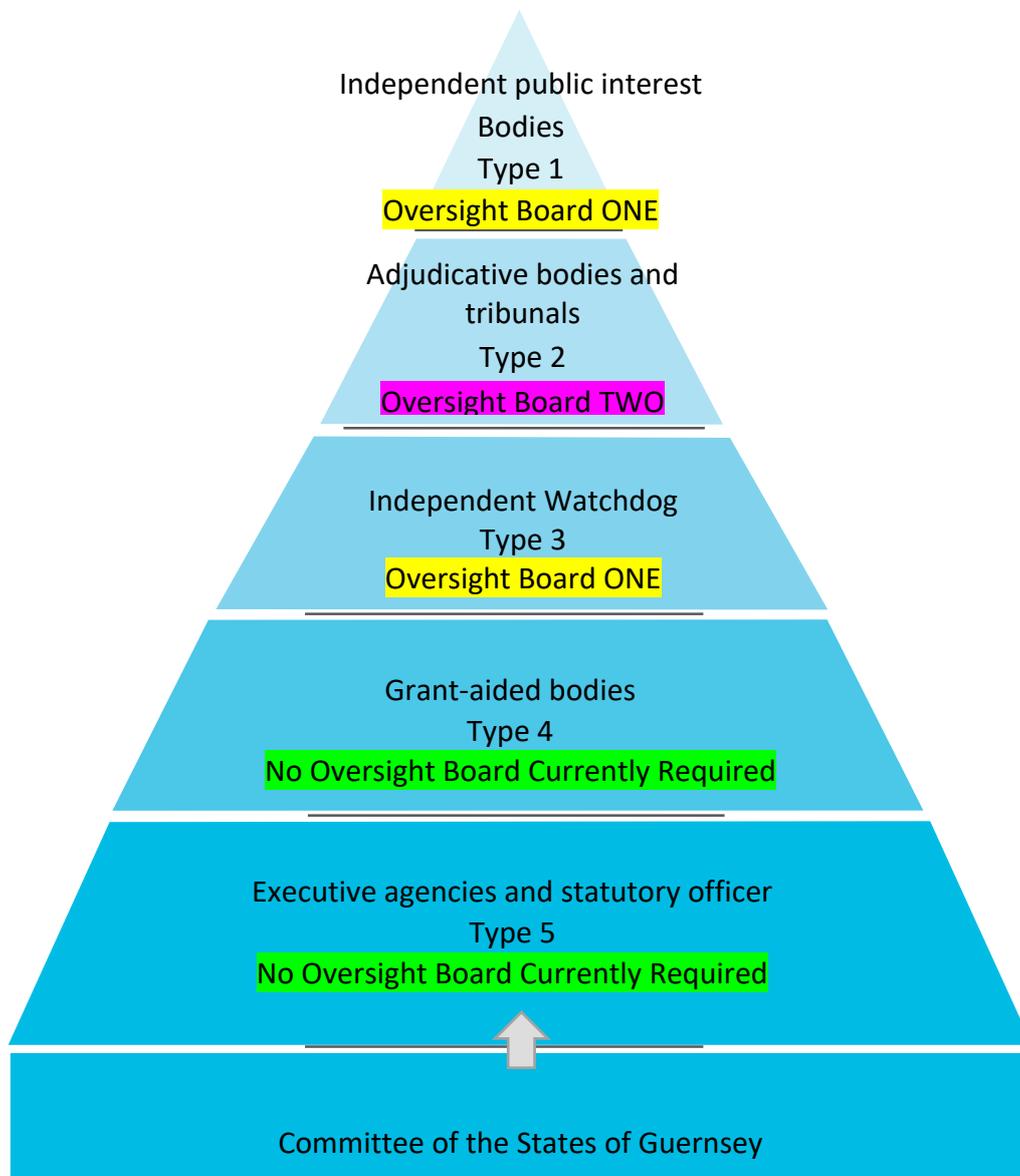
- Independent public interest bodies (Type 1)
- Adjudicative bodies including Tribunals (Type 2)
- Independent watchdogs (Type 3)
- Grant-aided bodies (Type 4)
- Executive agencies and statutory officers (Type 5)

3.4 The taxonomy set out overleaf in Table 1 describes the five different types of ALBs, along with the function and form that characterise each type. Table 2 specifies which

³ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/519571/Classification-of-Public-Bodies-Guidance-for-Departments.pdf - Cabinet Office – Classification of Public Bodies: Guidance for Departments

ALBs have the purpose common to that type, and the proposed oversight of each ALB. With regard to the proposed oversight of each, all are Guernsey-specific and Guernsey-only unless otherwise indicated. Each type informs the governance arrangements required to enable its proper function. These types also represent the degree of operational independence that each ALB requires from their sponsoring committees. Types one, two, three and four include ALBs which the panel are of the view require the most independence to successfully fulfil their functions. Type five includes bodies and functions which necessarily work more closely with committees and their office to best deliver their functions.

Table 1: A Proposed taxonomy and governance Framework for Guernsey’s arm’s length bodies



3.5 The Panel originally set out to categorise the ALBs it considered in the Review as listed in Table 2 with five oversight boards. However, following public consultation, it has concluded that **two** oversight boards across ALBs would be highly effective and more proportionate. They would support a more effective governance framework and facilitate the recruitment of members to these boards. Several of the ALBs examined in the review already had oversight boards in place. Many others do not have oversight boards and would benefit from having one. The Panel learnt that most statutory office holders in Guernsey work successfully independently but more closely with government than some of their equivalents in other jurisdictions. At this juncture, the Panel does not think it necessary to recommend an oversight board for the majority of statutory office holders listed in Table 2. A careful assessment should be made using the test and taxonomy proposed in this report when new ALB posts or bodies are created, to determine the best form of governance arrangement in terms of oversight for these ALBS to operate independently.

3.6 By approaching the different ALBs in this way, the Review Panel has been able to consider how the different groups of ALBs might have their oversight, accountability, performance, oversight and transparency enhanced, and the value of the ALBs maximised in the future.

Table 2: Classification of ALBs and Proposed Oversight Board

TYPE OF BODY	FUNCTION	CHARACTER-ISTICS	ALBS (Committee with oversight)	PROPOSED OVERSIGHT BOARD ONE
1: Independent Public Interest Body	Permanent or semi-permanent organisations responsible for administration of specific statutory functions	Free from executive control Accountable to the Committees of the States of Guernsey States role in some of the appointments at present, but in future solely a decision of the Committees with the ratification of the States' Budget agreed with the Committees of the States In future should have a clear MoU	1. Guernsey Data Protection Authority (HA) 2. Office of the Financial Services Ombudsman (ED) 3. Office of the Director of Civil Aviation (ED) 4. Office of the Aircraft Registry (ED) 5. Guernsey Registry (ED) – including Registrar of: - Companies - Foundations	Already has a board Already has pan-Channel Islands board. Proposed oversight board 1 (potentially pan-Channel Islands in the future) <i>N.B. The Shipping Registry will remain outside of this grouping as a result of public consultation.</i>

		in place with the Committee that has political oversight	<ul style="list-style-type: none"> - Beneficial ownership - IP office - Statutory auditors - Charities - LLPs <p>6. Office of the Legal Aid Administrator (ESS)</p> <p>7. Office of the Legal Aid Commissioner</p> <p>8. Office of the Children’s Convenor (HSC)</p> <p>9. Office of the Public Trustee (ED at present/P&R)</p> <p>10. Independent monitoring panel (HA)</p> <p>11. Parole review (HA)</p> <p>12. Deposit Compensation Scheme board (ED)</p> <p>13. Police Complaints Commission (HA)</p>	<p>Already has board in place</p> <p>Already has board in place</p>
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TYPE OF BODY	FUNCTION	CHARACTERISTICS	ALBS (Committee with oversight)	PROPOSED OVERSIGHT BOARD TWO
<p>2: Tribunals and other Adjudicative bodies</p>	<p>Dispute resolution bodies</p>	<p>Free from executive control</p> <p>Accountable to the Committees of the States of Guernsey at present – proposed to be to the Strategic Lead for Operational Delivery & Support, with P&R oversight</p> <p>States role in appointments at present – proposed to be P&R in the future</p> <p>Budget agreed with the Committees of the States at present – proposed to be P&R in the future</p> <p>Under proposed new model, no MoU or set of SLAs required</p>	<p>All tribunals:</p> <p>14. The Industrial Disputes Tribunal (ESS)</p> <p>15. The Employment & discrimination Tribunal (ESS)</p> <p>16. Family Allowances Appeals Tribunal (ESS)</p> <p>17. Income Support Appeal Tribunal (ESS)</p> <p>18. Social Insurance Appeals Tribunal (ESS)</p> <p>19. Housing Appeals Tribunal (ESS)</p> <p>19. Children’s Convenor (HSC)</p> <p>20. Mental Health Review Tribunal (P&R)</p>	<p>Proposed oversight board 2 Move to a unified function reporting to the CEO of the States with the political oversight of the P&R Committee. Employment & discrimination and CYC tribunals to retain current status and Committee oversight as tribunal of first instance tribunals rather than appellate bodies.</p> <p>The Review Panel consider it is essential that the EDT should be part of the centralized tribunal service it should remain distinct and separate from the Employment Relations Service within the Committee for ESS and the Committee for ESS itself.</p> <p>PROPOSED MERGER OF 16,17, 18 and 19</p>

