BILLET D'ÉTAT

IV
2020

WEDNESDAY, 5th FEBRUARY, 2020

LEGISLATIVE BUSINESS

Legislation Laid Before the States

The Health Service (Benefit) (Limited List) (Pharmaceutical Benefit) (Amendment No. 7) Regulations, 2019
The Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment No. 2) Regulations, 2019
The Boarding Permit Fees (2) Order, 2019
The Income Tax (Guernsey) (Valuation of Benefits in Kind) (Amendment) Regulations, 2019
The Income Tax (Pension Amendments) (Guernsey) Regulations, 2019
The Health Service (Medical Appliances) (Amendment) Regulations, 2019
The Social Insurance (Benefits) (Amendment) Regulations, 2019
The Health Service (Payment of Authorised Appliance Suppliers) (Amendment) Regulations, 2019
The Health Service (Payment of Authorised Suppliers) (Amendment) Regulations, 2019
The Document Duty (Amendment) Ordinance, 2019
The European Communities (Official Controls) (Implementation and General Provisions) (Guernsey) Ordinance, 2019
The Reform (Guernsey) Law, 1948 (Amendment) (No. 2) Ordinance, 2019

CONTINUED OVERLEAF

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OTHER BUSINESS

1. Policy & Resources Committee – Reform of the Matrimonial Causes Law, P.2019/146
2. Committee *for* Employment & Social Security - Secondary Pensions: Detailed Proposals for the Introduction of Automatic Enrolment into Private Pensions and the Establishment of "Your Island Pension", P.2019/147
3. Committee *for the* Environment & Infrastructure - The On-Island Integrated Transport Strategy: First Periodic Review, P.2019/148
4. Requête - Towards a More Effective Structure of Government, P. 2019/144
5. Policy & Resources Committee – Schedule for future States' Business, P.2020/3

APPENDIX

1. Committee *for* Economic Development - Public Trustee Annual Report and Audited Accounts for the Year Ended 31 December 2019

BILLET D'ÉTAT

TO
THE MEMBERS OF THE STATES
OF THE ISLAND OF GUERNSEY

I hereby give notice that a Meeting of the States of Deliberation will be held at **THE ROYAL COURT HOUSE,** on **WEDNESDAY,** the **5th February, 2020** at **9.30 a.m.,** to consider the items listed in this Billet d'État which have been submitted for debate.

R. J. COLLAS
Bailiff and Presiding Officer

The Royal Court House
Guernsey

20th January, 2020

STATUTORY INSTRUMENTS LAID BEFORE THE STATES

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

No. 114 of 2019

THE HEALTH SERVICE (BENEFIT) (LIMITED LIST) (PHARMACEUTICAL BENEFIT) (AMENDMENT NO. 7) REGULATIONS, 2019

In pursuance of sections 10 and 35 of the Health Service (Benefit) (Guernsey) Law, 1990, made by the Committee *for* Employment & Social Security on 26th November, 2019 are laid before the States.

EXPLANATORY NOTE

These Regulations add a number of drugs to the list of drugs that may be prescribed as pharmaceutical benefit.

These Regulations come into force on the 27th November, 2019.

No. 115 of 2019

THE DATA PROTECTION (GENERAL PROVISONS) (BAILIWICK OF GUERNSEY) (AMENDMENT NO. 2) REGULATIONS 2019

In pursuance of sections 40 and 109 of, and paragraphs 1(2) and 2 of Schedule 4 to, the Data Protection (Bailiwick of Guernsey) Law, 2017, The Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment No. 2) Regulations 2019, made by the Committee *for* Home Affairs on 28th October 2019, is laid before the States.

EXPLANATORY NOTE

These Regulations amend the Data Protection (General Provisions) (Bailiwick of Guernsey) Regulations, 2018 ("the principal Regulations").

Regulation 1 of these Regulations amends regulations 2 (registration fees), 6 (registered controllers and processors to pay annual levies) and 17 (transitional exemptions from registration) of the principal Regulations in relation to exemptions for controllers and processors that prior to the commencement of the Data Protection (Bailiwick of Guernsey) Law, 2017 ("the Law") would not have been required to be notified (registered) ("previously exempt persons").

Currently, those regulations exempt these previously exempt persons from the duty to be registered under the Law as well as from the requirement to pay a registration fee (if registered) and the annual levy and late payment penalties. This exemption was to expire on the 1st January, 2020.

This amendment continues the exemption until the 1st January, 2021.

Regulations 2 and 3 of these Regulations are the citation and commencement provisions respectively.

These Regulations come into force on the 1st January, 2020.

No. 121 of 2019

THE BOARDING PERMIT FEES (2) ORDER, 2019

In pursuance of section 17 of the Tourist Law, 1948, as amended, “The Boarding Permit Fees (2) Order 2019”, made by the Committee *for* Economic Development on the 5th December 2019, is laid before the States.

EXPLANATORY NOTE

This Order prescribes the fees payable by an applicant for a boarding permit valid during the period 1st April 2020 to 31st March 2021 and replaces “The Boarding Permit Fees Order, 2019”.

The Order comes into force on 1st April 2020.

No. 122 of 2019

THE INCOME TAX (GUERNSEY) (VALUATION OF BENEFITS IN KIND) (AMENDMENT) REGULATIONS, 2019

In pursuance of section 203A of the Income Tax (Guernsey) Law, 1975, as amended, "The Income Tax (Guernsey) (Valuation of Benefits in Kind) (Amendment) Regulations, 2019" made by the Policy & Resources Committee on 5th December, 2019, are laid before the States.

EXPLANATORY MEMORANDUM

These Regulations amend the Income Tax (Guernsey) (Valuation of Benefits in Kind) Regulations, 2010 by increasing the value of the benefits from motor vehicles and accommodation benefits for the specified categories of taxpayer (for example, proprietary directors and proprietary employees) in a hotel or guesthouse for the years of charge 2020, 2021 and 2022 (and, unless further provision is made, any subsequent year).

No. 123 of 2019

THE INCOME TAX (PENSION AMENDMENTS) (GUERNSEY) REGULATIONS, 2019

In pursuance of section 203A of the Income Tax (Guernsey) Law, 1975, as amended, "The Income Tax (Pension Amendments) (Guernsey) Regulations, 2019" made by the Policy & Resources Committee on 22nd October, 2019, are laid before the States.

EXPLANATORY MEMORANDUM

These Regulations amend sections 153A(1) and 157CA to provide that the limit for triviality payments from pension schemes, retirement annuity schemes or retirement annuity trust schemes for members aged 50 or over is £50,000 per scheme and not £50,000 in aggregate over all pension schemes or annuity schemes attributable to an individual.

These Regulations come into force on the 1st day of January, 2020.

No. 126 of 2019

The Health Service (Medical Appliances) (Amendment) Regulations, 2019

In pursuance of sections 18 and 35 of the Health Service (Benefit) (Guernsey) Law, 1990, made by the Committee *for* Employment & Social Security on 13th December, 2019 are laid before the States.

EXPLANATORY NOTE

These Regulations further amend the Health Service (Medical Appliances) Regulations, 1990, as amended, by increasing the charges payable to authorised appliance suppliers in Guernsey and Alderney by persons supplied with Part I, II or III medical appliances, who are not exempt from such charges. The increased charges amount to £4.10 for each appliance.

These Regulations come into force on the 1st day of January, 2020.

No. 127 of 2019

The Social Insurance (Benefits) (Amendment) Regulations, 2019

In pursuance of sections 15, 20, 39, 67 and 116 of the Social Insurance (Guernsey) Law, 1978, made by the Committee *for* Employment & Social Security on 13th December, 2019 are laid before the States.

EXPLANATORY NOTE

These Regulations replace the schedules to the Social Insurance (Benefits) Regulations, 2003, and prescribe the reduced rates of benefit payable from 6th January, 2020 to claimants who do not satisfy the conditions for entitlement to payment of the maximum rate of benefit.

These Regulations also provide for the payment of old age pension to a prisoner over pensionable age for the last 18 weeks of that prisoner's sentence or detention. The payment will be made directly to a prisoner when they are released from prison.

These Regulations come into force on the 1st January, 2020, except for Regulation 2, which comes into force on the 6th January, 2020.

No. 128 of 2019

The Health Service (Payment of Authorised Appliance Suppliers) (Amendment) Regulations, 2019

In pursuance of sections 19 and 35 of the Health Service (Benefit) (Guernsey) Law, 1990, made by the Committee *for* Employment & Social Security on 13th December, 2019 are laid before the States.

EXPLANATORY NOTE

These Regulations set out the payments which may be made out of the Guernsey Health Service Fund for the supply of medical appliances.

These Regulations come into force on the 1st January, 2020

No. 129 of 2019

The Health Service (Payment of Authorised Suppliers) (Amendment) Regulations, 2019

In pursuance of sections 14 and 35 of the Health Service (Benefit) (Guernsey) Law, 1990, made by the Committee *for* Employment & Social Security on 13th December, 2019 are laid before the States.

EXPLANATORY NOTE

These Regulations set out the payments which may be made to pharmacists out of the Guernsey Health Service Fund, for the supply of pharmaceutical items.

These Regulations come into force on 1st January, 2020.

ORDINANCES LAID BEFORE THE STATES

THE DOCUMENT DUTY (AMENDMENT) ORDINANCE, 2019

In pursuance of the provisions of the proviso to Article 66A(1) of The Reform (Guernsey) Law, 1948, as amended, "The Document Duty (Amendment) Ordinance, 2019", made by the Policy & Resources Committee on the 10th December, 2019, is laid before the States.

EXPLANATORY MEMORANDUM

The object of the Ordinance is to extend, to Alderney, the rates of document duty on conveyances and bonds currently applicable in Guernsey.

