

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *FOR* EDUCATION, SPORT & CULTURE

EDUCATION LAW REVIEW

The States are asked to decide:

Whether after consideration of the Policy Letter “Education Law Review” dated 4th May 2023 they are of the opinion:-

Pursuant to States Resolution 3 of Article X of Billet d’Etat II, 2018, to repeal the Education (Guernsey) Law 1970 as amended and to direct that the new legislation gives effect to the following propositions.

1. To agree that the principles and objectives of the Education Law should be as described in section 4.
2. To agree that there shall be a universal entitlement to education as set out in paragraph 6.2 including access to wider services provided as part of education as described in section 6.5.
3. To agree that the Committee *for* Education, Sport & Culture shall ensure the availability of an all-age careers service providing free, professional, impartial and independent careers information, advice and guidance.
4. To agree that ‘Compulsory Education Age’ will be from the beginning of the academic year in which a person reaches the age of 5 until the last Friday of June in the academic year in which a person reaches the age of 16.
5. To agree the principle of an ‘Education Participation Age’, as set out in paragraph 6.16.
6. To agree that when the law comes into force, the upper and lower limits of ‘Education Participation Age’ will be the same as the upper limit of ‘Compulsory Education Age’.
7. To agree that when the law comes into force the ‘Preschool Funding Entitlement’, will be that which is set out in policy as detailed in paragraph 6.30.
8. To agree that the Committee *for* Education, Sport & Culture should ensure sufficient quality-assured early childhood education provision is available for those who use their ‘Preschool Funding Entitlement’.
9. To agree that designated officers shall be responsible for the educational outcomes of Children in Care.
10. To note that in accordance with recommendation 9 of the Guernsey and Alderney SEND review 2021, the education provision for some learners with additional learning

needs will extend beyond the upper and lower limits of 'Compulsory Education Age'.

11. To agree that in relation to Additional Learning Needs:

- a) the Committee *for* Education, Sport & Culture shall ensure that a process exists to identify, assess and determine appropriate educational provision, and that this should be appropriate relative to the age of the child;
- b) schools will be required maintain details of all learners who have been identified as having an additional learning need and to share that information with the Committee *for* Education, Sport & Culture;
- c) governing bodies of Independent schools shall provide, at their own cost, educational support for learners with additional learning needs enrolled at those schools;
- d) the Committee *for* Education, Sport & Culture shall be required to assess and provide advice on support services for those children/learners with additional learning needs who are not enrolled at a States-maintained school whose additional needs are brought to the attention of the Committee;
- e) there must be flexibility with regard to terminology to reflect best practice over time and that when the Law comes into force the terminology should:
 - i. include 'additional learning needs', 'additional learning provision' learning difficulty' and 'barrier to learning' rather than 'special education' terms; and
 - ii. not include 'special school' and 'ordinary school';
- f) there shall be a high-level requirement for the States to exercise its functions with a view to ensuring, so far as possible, the integration of education provision with health and social care provision, where doing so would promote the well-being of children with additional learning needs and/or improve the quality of additional learning provision; and
- g) in the exercise and performance by the Committee *for* Education, Sport & Culture of all powers and duties it shall have regard to the responsible, efficient and effective use of public resources.

12. To agree that the curriculum specified by the Committee *for* Education, Sport & Culture should at all phases:

- reflect the needs of all learners and be appropriately broad, diverse, and ambitious and enable creativity;
- equip learners with knowledge and skills so they are able to succeed wherever they are, either within or beyond the Bailiwick, now and in the future;
- prepare learners for the opportunities and challenges of living in a modern,

democratic society; and

- recognise and reference the local context and the islands' unique culture and heritage.

13. To agree that States-maintained schools shall interpret the curriculum and deliver education in accordance with it.

14. To agree that Independent schools will have regard to the principles set out in proposition 1 above when determining their curriculum.

15. To agree that each setting providing compulsory education is required to provide regular opportunities to assemble as a school community to encourage cohesion and to allow time for celebration, reflection and contemplation.

16. To agree that in States-maintained schools where collective worship takes place it is undertaken in accordance with guidance issued by the Committee *for* Education, Sport & Culture, and that parents/carers are permitted to withdraw their child from collective worship.

17. To agree that, in relation to inspection:

- a) all schools to be subject to inspection at a frequency and by an inspectorate approved by the Committee *for* Education, Sport & Culture;
- b) with regard to collective worship and denominational education in Voluntary schools alternative inspection arrangements can be made; and
- c) all inspection reports shall be provided to the Committee *for* Education, Sport & Culture and published.

18. To agree that in relation to exclusions:

- a) the permanent exclusion from education of a learner of compulsory education age is prohibited; and
- b) Independent schools must liaise with the Director of Education prior to the permanent exclusion of a learner from their setting in order to enable the transition between education providers for that learner to be managed in the same way as the transition would be between two States-maintained schools.

19. To agree that in relation to attendance:

- a) all schools shall be required to hold and maintain a register of attendance for each enrolled learner;
- b) there should be flexibility to enable fixed penalty fines to be issued for non-school attendance, to be enforced only following detailed proposals returning to the States for consideration; and

- c) it shall be possible to issue a School Attendance Order to enforce school attendance and to provide for commission of an offence for failure to comply with such an Order.
- 20. To agree that there should be flexibility to enable the Committee *for* Education, Sport & Culture to specify circumstances when charges, other than for admission to and the provision of education for learners in States-maintained schools, may be made.
- 21. To agree that the Committee *for* Education, Sport & Culture may operate a transport policy to facilitate the school attendance of all learners.
- 22. To agree that any transport policy operated by the Committee *for* Education, Sport & Culture must have due regard to the current on-island transport strategy of the States.
- 23. To agree that the Committee *for* Education, Sport & Culture shall be required to identify children of compulsory education age who are missing education.
- 24. To agree that in relation to home education:
 - a) the Committee *for* Education, Sport & Culture shall maintain a Home Education roll;
 - b) all learners of compulsory education age must be included on either a school roll or the Home Education roll;
 - c) formal prior permission from the Education Office is required for any learner of compulsory education age who is in receipt of an intervention from a professional agency, to be added to the Home Education roll;
 - d) the Committee *for* Education, Sport & Culture shall:
 - i. ensure that the education provision in place for each home-educated learner is sufficient to prevent them from being identified as a child missing education;
 - ii. prescribe the frequency and extent of monitoring and support visits;
 - iii. prescribe the availability of qualifications/examinations to home learners and have the flexibility to charge parents/carers, where doing so would not be a barrier to accessing them; and
 - iv. in partnership with those who are home educating, set out in policy the expectations of what will be provided by parents/carers to ensure that learners who are home educated are provided with the knowledge and skills and any qualifications to enable them to be successful in the next phase of their life.
- 25. To agree that the Committee *for* Education, Sport & Culture will manage admissions to States-maintained schools in accordance with its published policy.

26. To agree that, in relation to the governance of States-maintained settings:
- a) every States-maintained setting must have a Governance Board;
 - b) that categories and subcategories of Governor for Governance Boards will be established and defined as described in paragraph 11.37;
 - c) every Governance Board must have an Instrument of Governance as described in paragraph 11.39 which must include the manner in which Governance Boards will be established and maintained;
 - d) the Committee *for* Education, Sport & Culture shall establish a system-wide structure for the Governance Boards to operate within which it considers the interdependencies of the education system;
 - e) the Committee *for* Education, Sport & Culture will have powers of intervention over Governance Boards as described in paragraph 11.45;
 - f) the responsibilities of the Chairperson of a Governance Board shall be established in legislation;
 - g) the Committee *for* Education, Sport & Culture shall monitor the effectiveness and strategic impact of Governance Boards, intervening in the governance of individual settings only where this is necessary in the best interests of learners and according to specific powers of intervention;
 - h) a Council of Chairpersons as described in paragraph 11.44 shall be established;
 - i) the Committee *for* Education, Sport & Culture will set out Statutory guidance in a 'Governance Handbook' which must include the duties on a Governance Board, as described in the Annex to this Policy Letter; and
 - j) to agree that at the point at which the Law comes into force the delivery model of governance will be as set out in the Annex.
27. To agree that appointment to the role of the Director of Education shall be made by the Policy & Resources Committee, and that the process must involve input from the Committee *for* Education, Sport & Culture, as described in paragraph 12.2.
28. To agree that there will be a statutory right of appeal against decisions taken by or on behalf of the Committee *for* Education, Sport & Culture and to provide that, in determining such appeals, those making the determination should, so far as it is relevant to the appeal, have regard to the need for the efficient and effective instruction of learners and for the avoidance of unreasonable expenditure for the States, bearing in mind that, in providing education services, the States must also take into account the wider needs and resources of the community.
29. To agree that in relation to Voluntary schools that:
- a) only those Voluntary schools in place when the new Law comes into force will be permitted and any new schools to be established as either an Independent school

or a States-maintained school; and

- b) following negotiation between the Voluntary schools and the Committee *for* Education, Sport & Culture the financial and operational arrangements of Voluntary schools will be prescribed by the Committee.

30. To agree that in relation to Independent schools:

- a) proprietors must register the school prior to the school's establishment as prescribed by the Committee *for* Education, Sport & Culture;
- b) proprietors must re-register at regular intervals as prescribed by the Committee *for* Education, Sport & Culture;
- c) proprietors must, in order to maintain the school's registration, meet the conditions prescribed by the Committee *for* Education, Sport & Culture relating to the reporting of inspection outcomes, formal attainment measures and other learner data, and the intervals at which such data should be reported;
- d) the operation of an unregistered school is prohibited; and
- e) the Committee *for* Education, Sport & Culture shall prescribe the standards to be adopted by, and applied to, Independent schools.

31. To agree that in relation to the responsibilities to safeguard and promote the welfare and wellbeing of learners:

- a) all education providers must make suitable arrangements through policies and practices that are regularly reviewed and updated; and
- b) the Committee *for* Education, Sport & Culture shall specify requirements for such policies and practices.

32. To agree that in relation to the health and wellbeing of learners:

- a) the Committee *for* Education, Sport and Culture shall facilitate the provision of health services for all learners of compulsory education age to be conducted under the supervision of the Director of Public Health;
- b) the Committee *for* Education, Sport and Culture and the Governance Boards of all schools shall raise awareness and assist learners and their parents/carers to take advantage of health services provided via schools; and
- c) Headteachers may direct only after seeking medical advice, that a learner should not attend school in circumstances when attendance would be detrimental to the health of that child or others.

33. To agree that corporal punishment should be prohibited in all schools, registered pre-school settings and for those learners for whom education is provided otherwise than at school under any arrangements made by the Committee and that actions including

the use of reasonable force in certain exceptional circumstances, such as for the prevention of personal injury or damage, are not to be considered as corporal punishment.

34. To agree that the Committee *for* Education, Sport & Culture may prescribe the standards to be adopted for the provision of suitable premises for recreation and physical activity in States-maintained schools.
35. To agree that there should be flexibility to enable the expansion of school meal provision, including the introduction of free school meals should this emerge as a policy priority in the future.
36. To agree that the sharing of data as necessary to support effective safeguarding and the delivery of education services in accordance with the principles and objectives of the Education Law shall be required.
37. To agree that the Committee *for* Education, Sport & Culture, must publish an annual report in respect of education provision, services and outcomes.
38. To agree that parents/carers of learners of compulsory education age must be provided with regular and adequate information relevant to their child's progress, assessment outcomes and other information as prescribed by the Committee *for* Education, Sport & Culture.
39. To agree that all registered education settings for learners of or above compulsory education age must have a Single Central Register as described in paragraph 12.38.
40. To agree that in all registered education settings for learners of or above compulsory education age, teachers and lecturers shall be appropriately qualified.
41. To direct that the Law shall:
 - a) carry forward those provisions of The Education (Guernsey) Law, 1970, and The Education (Amendment) (Guernsey) Law, 1987, set out in Appendices 2 & 3 of the Policy Letter respectively, with any amendments that might be necessary to update them according to best practice; and
 - b) in relation to powers carried over which enable the Committee *for* Education, Sport and Culture to act where it appears employment is prejudicing a child's education, health or development, direct that these powers shall be extended to all learners of compulsory education age and not just to those attending school, as set out in paragraph 14.57.
42. To direct the Law Officers to prepare such legislation as may be necessary to give effect to the above propositions [and proposals in the Policy Letter entitled "Proposals for a new Education Law"], including any necessary or expedient supplemental and consequential provision.
43. To direct the Committee *for* Education, Sport & Culture to consult with the States of

Alderney about the desirability and appropriateness of the new Education Law being a Guernsey and Alderney law.

44. To direct that any consequential amendments to the mandate or operational functions of the Committee *for* Education, Sport & Culture as set out in 'The Rules of Procedure of the States of Deliberation and their Committees', are made in relation to updated terminology set out in this Policy Letter.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *FOR* EDUCATION, SPORT & CULTURE

EDUCATION LAW REVIEW

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

4th May, 2023

Dear Sir,

1. Executive Summary

- 1.1 It is imperative that we create an education system that reflects the needs of learners, and the wider community, in the 21st century. Our education system must equip and empower all learners to be rounded citizens and active contributors to the community they live in, recognising that the future prosperity of the islands rests in no small part on their shoulders. The foundation of the education system is the legislative framework that underpins it.
- 1.2 Updating our legislation has been a priority for successive States and Committees but one that, like many other areas of education, is complex with multiple stakeholders and a range of opinions. When the Committee *for* Education, Sport & Culture was elected in 2020, it inherited from the previous Committee the Transforming Education Programme, which included, alongside a new structure for secondary and post-16 education; capital investments in infrastructure; a review of primary education provision; and a review of the existing Education Law. These individual workstreams, although not in themselves dependent on each other, have a common purpose in supporting the Committee's mandate and improving the opportunities and outcomes for all learners. It is through progressing all of these workstreams that we will move the whole education system forwards to truly realise the benefits that the sum of the component parts will bring to our community.
- 1.3 The Committee's starting point in the Education Law Review was to establish the core principles and objectives of the legislation and for this to provide a reference for all subsequent policy development. Alongside these core principles and objectives, the Education Strategy has helped to shape the Committee's work, and to keep a focus on the core priorities of the Strategy, ensuring that the new Education Law supports a system that: promotes equity, safety and inclusivity; meets the needs of the community; promotes high quality learning and excellent outcomes; and promotes

outstanding leadership and governance.

- 1.4 The Committee has reviewed, refined, and adapted the predecessor Committee's work, to take account of changes that have taken place in the intervening period. Importantly, the Committee has developed detailed proposals for both a framework for education governance and a detailed model for the delivery of settings' governance for all States-maintained settings.
- 1.5 The existing law, although enacted in 1970, uses terminology and an approach that is rooted in the 1940s. There was a significant amendment in 1987, which recognised the differing needs of learners but that amendment stopped short of expecting all education settings and services to fully integrate their practice so that it is truly inclusive. The need for inclusivity is a key area the Committee addresses in the new legislation to ensure that all learners can access the education they need, recognising that the States has moved away from selection to an all-ability system.
- 1.6 Throughout the policy development the Committee has been conscious that the new Law will, like its predecessor, be in place for several decades, and therefore must be sufficiently flexible to adapt to meet the needs of both today's learners and the next generation of learners, in a rapidly changing world. For this reason, this Policy Letter recommends provisions intended to 'future-proof' the legislation, some of which the Committee does not propose are brought into effect when the Law first comes into force. Rather they will enable a future States to introduce those provisions should the need arise.
- 1.7 This Policy Letter is structured to provide a high-level summary of the intentions of the new legislation at the start of each section, the outcomes from which meet the principles and objectives set out in section 4. The Committee has sought the advice of the Law Officers to ensure the content of the Policy Letter is sufficient to allow for the drafting of new legislation and includes the correct language to enable the development of both primary and secondary legislation as well as the operational policies and guidance necessary to support the operation of the Law when it comes into force.
- 1.8 The last major changes to the current Education Law were in 1987, when substantial amendments were made to introduce provisions for learners with 'Special Educational Needs'. Since this time the approach to inclusion and children's rights has progressed, and this has been reflected in the extension of UN Conventions to Guernsey and Alderney, as well as the introduction of new legislation to prevent discrimination. The local review of provision for learners with additional needs has highlighted areas where greater integration across government services will benefit not just the learner, but also their families and supporting services to ensure that all learners make the maximum progress possible. This is reflected in the increased collaboration across the service areas of several Committees and was recognised in responses to the Committee's consultation on the proposals for the new Law.
- 1.9 Consultation and engagement on the proposals has been substantial, both during the first phase of the review conducted by the previous Committee and that conducted

during the current political term. Stakeholder groups were invited, at the very early stages of policy development, to set out their views and expectations of new legislation, and to question and challenge the various options, objectively examining their relevance and appropriateness to the local education system. Nowhere is this more true than in relation to the future governance arrangements for our education settings. This area is one which this Committee believes will make a lasting and substantial change for the benefit of learners and the community, through the establishment of Governance Boards delegating responsibilities and empowering school leaders. In developing its governance model, the Committee's members have immersed themselves in the world of education governance, learning from their own experience as interim Governors and blending that experience with input from teachers, parents and existing School Committee members, all of whom provide a ready-made pool of future Governors, alongside other members of the community.

- 1.10 The new Law will need to retain some of the key aspects of the current Law, in particular where this provides for the freedoms and rights of parents to choose whether to educate their children in a States-maintained school, at home, in a faith based (Voluntary) school, or in an Independent school, along with the safeguards that protect the learner wherever they are educated. This includes the need for registration processes, and appropriate checks of staff and school proprietors, as well as the need for external inspection, data collection and reporting to enable the necessary scrutiny and oversight of educational arrangements. This both serves to reassure parents, carers and the community, but also ensures that Government can strategically plan to ensure that education provision and delivery is efficient and effective and report on education data, including outcomes, at a jurisdictional level.
- 1.11 The Committee has, throughout the process, been mindful of the financial implications of the operation of the new legislation and is making the commitment that it can meet the duties of the new legislation by adapting ways of working and reallocating budget, as its priorities and services are refocused to support the Committee's drive for improvement and excellence.
- 1.12 In this Policy Letter, references to the 'current Education Law' and the 'new Education Law' and similar terms, should be taken to mean the suite of both primary and secondary legislation, unless otherwise specified.

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2. Introduction

- 2.1 The current Education Law dates from 1970 but has its roots in the post war years and The Education Act of 1944 in England. Whilst some content remains relevant much of the language, along with the duties, no longer align with the expectations of a modern education system. This has been acknowledged by consecutive States assemblies and in January 2018¹ the States resolved that the 1970 law *‘must be repealed and replaced with legislation setting out, inter alia, the educational aims and aspirations of a modern democratic society, educational policies adopted by the States in recent years and the powers and duties expected of a government in relation to education as it approaches the third decade of the 21st Century.’*
- 2.2 During the 2016 – 2020 political term, the then Committee for Education, Sport & Culture commenced its review of the Education Law, including consideration of the key policy areas, stakeholder engagement and a public consultation. Although never submitted for debate, a Policy Letter was drafted and shared with all new Deputies and the two Alderney Representatives following the General Election in 2020. The Committee considers that work to have been incomplete as it contained no proposals relating to future school Governance arrangements.
- 2.3 The present Committee recognised the need to review the Law but chose to take some time early in its tenure to understand the education system and the key policy areas for inclusion in legislation, alongside the development of other key workstreams in its mandate. In late 2021 the Committee started to consider its approach to reviewing the Education Law, building on the research and feedback already collected against an updated political and economic context. Its first priority was to establish the principles and objectives that would guide the policy development and provide a reference point for all of the decisions made. The Committee also determined that further targeted stakeholder engagement and public consultation was essential, and this needed to be more accessible to the community and should focus on the key areas of change that would be proposed.
- 2.4 In addition to the primary Law there are a number of other pieces of legislation that make up the overall education picture, including the Ordinances and Regulations that provide detail to the provisions in the Law and the policy and guidance that is available to education providers across Guernsey and Alderney. Although generally permissive, the 1970 Law includes duties and powers that are a barrier to progressing the delivery of education, for example in areas such as governance where the current legislation provides no explicit mechanism for greater devolution and delegation. The current legislation does not clearly set out responsibilities and accountabilities for the safeguarding of our learners, an area where in the 1970 Law’s duties are focused on outdated terms such as ‘cleansing’, rather than positive and strategic actions that support children and young people to benefit from the education system.
- 2.5 Currently, the Education Law (Guernsey) 1970, is applied, with modifications, to the Island of Alderney by the Alderney (Application of Legislation) (Education) Ordinance,

¹ [Billet d'État II of 2018](#)

1970. The provision of education in Alderney, through St Anne's School, is part of the 'transferred services' provided by Guernsey's government as part of the so-called '[1948 Agreement](#)'. St Anne's School is operated in accordance with legislation and policies which are applicable to schools in Guernsey, but through the Alderney-specific legislation.

- 2.6 The provisions of the new legislation for schools in Guernsey will extend to St Anne's School as it is operated by the States of Guernsey. However, this review of the Education Law provides an opportunity to consolidate legislation for education provided in Guernsey and Alderney (by way of a single law for both islands). It would mean that consistent standards and requirements would apply in both islands through a clear legal framework, regardless of the provider of that education.
- 2.7 There have been preliminary officer-level discussions and the matter has also been on the agenda of a Bailiwick Council meeting (attended by political representatives from each island). It is intended that the Committee will formally consult with the States of Alderney following consideration of this Policy Letter by the States of Deliberation.
- 2.8 The current Education Strategy has provided a framework for the development of the Law, ensuring that our policy proposals consider the high-level commitments and priorities that have been developed in collaboration with staff and leaders across the education system. As any education strategy evolves, it must remain ambitious and aspirational, and provide a strategic framework which both allows for, and actively supports, the requirements of legislation pertaining to education. The Strategy therefore forms a critical bond between legal requirements and operational delivery, ensuring a culture of continuous improvement is embedded across the education system.

3. Framework

- 3.1 Throughout the policy-making process the new Education Law has been viewed as a protection that surrounds the learner and which makes clear the rights and responsibilities of learners, their parents and carers, the education settings and services that exist to support learners, as well as government, across a variety of critical areas of consideration for education. On its own, the primary legislation will offer a strategic framework for the provision of an efficient, effective and sustainable public system of education fit for our modern society. It will not, and is not intended to, provide operational detail as such detail will need to flex over time to adapt to: the changing environment we live in; the impact of ongoing national and international research around education; and the evolving views and priorities of future governments in Guernsey, without removing the key and fundamental protections that primary legislation provides. This Policy Letter does provide some indications of the Committee's intentions with regard to the levels of legislation or policy which will need to be in place.

4. Principles and objectives

- 4.1 In developing these proposals, the Committee first sought to establish appropriate principles and objectives for the Law. Recognising that legislation is intended to have

a long life, these are purposely high-level and provide a vision that is relevant for today and for the future.

4.2 Principles of the new Law:

- Learners of all ages should be able to access a high standard of education within the resource constraints set by Government and in alignment with an Education Strategy
- Education will be available for all residents of compulsory education age without payment for admission or education fees
- Education will be provided, as far as possible, for those who wish to pursue life-long learning
- Education will be provided for those who have additional learning needs, in alignment with a Bailiwick Code of Practice

4.3 Objectives of the new Law:

- To help learners, especially children and young people, make maximum progress to become fulfilled and valued members of our community
- To support the cultural integrity of the islands while also supporting the development of our community based on mutual respect and inclusion
- To prepare learners for employment by equipping them with knowledge and skills and, so far as possible, to enhance these in adults through provision of appropriate life-long learning opportunities
- To provide learning environments that promote excellence while making the most effective use of public resources, including a highly skilled education workforce and, so far as possible, appropriate use of developing technology
- To protect learners and ensure their safety by implementing and maintaining high standards of safeguarding, ensuring that the educational environment supports their health and wellbeing

5. **Types of schools**

- 5.1 The above overarching principles and objectives support the expectations and entitlements for access to education. In addition, the Law will continue to recognise the education system as offering a choice of settings. This includes clearly defining the accountabilities and duties on States-maintained, Voluntary, and Independent schools, as well as provisions for home-educated learners.

States-maintained schools

5.2 Summary

- The new Law will define the term ‘States-maintained School’
- The new law will retain the ability to establish a new States-maintained school, subject to the Resolution of the States.

- 5.3 The current Education Law sets out the statutory system of public education and makes reference to the stages of education as well as provision for the Committee to determine the arrangements of the operation of the system, for example the length of the school day, the term dates and the school holidays. This sits alongside duties to ensure sufficient schools are available to provide for the educational opportunities appropriate to learners' needs.
- 5.4 In general terms the Committee is not intending to make changes to the overall intent of the current Law in this regard, including the need for a Resolution of the States to establish a new school. The new Law will be clear, through its Principles and Objectives, about the ongoing responsibility to provide a public education system, where there is no charge for admission or education for those of Compulsory Education Age.
- 5.5 Throughout this Policy Letter, the Committee has set out its intentions for the entitlement, governance, safeguarding and standards that will be required of States-maintained settings, including arrangements for learners with additional learning needs.

Voluntary schools

- 5.6 Summary
- The new Law will retain and define the term 'Voluntary School'.
 - The new Law will prohibit the establishment of additional Voluntary schools; instead, any new schools will be established as either Independent schools or States schools.
 - Legislation will provide the detail of any arrangement between the Committee and Voluntary schools in relation to the upkeep, repair and decoration of the school building.
 - The new Law will maintain the provisions in Section 7 (2) and (3) of the current Education Law allowing the Committee to step in and continue to run a Voluntary school from those premises for a maximum of two years in circumstances where the Diocese or those acting on its behalf, are unable or unwilling to carry on.
- 5.7 Guernsey has two Voluntary schools, Notre Dame du Rosaire Catholic Primary School and St Mary and St Michael Catholic Primary School. Both schools fall within the responsibility of the Diocese of Portsmouth ("the Diocese"). Under the current Law, the States are responsible for staffing and the operational management of these schools, and the Diocese is responsible for costs relating to the upkeep, repair and decoration of school buildings, which are Diocesan assets. These arrangements create challenges in ensuring that learners accessing those sites are not disadvantaged through any limitations in capital investment that is outside of the States' control. The Diocese also has responsibility for the oversight of the quality of Catholic teachings within the school, which are delivered alongside the wider Bailiwick Curriculum.
- 5.8 Discussions with representatives from the Diocese have confirmed that the current

Law lacks clarity around the shared responsibilities that exist regarding Voluntary schools in Guernsey. It is recognised that there is a need to develop a more comprehensive agreement setting out the specifics of shared responsibilities, in particular for the maintenance of the assets. The Committee wants to ensure that these arrangements are sufficient to enable schools to operate safely and efficiently. A formal agreement which lays out any detail between the States and the Diocese will be provided for in the legislation.

- 5.9 The new Law will carry over provisions that support the Catholic character of the existing Voluntary schools, including allowing for their ‘religious instruction’ (as distinct from ‘religious education’) to be under the control of the Diocese, and for them to set out the requirements of the religious instruction curriculum in accordance with provisions of the Trust Instrument relating to the school. The Governance Board (details of which are set out in section 11) will also (in addition to the general requirements) be responsible for holding the Headteacher to account for the delivery of faith-based learning, whilst remaining mindful of the other curriculum directives that apply to the schools and will be issued by the States of Guernsey through the Committee for Education, Sport & Culture.
- 5.10 The [Prevention of Discrimination Ordinance](#)² already includes exceptions that further allow for the Catholic ethos and culture to continue through faith-based admissions, curricula, and recruitment for senior leadership positions in schools with a religious ethos.
- 5.11 It is not the Committee’s intention to introduce provisions that would prohibit the merger, relocation or renaming of existing Voluntary schools; however, it believes that it is not necessary for the new Law to provide for the establishment of any new Voluntary schools. Instead, any new schools will be established as either States schools or Independent schools.

Independent schools

5.12 Summary

- The new Law will define the term ‘Independent School’ such that it applies irrespective of whether or not the school’s proprietors are in receipt of States funding.
- The new Law will be unambiguous in respect of what constitutes a school and the meaning of full-time education.
- The new Law will continue to require proprietors of Independent schools to register with the Committee before opening a new Independent school and the Committee will set out guidance to prospective proprietors of Independent schools in respect of the information to be provided when applying for registration.
- The content and detail of reports that Independent schools will be required to

² CHttpHandler.ashx (gov.gg)

return as a condition of registration will be contained in legislation and supplementary guidance.