			<p>21. The Environmental and Public health Appeals Tribunal (E&I)</p> <p>22. The Planning Panel (E&I)</p> <p>24. The Guernsey Tax Tribunal (P&R)</p> <p>25. Tax on Real Property Appeals Tribunal(P&R)</p> <p>26. Parochial Appeals Tribunal (P&R)</p> <p>27. 28.29 All bodies within the Administrative (Decisions) (Review) Law 1986</p>	PROPOSED MERGER OF 24 and 25
TYPE OF BODY	FUNCTION	CHARACTERISTICS	ALBS (Committee with oversight)	PROPOSED OVERSIGHT BOARD ONE
3: Independent Watchdogs	<p>Regulatory regime setters, guarantors of standards, some statutory functions</p> <p>Can launch investigations and /or prosecutions</p>	<p>Committee appointments approved by the States of Guernsey at present but by Committees in future</p> <p>Set own strategy within statutory framework but with regard to Committee guidance</p> <p>Potential for limited power of</p>	<p>31. Guernsey Competition and Regulatory Authority (ED)</p> <p>32. Health & Safety Executive (ESS), including: - Inspector of petroleum - Inspector of explosives</p> <p>33. Environmental health and pollution regulation (E&I)</p>	<p>Has its own board</p> <p>Proposed oversight board 1 (with Health & Safety Executive and trading standards)</p> <p>Proposed oversight board 1 (with Health & Safety Executive and trading standards)</p> <p>Proposed oversight board 1 (with environmental health and Health & Safety Executive)</p>

		<p>direction with States oversight</p> <p>Budget agreed with the Committees of the States</p> <p>In future should have a clear MoU in place with the Committee that has political oversight</p>	<p>34. Trading Standards (HA)</p> <p>35. Registration panel (HSC)</p>	<p><i>Structure already in place through UK/national body</i></p>
TYPE OF BODY	FUNCTION	CHARACTERISTICS	ALBS (Committee with oversight)	NO PROPOSED OVERSIGHT BOARD
4: Grant-aided bodies	<p>Discretionary grant-giving, stewardship and development of assets</p> <p>Exercising delegated functions</p>	<p>Constitutions independent of the States of Guernsey</p> <p>Have individual board with non-States Members and their own governance</p> <p>Business plan and budget agreed by the Committee</p> <p>In future should have a clear set of SLAs in place with the Committee that has political oversight</p>	<p>36. Arts Commission (ESC)</p> <p>37. Sports Commission (ESC)</p> <p>38. Health Improvement Commission (HSC)</p> <p>39. Youth Commission (ESC)</p>	<p>Already has board</p> <p>Already has board</p> <p>Already has board</p> <p>Already has board</p>

TYPE OF BODY	FUNCTION	CHARACTERISTICS	ALBS (Committee with oversight)	NO PROPOSED OVERSIGHT BOARD
<p>5: Executive Agencies and/or Statutory Officers</p>	<p>Delegated implementation of government policy</p>	<p>Constitutionally part of the Committee – no independent board</p> <p>Budget decided by the Committee</p> <p>Civil service terms and conditions</p> <p>Have a statutory and other legal basis to perform their functions</p> <p>Under proposed new model, no MoU or set of SLAs required</p>	<p>40. Guernsey Institute</p> <p>41. Pharmaceutical benefit advisory committee (HSC)</p> <p>Officers:</p> <p>42. Rent control officer (ESS)</p> <p>43. Director of Public Health (HSC)</p> <p>44. Chief Pharmacist (HSC)</p> <p>45. Medical Officer of Health (HSC)</p> <p>46. Administrator of Social Security (ESS)</p> <p>47. Responsible Officer (HSC)</p> <p>48. and 49. Director and Deputy Director of Income Tax (Revenue Service/P&R)</p> <p>50. Chief Executive of the States of Guernsey’s statutory roles</p> <p>51. Chief Inspector of Marine Accidents</p> <p>52. Receiver of Wreck</p>	<p>Already has a board of governors</p> <p>No board required due to the integration with committees of the States</p>

3.7 Based on the taxonomy above, the view of the panel is that the Guernsey Registry is an ALB, and that given its function and form it is an independent public interest body. The panel's view is that recognising the Guernsey Registry as such will strengthen its governance and ensure that its statutory roles can be discharged with a clear differentiation from the work of the Committee *for* Economic Development, which provides ultimate political oversight. The establishment of a clear MoU will also ensure its revenue collection role is discharged in accordance with the expectations of the Treasury.

R1 – The Guernsey Registry to be considered as an ALB, and specifically an independent public interest body.

3.8 Having discussed the particular circumstances of the position of the Harbour Master, the Panel accepts that the Shipping Registry would stand alone and not form part of the overall central registry due to the specific statutory roles arising under the equivalent UK Statutory provisions of both the roles of Chief and Deputy Chief Inspector of Marine Accidents and Receiver of Wreck.

3.9 Based on the taxonomy above, the view of the panel is that the Overseas Aid & Development Commission could be considered to be an ALB. The panel's initial view was that recognising the Overseas Aid & Development Commission as an ALB could strengthen its governance, and ensure that it can operate within a framework set by the States of Deliberation, with performance monitored by and reported to the Policy & Resources Committee.

3.10 However the Review Panel met with the President of the Commission as well as its principal officer, and noted the significant further enhancements to governance set out in the Commission policy letter *Our Place in the World – the next 10 years of overseas aid in Guernsey*. The Review Panel welcomed and supported the recommendations, including the development of a Code of Conduct for commissioners.

3.11 The Review Panel concluded that the enhanced governance structure maintained the separation between policy-making on Overseas Aid (led by the Commission) and External Affairs policy (led by the Policy & Resources Committee) which has been considered an important distinction by successive States; ensured that Guernsey's approach to Overseas Aid (and any future development of that approach) continues to have the transparency and legitimacy which is a result of policy direction and budget allocation being set by States' Resolution; and ensured that Guernsey's commitment to overseas development has a dedicated voice in the States. It also noted that the appointment of Commissioners by the States also provides a degree of transparency and legitimacy which is necessary in view of the work of the Overseas Aid & Development Commission. On this basis, the Commission would not notably benefit from a change in governance to becoming an ALB.

R2 – The Overseas Aid & Development Commission is to continue to be considered as a Committee of the States, but subject to further review by the States Assembly & Constitution Committee during the 2020-2024 political term.

3.12 For the purposes of this review, the Review Panel considers a memorandum of understanding (MoU) to be a document that describes the general principles of an agreement between parties, setting out shared objectives and roles in meeting those objectives, but that does not amount to a contract.

3.13 For the purposes of this review, the Review Panel considers a service level agreement (SLA) to be a commitment between a service provider and a service commissioner, in this case a political Committee with oversight. Particular aspects of the service – quality, availability, responsibilities – are agreed between the service provider and the service commissioner.

3.14 Based on the taxonomy above, and the analysis that is reflected in section six of this review, the Review Panel makes the following **recommendations**:

R3 – Independent public interest bodies and independent watchdogs should have clear MoUs in place with the Committee that has political oversight of their work.

R4 Grant-aided bodies should have clear SLAs in place with the Committee that has political oversight of their work.

See also section 11 – recommendations in relation to tribunals

3.15 The Review Panel's view is that there are similar bodies in Jersey, with similar forms and functions. The Channel Islands Public Service Board should consider where commonalities present opportunities for shared work. The particular opportunity recognised by the Review Panel in the short-term is the sharing of expertise, through appointees to bodies in both islands. This will help ensure greater capability and competences can be accessed in both islands, and the development of an appointments commission in Guernsey (see sections 4 and 7) will enable that process.

4. Oversight

4.1 The Review Panel received submissions that suggested that in many cases the relationship between the Committees of the States and/or Senior Officers of the States and ALBs is too close, undermining the objective of being 'arm's length'.

4.2 In some cases this has led to direct involvement by the States into the work of ALBs, and it is critical that the integrity of ALBs be protected from actual or perceived political and/or civil service interference.

4.3 With that in mind the panel is recommending that two oversight boards are put in place to act as a buffer and interlocutor between the committees and civil service and the ALBs. The Panel had originally planned to propose 5 oversight boards. However, the outcome of the public consultation confirmed some of its concerns about the viability of recruiting the number of people on Island to fill these board positions. The Panel is mindful of the need for its recommendations to be proportionate to the Bailiwick. Aligning the subject matter areas of the various ALBS in a more practical way makes it possible for the Panel to recommend two oversight boards for all of the ALBs. The oversight boards would meet on a quarterly basis under normal circumstances, or more frequently if circumstances dictate. One oversight board will cover Tribunals and Adjudicative Bodies and the other oversight board will cover those remaining ALBs that do not already have in place their own boards. The Panel is of the view that each board will be sufficiently equipped, especially with a minimum number of 5 members to support the number of ALBs falling under its auspices. Key to this will be the development of appropriately strong and close working relationships with the sponsoring committees and each ALB. Officers with specific and detailed knowledge on particular matters from each side should be able to provide information to the board to enable it to support and promote a Good Governance framework between the two parties.

4.4 The oversight boards will ensure good governance and good financial management and will assure that performance indicators and/or SLAs are met. They will also be the conduit for any issues or matters that need to be raised with the sponsoring political committee.

4.5 In a number of cases, such boards already exist; in other cases a board or oversight structure is in place which can be adapted to this; in other instances there is no oversight.

4.6 In the case of The Health & Safety Executive (ESS), including: - Inspector of petroleum and The Inspector of explosives; Environmental Health and Pollution Regulation (E&I) and Trading Standards (HA), the Panel are of the view that although they may appear to fall more naturally under Type 5 (Executive Agencies and Statutory Officers), there is a greater need currently for these entities to operate more independently of government as they may prosecute the government. Consequently, the Panel has classed them as a Type 3 ALB (independent watchdog) with Oversight Body One to support their independence.