By way of background, Alderney continues to be governed by the Document Duty Law, 1973 and Document Duty Ordinance, 2003, both repealed in Guernsey by the Document Duty (Guernsey) Law, 2017. When the new 2019 rates of document duty were enacted for Guernsey by ordinances made under the Document Duty (Guernsey) Law, 2017 and the Document Duty (Anti-Avoidance) (Guernsey) Law, 2017, those rates were applied to Alderney conveyances without the necessary modifications being made to the Alderney legislation. This Ordinance therefore makes the necessary modifications to the Document Duty Ordinance, 2003, thus equalising the rates of duty between the two islands with effect from the commencement of the draft Ordinance.

The Ordinance was approved by the Legislation Review Panel on the 9th December, 2019 and made by the Policy & Resources Committee in exercise of its powers under Article 66A(1) of the Reform (Guernsey) Law, 1948. Under the proviso to the said Article 66A(1), the States of Deliberation have the power to annul the Ordinance.

THE EUROPEAN COMMUNITIES (OFFICIAL CONTROLS) (IMPLEMENTATION AND GENERAL PROVISIONS) (GUERNSEY) ORDINANCE, 2019

In pursuance of the provisions of the proviso to Article 66A(1) of The Reform (Guernsey) Law, 1948, as amended, "The European Communities (Official Controls) (Implementation and General Provisions) (Guernsey) Ordinance, 2019", made by the Policy & Resources Committee on the 10th December, 2019, is laid before the States.

EXPLANATORY MEMORANDUM

Introduction

This Ordinance implements the EU's Official Controls Regulation ("OCR") and makes general provision in respect of the taking and enforcement of official action by competent authorities. Whilst not a Member State, Guernsey has EU obligations arising out of its Protocol 3 relationship with the EU, read together with Regulation 706/73. It is against that background that this Ordinance has been drafted.

The OCR forms a core part of the EU's *Smarter Rules for Safer Food* programme, which is designed to safeguard public health, plant health, and animal health & welfare. In particular, the OCR brings together disperse rules into a single Regulation - rules that govern how competent authorities across the EU protect sanitary and phytosanitary standards (both at the border and within Union territory) by preventative and remedial official action. To a large extent, the OCR regime extends rules or principles applicable to food & feed to the rest of the agri-food chain and offers more targeted, risk-based controls "from farm to fork".

The OCR is a horizontal piece of legislation operating with and alongside subject-specific regimes concerning Food & Feed (already in force), Plant Health (also coming into force on 14th December 2019) and Animal Health (coming into force in 2021). In many ways, the Ordinance weaves together the EU OCR and related framework into our own domestic context. It does not seek to alter our existing domestic structures (see section 1(1) which makes designations in accordance with Committee mandates) or otherwise affect functions of Committees (see sections 1(2) and 2). What it does do, however, is make general provision to ensure Committees ("Designated Authorities" for the purpose of the Ordinance) have the powers they need to act as competent authorities (Part II).

Likewise, the Ordinance also provides core investigatory powers (Part III) and enforcement powers (Part IV) to enable effective official action to be taken. These provisions draw heavily on existing provisions in our Food & Feed legislation, but have been distilled so that they can be applied across the agri-food chain more broadly. In reality, officials will continue to act largely under subject-specific legislation, which is achieved by the designations in respect of Committees in section 1(1) and the corresponding deemed designations of officers in section 3(5).

The OCR and this Ordinance will come into force on 14th December 2019.

The Ordinance

Part I

Section 1 designates various Committees as competent authorities for the purposes of the OCR in accordance with the distribution of functions under existing mandates ("Designated Authorities"), whilst section 2 confirms that existing functions of Committees are not limited by the OCR. An Order-making power to alter these designations has been given to the Policy & Resources Committee due to the cross-cutting nature of the OCR framework.

Part II

This Part concerns the broader functions of Designated Authorities, such as the power to appoint staff and authorise certain of them as "Designated Officers", being those persons who can exercise the investigatory and enforcement powers under the later Parts of the Ordinance (section 3). Certain officers authorised by other pieces are deemed to be Designated Officers (section 3(5)) and this list can be added to by Order of the Policy & Resources Committee or a designated Committee. General functions of Designated

Authorities are also provided (section 4) – such the duty maintain proper confidentiality or the power to maintain registers – as well as the ability to issue or take into account policies and guidance (section 5). It is likely that, in many cases, policies produced by UK authorities will be relied on.

Section 6 largely repeats provisions in the OCR, but are included for clarity and given the importance of proper record-keeping.

Audit, which may be internal or external, is an important feature of the OCR and must be performed with due independence and impartiality. The Director of Environmental Health and Pollution Regulation has, therefore, been given responsibility for arranging this (section 7).

The OCR provides for various fees to be charged at the EU border and otherwise, so a fee-making power for designated Committees has been included (section 8); elsewhere in the Ordinance, the ability to recover reasonable expenses is included.

Information-sharing is also a key feature of the OCR, whether by way of preventative or enforcement action, so relevant provision has been made for this in section 9.

Finally, section 10 is a standard clause to exclude liability for designated Committees and their officers.

Part III

This Part concerns how official controls and other official activities are to be performed. Section 11 largely reproduces a provision of the OCR, but is included for clarity and due to its importance.

Moreover, section 12 proceeds to detail the powers of entry and search that Designated Officers need to be able to do their work. This is supplemented by section 13 which details how a warrant to support entry and search may be obtained.

Part IV

Part IV concerns enforcement, of which notices (section 14) play a significant role. The categories of notice that may be served relate to: i) requests for information; ii) the taking of preventative action; and, iii) the taking of remedial action. Additionally, a notice made by a Designated Authority may demarcate an area in which prohibitions and restrictions may be put in place to protect Guernsey's biosecurity. Section 15 clarifies that a Designated Officer may take further action in the case of non-compliance with a notice.

Section 16 makes special provision in respect of disclosure of information by the Committee *for* Home Affairs because of the potential need for information-sharing with law enforcement agencies.

Standard provisions about notices and service of notices are included in sections 17 and 18, whilst section 19 details the appeals procedure; addition categories of decision which can be appealed may be prescribed by Order of a designated Committee

Sections 20 to 26 (together with Schedule 1) provide for offences, whilst sections 27 and 28 make standard provision about offences committed by incorporated and unincorporated bodies. Penalties are provided for in section 29. A power is included in section 29(4) for Schedule 1 to be amended by Order. This is necessary because these provisions are likely to change over time and because the EU has yet to complete all the delegated and implementing legislation under the OCR. Due to the cross-cutting nature of the OCR, the power has again been vested in the Policy & Resources Committee.

Part V

This Part contains final provisions comprising Interpretation (section 30), Transitional Provisions (section 31 and Schedule 2), and extent, citation and commencement (sections 32 and 33). Again, and for the same reasons, the Policy & Resources Committee has been given a power to amend definitions and also the transitional provisions in Schedule 2.

Schedule 1

This is based on a draft list of offences covered by the UK regime. Only those implementing and delegated acts completed by the EU have been included. In due course, the subject-specific regimes will make corresponding provision. For this reason, and due to the absence of an EU border in Guernsey, these offences are unlikely to arise often, if at all.

Schedule 2

This Schedule makes transitional provision in respect of official activities undertaken under the regime in place prior to the coming into force of the OCR. As this is the single Ordinance coming into force on 14th December 2019, the transitional provisions relate to a wider set of legislation that just the OCR and includes, for instance, the Plant Health Regulation, so as to ensure no lacunae arise.

The Ordinance was approved by the Legislation Review Panel on the 9th December, 2019, and made by the Policy & Resources Committee in exercise of its powers under Article 66A(1) of the Reform (Guernsey) Law, 1948, on 10th December 2019. Under the proviso to the said Article 66A(1), the States of Deliberation have the power to annul the Ordinance.

THE REFORM (GUERNSEY) LAW, 1948 (AMENDMENT) (NO. 2) ORDINANCE, 2019

In pursuance of the provisions of the proviso to Article 66A(1) of The Reform (Guernsey) Law, 1948, as amended, “The Reform (Guernsey) Law, 1948 (Amendment) (No. 2)

Ordinance, 2019", made by the Policy & Resources Committee on the 10th December, 2019, is laid before the States.

EXPLANATORY MEMORANDUM

This Ordinance was made by the Policy & Resources Committee on 10 December 2019 under Article 66A of the Reform (Guernsey) Law, 1948 ("the Reform Law"), and in exercise of the Ordinance-making power at Article 54(5) of the Reform Law. Its effect is to amend the Reform Law to enable parochial elections to be held in circumstances where vacancies have occurred because an insufficient number of candidates were nominated to fill vacancies created by the expiry of terms of office.

The Ordinance introduces (by way of an amendment to Article 54(4) and a consequential amendment to Article 59(3)) a regulation-making power to enable the States' Assembly & Constitution Committee to provide for specified elections of Constables and Douzeniers to be held on dates different from those "end of term" dates in November specified in Article 54(5). The power also allows for such regulations to make consequential provision modifying the effect of other related provisions in Part V of the Law, such as those concerned with the notice which has to be given by the Parish of elections.

The Ordinance was made in the context of several Parishes wishing to hold elections on an urgent basis to fill parochial offices not filled in the parochial November "end of term" elections; no existing mechanism in the Reform Law has been identified to enable such elections (which are not elections to fill casual vacancies) lawfully to be held. The regulation-making power approach gives flexibility, and allows for similar provision to be made in the future, if necessary, in other cases.

The Ordinance was approved by the Legislation Review Panel on the 9th December, 2019 and made by the Policy & Resources Committee in exercise of its powers under Article 66A(1) of the Reform (Guernsey) Law, 1948. Under the proviso to the said Article 66A(1), the States of Deliberation have the power to annul the Ordinance.