- As now, the new Law will require independent schools to have regard to the guidance issued by the Committee, as a means of retaining registration.
- The new Law will establish an offence for a proprietor to operate an unregistered school.
- The new Law will set out that inspections of Independent schools can be undertaken only by any organisation, or officer acting on behalf of the Committee, as deemed appropriate and approved by the Committee to undertake such inspections.
- To provide consistency across the Grant-Aided Colleges, the new Law will not require States appointments to their Boards.

- 5.13 An independent school is defined in the existing Law as ‘any school at which full-time education is provided for five or more pupils of compulsory school age (whether or not such education is also provided for pupils under or over that age), not being a school maintained by the States or a school in respect of which grants are made to the proprietor of the school.’ Currently only one school in Guernsey (Monkey Puzzle) meets this definition. This currently leaves the Grant-Aided Colleges, Blanchelande College, Elizabeth College and The Ladies’ College, each of which receives a grant from the States, in an ambiguous position in the Law where they neither fall within the definition of a States-maintained school or an Independent school.
- 5.14 Like the Voluntary schools, the Grant-Aided Colleges offer choice to parents/carers within the education system. In developing these proposals, the Committee has recognised the role of government in legislating for the whole population and therefore it is necessary that the new Education Law affords the same protections as described by the principles and objectives (see section 4) to all children and young people who attend any school within the jurisdiction. In particular this relates to areas such as safeguarding where standards and expectations should be consistent, no matter where a learner is educated. The Law needs to recognise the differences that exist between States-maintained and independent education provision, and the level of involvement and specification that the Committee has in the day-to-day delivery of education. Key to providing a bridge across all education providers is the role of the Director of Education, a statutory post whose holder is the chief education officer of the States and has responsibilities and accountabilities for education delivery and standards.
- 5.15 Encompassing the Grant-Aided Colleges within the definition of an Independent school separates the duties and powers that those institutions are required to meet from any duties specifically linked to a funding agreement. The current, and any future funding arrangements are not the subject of this Policy Letter, save for the need for the new Law to retain powers permitting the States to make grants, loans or awards available as appropriate.
- 5.16 As part of the recent consultation, nearly 80% of the respondents to the public

questionnaire supported the clarity provided by a single definition for all schools that were not fully States-maintained. Key stakeholder groups also saw this as a benefit but felt it was important that the definition of Independent schools, and the duties and powers relating to those schools, did not introduce States control over these independent organisations. As now, the new Law will set out the requirements for registering as an Independent school and maintaining that registration.

- 5.17 As well as incorporating the Grant-Aided Colleges, the definition of an Independent school also needs to make clear what constitutes a school. The current definition uses the term ‘full-time’ in connection with the delivery of education, in common with many other jurisdictions, including England. In England this has provided a loophole leading to unregistered settings operating outside of the obligations of registered schools, and increasing the risks associated with children missing education. Similarly, the definition of ‘school’ can also be an issue especially when a group of home-educated children are being taught together either in a residential or non-residential setting. To ensure that all children and young people are safe and in receipt of an appropriate education it is necessary for an establishment providing all or substantially all of a group of children’s education to fall under the definition of a school which should be registered.
- 5.18 The Committee is required, under the current Law, to keep a formal register of Independent schools and to require that any new Independent school completes a registration process. Registration is provisional until an inspection of the school has been completed and notice given to the proprietor that the registration is final. It will remain an offence to operate an unregistered school, and the sanctions and penalties attached to this offence will be as currently set out³. The current Law also establishes a power for the Committee to make regulations in respect of Independent schools, including the circumstances which may lead to a school being removed from the register. Mechanisms for the Committee to serve notices of complaint are also provided for, for example in relation to the unsuitability of accommodation or instruction. The determination of complaints is by the Royal Court. These mechanisms will continue under the new Law.
- 5.19 Currently, a condition of an Independent school retaining registration is the submission of annual returns or reports to the Committee, with these including information such as pupil population numbers, details of teaching staff and school ownership. It is intended that these provisions will be maintained in the new legislation along with additional information requirements, such as the number of children/learners identified as having an additional learning need. The aim of this is to provide assurance and enable sufficient oversight to enable government’s strategic planning. It is anticipated that the new Law will outline the requirements of Independent schools regarding reporting to the Committee.
- 5.20 Each of the Grant-Aided Colleges has unique governance arrangements. In 2019 Elizabeth College updated its Statutes removing the requirement for States-appointed directors to the governing board. This change was made to facilitate the best

³ Section 24 (2) of the Education Law (Guernsey) 1970 -

commercial and governance practice in the appointment and selection of Governors. In contrast, The Ladies' College operates with all the powers of a limited company established in law but still requires States approval to the appointment of members of its board. Given best practice, it is appropriate that changes should be made in respect of The Ladies' College to remove this requirement.

6. Entitlement

6.1 Summary

- The new Law will define access to education for learners of compulsory education age by way of universal entitlement, taking account of available and reasonable resources.
- The new Law will clarify that services can continue to be provided flexibly either centrally, by commissioning or by delegation.
- The new Law will specify that a variety of education support services are provided for different needs.
- The new Education Law will include a duty to ensure the availability of an all-age careers service providing free, professional, impartial and independent careers information, advice and guidance.

6.2 The Committee recognises that the Law must set out a universal entitlement to education which ensures fair and equitable access to education for all children and young people of compulsory education age. The term 'universal entitlement' does not lock-in the specific details of the education offer but ensures that the legal framework makes clear the expectations for any learner of compulsory education age in Guernsey and supports a learner-centred approach, providing flexibility to meet differing needs.

6.3 Entitlement is a right provided to eligible individuals and the rules of that eligibility are normally established by law or policy. A universal entitlement means access to a service or benefit for all citizens or a defined group which is provided broadly equally. A universal entitlement to education is included in the legislation of jurisdictions considered to be at the forefront of progressive and inclusive education systems of high standards, including Japan, Finland and Canada. Using this approach in the new Law not only ensures the legislation is enduring, it also represents a significant and tangible commitment to provide education on the basis of a learner's individual needs and demonstrates that Guernsey is taking steps to eliminate barriers to education, as required by the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)⁴.

6.4 It is not the intention that the financial exposure of the States is increased by the proposed change in approach. Therefore, as now, the legislation will be clear that, where a learner requires provision to be adjusted in order that they are able to access it, the nature of that adjustment should not impose a disproportionate burden on the provider.

⁴ [Convention on the Rights of Persons with Disabilities – Articles | United Nations Enable](#)

- 6.5 Education entitlement encompasses education services that are provided to support a child or young person in their learning. Locally this includes Inclusion Support Services, such as the Communication Interaction and Autism Service, and the Education Psychology Service provided directly from the Education Office. There are also services commissioned through other agencies, such as the Sports Commission or Youth Commission. Each of these services is accessed and delivered to meet the needs of individuals or groups of learners.
- 6.6 The current Law does not make specific reference to these services or the entitlement that surrounds them. The only service highlighted is that of the Youth Employment Service, the functions of which have long since been incorporated into Careers Guernsey. As a key objective of education is to enable the progress of learners, the Law needs to ensure access to professional, independent, and impartial careers information, advice and guidance is available for all citizens. Notably the recent update to the Law in England and Wales has extended the scope of the careers offer and reaffirmed the requirement for it to be independent of schools.

Compulsory education age

6.7 Summary

- The new Law will use the term ‘Compulsory Education Age’ in place of Compulsory School Age.
- The new Law will define the start of Compulsory Education Age as the beginning of the school year in which a learner reaches five years of age.
- The new Law will not include a formal deferral provision for summer-born children.
- The definition of Compulsory Education Age in the new Law should not extend to include pre-school.
- The new Law will define the end of Compulsory Education Age as the last Friday of June in the academic year in which the learner reaches 16 years of age.

- 6.8 In broad terms, the current law references compulsory school age as being ‘any age between five years and sixteen years’⁵. When considering how this might change in the future the Committee considered two key areas: first, is this the correct description and second, is the age range appropriate.
- 6.9 The Committee recognises that not all children attend ‘school’. Some children access education in a different way and, given the principles of inclusion, it is appropriate to update the terminology to instead refer to compulsory education age. In defining what that age should be the Committee has considered: what happens locally; the policies on education age across comparable jurisdictions; and the feedback from its consultation where there was no strong single view that suggested a change to the age range was necessary. 84% of the 735 respondents to the online questionnaire

⁵ [Section 16 \(1\) Education \(Guernsey\) Law 1970](#)

agreed that the age range should remain as now (5 to 16 years of age).

- 6.10 The admissions policy for States-maintained primary schools specifies that children must be in receipt of education from the academic term following their fifth birthday. However, in practice, nearly all children begin school in the September following their fourth birthday. This arrangement is considered by education leaders to be beneficial, with children joining the school together in one cohort, and building the foundations of learning. A partnership approach works to achieve a positive transition from pre-school into school for all children and also has the advantage of providing straightforward oversight in respect of the admission of learners into their Reception year. The inclusion of a defined starting point for compulsory education age will also provide clarity for parents and carers.
- 6.11 Consideration has been given to making formal arrangements for those children who are born in the summer to be able to defer starting school by one year, given that they might be almost 12 months younger than some of their peers. Where this option is available in other jurisdictions, it is implemented with the caveat that such a learner will not complete their GCSEs until aged 17. The risk of offering a deferral is that it could lead to those young people leaving school at 16 without qualifications or being required to miss a year of their education (most likely around the transition from the primary to secondary phase) to re-join their chronological year group, disrupting relationships which have already been formed and missing out on elements of the curriculum vital to their future learning. Neither of these scenarios is considered optimal.
- 6.12 Currently parents/carers can request a deferred school start for their summer-born children in exceptional circumstances. In practice there are very few such requests. Feedback from key stakeholders showed a lack of support for deferral, noting the risks outweighed any potential benefits. The concerns expressed by stakeholders included the potential detrimental impact on learners' wellbeing from remaining a year behind their peers either for all or part of their education. For these reasons the Committee it is not proposing that the legislation provides for a deferred school start for summer-born children.
- 6.13 Recognising the benefits of accessing early childhood education and care, there is an argument to extend compulsory education age to encompass pre-school. Guernsey already sees very high levels of attendance at pre-school, indicating that there would not be a significant advantage in lowering compulsory education age. There are additional operational complexities in lowering the age of compulsion, for example, most pre-schools are currently run as private, voluntary, or independent organisations and to ensure equality of access and opportunity, the provision of pre-school education would need to be standardised across all settings were it to be compulsory. Alternatively, primary schools would need to be expanded to accommodate younger learners, to the detriment of non-maintained pre-school providers. While it is not considered appropriate to make pre-school attendance compulsory, the Committee strongly advocates all learners accessing early childhood education.
- 6.14 The upper age limit of compulsory education is defined in the current law as the last

Friday in June of the academic year in which a learner reaches age 16. A clear end date is important to manage the expectations of parents, carers and learners, and to safeguard the education of children and young people. Therefore, there will be no change to the upper age limit of compulsory education.

Education participation age

6.15 Summary

- The new Law will introduce the concept of an education participation age: a period beyond compulsory education age when young people must continue their learning.
- The current Committee considers education participation age to be a ‘futureproofing’ provision, not active when the Law comes into force, and only being utilised following engagement with employers and other States Committees.

- 6.16 Alongside compulsory education age, the Committee also considered the introduction of an education participation age. Rather than raising the compulsory education leaving age or precluding young people from entering into employment, education participation introduces the concept of continued – and continuous learning and providing young people with a choice about how to continue learning in a way that best suits their needs and aspirations.
- 6.17 Guernsey currently has only a small number of 16 to 18-year-olds who choose not to continue in education or become an apprentice. Young people most likely to be affected by the introduction of an education participation age are those who, in the absence of compulsory participation, would likely not be in education, employment or training (NEET). Figures from 2020/21 show that 88% of 16-year-olds were participating in post-16 education or had joined an apprenticeship scheme⁶.
- 6.18 In England and Wales, a participation age of 17 and, subsequently 18, was implemented in 2013 and 2015 respectively. The provisions were introduced to ensure that all young people had the chance to develop the knowledge and skills they need for adult life by continuing their learning to secure the qualifications, knowledge and practical skills necessary to help them succeed. This can be through further education, an apprenticeship or employment.
- 6.19 Among the main benefits for young people of further participation in education are increased aspiration, better life chances and an increase in potential future earnings. Even though there is evidence that vocational qualifications at level 2 (equivalent to GCSEs) or below have little economic impact generally, research suggests that they are likely to benefit young people who leave school with no qualifications. Young people who participate in post-16 education or training are also more likely to be in employment at a later date when compared with those whose formal learning ends at age 16.

⁶ [Education Annual Report 2023](#)

- 6.20 Employers have also indicated that for some young people who join the full-time workforce at 16 additional training would be beneficial, recognising that this might be a mix of formal and informal education and training.
- 6.21 Participation rates for learners in Guernsey aged 16 to 19 are high and retention rates for learners on level 1 and level 2 courses are in line with the UK benchmark at around 90%. However, the pass rates for level 1 and level 2 programmes are higher than the UK average. Establishing an education participation age would require young people to remain in education or undertake some form of employment-related training, such as apprenticeships, until they reached that age.
- 6.22 Research identifies that young people who leave education with lower-level qualifications enter the labour market in generally low skilled, low paid roles with limited opportunity for training or progression which impacts on life chances.⁷ It is possible that in the context of Guernsey's current economic climate, education participation beyond compulsory education is most effective when young people are encouraged to participate of their own free will or alongside the potential introduction of an entitlement for all ages to access a level 2 or 3 qualification.
- 6.23 In response to the consultation survey, the public and various stakeholder groups had a mixed view about the potential positive and negative impacts on individuals and the community of the introduction of an education participation age. 51% of those who responded to the public survey agreed that there should not be a requirement for young people to undertake any learning beyond age 16 if they did not want to. The Committee acknowledges that with good levels of participation in education beyond 16 already, a requirement to participate further is not currently necessary. However, the Committee recognises that the ability to introduce an education participation age might be needed in the future, in particular if there was to be a significant increase in the numbers of young people not continuing in education or training beyond compulsory education.
- 6.24 For this reason, the new Law will make a provision for an education participation age but require that ahead of commencement of such a provision the Committee must engage with employers and other Committees of the States to detail the exact requirements and expectations that the introduction of a participation age would bring. The provisions in the new Law would also provide flexibility so that there is scope for the extent of participation required to be adjusted over time, in line with best practice, evidence and experience.

⁷ Atkins, L. (2009), *Invisible Students, Impossible Dreams: experiencing vocational education 14-19*, Stoke-on Trent: Trentham Books.

Keep, E. (2015) Thinking about where to go and what next to do in the reform of vocational qualifications, *Journal of Education and Work*, 28:2, 117-125,

Early Childhood Education

6.25 Summary

- The new Law will create a duty on the Committee to ensure sufficiency of provision for those who choose to make use of their funded pre-school entitlement.
- The new Law will provide the flexibility to prescribe any conditions on, or changes to, funded early childhood education.
- There is recognition that a lack of affordable childcare can be a barrier to workforce participation and the Committee acknowledges the recent Resolutions of the States in identifying ways to address this.

6.26 The early-years phase spans pre-school provision and the Reception year in primary school. High-quality early childhood education (ECE) also supports transition into the primary phase and is an integral part of a child's education journey. The provision of free pre-school education locally is subject to a number of resolutions of the States⁸ but is not fixed in any law. The existing entitlement is up to 15 hours per week, 38 weeks a year (i.e. term-time only), for families with a joint income of £150,000 per annum or less. In other jurisdictions the provision and entitlement have been written into legislation, including in England where Section 1 of the Education Act 2011 places a duty on local authorities to secure early years provision free of charge. Regulations made under the Childcare Act 2006 in England, set out the type and amount of free provision and the children who benefit from it. As part of the Spring 2023 budget, the UK Government announced a package of measures designed to support people to enter work, increase their working hours and extend their working lives. This included increasing childcare support for working parents to 30 hours of free childcare per week, for 38 weeks of the year, from when their child is 9 months old to when they start school.

6.27 Data from 2021/22 demonstrates that since its introduction, local pre-school education funding has supported an increase in children accessing pre-school so that now 99% of children are accessing an offer of early childhood education in the year before they start school. Parents/carers of around 3% of children who are accessing early childhood education are not making use of pre-school education funding. Outcomes data, reported in the Committee's 2023 Annual Report, also highlights a reduction in the number of vulnerable children not achieving typical levels of attainment for their age (compared to their peers who were not identified as being in a vulnerable group), and the increase in the number of children who are achieving a Good Level of Development at the end of the Early Years Foundation Stage (EYFS) in Prime⁹, literacy and maths.

6.28 Through its consultation the Committee sought to better understand the views of the public and stakeholder groups on the provision of free early childhood education. It

⁸ [Article 15, Billet d'Etat X of 2014](#), [Article 9, Billet D'Etat XX of 2015](#), [Billet d'Etat XII of 2017](#)

⁹ The Prime areas are: communication and language, physical development, and personal, social and emotional development. [Early Years Quality Standards Framework \(EYQSF\)](#)

was encouraged by the high numbers of respondents who chose to make additional comments alongside suggestions of the age range that should be included within the free entitlement. It was clear from the responses that the States need to consider how to better support parents to become more economically active – either directly through workforce participation or through undertaking training leading to employment. With this wider focus on childcare as an economic enabler for parents/carers, the Committee believes that policy changes in this area go beyond its mandate and might be better considered as part of the work directed by the recent Resolutions from the Tax Review¹⁰ to investigate opportunities and remove barriers for those who want to join, or increase their level of participation in, the workforce.

- 6.29 However, the Committee recognises the benefits that early childhood education provides to children, their families and the community and wants to further its commitment to promoting and encouraging participation. It is therefore proposing that the new Law establishes a duty (on the Committee *for* Education, Sport & Culture) to ensure that there is sufficient quality-assured provision for all children whose parents/carers want to exercise their entitlement to early childhood education.
- 6.30 When the new Law is introduced, the level of funded pre-school provision will be set at the same level as the policy in operation at that time (thus incorporating any policy changes resulting from the resolution referred to in paragraph 6.28 above). The new Law will be sufficiently flexible to accommodate future policy changes to the level of the funded pre-school entitlement, for example to provide an enhanced offer for children who would most benefit from it.

Admissions

6.31 Summary

- The new Law will specify the basis for admission to Guernsey schools, which will continue to be by catchment areas for primary schools. Secondary admissions will be based on a partner school model in that each primary school will partner with one of the secondary school sites.
- How children with complex learning needs are assessed for specialist provision is detailed in section 7.

- 6.32 Guernsey currently operates a system whereby every States-maintained mainstream primary school, with the exception of the Catholic Voluntary schools, has a defined catchment area. In September 2019, a 'partner school' system for Year 7 secondary school admissions was introduced instead of allocation by catchment area. This partnership approach supports a positive transition between Years 6 and 7, with children from a primary school moving together to the same secondary school.
- 6.33 All children are required, by law, to receive a suitable education, most commonly achieved through attendance at school and, as such, an admissions process is needed to organise which school children can attend. Currently, the scope for parental preference is limited although some flexibility exists via 'out of catchment or out of

¹⁰ Proposition 14B of Billet d'État II of 2023, Article 5 [The Tax Review: Phase 2 - States of Guernsey \(gov.gg\)](https://www.gov.gg/The-Tax-Review-Phase-2-States-of-Guernsey)

partner school' procedures. Whilst the current Law includes a provision (Section 34) relating to the 'wishes of parents' this is different to parental preference and does not provide the legal authority for parents to decide which States-maintained school their child attends.

- 6.34 In addition to admission by catchment area, parents can: make an application for their child to attend one of the two Voluntary schools; elect for their child to attend an Independent school either on- or off- island (at the parents' expense); or home educate their child. While these options do not provide full parental preference over the specific school their child attends, they demonstrate that, locally, parents/carers do have options over where their child receives an education. Local arrangements differ from UK jurisdictions, which provide parents and carers with the ability to opt for their preferred primary school. In England and Wales this is a statutory right with local authorities obligated to adhere to parental preferences unless specific criteria apply. Locally, the current system ensures students will not have to travel far to their school and school transport can be more easily provided, and better supports the States Integrated Transport Strategy, where places are allocated by catchment area rather than on an island-wide basis.
- 6.35 Data from the UK (including studies published by the Department for Education¹¹ and the University of Bristol¹²) has highlighted the impact parental preference admissions processes can have by increasing house prices in areas where one local school is more popular than another. As local pupils are prioritised, less affluent families are consequentially unable to get a place in an oversubscribed school due to higher property prices surrounding the school. This can lead to a situation where, generally, vulnerable learners are less likely to attend schools with strong inspection judgements, thus further reducing their life chances.
- 6.36 Whilst the introduction of a parental preference system locally would bring a greater choice to parents/carers, it would also represent a significant change for the island. A system of parental preference would be administratively more complex to operate and have the potential disadvantages of increased competition over the 'best' schools, prompting 'selection by mortgage' or leading to the perceived weakest schools operating with a comparatively small number of children. Our system-wide approach to education delivery would make such a scheme, where schools are set as rivals against one another, unsustainable. Additionally, a system of parental preference would also lead to increased traffic movements around the island at peak times. The significant advantage of catchment areas is that they mitigate the potential for discrimination against parents/carers or children based on socio-economic status or other demographic factors. The current catchment area system provides parents/carers with surety over which school their child will be placed in, whilst still offering some flexibility over school arrangements should there be exceptional circumstances.
- 6.37 It should be noted that admission to the island's specialist schools, Le Rondin, Le

¹¹ [DfE \(2018\), Secondary and primary school applications and offers: March and April 2018](#)

¹² [Burgess-School-Admissions-report.pdf \(nuffieldfoundation.org\)](#)

Murier or Les Voies, is based on a process of determined need for the learner. Further details about the Committee's expectations and proposals for legislation to support that process are detailed in section 7: Additional Learning Needs.

Attendance

6.38 Summary

- The new Law will establish the ability to issue fixed penalty notices for non-school attendance, subject to detailed proposals returning to the States for consideration.
- The Law will continue to make it an offence to fail to enforce school attendance in accordance with a school attendance order.
- The new Law will require schools to hold and maintain registers of learners.

6.39 The link between poor school attendance, poor academic achievement and limited life outcomes is well established in national research¹³. School attendance rates locally are similar to rates in other jurisdictions, and like those jurisdictions the islands have seen a decline in attendance since the COVID-19 pandemic. The expectation remains that all learners will achieve an attendance level of at least 95%, which is also in line with other jurisdictions. A 95% attendance rate is the equivalent of missing nine-and-a-half-days of education across the school year. It is also expected that any non-attendance would be as a result of authorised absence.

6.40 There are many reasons for non-attendance at school including: sickness, issues with school settings; special educational needs; inter-generational behaviour patterns; and term-time holidays. Locally, low unemployment rates add an additional complexity to school attendance, with the historic assumption that jobs are available irrespective of a person's formal qualifications and educational achievements. It is important to recognise that different approaches to improving attendance are required depending on individual circumstances, but a key requirement is a clear escalation process for circumstances where there are ongoing attendance issues.

6.41 Failing to attend school is a condition for compulsory intervention under the Children (Guernsey and Alderney) Law 2008, and can lead to a referral to the Children's Convenor. Additionally, a parent or carer of a child who is a registered learner at a school and fails to regularly attend is guilty of an offence under Section 20 of the current Education Law and this may result in a criminal prosecution leading to a fine or imprisonment. The introduction of the new Law presents the opportunity for an additional approach to increasing school attendance, particularly when children and young people are absent due to persistent term-time holidays. The Committee advocates the use of powers in circumstances where absences are deemed to be detrimental to the learner.

6.42 In some cases where there are issues of non-attendance at school, this is likely to be indicative of other problems being faced by the child or young person. A coordinated

¹³ [DfE \(2015\), The link between absence and attainment at KS2 and KS4](#)

approach between the relevant professionals helps ensure the most appropriate intervention can be identified at the earliest possible opportunity. A system of escalation is important so that families can be appropriately supported, and this is provided through the Children's Convenor process. There are some cases of non-attendance where all other strategies have been exhausted and, in those instances, it is considered appropriate that there should be a more punitive measure to act as a deterrent.

- 6.43 Views on the introduction of fines for non-attendance split the opinions of those who completed the public consultation's online questionnaire. Slightly more respondents, 46%, agreed that there should be a power to administer fines in the new Law, against 40% who disagreed (14% said they did not know). Whilst it is recognised that fines might not have a long-term impact on persistent non-attendance¹⁴, they have been seen to have a positive effect on short-term non-attendance and to be a deterrent for parents considering taking their children out of school for a term-time holiday.
- 6.44 The Committee has taken account of the feedback and has concluded that the power to issue a fixed penalty notice should be provided for in the new Law, but that there needs to be flexibility both over if and when these powers are brought into effect and to ensure such measures are used only where there are persistent issues. The use of fixed penalty notices will be a measure available to all schools offering full-time education to learners of compulsory education age. For the avoidance of doubt, the Committee does not intend that this power will be brought into effect without further consultation in advance of detailed proposals being brought to the States for consideration.
- 6.45 Beyond fixed penalty notices it will continue to be an offence for the parent or carer of a child to fail to enforce school attendance in accordance with a school attendance order.
- 6.46 Clear registration systems are the most effective way of managing attendance and schools are best placed to manage these processes. Section 36 of the current Education Law contains a power for the Committee to make Regulations in respect of registers to be held by schools and establishes a duty for schools to maintain registers and surrender them for inspection if required. This provides the statutory framework for recording the presence or absence of learners and it is proposed that similar powers and duties are included in the new Law. This will enable accurate recording and reporting in regard to school attendance and will provide schools with the tools to manage attendance.

Exclusion

6.47 Summary

- The new Law will not allow the permanent exclusion of a learner from the universal entitlement to education.

¹⁴ [Parental responsibility measures for attendance and behaviour - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/policies/parental-responsibility-measures-for-attendance-and-behaviour)

- The law will allow for a learner to be excluded from a specific setting either for a fixed term or permanently.
- There might be circumstances where learners will move to a different setting which is more appropriately suited to their needs. Any move will be managed in a sensitive way involving the learner and their parents or carers, as well as other appropriate stakeholders, and where applicable in line with the Code of Practice relating to additional learning needs.
- Independent schools must liaise with the Director of Education prior to the permanent exclusion of a learner from that school, to enable the transition process for that learner to an alternative education setting to be managed, as it would be between States-maintained schools.
- The new Law will use updated terminology associated with exclusions to better reflect the principles of the United Nations Convention on the Rights of the Child (UNCRC).
- Policies should be consistently applied to ensure that schools are informed by accurate data regarding the extent of fixed-term exclusions and/or permanent exclusion from a specific setting, so that behaviour strategies can be developed and targeted appropriately.

6.48 All learners and staff should be able to learn and teach in a safe environment free from disruption. Managing poor behaviour in classrooms can be a challenge in many, if not all, schools and it is appropriate for Headteachers and Principals to have the power to use fixed-term exclusion as a consequence for behaviour that consistently falls below expected standards, or is disruptive or puts other learners and/or staff at risk. However, it is important to recognise the children and young people who are most likely to be excluded are those with the most complex needs and who are the most vulnerable socially and economically. While exclusion might not be the sole cause of poor attainment, analysis undertaken as part of the Timpson Review suggests that only 18% of children who received multiple fixed period exclusions went on to achieve good passes in English and maths GCSEs¹⁵ in 2016/17.

6.49 Fixed-term exclusions of learners from vulnerable groups locally follow similar patterns to those in England. Local data demonstrates that boys are more likely to be excluded than girls; learners with additional learning needs are more likely to be excluded than those without additional needs; and learners whose family is in receipt of uniform allowance are also more likely to be excluded.