4.7 The panel's **recommendation** is that consistent governance should be put in place across all ALBs in the following ways:

R5 - Two Oversight Boards be formed as detailed in Table 2 in section 3 above, with *Oversight Board One* governing over Independent Public Interest (Type 1) and Independent Watchdogs (Type 3) and *Oversight Board Two* governing over adjudicative bodies including Tribunals (Type 2).

R6 - Tribunals – Director of Reviews and Tribunals reports to the appropriate Strategic Lead or the Chief Executive of the Civil Service, supported by *Oversight Board Two*.

R7- Grant-aided bodies – independent boards for each ALB are already in place.

R8- Executive Agencies– report to the committee with political oversight.

R9– Statutory officers report to Strategic Leads as appropriate.

4.6 The Review Panel has considered the make-up of the oversight boards, in line with good practice in relation to the appointment of non-executive directors to corporate boards. It **recommends**:

R10 - Each oversight board has five to seven members – a Chair plus four to six others, each appointed for terms of three years, up to a maximum of three terms or nine years.

4.7 The competences of the oversight board members would ensure the effective management of resources and budget, reporting and performance management and compliance with appropriate standards and guidelines.

4.8 The Review Panel’s view is that greater expertise can be accessed through working more closely with Jersey’s appointments commission to find candidates who can be members of boards in both islands.

R11 – The appointments commission (see section 7) to establish a pool of potential oversight board members, based on ability and without age limit.

5. Accountability

Reporting

5.1 The Review Panel noted that there was no consistent overall approach to reporting to the States of Deliberation, or to those principal committees of the States that provide the political oversight to ALBs.

5.2 The Review Panel agreed that accountability for each ALB and the proposed oversight boards (see section four) would be enhanced if there was a clear direction to provide an annual report on the previous year’s activity and performance (including financial) to the political oversight body during Q1 of each year, for publication to States Members and the wider community.

5.3 The Review Panel does however want to ensure that there is a proportionate and consistent approach. It therefore recommends:

R12 – Independent public interest bodies to produce annual stand-alone reports that are submitted to the committee of the States with political oversight for those bodies, and made public for States Members and the wider community.

R13 – The adjudicative and appellate bodies in the unified Tribunal Service recommended in section 11 to provide a single collated report that is submitted to the Policy & Resources Committee, and to be made public for States Members and the wider community.

R14 – The Child Youth and Community Tribunal and the Employment Discrimination Tribunal to continue to publish their own annual stand-alone reports that are submitted to the committees of the States with political oversight for those bodies, in accordance with their existing legislative arrangements.

R15 - Independent watchdogs to produce annual stand-alone reports that are submitted to the committees of the States with political oversight for those bodies.

R16 – Grant-aided bodies to produce annual stand-alone reports that are submitted to the committees of the States with political oversight for those bodies.

5.4 The Review Panel's view is that annual reports should be published on www.gov.gg, and clearly signposted to the public. All such reports should be made available to States Members and the wider community and should therefore be published. They should be clear and concise in order to be accessible to the public as well as the political body, and should as a minimum report back on:

- Progress in relation to the MoUs and/or service level agreements - including performance indicators - agreed with the committee that has political oversight
- Financial management
- Any appointments or staff/secretariat matters to raise
- The adequacy of existing legislation

5.5 The Review Panel's view is that the review of the adequacy of existing legislation should include consideration of aligning legislation with Jersey where it is possible and expedient to do so. Divergent legislation is often cited as a bar to collaboration between Channel Islands ALBs.

Statutory officers

5.6 A statutory officer is a person holding a role to which duties and functions are specifically assigned in legislation⁴. Statutory officers are apolitical and operate independently from government when fulfilling their statutory functions, but they are embedded within the structure of government unlike – for example – Independent Public Interest Bodies. Examples in Guernsey include the Director of Public Health, Director of the Revenue Service, Director of Environmental Health & Pollution Regulation and the Social Insurance Appeals Tribunal Administrator.

5.7 The arrangements for governance, accountability and reporting differ according to the role and are normally set out in the legislation. In some cases, particular expectations of behaviour are provided for in the law, for example the Environmental Pollution (Guernsey) Law, 2004 states that *“the Director shall carry out his functions with fairness, impartiality and independence and in a manner that is timely, transparent, objective and consistent with States’ Directions and the provisions of this Law and any other enactment”*.

5.8 Due to the variation in professional responsibilities, powers and degree of political control, any guidance issued outside of legislation is normally role specific. Although office holders often adhere to the same general codes of conduct as other public servants, for example the Civil Service Code in Guernsey⁵ and the Nolan Principles, depending on their role, statutory officers may be a legally separate entity from the States (such as the Director of Civil Aviation). Appointments to statutory roles are formally made by government, in Guernsey this would be by the States or by committees (commonly the Policy & Resources Committee).

5.9 The Review Panel has had the opportunity to discuss with the Chief Executive of the States the new structure of the senior leadership team, and the move to Committee Secretary and Operations Director roles to support the committees of the States.

5.10 The removal of the role of Chief Secretaries makes it important to ensure that there are clear reporting lines, and that this is an opportunity for those statutory officers’ States-wide roles to be strengthened. The Review Panel is aware of the differentiation between people policy and place policy in the new organisational structure, and of the designate roles of Strategic Leads for people policy and for place policy, both of whom will be part of the States of Guernsey’s senior leadership team. With regard to statutory officers, the political oversight should remain unchanged, but when the new civil service structure is established their reporting line should shift from the former role of Chief Secretary to the appropriate Strategic Lead.

⁴ [Cabinet Office, Classification of Public Bodies: Guidance for Department](#)

⁵ [Civil Service Code](#)

5.11 Therefore the Review Panel **recommends** that:

R17 – Statutory officers report to the most appropriate strategic lead for people policy or place policy.

6. Performance

6.1 Good practice with ALBs in other jurisdictions such as the UK demonstrates that it is important for ALBs to have clear MoUs or service level agreements – including performance indicators - with the committees that have political oversight. This:

- enables effective performance management, which in turn strengthens accountability, transparency and value for money; and
- sets clear objectives, which in turn strengthens performance management and accountability.

6.2 The Review Panel's view is that very few of the ALBs have clear performance indicators established in formally agreed Memoranda of Understanding (MoUs) or service level agreements (SLA's). The Review Panel does not want to be prescriptive and build a template, as a one-size fits all approach will not be effective or proportionate.

6.3 However the Review Panel's view is that there are common areas and performance indicators that MoUs should cover, such as:

- Speed of response to inquiries
- Speed of resolution of cases or issues
- Financial management
- Engagement with stakeholders including government
- Data protection and information management
- Reporting standards
- Appointments and people matters
- Accessibility and inclusion

6.4 The Review Panel's view was that the new Data Protection Authority's MoU with the Committee for Home Affairs – who provide the political oversight to the Authority – was exemplary, and would be a good basis for ALBs and Committees to consider as a starting point.

6.5 MoUs should also make provision for the following:

- A statement of independence of the ALB from the States of Guernsey
- Legal support from St James's Chambers for ALBs
- Technical support from the States of Guernsey on information technology, human resources and financial management and reporting.

6.6 In the table in 3.6 (Table 2) and the recommendations in 3.6, the Review Panel recommends that independent public interest offices and independent watchdogs have MoUs in place; and that grant-aided bodies put in place service level agreements with the Committees that have control of the grant process.

6.7 The Review Panel noted that it is possible to put in place MoUs and SLAs between Guernsey and Jersey ALBs to ensure an effective and joined up pan-Channel Islands service. CICRA, for example, has historically used a model which could be applied to other ALBs where possible on a pan-Channel-Islands basis. The following model could be applied to other ALBs:

- An MoU between the Guernsey authority and the States of Guernsey
- An MoU between the Jersey authority and the States of Jersey
- An SLA between each island's regulatory authority and the Pan Channel-Islands Service body

6.8 The Review Panel **recommends** that:

R18 – Each of the ALBs and the committees that provide political oversight for those ALBs put in place an MoU or service level agreement (as applicable) for publication during 2021.

R19 – MoUs and the service level agreements include reviews by both parties not less than once per political term, in order to see if they are still required, or can be merged with other bodies.

R20 – Service level agreements are put in place between each of the grant-aided bodies and their respective grant-awarding political committees.

7. Transparency

7.1 Taken together, a number of the recommendations thus far, support transparency. It is clear, however, that transparency could be enhanced through the appointment process to oversight boards and tribunals. Transparency is an important driver of accountability.

7.2 A number of representations were made to the Review Panel which articulated a frustration that whilst many members of ALBs did a good job, the pool from which they were being selected was narrow, and that many people did not feel that there was equality of access to apply for those roles.

7.3 The Review Panel believes that greater transparency and equality of opportunity can be achieved through the establishment of a public appointments commission. As part of

its considerations, the Review Panel looked at the Isle of Man model of an appointments commission.

7.4 The Appointments Commission (the Commission) was established as an independent body by the Isle of Man Tribunals Act 2006. The Act established the terms of office for members of the Commission, such as the length of their appointment and eligibility to retire. In addition, it established other administrative proceedings such as the resignation of a member and the formal proceedings of meetings of the Commission.⁶The principal function of the Commission is to make appointments to the various Tribunals and other bodies.

7.5 There are five principles that the Commission has endorsed as representative of established professional selection practice, and which they use to guide their tribunal appointment procedures. These principles are largely in line with the Nolan Principles.