The full text of the legislation can be found at:
http://www.guernseylegalresources.gg/article/90621/Statutory-Instruments

P.2019/146

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE

REFORM OF THE MATRIMONIAL CAUSES LAW

The States are asked to decide:-

Whether, after consideration of Policy Letter of the Policy & Resources Committee entitled 'Reform of the Matrimonial Causes Law', dated 23rd December 2019, they are of the opinion:-

1. To approve the proposals laid out in section 8 of the Policy Letter to reform the law relating to divorce, annulment and judicial separation of marriage.

2. To direct the Policy & Resources Committee working in partnership with the Committee *for* Home Affairs and in consultation with the Committees *for* Education Sport & Culture and Health & Social Care to investigate and take forward actions to improve access to information and support services relating to family law matters, as part of the work on Justice Policy to 'remove delay from systems and processes relating to the delivery of services to children and young people in need, and to ensure that such systems and processes are centred on the best interests of the child or young person concerned', before May 2020.

3. To direct the Committee *for* Home Affairs to consider and oversee the amendments required to the Domestic Proceedings legislation to align with the proposals in this policy letter to remove fault grounds.

4. To direct the preparation of such legislation as may be necessary to give effect to the above decisions.

The above Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE

REFORM OF THE MATRIMONIAL CAUSES LAW

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

23rd December, 2019

Dear Sir

1. Executive Summary

1.1 This policy letter sets out the proposals for changes to the Matrimonial Causes (Guernsey) Law, 1939, ("the Law"), to fulfil the Resolution of the States of Deliberation ("the States") in December 2015, (Billet d'État XXIII of 2015[1]), which recognised that there was a need for the Law to be reformed to ensure that it was both inclusive and reflective of modern society.

1.2 Subsequently, on 27th June, 2017, (Billet d'État XII of 2017[2]) reform of the Law was prioritised in the Policy & Resource Plan, led by the Policy & Resources Committee, ("the Committee"). The Review's terms of reference (Appendix A) set out to consider many areas that would inform the reforms needed to ensure that the legislation was simplified, modernised, inclusive, reduced conflict where possible, and aligned to comparable jurisdictions' legislation.

1.3 It is widely thought that retaining fault as a basis on which to grant divorce does not assist parties in ending their marriage amicably and so there have been recent moves to reform legislation relating to matrimonial causes in other places such as Jersey and England & Wales[3].

[1] Billet d'État XXIII, 2015 - Same-sex marriage
[2] Billet d'État XII, 2017 - The Policy & Resource Plan - Phase 2
[3] Divorce, Dissolution and Separation Bill 2019-20

1.4 It is important to acknowledge that relationships do break down and that the purpose of the law is to ensure a fair separation is achieved, in a legally appropriate way, so that each party is able to move forward independently of the other, so far as possible, at the soonest opportunity. Equally should parties wish to attempt reconciliation that it is made possible and is not made more difficult by the Law.

1.5 It is important that any legislation should aim to avoid requirements that might make an already difficult situation worse and which are not in the public interest, such as by making parties justify their decision in Court.

1.6 The process of dissolving or annulling a marriage has been a Court process since 1857 and results in a change of legal status that can have implications for an individual and their family's rights and responsibilities. Therefore it should remain so to ensure that separation arrangements are legally binding.

1.7 The Review into the Law including the public consultation findings[4] found that in the main there was support for the reform proposals. In particular, of those who responded to the public consultation (158 responses) there was strong support for:

- removing fault grounds - 77% were very supportive;
- removing the ability to contest a divorce - 73% were very supportive;
- removing the requirement for the Court to consider reconciliation - 84% agreed with the proposal;
- simplifying the procedure so that couples, so far as possible, could process the divorce themselves - 87% agreed with the proposal;
- digitalisation of some or all parts of the process, at a later stage, following the legal changes - 90% agreed with the proposal; and
- incorporating the principles to seek 'financial independence' and a 'clean break' within the law - 86% agreed with the proposal.

1.8 The proposals set out within this policy letter seek to amend, modernise and simplify the legislation to try to reduce conflict, whilst ensuring that the legislation is inclusive and fair, and is consistent and compliant with international standards. The proposals also seek to address the other issues and concerns raised through the initial stakeholder engagement, as detailed in section 6. Some of these matters are outwith the legislation but can equally contribute to, or exacerbate, conflict and be distressing to the parties involved. This is particularly the case where they do not support parties to reach agreement about their future and that of any children.

1.9 The proposals within this policy letter do not touch on how arrangements for any children are agreed, as this is covered under the Children (Guernsey and Alderney) Law, 2008.

[4] Gov.gg - Matrimonial Causes

1.10 The updated Law will, as currently, cover the whole Bailiwick and will ensure continued consistency and clarity across the islands. The States of Alderney and Chief Pleas of Sark have been engaged throughout the Review and have confirmed their agreement with this approach and have welcomed the recommended proposals.

1.11 Similarly, the Committee has consulted with the Committee *for* Employment & Social Security in relation to the equality and inclusion related policy issues raised through the Review, such as legitimacy. The Committee *for* Employment & Social Security has agreed to capture this matter within its 2020 handover report to its successor Committee.

1.12 The Committee has also consulted with the Committee *for* Home Affairs in relation to several related matters. The first being the need for amendments to be made to the Domestic Proceedings and Magistrate's Court (Guernsey) Law 1988 to align with these proposals, should they be agreed. The second is in relation to the need to improve information and support services relating to family law matters, which aligns to the work underway to fulfil the extant Resolution relating to Justice Policy (Resolution 1c) from the last Policy & Resource Plan Update, (Billet d'État IX of 2019[5]).

1.13 The States of Alderney have been advised that the Separation, Maintenance and Affiliation Proceedings (Alderney) Law, 1964 will require changes.

1.14 In September 2019, (Billet d'État XVIII of 2019[6]) the States approved the draft Projet to implement amendments to the Law to extend the powers of the Court in relation to the division of assets following divorce or judicial separation. This was to discharge the 2009 Resolution of the States (Billet d'État II of 2009[7]) to amend some aspects of the Law. It also directed the Committee, in discussion with other relevant Committees, to further consider matters relating to pension sharing that it was not possible to include within the amending legislation, for the reasons set out in the accompanying policy letter to those Propositions.

1.15 Any policy matters requiring further consideration by the next government raised through this Review, such as lack of protection for co-habiting couples, will be captured as appropriate within the respective Committee's handover reports to be appended to the 2020 Policy & Resource Plan Update.

1.16 Reform of the Law aligns with the Public Service Reform[8] agenda by transforming services so that they meet customer expectations.

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5 Billet d'État IX of 2019 - The Policy & Resource Plan (2018 Review & 2019 Update)
6 Billet d'État XVIII of 2019 - The Matrimonial Causes Law Guernsey 1939 Amendment
7 Billet d'État II of January 2009 - The Matrimonial Causes Law (Guernsey), 1939, as amended
8 Public Service Reform

1.17 Recommendations:

The Propositions to which this policy letter is attached recommend the States to:

1. approve the proposals set out in section 8 of the policy letter to reform the law relating to divorce, annulment and judicial separation;
2. direct the Committee working in partnership with the Committee *for* Home Affairs and relevant other committees to work together to improve access to information and support services relating to family matters, as part of the existing work on Justice Policy;
3. direct the Committee *for* Home Affairs to consider and oversee the amendments required to the Domestic Proceedings legislation to align with the removal of fault grounds, if agreed; and
4. direct the preparation of such legislation as is necessary to reform the Law in line with any decisions agreed by the States.

2. Introduction

2.1 Divorce, annulment and judicial separation are means to end or change the legal status of a married couple's relationship and can have further legal implications, for example for any children of the marriage or when dividing the couple's assets. This requires the Court's involvement in the process as it has a role to play in ensuring that an aspect of fairness is achieved through the legal separation proceedings and to ensure that any arrangements are legally binding on the couple and on third parties.

2.2 These matters form part of family law that also covers aspects of law relating to family issues and domestic relations such as adoption and inheritance. While some areas of family law have been modernised and seek to operate in a non-confrontational manner, it is a widely held view that the attribution of fault can exacerbate conflict, cause unnecessary distress and lead to poorer outcomes for those involved, including any children of the marriage. This view is held by other jurisdictions who have already or who are proceeding with reforming their legislation such as England & Wales and Jersey.

3. Policy and Legislation background

3.1 Initially and up until 1936, jurisdiction in matrimonial causes lay with the Ecclesiastical Court. The Loi Sur les Empêchements au Mariage à Cause de Parenté et sur l'Etablissement de la Jurisdiction Civile dans les Causes Matrimoniales 1936 transferred that jurisdiction to the Royal Court.

3.2 The 1939 Law saw the establishment of the Matrimonial Causes Division of the Royal Court of Guernsey ("the Court"), which has jurisdiction in relation to matrimonial causes, suits and matters for divorce, judicial separation (Decree of Judicial Separation[9] and Judicial Separation by Consent[10]), nullity and decrees relating to presumption of death of a spouse.

3.3 It is also the responsibility of the Court to set out the procedures for matrimonial proceedings in Rules of Court and Practice Directions[11], for example how applications are dealt with by the Court and what safeguards should be in place for unrepresented parties.

3.4 Any of these proceedings can be issued in Guernsey if either party to the marriage is domiciled in the Bailiwick of Guernsey when the Petition is filed; or has been habitually resident in the Bailiwick for at least one year before the Petition is filed. Although in nullity cases the Court's jurisdiction is slightly different in that it can be sought after the death of a spouse, so requiring the deceased to have been domiciled in the Bailiwick or habitually resident for a year up to their death.

3.5 The Law has been amended on several occasions but never substantially reformed. Most recently, in January 2009 (Billet d'État II of 2009[12]), the States resolved to amend the Law to extend the powers of the Court in relation to the division of assets following divorce or judicial separation. In September 2019, (Billet d'État XVIII of 2019[13]) the States approved the draft Projet to implement some of these amendments and directed the Committee, in discussion with other relevant Committees, to further consider matters relating to pension sharing that it was not possible to include within the amending legislation, for the reasons set out in the accompanying policy letter.