6.50 Unlike in England, there is no provision in the current Education Law to permanently exclude learners from school. The existing policy provides for fixed-term exclusions but it is recognised that a decision to exclude a learner for more than 20 days is a serious one and will either be the last step in a long series of strategies which have been unsuccessful, or in response to a very serious one-off incident.

6.51 With the UK's ratification of the United Nations Convention on the Rights of the Child

¹⁵ [Timpson Review of School Exclusion, 2019](#)

(UNCRC)¹⁶ extension to Guernsey, the States are required to have regard to the Convention's principles in all policy development. Article 28 provides that States Parties recognise the right of the child to education and by confirming that access to education will be defined by right of universal entitlement in the new Law, the States are meeting this requirement. Article 3 of the UNCRC states that in all actions concerning children ... the best interests of the child shall be a primary consideration. In practice this means that any policy decision about exclusions should reflect a balance between the best interests of children in the classroom whose learning might be subject to disruption, alongside the best interests of the child who might sometimes struggle with the structured approach of a classroom. Given the context of education provision locally and the proposal to define education by right of universal entitlement, the power to permanently exclude a learner from that right is considered unnecessary and in opposition to the UNCRC principles.

- 6.52 It is recognised that there will be circumstances where it is right that a learner moves to a different educational provision, either because their needs will be better met in another location, or within an alternative arrangement, or because all other possible strategies have been exhausted by a school. It is therefore important that where there are issues and challenges, schools retain the right to work collaboratively with partners to identify a provision which best meets a learner's needs and that any move takes place in a managed way. This includes the movement of learners between the Independent and States-maintained sectors, where liaison through the Director of Education will enable appropriate arrangements to be put in place.
- 6.53 Without the negative association of the terminology of exclusion, the transition of a learner in a managed manner should be viewed in a positive way, providing the learner with the chance of a fresh start. The new Law brings with it an opportunity to review the language used to describe the process of ensuring that, where there have been issues and challenges, learners are matched with a provision that is most appropriate to meet their needs. Crucially, the move of a learner to a specialist provision will need to follow the established formal assessment process.
- 6.54 There are many different approaches to managing behaviour in school and research indicates that the most important factors for effective strategies are: a strong school culture promoting positive behaviour, responsibility and accountability alongside the consistent application of policies. Early intervention to support students with the greatest need is considered vital to enable them to remain in a structured school environment by applying strategies prior to reaching the point of a fixed-term exclusion. However, there might be circumstances that require a learner to be excluded for a time-limited period in order for the school to put an alternative plan in place. To ensure that alternative plans represent the best interests and most appropriate provision for the learner, agreed processes should be followed and in this respect the process for fixed-term exclusions needs to be applied consistently across all States-maintained settings.

¹⁶ [The United Nations Convention on the Rights of the Child](#)

Curriculum

6.55 Summary

- The new Law will include a duty for the Committee to be accountable for the development of the Bailiwick Curriculum in collaboration with key stakeholders, and specify that schools are responsible for curriculum interpretation and delivery.
- A curriculum provides the framework necessary to support the delivery of lessons, subjects and the overall educational experience for learners. This ensures that, no matter what school a learner attends, the knowledge and skills that are taught will be sufficient at all phases to meet the objectives set out below
 - reflect the needs of all learners and be appropriately broad, diverse, and ambitious, and enable creativity.
 - equip learners with knowledge and skills so they are able to succeed wherever they are, either within or beyond the Bailiwick, now and in the future.
 - prepare learners for the opportunities and challenges of living in a modern, democratic society.
 - recognise and reference the local context and the islands' unique culture and heritage.

6.56 The Bailiwick Curriculum has been developed to prepare learners for the opportunities and challenges of living in the 21st century and beyond. The Committee is accountable for the development of the curriculum in collaboration with stakeholders, and schools are responsible for curriculum interpretation and delivery. All States-maintained schools are required to follow the Bailiwick Curriculum.

6.57 Every learner should have the same opportunities and entitlements delivered through the Curriculum to develop them as: successful learners, confident individuals, responsible citizens and effective contributors. Learners also need to be ready for tests and examinations both at school and in later life.

6.58 The inclusion in legislation of a statement of curriculum that specifies the areas of learning and subjects which must be taught has the advantage of providing clarity on the priority areas, but also narrows the focus of teaching and learning. The current Education Law provides that only 'Religious Instruction' and 'collective worship' are mandatory aspects of the curriculum, and this does not accurately reflect the breadth of skills and knowledge required for life in a contemporary society. In future, the legislation will not include reference to any specific curriculum content as the Committee believes it is not appropriate or necessary for legislation to specify the operational detail of how schools deliver education on a day-to-day basis, but rather it is the role of legislation to provide the high-level legal framework for schools to operate within.

6.59 The Committee believes strongly that schools represent an important hub for the

whole community they support. This stretches beyond staff and students to parents and carers; members of a learner's extended family; the local population; businesses and other community groups. The role of the school to build and integrate a community should be recognised in the Law so each school providing education to children of compulsory education age, will be required to make available regular opportunities to assemble as a school community to encourage social cohesion and allow time for celebration, reflection and contemplation.

- 6.60 The curriculum for the teaching of Religious Education (Religion, Philosophy and Ethics) was revised as part of the Bailiwick Curriculum launched in September 2017. This ensures that learners have access to a programme that promotes spiritual, moral and cultural understanding. An education setting should provide an opportunity for learners to understand the Christian heritage which underpins the culture and values of our local society and understand its continued influence. Religious Education should also build knowledge around different religions to enable learners to understand beliefs in a local and global context. It is considered that teaching and learning on this broader basis would not require a right to withdraw a learner from Religious Education as a subject.
- 6.61 Education policy sets out the entitlement to the core subjects of the Bailiwick Curriculum and provides specific guidance for the other areas of learning. This ensures that States-maintained schools understand what is required of them, how this will be assessed and the support available to them. The process for dealing with any exceptions or variations to the curriculum is also contained in policy and this, alongside the curriculum content, must be transparent and visible to parents and carers. Parents and carers are encouraged to discuss any concerns with the content of the curriculum with the child's school.
- 6.62 Consultation on curriculum as part of the review of the Education Law highlighted some key areas for consideration by the Committee, including: the need for local content to be included; the expectation that the curriculum includes life skills and provides a global perspective; and the belief that the curriculum must be inclusive and relevant to learners with additional needs. The decision not to include specific curriculum entitlements in the legislation provides flexibility but does not remove the requirement to ensure all learners have a broad and ambitious education as set out at the start of this section. Overall, the majority of respondents who completed the online questionnaire supported the Committee's approach.

Fees and charges, grants and loans

6.63 Summary

- The new Law will continue to set out that no fees are to be charged for the admission to States-maintained schools, or for the education provided to learners registered at States-maintained schools.
- The new Law will allow for circumstances where charges may be made. This could include the provision of education in Guernsey for learners from Sark.
- The new Law will include the existing power to provide financial assistance.

The circumstances and governance processes for making loans, grants and allowances will be set out, as now, in policy.

- 6.64 The current Education Law (section 48) sets out that no fees will be charged in respect of admission to, or for the education provided in, any school maintained by the States for residents of Guernsey and Alderney. It does not specify further when fees or charges can be made.
- 6.65 Existing States of Guernsey finance directives allow for charges to be levied following approval, by a Committee or the States, as a method to recover costs for the provision of specific goods and services to identifiable consumers.
- 6.66 The new Law will need to allow flexibility for changes to the structure and governance of schools and services over the life of the legislation to avoid future amendments. Therefore, this section of the new Law must provide for any legislation necessary to permit charges relating to activities that take place beyond the 'school day' and for other services related to education, for example if transport is provided beyond the free school transport policy. In addition, there is a need to accommodate agreements already in place with Sark's Chief Pleas for Sark-resident learners to attend secondary school in Guernsey. Charges and fees will not be levied for learners of compulsory education age where they would create a barrier to learning.
- 6.67 The current Education Law establishes a power for the Committee to provide financial assistance to learners attending schools and further education institutions. This allows discretion to waive charges and fees for groups or individual learners and also provides a legal basis for the payment of school fees. This could include off-island placements for health reasons, the cost of which is met by the Committee for Health & Social Care (CfHSC), and currently for special placeholders attending the Grant-Aided Colleges (although it is expected that new legislation will not be in force before the remaining special placeholders complete their secondary education at the end of the 2024/25 academic year).
- 6.68 The current legislation also sets out the circumstances in which the Committee can make loans and grants for study. The detailed policy around the provision of financial support to students is contained within the Guides to Funding¹⁷ which covers courses at The Guernsey Institute, Higher Education awards, disabled student allowances, independent student bursaries and on-island funding. These are reviewed annually and agreed by the Committee.
- 6.69 The flexibility available through the existing provision must be maintained to take account of the evolution of services and educational offering locally. This flexibility also enables the Committee to target funding to support knowledge and skills development in priority areas.

Transport

- 6.70 Summary

¹⁷ <https://gov.gg/studentfinance>

- The new Law will include power for the Committee to operate a transport policy, to facilitate all learners' attendance at school, including those with an additional learning need.
- The new Law will include needs-based language as appropriate to adhere to the guidance from the UN Convention on the Rights of the Child and UN Convention on the Rights of Persons with Disabilities guidance that children/learners with additional learning needs and disabilities are entitled to special care and consideration and that accessibility which facilitates education is important.
- Any transport arrangements made by the Committee must have due regard to any States on-island transport strategy currently in force.
- For flexibility purposes, the Law will retain the ability for the Committee to charge for transport.

- 6.71 The current Law allows the Committee to 'make such arrangements for the provision of transport as it considers necessary for the purpose of facilitating the attendance of pupils at schools' and, where necessary, to charge for these services – linked in part to walking distances to school as specified in the Law.
- 6.72 In practice the operation of school transport to and from secondary schools, arranged through the Committee *for the* Environment & Infrastructure, offers routes which start and end much closer to the schools than the walking distance in the Law prescribes. Dedicated school transport is also in place for some primary schools, and for around 250 learners who have a determination of special educational need. This uses a mixture of the States' own fleet of vehicles and contracted services.
- 6.73 In determining how the new Law might address the provision of transport for children/learners with additional learning needs, the Committee has considered the articles of the UNCRC and UNCRPD. While neither Convention specifically references the issue of transport provision, there are key sections which are relevant.
- 6.74 The UNCRC specifies that State Parties recognise the right of the child with disability to appropriate special care and encourages its extension to both the child and the parent or carer subject to available resources. Such special care should be provided free of charge and be designed to ensure that the child has effective access to, and receives, services in order for them to achieve the fullest possible social integration and individual development, including education.
- 6.75 The UNCRPD aims to 'promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities' and the Convention's General Principles emphasise 'full and effective participation and inclusion in society' and 'accessibility'. Article 24¹⁸ sets out that States parties should recognise the right of persons with disabilities to education with reasonable accommodation of individual requirements.

¹⁸ [Article 24 – Education | United Nations Enable](#)

- 6.76 Alongside the legislation, the On-Island Integrated Transport Strategy sets out the intention to reduce the number of miles travelled in private motor vehicles in favour of walking, cycling and buses¹⁹, supporting the need for a coordinated active travel offer to be available.
- 6.77 Whilst all children under 16 are able to access free buses in Guernsey with a Student Puffin Pass, the flexibility to include the power to charge for transport should be retained in the new Law, but the inclusion of a defined walking distance to school is not believed to be necessary as if needed this can be set by operational policy.

7. Additional learning needs

Principles

7.1 Summary

- The Education Law will:
 - Set out an overall direction to support inclusivity and equity
 - Promote a child- or learner-centred approach
 - Use terminology and definitions that promote inclusion
 - Incorporate needs-based language
 - Indicate that the duty of parents to secure education for their child should include reference to suitability to any additional learning need.

- 7.2 In line with the underpinning principles and objectives of the new Law as described in section 4, it is necessary that the essence of any powers, duties or provisions take a child- or learner-centered approach and demonstrate inclusivity and equity. In particular, the new Law should use terminology and definitions that promote inclusion.
- 7.3 The new Law focuses on making educational opportunities available to all learners, no matter their circumstances. In determining the new Law's approach to additional learning needs the Education Strategy assists by highlighting the value of inclusion and the need for a learner-centred approach to fully integrate their needs across every aspect of education provision. There have also been a variety of developments that are relevant to considerations in this area – including international Conventions that have been extended to Guernsey (for example the UNCRC), or are expected to be extended (for example the UNCRPD). The incoming Prevention of Discrimination Ordinance further supports the need for clear and non-discriminatory practice and a culture of reasonable adjustments.
- 7.4 Consideration has been given to the processes for assessing need, the age-range of learners benefiting from the education offer, and how best to modernise the terminology used.

¹⁹ [On-Island Integrated Transport Strategy](#) and [Climate Change Action Plan](#)

Background and current arrangements

- 7.5 The current Education Law requires that a learner should receive efficient full-time education suitable to their age, ability, and aptitude and to any 'special educational needs' (SEN) they may have, either by regular attendance at school or otherwise. Parents have a duty to ensure their child receives an education and the Committee has duties to ensure that special educational provision is made for learners who have SEN. Further SEN elements are set out in the 1987 Amendment to the Law, including high-level requirements around identifying, assessing, providing for and reviewing needs. The current SEN Code of Practice expands on requirements, setting out how processes should work in practice.
- 7.6 The legislation sets out the Committee's responsibility to identify children/learners with SEN who might require the Committee to determine the special educational provision that should be made for them. In addition to learners registered in States-maintained schools, the duty covers those who have been 'brought to the attention of' the Committee who either attend an Independent School or, as long as they are not under the age of two or over the compulsory education age, do not attend any school, for example home-educated learners with SEN of which the Committee has been made aware. The Law also mandates that the Committee conducts an assessment of learners with SEN if requested, unless doing so is unreasonable or inappropriate.
- 7.7 Many children and young people experience difficulty in learning at some point in their education. Barriers to learning might be short- or long-term, and the support needed might change over time. The majority of learners should be suitably supported in schools through high-quality teaching and simple, effective strategies. Some learners might need additional support from specialists in Education, Health and Social Care services, or other partners, and relatively few learners have a level of need that requires their special educational provision to be formally determined. Regardless of the level, appropriate support is key if learners are to avoid facing diminished chances of succeeding compared with their peers, and potential impacts on, for example, their confidence, ambition and behaviour, all of which runs counter to the aspirations and objectives of the new Law.
- 7.8 Obligations in respect of the provision of support for learners who attend an Independent School or are home educated are limited, in that the Committee has no responsibility for ensuring access to, or funding of, appropriate SEN educational support or services for learners whose parents have made their own educational arrangements. Such learners do not currently have free access to the education support services provided by the Committee, but they may access those services if a parent or carer chooses to pay for them, and will be prioritised alongside learners attending States-maintained schools. Parents might also choose to pay a private provider for these services.
- 7.9 In 2020 the previous Committee commissioned nasen²⁰ to undertake a review of the

²⁰ National Association for Special Educational Needs (nasen). [Guernsey and Alderney SEND Review - States of Guernsey \(gov.gg\)](#)

special educational needs and disability provision in Guernsey and Alderney. The Review identified that there was substantial effective practice but that this was not always consistent. The nasen report identified 18 key recommendations that were accepted by the States as part of the Government Work Plan debate in 2022²¹. The recommendations include specific areas which intersect with this review of the education law in respect of the identification, assessment, and support for additional learning needs.

Future provisions

Closer working across services

7.10 Summary

- The new Law should include a high-level requirement for the States to exercise its functions with a view to ensuring the integration of educational provision and training provision with health and social care provision, where it would promote the well-being of learners with additional learning needs or improve the quality of additional learning provision.

7.11 The existing support structure for learners with additional learning needs is provided by more than one Committee. Some services are delivered by this Committee, such as educational psychology and literacy support, while others are provided through the CfHSC, such as speech and language therapy, occupational therapy and physiotherapy.

7.12 Recommendation 15 of the nasen report was that there should be greater strategic and operational alignment between Education Services and Health and Social Care Services. This included a high-level requirement for the States to exercise its functions with a view to ensuring the integration of relevant provision would support this States-accepted recommendation, while allowing flexibility so that how provision integration is realised can develop and evolve over time.

Terminology and definitions

7.13 Summary

- The terminology in the new Law will be updated as follows:
 - 'additional learning needs' and 'additional learning provision' will replace 'special education' terms,
 - 'special school' and 'ordinary school' will be avoided to reflect that education (including any additional learning provision) should be provided in a setting appropriate to a child's needs, with an indication as may be necessary that some settings may be particularly organised to make provision for learners with additional needs;
 - 'learning difficulty' and 'barrier to learning' will be preferred terms.
- The new Law should be sufficiently flexible to accommodate changes in the

²¹ [CHttpHandler.ashx \(gov.gg\)](http://CHttpHandler.ashx(gov.gg))

above terminology as it evolves over time in line with best practice.

- 7.14 Recommendation 16 of the nasen report relates to updating the current Code of Practice (CoP) and as part of this work, the equivalent Codes in operation in England, Wales, Scotland and Jersey have been examined. This highlighted that:
- Whilst England still uses the term SEND (as does Jersey, as its Code is based on the English model):
 - Wales has moved to the term ‘Additional Learning Needs’ – with a definition very similarly to our current SEN definition
 - Scotland uses terms ‘Additional Support for Learning’ and ‘Additional Support Needs’ as broad and inclusive terms applying to children or young people who, for whatever reason, are or are likely to be, unable without the provision of additional support to benefit from school education provided
 - Some stakeholders view the term ‘special’ negatively, feeling it has been used in a derogatory way, and there is enthusiasm to break away from this old terminology. ‘Additional’-orientated terms, as in use in Wales and Scotland, have been generally favoured in Code of Practice discussions, as has an holistic view of the support that learners might require at school to help them learn and develop to their fullest potential.
- 7.15 Whilst the research above related to updating the ‘SEN Code of Practice’, it is beneficial to have consistency in terminology to ensure a common understanding. In terms of wider alignment, it should be noted that ‘additional needs’ is a term used by other local services (particularly Health & Social Care Services), and also that the Prevention of Discrimination (Guernsey) Ordinance 2022 refers to ‘alternative or additional needs of a pupil which have been assessed’ and ‘additional or alternative educational services’.
- 7.16 The current descriptions of schools as either ‘ordinary’ or ‘special’ in education legislation do not reflect the shift to greater inclusivity, nor does this approach recognise that many learners with additional learning needs are supported within ordinary/mainstream schools. Therefore, the new Law will avoid these terms. Rather, it will indicate that education (including any additional learning provision) should be provided in a setting appropriate to the learner’s needs, with an indication that some settings may be organised to make provision for learners with additional needs.
- 7.17 Moving away from the term ‘special educational needs’ is not intended to in any way diminish regard for this important matter, but rather to more accurately reflect that children who have disabilities and/or difficulties in learning require additional support and provision to help them, and to tie elements of the system together. Accepting that the general perception of appropriateness of any terminology can change over time, it is considered advantageous for the Law to have the flexibility to readily update terms and definitions associated with additional learning needs.

Identification, assessment and provision

7.18 Summary

- The Law will (subject to age-range and limits as set out below in respect of scope of responsibility regarding those outside of States' schools):
 - Set out duties on the Committee to ensure that a process designed to identify and assess learners with additional learning needs, and determine appropriate educational provision, is available and implemented.
 - Require that the process considers each learner's needs in a spirit of collaboration with their parents or carers and take into account the wishes of the child in accordance with the [Child Welfare Principals](#)²².
 - Require that the additional learning provision for each learner should be reviewed on at least an annual basis.
 - Ensure parents and carers who disagree with the outcome of an assessment process should have the right of appeal.
- As is the case in the current law regarding 'Requests for Assessments', parents should be able to seek an assessment (or re-assessment) of their child's needs, but this should also set out the circumstances in which the Committee would be entitled to not accede to the request.
- The provision of education for learners with additional needs as set out in section 2 of the 1987 Amendment Law should be incorporated into the new Law, modified as appropriate to reflect updated terminology.
- In respect of additional learning needs, the exercise and performance by the Committee of all powers and duties must have regard to the responsible, efficient and effective use of public resources.

Age

7.19 Summary

- As recommended by an independent review²³ and accepted by the States as part of the Government Work Plan debate in 2022, the appropriate age-range for additional learning needs provision is to be between 0 and 25 years. There should be flexibility to establish and vary the parameters for additional learning needs provision (including but not necessarily limited to age-range) over time.
- By extending the age-range associated with provision for learners with additional learning needs to 0 to 25 years, there will need to be appropriate assessments relative to the age of the learner and greater collaboration with

²² [Children \(Guernsey and Alderney\) Law, 2008 \(guernseylegalresources.gg\)](#)

²³ National Association for Special Educational Needs (nasen). [Guernsey and Alderney SEND Review - States of Guernsey \(gov.gg\)](#)

Health and Social Care service providers.

- 7.20 In relation to age, the nasen report recommended that the age-range for access to provision for learners with additional learning needs is expanded to be between 0 and 25 years, and further recommended that targeted strategies should be introduced to support the early identification of additional learning needs and to prepare learners for adulthood. As with the other nasen recommendations, support for the implementation of these changes was confirmed through the Government Work Plan Resolutions, and the new Law will reflect this position.

Scope of responsibility

7.21 Summary

- The general scope of responsibility should be for children and young people under the jurisdiction of the legislation, subject to age-range and other parameters that may be set in legislation, and to limits as set out below in respect of those outside of States' schools.
- For learners under the age of two years, the Committee should have the ability to ensure there is access to an appropriate assessment (in collaboration with other States services, as appropriate).
- The scope of the Committee's responsibility to learners with additional needs who are outside of States' schools should extend to:
 - Assessing learners who are brought to the attention of the Committee as having, or possibly having, needs that would call for it to determine the type of educational provision that should be made. Any such assessment should be suitable to the circumstances. (Recognising that in some cases basic assessment only might be required to establish, for example, that the Committee would not need to determine provision, but in other cases multi-professional involvement might be needed)
 - Providing signposting toward appropriate additional learning needs support/services
- It will be the duty of governing bodies of Independent Schools to provide educational support/services for children with additional learning needs who are registered pupils at these schools. To provide for the States' strategic oversight of all learners, Independent Schools will be required to share their additional learning needs registers with the Committee.
- In cases where the Committee is of the opinion that it should determine the provision that should be made for a learner (i.e. at the high-end of the range)
 - For learners in States-maintained settings, the Committee will have a duty to make arrangements for the determined provision. This will continue to emphasise that, subject to certain conditions being met, the needs of learners with ALN should be met alongside learners without ALN.
 - For learners outside the States' system, parents will generally be

deemed to be making their own arrangements. Arrangements should be suitable to the learner's need and if the Committee considers that they are not suitable and that the learner could be construed as missing education, the Committee will have recourse to remedies available under the new Law (for example, school attendance orders).

- The Committee will retain the power, where appropriate in the best interests of the learner, to make arrangements for the required provision at (approved) Independent Schools, or other than at school and/or to be able to assist with matters relating to additional learning needs for learners outside of the States-maintained system in such manner as it sees fit.

- 7.22 For learners who are educated outside of the States-maintained system, either through an Independent School, or home education, the legislation needs to strike a balance between appropriate support and consideration of limited States resources. Where it has been identified that a learner has additional learning needs and needs additional support, there should be regular assessment and subsequent support for their needs. This is usual practice in schools and is an expectation of inspectorates. Lower levels of need can be met within the usual provision, and for most learners this level is sufficient to enable them to progress. As the level of need increases, assessments and support might draw on a range of specialist interventions. For home educators the identification and assessment of the needs of the learner might generally be more challenging where the educator's specialist knowledge might be limited.
- 7.23 The Committee recognises the strategic responsibilities of the States for the children of Guernsey and Alderney²⁴, in terms of duties to provide services to any child in need, to promote the upbringing of the child by the child's family and prevent the child becoming a child at risk. It believes that the new Law must retain a duty to assess learners who are brought to the attention of the Committee as having, or possibly having, needs that would call for it to determine the additional educational provision that should be made available for that learner. Any assessment should be suitable to the circumstances, recognising that in some cases basic assessment only might be required, but that a multi-professional approach might be needed in cases where a formal determination of needs is being contemplated. The Committee will also be expected to provide signposting toward appropriate additional learning needs support/services.
- 7.24 In cases where the Committee is of the opinion that it should determine the provision that should be made for a learner (i.e. at the high-end of the range), for learners outside the States' system, parents will generally be expected to make their own arrangements. Such arrangements should be suitable to the learner's needs and if the Committee considers that they are not suitable and that the learner could be construed as missing education, the Committee will have recourse to the remedies set out in paragraphs 6.38-6.46, such as a school attendance order.
- 7.25 In all instances the Committee must retain discretionary powers where it is in the best

²⁴ Children (Guernsey and Alderney) Law, 2008 Section 24(4)

interests of the learner (and compatible with resources) to be able to assist with matters relating to additional learning needs in such manner as it sees fit. This might include making arrangements for the required provision at (approved) Independent Schools, or other than at school.

Consultation and engagement

- 7.26 A key element of the review of the provisions relating to additional learning needs has been the engagement with internal subject matter specialists and through working groups on issues such as Special Educational Needs (SEN) and home education to ensure that stakeholder views on developing best practice have been incorporated. Options have been considered both within the context of the overarching aims of promoting inclusion and equity within the new Law, and with the understanding that the Law will be constructed as permissive, enabling, legislation.
- 7.27 During the periods of public consultation, questions about the provision of services for learners with additional needs were asked. Overall, the majority of respondents clearly supported the need for updated terminology and processes, in particular where this provided greater transparency for parents and carers. Key stakeholder groups with an interest in this area of the legislation felt strongly that the new Law should require improved integration across education and health & social care services to improve the quality of the provision and the learner's educational experience.

8. Home Education

8.1 Summary

- The new Law will include a permissive and broad definition of home education, that acknowledges parental choice.
- The new Law will introduce a duty for the Committee to identify learners missing education.
- The Committee will have a duty to establish and operate a Home Education roll and a requirement that all learners of compulsory education age are either on a school roll or on the Home Education roll.
- The new Law will include a duty for the Committee to ensure that proposals in place in respect of each home-educated learner are sufficient to prevent that learner from being identified as a child missing education.
- Formal permission from the Education Office will be required to add any child to the Home Education roll who is in receipt of an intervention from a professional agency, and there will be a right of appeal against a decision not to allow such a child to be home educated.
- Provision will be made available for learners who are home educated to complete qualifications/examinations. The costs of these may be charged to parents/carers, where this would not be a barrier to accessing those qualifications/examinations, as determined through policy. No minimum or

maximum number of qualifications accessible to a home educated learner will be specified in the Law.

Background and current arrangements

- 8.2 Families choose to home educate for a number of reasons; for some it is a philosophical choice and way of life, while for others it is only pursued as a last resort when they feel their child has needs that cannot be met through a structured school environment. Educating children at home is a legitimate choice in many jurisdictions including most European countries and North America, although there are some exceptions, such as Sweden and Germany, where home education is not permitted except in very limited circumstances. While it is important to recognise that many families who elect to home educate do so successfully, home education has come under an increasing spotlight in other jurisdictions in recent years. This is primarily due to safeguarding concerns in respect of children missing education.
- 8.3 Home education is not explicitly provided for in the current Education Law and it is instead covered as education 'otherwise' than by regular attendance at school. This is similar to many jurisdictions where home education sits as an exemption to compulsory school attendance provisions. In recent years there has been an increase in the awareness of home education and a corresponding growth in the number of families electing to home educate. There are a number of key issues that are currently addressed only by policy and managed on the basis of the strength of relationships between Education Officers and the home-educating community, with no underpinning legal basis.
- 8.4 The Education Office provides support and guidance to families who are choosing to home educate and those that are considering it as an alternative to school-based learning. Officers understand and respect the circumstances of all families choosing to home educate and local numbers of home-educated learners are relatively low compared with other countries. However, in common with other locations there has been growth in the number of learners who are being home educated, with an increase in requests following the Distance Learning phase necessitated by the COVID-19 restrictions.