7.6 The review panel believes that such a Commission in Guernsey should also have the ability to propose the removal of appointees on the grounds of poor performance and/or misconduct or perceived or actual conflicts of interests which arise during the course of the appointee's membership of an ALB.

7.7 The Panel would suggest that care should also be taken as necessary when considering the appropriateness of appointing a serving civil servant as a member of an ALB concurrently in the context of any potential misalignment between duties owed by that individual to government on the one hand and the ALB on the other. Depending on the constitution of the relevant ALB, the duties owed by the office holder in that ALB may be enshrined in legislation e.g. fiduciary/statutory duties to that ALB as opposed to government. Each case should be carefully considered in light of the particular roles that the civil servant holds and the prospective role in the ALB. A full assessment of the perceived or actual conflict of interest that may arise should be undertaken prior to any decision made on that person's application for a role.

7.8 The Review Panel therefore **recommends:**

R21 - A public appointments commission is established that enhances transparency and accountability in line with the Nolan Principles; that develops greater equality of opportunity and supports diversity; that helps ensure consistently strong capability for ALB membership, including enabling some individuals to have a role on more than one ALB; and that enables the removal of appointees due to poor performance or misconduct, or perceived or actual conflicts of interests which arise during the course of the appointee's membership of an ALB.

⁶ Tribunals Act 2006, Schedule 1

R22 – Each member of an ALB declares any relevant interest as part of the annual report. In addition, each member has a duty to avoid any actual or perceived conflicts of interest during their tenure.

7.9 The Review Panel proposes that the appointments commission comprise three people each appointed for terms of three years, up to a maximum of three terms or nine years, in line with best practice for non-executive directors.

7.10 The potential membership should comprise:

- A Chair – nominated by the Royal Court
- A former Deputy or senior Civil Servant – nominated by the Policy & Resources Committee and the Chief Executive of the States of Guernsey
- A member of the Jersey Appointments Commission, to ensure a joined-up approach with Jersey where possible but also a consistent application of standards across the Channel Islands, and making the most of the opportunity of geographic proximity. The review panel understands that this has the informal support of members of the Jersey Appointments Commission and the Channel Islands Public Service Board.

7.11 The roles would be largely *pro bono* with expenses.

7.12 The secretariat for the appointments commission should be provided by the States of Guernsey's HR function.

7.13 The Commission would work to further embed the Nolan Principles across ALBs through its appointments, and where necessary recommendations for removal; and have, as a stated aim, the certainty of ensuring equal access to positions from all parts of the Bailiwick community.

7.14 The Commission would ensure opportunities are sought for a suitably qualified individual to sit on more than one tribunal or oversight board, where appropriate. One way of doing this would be from time to time to invite expressions of interest from potential appointees, and to maintain a 'pool' of suitably qualified and interested individuals. Such an approach is already in place with the existing tribunals.

7.15 With regard to the tribunal service, all appointments would be proposed to and ratified by the Policy & Resources Committee.

7.16 Ensuring that the Commission adheres to the Nolan Principles means:

- Prospective applicants must be given equal and reasonable access to adequate information about the role and its requirements and about the selection process;
- Selection techniques must be transparent and guard against bias;
- Selection must be based on objective criteria applied consistently to all candidates;

- Applicants must be considered equally on merit at each stage of the selection process, and no bars, such as age, be put in place;
- The fundamental principle is that appointments made by the Commission will be on merit and on the basis of fair and open competition.

7.17 These principles must be demonstrable and evidenced throughout the recruitment process. In order to do this, the Commission will follow a strict outline of procedures for appointments, e.g. the process under which applications can be made, the numerical grading system for interviews that must be followed, and so on. This procedure should be published in order to be as transparent as possible with applicants and to ensure that applicants know their application will be handled in a fair and objective recruitment process.

7.18 All initial appointments should be subject to an open, competitive and transparent process, with the final appointment, upon recommendation of the Commission, approved by the committee with political oversight. Reappointments may be made at the discretion and judgment of the appointments commission, after monitoring performance.

7.19 With regard to oversight boards, all appointments would be proposed to and ratified by the committee that has political oversight. On that basis, appointments would not need to be ratified or agreed by the States of Deliberation.

7.20 The Commission would report to the appropriate Strategic Lead in the civil service.

7.21 Once established it would be for the Chief Executive of the States, the Strategic Lead for Operational Delivery & Support and the commissioners to decide if the appointments commission could have a role in senior public sector appointments or the nomination and appointment of non-States Members of committees of the States.

8. Maximising value for money

8.1 The Review Panel acknowledges that the current structure of ALBs is inconsistent. This in turn makes measuring and demonstrating value for money more challenging than in other areas of the States of Guernsey. The panel's approach to value for money was that it can be achieved through more effective operations and through greater consistency in approach and accessibility to the public which has been the focus of its deliberations and recommendations.

8.2 Several of the more recent appeal bodies require members with particular experience or qualifications. For justifiable reasons, suitably qualified members are not always readily available on-island and this adds to the overall costs.

8.3 Officers of the States shared the available financial information with the Review Panel. The panel's assessment was that there is no evidence of financial profligacy, and indeed it appears a great deal of good work is being done on finite and modest resources.

8.4 The view of the Review Panel is that the next step in maximising value for money from ALBs is to undertake further work to understand better their cost. Aligning this with objectives and performance indicators clearly set in MoUs will enable the States to understand better the value of ALBs.

8.5 It is proposed that the oversight boards of ALBs propose a budget to the committees that provide oversight of their work and that in turn the committees propose these budgets to the Treasury as part of the annual budget-setting process.

R23 – All ALBs to continue to produce an annual budget to be submitted to the committee with political oversight. That committee will in turn, include this in their overall annual budget submission.

8.6 The proposed budgets should be supported by a work programme and performance indicators.

8.7 With the agreement of the States Treasurer a single designated finance business partner would work alongside the Director of the Tribunals Service and the different oversight boards.

R24 – Appointment of a single Finance Business Partner for the Tribunals Service and the ALB oversight boards.

8.8 The Review Panel was advised that the States of Guernsey's Treasury team was devising a grants directive to ensure consistency and rigour in the provision of grants to the non-governmental organisations. The Review Panel is of the view that this directive can also help inform the content of its service level agreements for each of the grant-aided bodies.

9. Outcome of Community Consultation

9.1 Overall, the Panel is pleased to report that its recommendations have been well received within the community and further afield. A copy of all formal consultations responses which were received is available. The Review Panel has made note of and considered these responses in preparing the final report. For ease of reference, concerns relating to specific areas are addressed within these areas in this document.

9.2 The panel acknowledges that the governance arrangements for the ALBs in Guernsey need to be appropriate in terms of the size of the island. The panel have listened carefully to the measured responses received. Of most concern was the number of

oversight boards originally proposed and the likely difficulty in recruiting members to these positions. The panel recognises that the governance framework and arrangements for ALBs must be suitable to ensure that those ALBs continue to retain public confidence and an appropriate level of accountability. It trusts that limiting the oversight board to two at this time will address these concerns. It believes that limiting the number of oversight boards to two will address these concerns.

9.3 The panel have also listened carefully about the application of the model to determine whether or not a proposed ALB passes the test. In a couple of cases, the panel has revisited the model and concluded that the test has not been passed. An example is that of Channel Islands Financial Ombudsman (CIFO) which is no longer listed as an ALB as it is not funded by government.

10. Outcome of Pan-Bailiwick Consultation

10.1 The panel is pleased to note that its recommendations are welcomed in these neighbouring jurisdictions. It can report that as a general principle, that these jurisdictions are keen to develop pan-Channel Islands arrangements where appropriate, as this has the potential to bring benefits in terms of capacity and capability.

10.2 The principle of consistent annual reporting is deemed appropriate. It was observed that it would be helpful if bodies whose remit covered Alderney (for example as a transferred service) could provide a copy of their report to the States of Alderney at the same time as it is submitted to the States of Guernsey.

10.3 Generic competences, understanding of governance principles and experience were felt to be more important than subject matter experience in most cases. It will be important to ensure that membership of these Boards reflects, as far as possible, the make-up of wider society in terms of oversight gender and diversity. It was noted that such roles are expected to be largely pro bono, however, it should be borne in mind that this will restrict the pool of potential recruits.

10.4 Finally the establishment of a Public Appointments Commission is a welcome recommendation, as is the consolidation of Tribunals.

10.5 The Review Panel welcomed the input from Alderney and would be pleased to support the States of Alderney in carrying out a shorter more focused report on matters such as the independent operation of statutory officers.

10.6 The Review Panel understands that policy officers in Jersey welcomed the opportunity for both Islands to work more closely together. It was recognised that pan island membership of oversight boards would be highly desirable and effective.

11. Tribunals and other Adjudicative Bodies

11.1 The Review Panel considered the different appeal bodies and tribunals working across the States. Currently these panels are scattered across States Departments and are supported by a mixture of civil servants and staff who are specifically retained to provide administrative support as and when needed. Each of these bodies, as originally established, had its own rules of procedure and terms of office for its members; some panels charge appeal fees but most do not; and some sit regularly whilst others sit relatively infrequently. This reflects the fact that the tribunal system has grown in a piecemeal manner in Guernsey over a number of decades, and each is delivering its functions against a specific legal framework. The panel acknowledges the progress that has been made and the significant work has been taken by officers in the Policy and Resources Committee's office in recent years to rationalise the current situation and to put in place consistent standards of operation and governance.

11.2 The Review Panel recognises that some bodies, such as the Police Complaints Commission, could easily be classified as any one or more of Types 1, 2 and 3 bodies. As regards that body in particular, the Review Panel has classed it as a Type 1 (Independent Public Interest Body) as shown in Table 2.