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[9] A decree of judicial separation may be sought using the same facts as are available for divorce, and the Court is able to make orders dealing with the assets, but the parties will remain married. Pension rights will not be affected.

[10] Judicial separation by consent is unique to Guernsey and enables a couple who do not wish to divorce, or who wish to wait until they can obtain a divorce on the basis of a period of separation, to consent to arrangements for financial matters and any children, which arrangements will then be legally binding.

[11] Guernsey Royal Court - Matrimonial Causes

[12] Billet d'État II of January 2009 - The Matrimonial Causes Law (Guernsey), 1939, as amended

[13] Billet d'État XVIII of 2019 - The Matrimonial Causes Law Guernsey 1939 Amendment

3.6 In December 2015, the States agreed (Billet d'État XXIII of 2015[14]) -'To direct the Policy Council to bring forward, in a timely manner, separate policy letters to address the issues raised by the work on Union Civile including those relating to the dissolution of legal partnerships, as set out in section 6 of that policy letter.'

3.7 The complex issues specified were adultery[15] as a ground for divorce, and non-consummation as a ground for nullity, as well as other options for dissolution of a marriage. At this time, adultery with a same-sex partner is not a ground for divorce nor is non-consummation a ground for the annulment of a same-sex marriage, which mirrors the UK legal position. This raises a concern over the equality of the Law when applied to same-sex married couples.

3.8 The necessity to prove fault before divorce can take place has been widely questioned and there are often misunderstandings around the actual legal steps required and their relationship with one another. Equally, it may be considered that the other options specified as reasons to dissolve a marriage do not reflect the needs of modern society, such as citing impotency or epilepsy as reasons for annulment of a marriage.

3.9 In June 2017[16] reform of the Law was prioritised in the Policy & Resource Plan, in support of achieving the "One Community: inclusive and committed to social justice" outcome. During late 2017, a working group was established to carry out the Review that included representation from the Law Officers, Family Bar and officers from the Office *of the* Committee *for* Employment & Social Security.

3.10 The provisions in law relating to the arrangements for any children of a marriage are covered by the Children (Guernsey and Alderney) Law, 2008, which was not part of this Review into the Law.

4. Recent legislative reform in other jurisdictions

England & Wales

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[14] Billet d'État XXIII, 2015 - Same-sex marriage
[15] Adultery is defined in law as sexual intercourse between a consenting man and woman when at least one partner is married to someone else.
[16] Billet d'État XII, 2017 - The Policy & Resource Plan - Phase 2

4.1 The current law governing divorce and dissolution of marriage in England and Wales, the Matrimonial Causes Act 1973, has remained largely unchanged for fifty years and was in the main a re-enactment of the provisions in the Divorce Reform Act 1969.

4.2 The legal process is very similar to the present process in Guernsey, (Appendix B) and requires that the marriage has broken down irretrievably and either that fault is attributed to one of the parties or they have to spend at least two years living separately while remaining married, if both parties consent, or five years if one party does not consent. It also maintains the ability for a divorce to be contested.

4.3 In a recent case, Owens v Owens[17], the Supreme Court, in upholding the lower Court's refusal to grant a divorce based on an unreasonable behaviour petition, commented adversely on the law which denied the petitioner a divorce because she had failed to prove the fact alleged even though it was clear that the marriage had irretrievably broken down. The Supreme Court went further and invited Parliament to consider replacing the law.

4.4 In September 2018, the Ministry of Justice (MoJ) set out its case for reform of the divorce aspects of the 1973 legislation in its consultation on proposals for divorce reform[18], where it sought 'to ensure that the decision to divorce is a considered one, with sufficient opportunity for reconciliation, and to reduce family conflict where divorce is inevitable.' In its response to the consultation findings[19] the MoJ set out the proposals for reform, which had progressed as a Bill with its first reading in the House of Lords (15th October 2019)[20] before Parliament dissolved for the general election.

4.5 The reform proposals included:

- retaining irretrievable breakdown of marriage as the sole ground for divorce but removing the requirement to provide evidence of conduct or separation facts;
- providing for the option of a joint application;
- removing the ability to contest;
- Introducing a minimum timeframe of six months from Petition to decree absolute ("Final Order");
- retaining the two-stage decree process;
- retaining the bar on divorce and dissolution applications in the first year; and
- modernising language used within the divorce process.

4.6 Where relevant the above changes would be equally applicable to legal separation order applications and some minor changes to powers in nullity cases, in particular to allow the minimum time period before finalising the nullity order to be amended.

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17 Owens vs Owens 2017 Supreme Court judgment, paras. 45, 49
18 Reducing Family Conflict: Reform of the Legal Requirements for Divorce
19 Ministry of Justice - Reducing Family Conflict consultation response
20 Divorce, Dissolution and Separation Bill 2017-19

4.7 Reference was made within the MoJ's response that consideration of wider reform on related aspects of the law, such as how the Court makes financial orders on divorce, along with arrangements for annulment, would be reviewed once the proposals above had been implemented and the potential for conflict had been minimised.

Jersey

4.8 The States of Jersey agreed, in principle, in September 2015 to introduce new divorce legislation to modernise, remove causes of unnecessary conflict, prioritise the best interests of children and support struggling couples who may wish to reconcile. The proposals being considered were:

- removing the three year bar on divorce - at the moment a person has to be married for three years before filing for divorce;
- moving to 'no fault divorce' – allowing a person to file for divorce without having to claim that their spouse was at fault;
- introducing joint filing for divorce; and
- removing the ability to contest a divorce.

4.9 Following public consultation on the potential changes to the law in early 2019, which supported the reform proposals above, work has started on progressing these changes[21].

5. Other jurisdictions – current practice

5.1 In the main, the legislation relating to jurisdictions within the British Isles is very similar, which is most likely because they have all originated from the 1857 Matrimonial Causes Act. There are some nuances from more recent reforms in some areas, such as Scotland has shortened the periods for divorce by separation to one year if with consent, and two years without consent, and has the option for a simplified divorce in some circumstances that can be filed online. A summary comparison of the existing legal processes in other jurisdictions in relation to matrimonial causes is captured in Appendix C.

5.2 In most jurisdictions considered (including Guernsey) 'irretrievable breakdown of the marriage' is the sole ground for divorce and this has to be proved in one of two ways: evidencing fault, with adultery and behaviour being the two facts that are consistent across several pieces of legislation; or by a period of separation i.e. divorce without fault.

[21] https://www.gov.je/news/2019/pages/responsesdivorceconsultation.aspx

5.3 Generally, to divorce without having to prove fault requires parties to live separately for a significant amount of time before petitioning for divorce, which results in parties being unable to move on with their lives quickly after a decision to legally separate has been made. In some jurisdictions, where couples consent, the time required to live separately can range from just over one year up to almost two and a half years. Whereas, if one party does not consent this period can be extended to over five years in some jurisdictions.

5.4 The average time it takes to complete the legal process from Petition to Final Order appears to be very similar across jurisdictions and is in the main between two to six months.

5.5 Similarly, most jurisdictions allow and give some consideration to marital agreements such as pre-nuptial agreements, but they are not necessarily legally binding in all places. In France and Germany the agreements around legal separation arrangements can be agreed in advance of the marriage, which includes the split of marital assets and arrangements for any children of the marriage.

5.6 There are however, several differences in approach in terms of: the use of judicial separation; attendance at Court; or the requirements for legal representation. For example judicial separation by consent is unique to Guernsey, while decrees of judicial separation are possible in some countries but not in others for example Germany or Australia.

5.7 Civil partnerships and same-sex marriage also form part of the matrimonial causes legislation and their presence differs across jurisdictions, for example in Guernsey same-sex marriage is possible, but civil partnerships are not, whereas both are possible in England & Wales and Jersey. Where civil partnerships are available the legal process to dissolve or legally separate tends to be similar to those for marriage.

6. The Guernsey context and the case for change

6.1 Through the work that resulted in the introduction of the Same-Sex Marriage Law[22] it was recognised that there was a need to revisit and reform the matrimonial causes legislation to ensure that it was inclusive and modernised to best serve the society it is in place to support.

6.2 During 2018, various stakeholders representing different interest groups involved with family law were engaged and consulted. Those consulted included: related public service areas; professionals; and members of the public, including those who had been or who were going through the legal separation process.

[22] Billet d'États XXIII, 2015 - Same-sex marriage

6.3 Through engaging with those directly involved with the process in some way or who had personally experienced the process, it was established that there were other issues to be considered including that:

- the law is overly complex;
- some aspects of the law could be used to discriminate against parties with health conditions such as epilepsy;
- some aspects of the process cause unnecessary conflict between parties, which can negatively impact all those involved including children;
- the effectiveness of and access to impartial mediation and other forms of Alternative Dispute Resolution (ADR)[23] could be improved;
- there was a need to raise awareness and provide better information about what the law is intending to achieve to manage people's expectations and enable them to make informed decisions about their futures; and
- the length and costs (financial, time and emotional) of the whole process could have significant, negative long-term effects on the parties involved.

Requirement to prove facts

6.4 The requirement to prove one of five facts to dissolve a marriage has been widely criticised as most of the facts are fault-based and encourage blame for the failure of the marriage to be allocated to one of the couple[24][25]. The five facts are:

- adultery - the Respondent has committed adultery and the Petitioner finds it intolerable to live with the Respondent;
- behaviour - the Respondent has behaved in such a way that the Petitioner cannot reasonably be expected to live with the Respondent ("unreasonable behaviour");
- desertion - the Respondent has deserted the Petitioner for at least two years;
- two years' separation with consent - the parties to the marriage have lived apart for at least two years and both parties consent to divorce; or

[23] 'In the UK, ADR is generally understood to describe all dispute resolution methods other than court proceedings and arbitration, or just non-adjudicative dispute resolution methods such as mediation, executive tribunal (in essence a more formal type of mediation, known in the US as a "mini-trial") and early neutral evaluation, for example.'
[24] House of Commons - Research Briefings - No-fault divorce
[25] The Nuffield Foundation - Finding Fault full report

- five years' separation without consent - the parties to the marriage have lived apart for at least five years.