Future provisions

- 8.5 There is no proactive duty to identify children missing education in the current Education Law; instead, there is an obligation for the Committee to act when it 'appears that the parent/carer of any child is failing to perform the duty imposed' to secure a suitable, full-time education for their child. In other jurisdictions, for example England, a local authority must make arrangements to establish the identity of children in their area who are of compulsory school age but who are not registered pupils at a school, and are not otherwise receiving a suitable education. The new Law provides the opportunity to introduce a formal duty for the States to identify children missing education and it is proposed that the introduction of a home education roll would go some way to discharging this duty, in that all learners of compulsory education age would be registered either on a school roll or on the home education roll.

- 8.6 The new legislation will clarify what is home education, and provide a way of referencing this particular group of learners in order that expectations in respect of entitlement and responsibilities can be defined. The inclusion of a broad and permissive definition of home education will acknowledge parental choice and indicate that, as an alternative to school, home education requires some formal planning by parents. Key to this is the need to develop with the home educating community, and set out in policy, what constitutes 'sufficiency of education currency' for this group of learners. This is the expectation of what will be provided by parents/carers to ensure that learners who are home educated are provided with the knowledge and skills, and any qualifications to enable them to be successful in the next phase of their life, alongside their school-educated peers.
- 8.7 Clarifying what constitutes 'sufficiency of education currency' will ensure that there is an additional mechanism, alongside the Home Education Roll, for the Committee to discharge its duty to identify children missing education. This will also help set the clear expectation that it is the parent or carer who has responsibility for the education being provided to the learner and not the States. However, care must be taken so that the assessment of any evidence provided in this regard by parents and carers does not create a significant workload for Education Officers. The finite resource available must be targeted to ensure learners remain in the States-maintained sector where this is in their best interests.
- 8.8 Enrolment on the Home Education Roll will also be a mechanism to provide those learners with access to other States' services, for example dental screening and access to the Sexual Health and Relationship Education (SHARE) team, which contributes to the overall safeguarding of learners. It also provides opportunities to promote helpful resources and important events to home educators, for example The Guernsey Institute or Sixth Form Centre open evenings and relevant application deadlines, and reminders about routine vaccination programmes. An additional advantage of a Home Education Roll is that it would highlight when Independent schools are removing learners from the school roll without notifying the Education Office of a family's intention to home educate. While this has not been a significant issue previously, this reduces the risk of a child missing education and falling through a gap in provision.
- 8.9 It is expected that parents/carers will demonstrate a serious intent to educate their child(ren), which will be supported by evidence of an approach to education that is consistent with educational aims and with their understanding of how their child(ren) learn effectively. Evidence might include examples of work, statements which clearly define aims and objectives, proposed teaching methods etc. The criteria applied to determine whether there is 'serious intent' is that the evidence should convince a reasonable person that the child(ren) will receive an efficient, full-time education suitable to their age, ability, aptitude and any additional learning needs they might have. Operational policy to support this will be developed in partnership with the home education community to ensure a shared understanding of the expectations.
- 8.10 Under existing arrangements, Education Officers conduct monitoring and support visits for home-educating families which provide the opportunity to gain adequate

evidence that parents/carers are providing a suitable education and to take appropriate steps where education proposals and practice indicate concern. This provides the Committee with information necessary to discharge its duty under Section 18 of the current Education Law and to serve a notice and/or a school attendance order when necessary. Under the new duty to identify children missing education, the Committee's responsibilities will be more proactive than the current arrangements. Consequently, the monitoring and support visits will be a more critical source of information.

- 8.11 Further duties will be placed on the Committee to ensure that learners on the Home Education Roll receive monitoring and support visits and an annual renewal process as part of the visit schedule. This will enable a formal approval process indicating that home education proposals are such that the Committee is able to discharge its duty to ensure a child is not missing education. It is anticipated that this approval process will be overseen by Education Officers seeking evidence of the serious intent to educate the child set out in paragraph 8.9 above. It is important to stress that the approval process is to ensure that learners are receiving an education and not to impose a particular method of instruction.
- 8.12 In line with current practice, where a request to home educate has been received for a learner who is a registered on a school roll, the learner will not be removed from the school roll until the home education proposals have been confirmed, and the learner has been added to the Home Education Roll. Importantly, it must be recognised that in confirming the request to home educate, the States would not be accepting formal liability for the education provided. Where a learner is registered at a specialist education provision, the current Law prohibits the withdrawal of the learner from that provision without the prior consent of the Committee. This is considered an important safeguard and is consistent with the approach taken in other jurisdictions. However, the review of the legislation has provided an opportunity to consider whether the existing safeguards are appropriate both in terms of decision-making and the circumstances where formal consent is required by law. In light of developments in service delivery since the current Education Law was enacted and in order to ensure those with the highest level of need are safeguarded, explicit consent from a panel of professionals will be required where a request is received for any learner who is in receipt of a service from an agency to be added to the Home Education Roll. There will be a right of appeal against a decision of the Panel.
- 8.13 Some families have very clear and planned education proposals while others develop 'live' plans. Education Officers will provide support and discuss education proposals with parents and carers. If the parents/carers remain unable to provide evidence that the child(ren) will receive a suitable education, or refuse to engage in the process, then the home education proposals will not be approved. Where this is the case and the child is not attending school, a range of options are available depending on the circumstances, which include referral to the Multi Agency Support Hub (MASH), the Children's Convenor, or the service of a school attendance order.
- 8.14 Remedies available in other jurisdictions are broadly similar: in England and Scotland local authorities can initiate school attendance proceedings where they believe a child

is not receiving a suitable education. The Isle of Man Government can also issue a school attendance order. The existing model works well, with Education Officers supporting parents and carers in the small number of cases when there are issues with home education proposals. Over the last three years there have been no instances of cases being referred to the Children's Convenor, Multi Agency Support Hub (MASH), nor the issue of a school attendance order due to concerns with home education proposals. Instead, where issues cannot be resolved, Officers, with the support of parents and carers, ensure learners are transitioned into school. The power to issue school attendance orders will be retained in the new Law.

- 8.15 Home-educated learners currently access formal qualifications at the family's own cost as an external candidate sitting examinations at a States maintained setting or one of the Grant-Aided Colleges. This can cost between £50 and £400 per subject depending on the examination centre selected. The most frequent request made of the States from the home-educating community is for financial support for learners to facilitate access to public examinations. This is particularly acute for those learners who have additional needs that their parents/carers feel the school system has been unable to meet and whose parents/carers are not home educating strictly through philosophical choice. There is concern that some learners in this situation are reaching the upper limit of compulsory education age without sitting examinations that could lead to formal qualifications simply due to the financial circumstances of their parents/carers. Such inequity is unacceptable. Provision will be made to support learners who are home-educated to access examinations and/or qualifications but the type and quantity of these will be determined by policy and must take account of the ability of the parents/carers to pay, and the resource constraints of the Committee. In order to balance additional costs with the need to ensure all learners are given the opportunity to be successful, it is proposed that any offer to fund examinations for a home-educated learner is means tested. This will ensure that the States' limited resources are targeted where they are most needed.
- 8.16 Importantly, home-educated learners will continue to be registered as external candidates so that their examination results remain separate to those of learners on the school roll.
- 8.17 It should be noted that parents/carers of home-educated learners will still be entitled to enter their child(ren) into examinations as external candidates, with other examining boards, and at points other than year 11, and year 13 provided that they do so at their own cost.
- 8.18 There is an argument against the States funding services for learners whose parents/carers have 'opted out' of States provision; however, there are compelling reasons why some services, for example those related to medical screening, should be extended to home-educated students. Access to services provided by the CfHSC, for example speech and language therapy, occupational therapy and physiotherapy, are available for all families regardless of their choices in respect of their child's education, as children and young people in need of these services access them via an appropriate referral. However, access to education support services including the Communication, Interaction and Autism Service, Educational Psychology Service and Literacy

Intervention Support, is routinely available only to those families with learners in States-maintained schools. Home-educating families can request access and, where a learner has a marked level of educational need, access to services can be arranged if deemed essential to meet that need.

- 8.19 The rationale underpinning the restriction of free access to education support services for home-educated learners is that those services are provided to schools and not learners, in order to support a learners' access to learning in a structured school environment. There is no consistent approach across other jurisdictions in respect of the provision of support services to home-educated students. In England, it is at the discretion of the local authority whether the learner requires funded support, unless learners have statements of SEND which set out that home education is the appropriate provision, in which case there is a statutory duty for the local authority to arrange the special educational support set out on the statement. However, in Jersey, funding is not available for services, though advice is provided to the home-educating community by the Children, Young People, Education and Skills Department.
- 8.20 The current Education Law establishes the parental duty of securing efficient, full-time education which is suitable to a child's age, ability, aptitude and any special needs they may have (section 17). By electing to home educate a learner, a parent or carer is taking on the duty of providing that education and accepting that it can be delivered to account for any additional needs. However, where a significant level of learning difficulty is demonstrated by a home-educated learner, Education Officers will work with the Educational Psychology Service to determine appropriate action. In practice, SEND support would not, and will not under the new Law, be denied if there was a clear need and the Code of Practice will continue to reflect this. The Committee's scope of responsibility in respect of learners with additional learning needs who are outside of States-maintained schools will extend to assessing learners with a potential additional learning need who are brought to the attention of the Committee and providing signposting toward appropriate education support and services.

Consultation and engagement

- 8.21 Home-educating families often highlight a perceived inequality of opportunity in accessing other States and non-States services for their children and this is reflected in the feedback from the engagement undertaken with the local home-educating community. Throughout the previous and most recent consultation there was strong representation that learners who are home educated should not be prevented from accessing elements of education, such as examinations, but that the freedom to choose home education should not be constrained by the Committee determining in detail what should or should not be taught. The consultation responses from both the public consultation and from the questionnaire sent to families who are already home educating had majority support for the introduction of a Home Education Roll as part of the safeguarding responsibilities of the States.

9. Education Other than at School and Alternative Provision

9.1 Summary

- The new Law will maintain the existing flexibility whereby schools are able to develop and extend capacity in order to deliver universal entitlement for all students.

9.2 Education other than at school (EOTAS) is provided for in the current Education Law under Section 45, which sets out that where the Committee is satisfied that a learner is unable to attend school, it may make special arrangements; and that where it is impractical for the learner to receive full-time education, similar education can be delivered on a part-time basis. Current local practice is such that EOTAS covers those students who are medically unfit to attend school, such as children who have been admitted to hospital, or those whose mental health and anxiety issues are preventing them from attending school. The student remains on their school roll and the provision they access is part of a managed transition back into school with a regular review involving relevant stakeholders.

9.3 The definition of EOTAS in other jurisdictions is wider and extends to include students in pupil referral units (PRUs) and other forms of Alternative Provision (AP). This makes it difficult to draw direct comparisons in respect of provision; however, the statutory guidance issued by the UK's Department for Education²⁵ sets out that where a child cannot attend school because of health problems, local authorities are responsible for arranging suitable full-time education. The guidance also makes allowance for circumstances where a young person is not able to access education on a full-time basis, in which case a reduced timetable can be offered. Non-statutory guidance in Scotland specifies that any education provided for young people who are not well enough to attend school should aim to support the broad, flexible curriculum and entitlement defined in the Curriculum for Excellence framework, within the constraints of the setting and the individual's health²⁶.

9.4 The statutory duty for local authorities in England to make arrangements for providing education for children either at school or otherwise, extends beyond those who are ill to include those who have been excluded from school, and is contained in Section 19 of the Education Act, 1996. This duty also extends to local authorities in Wales. In Scotland, local authorities are responsible for ensuring every child is able to access adequate and efficient education.

9.5 The current Education Law places a duty on the Committee to provide education for all learners of compulsory school age. Alternative Provision is a mechanism of providing education differently for learners who are no longer engaging with school and are not accessing the curriculum. The type of provision offered will depend on the engagement levels of the learner as well as available resources. As with EOTAS, learners remain on the school roll but do not return to school on a full-time basis, though the school does retain responsibility for safeguarding, acting as the link

²⁵ [DfE \(2013\), Ensuring a good education for children who cannot attend school because of health needs](#)

²⁶ [Scottish Government \(2015\), Education of children unable to attend school due to ill health: guidance](#)

between providers and the learner, and arrangements for exam entrance.

- 9.6 In England, the Government defines Alternative Provision as ‘Education arranged by local authorities for pupils who, because of exclusion, illness or other reasons, would not otherwise receive suitable education; education arranged by schools for pupils on a fixed period exclusion; and pupils being directed by schools to off-site provision to improve their behaviour’²⁷. Consequently, there are a variety of Alternative Provision providers catering for a diverse range of needs and abilities, the most common of which are pupil referral units but Alternative Provision is also offered by independent and voluntary providers and Further Education colleges. Alternative Provision is funded through the dedicated schools grant to local authorities at a level of £10,000 per placement, but this is topped up by individual local authorities or commissioning schools. The number of pupils in Alternative Provision in England in 2018 was approximately 49,500 or 0.6% of the cohort. This compares with 13 students this academic year who are in receipt of EOTAS or accessing Alternative Provision locally, which represents approximately 0.2% of the current cohort.
- 9.7 There have been recent concerns in England in respect of the quality of provision and the outcomes for those students in an Alternative Provision setting and the over-exclusion of students into Alternative Provision²⁸. Recent reports demonstrate that where a placement is well planned and prepared for, involving parental input, delivered by well-trained staff with a clear transition plan, Alternative Provision can provide a real opportunity for a learner to re-engage with their education. The Timpson Review of school exclusion quotes research that found the different environment of alternative provision, smaller class sizes and different ways of accessing the curriculum, resulted in young people feeling happier, more ²⁹ and more enthusiastic about learning. When Alternative Provision is used effectively, it acts as an early intervention for some of our most vulnerable learners.
- 9.8 By defining a right of universal entitlement for all learners of compulsory education age and by placing an emphasis in the new Law on provision which meets individual needs, it is considered unnecessary to make explicit reference to how that might be arranged for learners who are unwell or who have disengaged from learning. This also aligns with the principles and objectives of the new Law and with the Education Strategy. EOTAS and Alternative Provision will remain key mechanisms for ensuring all students in the State-maintained sector are able to access education. Importantly, there is existing flexibility for schools to deliver different types of provision, in a variety of ways, to meet individual needs. For example, schools can deliver bespoke learning packages for vulnerable or high-achieving students, such as extra curriculum sessions in additional subjects at secondary level, or intensive support and one-to-one sessions outside of the classroom for learners who find large groups challenging.

²⁷ [DfE \(2013\), Alternative Provision, Statutory guidance for local authorities](#)

²⁸ [House of Commons, Education Committee \(2018\), Forgotten children: alternative provision and the scandal of ever increasing exclusions](#)

²⁹ [Timpson Review of School Exclusion, 2019](#)

10. Children in Care

10.1 Summary

- There will be a duty on the Committee to establish a named role or roles, to be responsible for the educational outcomes of children in care (noting that this might not be the only duty allocated to that role or roles) and for learners who are resident in Herm, Alderney or Sark but are living away from their family to attend education in Guernsey.

- 10.2 Although there is currently no legal requirement to do so, relevant Officers in the Education Office have specific responsibilities in respect of the educational achievement of Children in Care (CIC). This includes monitoring attainment, progress, and interventions as well as reporting against the priorities in the Children and Young People's Plan. The Children (Guernsey and Alderney) Law, 2008³⁰ allows for regulations to be made '...for, or concerning the duties of any department of the States to promote the educational achievement of a relevant individual' but no such Regulation is currently in place.
- 10.3 In England there is a statutory duty for local authorities to promote the educational achievement of Children in Care, and those who were previously in care, as well as children who have, or have had, a social worker including Children in Need (CiN) and those subject to child protection plans. Local authorities must also appoint an officer to ensure oversight of this work, this role is referred to as the Virtual School Head (VSH).
- 10.4 Learner data supports the need to identify and support Children in Care across our schools as they remain vulnerable to underachievement. Whilst improvements have been made through targeted interventions and a focus on this group across education providers, there are opportunities to do more to ensure this group of learners are not disadvantaged and are able to thrive and achieve in line with their peers. Policies to support inclusion of Children in Care are in place for admission to primary and secondary schools and for exclusions. These policies allow for this group of learners to be placed in a school outside of their catchment area/partner school and prohibit their fixed-term exclusion from school.
- 10.5 In addition to those learners who are officially defined as being in care (or previously in care) there are also a number of learners who are resident in Herm, Alderney or Sark but are living away from their family to attend education provision in Guernsey. This will often extend beyond compulsory education age and the challenges of this arrangement can impact educational outcomes and retention rates in further education.
- 10.6 The formal establishment of a designated officer with specific responsibilities demonstrates a commitment by the States for the educational outcomes of Children in Care and for learners residing elsewhere in the Bailiwick who are living away from

³⁰ [The Children \(Guernsey and Alderney\) Law, 2008](#)

their families while being educated in Guernsey.

11. Education Governance

11.1 Summary

- It is important that every aspect of the education system leads to better outcomes for all learners.
- The new Education Law will establish Governance Boards for all States-maintained education settings.

11.2 Education governance in Guernsey and Alderney has been considered by successive Committees and has been the subject of much external commentary. Historically, views have been shared about which models of governance deployed in other jurisdictions – predominantly those in England – could be transposed to the local context, without necessarily understanding how these models would interact with the characteristics of our own system of education delivery.

11.3 Over the course of the last twelve months and alongside its wider policy development work on the new Education Law, the Committee has invested a significant amount of time in developing its understanding of education governance, including acting as formal Governance Boards for every States-maintained school and for The Guernsey Institute. Central to this work has been consideration of the local context, its size and scale, the extent and complexity of services delivered by the States of Guernsey, including strategic and tactical decisions made about the way some enabling services are organised, and global and local fiscal conditions.

11.4 During this time, the Committee has recognised the challenges of ensuring continuous improvement in education where a system does not have appropriate levels of governance. Additionally, in order to realise its ambition of empowering leaders as laid out in its Education Strategy, the Committee believes it is essential that leaders are able to act swiftly and, wherever possible, both make decisions and be held accountable for their outcomes and impact. These approaches allow 'leaders to lead' and put them into a stronger position to drive continuous improvement in the settings for which they are responsible. However, the Committee also recognises that, in order to provide assurance to itself and the community that setting-based decision-making is sound, avoids risk and is undertaken in the best interests of the education community, it is necessary to establish governance mechanisms around any system that seeks to increase the autonomy of its frontline leaders.

11.5 In developing its policy direction around governance to include greater autonomy and accountability for Headteachers and Principals, the Committee's thinking is aligned with the principle of subsidiarity. This principle dictates that decisions should, where at all possible, be taken at the lowest competent level and this principle is part of the framework that underpins the operation of the States of Deliberation and its Committees. Subsidiarity encourages organisations to approach decision-making and problem-solving activity by empowering action at the level which is most directly affected by the outcome of the decision or is most significantly impacted by the problem in question. In addition, this principle seeks to ensure that decision-making

is appropriately rooted at a local level and is informed by a collective of people who might be most affected by any decisions that are taken. Subsidiarity in the context of the governance of education allows for those leaders who are responsible for their settings to make decisions with the support and benefit of a group of individuals who are also most closely linked or directly invested in the interests of that education setting.

- 11.6 The current approach to education governance, whereby the Committee itself carries governance responsibility for each and all of the individual States-maintained settings in Guernsey and Alderney is unsatisfactory. This arrangement, beyond its practical limitations when considered against the complex strategic mandate of the Committee, does not easily apply to the principle of subsidiarity and has been recognised by successive Committees and the wider community as being sub-optimal. As an interim measure, the Committee has sought to strengthen its oversight of settings through the introduction of an interim governance policy. However, it acknowledges that the new Law provides the appropriate opportunity to propose a lasting change to the status quo and to introduce a governance solution that is proportionate to the needs of a modern education system in the twenty-first century.
- 11.7 Given the long running nature of the local discussions about education governance, the principle of establishing an independent layer of governance to provide an oversight and scrutiny function for States-maintained education settings is broadly well supported by the community. However, it is acknowledged that there will be many different views in respect of the detail about how the model is constructed.
- 11.8 Importantly, as part of the work to develop proposals for a local model of education governance and separate to the public consultation exercise, the Committee gathered information from groups of key stakeholders most directly involved in the provision or receipt of education, to inform decision-making. Stakeholder groups engaged with include: Education staff in settings; parents and carers; School Committee members; the Diocese of Portsmouth; employee representatives; and other senior States of Guernsey staff. In designing proposals the Committee has used this feedback in combination with the views of senior education officers and its own experience garnered through the interim governance model.
- 11.9 Acknowledging that this is a highly complex policy issue, the approach to the development of the governance proposals has been two-fold: i), to identify an appropriate legal framework for governance which will be flexible enough to be able to adapt to changes to any governance delivery model over time; and, ii), to develop a model of governance that can be operationalised when the new Law comes into force. To separate these two distinct elements, the body of this Policy Letter includes the proposals required to establish a flexible governance framework and the detail in respect of the Committee's proposed delivery model is set out in the Annex to this Policy Letter. The Annex also provides the opportunity for the States to be assured that the appropriate depth of thinking required for such a significant policy change has been undertaken.

Core principles of education governance

- 11.10 Good governance encourages more informed and longer-term decision-making alongside the efficient and effective use of resources. It strengthens accountability and is characterised by robust scrutiny, which places important pressures on improving performance. Good governance can improve organisational leadership, management, and oversight, resulting in more effective interventions and, ultimately, better educational outcomes for learners³¹.
- 11.11 Governance takes place at many levels and, depending on context, will manifest in different ways. At Government level, governance extends to the structures and processes used to make decisions about what is in the best interests of communities and includes: the people democratically elected to act as decision-makers; the public servants who support them; and a vast array of stakeholders. Characteristics at this level of governance include accountability to the electorate, informed and transparent decision-making and a focus on policy priorities with democratically elected politicians acting in clearly defined public roles.
- 11.12 At a systems level, for example where Committees are responsible for the delivery of complex services such as education, governance is characterised by a balance of support and challenge undertaken by systems leaders who ensure consistently strong practice and who are accountable to those who are democratically elected. At the local settings level, Headteachers and Principals are held to account through a detailed and contextual knowledge and understanding, which facilitates compliance in service delivery and provides ongoing monitoring and evaluation to improve outcomes for the learner in the classroom.
- 11.13 Through its policy development, the Committee has identified that the most important contributor to sustained improvement in leadership is an oversight structure consisting of a collective of people with a range of skills who can challenge and support local decision-making. This is mirrored in other jurisdictions.
- 11.14 The delivery models for education governance systems vary. Jurisdictions including England, Wales, Northern Ireland and Guernsey's Grant-Aided Colleges operate similar systems of school governance, with separate governing boards for individual settings or operating across clusters of settings, this is particularly the case for Academy Trusts. The degree of autonomy granted to education settings also varies from country to country. In England, Wales and Northern Ireland, Governors have similar roles and responsibilities but there are differences in governance structures and representation on boards. In considering an appropriate system of governance locally it is important to note that there is no 'one size fits all' model or solution that can be directly applied from another jurisdiction, and any new model must be appropriate to the context.
- 11.15 The OECD identifies that just as twenty-first century life has become increasingly complex, so too has education delivery. The governance of complex systems requires that delivery models both respond to local context and meet national objectives³². The

³¹ [International Framework Good Governance in the Public Sector | CIPFA](#)

³² [Governing Education in a Complex World | READ online \(oecd-ilibrary.org\)](#)

design of an appropriate model locally should account for the characteristics of the system now, but also needs to be sufficiently flexible to adapt to changes in context and priorities over an extended period, given the new Law will likely be in force for decades to come. This has been a key consideration as part of the development of proposals.

- 11.16 It is widely understood that the most significant difference between a selective education system and an all-ability system is the inclusive nature of comprehensive education, where learners of all abilities are taught together in the same school. The principals and objectives proposed for the new Law set out the ambition for all children and young people to make maximum levels of progress and access a high standard of education in learning environments that promote excellence. This includes stretching and challenging all learners no matter what their talents and skills. It is important to recognise that the current system is evolving from a selective to an all-ability system following the removal of the 11+ in 2017. The first comprehensive cohort of secondary learners in Guernsey and Alderney started in Key Stage 4 (Year 10) in September 2022 and the organisation of secondary and post-16 education is transitioning to an 11-18 partnership model delivered through three 11-16 schools and a separate sixth form centre, alongside post-16 technical and vocational education delivered through The Guernsey Institute. Any prospective governance model needs to meet the needs of the current education delivery model but must be able to adapt to any changes that might be required once the system becomes more established, including where necessary any changes to devolution and delegation.

Understanding devolution and delegation

- 11.17 Matters relating to devolution and delegation lie at the heart of decision-making around governance in education. Importantly, any decisions taken to devolve responsibilities and powers to settings require a clear understanding of both the relative benefits and the possible risks of any change from the status quo. In considering the most appropriate local model of governance, it is crucial to ensure that decisions around devolution should always be in the best interests of learners and should be designed to ensure that those who receive devolved responsibility use this to improve outcomes for the learners, of all ages, that they serve. Devolution should be used as a mechanism for empowering Headteachers and Principals to lead their settings and serve their learners more effectively without layers of unnecessary and complex administrative processes. In the context of education settings, the definition of 'unnecessary' can be understood as direct government involvement in the day-to-day leadership decisions that Headteachers and Principals take around their workforce and on behalf of their learners or by the use of complex bureaucratic frameworks which prevent leaders from taking appropriate action swiftly and/or which limit the ability of leaders to run their organisations effectively.
- 11.18 By establishing clear governance structures for all education settings, the decisions that leaders take around any responsibilities that the States agree should be devolved, will be appropriately scrutinised by the Governance Board meaning that Headteachers and Principals will be held to account. In return, those leaders should expect to receive support and challenge from a representative group of people who carry devolved

responsibility for outcomes in their setting.

- 11.19 Frequently, decisions to devolve a power or responsibility to a setting will require tools or resources which might not exist in the setting at present. Where this is the case, it might be necessary for some resources which are currently held within the Education Office or centrally within the States of Guernsey's enabling services to transfer to the setting. In some cases, these resources might be financial; in others, resources might relate to access to specific tools, training or time to develop a skill-set that might not currently exist.
- 11.20 Where delegated resource is required in order to allow leaders and Governance Boards to discharge the duties that are placed upon them, these resources will be identified by operational teams working within the enabling services functions of the States of Guernsey and/or by officers working within the central Education Office and its Services. Where required, this will involve political approval either between Committees, with the support of the Policy & Resources Committee, or, where delegation represents a significant policy change, updates to subordinate legislation will be presented to the States. Delegated resources will be made available in a manner which prioritises the involvement and influence of leaders of settings in decision-making, but with due regard to economies of scale to reduce any financial exposure of the States and with a view to avoiding additional expenditure, wherever possible.
- 11.21 The Committee has examined a number of the specific powers and functions it believes could, as a starting point, be immediately devolved to settings to empower leaders. These functions have been identified by education leaders as being key to helping them to act swiftly and in the best interests of the learners in their settings. These functions include some areas of operation that are currently centralised within enabling services, for example, specific areas of finance, procurement, IT and HR such as the ability to influence the timing of recruitment processes to fill vacancies quickly and to take greater control over the commissioning and management of time-limited contracts for specific services.
- 11.22 The Committee has also accounted for the feedback of Headteachers and Principals in reviewing what would be most appropriate to devolve in the early stages of establishing the governance model. For example, the Committee believes it is neither efficient nor effective, nor will it significantly and positively impact the outcomes of learners, to make changes to the status of the States of Guernsey as the employer of the education workforce. This is a sentiment shared by school leaders through the governance engagement activity undertaken as part of the development of proposals. However, there are some functions and processes that sit within centralised HR and finance services for example, that could allow frontline education leaders to better shape, develop and support their direct workforce and which can be delegated to settings leaders for the ultimate benefit of their learners. These include greater involvement in the recruitment and onboarding of staff and financial flexibility to support the strategic use of budgets.
- 11.23 It is important to develop a devolved model of governance in a way that recognises

the impact of any devolution on the workload of leaders. Any specific areas that are devolved to settings and overseen by Governance Boards should be carefully assessed to ensure that devolution has a positive impact on the setting and the learners that it serves. It is also recognised that, in some cases, operational policy across the enabling services or Education Office/services will need amendment or adaptation to meet the requirements of the States. This work is on-going with officers across the Civil Service and operational changes will be set out in the legislation for approval by the States as part of the enactment of the new Law or, where appropriate, outlined in operational policy when the new Law comes into force. There are functions falling under some corporate services provided to education settings which, because of decisions made about States of Guernsey service delivery more widely, it would not be possible to devolve in the short term. For example, the financial implications of unravelling and renegotiating corporate contracts in respect of IT service delivery and the management of the States' property portfolio mean that at the point of the new Law coming into force it would not be practical or desirable for education settings to hold accountability for these areas. Importantly, while Headteachers and Principals have expressed an appetite to have greater input into the organisation of such services, these are not necessarily functions for which leaders want direct responsibility.