11.3 The Review Panel's work demonstrated that:

- While there are numerous tribunals and appeal bodies, there seems to be little data available about them, including role, membership, costs, frequency of sittings, etc.;
- There is no consistency in the manner of appointments;
- There does not appear to be a preferred universal approach applied when looking at the operation or administration of the various appeal bodies – some tribunals are very well served for example, whereas others may benefit from greater support; and
- The terms of office vary considerably across the various appellate bodies – whether in relation to upper age limits, fixed or open terms, and the length of fixed terms. In addition there are varying levels of expenses or attendance allowances granted.

11.4 There are also varying degrees of workload for each tribunal, which strengthens the case for a single panel of members to be available for the tribunals and for a consolidated secretariat that can provide support as and when required based on demand. This will also help mitigate against one of the risks, as most of the appellate bodies are supported by a single member of staff. This means that if that member of staff is on leave or otherwise unavailable there may not be someone else readily available to deal with routine questions and enquiries or to progress new appeals.

11.5 The review panel noted that while most of the tribunals have an appellate role, the Child Youth and Community Tribunal, the Industrial (industrial disputes) Tribunal and the Employment Discrimination Tribunal are effectively tribunals of first instance. While they therefore share many characteristics and functions with other tribunals, they also

have specific requirements that would need to be recognised within a single consolidated Tribunals Service. Until such time that this consolidated service is operational, the Panel is of the view that Sponsoring Committees should take or continue to take great care in preserving the independence of Tribunals and appellate functions. Where practicable, this should include the separate administration of the tribunal activities from core services in line with Good Governance principles. In addition, whilst Alternative Dispute Resolution services have an important role to play in the conflict resolution landscape and should be the preferred route, these services should be administered separately from core tribunal services to safeguard freedom of choice and information for service users about all the options available to them should they wish to progress their grievance through a particular route.

11.6 From the research undertaken, the Review Panel believes that a consolidation of the tribunals into a single secretariat would support the principles of accountability, performance, oversight, transparency and the maximising of value in the future. The panel recognises that significant steps are already being taken in this direction by officers in the Policy & Resources Committee's office, through the implementation of consistent standards, training and support. The panel believes that impetus should now be given the process of consolidation and accelerate a process that has begun.

11.7 The Review Panel's view is that a single secretariat should be established that reports in to the new civil service senior leadership team through the appropriate Strategic Lead or the Chief Executive.

11.8 The Director of Reviews and Tribunals should report back to the appropriate Strategic Lead and in due course the Policy & Resources Committee on:

- The full cost and resource implications of such a restructuring, including the impact on other ALBs;
- What additional legislation would be required and the drafting resources and time associated with establishing and giving effect to a consolidated Tribunals Service; and
- The areas of specific expertise that might be required if a single panel of members is constituted.

11.9 The Review Panel believes that the initial objectives for a single consolidated Tribunals Service should include the further development of consistent appointment processes, periods and allowances; consistent performance reporting; and streamlined processes for the public, including appeals processes.

11.10 The Review Panel considered the merits of locating a single consolidated Tribunals Service within the Courts Service, in line with the UK model. Possible advantages of moving tribunals to the Courts Service may include:

- There is a body of Courts Service officers well-experienced in administering cases, including clerking hearings, and should, subject to capacity, be able to easily apply the court clerking and support skills to tribunals; and
- The Courts Service would provide good resilience to cover absence of any dedicated tribunal officers through leave or sickness.

11.11 However the Review Panel noted in discussions with a number of respondents including the then Deputy Bailiff and the Director of Review and Tribunals that this might create a potential conflict in the event of appeals; and also that experience from the UK was that such a move might increase overall costs for the tax payer through the legal infrastructure that would need to be established; and that the community in Guernsey were used to engaging through the States' officers on tribunal matters, and any change may have a detrimental impact on community engagement. In addition it was felt that accessibility for the widest possible section of the community to the service may be diminished if the service was – or was perceived to be – too legalistic. The Panel notes especially the then Deputy Bailiff's more recent views that whilst the Royal Court would not object to a closer working in the future, a merger of services is currently not practicable.

11.12 The Review Panel's view was that the logical step was for the consolidated Tribunals Service to be initially established within the States rather than the Courts Service, subject to further review in due course. The Review Panel also recognises that there may be merit in merging some of the tribunals that fall under the present auspices of the Policy & Resources Committee and the Committee *for* Employment & Social Security. These are referred to in Table 2 in paragraph 3.6.

11.13 The Review Panel therefore **recommends**:

R25 – That the appropriate Strategic Lead oversees a plan for the consolidation of the tribunals into a single Tribunal Service, established and operational during 2021, with the support of the appropriate oversight board.

R26 – The merger of the Social Insurance Appeals Tribunal, The Family Allowances Appeals Tribunal, The Income Support Appeals Tribunal and the Housing Appeals Tribunal.

R27 – The merger of the Guernsey Tax Tribunal and the Tax on Real Property Tribunal.

12. Other points

12.1 During the course of the review, a small number of respondents referred to the potential for a public services Ombudsman, as is being developed in Jersey, as a model for a pan-Channel Islands body. The Review Panel considered the advisability of a public

services Ombudsman. The Review Panel's view was that the Jersey model may be disproportionate for Guernsey given the other opportunities for redress from the public service, and that the case was not made for a similar model in Guernsey at this stage. The panel's view is that a watching brief be kept on the operation, performance and cost of the Jersey model, in order to further assess the development of this model as a possible pan-Channel Islands body.

12.2 In addition the Review Panel considered the development of the model of a Commissioner for Administration established in the Isle of Man. The Review Panel's view was that at this stage this more streamlined approach may offer potential alignment with Guernsey's approach in the future.

12.3 The Review Panel also considered the pros and cons of a stand-alone health Ombudsman. The Review Panel was conscious that this issue was not part of its remit, but also that it was a matter raised by a number of respondents to the Review. On the balance of the discussions that were held on this matter, the Review Panel's view was that the case was not made at this stage for such a model in Guernsey, given the ongoing changes to the regulatory framework and the patient representation models currently in place.

12.4 The Review Panel also considered the role of the administrative review board. Its view was that:

- The administrative review board was initially set up as a stop-gap measure in the absence of a judicial review regime, which is now in place;
- Over recent years, only a small number of reviews have been undertaken;
- Improving the consistency and accessibility of ALBs should mitigate against issues which might otherwise lead to administrative reviews;
- Time should be allowed to test the effectiveness of Guernsey's recently appointed independent Complaints Panel which has taken over the responsibility of H.M. Greffier and the Chief Executive of the Civil Service to assess the merits of public complaints in order to establish whether cases should be referred to a review board in Guernsey's quasi-Ombudsman; and
- The ongoing development of the States of Guernsey's *Customers, Complaints and Compliments* work stream means that the need for administrative review should be further diminished.

12.5 The Review Panel therefore recommends that:

R28 – The States of Guernsey monitors the development, scope, performance, cost and outcomes of the Jersey model of the public services Ombudsman, the Isle of Man model of the Commissioner for Administration and Guernsey's Complaints Panel.

Office of the Public Trustee

12.6 During the course of the review, the Review Panel was asked to consider the political oversight of the Office of the Public Trustee. This was in the context of governance improvements made by the Committee *for* Economic Development following a special review undertaken by the States of Guernsey's internal audit unit on behalf of the Chief Executive of the States in December 2017.

12.7 The Review Panel's view was that a change of political oversight was important to enhance governance. With Economic Development oversight, there was an inherent potential conflict with that Committee's mandated responsibility to promote the finance sector, although there is no reason to suggest that this risk has ever been realised.

12.8 In addition the Review Panel believes that much of the political oversight relates to financial management and monitoring, and this oversight role is better undertaken by the Policy & Resources Committee.

12.9 For those reasons, the Review Panel recommends:

R29 – That the political oversight for the Office of the Public Trustee is transferred to the Policy & Resources Committee at the earliest opportunity.

Transport Licensing Authority

12.10 The Review Panel noted that the adoption of a liberalised aviation regime in Guernsey followed the implementation in September 2018 of the Committee *for* Economic Development's 'quasi-open skies' recommendations to the States. This greatly reduces the role of the Transport Licensing Authority. The Review Panel welcomes the review of the future of the Transport Licensing Authority by the States' Assembly and Constitution Committee (SACC). The Review Panel's views is that SACC should consider the potential for streamlining the future licensing process and making greater use of non-political expertise by reconstituting the body as an ALB.

13. List of recommendations

Section 3 – Purpose of Arm’s Length Bodies

R1 – The Guernsey Registry to be considered as an ALB, and specifically an independent public interest body.

R2 – The Overseas Aid & Development Commission is to continue to be considered as a Committee of the States, but subject to further review by the States Assembly & Constitution Committee during the 2020-24 political term.

R3 – Independent public interest bodies and independent watchdogs should have clear MoUs in place with the committee that has political oversight of their work.

R4 – Grant-aided bodies should have clear SLAs in place with the committee that has political oversight of their work.

Section 4 – Oversight

R5 – Two Oversight Boards be formed as detailed in Table 2 in section 3 above, with *Oversight Board One* governing over Independent Public Interest Bodies (Type 1) and Independent Watchdogs (Type3) and *Oversight Board Two* governing over adjudicative bodies including Tribunals (Type 2).

R6 - Tribunals – Director of Reviews and Tribunals reports to the appropriate Strategic Lead or the Chief Executive of the Civil Service, supported by *Oversight Board Two*.