6.5 Where a fault fact is claimed, sufficient details must be provided to support the claim, even if undefended, whereas in some cases it is merely that the two consenting adults no longer wish to be married. When claims of unreasonable behaviour are made these may be exaggerated to meet the threshold for the behaviour ground in order to avoid the delay involved in a divorce on the basis of separation only (the current no fault option). The process of having to evidence behaviour is viewed by some as being extremely hurtful, stressful and unnecessary, which can lead to increased conflict as parties may feel the need to defend themselves against the claims. Although defended cases are rare (less than 1% of Petitions[26]), the most common defended Petition in England & Wales is where behaviour is the fact claimed.

6.6 Arguably the current need to evidence fault, for those who do not wish to separate for at least two years before divorcing, can have long lasting negative implications for healthy relationships[27], which, given that many couples have children and need to maintain an ongoing relationship with their ex-partner, can be detrimental to achieving this.

6.7 Divorce can be obtained without any period of separation if the facts claimed are adultery or behaviour. Anecdotal evidence suggests that this is often used to obtain a 'quickie' divorce as it removes the need to live separately for two or five years.

6.8 There have been no recorded cases of divorce due to desertion in Guernsey's recent history.

6.9 In the results of the recent Guernsey public consultation 77% of the public were very supportive of the proposal to remove fault, whereas 11% were very unsupportive. Those who were unsupportive were in the main concerned with oversimplification of divorce and the potential therefore for marriage to be undermined.

<u>The process of divorce and decree of judicial separation</u>

6.10 Currently the legal process for divorce in Guernsey requires one party to Petition the other providing sufficient evidence to meet one of the five facts. A Petition for divorce can be filed at any time by one of the parties to the marriage (known as the Petitioner, the other being described as the Respondent).

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[26] The Nuffield Foundation - No Contest report
[27] http://www.resolution.org.uk/news-list.asp?page_id=228&page=1&n_id=373

6.11 The Petition can only be initiated by one person, when in reality both parties to the marriage can together reach the decision to divorce. The Respondent to the Petition must acknowledge that they have been served with the Petition and state whether they agree with the contents or if they wish to contest the divorce.

6.12 In adultery cases, the Co-Respondent is also served and must confirm receipt of the papers formally served on them within 14 days. This requirement is seen as outdated and no longer a reasonable or necessary step.

6.13 The process for a decree of judicial separation is similar to that of divorce and the facts to be proved are the same as for divorce although there is no need to prove irretrievable breakdown. The Court needs to be satisfied that one or more of the 'facts' are present. As for divorce, the Petition can be defended and the contents are the same as for a divorce Petition, other than the prayer wording that states a decree of judicial separation is sought, instead of a dissolution of marriage.

Separation periods for divorce without blame

6.14 In instances where no fault facts are claimed there has to be a period of separation of two years if the Respondent consents to divorce, or a period of five years' separation after which no consent is required. These periods are viewed by many as being far too long and restrict a couple's ability to effectively move on with their lives following a separation. In other jurisdictions, such as Jersey and Scotland, the periods for divorce by separation are one year (with consent) and two years (without consent). 58% of those recently consulted were very supportive and 19% were somewhat supportive of removing separation periods completely.

Lack of inclusivity of the adultery fact

6.15 At this time, adultery is defined legally as intercourse between a man and a woman and, therefore, could not be used as a fact for divorce in cases where extra-marital relationships are between parties of the same-sex. This is the same as the current legal position in England & Wales and arises from the difficulty of formulating a definition of adultery in relation to same-sex relationships (the definition of adultery is not set out in the legislation but has evolved over many decades in case law in England & Wales in relation to intercourse between a man and a woman).

Lack of inclusivity and clarity of the grounds to annul a marriage

6.16 Annulment is a way of legally declaring that a marriage is void. It may be void because it was never properly formed due to lack of capacity or for some other reason. Likewise, it may have been properly formed but it is regarded as "voidable" because a ground exists which gives one of the parties the right to petition for nullity. Although, cases of annulment are very rare there will always be a need to enable a marriage to be annulled if necessary.

6.17 The present grounds for annulment are not inclusive of all marriages, for example non-consummation or impotency cannot be used as grounds for annulment of a same-sex marriage. Non-consummation of a marriage means a married couple has not had sex with each other since their wedding, which as defined in law (sex) cannot apply to same-sex couples. The same applies to impotency as a ground, as it cannot similarly be applied equally to all married couples, as it relates to a male condition that would affect the ability to consummate a marriage.

6.18 The current annulment grounds also include epilepsy, being of unsound mind and venereal disease, which discriminate against those with physical and mental health related concerns. In several comparative jurisdictions grounds for annulment such as non-consummation and health conditions are not available including in Scotland, France, Australia, Germany, and Canada.

6.19 At this time, unlike in England & Wales, the Law does not specify which grounds render a marriage void and which make it voidable. The two terms refer to two different reasons for annulling a marriage and have different implications for the parties involved. Ancillary relief is available following a decree of nullity.

6.20 Within the Legitimacy (Guernsey) Law, 1966 provision is made for children of a void marriage, but not a voidable marriage, so it is unclear how the Law would be applied to children of a voidable marriage which has been annulled. Clarity of the terms in the new Law would also ensure that children born of a voidable marriage would be regarded as legitimate should such an instance occur.

Defended divorces

6.21 At this time, the Respondent may contest or defend a divorce application where they do not agree that the marriage has broken down or they dispute the evidence used in the Petition. Defended divorce cases are very rare and in England & Wales an average of 2% of cases show an indication to contest, but even fewer proceed to a final Court hearing in front of a judge[28]. There is a view that the cost of defending a divorce dissuades many people from making use of this option.

6.22 There are opposing views on retaining the ability to defend divorce in general, with the suggestion being it would be unfair to remove the ability of one of the parties to defend themselves against any claims made; that it removes the ability to fight for the marriage; and that it would make divorce too easy.

[28] Ministry of Justice - Reducing Family Conflict consultation response

6.23 Those who are supportive of removing this option are frequently of the view that 'if one person believes the marriage has broken down then the marriage has irretrievably broken down'. This mirrors the views expressed through the responses to the public consultation, where 73% agreed with removing the ability to defend a divorce completely, while 14% disagreed with the proposal.

Safeguards for vulnerable parties

6.24 In domestic abuse cases evidence suggests that the need for consent for divorce by separation can be used as a means for the perpetrator to continue to exert control over a victim by refusing to consent to divorce. Therefore, the victim has to wait for five years before divorce can be granted, as opposed to two years using separation by consent.

6.25 Many victims of domestic abuse do not wish to claim fault as the reason for divorce, as this could result in having to explain in detail their personal circumstances and they would find it difficult to articulate the reasons for divorce or might be afraid of the consequences of setting them out in a Petition. Equally any claims using one of the fault facts can be defended by the perpetrator (of domestic abuse).

Requirement to consider reconciliation

6.26 Within the current law there is a requirement for the Court to be satisfied that an attempt has been made to reconcile the parties or that such an attempt is impracticable or undesirable. There is no evidence to suggest that this requirement has supported those wishing to reconcile. It is widely viewed that once a Petition for divorce or decree of judicial separation has been issued the likelihood of couples wanting to consider reconciliation has passed and support for attempts at reconciliation should not in any event be a matter for the Court.

The effectiveness of and access to impartial mediation and other forms of Alternative Dispute Resolution (ADR)

6.27 Through the initial consultation and research phase of the Review it was apparent that generally where couples do not agree is in relation to arrangements for the children and/or the finances (ancillary matters), and that this is where the majority of conflict arises.

6.28 When attempting to reach an agreement on ancillary matters, following a Petition being filed, some legal practitioners offer round table meetings (where all the parties get together to attempt to settle the matter or as many of the issues in dispute as possible); or shuttle meetings (where the parties do not sit in the same room but the person leading the negotiations moves between the two rooms).

6.29 The Court maintains a list of authorised mediators who come under the banner of Mediate Guernsey[29] and the Family Proceedings Advisory Service ("FPAS") are also able to offer mediation to couples with children as an alternative to a contested Court hearing where both parties agree to this. There are also private counsellors and mediators practising in the Island.

6.30 However, the use of ADR methods as a means to reduce conflict and reach an agreement on ancillary matters does not seem to be widely accessed. Overall, it was felt that there was a need for greater awareness and clarity of the support services available to couples before the marriage has irretrievable broken down or to assist them reach the necessary agreements following the filing of a Petition.

Simplification of the process and procedures

6.31 It has been suggested that several procedural matters that equally apply to divorce, annulment and decree of judicial separation, including ancillary matters, could be simplified and made more transparent so that they are more easily understood and navigated. This in turn would modernise the process, assisting in the reduction of time, conflict and associated costs in line with the aims of reform.

6.32 In England and other jurisdictions the process of filing for divorce has been made simpler through digitalisation of the petitioning process. Likewise in Scotland it is possible for couples to manage the divorce themselves through a simplified, 'do it yourself' (DIY) process[30], where there is no requirement to have legal representation; the costs are significantly less than a regular divorce; and there is no need to attend Court. This is only available to couples who have no children (of the marriage) under the age of 16 and where the parties will not make any lump sum or maintenance payment claims.

6.33 In Guernsey, petitions for divorce need to be filed through an Advocate and therefore legal representation is required. The costs for obtaining a divorce (not including ancillary matters) are generally fixed but these may still prove costly to some couples even in straightforward cases where couples agree that the marriage has irretrievably broken down. The estimated costs of the divorce aspect only are below £2,000, however, this could be financially out of reach of some couples and they may also not be eligible for support through legal aid.