- 11.24 For these central services, the Committee remains the bridge between Governance Boards and the States of Guernsey as a corporate body. Through the mechanisms established as part of the governance of the system (as opposed to the governance of settings) such as the Council of Chairs described in paragraph 11.44 below, it is proposed that the Governance Boards will report to the Committee on the effectiveness of central services, such as facilities maintenance, HR and IT, in facilitating a high standard of education delivery. In this way, improvements and modifications can be agreed at the appropriate level and systems and processes adjusted accordingly.

Duties

11.25 Summary

- The legislation will provide for and describe statutory duties for Governance Boards.

- 11.26 The new legislation will set out the specific duties that the States intend to request of its new Governance Boards. By setting out explicit expectations, Governance Boards and settings leaders will have a clear understanding of responsibilities. These duties should form the fabric of full Governance Board meetings and Chairs of the Boards, alongside their Clerks, should ensure that opportunities to reflect on the board's own self-evaluation of efficacy against these duties are provided.
- 11.27 It is anticipated that as the system evolves over time and governance becomes more established, the duties placed on boards might need to change to encompass broader responsibilities. The Annex includes the duties the Committee proposes at the point at which the new legislation comes into force.

School Committees

11.28 Summary

- School Committees will not be a feature of the new education governance model.

11.29 The current Law provides that schools have a committee of management with a limited mandate to report to the Committee set out via Ordinance. The powers and duties identified in the Education (School Committees) (Guernsey) Ordinance 1970 extend to:

- preparation of a budget
- building maintenance excluding capital works
- heating, lighting and cleaning of a school
- periodic inspection of premises, furniture and equipment
- the reporting of any major repair requirements and of any apparent irregularities in the discipline or conduct of the school

albeit some of these powers have diminished over time as a result of the centralisation of States services. Members are elected from the local community via Parish administered processes, to serve on each of the School Committees alongside a member of the Committee *for* Education, Sport & Culture.

11.30 The proposed new model of governance which includes increased flexibility in functions, is a shift from the current arrangements and the scope of the role of existing School Committees. New Governance Boards will require an identified skill set and level of knowledge and expertise that is appropriate to the level of devolution and delegation provided for in the new Law and the requirement for School Committees will consequently fall away.

11.31 It is notable that feedback from School Committee stakeholder engagement acknowledged that there would be no value in the School Committee model running in parallel to a new model of governance. The Committee is grateful for the commitment and dedication of School Committee members, some of whom have served their community in this way for many years.

Governors

11.32 Summary

- The new Law will provide for and describe categories and subcategories of governor.
- The new Law will require an instrument of governance for every Governance Board which will contain information relating to the board's constitution and terms of office.
- The new Law will require a Governance Handbook which will contain statutory

guidance describing procedural matters related to the role of Governors and Governance Boards as described in paragraph 11.39 below.

- 11.33 It is recognised that, in establishing Governance Boards for all States-maintained education settings in Guernsey and Alderney, it will be necessary to identify and recruit a sizeable number of volunteers from the community – a community where a significant number of existing volunteering roles and commitments already exist. It is important to note that potential Governors do not need to hold any particular or specific qualifications; the most important factors are that Governors should be curious, able to ask searching questions, are willing to listen and learn, and are passionate about making a difference to the outcomes of learners. This is the case in many other jurisdictions where lay people develop and hone their governance skills over time.
- 11.34 However, the Committee has been mindful of the requirements of its proposals on the community and as part of information gathering process with key stakeholders, questions were posed to explore the extent of any appetite to find out more about the potential Governor role. Encouragingly, a number of parents and carers and staff who responded to questionnaires expressed an interest in finding out more and consequently a number of information sessions with interested parties have already taken place. Additionally, given the proposal that School Committees will no longer form part of the local education community, there is an existing cohort of appropriately skilled volunteers to tap into. The work to engage with this crucial group of stakeholders is already underway as part of the Committee’s existing communications in respect of the development of the proposals, and a number of informal expressions of interest have been received from this group.
- 11.35 Notwithstanding the levels of interest or previous related experience that already exists within the community, those who put themselves forward to become Governors will need to undertake a robust training programme that will be developed and coordinated by the Education Office. Training will include building knowledge of the local education system, current pedagogical practice, operational matters and safeguarding. Governors will be required to undertake a minimum level of training on an annual basis to keep their knowledge and skills up to date. It is noted that other voluntary roles in the local community carry similar training requirements without this being a significant impediment to recruitment.
- 11.36 Alongside the critical function Governance Boards will fulfil in holding leaders to account, the role of Governors also presents a valuable opportunity to engage with the wider community in the delivery of a crucial and complex service. By involving a diverse and representative group in the oversight and scrutiny of States-maintained schools and The Guernsey Institute, Governors will build their knowledge and understanding not just of the business of running education organisations but also of the sophisticated and intricate inter-relationships of public service delivery in the islands. By building this knowledge and understanding, through the day-to-day business of governance, these members of the community can help shape and improve services.

- 11.37 In order to constitute Governance Boards appropriately, it is proposed that three categories of Governor are provided for in the Law: core, community and, in the case of voluntary schools only, partnership Governors. Within each category there will be one or more 'type' of Governor. The Committee intends that at the point the new Law comes into force, particular roles and functions, for example the Chairperson, will be performed by particular categories of Governor and each board will comprise minimum and maximum numbers of the different categories of Governors. An Instrument of Governance will exist for each Governance Board summarising this constitutional information. The Annex sets out the Committee's detailed proposals for the composition of the various Governance Boards when the new Law comes into force, recognising that this might need to change in the future.
- 11.38 Each of the categories of Governor will be subject to a robust appointment or election process, depending on the nature of the role and these processes will include the required safeguarding checks. A comprehensive training programme involving mandatory minimum requirements will be provided for all Governors so that this group are appropriately skilled, and their knowledge develops over time. There will also be processes and guidance in place in respect of quoracy, meeting frequency and other important procedural matters.
- 11.39 The new Law will be sufficiently flexible to accommodate anticipated changes to governance processes during its lifetime. Importantly, Governors and the community will need to have absolute clarity on the requirements of the role and the Committee proposes that, as is the case in other jurisdictions, a comprehensive Governance Handbook will be created which sets out all relevant information.

Relationship between the Committee and Governance Boards

11.40 Summary

- The new Law will establish:
 - the Council of Chairpersons to allow for oversight of Governance Boards
 - powers of intervention in respect of individual Governors and Governance Boards to allow the Committee to protect the interests of learners, staff or the community of the setting.
 - The processes supporting the use of powers of intervention including the, reconstitution of boards, the issuing of formal notifications and / or any appeal mechanisms for individual Governors or Governance Boards will be described in the appropriate level of legislation or guidance.
- 11.41 The Committee intends to use Governance Boards to support and drive the strategic development of its States-maintained education settings and to ensure that the voice of the community contributes to this development. The effectiveness and performance of Governance Boards will be included in the leadership and management component of the internal Quality Assurance Framework and will be evaluated as part of the routine external inspection of education settings by the States of Guernsey's inspection partner, currently Ofsted.

- 11.42 It is important that the Committee retains the ability to act where it has concerns about the conduct, effectiveness or impact of any governance function to which it devolves responsibility. In most cases, through regular guidance and advice provided via the Education Office and through a regular reporting mechanism that will be established to require Chairs of Boards to provide updates on the work of their board and leadership teams to the Committee, most skilled and appropriately trained Governance Boards should operate without difficulty.
- 11.43 Routinely, the Committee should rely upon the Officers who act on its behalf to maintain regular contact with education leaders and the Governance Boards that are established to support them. This will avoid the risk of the Committee being drawn into routine or operational matters that could take its attention away from its strategic policy mandate and drawing its members into granular operational problem-solving. This approach will help to reinforce the position of the Committee as the States of Deliberation's policy-making and regulatory function for education, safe in the knowledge that matters relating to settings-level leadership that require the Committee's attention will be highlighted to the Committee, as required, by the Director of Education and other senior officers.
- 11.44 It is important, however that additional mechanisms are created to allow the Committee to retain oversight of the work of the Governance Boards. It is proposed that all Governance Boards should routinely be required to provide minutes of their meetings to the Committee for review and scrutiny. It is also proposed that a Council of Chairs is established and is required to present at least annually on key matters for the Committee's consideration. It is noted that in the implementation phase of the new model, more frequent engagement between the Committee and the Council of Chairs might be required. In addition, it is proposed that the Committee should have the right to request individual meetings with Chairs of Boards, including on the advice of the Director of Education, and as necessary to discharge processes relating to the use of powers of intervention or where other significant concerns arise.
- 11.45 The Committee recognises that a situation might arise where it has serious concerns in respect of a board. This might be as a consequence of the sustained and significant underperformance of a setting; as a result of concerns around the safety of learners in a setting; or where any individual or collective member(s) of the Board is or are deemed to be failing to meet the standards and expectations of Governors (as specified in the duties and responsibilities that are devolved to them or the settings over which they govern). The new Law will provide powers of intervention which, if required, will allow the Committee to reconstitute a board with, where necessary, provision for interim and focused governance for a specified period of time by persons appointed by the Committee, and/or including, as required, the dismissal or suspension of an individual Governor or Governors.
- 11.46 Given the serious nature of intervention and reconstitution of boards, appropriate and proportionate processes will set out the circumstances in which the Committee can deploy these powers including the use of any formal notifications and/or appeal mechanisms that Governance Boards might be entitled to.

Internal governance

11.47 Summary

- The Committee will retain its important governance function over the Education Office and, in partnership with the Policy & Resources Committee, for those services which are delivered by the States of Guernsey in support of the education system.

11.48 The introduction of a layer of independent and localised governance for each States-maintained education setting will ensure the Committee is better-placed to focus on its significant strategic policy mandate across the wider education system. Internal governance mechanisms, including the support and challenge of the school self-evaluation processes and inspection against the agreed quality assurance framework, will enable monitoring of the effectiveness and strategic impact of Governance Boards.

11.49 In this way, settings leaders and the community can work together to drive the development and quality of each setting and will ensure that the views of stakeholders are heard around the education being provided on a daily basis in the States-maintained system and that these views, although expected to follow policy as provided from the Education Office, are able to support educational development without direct political influence. For this reason, the new Law will not provide for any serving States Members and those who were States Members (or members of the States of Alderney in the case of St Anne's School) in the previous political term, to be a member of the education Governance Board of any States-maintained setting.

11.50 The potential for political membership of Governance Boards has been carefully considered and the Committee has concluded that boards will be apolitical in nature. This conclusion arises from the need to ensure Governance Boards are free from political influence, and recognises the potential consequences should the Committee need to exercise its powers to remove and reconstitute a Governance Board following the setting receiving an 'inadequate' judgment following an external inspection. If a current or recent States Member (or a Member of the States of Alderney) was part of that board, this would have the potential to raise uncomfortable questions about their ability to govern effectively and put the Committee in the invidious position of having to take action against a political colleague. Importantly, the proposal that Governance Boards should be apolitical has been positively received by the community as part of the consultation exercise on the Law and, in particular, by parents and carers as part of the engagement activity specifically relating to the governance proposals.

11.51 The Committee will continue to discharge its existing important governance function over the Education Office. This is to ensure that the Committee's policies are put into practice appropriately across the whole education system and that the operational or service-specific responsibilities that are not devolved to Governance Boards and which, accordingly, are held and operated by Officers, or the States of Guernsey more widely, work well and impact positively on outcomes for all learners. The Committee will continue to use the statutory appointment of the Director of Education to oversee these functions and to work closely with leaders and Governance Boards to improve

the quality of education delivered across the islands. This will include allocating and overseeing the use of central resources and providing support, guidance, training and additional resources, where this is deemed necessary to effect improvement.

- 11.52 Beyond the cycle of governance that the Committee will operate in respect of the Education Office and Services (via its request for briefing papers and through the scrutiny of the impact of the work that it directs Officers to undertake), an important part of the Committee's overarching governance function will be exercised through an annual report (see paragraph 12.15). This report, which will include quantitative and qualitative outcomes, with associated comparators where this is possible, will also report against the progress of the Education Strategy in place at that time and will be subject to a robust governance process prior to publication.

Recruitment of Headteachers and Principals

11.53 Summary

- The new Law will provide for Governance Boards to support the recruitment of leaders for their setting.

- 11.54 Section 9 of the current Law specifies that the appointment of teachers shall be under the control of the Committee and, save for Headteachers and Principals and their Deputies, this process has been delegated to Officers. The process of appointment will continue to remain with the States of Guernsey., However, once the new legislation is in force, recruitment activity will, following the establishment of Governance Boards, also involve Governors alongside corporate HR and Education Officers. Consequently, it is proposed that it will no longer be the case that individual Committee members will be involved in this recruitment activity.

12. Governance (system)

- 12.1 Governance of the education system as a whole is undertaken politically and will be based on the requirements, responsibilities and expectations set out within the new Law. For some aspects, such as Inspection, there will be general requirements that will apply to all types of education setting (States-maintained, Independent, and Voluntary Schools) as well as specific detail that applies to a group or groups of schools, depending on their individual circumstances. The new Law will establish these boundaries and ensure that the standards of education continue to develop and improve.
- 12.2 The Director of Education fulfils a key role in supporting the Committee's function of system-wide governance and the new Law will include a provision for the appointment to that role. Given the significant interaction between the Committee and the Director, the new Law will require that any recruitment activity should be undertaken by the Policy & Resources Committee in its capacity as the employer, however the process must involve input from the Committee *for* Education, Sport & Culture, for example by including a Committee member on any interview panel.

Inspection and standards

12.3 Summary

- All schools will be subject to regular inspection by an inspectorate approved by the Committee at a frequency it determines.
- The Committee will be able to require interim or additional inspections by an approved inspectorate or (in the case of States-maintained schools) by Officers authorised by the Committee.
- The new Law will retain the penalties for obstruction to inspection.
- The inspection of the content of collective worship and denominational education for Voluntary Schools will be separate to the main inspection.
- Inspection reports will be provided to the Committee, made available to parents of learners at the school, and published, within a defined period specified in the relevant inspection handbook.

12.4 Inspection provides independent assurance that standards are being met or exceeded and identifies areas for improvement. Section 35 of the current Education Law sets out the requirement for the inspection of all schools with the exception of Elizabeth College - this exception will be removed but the Committee wants to highlight that Elizabeth College is already regularly inspected by the Independent Schools Inspectorate (ISI) as are the other Grant-Aided Colleges. The current Law also clarifies who can inspect and the frequency of school inspections.

12.5 The current Law allows for the inspection of religious instruction delivered in a Voluntary school to be subject to alternative arrangements through the committee of management of that school. This is reflected within the current inspection handbook for States-maintained schools, and will continue as it is important to maintain flexibility over the inspection of religious instruction and collective worship in Voluntary schools.

12.6 Inspection frameworks for education settings, including States-maintained, Voluntary and Independent schools and The Guernsey Institute, must examine the quality of education, and the experience of, and outcomes for, learners. The new Law will, therefore, require the Committee to approve the use of any inspectorate, and this will at least include those that are already in place at the time of the new Law coming into force, and any inspectorates appointed for the purpose of inspecting educational establishments under any enactment relating to education for the time being in force in England. Inspection reports must be provided to the Committee and will be published. This is to ensure transparency for all stakeholders including parents and carers, teachers, education leaders and the community.

12.7 Importantly, the new Law will retain the Committee's power to require additional or interim inspections as necessary, at its cost. This will ensure that authorised individuals including Education Officers and/or HM Inspectorates are able to provide appropriate intervention to improve school standards. Additionally, and in recognition of the value of inspection, the penalties for obstructing an inspection as

described in the current Law will remain in place.

Data and information sharing and Reporting

12.8 Summary

- The new Law will establish a duty for Governance Boards or other relevant authorities to collect and maintain data in order to support effective safeguarding and the delivery of education services.
- The new Law will allow for a definition of the data which can be collected and processed. This definition will extend beyond that set out in the Pupils' Registration (Guernsey) Regulations, 1970 to include ethnicity, additional learning needs, uniform grant and any other factors that the Committee might require.
- Clear expectations relating to the reporting required of education providers including their reporting cycle and measures, inspection outcomes and results, will be set by policy.

Data sharing

- 12.9 The scale and extent of data collection undertaken by the States has evolved since the current Law was enacted. This expansion, coupled with the advent of data protection legislation, has created opportunities to share relevant information appropriately across services to ensure that effective and informed decision-making underpins both policy and service improvements. For example, the Committee *for* Employment & Social Security (CfESS) holds data regarding recipients of clothing grant and uniform allowance, an indicator of which helps the Education Office to measure the progress and attainment of learners in vulnerable groups and the success, or otherwise, of initiatives and interventions. Difficulties arise however, as consent is required to share information between Committees, which creates inconsistencies in the data sets collated year on year.
- 12.10 Data sharing, for the purposes of safeguarding, is covered by Section 27 of the Children (Guernsey and Alderney) Law 2008, which places a duty on States employees, and others, to take such action as they think is needed when they reasonably believe a child they are working with is in need. This includes the disclosure of information.
- 12.11 Specific learner data will continue to be required as part of the routine delivery and management of schools and education services. Typically, schools capture demographic data about the health and education of learners, including details of their attendance, progress, attainment and behaviour. Registration and attendance records are used to support referrals to specialist services and may be used in follow-up proceedings to determine if parents/carers are fulfilling their legal duty. Some data processed is classified as special category data under data protection legislation.
- 12.12 The Education Office currently relies on its policy, Schools Information Management System (SIMS), for specifying which data is required as part of service delivery. However, this policy does not cover the independent sector or post-16 provision

outside of the Sixth Form Centre. Currently the duties and requirements for the collection and sharing of data between the Education Office and non-maintained schools is included in disparate legislation (for example the Ladies' College Law 1962); in regulation (such as The Independent Schools Registration (Guernsey) Regulations 1971) and by formal or informal agreement. There are benefits to including specific requirements for the collection and maintenance of data in legislation or operational policy, both in terms of clarity over compliance with data protection legislation and providing consistency across education providers. Having an express duty in the new Law for a Governance Board, or other authority to collect and maintain certain data, and the flexibility to adapt the detail of this requirement over time will ensure that these requirements cover all phases and sectors as appropriate but allow for flexibility as local education provision evolves.

12.13 The new legislation offers an opportunity to ensure that there is a lawful basis for the collection and processing of data which enables the Committee and the Education Office, including schools and central services, to monitor, review and make decisions and not need to rely on consent.

12.14 The Committee has outlined in section 8: Home Education that it intends to have a Home Education Roll as a way in part to fulfil its duty to identify children missing education. Data collected as part of the electronic rolling census will provide a more complete picture of all children of compulsory education age and should also be available to the Committee for this purpose.

Reporting

12.15 Summary

- The new Law will include a duty for the Committee to publish annually a report in respect of education services. The annual report will include information on the school population in Guernsey and Alderney, assessment, attainment and participation rates, key developments in the services provided; key performance indicators and any other data considered appropriate, with associated comparators where this is possible, and will also report against the progress of the Education Strategy in place at that time.
- The new Law will include requirements for education providers to report to the Committee to enable the annual reporting duty to be fulfilled.
- The new Law will establish a right for parents and carers of learners of compulsory education age or below attending States-maintained or Independent education settings to receive regular and adequate information concerning the progress, assessment outcomes of their child.

12.16 Section 54 of the current Education Law makes provision for annual reporting by the Committee. Alongside the annual report on the Education Strategy, the Committee regularly publishes data through States of Guernsey documents, for example the Facts and Figures booklet, the Poverty Report, and various media releases on exam results.

12.17 Retaining a reporting duty in the new Law has the advantage of providing transparency

and assurance for the community. It will also require education settings, and their Governance Boards, to have effective reporting mechanisms in place, which is recognised as a key tool in driving school improvement. However, the new Law offers an opportunity to strengthen the reporting requirements for educational settings, services and the Committee. This will support accountability, transparency and performance and also enable appropriate and lawful processing of learner and school data.

- 12.18 It will be necessary for the new Law to be sufficiently flexible to accommodate changes to the type of information in respect of which the Committee is required to report so that reporting remains proportionate and can adapt to reflect the education system as it evolves over time.
- 12.19 Reported data will need to be accessible and available for use as part of the external inspection process and, importantly, inspection reports will be published.
- 12.20 Although not included as a right in the existing legislation, those with parental responsibility for a learner of compulsory education age already receive reports of progress from their education setting, at least annually. In other jurisdictions, including England, Northern Ireland and Jersey, this is specified in law as a right. Changes to the governance arrangements provide an opportunity to formalise this entitlement and clarify responsibilities, and the new Law will establish a right for parents and carers to receive regular and adequate information concerning the progress, assessment outcomes of their child. Usual practice is that schools continually update parents and carers on all aspects of a learner's education and it is anticipated this will continue. The frequency of formal reporting requirements will be determined by the Committee.

Appeals and complaints

12.21 Summary

- The new Law will include a statutory right of appeal to an independent body in respect of certain matters under the direction of the Committee including decisions made by a school, agent, the Committee and Governance Boards.
- The new Law will set out the decisions in respect of which there will be a right of appeal including, decisions relating to exclusions, school admissions, student finance awards, and the determination of additional learning needs provision.
- The new Law will include a provision to ensure that, in the context of such appeals, there is consideration of the need for efficient and effective education and the avoidance of unreasonable expenditure for the States.

- 12.22 The current Education Law contains provisions regarding appeals and complaints but in relation only to the registration of schools and financial awards and grants, with this type of appeal being referred to the Royal Court for resolution. There is currently no statutory right of appeal against decisions made by the Committee on other matters determined under the Law. Certain provisions for appeal (regarding education) are

set out within the Prevention of Discrimination Ordinance (Guernsey) 2022³³.

- 12.23 Wherever possible, disputes should be resolved at the 'lowest' level consistent with their satisfactory resolution. For education matters, this could be through processes at school, at the Education Office, by the Committee or, at Governance Board level. Sometimes a third party is required to provide an independent review and final decision. Most importantly if it is to have legitimacy, the originator of any decision should not review an appeal against their own decision. It is also recommended that the person or body considering an appeal should have the information, knowledge and skills required to consider the impact of a decision; for example, ensuring that a decision does not impact the efficiency or effectiveness of the education or place a requirement for unreasonable expenditure on the States.
- 12.24 Members of the public have a route through the Administrative Review Board (ARB) to challenge actions and decisions of a States' Committee or body (or an Officer acting on its behalf). The Review Board cannot overturn the decision or action taken but, where a complaint is upheld, it can request that the States' Committee or body concerned reconsiders its decision or action. The States' Committee or States' body is not bound to follow the findings of the Review Board, although in practice its decisions are normally respected.
- 12.25 In education, the decisions which are most often associated with a right of appeal are those regarding school admissions, pupil exclusions and determinations for learners with additional learning needs. While there is currently no standard appeal mechanism for decisions taken within the education system, the Committee has introduced mechanisms through policy, for example appeals regarding determinations of need under the SEN Code of Practice. These vary in respect of who considers the appeal and the nature of the appeal; in some circumstances, there are panels of professionals unrelated to the specific case who review details and act as decision makers, in other cases there are legal processes, for example a magistrate may direct a School Attendance Order to cease.
- 12.26 Following approval of the Prevention of Discrimination Ordinance, the CfESS has developed the process and panel which will review and hear claims of discrimination. The remit of the Employment and Discrimination Tribunal (EDT) will extend when the Prevention of Discrimination Ordinance enters into force on 1st October 2023. From that date, individuals will be able to challenge alleged incidents of discrimination on a wider range of protected grounds (i.e. disability, carer status, sexual orientation, race and religion or belief) and, with respect to the new grounds, in a wider range of contexts including education. The Committee has therefore considered the best approach to developing a further independent appeals panel and believes that there are opportunities to work alongside the CfESS to utilise common panel members for non-discriminatory complaints in the context of education, in particular those EDT panel members who have a specialism in education.
- 12.27 This alignment is also necessary to provide clarity about the route any complaint in

³³ [Prevention of Discrimination \(Guernsey\) Ordinance, 2022 \(guernseylegalresources.gg\)](https://www.guernseylegalresources.gg/Prevention-of-Discrimination-(Guernsey)-Ordinance,-2022)

the context of education will take, and to avoid duplication of processes. It is key to acknowledge that the resolution of complaints should be swift, to avoid disruption to a learner's education wherever possible. Whilst the detail of any such arrangement needs to be clarified, in its letter of response to the consultation the CfESS acknowledged the collaboration already taking place between Officers and strongly supported the continuation of this joint working.

- 12.28 Section 34 of the current Education Law provides that in the exercise of all powers and duties, the Committee must have regard to the general principle that, as far as possible within the provision of efficient and effective instruction, pupils are to be educated in accordance with the wishes of their parents/carers. However, there is a condition that this should not involve unreasonable expenditure by the States. With respect to an education tribunal capable of making a judgement for financial compensation, or an order for a course of action which might include children being educated otherwise than in school, or regarding finance awards in Higher Education, the safeguards similar to those provided by Section 34 of the current Education Law are required to ensure unreasonable expenditure is not placed on the States.

Registration of teachers

12.29 Summary

- The new Law will enable the Committee to require those teaching in education settings to be appropriately qualified for the role they are undertaking.
- The new Law will require all education settings for learners of, or above, compulsory education age to have a Single Central Register.

- 12.30 The current Education Law does not contain any details on teacher registrations or qualifications. To be employed to teach in States-maintained schools a candidate must have completed a training programme that leads to Qualified Teacher Status (QTS) or QTLS (Qualified Teacher Learning and Skills); however, there are a small number of staff who do not have QTS/QLTS status who are teaching in other educational settings. Staff in Further and Higher Education settings may have technical qualifications, and be working towards a teaching qualification.
- 12.31 The majority of teachers employed locally have qualified in the UK before coming to work in Guernsey and Alderney. A new on-island teacher-training course delivered in partnership with Middlesex University will start in the autumn of 2023. On successful completion of the initial training year, candidates will be able to work as a Guernsey Qualified Teacher for one year, after which they can apply for QTS with the UK's Department for Education.
- 12.32 The Teacher Regulation Agency (TRA), has responsibility for regulation of the teaching profession in England, including misconduct hearings and the maintenance of a record of teachers, trainee teachers and those who hold a teacher reference number. All teachers who are employed in States-maintained schools, as far as is known to the Committee, have met the qualification regulations under the system delivered by the

Teaching Regulation Agency (TRA)³⁴ for England or equivalents for the rest of the UK (e.g. the General Teaching Council for Scotland). Teachers who have qualified outside of the UK are advised to contact the Department for Education to have their international qualification accepted and entered on to the TRA register. Guernsey has published its own teacher standards which are known, understood and practised within States-maintained schools, but this is a matter of policy and is not underpinned by legislation.