R7 – Grant-aided bodies – independent boards for each ALB are already in place.

R8 – Executive Agencies– report to the committee with political oversight.

R9 – Statutory officers report to Strategic Leads as appropriate.

R10 – Each oversight board has five to seven members – a Chair plus four to six others, each appointed for terms of three years, up to a maximum of three terms or nine years.

R11 – The appointments commission (see section 7) to establish a pool of potential oversight board members, based on ability and without age limit.

Section 5 - Accountability

R12 – Independent public interest bodies to produce annual stand-alone reports that are submitted to the Committees of the States with political oversight for those bodies, and make public for States Members and the wider community.

R13 – The adjudicative and appellate bodies in the unified Tribunal Service recommended in section 11 to provide a single collated report that is submitted to the Policy & Resources Committee, and to be made public for States Members and the wider community.

R14 – The Child Youth and Community Tribunal and the Employment Discrimination Tribunal to continue to publish their own annual stand-alone reports that are submitted to the committees of the States with political oversight for those bodies, in accordance with their existing legislative arrangements.

R15 – Independent watchdogs to produce annual stand-alone reports that are submitted to the Committees of the States with political oversight for those bodies.

R16 – Grant-aided bodies to produce annual stand-alone reports that are submitted to the Committees of the States with political oversight for those bodies.

R17 – Statutory officers report to the most appropriate strategic lead for people policy or place policy.

Section 6 – Performance

R18 – Each of the ALBs and the committees that provide political oversight for those ALBs put in place an MoU or service level agreement (as applicable) for publication during 2021.

R19 – MoUs and the service level agreements include reviews by both parties not less than once per political term, in order to see if they are still required, or can be merged with other bodies.

R20 – Service level agreements are put in place between each of the grant-aided bodies and their respective grant-awarding political committees.

Section 7 – Transparency

R21 – A public appointments commission is established by legislation that enhances transparency and accountability in line with the Nolan Principles; that develops greater equality of opportunity and supports diversity; that helps ensure consistently strong capability for ALB membership, including enabling some individuals to have a role on more than one ALB; and that enables the removal of appointees due to poor performance or misconduct or perceived or actual conflicts of interests which arise during the course of the appointee's membership of an ALB.

R22 – Each member of an ALB declares any relevant interest as part of the annual report. In addition, each member has a duty to avoid any actual or perceived conflicts of interest during their tenure.

Section 8 – Maximising value for money

R23 – All ALBs to continue to produce an annual budget to be submitted to the committee with political oversight. That committee will in turn, include this in their overall annual budget submission.

R24 – Appointment of a single Finance Business Partner for the Tribunals Service and the ALB oversight boards.

Section 11 – Tribunals

R25 – That the appropriate Strategic Lead oversees a plan for the consolidation of the tribunals into a single Tribunal Service, established and operational during 2021, with the support of the appropriate oversight board.

R26 – The merger of the Social Insurance Appeals Tribunal, the Family Allowances Appeals Tribunal, the Income Support Appeals Tribunal and the Housing Appeals Tribunal.

R27 – The merger of the Guernsey Tax Tribunal and the Tax on Real Property Appeals tribunal.

Section 12 – Ombudsmen

R28 – The States of Guernsey monitors the development, scope, performance, cost and outcomes of the Jersey model of the public services Ombudsman, the Isle of Man model of the Commissioner for Administration and Guernsey's Complaints Panel.

Section 13 – Other points

R29 – That the political oversight for the Office of the Public Trustee is transferred to the Policy & Resources Committee at the earliest opportunity.

14. List of consultees and meetings

List of ALBs and other bodies who were sent the survey in 2018 at the start of the review and the ALBs that responded:

Committee *for* Economic Development

ALB
Aircraft Registry
Channel Islands Competition & Regulatory Authorities (CICRA)
Channel Islands Financial Ombudsman (CIFO)
Director of Civil Aviation (DCA)
Guernsey Banking Deposit Compensation Scheme
Guernsey Registry
Office of the Public Trustee
Deposit Compensation Scheme (DCS) Board

Committee *for* Education, Sport & Culture

ALB
Arts Commission
Sports Commission
GTA

Committee *for* Employment & Social Security

ALB
The Industrial Disputes Tribunal
The Employment & Discrimination Tribunal
The Administrator of Social Security

The Social Insurance Appeals Tribunal
The Family Allowances Appeals Tribunal
The Supplementary Benefit Tribunal (now “The Income Support Appeals Tribunal”)
The Housing Appeals Tribunal
The Legal Aid Administrator
The Rent Control Officer
The Pharmaceutical Benefit Advisory Committee (PBAC)
The Inspector of Petroleum, The Inspector of Explosives & Health & Safety Executive

Committee *for the* Environment & Infrastructure

ALB
Office of Environmental Health and Pollution Regulation
The Environmental and Public Health Appeals Tribunal
The Planning Panel

Policy & Resources Committee

ALB
The Guernsey Tax Tribunal
Tax on Real Property Tribunal
Parochial Appeals Tribunal
Overseas Aid Committee
Administrative Review Board

Committee *for* Health & Social Care

ALB
The Responsible Officer
The Registration Panel
The Medical Officer of Health / Chief Medical Officer / Director of Public Health
The Mental Health Review Tribunal
The Chief Pharmacist
The Island's Child Protection Committee / The Island's Safeguarding Children Partnership
The Children's Convenor
The Office of the President of the Child, Youth, and Community Tribunal
The Children's Convenor Board

Committee *for* Home Affairs

ALB
Parole Review Committee
Independent Monitoring Panel
Police Complaints Commission

Representatives of ALBs who met with the Review

ALB
Overseas Aid & Development Commission
Legal aid: Lucy Haywood – Legal Aid Administrator, and Neil Biddulph-Smith – Deputy Legal Aid Administrator
Data Protection Authority: Richard Thomas CBE, Chairman of the Data Protection Authority
Director of Civil Aviation/Aircraft Registry: Dominic Lazarus – Director, and predecessor, Gus Paterson
Director of Environmental Health: Tobin Cook – Director of Environmental Health and Pollution Regulation, and Dr Valerie Cameron – his predecessor
CfED/Registry – Damon Hackley, Helen Gaines & Joe Le Page
The Children’s Convenor: Gill Couch – Chairperson to the Children’s Convenor Board, and Karen Brady – The Children’s Convenor
CICRA: Michael Byrne – Chief Executive, Michael O’Higgins – Chairman, and John Curran – Non-Executive Director
Mental Health Review Tribunal: David Harding via conference call.
Employment & Discrimination Tribunal: Tina Le Poidevin – Convenor

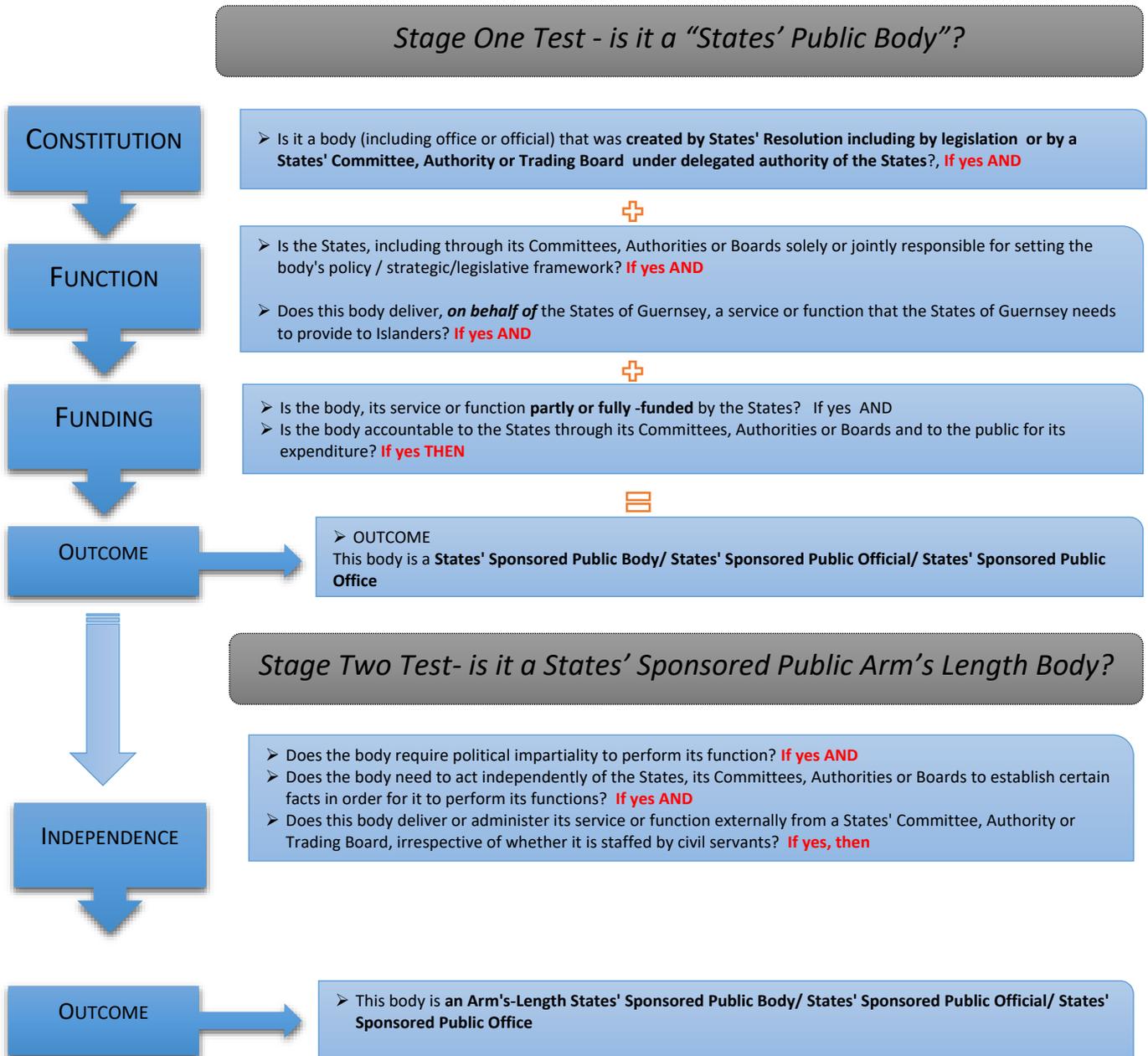
Other individuals, bodies or organisations who have met with the Review Panel