6.34 Simplifying the process and the procedures for divorce, such as by introducing DIY methods or by application only (for no-fault), would remove the requirement for the Court to be satisfied as to the factual basis for divorce, so enabling the Court's time to be used for much more complex cases.

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[29] Mediate Guernsey
[30] Scottish simplified-do-it-yourself-procedure

6.35 Information on the current process is available online, but not in one location and it is not easily accessible to the whole community. Greater visibility of the steps and decisions to be made within the process would support parties in understanding what the process entails and enable them to make informed decisions about how they wish to proceed. It may mean that some couples will try to reconcile, perhaps with some professional support, instead of progressing with a divorce or judicial separation.

6.36 The simplification of the process brought about by the reforms provides a good opportunity to revise and update the information and guidance, and ensure that is it accessible to all.

Financial orders

6.37 The Court has the power to deal with financial matters, such as vesting of property, division of assets and maintenance, following divorce, nullity or decree of judicial separation. A party can issue an application for financial relief once a Petition has been filed but the Court can only make an order once the decree has been granted. However, the Court can make orders for interim relief if needed. Interim relief is the term applied to the short term solution relating to finances, such as child maintenance or spousal maintenance, while the divorce is being finalised.

6.38 The resolution of financial relief is discretionary and it is difficult to predict the outcome as there are many considerations that impact on the Court's decision. Although there is no statutory requirement for the Court to consider a 'clean break'[31], as there is in English law, the Court typically abides by this presumption. A 'clean break' means that the parties will have no further financial claim against each other's income or assets in the future, although this will not operate to affect a party's responsibilities for any children of the marriage. That being said English courts often decide not to use clean break orders where there are dependent children and where the carer may need spousal maintenance to be able to continue to care for the children.

[31] 'A 'clean break' means that the parties will have no further financial claim against each other's income or assets in the future, although this will not operate to affect a party's responsibilities for any children of the marriage.'

6.39 Some concerns were raised through the initial consultation that the expectation to become financially independent after divorce, particularly after potentially a long period of not working, i.e. where one of the couple has stayed at home to be the main carer of any children of the marriage, was not always feasible or achievable due to a lack of sufficient assets or income of the marriage to support two households.

6.40 There is an identified need to raise awareness and provide better information about what the law is intending to achieve to manage people's expectations and enable them to make informed decisions. In England & Wales, one way this is achieved is by the principles being set out in law under section 25[32] of the Matrimonial Causes Act 1973, which governs financial settlements and assist courts in determining what is 'fair' in financial arrangements on divorce through consideration of all factors of the marriage and the available assets. Factors include for example: income, earning capacity, conduct of each party, the standard of living enjoyed by the family before the marriage broke down and financial need. In Guernsey, these matters are effectively taken into account and are adopted in practice, however, they are not specified in law and so their existence and application is not readily accessible to all parties.

6.41 Another way to support parties is through the provision of straightforward and accessible guidance, similar to that provided in England & Wales, for example through the Family Justice Council's 'Sorting out Finances on Divorce'[33]. The Family Justice Council 'is an advisory non-departmental public body, sponsored by the Ministry of Justice'[34]

6.42 In September 2019, the States resolved[35] to amend the Law to extend the powers of the Court in relation to the division of assets following divorce or judicial separation to enable the Court to try to help to reduce some of the conflict and challenge that occurs during this aspect of the process. The proposed amendments included power to make provision by Ordinance prescribing what matters should be taken into account when exercising these powers but stopped short of including them in the Law itself.

7. Options considered

7.1 The options were appraised using the desired changes as criteria:

- fits the needs of a modern society;
- is simpler;
- is more inclusive;

[32] Matrimonial Causes Act 1973 - Section 25 factors
[33] Family Justice Council - Sorting out finances on divorce - April 16
[34] Gov.uk - Family Justice Council
[35] Resolutions of the Billet d'État XVIII of 2019

- seeks to minimises distress, conflict and be supportive of reconciliation where there is a willingness to do so;
- offers sufficient safeguards for any vulnerable parties including children; and
- aligns to comparable jurisdictions.

7.2 Appendix D contains a summary of the options appraised including those that were discounted. The options the Committee is proposing are in section 8.

7.3 The main options considered for changes to divorce included:

- The time for divorce by separation with and without consent be shortened to one and two years respectively. Adultery and desertion are included under a single fact of unreasonable behaviour i.e. three facts instead of five;
- Removal of any period of separation and enable parties to divorce by agreement without proving separation or fault i.e. no fault. Retain, for those who cannot agree, the ability to allege fault i.e. unreasonable behaviour, including desertion and adultery i.e. two facts instead of five; and
- No fault as the only ground for divorce, but with consideration given to a bar to filing for divorce for a specified period after marriage and/or a cooling off period once petitioned for divorce.

7.4 The above options were all discounted after careful consideration as it was concluded that they did not meet the criteria of reform to the same extent as the Committee's preferred option of a complete removal of fault.

8. Proposals for change and rationale

8.1 Based on the overall findings of the Review from discussions with several stakeholders' groups, including the responses from the targeted engagements and public consultations, and informed by the reforms made or planned in others jurisdictions, the following proposals for change are suggested:

Divorce facts and no-fault

<u>Proposal 1 - Remove the fault and separation based divorce facts i.e. establish no fault divorce</u>

8.2 The evidence suggests that the requirement to prove one of five facts to dissolve a marriage often results in increased conflict and distress, and does not support couples with children to have ongoing healthy relationships, as part of co-parenting. Equally, because of how it is defined legally, sexual infidelity with a same-sex partner does not constitute adultery and therefore cannot be used as a fact for divorce except as part of a behaviour petition. This means that the Law as it stands cannot be applied equally to all married couples and is therefore not fully inclusive.

8.3 It is widely recognised that having a non-confrontational approach to divorce by removing fault based facts and the necessity for a lengthy period of separation can reduce conflict in these situations and could be in the best interests of all involved, especially children. This view is supported by the findings of the Review. Therefore, it is recommended that fault and separation based facts are removed and a form of no-fault divorce is introduced.

8.4 Although there are arguments against introducing no-fault divorce which include: 'the institution of marriage should be supported; the risk of the divorce rate increasing if it is perceived to be easier to get a divorce; and the negative impact of family breakdown'[36], these arguments are not fully supported by the findings of the Review.

8.5 The global evidence is also inconclusive as to the negative impacts of no fault divorce because there are many variables that influence why parties decide to divorce. In Canada, where a form of no fault was introduced in 1986, for example, the main contributing factors to marital breakdown were seen as being 'the ages of the bride and groom, the length of the marriage and the strength of an individual's commitment to marriage'[37].

Proposal 2a) Simplify the process of divorce by introducing no-fault by application

8.6 It is recommended that a simple system of application is used to facilitate the introduction of no-fault divorce. The Court would receive an application (rather than a Petition) for a divorce order, the ground for which would be that the marriage had irretrievably broken down and there would be no requirement to prove any facts. This would require one or both parties (if Proposal 2b progresses) to provide a statement of irretrievable break down, which would be sufficient evidence to the Court that the marriage had irretrievably broken down. Evidence checks would still need to be made to ensure that the notice is valid, for example that there is a marriage to dissolve, that there are no fraudulent or procedural concerns and that the Court has jurisdiction. The parties' identity would also need to be appropriately verified.

Proposal 2b) Enable parties to jointly apply to the Court

8.7 Where parties are in mutual agreement that the marriage has irretrievably broken down there should be the ability for them to jointly apply. This would support those parties who wish to proceed on a mutual agreement basis, while retaining the ability for only one of the parties to make an application for divorce on the basis of the irretrievable breakdown of the marriage.

[36] House of Commons - No fault divorce research briefing
[37] The Canadian Encyclopedia - Divorce in Canada

8.8 This could result in joint applications proceeding more quickly than sole applications, as there are fewer steps required i.e. in sole applications the other party (Respondent) once served would need to acknowledge that they have received the application and these documents would need to be filed with the Court prior to the case being heard.

8.9 Provision would be needed to enable one party to proceed where a joint application had been made but one party then changed their mind and wished for the application to continue as a sole application.

8.10 Proposals 2a) – b) to simplify the process for both divorce and judicial separation, similar to that proposed by England and Wales[38], would remove the need for petitions to be filed through an Advocate, as currently required[39], and supports those who wish to process the divorce themselves. It also removes the requirement for the Court to be satisfied as to the facts upon which divorce is sought, so freeing up some of the Court's time.

8.11 There may be circumstances where the Court has concerns with the application that may require one or both parties to attend Court, such as when there are issues with jurisdiction of the Court or of the proof of identity of one or both of the parties.

8.12 The couples can, and it would be advised should, still seek legal advice on any agreements or arrangements suggested relating to ancillary matters to make sure that they are in their and their children's best interests. Similarly, where parties are unrepresented they may be required to attend Court to finalise their financial arrangements (see Proposal 12).

Defending a divorce

Proposal 3 Remove the ability to defend a divorce

8.13 There is strong public support (73% of responses) for the view that, if one party has decided that the marriage has irretrievably broken down, and applies to the Court for an order for divorce (without needing to prove any fault), there is no point in retaining the ability for the other party to defend the divorce. It will however be important that safeguards remain in place to protect the children of the marriage and any vulnerable parties, such as the requirement for arrangements for any children to be in place before the Final Order is finalised and for consideration to be given to the position of the other party in certain circumstances, such as where the granting of a divorce order will cause serious financial hardship.

[38] Gov.uk - Reducing family conflict consultation response

[39] Guernsey Royal Court - Matrimonial Causes

8.14 By removing the ability to defend a divorce those who try to continue to exert control over another are prevented from doing so, such as in domestic abuse cases. Therefore, by removing this ability there is greater protection for some vulnerable parties.