- 12.33 Some countries including New Zealand require regular re-registration of teaching professionals. This is in line with other professionals such as nurses who have to undertake revalidation of their nursing registration. To be legally entitled to teach in New Zealand, teachers are required to complete compulsory registration every three years in order to hold a current practising certificate.
- 12.34 The register in England facilitated by Teacher Services can be used to view the individual record of any teacher, including any trainee, newly qualified, or fully qualified teacher. It is possible for registered employers to view a teacher's personal details and qualifications; to confirm they have been awarded QTS; and to check successful completion of an NQT year. It also provides information on any prohibition, sanction or restriction that might affect a person's ability to carry out certain activities, and grants entitlement to view details of a professional conduct panel's determination and to identify potential restrictions imposed by the Disclosure and Barring Service (DBS).
- 12.35 To maintain a separate register of qualified teachers under the new Education Law would create additional administration costs, which seems unjustifiable when employers are already able to check with Teacher Services (or equivalents for the devolved administrations) for an individual's qualification. It is considered beneficial however for the new Law to make provision for powers to be established to require all teaching professionals practicing in the public or independent sector to hold suitable qualifications and for those teachers to be registered with the appropriate body so as to enable this to be verified.
- 12.36 The States and the Committee have effectively carried out the recruitment and employment checks as part of their duty to provide an effective and efficient education service and it is therefore possible to continue without any express powers in the new Law. Equally there are benefits to including appropriate and relevant powers to introduce a formal registration requirement should the situation change in future regarding the qualification status that the Law requires.
- 12.37 As part of safer recruitment pre-employment checks, all staff who are employed in States-maintained schools are subject to an enhanced Disclosure and Barring Service (DBS) check and verification of teaching qualifications such as QTS. The States of Guernsey funds the initial DBS application and, thereafter, it is expected that employees maintain their accounts on-line at their own expense through the DBS

³⁴ The Teaching Regulation Agency (TRA) has previously been known as a QTS, GTC, DFE, DfES or DCSF number

Update Service³⁵.

12.38 In preparation for the introduction of the new quality assurance framework and following a review of safeguarding practice, the need for States-maintained schools to have a Single Central Register (SCR) was established. In 2020/21 staff from the central HR service worked with schools to populate the register with key information including confirmation of a TRN (teacher reference number), or the appropriate exception for those with non-UK qualifications, and confirmation that the necessary pre-employment checks have been completed. The SCR also records volunteers and other regular visitors (such as education officers and support services staff) to the setting. Each setting is responsible for keeping their SCR updated. This approach to record keeping is also followed in the Independent schools with similar single central registers being in place for their staff and regular visitors/volunteers.

12.39 These registers form a critical record of the safeguarding checks that have been carried out on all staff and other relevant personnel, and provide evidence to support the inspection of safeguarding in a setting. As such the new law will require all registered education settings (including Independent schools) for learners of compulsory education and all States-maintained settings providing education for learners of all ages, to have a Single Central Register. These registers are not public documents and therefore will be held securely by the school, but as a minimum will hold, in common with the DfE statutory guidance Keeping Children Safe in Education, confirmation of:

- an identity check,
- a standalone children's barred list check
- an enhanced DBS check (with children's barred list check) requested/certificate provided
- a prohibition from teaching check
- further checks on people who have lived or worked outside the UK
- a check of professional qualifications, where required, and,
- a check to establish the person's right to work in the Bailiwick of Guernsey

12.40 The new Law should include the flexibility to amend the details of these requirements over time, in line with evolving best practice.

13. **Safeguarding**

13.1 Summary

- The new Law will set out general responsibilities to safeguard and promote the welfare and wellbeing of learners, rather than directly specify individual areas for focus.
- In respect of the safeguarding and wellbeing responsibilities the new Law will contain:

³⁵ <https://www.gov.gg/GVB>

- A general overarching duty requiring education providers to make suitable arrangements through policies and practices that are regularly reviewed and updated,
- A power and flexibility for the Committee to expand upon these requirements over time.

- 13.2 The UN Convention on the Rights of the Child (UNCRC) sets out that all children should have protection and opportunities, regardless of their age, gender, culture, race, ability, sexual identity, religion or background. Locally, the Children's Law provides a general framework for child protection and safeguarding, and requires all States employees and everyone working with children, to work together and share information to ensure that children and young people get the services they need to achieve and maintain a reasonable standard of health or development.
- 13.3 The Committee is also subject to Resolution 17, Billet d'Etat II of 2018 to take a proactive approach to learner wellbeing and 'to embed an "environment for health" ethos across all aspects of education provision in the Bailiwick (including educational outcomes, the learning environment, curriculum, policies and procedures and partnership working) and to make use of any opportunities to meet the mental, emotional, social and physical wellbeing needs of all learners'.
- 13.4 The review of the Education Law has considered whether there should be specific mention in the legislation of particular issues that contribute to the overall safeguarding, health, and wellbeing of learners. It concluded that in order to ensure the legislation facilitates future changes in provision, rather than reference specific matters, it is more appropriate for the new Law to include a broad duty in respect of the safety and wellbeing of all learners. This will be subject to regular review and update.

14. **Health and wellbeing**

14.1 Summary

- The new Law will establish a duty for the Committee to facilitate medical inspections/treatment, for learners at any school and those educated at home, to be conducted under the supervision of the Director of Public Health. The definition of inspections and treatment will be sufficiently broad to cover all relevant health services.
- The new Law will establish a duty for the Committee and Governance Boards as appropriate, including within Independent Schools to make arrangements for raising awareness and assisting pupils in education to take advantage of health services made available to them by the CfHSC, retaining the caveat that a learner should not be encouraged or assisted if their parent/carer objects.
- The new Law will establish a power for a Headteacher to direct that a learner should not attend school in circumstances when attendance would be detrimental to the health of that learner, or others; and absence from school during that period will be considered 'authorised'.

- The new Law will retain a power to charge treatment costs to parents/carers, subject to hardship issues, to allow flexibility for the future.

Background and current arrangements

- 14.2 Existing legislation sets out a number of powers and duties in respect of the medical inspection of, and medical and dental treatment for students in schools. Sections 37 and 39 of the current Law place a duty on the CfHSC to provide for the medical and dental inspection and treatment of learners in attendance at any school, with fines where a parent/carer does not submit their child for inspection.
- 14.3 In terms of current practice, rather than medical inspections undertaken by medical practitioners, there are various health screening checks, for example, vision and weight checks, conducted by school nurses. School nurses also provide support in respect of medical needs and advice on a range of health matters. Treatment includes, for example, vaccinations provided through the School Nursing Service and dental treatment where a child qualifies under the terms of the Children's Dental Service. The power to charge parents/carers for treatment costs gives a clear basis for the States to recover expenses from a parent/carer, where appropriate. Changes were made to Family Allowance in 2022 that has provided financial support to enable access for children and young people to medical and dental services outside of school, and dental education within school and pre-school.
- 14.4 The current Education Law also includes a power (in language reflective of the time of its enactment) for the Committee to ensure cleanliness through the examination of children and, where 'infestation' or a 'foul condition' is identified, the parent/carer can be required to resolve the issues by 'cleansing' the child. If the situation then reoccurs, the parent/carer can be fined. Where vermin or a foul condition is suspected, but examination or cleansing cannot be undertaken immediately, the Medical Officer of Health has the power to direct the child be excluded from school until the required remedial action has been taken. These cleanliness provisions in the current Education Law are particularly outdated. In reality, routine inspections, for example for head lice, are no longer carried out in school.
- 14.5 Current policy advises Headteachers that, in line with their safeguarding duties, they do not have to accept a learner in school at times where it would be detrimental to the health of that individual learner or others. This would encompass ensuring that learners' health is not put at unnecessary risk from, for example, infectious disease. Existing provisions in the Public Health legislation include the ability to fine Headteachers (or Principals) if they knowingly allow an infected person to attend school.

Future provisions

- 14.6 The current duties (on CfHSC) have provided crucial medical protection for nearly 50 years, however, there are significant advantages to maintaining a legal basis for screening, inspection and treatment of children and young people. The delivery of such services in school might provide some children's only contact with health professionals and this legal provision generally enables an efficient means to monitor,

promote and protect a child's health. From an equity and safeguarding perspective, these services should continue to be provided to learners registered in States-maintained and Independent schools, but also be available to children who are home educated. However, establishing a duty for a different principal Committee in the new education legislation does seem incongruous, instead a duty will be on the Committee *for* Education, Sport & Culture to facilitate relevant health services, such as clinical assessment, screening or treatment for learners of compulsory education age, to be conducted under the supervision of the Director of Public Health.

- 14.7 The need for powers to protect people from the risk of infectious diseases has been highlighted recently with the coronavirus (COVID-19) pandemic. This demonstrated the risk that infectious diseases pose, and how the spread of a disease can be reduced when individuals who might be unwell are asked to remain at home until any risk of transmission has subsided. Having a power in place to reduce the transmission of infectious diseases is considered to be an important health and hygiene measure. Therefore a power which enables a Headteacher to direct that a learner should not attend school in circumstances when attendance would be detrimental to the health of that learner, or others should be established.
- 14.8 It is recognised that any provision not to accept a learner in school would need to be managed very carefully to ensure there is no potential for discrimination. It will be key to ensure very clear guidance is produced to outline the circumstances when such action would be legitimate, that is when it is known that a learner has an infectious disease, including illnesses such as vomiting and diarrhoea, and poses an infection risk to others in school or to themselves were they to attend. Importantly, a decision to use this power should be taken with medical advice. Currently the Medical Officer of Health is also empowered by public health legislation to enter 'any public or private school' to examine any pupil to ascertain if they are suffering from infectious disease, and to require the person in charge of the school to take such measures as are necessary to prevent spread of infection. That element would appear best suited to remain in public health legislation.
- 14.9 The language used to describe some of the powers in the current Education Law, particularly in respect of health and hygiene, will benefit from being updated in the new legislation. It is also important that any new definition is sufficiently broad to cover the variety of inspections and examinations learners may receive whilst of compulsory education age.
- 14.10 The parental right to prevent a child from receiving health services should be retained in the new Law as any safeguarding concerns regarding a learner who has been 'opted out' of such services could be referred through MASH under provisions in the Children (Guernsey & Alderney) Law 2008.

Consultation and engagement

- 14.11 Of those who responded to the public consultation surveys in 2020, there was significant support (between 88% and 96%) for the education law to include duties and powers to support the health and wellbeing of learners, including the provision of

screening and treatment. The 2022 survey set out more general questions about the overall responsibility of the Committee for the health and wellbeing of learners in education, and again the majority of those who responded agreed with the general approach.

- 14.12 Specific engagement with the CfHSC also confirmed its support to changes which modernise the language and duties of the education law and emphasised that mental and physical health must be given equal consideration.

Food and Activity

14.13 Summary

- The principles detailed in the new Law will reinforce that learners' experience in the educational environment should support their health and wellbeing.
- The new Law will set out requirements for the provision of suitable premises for recreation and physical activity in States'-maintained schools.
- Policy and guidance in relation to activity will have due regard to the objectives of any States on-island transport strategy currently in force.
- The new Law will not prevent potential future expansion of school meal provision, or the introduction of free school meals should this emerge as a policy priority.

- 14.14 Lifestyle factors, including nutrition and exercise, play a significant role in minimising the risk of diseases such as stroke and cancers. Diseases influenced by lifestyle factors, including nutrition and activity levels, are of worldwide concern and locally 50%³⁶ of deaths in Guernsey and Alderney in 2013-15 were attributable to diseases of the circulatory system, (mainly heart diseases and strokes) and cancers. The estimated cost to the Bailiwick's wider economy from effects of obesity and related conditions is £27 million per annum³⁷. The new Law presents an opportunity to make provisions on matters of food and activity for learners.

- 14.15 According to the Health Improvement Commission³⁸, local data mirrors the international picture in indicating a close correlation between socio-economic inequalities and increased weight amongst local children as well as a decline in physical activity throughout childhood, which is steeper amongst certain groups such as girls.

³⁶ Data sourced from the Health Intelligence Unit, and based on p47-48 available from: <https://www.gov.gg/CHttpHandler.ashx?id=110876&p=0>

³⁷ Data sourced from the Health Improvement Commission (HIC). The approach of extrapolation was endorsed by senior officers in both the CfHSC and Policy & Resources. Figure relates to factors such as increased levels of absenteeism, loss of productivity and increased social care needs, together with more direct health care costs.

³⁸ The HIC is an independent charity, with members of staff drawn from various States service areas. It has service level agreements with CfHSC, CfESC and CfE&I, with a remit to deliver community-facing elements of the Healthy Weight Strategy and the Drug and Alcohol Strategy.

- 14.16 The Guernsey Child Measurement Programme (GCMP) Report³⁹ records the weight of children in year 1 when they are aged between 5 and 6 and year 5, when they are aged between 9 and 10. The 2022 report indicates that 17.7% of children in Year 1 have an overweight or obese weight status, which increases to 26.7% of children in Year 5. The 2022 Children and Young People's survey (C&YPS)⁴⁰ provides insight into a number of elements around children's diet and activity. For example, 25% of learners across primary and secondary education indicated that they had eaten at least 5 portions of fruit and vegetables on the day before the survey. Whilst the numbers using active travel to journey to or from school has increased, only 61% of learners indicated that they were physically active for 60 minutes on at least 4 days a week.
- 14.17 The Education Strategy highlights the importance of supporting health and wellbeing for all as part of its Equity, Safety & Inclusivity priority, and the importance of this is echoed across other key strategies of the States. For example, a priority outcome of the CYPP is that children should be 'Healthy and Active - having the highest possible standards of physical and emotional health and leading active lives that promote their long-term health'. The Healthy Weight Strategy's healthy eating pillar ('Eat Well') references the need to develop the role of schools in educating the population about nutrition. Active transport such as walking and cycling also supports the integrated transport strategy.
- 14.18 The current Education Law sets out the following statutory provisions which relate to food and activity: a duty for the Committee to contribute to the spiritual, moral, mental and physical development of the community; a requirement that education facilities provided by the Committee include adequate provision for recreation and social and physical training, and a power for the Committee to make appropriate arrangements to transport a child to school. However, unlike other jurisdictions, there is no provision for free school meals.
- 14.19 From a policy perspective there are a number of strands that support health and wellbeing, and this places requirements on States-maintained schools to establish a whole school physical activity framework, including areas such as physical education (PE), active travel, school sports, and encourages physical activity within the school day using initiatives such as the Daily Mile.
- 14.20 Other jurisdictions adopt a range of different approaches in respect of healthy eating and physical activity which vary from largely silent, as in Guernsey, to very prescriptive powers and duties. The law in Jersey contains a duty to promote physical development but there is no mention of food and nutrition. In the Isle of Man, legislation establishes powers for the provision of food and refreshments at State-maintained schools and specifies that the curriculum includes PE. In England and Wales local authorities have statutory powers to provide and charge for school meals and to provide free school meals in defined circumstances. PE is specified as part of the National Curriculum and there are nutritional standards for food and drink

³⁹ [States of Guernsey, Public Health Services, Guernsey Child Measurement Programme 2022](#)

⁴⁰ <https://www.gov.gg/youngpeoplesurvey>

provided on school premises.

- 14.21 The new Law will include reference to the physical and mental health, and the safety, welfare and wellbeing of all learners engaged in education and will require that the educational environment should support learners' health and wellbeing. The objectives of the new Law will reference promoting the development of individual character including emotional and physical development. While PE is specifically referenced in the legislation of other jurisdictions, as with all other curriculum subjects this detail will not be included in the new Law. However, wording in the curriculum will continue to ensure the protection of learners' health and wellbeing.
- 14.22 The current Education Law specifically requires that 'primary, secondary and further education facilities provided by the Committee include adequate facilities for recreation and social and physical training'. In England, the law enables schools premises standards to be set out in Regulations which provides flexibility so standards can evolve with developments in practice. By adopting the same approach the Committee is making available to future Assemblies the ability to specify the detail of future premises and facilities standards.
- 14.23 In line with the requirement for schools and settings to have in place policies and practices that safeguard children and young people, schools will also need to have policies which actively support and promote the health of learners and the wider school community, and it will be necessary for such policies and practices to be regularly reviewed and updated.

Clothing, board, and lodging

14.24 Summary

- The new Law will maintain a duty for the Committee to ensure the provision of clothing and or relevant financial assistance and retain the power to recover sums from parents/carers where appropriate, provided it does not cause financial hardship.
- The new Law will maintain a power for the Committee in respect of the provision of board and lodging when it is satisfied that it is required by the needs of a learner.
- The new Law will retain a power to charge or recover costs in relation to board and lodging from parents/carers where it does not cause hardship.

- 14.25 The current Education Law grants powers to the Committee to provide clothing to pupils registered at any school. Current practice is such that clothing grants, or uniform allowances are issued by CfESS. Data collated for the 2023 education annual report, shows approximately 20% of primary and secondary learners are in receipt of Uniform Allowance.
- 14.26 Whilst the Committee wants to retain this important provision to reduce financial barriers to learning, it believes that the law must be flexible to allow for changes in how the process is administered or who administers it, if necessary, in the future. This

is supported by the CfESS.

- 14.27 Where it is necessary for a learner to attend the best school for them in terms of their age, ability, aptitude and needs, the current Education Law allows the Committee to provide accommodation outside of a school. The Committee is also able to recover costs from parents provided it does not cause financial hardship.
- 14.28 The Children's (Guernsey and Alderney) Law 2008 contains obligations in respect of the accommodation of children for the CfHSC. The 'Children (Placement out of the Jurisdiction) (Guernsey and Alderney) Regulations, 2013' set out procedures and responsibilities for both CfHSC and the Committee in cases of off-island placements. The CfHSC is responsible for monitoring any arrangements whereby an individual fosters children in Guernsey.
- 14.29 The Term Time Host Service (TTHS) assists those parents from Alderney and Herm, whose children attend a school in Guernsey, to obtain suitable accommodation for their child during the school term. Following the removal of the 11+, the majority of these fall into the post-16 bracket. Where capacity allows, the TTHS will also assist parents from Sark.
- 14.30 A 'Complex Needs' panel, run jointly by CfHSC and the Committee, considers off-island placements for children, with a budget to fund placements. It is rare that a child needs to be placed off-island solely for reasons of special educational needs (SEND); when children with a Determination of SEND are placed off-island, it is normally because there are also wider health and social care needs that cannot be met locally. Currently there are three children and young people in this category. Regardless, those placed off-island have educational needs and they may potentially board at, or outside, a school.
- 14.31 There continue to be circumstances in which children board in Guernsey, or off-island, in order to access education suitable to their needs. There is close collaboration with the CfHSC in this respect. CfHSC has the operational responsibility and budget to assist parents/carers of children from other islands in the Bailiwick being educated in Guernsey to make suitable arrangements regarding their accommodation. However, the Committee has involvement in cases where a child is placed out of jurisdiction.
- 14.32 It is appropriate therefore to maintain a permissive power for the Committee around the provision of board and lodgings when it is satisfied that it is required by the learner. Interaction with CfHSC's responsibilities and other pieces of legislation will be considered during the legislative drafting process to ensure a fit with duties, powers and provisions elsewhere. Some existing elements such as specifying board and lodging outside of a school and the religious denomination of the person with whom the child will reside will be removed as these matters are taken into account by officers as a matter of policy when making accommodation arrangements. A power to charge or recover costs from parents/carers where it does not cause hardship is beneficial to provide to flexibility for the future.

Promoting positive behaviour

14.33 Summary

- The new Law will include a requirement for all schools to safeguard and promote the good behaviour of their learners.

- 14.34 The current Law does not include any reference to behaviour management, or the expectations on schools, parents and learners to ensure that their behaviour is appropriate in school. In paragraphs 6.47-6.54, the Committee set out its intentions to manage exclusions within the new Law, but the focus remains one of inclusion and the need for schools to create safe and inclusive environments for learners and staff. One particular aspect of behaviour which can impact on education is that of bullying.
- 14.35 Bullying can be described as behaviour that is deliberately intended to hurt, threaten or frighten another person or group. It can have a significant and detrimental impact on the mental health and wellbeing of young people and it is important that schools put measures in place to minimise the risk of bullying. While reference to bullying and measures to address it are referred to in the legislation of other jurisdictions, including England and Wales, the current Education Law is silent on the matter.
- 14.36 Locally, schools record bullying differently depending on internal policies; consequently it is difficult to make direct comparisons in respect of pupils' experiences of bullying between schools. However, questions on bullying are included in the Young Peoples' Survey (www.gov.gg/youngpeoplesurvey) and despite a decline in previous years, the most recent result show an increase in self-reported bullying. As part of delivering against our Education Strategy commitment to 'equity, safety and inclusivity', specialisms have been developed within school staff groups (such as the introduction of Emotional Literacy Support Assistants – ELSAs), and across the whole school culture (via the Heroic Imagination initiative).
- 14.37 The current Law does not require schools to have an anti-bullying policy, or wider behaviour policy and instead this is dealt with at Committee policy level. In States education settings the overarching States' Education policy 'Promoting Good Behaviour in Schools' requires all States schools to have a behaviour policy, which includes measures to seek to prevent all forms of bullying among students. A separate document, 'Anti-Bullying Procedures – Guidance for Schools', provides specific anti-bullying guidance to schools. The 'Positive Mental Health and Wellbeing Policy' also refers to the development of clear policies to prevent and address issues of bullying.
- 14.38 In England and Wales, schools are legally required to have a behaviour policy and measures in place to prevent bullying. In Jersey, the legislation does not specifically mention bullying. However, it does contain provisions dedicated to 'Behaviour and Discipline', to 'promote self-discipline and proper regard for authority, the encouragement of good behaviour and respect for others and the property of others and the attainment of acceptable standards of behaviour among pupils' and to 'regulate pupil conduct'. All schools are required to set out acceptable behaviour and measures to meet these aims.

- 14.39 The Committee recognises that bullying is as an important issue and acknowledges the negative impact it can have on a learner's educational experience. Therefore, as part of their safeguarding responsibilities, the new law will require schools to minimise the risk of bullying through effective behaviour policies and anti-bullying measures.

Searching and screening learners

14.40 Summary

- The new Law will include a power to search learners with consent, and operational policy and guidance will be put in place to provide clarity and consistency in the application of this power across education providers.

- 14.41 Another tool available to support good behaviour is the power to search and/or screen learners. Searches might include learners' property and clothing, including bags, lockers and/or pockets. Where it is felt necessary by staff the Guernsey Police will be brought in to lead or support schools in doing this. The Police can use their own powers as a basis for searching with or without consent.
- 14.42 Individual school behaviour policies do not in all cases specify prohibited items or clarify that learners and their possessions may be searched, possessions confiscated and the incident referred to the police. Providing clarity to schools with regard to the requirements and expectations for screening and searching would be welcomed by Headteachers and Principals and would ensure there is consistency in how they are undertaken and reported.
- 14.43 The Neighbourhood Policing Team has confirmed that it has attended schools and that, generally, learners will consent to a search when they are present, therefore not requiring use of statutory police powers. The Youth Justice Service has also emphasised that the power to search should sit with the Police and not be extended to others, including teachers. It is acknowledged that while there may be circumstances when the safety of the individual or others is at immediate risk, teachers may choose to intervene, but this should not be encouraged through policy or legislation.
- 14.44 In other jurisdictions, for example England, schools can require learners to undergo screening by a walk through or hand-held metal detector even if they do not suspect them of having a weapon and without learner consent. Schools have statutory powers enabling the formulation of rules on behaviour and employer duties enable the imposition of a requirement that learners undergo screening undertaken by any member of staff. In respect of searching, staff have powers to search learners for any item provided they have the learner's consent. Those staff who are authorised by a Headteacher are able to conduct a search without consent provided there are reasonable grounds for suspecting a learner might have a defined prohibited item and subject to certain conditions, including that there must be a witness and the person conducting the search must be of the same sex as the learner being searched.
- 14.45 It should be noted that across both periods of consultation, in 2020 and 2022, concerns were raised about, in particular the impact of powers to search without

consent on the trust and respect between learners and school staff, and the ability of school leaders to have an open, supportive and inclusive school community. Following the local child safeguarding practice review of a child in England who had been searched (by Police) in school, the Department for Education updated its guidance document Searching, screening and confiscation (DfE, 2022) to emphasise the school's primary concerns should be to safeguard the child or young person, and ensure that any actions are in the best interests of the child.

- 14.46 Article 16 of UNCRC sets out the child's right to privacy. It is therefore key that the searching and/or screening of learners takes this right into account and the policy and legislation underpinning the decision to search or screen includes protection against arbitrary acts which could impact privacy and harm the child's reputation.
- 14.47 Expecting teachers and staff in schools to search learners physically without consent is clearly not appropriate. It is generally understood that staff in schools would request learners to open their bag or turn out their pockets but if this was refused, and the staff's concerns remained, the next step should be to request the Police to attend. Guidance and policy should be in place to provide clarity for staff and learners and to ensure consistency across schools. Schools should be able to undertake proactive screening without requiring statutory powers to do so, but any such screening should be included in policy.
- 14.48 Feedback from stakeholders demonstrates there is a clear rationale for not including powers to search without consent in the new Law, but that providing a power for authorised school staff to search a learner's property with consent, supported by policy and guidance would assist schools in ensuring the safety of the school environment. The guidance for schools must represent best practice and enable learners to be involved in school behaviour policies, for example agreeing the list of prohibited items.

Corporal punishment

14.49 Summary

- The new Law will prohibit the use of corporal punishment in all schools.
- The new Law will include wording to identify that action or use of force in certain circumstances, such as for the prevention of personal injury or damage, is not considered to be punishment.

- 14.50 Corporal punishment includes any punishment in which physical force is used and intended to cause some degree of pain or discomfort. It is contrary to a number of treaties that apply locally, including the European Convention on Human Rights and the UN Convention against Torture (UNCAT). It is also contrary to the UNCRC.
- 14.51 In 1985, the then Education Council in Guernsey resolved that Corporal Punishment should not be permitted in schools under its jurisdiction, but its use in schools is not explicitly prohibited by law. Corporal punishment of children in Guernsey is not prohibited generally because in certain circumstances a 'reasonable punishment' defence exists such that certain acts undertaken in certain contexts, for example a

parent/carer punishing a child, will constitute a valid defence.

- 14.52 Reviews by relevant UN Committees in recent years have given rise to consistent observations and recommendations around prohibiting corporal punishment in all settings in the Crown Dependencies, including, and sometimes specifying, schools. In Jersey and Wales corporal punishment is now unlawful in all settings including the home. Legislation in other jurisdictions, including the Isle of Man and England contains explicit prohibition of corporal punishment in schools and some related settings.
- 14.53 The principles and objectives of the new Law would implicitly prohibit corporal punishment. However, making an explicit prohibition of corporal punishment of learners in all schools, including registered pre-school settings and for those learners for whom education is provided under any arrangements made by the Committee, would more clearly demonstrate a commitment to relevant conventions, including the UNCRC. For clarity, the Law will identify that action or the use of reasonable force in certain circumstances, such as for the prevention of personal injury or damage, is not considered to be punishment.
- 14.54 This approach has been supported throughout the consultation and engagement activities, both with the education profession and the wider community.

Employment of Children

14.55 Summary

- The new Law will include provisions relating to the employment of children or young people, similar those in section 47 of the current Education Law, to enable action where it appears employment is prejudicing a learner's ability to obtain the full benefit of education, with appropriate consequences for employers who are employing children in contravention of these principles. The powers to act should relate to all children and young people of compulsory education age, not just learners registered at a school.
- 14.56 The current Education Law contains provisions relating to the employment of children of compulsory school age which outline the various powers available to the Committee to ensure no child or young person is employed in a manner that is prejudicial to their health or education. This includes fines or imprisonment for those who are employing children in contravention of these principles. Children and young people are also protected in other legislation and through conventions, such as UN Convention on the Rights of the Child and those issued by the [International Labour Organization](#) (ILO), although some of these are more than a hundred years old.
- In particular the UNCRC sets out the responsibilities of State Parties in respect of the protection of children and young people from economic exploitation and from performing any work that is likely to interfere with a child's education or be harmful to their health or development.
- 14.57 Feedback from stakeholders indicates that there are still occasions where employment interferes with a learner's education and that require intervention, and

the protection afforded by the provisions will extend to all children of compulsory education age and not just to those registered at school.