Attendees
Committee <i>for</i> Health & Social Care: Deputy Tindall, Mark de Garis – Chief Secretary, and Matt Jones
Committee <i>for the</i> Environment & Infrastructure: Deputy Brehaut and Jon Buckland – Chief Secretary
Committee <i>for</i> Employment & Social Security: Deputy Le Clerc and Malcolm Nutley – Chief Secretary
Committee <i>for</i> Home Affairs: Deputy Lowe, Vicky Lajoie – Policy and Legislation Manager, and Chelsea Martel – Head of Operations
Rachel Masterton – Deputy Data Protection Commissioner

Committee <i>for</i> Education, Sport & Culture: Deputy Fallaize, and Gus Paterson – Chief Secretary
Committee <i>for</i> Economic Development: Steve Wakelin – Chief Secretary, Darren Stephens – Director of Finance Sector, and Philip Henderson – Policy Officer.
Robin Gonard, Chief Health & Safety Officer
Deputy Dudley Owen and Richard Pinchemain (Deputy Vendor Services Manager (Business Support))
Former Deputy Bailiff Richard McMahan
Deputy Dawn Tindall
Paul Whitfield – Chief Executive
Jason Moriarty – Chief Operating Officer
David Barker – Harbour Master

APPENDIX ONE

CHARACTERISTICS OF A STATES' PUBLIC BODY WHICH OPERATES AT ARM'S LENGTH



APPENDIX TWO

QUESTIONNAIRE FOR EACH ALB

A) General

Please name your own sponsoring Committee and name and describe any other supervisory body that additionally oversees your ALB e.g. board of directors/Commissioners.

B) UNDERSTANDING THE GOVERNANCE OF ALBS - NON-EXHAUSTIVE LIST OF QUESTIONS TO CONSIDER:

1) THE ALB & ITS PURPOSE

- i) Please consider whether the purpose of your ALB is clear? E.g. Are your ALB's objectives documented and understood by all involved with its work?
- ii) Is the current structure for your ALB appropriate or would another structure be more suitable for the ALB's purpose? E.g. legislative basis?
- iii) Do you consider your ALB's scale and functions, duties and powers clear and appropriate?
- iv) what (if any) improvements may be required to the ALB's purpose, objectives, roles and functions to enable the ALB to carry out its services independently but not in conflict with the States' Strategies and Policies and Principles⁷?

2) ACCOUNTABILITY OF THE ALB

- i) How does your ALB demonstrate accountability to the public and to the government? Please describe this.
- ii) Are there are clear lines of and mechanisms for accountability between the sponsoring Committee and your ALB? Are these replicated within any of the ALB's own internal governing bodies e.g. if it is managed by a board?
- iii) Are the routes for appealing the decisions of your ALB currently independent, appropriate and effective/efficient?

⁷ These include the Principles of Good Governance and the States of Guernsey's Customer Charter, the Policy and Resource Plan, States' Rules and Directives, and Codes of Practice, the Public Sector Reform Framework and the overall States' transformation agenda including *Value for Money* of government expenditure.

3) PERFORMANCE OF THE ALB'S FUNCTIONS

- i) Are there any systems in place for you and your sponsoring Committee to track your ALB's performance? E.g. Key Performance Indicators? Complaints policies and procedures?
- ii) Does the ALB have the necessary support and resources from its sponsoring Committee to enable it to carry out its services independently but effectively and efficiently, in line with in the States' Strategies and Policies and Principles?
- iii) How does the ALB's performance align with its key objectives/ statutory duties and any the Service Level Agreements or Memorandum of Understanding between the ALB and the sponsoring Committee?
- iv) Describe any bespoke training provided to ALB's officers/boards.

4) OVERSIGHT

- i) Is the level and quality of oversight over your ALBs by your sponsoring Committee and Internal Governing Bodies effective, with an appropriate view of operations and proportionate to the ALBs' scale, purpose, objectives, roles and functions and required degree of independence?
- ii) Are the current oversight activities aligned with the States' Strategies and Policies and Principles?
- iii) Is there a clear balance between the control exercised by you as the sponsoring Committee and allowing your ALB to operate independently day to day?

5) TRANSPARENCY

- i) Does the ALB act in accordance with the international definition of transparency⁸ in ALBs' operations as follows?

"Transparency is about shedding light on rules, plans, processes and actions. It is knowing why, how, what, and how much. Transparency ensures that public officials, civil servants, managers, board members and businesspeople act visibly and understandably, and report on their activities. And it means that the general public can hold them to account. It is the surest way of guarding against corruption, and helps increase trust in the people and institutions on which our futures depend."

- ii) Does the ALB publish/ make available to the public its annual report or other data such as minutes of meetings about its performance/ budgets etc.?
- iii) How are the ALB's Statutory Post holders /Chairs of these public bodies appointed? Please describe the process.

⁸ Transparency International <https://www.transparency.org/what-is-corruption/#what-is-transparency>

6) Maximising the ALB's Value for the Future

- i) Please explain how your sponsoring Committee is capitalising on the operational experience and know-how of your ALB [in line with international best practice] demonstrating value for money and alignment with the States' strategies, Policies and Principles?
- ii) Does your sponsoring Committee consult you when your sponsoring Committee is developing new policies/ strategies (which do not put the ALB in a position of conflict which is to be delivered by your ALB or where your expertise would or might contribute to a policy's success?
- iii) What (if any) improvements/benefits could or might be achieved for the Islands by the Sponsoring Committee and ALB collaborating more closely with Jersey or other jurisdictions?

APPENDIX THREE

ANALYSIS OF SELECTED TRIBUNALS

	Guernsey The Guernsey Tax Tribunal	Housing Appeals Tribunal Panel	Planning Panel	Tax on Real Property Appeals Panel	Social Security Tribunals	Environmental and Public Health Appeals Panel
Legislation	Income Tax (Guernsey) Law, 1975 [sch.3]	States Housing (Tribunals and Appeals) (Guernsey) Regulations, 2005 [s.1]	Land Planning and Development (Guernsey) Law, 2005 [s.86]	Taxation of Real Property (Guernsey and Alderney) Ordinance, 2007 [s.22]	Social Insurance Appeals Tribunal (Guernsey) Law, 1978 [s.80] Family Allowances Appeals Tribunal (Guernsey) Law, 1950 [s.5] Supplementary Benefit (Guernsey) Law, 1971 [s.14]	Environmental Pollution (Guernsey) Law, 2004 [s.24]
Tribunal / Panel Members hip	Nine members; appointed by the Royal Court for such period	Ten members; no specific qualifications	Nine members; four permanently resident in Channel islands; not less than	Six members, three of whom must be qualified	Ten members; no specific qualifications; appointed by the	Ten members; must have relevant experience and knowledge of

	as the Royal Court shall determine but members shall not serve beyond their 72 nd birthday unless extended to 75 th birthday	; States Members, Constables, Douzeniers and Procureurs and Overseers of the Poor excluded; appointed by States on recommendation of the Committee; no set period of office	two designated professional members; appointed by States on recommendation of the Policy & Resources Committee; six year term of office	building surveyors; appointed by States on recommendation of the Department; no set period of office	Royal Court; for such period as determined by the Royal Court; if appellant is female at least one Tribunal member must be a woman	environmental and public health activities; appointed by States on recommendation of the Policy & Resources Committee; no set term of office
	Guernsey The Guernsey Tax Tribunal	Etc...				
Payments to Members	Based on half-day allowances at non-States Members rate	Based on half-day allowances at non-States Members rate	Professional members - £200 per half day Ordinary members - £50 per half day All members receive an annual retainer of £2,000	Based on half-day allowances at non-States Members rate	Based on half-day allowances at non-States Members rate	Members are paid £400 per day President of the Panel receive a £500 annual retainer

Secretarial Support	Part-time Clerk (who must be legally qualified as the duties include giving advice to the Tribunal) plus support from the Policy & Resources Committee	Part-time Clerk to Tribunal employed within Housing	Half-time Secretary to Planning Panel employed within the Policy & Resources Committee	Clerk to Tribunal drawn from within existing P&R staff	Clerk to the various Tribunals drawn from within existing P&R staff	Part-time Secretary provides administrative support as required; not member of Established staff
Mode of Review	Private hearing	Public hearing unless Tribunal directs otherwise	Public hearing or written representations either before a Tribunal or a Single Professional Member	Public hearing unless Tribunal directs otherwise	Private hearing	Public hearing unless Tribunal directs otherwise
Appeal Period	21 days from date of issue of assessment, direction or penalty notice	28 days from date of decision; can be extended on application to Tribunal Chairman	Refusal of planning permission – 6 months from date of decision; Non-determination – 6 months from 3 months after application made;	28 days from date of decision	28 days from date of decision; can be extended on application to Tribunal Chairman	By Summons within 28 days of date of decision; can be extended on application to Tribunal Chairman