8.15 The application for divorce will still be able to be challenged on the basis of jurisdiction or validity of the marriage for example.

Cooling off period

<u>Proposal 4 Retain a cooling off period of a minimum of 60 days from application to Provisional Order</u>

8.16 It is suggested that maintaining a minimum period for cooling off from the date of making an application for divorce to the date when a Provisional Order can be made enables both parties to make any necessary arrangements, while allowing those couples who may wish to do so to attempt reconciliation. The 60 days will not increase the current average length of divorce (3-6 months), but it will act as a safeguard to those parties who may not have been informed in advance that their partner is seeking a divorce. It will give parties time to reflect and digest the situation and prepare for the change. Post-application it will still be possible to stop proceedings, at any point, should they both agree up until the Final Order. For example, if the couple wishes to try and reconcile.

Two stage decree process

<u>Proposal 6 Retain the two stage decree process of Provisional Order and then Final Order</u>

8.17 Consideration was given to removing the need for the Provisional Order to simplify the process. However, by retaining the two stage decree process the ability for the Court to investigate any matters of irregularity remains and it provides couples with another opportunity to consider and reflect before making the decision to proceed.

<u>Proposal 6 It is proposed that either party can continue to apply for a Final Order once the period for making an appeal has passed (one month).</u>

8.18 Currently, either party can formally apply for the Provisional Order to be made final following a period of one month from the Provisional Order being made. The one month period is a procedural aspect that is in place to enable the Provisional Order to be appealed. This applies equally to Final Orders of Divorce (which terminates the marriage) and Decrees of Judicial Separation (legal separation).

Powers of the Court

<u>Proposal 7 Retain the Court's powers to reduce the 60 day period in order to finalise the divorce more quickly in some circumstances</u>

8.19 It is suggested that the provision enabling the Court to abridge the 60 day period between the application and the granting of the Provisional Order remains. This maintains the Court's discretion to expedite a divorce Order in certain circumstances, such as where one party is pregnant by another and wishes to marry the parent, or where one party is terminally ill.

Proposal 8 Remove the requirement for the Court to consider reconciliation

8.20 The requirement for the Court to be satisfied that an attempt has been made to reconcile the parties or that such an attempt is impracticable or undesirable is included in the Petition and supplemented by a statement by the Advocate acting for the Petitioner. This may be seen as a tick box exercise and there is no evidence to suggest that this requirement has supported those wishing to reconcile. By removing this requirement it will support the simplification of the process.

8.21 It is suggested that to provide for couples who may wish to consider reconciliation, support should be accessed much earlier in the process before the marriage has irretrievably broken down and before an application is made (see Proposal 18a).

Proposal 9 Retain the ability to apply for a decree of presumption of death and dissolution of marriage

8.22 A decree of presumption of death and dissolution of marriage applies where one spouse has evidence of reasonable grounds that the other party to the marriage is dead and wishes for the marriage to be dissolved. There is a presumption of death if the person has been absent for a period of at least seven years without any evidence that the person has been alive during that time.

8.23 The Court will assess whether to grant the Order based on the facts and evidence presented within the application, for example duration of disappearance and the efforts made to find the missing person. Following the Order being made a sufficient period should be retained for an appeal to be lodged. If no appeal is lodged then the party can remarry. Currently, that period is set at six months, but that is considered to be too long. A period of one month would be sufficient.

8.24 Although these types of cases are very rare it is recommended that the provision is retained and modernised where applicable to accommodate these circumstances should they occur and align with any changes made in comparable jurisdictions.

Judicial Separation by Consent

Proposal 10 Retain judicial separation by consent

8.25 A judicial separation by consent is unique to the Island and is often (34% of 2016 cases) used as a means to quickly and cost effectively secure a legally binding agreement on children, property and finances without the need to prove that the marriage has irretrievably broken down.

8.26 Couples remain married, but often subsequently divorce after two years' separation where there is consent. It is expected that the number of cases will reduce if no-fault divorce progresses. However, there are no identified reasons to change or remove the provision of Judicial Separation by Consent at this time.

Decree of judicial separation

Proposal 11 Retain the decree of judicial separation, but remove the facts and simplify the process in line with the changes proposed to divorce, where applicable, including removing the ability to defend a judicial separation.

8.27 Instances of a decree of judicial separation are very rare, but at this time, there are no identified reasons to remove this provision. By retaining provision the law is inclusive of those who no longer wish to cohabit, but, possibly for religious or financial reasons, do not wish to divorce.

8.28 It is recommended that to align with the proposed changes for divorce that one or both parties to the marriage may apply for a decree of judicial separation based on the fact simply that one or both parties wish to be judicially separated. There would be no requirement to prove any facts and a similar application process could be used as suggested in Proposal 2a and 2b for divorce.

8.29 It is also recommended that, as in Proposal 3 for divorce, the ability to defend a decree of judicial separation is removed. The application for a decree of judicial separation will still be able to be challenged on the same basis as divorce, such as in relation to jurisdiction or validity of the marriage.

Annulment

Proposal 12 Change and update annulment grounds to remove some grounds to make the grounds more inclusive and to distinguish between void and voidable grounds.

8.30 Although cases of annulment are very rare there will always be a need to enable a marriage to be annulled if necessary, for example in cases of duress, fraud or bigamy, so it is recommended that the ability to apply for a marriage to be annulled should be retained.

8.31 From an individual's perspective it is important to distinguish between marriages which are deemed never to have existed (void) and marriages which may be avoided because of certain grounds, but which continues to be regarded as having existed until a decree of nullity is granted upon the application of one of the parties (voidable). Voidable marriages are regarded as having existed until annulled on the basis of certain grounds such as: non-consummation; lack of consent due to duress, mistake or unsoundness of mind; or venereal disease.

8.32 It is recommended that the grounds for obtaining a decree of nullity should be updated to remove the grounds which are no longer appropriate for today's society. Therefore, the current grounds relating to non-consummation, impotence, pregnancy by another person, venereal disease, mental disorder and epilepsy will no longer apply.

8.33 It is also proposed that there should be a clear distinction between those grounds which render a marriage void and those which merely enable a party to apply for annulment if the party so wishes. Where a decree of nullity is made in the case of a voidable marriage, the marriage will be treated as void as from the date of the decree only.

8.34 The grounds on which a marriage is void will be captured within the Marriage Law which is presently being drafted and will include (in addition to any other grounds on which a marriage is by law void) –

- parties are closely related to each other such that they are within the prohibited degrees for marriage;
- where either party is under the minimum age for marriage;
- where certain formalities required by Law to be observed have not been complied with such as where a marriage was not legally concluded or where incorrect or false material information is used to obtain a marriage licence;
- where a marriage is bigamous; or
- either party is in a civil partnership.

8.35 A marriage will be voidable, and may be declared void on the application of one of the parties if, in addition to any other grounds on which a marriage is by law voidable –

- if either party did not validly consent to the marriage, for some reason, for example due to duress, mistake or unsoundness of mind.

8.36 It is also recommended that the Court retains the authority to amend the grounds in line with best practice.

Financial matters

Proposal 13 Incorporate the principle to seek 'financial independence', based on the section 25 factors of the law in England & Wales, including a 'clean break', within the law.

8.37 There is an identified need to raise awareness and provide better information about what the Law is intending to achieve as the determination of financial relief is discretionary and it is difficult to predict the outcome as there are many considerations that impact the Court's decision.

8.38 By providing further clarity on how the Court interprets the Law and reaches its decisions parties will better understand what the law aims to achieve, while enabling individuals to make better informed decisions about their futures (as they will know in advance what informs the decisions reached by the Court with regards to financial matters and so can plan accordingly). This could result in agreements being reached quicker with far less conflict.

8.39 To achieve this it is recommended that the section 25 factors[40] (of the Matrimonial Causes Act 1973) that the Court takes into account when making financial orders, are set out in law. This proposal would be supported by Proposal 14 to provide better information and guidance, including on financial matters to couples considering or going through a divorce or judicial separation.

8.40 It is also proposed that the principle that the Court should consider a clean break should be included as part of the Court's considerations of the matters between the two parties. This means that so far as possible neither party to the marriage will have any future financial claim on the other. This would exclude any orders between parents and their children as parents will always be liable for maintaining any dependent children. It may also not be appropriate where one of the parties is unable to work, for example, due to responsibilities for young children, in which case spousal maintenance might be considered to be appropriate.

Other related matters of procedure

Proposal 14 Request that the Court gives consideration to removing the requirement for unrepresented parties to attend Court for consent orders relating to financial settlements.

8.41 Currently, couples who have legal representation do not normally need to attend Court where matters are agreed, however, those who are unrepresented do. This step acts as a safeguard to confirm that both parties understand and freely give consent to the proposed arrangements as they can have life changing effects.

8.42 The requirement aims to ensure that one party is not being coerced in any way to accept an arrangement and understands the significance of any consent order. However, where physical attendance is not possible the Court may accept an alternative such as a signed and witnessed certificate or the person 'attending' Court via video conferencing.

[40] Matrimonial Causes Act 1973 - Section 25 factors

8.43 Of those consulted many were concerned about the distress of having to attend Court, some suggested this requirement increased conflict between parties and therefore, resulted in additional costs in terms of time, emotion and money. Some were of the view that it was unfair as those who could afford representation did not need to attend. Some other suggestions for change were considered such as that a signed and witnessed certificate should be sufficient.

8.44 It is understood that the approach in England & Wales does not require all unrepresented parties to attend Court if written consent has been given, but the Court retains the power to request the parties' attendance where it is felt that the arrangements are unfair or unclear. Given that this matter relates to procedural aspects of how the Court operates in this regard there is no requirement to legislate for this aspect of the process. The concerns raised through consultation have been shared with the Court, which will give them further consideration when revising the Rules of Court to be made under the new legislation and which has agreed to seek to accommodate alternative approaches that are similarly robust, where possible.