15. Financial Implications

- 15.1 Throughout the review of the Education Law, for each policy area, consideration has been given to the financial implications of delivering against any new or revised duties, and for the continued development of the supporting policy and guidance for areas such as governance, transport and home education. From the outset the Committee has been clear that the implementation of a new Education Law should not increase the overall costs of delivering education. Instead, the legislation should support modified and improved ways of working which meet the strategic aims of the Committee via alternative models and approaches – in effect making the change cost-neutral to the States.
- 15.2 There are however three key areas where the policies developed by the Committee through this process will require a reallocation of the existing budget within the Committee’s mandate, in order to facilitate what it believes will be significant improvements to service provision, standards and accountability. These are: the delivery of a new governance model, as set out in section 11/Annex; the extension of the age range for supporting learners with additional learning needs as recommended by the nasen review; and the provision of an independent appeals panel.
- 15.3 Given the profile and scale of the creation of - and ongoing support for - a governance model, there will be consequential financial implications in several areas including: recruitment and induction; ongoing training; Education Office support including clerking; and payment for the Chair of Governors. The estimated recurring costs of this is £166,000 per year, with an initial one-off recruitment and induction cost of £13,000.
- 15.4 The recommendations of nasen’s Guernsey and Alderney SEND review made clear the benefits of a more integrated approach to supporting children and young people as they transition in to and out of compulsory education age. So, whilst additional costs are expected for this aspect of delivery, this is much more about a reallocation of budget to alter the focus of services and meet any changing needs. With plans continuing to be developed for operational cohesion across health and education, there are opportunities to increase efficiency and effectiveness, remove duplication and make the processes (which often feel complicated and cumbersome to children and their families) more streamlined. It should also be noted that the implementation of the recommendations from the nasen review is in progress having been supported by the States, with the costs associated with that implementation funded through the GWP process. The intention of the Committee to embed these changes in future legislation simply formalises the agreed plans, on areas such as the extended age range for those with an additional learning need, to ensure that the foundations of new provision already invested in can be built on for the future.
- 15.5 An independent appeals panel is regarded as a necessity for good governance, and to provide reassurance to the public that they can make a legitimate challenge where they feel a decision concerning the education provision for their child is not correct.

In estimating these costs, the Committee considered the number and type of existing policy appeals received by the Education Office in an academic year, and the types of appeals that will be available. Of course, the Committee intends that in most cases it will resolve complaints at an earlier stage of the process and, therefore, believes the situations when an appeals panel will be required will be limited. As set out in paragraphs 12.25-12.27 of this Policy Letter, the intention is to work with the CfESS to identify opportunities to meet this obligation cost effectively and without creating unnecessary complications with regard to the operation of the Employment and Discrimination Tribunal.

- 15.6 The Committee has shown fiscal awareness and constraint in developing its policies and has directed its Officers to identify areas where, by September 2025 (when the new legislation is expected to come into force), the budget for education will be able to accommodate the changing profile of costs across the service. It is therefore pleased to not be requesting any increase in its budget to deliver the benefits that this new legislation will provide.

16. Preparation of legislation and commencement timelines

- 16.1 The current Education Law has been in place since 1970 and while it has accommodated many significant changes and developments to Guernsey's education system in the intervening period, it is outdated and no longer reflects current education needs and practice in the 21st century. Importantly, since the introduction of the current Law, the legislative landscape has changed considerably with the introduction of significant pieces of legislation including the Children (Guernsey and Alderney) Law 2008 and the Human Rights (Bailiwick of Guernsey) Law 2000. The review of the education legislation has been overdue not least to account for progress in children's rights and liberties.

- 16.2 A high-level summary of the current process for legislative drafting is shown in the diagram below and whilst the Committee is not able to determine the duration of the drafting and approval process, it is aware that the only sensible point in the year when new legislation should come into force would be in early September, as a change in legal framework during a school year would be disruptive and challenging in regard to compliance.



Figure 1: States of Guernsey process for legislative drafting.

- 16.3 A number of the provisions included in the current Law are considered to be fundamental to the delivery and organisation of a system of education that they need

to be carried over to the new legislation. Appendices 2 and 3 include a list of these provisions with explanatory commentary.

- 16.4 The review of the legislation has also extended to the Education (Amendment) (Guernsey) Law 1987, which updated the 1970 provisions in a number of areas including the identification and assessment of children with special educational needs (additional learning needs) and provision of education to meet these. The content of the 1987 amendment has been examined to ensure that any key powers, duties or provisions are carried over and updated as necessary. Appendix 3 sets out detail about what the new Law should retain in this area. The primary legislation will need to be permissive and sufficiently flexible to account for the evolving landscape with the principles and objectives making clear the expectations and intent of the legislation and operational policy to provide the detail necessary to implement the provisions and regulate practice.

17. **Compliance with Rule 4 of the Rules of Procedure**

- 17.1 Rule 4 of the Rules of Procedure of the States of Deliberation and their Committees sets out the information which must be included in, or appended to, Propositions laid before the States.
- 17.2 In accordance with Rule 4(1)(a), the Committee confirms that the Propositions which this Policy Letter accompanies were identified as part of the Transforming Education Programme, and prioritised within the Government Work Plan⁴¹ (Priority 3: Delivering Recovery Actions). The introduction of new education legislation will additionally support a number of other priorities from the Government Work Plan including the promotion of learning and skills, as well as the strategic aims of the States with regard to the Island's future prosperity.
- 17.3 In accordance with Rule 4(1)(b), the Propositions have been developed with consultation and engagement as explained throughout this Policy Letter, and summarised in Appendix 1. In addition to the public surveys, presentations and workshops have been held with key stakeholder groups during the development of the proposals, including teachers, States Members, School Committees, parents/carers, children and young people.
- 17.4 In accordance with Rule 4(1)(c), the Propositions have been submitted to His Majesty's Procureur for advice on any legal or constitutional implications. She has advised that there is no reason in law why the Propositions should not be put into effect.
- 17.5 Rule 4(1)(d) concerns the financial implications to the States of carrying into effect the proposals. Estimates of key areas of cost have been described in section 15 with the Committee confirming its intention to meet any new costs through the reprioritisation of its existing budgets.
- 17.6 In accordance with Rule 4(2)(a), the Propositions relate to the purpose of the Committee 'To encourage human development by maximising opportunities for

⁴¹ [CHttpHandler.ashx \(gov.gg\)](http://CHttpHandler.ashx(gov.gg))

participation and excellence through education, learning, sport and culture at every stage of life.'

- 17.7 In accordance with Rule 4(2)(b) of the Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the Propositions above have the unanimous support of the Members of the Committee.

Yours faithfully

A C Dudley-Owen

President

S P Haskins

Vice President

S Aldwell

A Cameron

S Roberts

J B Green

Non-States Member

D Mitchell

Non-States Member

Annex

PROPOSED EDUCATION GOVERNANCE DELIVERY MODEL

1. Introduction

- 1.1 The introduction of any model of governance will present a significant and transformative change for the local education system. In considering the characteristics of an optimum model, the Committee has purposefully developed proposals which will deliver the benefits of effective settings-level governance in the short term, but which will also continue to have enduring impact as the system evolves to account for changes in education and wider service delivery. The new Law will set out the fundamental framework to enable an appropriate governance model to be established. It will also provide the necessary flexibility to implement the delivery model described below, and accommodate changes to the delivery model, which will be necessary both as the delivery model matures and evolves over time; and, given the lifespan of the legislation, to reflect future changes to the organisation of the education system.
- 1.2 The model described in this annex will be implemented at the point that the new legislation comes into force. It has been meticulously constructed so that:
- it balances important considerations in respect of ensuring representation local to each setting on Governance Boards alongside accounting for the unique interdependencies of our education system;
 - it recognises that locally the system will require a number of volunteers willing and capable of performing a governance role at the point at which the legislation is commenced; and,
 - it accounts for the characteristics of a system moving away from selection to all-ability education.
- 1.3 The questions posed in the sections below represent the issues which are central to the currency and effectiveness of any future delivery model.

2. What duties should Governance Boards hold?

- 2.1 As described in the main policy report, the legislation will set out the duties that Governance Boards will be required to fulfil. Given the Committee's proposals have been developed to account for the evolution of governance over time, it is anticipated that the duties will mature as Governance Boards become more established and as freedoms and flexibilities vacillate. Consequently, it is proposed that the new Law will provide for duties to be established and detailed in such a way as to provide for future flexibility, including through the statutory provision of a Governance Handbook.
- 2.2 The Committee has considered a range of duties and proposes, given the extent of the responsibilities anticipated at the point the new legislation comes into force, Boards will be strategic in nature focusing on high-level oversight. It is therefore considered appropriate that the duties to be placed on Governance Boards are as follows.

A duty to:

- Ensure clarity of vision and ethos across the setting
- Contribute to and drive the strategic direction of a setting at an appropriate pace
- Ensure that the setting uses the resources at its disposal to support staff so that they can do their jobs well, including through access to internal and external CPD and appropriate appraisal to drive continuous improvement
- Hold the Headteacher/Principal (and Executive Principal, where that role exists) to account for the educational performance, standards, local strategic vision, and the organisation and management of the setting, against the agreed Quality Assurance Framework⁴²
- Ensure that any devolved powers and delegated budgets/resources are used appropriately and effectively to deliver the highest standard of education
- Ensure that the agreed vision and strategy for education across Guernsey and Alderney is actively realised within the setting, including through jurisdictional policy compliance and with a clear focus on the quality of educational provision
- Ensure that the voice of learners is considered in the strategic development of the setting
- Promote the achievement of all learners, including those with additional learning needs or those who might be vulnerable to disadvantage
- Be accountable to, and report to, the Committee (including Officers acting on its behalf) as required to facilitate and further the positive development of the setting
- Promote effective communication with the local community, including reporting annually to parents/carers on the work of the Governance Board
- Promote high levels of learner attendance
- Ensure compliance with all procedural matters and with appropriate policy and standards as set out in the Governance Handbook

2.3 It should be noted that the Governance Boards of Voluntary schools will also have additional duties which relate to the denominational elements of education delivery, in particular relating to support and oversight of the school's religious character.

3. **How should Governance Boards be organised?**

3.1 The Committee has carefully considered the 'shape' of Governance Boards and believes that they should be representative of the educational community they serve, and that representation should be delivered through the establishment of categories of Governor, in a similar, though not identical, way to that in place across other jurisdictions.

⁴² [Education inspection framework for September 2019 \(gov.gg\)](https://gov.gg/education-inspection-framework-for-september-2019)

- 3.2 In the context of a system of significant educational interdependency such as ours, it is especially important that those who govern and lead individual settings do so with appropriate understanding of the wider education system. To ensure this, the Committee proposes to establish, for schools in Guernsey, a ‘clustered’ delivery model which will ensure that, whilst each setting receives focused and individual governance with appropriate local representation, a strategic view of the whole cluster is maintained by all settings within the cluster having a common Chair. This will allow, where necessary, individual Governance Boards to work with their setting’s leaders to encourage the sharing of good practice across settings in each cluster.
- 3.3 Importantly for small jurisdictions such as Guernsey and Alderney, a clustered model presents some significant advantages in respect of resources, both in the number of volunteers required to populate Boards and also in terms of costs as fewer Governors will mean less expenditure, for example on training.
- 3.4 In addition to those ‘clustered’ settings where oversight will be provided by the same Chair, individual Boards will be established for The Guernsey Institute and for St Anne’s School in Alderney.
- 3.5 This is best described by the following image:

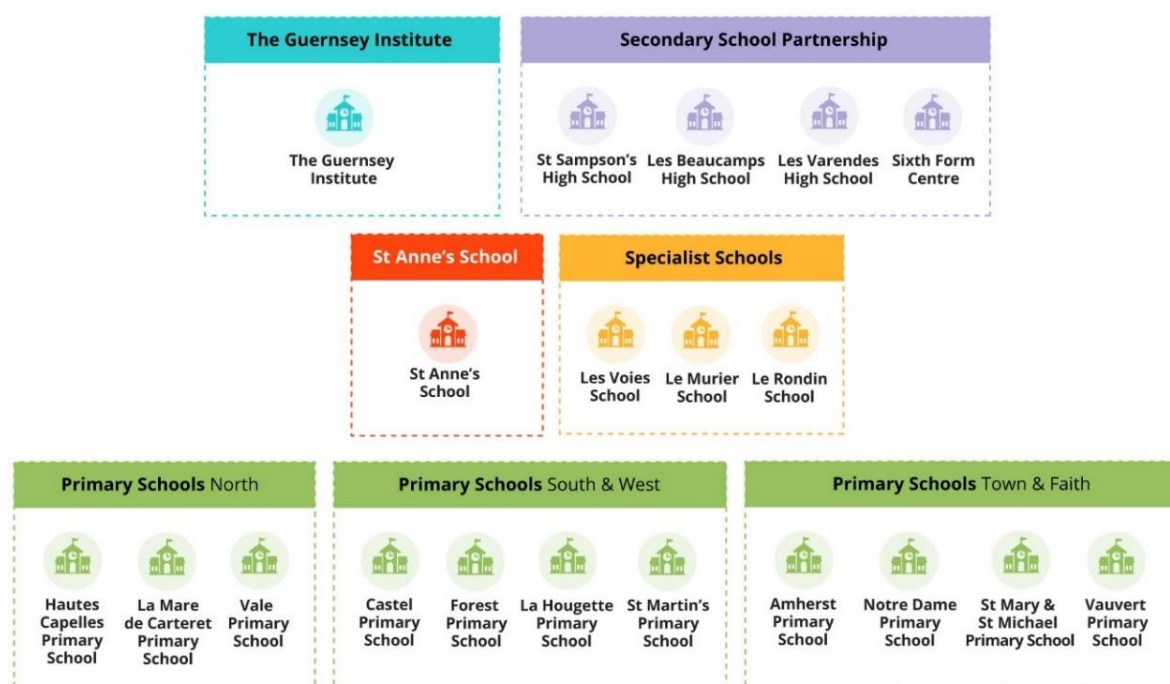


Image 1: Clustered model of governance

4. How to constitute Governance Boards?

- 4.1 As highlighted in section 11 of the Policy Letter, to ensure Governance Boards are appropriately constituted, the Law will provide for the establishment of three categories of Governor: core, community and, in the case of Voluntary schools only,

partnership Governors. Each category will consist of one or more 'type' of Governor and the anticipated roles that need to be fulfilled across the Governance Boards will be performed by particular categories and types of Governor. Headteachers and Principals will automatically be ex-officio members of the Governance Board for their setting.

- 4.2 Through the considered use of, in particular, appointment to community co-opted Governor positions, the Chair of a cluster or single Governance Board will be able to recruit the specific skill-set or representative body that is desirable for the individual setting. Examples of this might include The Guernsey Institute's Board choosing to invite applications from staff working within a specific employment sector and/or from colleagues working within the Secondary School Partnership; or in the case of Voluntary schools, this might include the Board choosing to make appointments according to religious affiliation.

- 4.3 This is best described by the following image:



Image 2: Categories and types of Governor

- 4.4 In some cases, co-opted Governors might have skills which could be used positively across more than one setting, whether that is within a school governance cluster or across the wider system. However, to avoid issues associated with disproportionate influence across the whole system, no single Governor (including Chairs and co-opted Governors) will be permitted to serve on the boards of more than one quarter of all individual education settings across the islands.
- 4.5 The Committee has considered the best approach to structuring a clustered model and its proposals exploit the opportunities presented by shared Governors, which formalise and extend the existing practice of collaboration within and across different education phases. This is key to ensuring a learner's journey through the system is as seamless as possible, accounting for matters such as additional learning needs and a coherent curriculum between primary and secondary school.
- 4.6 By grouping primary schools according to their partner secondary school, Chairs will retain a strategic view of practice across the cluster to ensure a coordinated approach. This also supports operational advantages in sharing resources across clusters of

primary schools. Clustering the Voluntary schools together will provide opportunities for the Chair and other core Governors to share knowledge and practice to enable consistency for Guernsey's faith schools.

- 4.7 Importantly, the clusters provide the opportunity to further embed the 11-18 learning partnership, the Secondary School Partnership, which is a critical component of the reorganisation of secondary and post-16 education. Clustering along these lines retains strategic oversight and collaboration across schools in the secondary phase which ensures the equity of education offer for all learners.
- 4.8 A shared Governance Board for specialist schools also supports the needs-led approach and brings shared operational benefits in relation to transition for learners with some of the most complex needs.
- 4.9 It is recognised that the establishment of any new system of governance will require the evolution of processes and procedures. This evolution will allow for improvements to the existing systems of elections and appointments which exist around the current School Committees, including improved communication around the membership of governance providers. There are particular limitations surrounding the timing and frequency of election processes which can prove challenging when vacancies arise unexpectedly. The transition to the new model presents the opportunity to address this through more appropriate systems.
- 4.10 The Committee's governance model will operate according to the representations, methods of appointment and terms of office outlined in the table below.

Category of Governor	Role	Method of appointment	Initial term of office *	Quantity
Core	Chair	Appointed by CfESC, following application and against an agreed competency framework	3, 4 or 5 years, staggered to avoid all roles becoming vacant at the same time	1
	Education Office representative	Appointed by CfESC, on recommendation of Director of Education following internal application process	Term of employment	1
Core CfESC nominated Governor	Executive/ Headteacher/ Principal	Ex-officio	Term of employment	Minimum 1 or Maximum 2 where Executive roles exist
Community	Schools Parent/Carer	Elected by the parent community of an individual school. Formally appointed by the Chair of the Board	3 years	1
	TGI only: Learner/Student 18+	Elected by the learner population. Formally appointed by the Chair of the Board		
	Staff including teaching and non-teaching staff	Elected by staff and appointed by the Chair of the Board	2 years	1
	Co-opted	Appointed by the Chair of the Board, following application and interview, against an agreed competency framework	3 years	Minimum 2 Maximum 4 TGI only: Up to a maximum of 6
Partnership (Voluntary schools only)	Diocesan	Appointed by the Diocese	4 years	Minimum 1, Maximum 3

Table 1: Categories, types and quantities of Governors, method of appointment and term of office

*** It is proposed that all terms of office will revert to a four-year cycle upon completion of the initial term**

- 4.11 It is important to note in respect of membership for the proposed model that the minimum size of each Governance Board will be seven members, and maximum size will be nine, save for The Guernsey Institute and the Voluntary schools where additional members will be necessary up to a maximum of 11. In the case of Voluntary schools in particular, additional provision has been made for Diocesan representation in order to facilitate the requisite balance of religious and secular governance roles which have been identified through engagement with the Diocese of Portsmouth. For comparison, the average size of a primary school governing body in England is 12 – 15 members, with greater numbers, on average, for secondary settings and for further education settings. Intervention boards, inserted temporarily when a Board of Governors is removed, are much smaller and more operationally-focused for a time-limited period.
- 4.12 Operational process around the appointment of each of the Governor roles will be described in a statutory Governance Handbook, which will also set out that:
- The Chairs, Education Office representatives and co-opted Governors may serve on more than one board but should not be appointed to serve on more than one quarter of all individual States-maintained settings during the same period.
 - Chairs will be entitled to claim a nominal annual retainer, which will cover: attendance and preparation for full board meetings; interim link meetings with their Headteacher/Principal or other education colleagues, as required; and for preparation and attendance, as deemed necessary, at meetings during which they will be required to report on the impact of governance to the Committee.
 - Education Office representatives are exempted from applications for the role of Chair and this role will not form part of the official terms and conditions of employment as a member of staff in States of Guernsey education services. The role exists to support Chairs and Boards in their understanding of the strategic priorities of the Education Office. Careful consideration will be given to detailed policy development in this area to ensure responsibilities are clearly understood.
 - States-maintained settings staff cannot apply to become a parent Governor (or learner Governor in the case of The Guernsey Institute) at the setting at which they are employed. They can, however, apply to be core and co-opted community Governors and/or parent Governors at the setting where their child or children attend.
 - Local and national union representatives are excluded from applying to become a staff Governor at the setting at which they work. However, they are able to apply to become Governors in another capacity on other Boards, for example core or community Governors.
 - With the exception of Voluntary schools (where the Vice-Chair should

always be invited from appropriate partnership groups and the role should only be offered more widely if this is declined) and in the case of colleagues who hold a Staff Governor position, all other Governor groups can stand for consideration as Vice-Chair. Vice-Chairs will be appointed by the Chair of the Board.

- Where a minimum and maximum number of Governor positions exists, it is for the Board to decide whether to fill all positions, based on the specific needs of the individual setting over which they govern. However, all Boards should endeavour, as far as is reasonably possible, to, at all times, meet minimum requirements in terms of membership.
- All Governors, excepting those in ex-officio capacity, may not serve more than eight years of consecutive membership on any individual Governance Board. This is to ensure the Board's thinking is refreshed periodically and to ensure that no single individual builds up excessive power or influence across a setting.

4.13 As has been previously described, the question of political membership of Governance Boards has been considered carefully. The Committee has concluded, alongside the wider issues in respect of removal and reconstitution of Boards, based on its own experience of governance through its interim governance model and based on the evidence of current and previous political membership of School Committees, that it is not appropriate for Governance Boards to include States Members (or Members of the States of Alderney in the case of St Anne's School). This restriction will apply to serving States Members and those who were States Members (or Members of the States of Alderney in the case of St Anne's School) in the previous political term. This not only avoids direct political influence but also ensures the appropriate balance of power rests with the Chair at Board level.

4.14 The Committee recognises that the role of Chair of the Board is a critical position, and that care should be taken to recruit people with highly-developed leadership, reflection and people skills; strategic mind-sets; and the ability to appropriately support and challenge leaders of settings. In addition, Chairs of Boards will need to be adept at identifying the specific skill-sets their Boards require and will be expected to arrange their Board to cover the breadth of its mandate for a setting, including convening additional meetings/sub-Committees if and when required. All Boards will use a competency framework to ensure that those recruited bring the appropriate skill-set and/or are supported to develop the skills required.

4.15 The Education Office will provide advice and guidance to Chairs as they develop into their new roles. This investment of time and support should be proportionate to need and will, inevitably, be particularly intensive during the earlier stages of implementation of the new governance model.

- 4.16 Given the interdependencies that exist across the education system locally, it is important that Chairs have exposure across more than one setting. This will allow the Committee to focus its resources on a smaller number of key governance leaders across the system and will ensure that these Governors develop their understanding of the broad, strategic interdependencies across education, which will allow them to undertake their role in individual settings more effectively. This exposure will be through a clustered Chair model which groups schools under the same Chair but allows for appropriate variation of governance at a local level. The graphic below provides examples of Governance Board memberships across a cluster of schools.

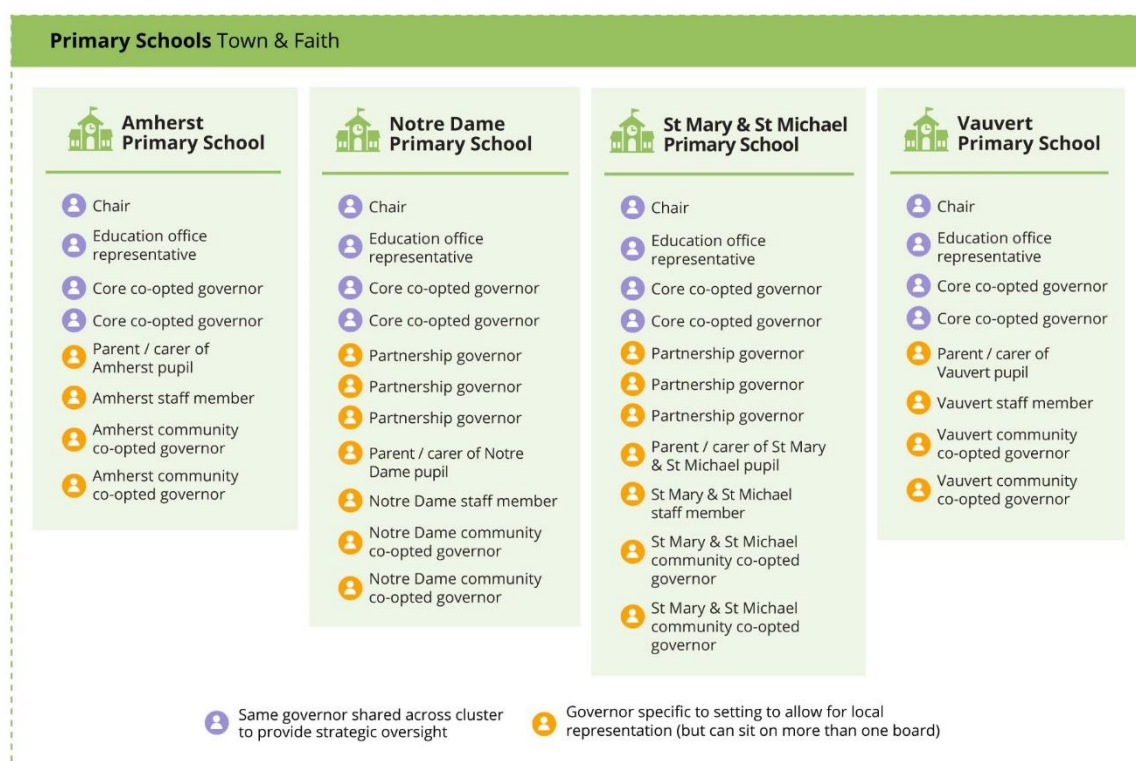


Image 3: Example constitution of a cluster of Governance Boards

5. Who else should attend governance meetings?

- 5.1 Each individual Board will be serviced by a skilled Clerk and, wherever possible, the same Clerk should support all Boards within a school cluster to provide continuity for the Chair. Clerking will be provided via the Education Office, as part of the Education Office's support function to all Governance Boards. The Clerk to the Governance Board is not a member of the individual Governance Board and does not have voting rights. The purpose of the Clerk is to provide professional advice and support to the Board and to ensure that it is exercising its duties appropriately, as laid out in the new legislation or by policy. This will include: the administration of all meetings; support for appointment and

elections; and ensuring that the Chair of the Board is both supported and advised regarding the constitution of each Governance Board and the agreement of the required Instrument of Governance.

- 5.2 It is likely that there will be instances during governance meetings where the Board might benefit from input from other stakeholders within the setting. Examples of this include presentations by other staff from the setting or where Governors invite presentations from representatives of the learner community for part of their agenda. Additional attendees will be invited for a specific purpose which must be agreed by the Chair and the Headteacher or Principal. Additional attendees do not have voting rights in any of the Board meetings they attend.
- 5.3 The new Law will also make provision for the Director of Education (or a nominated representative) to reserve the right to attend any Governance Board meeting for the purposes of quality assurance as an additional attendee. Where this right is exercised, reasonable advance notice must be given to the Clerk and the Chair of the Board, save for where attendance is at the invitation of, or in agreement with, the Chair or is in connection with an urgent matter identified by the Director of Education.

6. What is expected of Governors?

- 6.1 Governors are expected to hold education leaders to account for the decisions they take when exercising their professional judgment around the educational performance, strategic development and internal organisation and management of their organisation. Primarily they will do this in three ways:
- By asking intelligent and searching questions of leaders, on behalf of the learner community they serve and to contribute to the continuous improvement of the quality of education the setting provides
 - By reviewing and exploring relevant documents, including data, so they can be confident that self-evaluation is accurate, against any directed strategy, policy or quality assurance framework
 - By visiting the setting (by appointment) to develop their knowledge and understanding and to inform their ability to hold leaders to account effectively
- 6.2 For Governors to develop a level of understanding of the settings over which they govern and, in doing so, provide their setting with an appropriate level of support and challenge, members of Governance Boards will be expected to take part in a number of activities beyond their routine attendance at full Board meetings. Engagement in these activities will allow Governance Boards to discharge their duties effectively. It is intended that these activities include:

A) The attendance of Governors at regular governance training sessions and briefings, which will be delivered by, or on behalf of, the Education Office. Some training sessions will be noted as mandatory, for example safeguarding training, and failure to attend may result in suspension/removal from a Governance Board. All Governors will be expected to attend a minimum number of training sessions per year (set out in policy), in addition to induction training. The Chair is responsible for ensuring appropriate training attendance for the needs of the Board.

B) Undertaking visits (by appointment) to the setting as a nominated link Governor with a view to gathering information to support the oversight role of the Board, in the following areas

1. Safeguarding, care and welfare (including behaviour and attendance)
2. Vulnerable learners (including those with additional learning needs, inclusion and other learners who might be at risk of disadvantage, as identified by the setting)
3. Finance and infrastructure and maintenance (including Health & Safety matters)
4. Overall standards and quality of education (curriculum, teaching and learning and careers guidance, as applicable)
5. Transition to/from the next phase of education

In the case of The Guernsey Institute, additionally nominated link Governors should be nominated to include the following areas:

6. Professional and Higher Education
7. Apprenticeships

Link Governor responsibilities should be agreed by the Chair and it is acceptable for any individual Governor to carry more than one link Governor responsibility, if required.