			Other appeals – 28 days from date of issue of notice			
Scope of Appeals	In respect of the interpretation of part of the Tax Law, including what income is taxable, deductible allowances and penalties imposed; against the determination of an income tax assessment; against the determination of income tax payable where no return has been made	Against decisions of Housing and the Guernsey Housing Association in relation to rent payment, rent rebates, tenancy reviews, allocations and applications for social housing	Against refusal of planning decision, grant of permission subject to conditions, refusal of a reserved matter or refusal of an application in respect of a planning covenant; the confirmation of a Tree Protection Order; the issuing of a Compliance Notice, Completion Notice or Preservation Notice; Protected Buildings or Monuments listings; e issuing of a Preservation Notice; failure to give planning decision	Owners of property can appeal against assessment of the Tax on Real Property	Against decisions of the Administrator in respect of Social Insurance Appeals Tribunal Appeals Tribunal, Family Allowance and Supplementary Benefit payments, assessments and allowances	Against licensing and compliance / enforcement decisions of the Director of Environmental Health in respect of prescribed operations (currently only covers waste operations)

Appeal Hearings	Tribunal procedure set out in Practice Direction; appeals typically last half to one day; written decision notices issued after the hearing usually issued in 21 days	Tribunal can determine its own procedure appeals typically last half a day; written decision usually issued in 10 to 14 days	Tribunal procedure set out in Regulations; appeals typically last half to one day; written decision notices issued after the hearing usually issued in 21 days	Tribunal procedure set out in Ordinance; appeals typically last half to one day; written decision notices issued after the hearing usually issued in 10 to 14 days	Tribunal procedure set out in Regulations; appeals typically last half to one day; written decision notices issued after the hearing usually issued in 21 days; most appeals are withdrawn by appellant before determination	Tribunal procedure set out in the Environmental Pollution (Waste Control and Disposal) Ordinance, 2010; a written decision is issued within 21 days of the hearing
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APPENDIX FOUR

THE NOLAN PRINCIPLES AND THE PRINCIPLE OF GOOD GOVERNANCE

The Nolan Principles

The Committee on Standards in Public Life (CSPL) was established by Prime Minister John Major in 1994 in response to the political lobbying ‘cash-for-questions’ scandal, which had seen Members of Parliament accept bribes in return for asking questions⁹. Chaired by Lord Nolan, the CSPL’s terms of reference were to examine standards of conduct of all holders of public office, and to make recommendations on any changes “to ensure the highest standards of propriety in public life”.¹⁰

CSPL accordingly produced an initial report in which it outlined the ‘Seven Principles of Public Life’ also referred to as the Nolan Principles. These principles were:

1. **Selflessness:** “Holders of public office should act solely in terms of the public interest.”
2. **Integrity:** “Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.”
3. **Objectivity:** “Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.”
4. **Accountability:** “Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.”
5. **Openness:** “Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.”
6. **Honesty:** “Holders of public office should be truthful.”
7. **Leadership:** “Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge the poor behaviour wherever it occurs.”¹¹

Who do they apply to?

The seven principles apply to anyone who works as a public officer holder. This includes:

- All those who are elected or appointed to public office, nationally or locally;

⁹ History of political lobbying standards – ‘Cash for questions’

¹⁰ Committee on Standards in Public Life, p.4

¹¹ Ibid., p.5

- All people who work in the civil service, local government, the police, courts and probation services, Non-Departmental Public Bodies, and in the health, education, social and care services;
- All people in the private sector who deliver public services¹² (the CSLP issued some guidance on the requirement for ethical standards in outsourced public services¹³).

What are the benefits of these principles?

These principles were seen as revolutionary at the time, as they focused on *behaviour and culture* rather than processes. Further, it emphasised the importance of behaviour and culture *on* process; an accountable, objective and honest leader will ensure that there is a strategic plan in place; that public money is spent wisely; that exceptional service is delivered for all customers, and so on. Following these principles directly leads to a more positive outcome for an organisation both in terms of creating an inclusive working environment, as well as outputs for the organisation as a whole.¹⁴

The Principles of Good Governance

The 12 Principles of Good Governance were a part of an endorsed Strategy (the European Strategy for Innovation and Good Governance at Local Level) by the Council of Europe in 2008. This Strategy was developed by Member States as a common goal and included instruments to improve the quality of local governance. These Principles were based on fundamental values that defined a “common vision of democratic governance in Europe”.¹⁵

The 12 Principles of Good Governance are:

1. **Fair Conduct of Elections, Representation and Participation:** Local elections conducted freely and fairly; citizens at the centre of public activity; all people can have a voice in decision-making, either through direct or indirect democracy; there is always an honest attempt to mediate between varying interests; decisions are taken according to the will of the many, while rights and interests of the few are respected
2. **Responsiveness:** Objectives, rules, structures, and procedures are adapted to the needs of citizens; public services are delivered in a reasonable timeframe.
3. **Efficiency and Effectiveness:** Results meet the agreed objectives; best possible use is made of the resources available; audits are carried out at regular intervals to assess and improve performance.

¹² [CSPL Annual Report 2017-18](#)

¹³ [CSLP, Ethical Standards for Providers of Public Services](#)

¹⁴ [The Nolan Principles – 20 years on...](#)

¹⁵ [12 Principles of Good Governance](#)

4. **Openness and Transparency:** Decisions taken and enforced in accordance with rules and regulations; public access to all information which is not classified; information on decisions is made public.
5. **Rule of Law:** Local authorities abide by the law and judicial decisions; rules and regulations adopted in accordance with procedures provided for by law.
6. **Ethical Conduct:** Public good is placed before individual interests; effective measures to prevent and combat corruption; conflicts of interest are declared in a timely manner.
7. **Competence and Capacity:** Professional skills of those who deliver governance are continuously maintained; public officials are motivated to continuously improve their performance; methods are created and used in order to transform skills and produce better results.
8. **Innovation and Openness to Change:** New solutions to problems are sought; readiness to pilot and experiment new programmes; a climate favourable to change is created.
9. **Sustainability and Long-Term Orientation:** Needs of future generations are taken into account; sustainability of community taken into account; decisions strive to internalise all costs and not to transfer problems and tensions.
10. **Sound Financial Management:** Charges do not exceed the cost of services; prudence is observed in financial management; risks are properly estimated and managed.
11. **Human Rights, Cultural Diversity and Social Cohesion:** Human rights are respected, protected and implemented; cultural diversity is treated as an asset; social cohesion and the integration of disadvantaged areas are promoted; access to essential services is preserved.
12. **Accountability:** All decision-makers take responsibility for their decisions; decisions are reported on, explained and can be sanctioned; there are effective remedies against maladministration and against actions of local authorities which infringe civil rights.¹⁶

¹⁶ 12 Principles of Good Governance and European Label of Governance Excellence

APPENDIX 5

TERMS OF REFERENCE

A Review of The Governance of Arm's Length Bodies

Terms of Reference

The Review Panel will examine the following 6 key elements of ALBs which are central to the governance of all entities, whether they operate in the public or private sector including:

- (1) Purpose** – *Inter alia, what (if any) improvements may be required to ALBs' purpose, objectives, roles and functions to enable ALBs to carry out their services independently but not in conflict with the States' Strategies and Policies and Principles"?*
- (2) Accountability** - *inter alia, what (if any) improvements may be required to ALBs' accountability mechanisms to enable ALBs to demonstrate accountability to the public and to their Sponsoring Committees for the independent services that they provide?*
- (3) Performance** - *inter alia, what (if any) improvements may be required to ALBs' performance regime to enable ALBs to carry out their services independently but effectively and efficiently, in line with in the States' Strategies and Policies and Principles?*
- (4) Oversight** - *inter alia, what (if any) other improvements are required to the ALBs' landscape overall to enable a more effective oversight of ALBs from both their Internal Governing Bodies and their Sponsoring Committees (including Civil servants and States Members)?*
- (5) Transparency** - *inter alia, what (if any) improvements may be required to the ALBs' landscape for ALBs to demonstrate more transparency in their operations to the public and their Sponsoring Committees?*
- (6) Maximising Value in the Future** - *inter alia, what (if any) improvements, may be required to the ALBs' framework for ALBs to enhance their overall impact and for sponsoring Committees to demonstrate that they are capitalising on the operational experience and know-how of their ALBs, in line with international best practice, demonstrating value for money and the States' strategies, Policies and Principles?*

Other Factors

In addition, the Review's recommendations must represent **value for money** and **must align with the States' Strategies and Policies and Principles**.

The Review Panel will also be required to consider **established Best Practice in governance frameworks for ALBs or similar non- departmental government bodies from other jurisdictions**

and assess their applicability on the Island's ALBs, ensuring that any corresponding recommendations based on Best Practice are proportionate to the Island's needs and circumstances and especially to the scale and purpose of the ALBs under review.

Community Engagement

Community participation will be an important part of this review. It is important that Islanders (including as service users and customers across the Bailiwick) and the ALBs and States' sponsoring committees have confidence in its contents and recommendations. These stakeholders' views will be sought early and systematically and must be a key influencer of the outcome of this review. The views of the Scrutiny Committee will also be sought at key stages of the review.

The States of Alderney and Alderney residents and the Chief Pleas of Sark and Sark residents may also be consulted as having an interest in particular functions delivered from Guernsey as intra-bailiwick services e.g. the Police Complaints Commission, Legal Aid etc.