C) The Chair of the Board will maintain a strategic link with the (Executive) Headteacher or Principal or other appropriate leaders of their setting between full governance meetings. This will allow them to meet with Headteacher/Principal/Teacher or equivalent to explore and, where necessary, provide focused support and challenge around key matters that relate to duties that are placed on the Board. These matters may include:

- Engagement with the (Executive) Headteacher and/or Principal performance management and appraisal process, as led by the Education Office line-manager

- Review or investigation of actions taken around any individual complaints or confidential matters, as required or requested by the Education Office
- Provision of governance updates to staff or community, as required
- Optional attendance (delegated to the Vice-Chair if required), as the key representative of the Governance Board, at events organised by the setting
- Attendance, alongside other Governors as required, at any external inspection feedback pertaining to the setting
- Review and development of strategic plans, and policy compliance activity as required
- Engagement in recruitment activity, as agreed/requested by the central Education function

6.3 As part of their role, Governors will come into contact with, and discuss, confidential matters. It is expected that members of Governance Boards will sign confidentiality agreements and will not disclose personal and sensitive information. However, as part of the Committee's role of system governance, it is expected that themes emerging from Governance Boards across the system will be disclosed via the Council of Chairs reporting mechanisms so that system-wide policy can be introduced and adapted accordingly.

6.4 Just as Governance Boards will be expected to ensure that there are opportunities to reflect on its own self-evaluation of efficacy against its statutory duties, it is also expected that individual Governors, including Chairs will report on their training and link responsibilities at Board meetings. This will help develop the knowledge and skills of all Governors in a range of focused activities.

7. Transition arrangements

7.1 The introduction of a new model of governance will present a significant administrative workstream ahead of implementation, in particular in respect of the recruitment and onboarding of potential Governors. As described in section 11, as part of the engagement process on the governance proposals, an initial request for expressions of interest yielded an encouraging number of positive responses from parents and carers and work with existing School Committee members has also resulted in expressions of interest. Subject to the proposals for the model of governance being agreed by the States, work on marketing and recruitment will then begin in earnest.

7.2 In other jurisdictions, it is widely recognised by organisations that the skills individuals acquire through performing a governance role are transferable and are valued at a corporate level; consequently, many employers agree to release staff as part of a wider Corporate Social Responsibility (CSR) programme.

Alongside bespoke recruitment activity for Chairs, at individual education settings level and among the wider community, work will be undertaken to engage with businesses to showcase the knowledge and skills Governance Board membership can build in individuals. Engagement with the business community will also be key in identifying potential Governors for The Guernsey Institute.

- 7.3 As has been previously described, a comprehensive training programme and Governance Handbook will be developed which will clearly articulate roles and responsibilities alongside details of the training offer. Feedback from School Committee members highlighted that the absence of these tools has made the role of existing School Committees more difficult. It is anticipated that the provision of detailed information might encourage some existing School Committee members and other members of the wider community to apply for governance roles.
- 7.4 In the Committee's model, the role of Chair is likely to be particularly high profile, and it is accepted that this role will be an important community leadership opportunity. However, since the clustered model limits the numbers of individuals taking Chairperson roles to seven, and given the provision of a retainer and significant support and training from education professionals it is expected that these roles will be attractive to members of the community who have a passion for improving educational standards and opportunities across the islands. It should be noted that all existing School Committees have Chairs sourced from their local community at present.
- 7.5 In the event that a cluster or Board is unable to recruit a Chair or where the Governance Board is unable to fill Governor vacancies to the extent that the Board is unable to meet its duties, it is proposed that the existing Interim Governance Model would be extended in the short term. It should be noted that it is not unusual for Governance Boards to carry some temporary vacancies.

8. **Conclusion**

- 8.1 The model described above is the Committee's preferred framework for education governance at the point at which the new legislation comes into force, anticipated to be at the start of the 2025/26 academic year. The proposals balance the appropriate levels of flexibility and freedom to enable the effective local governance of settings with the interdependencies and maturity of the system, alongside accounting for the wider context of Guernsey and Alderney.
- 8.2 Importantly, the structures and processes described represent the elements required of a complete framework; it is important to note that changing one component without assessing its impact on the other elements of the system has the potential to undermine the model as a whole or to limit its effectiveness.

APPENDIX 1: Consultation – a summary of the process and feedback from the public questionnaire.

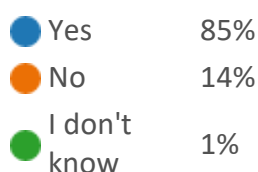
In developing the Committee's policy proposals, considerable consultation and engagement has taken place, during both the current political term and the previous term when the work on this review first commenced. This has included key stakeholder working groups, presentations, workshops and two public surveys.

When the Committee started to develop its policies at the start of 2021, the previous proposals were brought up to date by overlaying the latest context, including: the recommendations of nasen's Guernsey and Alderney SEND review; the impact of the COVID-19 pandemic; and the updated inspection framework. The work of the review was also all considered through the lens of the priorities and commitments of the Education Strategy. Alongside this, the Committee considered the results of the previous questionnaire.

The charts below show the results of the most recent questionnaire. In total 735 responses were submitted. 40% of the respondents identified as parents or carers of a current learner, 27% were education professionals and 18% answered as a member of the community. The remaining participants were made up of learners, those representing organisations, grandparents or those who did not select any of the respondent options.

The percentages shown for each question below relate to the of responses for that question, for example for the first question (on compulsory education age) was answered by 732 of the 735 people who submitted a response to the questionnaire.

It is proposed that the new Law retains a compulsory education age. Do you agree that this should remain as it is now (age 5 to 16 years) noting that schools would continue to accept children into Reception in the September following their 4th birthday?



The majority view supported retaining the current compulsory education age of 5-16 years.

From those who added specific ages the majority selected 5 as the lower age. 97 people added comments about the upper age, with a range of between 14 and 18 suggested. The majority suggested 18, but many of those also expressed that there should be flexible learning pathways between ages 16 and 18.

Do you think there should be a requirement in the new law for all young people to remain engaged in some form of learning beyond the compulsory education age?

- No – there should be no requirement for people to undertake any learning beyond the age of 16 if they don't want to 51%
- Yes – it should be compulsory for people to remain in full-time learning until they are 18 years old 6%
- Yes – it should be compulsory for people to undertake at least part-time learning until they are 18 years old (for example, an apprenticeship or a training course alongside employment) 43%



The majority of those who responded did not feel that this should be a requirement in law.

Reasons given for not having a participation age were linked to poor experiences in education, and the belief that there needed to be flexibility for young people to learn or work after the age of 16.

The Committee acknowledges the results of the questionnaire and has also considered other feedback it received from across the community. This influenced the decision to include an enabling power to future-proof the legislation, but to recommend that the education participation age provision should not have effect when the Law comes into force.

Do you agree that every child should be entitled to free Early Childhood Education by law?

- Yes 66%
- No – access to free Early Childhood Education should be capped based on household income (as now) 32%
- I don't know 2%

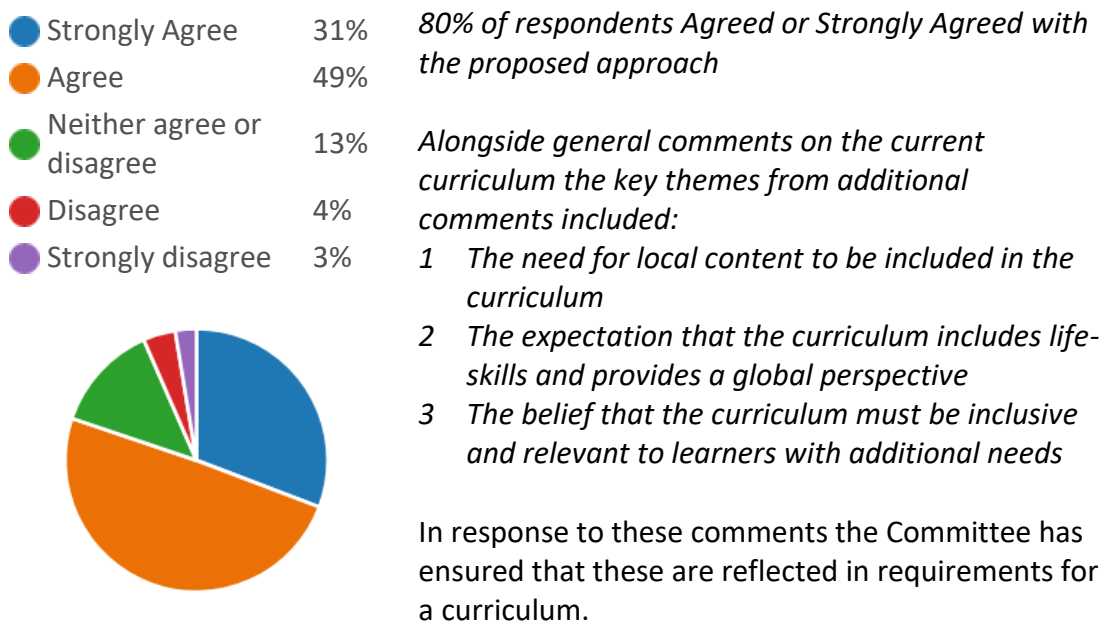


The majority of respondents agreed that the entitlement to early childhood education should be included in the law. Respondents were also asked to indicate if they believed the number of hours of pre-school funding should be increased, again there was support from the public consultation to increase the provision.

Many of the respondents referenced the benefit of additional hours in supporting working parents.

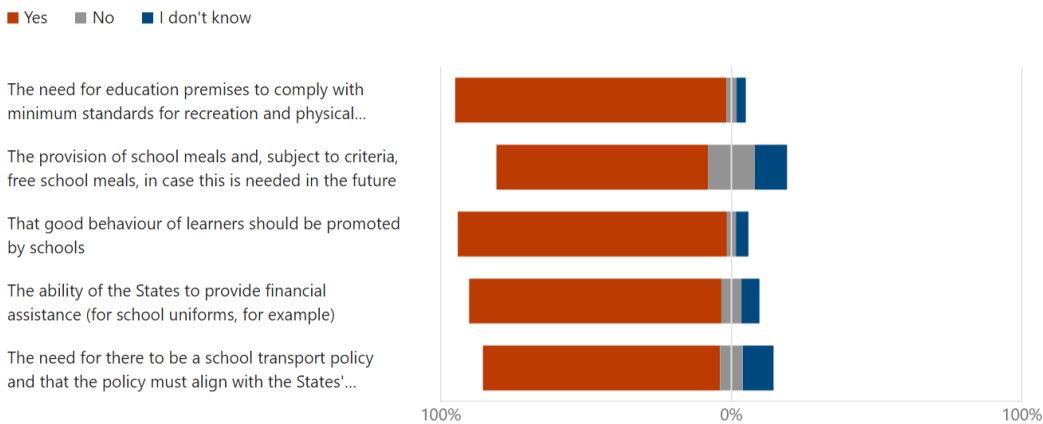
The Bailiwick has its own curriculum which schools must use when planning teaching. It is not proposed that the new law defines the individual elements of the curriculum, but it is proposed that it sets out that the Committee *for* Education, Sport & Culture is required to specify a curriculum

How strongly do you agree with the proposed approach to the curriculum?



One of the proposed objectives of the new Law is to protect learners and ensure their safety by implementing and maintaining high standards of safeguarding, ensuring that the educational environment supports their health and wellbeing.

Achieving this objective could be done in many different ways. Please indicate your view on each of the following options. Do you agree that the new law should include:

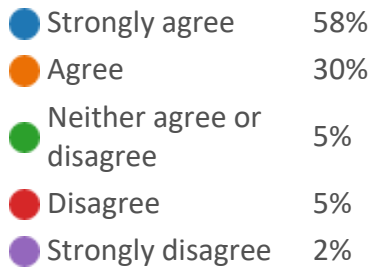


The majority of respondents supported the individual examples that were provided, as well as comments throughout the free text responses agreeing with the need for schools to support the physical and mental health and wellbeing for all learners.

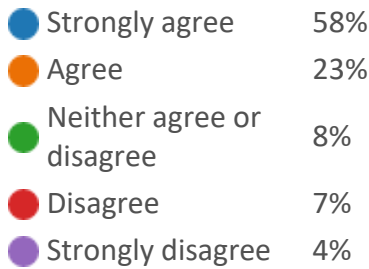
External Inspection

Two questions were asked about external inspection.

How strongly do you agree that all schools should be subject to external inspection (by an appropriate independent body)?



How strongly do you agree that reports of these inspections should be made public?

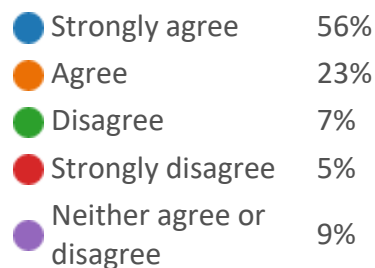


88% (642) of respondents said they Strongly Agreed or Agreed that all schools should be subject to external inspection (by an appropriate independent body).

81% said they Strongly Agreed or Agreed that inspection reports should be published.

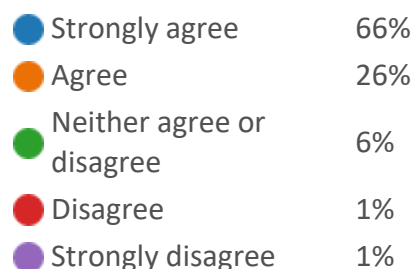
In response to written comments the Committee has clarified in its proposals that inspectorates such as the Independent Schools Inspectorate will be approved.

The current law does not recognise the three Colleges that receive grant funding from the States (The Ladies' College, Blanchelande College and Elizabeth College) as independent schools. To make it simpler and clearer about which requirements of the law will apply to different types of schools, it is proposed that they would fall under an updated definition of an independent school.



79% of respondents Strongly Agreed or Agreed with the question, written responses also supported consistency in approach to standards, but highlighted the need to avoid unnecessary Government interference in the independent sector.

How strongly do you agree that the new Law should require there to be a Code of Practice, which sets out processes for supporting learners who may need additional provision to help them learn?



92% of respondents (674 of 730) said they Agreed or Strongly Agreed with this proposal.

Throughout free text responses there were comments about the need for education provision to support all learners (whether in Early Years compulsory age or post-16), and to ensure that processes are clear and easy to follow. Respondents also commented on existing arrangements and there being unmet need within the system.

The Committee believes its proposals for a law with a focus on inclusion, updated terminology and a learner-centred approach will improve equity, for the benefit of all.

Do you agree that the power to administer fines against a parent/carer and pursue a criminal conviction for their child’s non-attendance should be included in the new Law?

- Yes 46%
- No 40%
- I don't know 14%



Although a higher percentage of respondents agreed that there should be a power to administer fines for non-attendance this was less than 50% of those who completed the public questionnaire.

From those who answered the questionnaire as an educational professional, the support for fines was higher with 57% agreeing with the proposal (and 27% disagreeing).

Like education participation age, this is an area where the Committee believed that to future proof the law should be available to future Committees (subject to the approval of the States).

Home Education.

Do you agree that a definition of home education should be included in the new Law?

- Yes 89%
- No 5%
- I don't know 6%



Do you think it is appropriate that the Committee has the ability to set out what levels of monitoring and support for home educating families are desirable?

- Yes 78%
- No 13%
- I don't know 9%



Do you consider that it is sensible for the Committee to determine when it would be appropriate to intervene?



As well as being included in the public survey these questions about home education were also asked of parents/carers who currently home educate.

A smaller majority of home educators supported the need for a definition, and there was an even split of views around the level of monitoring, support and intervention.

In the additional comments there was a strong view that whilst safeguarding is important, any additional monitoring frameworks should be developed in collaboration with home educators.

The Committee recognises the importance of working in collaboration with the community when developing policy and has included this in its proposals.

It is proposed that the new law will require the Committee for Education, Sport & Culture to identify children missing education. To do this all children of compulsory education age will have to be either on a school roll or a home education roll. Do you think this is the correct approach to take?



There was strong support for this key safeguarding responsibility, which was also supported by those who home educate, and in written responses from key stakeholder groups, like those representing families of learners with addition needs.

Governance

The public were asked how strongly they agreed with the view of the Committee in relation to the following statements.

All States education settings (all schools and The Guernsey Institute) would benefit from strategic oversight by a governance board that can represent the community it serves and, in doing so, support and hold to account the leaders of the setting for the decisions that they take and the quality of education that they provide.

Strongly agree	34%
Agree	40%
Neither agree or disagree	16%
Disagree	7%
Strongly disagree	3%



Governance boards should be designed to include people with specific skills that might be needed to support the development of the setting at the time. For example, some governance boards might require people with proven leadership skills or who have insight around specific areas of importance in education.

Strongly agree	34%
Agree	43%
Neither agree or disagree	14%
Disagree	6%
Strongly disagree	3%



Some key governance roles should be shared across more than one education setting. This is because the Committee believes this will foster closer working relationships between schools and enable some governors to benefit from working with leaders who bring different approaches, skills and strengths to their schools. This would mean that some settings would share some governors, for example across a cluster of primary, secondary or special schools, and also means that fewer governors will be needed overall.

Strongly agree	20%
Agree	38%
Neither agree or disagree	24%
Disagree	11%
Strongly disagree	7%

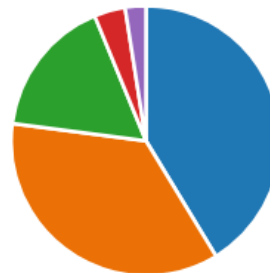


Governance boards should be primarily focused on:

- the needs of the children, young people or adult learners who attend the setting
- the quality of education that the setting provides
- its strategic development over time.

This would mean that, although all governance boards would be accountable to the political Committee from a policy and regulatory perspective, the boards should not be political. For this reason, the Committee proposes that the new Education Law will not provide for political membership on any education governance board.

Strongly agree	41%
Agree	36%
Neither agree or disagree	17%
Disagree	4%
Strongly disagree	2%



The role of the Chair of an education governance board is a significant responsibility that should make a positive difference to the quality of education and leadership across education settings. For this reason, the Committee proposes to invest in these roles by paying a nominal financial allowance to Chairs, many of whom the Committee proposes will be the Chair of more than one governing board.

Strongly agree	16%
Agree	33%
Neither agree or disagree	28%
Disagree	15%
Strongly disagree	8%



Overall, consultation responses relating to the five specific questions that the Committee asked regarding governance were favourable and in support of the Committee's proposed direction of travel.

Feedback regarding matters relating to:

- the establishment of governance boards for all settings;
- a requirement for appropriate skills, pertinent to the needs of each setting; and
- the proposal that governance boards should be apolitical

received particularly positive responses. On average, around three quarters (74 – 77%) of all 735 respondents to the survey supported the Committee's proposed direction in these areas.

Feedback was less positive regarding proposals relating to the sharing/clustering of governors and payment for Chairs. For these specific questions, whilst the majority of respondents do agree with the proposals of the Committee (58% agree with the concept of clustered or shared governance arrangements for some settings and 49% agree with the payment for Chairs), a significant percentage of respondents (24 – 28%) did not have a view either way and a percentage disagreed, strongly or otherwise in reference to clustering/sharing governors (18%) and payment of Chairs(23%).

Principles and Objectives

The principles provide shape and guide the fundamental elements of the law. The objectives describe the outcomes to be achieved through the updated legislation and supporting policy.

How strongly do you agree that the principles and objectives provide strong enough foundations for the education system for Guernsey and Alderney to deliver on for the next 50 years?

Strongly agree	27%
Agree	55%
Neither agree or disagree	12%
Disagree	4%
Strongly disagree	2%



Most respondents Agreed or Strongly Agreed that the principles and objectives were strong enough (80%).

188 Additional comments were added and themes from these can be summarised as:

- *Education should meet the needs of all learners, including those who are most able and those with additional learning needs.*
- *Education environments should feel safe and be well resourced (with particular mentions of behaviour management).*
- *The principles and objectives should recognise the importance of staff (including their development, standards and welfare).*
- *The importance of positive Health and wellbeing (including mental health).*
- *Curriculum should be broad enough to capture life skills, reflect a diverse and multicultural word and support lifelong learning.*
- *That the principles and objectives could be more defined and regularly reviewed – 50 years is too long.*

APPENDIX 2: The Education (Guernsey) Law 1970 Provisions to be retained

Section in 1970 Law	Rationale
4. Duty for the Committee to secure sufficient primary and secondary education provision for learners.	To ensure all learners can attend school.
4 5(a). Establishment of a new States maintained school by States resolution	To enable the Committee to fulfil its duty in section 4
7 (2) & (3). Committee power to step in and run the school for a maximum of two years when diocese or those acting on its behalf are unable or unwilling to carry on.	There is insufficient surplus capacity in the primary sector to absorb the pupils currently attending these schools if one or both [voluntary] schools suddenly closed.
8 (2). Power of the Committee to arrange the school day, term dates and holidays, including any offsite curriculum delivery.	To enable the Committee to make the necessary arrangements for States Maintained and Voluntary schools
17. Duty of parents to secure the education of their children.	This is universally acknowledged as a parental responsibility.
18. Make provision for school attendance orders.	To provide a mechanism to ensure students are not missing education.
20. Power to pursue criminal prosecutions in relation to the failure to comply with a school attendance order and to enforce school attendance.	To provide a mechanism for punitive measures to act as a deterrent in cases of non-attendance at school.
21. Set out the consequences for failing to secure regular attendance of learners and for failing to comply with a school attendance order.	To provide a mechanism for levying fines or other punishment.
24. Committee duty to keep a register of all independent schools.	To ensure non States schools are meeting prescribed standards.
26. Determination of complaints by the Royal Court	To allow for action to be taken where the Committee has concerns in relation to the grounds listed.
3. Pupils to be educated in accordance with the wishes of their parents	Will run through all areas of the legislation, so far as is compatible with the provision of efficient education and training and the avoidance of unreasonable expenditure by the States and provide assurance for parents/carers and the States.
35 (2). A Committee power to require an inspection of any States school or	This provision should be retained and allow for any interim or additional

voluntary school by a member or officer of the Committee.	inspections but not include inspections by Committee members. This should be extended to all schools but would be at the Committee's cost if required.
35 (3). Penalties for obstruction. The current penalties include a level 1 fine for a first summary conviction and a level 2 fine and/or imprisonment for a term not exceeding three months for secondary or subsequent conviction.	This should be retained to ensure inspections are undertaken as required.
36. A Committee power to make regulations in respect of holding and maintaining registers in schools. Duty for schools to maintain registers and surrender them for inspection if required by regulations made under the same section.	Provides the statutory framework for recording the presence or absence of learners Enables accurate recording and reporting in regards of school attendance and provide schools with the tools to manage school attendance effectively.
37. Power to charge costs to parents, in respect of medical treatment and inspections subject to hardship issues.	Allows for flexibility for the future.
40. Committee power to provide board and lodging for pupils.	Enables the provision of accommodation when there is a legitimate need.
41. A Committee power to provide uniform necessary for participation in school life.	Provides for the administration of uniform allowance to those pupils who qualify.
42. A Committee power to charge accommodation and clothing costs to parents, subject to hardship issues.	Provides for flexibility for a change to the future approach.
44. Committee power to operate a transport policy as they see fit to facilitate a learner's attendance at school, including those learners with Additional Learning Needs	Provides clarity that transport is an operational matter and has the advantage of being flexible to account for changing circumstances and the ability to meet requirements that might arise in the future.
47. Power to act where employment is likely to interfere with a child's education or be harmful to their health and development.	Aligns with responsibilities set out in UNCRC to protect children from economic exploitation.
48. No fees to be charged shall include charges in respect of admission to any States school or in respect of the education provided.	Access to free education is fundamental element of the principles and objectives.

49. Power to provide financial assistance and setting out the circumstances for making loans, grants and allowances.	The existing provisions allow for flexibility and it will be important that this is continued in order to account for the evolution of services and educational offering in Guernsey.
54. Duty for the Committee to report annually on the educational services on the Island.	Provides transparency and assurance for the community and places a requirement for schools and governing bodies to have effective reporting mechanisms in place, recognised to be a key tool in driving school improvement.

APPENDIX 3: The Education (Amendment) (Guernsey) Law, 1987: Provisions to be retained.

Section of the 1987 Law	Comment
Preliminary	
1. Meaning of 'special educational needs' and 'special educational provision'.	The language will be updated to be more inclusive. For example, the phrase 'appropriate educational setting based on the needs of the child' will be used instead of the current term 'Special Educational Provision'.
Provision of special education	
2. Provision of special education: duties of the Council.	These duties set out, for those children for whom a determination of need is identified, that they are educated in an inclusive and appropriate setting. It ensures that this is agreed in collaboration with the views of the parents/carers and is reviewed to ensure the provision remains appropriate. This section also requires the appropriate sharing of information with their teachers.
Identification and assessment of children with special educational needs	
4. General duty of the Council towards children for whom it is responsible.	This provides clarity about the children for whom the Committee is responsible and will be provided in line with the flexibility set out in section 7 of this Policy Letter.
5. Assessment of special educational needs.	As outlined in section 7 of this Policy Letter there will remain a duty on the committee to identify and assess children/learners with SEND, and determine the best educational provision for each individual, is available and implemented. The scope of the Committee's responsibility in respect of children/learners with SEND who are outside of state schools will extend to assessing potential children/learners with SEND who are brought to the attention of the Committee and providing signposting toward

	appropriate SEND educational support and services.
6. Assessment of special educational needs of children under the age of two.	<p>The Committee duty is continued to ensure that this group of children can access an appropriate assessment but it recognises that the Committee is not responsible for providing services and that the age of the child will influence the assessment.</p> <p>The application of this will be considered alongside CfHSC to ensure that the approach is collaborative with regard to the provision of services following a diagnosis.</p>
7. Determination of child's special educational provision.	<p>This includes duties to make a determination and to ensure that the process following assessment and prior to determination is collaborative with the parents/carers and child.</p> <p>This will be flexible to recognise that any changes to the exact process will be informed by the SEND review but that the existing duties remain relevant</p>
8. Requests for assessments.	To enable parents to seek an assessment (or re-assessment) of needs with grounds for which the Committee would be entitled to not comply with the request
17. Service of documents.	Will be incorporated in the new law
18. Interpretation.	Expressions need to be carried over and updated in line with agreed terminology
FIRST SCHEDULE Assessments of Special Educational Needs.	Need to ensure that the regulations are carried over where appropriate including attendance for assessment but may be subject to recommendations from the SEND review

APPENDIX 4: Acronyms used in this report

Acronym	Meaning
ALN	Additional Learning Need
AP	Alternative Provision
ARB	Administrative Review Board
C&YPS	Children and Young People's survey
CAMHS	Child and Adolescent Mental Health Services
CIC	Child in Care
CYPP	Children and Young People's Plan
DBS	Disclosure and Barring Service
DfE	The Department for Education
ECE	Early Childhood Education
EOTAS	Education other than at school
GCMP	Guernsey Child Measurement Programme
HMI	HM inspector
ILO	International Labour Organization
ISI	Independent Schools Inspectorate
ITT	Initial Teacher Training
KCSIE	Keeping Children Safe in Education
MASH	Multi Agency Support Hub
NEET	Not in education, employment or training
NEU	National Education Union
PE	Physical Education
PRUs	Pupil Referral Units
PSHE	Personal, Social, Health and Economic education
QTLS	Qualified Teacher Learning and Skills
QTS	Qualified Teacher Status
SCR	Single Central Register
SENCO/SENDSCO	Special Education Needs Coordinator
SEND	Special Educational Needs and Disabilities
SHARE	Sexual Health and Relationship Education
SIMS	Schools' Information Management System
STSB	States Trading Supervisory Board
TRA	Teaching Regulation Agency
TTHS	Term Time Host Service
UNCAT	United Nations Convention against Torture
UNCRC	United Nations Convention on the Rights of the Child
UNCRPD	United Nations Convention on the Rights of People with Disabilities
VSH	Virtual School Head