Proposal 15 Request that the Court gives consideration to streamlining the ancillary relief process

8.45 The Court have been advised of the Review's findings and has agreed to give consideration to how it might streamline the ancillary relief process as part of implementing the reforms, but also as part of the work updating the relevant Rules of Court. By streamlining the process the Court would seek to ensure that it has all the necessary information as soon as possible, such as by having automatic directions, so that they may be able to make some financial orders more quickly. This in turn may benefit those parties who are able to reach an agreement on the financial matters to move forward with their lives sooner. However, it is important to recognise that this is not always the case for a variety of complex reasons that are unlikely to be influenced by court procedures.

Proposal 16 To consider the digitalisation of the application for divorce, annulment or judicial separation, alongside the whole process, once the legal changes have been made

8.46 By progressing with legal changes first before introducing a digitalised process, it enables the new processes to be fully embedded before moving to a technological approach. This also allows time for other technological changes at the Court to be fully considered. The recently trialled applications in England and Wales[41][42] will also be further tested and developed.

[41] Gov.uk - Apply for divorce
[42] https://www.theguardian.com/lifeandstyle/2018/may/06/easy-divorce-online-couples-avoid-stress-of-court

Proposal 17 To publish clear, simple guidance in one accessible place, such as on the Royal Court website that other agencies can signpost people to or share, to include guidance on determining 'financial needs' and 'independence'.

8.47 Through providing transparent and accessible information and guidance to parties this would enable them to both make informed decisions relating to their circumstances and could potentially reduce conflict. It may mean that some couples will try to reconcile, perhaps with some professional support, instead of progressing with a divorce or judicial separation. The simplification of the processes within the Law provides a good opportunity for all information online to be revised, refreshed and placed in one accessible location.

8.48 Introducing more information and guidance supports several of the above proposals, such as no-fault, DIY divorce and digitalisation

Matters relating to other support services

Proposals 18a) Raise awareness of other support services, such as private counsellors, which are available to couples who are experiencing relationship difficulties or who wish to try to reconcile.

8.49 Relationship counselling is available currently to couples for a fee through private counsellors at any point, including before the marriage has irretrievably broken down. Although available, it appears few couples are aware of or access the support available to support their relationship and that these services are not consistently signposted. This proposal seeks to improve signposting to existing support services to assist parties who may wish to make use of these services, perhaps before the marriage breaks down irretrievably.

Proposal 18b) - Raise awareness of the support available to couples who have decided that their marriage has irretrievably broken-down, through Alternative Dispute Resolution (ADR) including mediation, at the earliest possible stage in the process.

8.50 The Review identified that there is a need for better and more information on impartial ADR services, such as mediation, arbitration and collaborative law, to support separating couples who have decided that their marriage has irretrievably broken down, but who need support to finalise and agree the ancillary matters. This is with a view to reduce conflict, as parties are aware and can access these services much earlier in the divorce process. Through raising awareness of these services, at the earliest possible stage, conflict, time and costs could be reduced[43][44], which has long term benefits for all parties involved including children.

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[43] Cafcass - Family mediation
[44] Ministry of Justice - Family Mediation

Proposal 18c) Raise awareness of other forms of support to legally separating couples with children, such as the Children First course

8.51 It is suggested that there is a need to also raise awareness of the wider support services on offer and to join these services up, so that appropriate support can be accessed at a time when parties could most benefit from that support.

8.52 Given the relationship with existing work streams already underway relating to the Justice Policy (Resolution 1c, Billet d'État IX of 2019[45]) from the last Policy & Resource Plan Update, it is recommended that the Committee works alongside the Committee *for* Home Affairs (C*f*HA) and others to incorporate these proposals within the Justice Policy work.

Benefits of the proposed changes

8.53 By introducing the above changes to how couples can legally separate it is anticipated that it will result in the several benefits to the various parties involved that could include -

Parties to marriage:

- Removes the need to attribute fault, to justify irretrievable breakdown, and the ability to defend a Petition, reducing time, costs and conflict;
- Evidence checks will still be made to ensure the application is valid, for example that there is a marriage to dissolve and that the Court has jurisdiction;
- Enables unilateral decisions by one party;
- Reduces the likelihood of the legal process being used by the perpetrators of domestic abuse to continue to exercise coercive control over the victim;
- Improved outcomes for all those involved are achieved through better supporting parties to reach agreements on future arrangements sooner, with less conflict;
- The associated costs are reduced, whether in time, emotionally or financially, as the process has been simplified, steps that cause unnecessary conflict removed, the process is easier to navigate and parties are better informed about the decisions they need to make to legally separate; and
- Couples who wish to consider reconciliation are enabled to do so by retaining the ability to stop proceedings and withdraw the Petition, should couples wish to reconsider or to try to reconcile.

Children whose parents are legally separating:

- Should experience less conflict between their parents who are divorcing or judicially separating (by Decree); and

[45] Billet d'État IX of 2019 - The Policy & Resource Plan (2018 Review & 2019 Update)

- Will have parents who are more able to cooperate and effectively co-parent in the future.

Courts and judiciary:

- Greater alignment with the confirmed proposals for change in England & Wales and changes already made in some other comparable jurisdictions. By aligning our reforms in this way it removes any complexity in cases where there are cross-jurisdictional matters. It also ensure in the case of England & Wales, as at present, that there is a wider body of case law to consider to inform the courts. This is particularly relevant to Guernsey's context given our size and therefore body of case law to draw on; and
- Frees up some of the Court's time allocated to considering matrimonial causes applications, which could be diverted to more complex and higher risk family law cases.

Legal practitioners:

- Will be able to support clients with the more complex arrangements and issues, as opposed to having to support them in evidencing the facts or processing the Petition; and
- They will have clients who are more informed and better supported to make these difficult decisions, with far less acrimony.

Support services including private and third sector organisations:

- Will be able to support parties in constructively moving forwards with their lives, as opposed to having to advise them on complex processes and procedures; and
- The legal aid service may see a reduction in applications for support with divorce or judicial separation cases.

9. Matters not recommended for progression or already underway

To give greater legal recognition to pre or post-nuptial agreements (PNAs)

9.1 Although, there was some support (21 (53%) of responses to the public consultation were supportive of greater legal recognition of nuptial agreements) the Review also found that there are significant challenges with introducing statutory recognition of PNAs.

9.2 This is a complex area of law and as there is not one best practice approach across comparable jurisdictions, it suggested that this matter is considered at a later date in light of any strengthening of consensus in this area, in line with the reform aim to ensure alignment with international standards and legislation.

9.3 The Court will continue to have the power to cancel, amend or terminate a nuptial agreement established in any jurisdiction, with regards to the parties' means, their conduct and the impact on any children of the marriage in line with relevant case law.

9.4 The agreements will continue to not be legally binding, but the Court will continue to be able to take the contents of nuptial agreements into consideration, so long as they are entered into by consenting adults and that the provisions within the PNA are fair and reasonable. The extent to which the Court takes PNAs into consideration is subject to certain conditions being evidence including whether: both parties had independent legal advice; there had been full disclosure of assets; and there is evidence to support that the agreement was not signed under duress or undue influence.

9.5 Proposal 12 will improve awareness and understanding of how the Court determines what is 'fair' in financial settlements and will enable those who wish to draw up a PNA to do so in line with the prescribed principles within the Law.

Greater clarity of legal costs

9.6 The intention behind this proposal was to ensure that all parties had a better understanding of what the process would cost in advance of the costs being incurred. Two options were considered by the working group to give greater clarity to the legal costs of divorce or legal separation:

1. Practitioners to be encouraged to publish fees online; and
2. Encourage practitioners to set a fixed fee that they will charge for divorce, excluding ancillary matters, (similar to the approach taken for legal aid divorce cases where Advocates charge a fixed rate).

9.7 There already exists a requirement for legal practitioners to advise their clients on charges in advance and many already fix fees for divorce if at different levels. The public will have a greater awareness of and a better understanding of the potential costs involved i.e. up to £2,000 through this work. It would be expected that the proposals relating to improved information and awareness of the process would facilitate a better understanding of what is required and where legal advice might be necessary. This information will include indicative costs and guidance on how to minimise the associated costs throughout the process.

9.8 Similarly, other reforms such as introducing no-fault divorce by simple application are likely to reduce legal costs associated with the divorce aspect of the law, as the requirement for an Advocate to submit a Petition will be removed.

9.9 Overall, it is suggested that progressing the above two options may not be necessary once the wider reaching reforms are in place. It is also expected that practitioners will take on board the findings of the Review and seek to fully ensure their clients are better informed, in advance, of the likely costs that will be incurred.

Introduce a bar to divorce following marriage before divorce can be filed

9.10 Currently, there is no set period and couples could if they so wished, and had grounds, file for divorce the day after getting married. The Review did not identify any reasons to introduce a bar and therefore this proposal was not progressed.

Remove the requirement to publish the notice

9.11 The need to remove publication of the notice is already being explored by the Royal Court. It is expected that this procedural requirement will be removed shortly.

Strengthening of the requirement to consider reconciliation

9.12 Concerns were raised by stakeholders about the appropriateness and risks associated with any strengthening of the current requirement to consider reconciliation where domestic abuse was a factor, such as being required to attend some form of reconciliation session. This option was discounted on this basis and given that the requirement to consider reconciliation was also not going to be retained (Proposal 8).

Update any forms to ensure they are inclusive

9.13 Through the Review concerns were raised around the requirement for only female parties of a couple petitioning for divorce needing to provide previous last names, while male parties do not. It is expected that through the implementation of the reforms all documentation and evidence required will be updated and non-discriminatory.

10. Other policy matters for consideration

Legitimacy and illegitimacy

10.1 In the course of consideration of the effects of void marriages on the parties, and in particular on any children of such "marriages", it was noted that there is no legislation in the Bailiwick equivalent to the UK Family Law Reform Act 1987, which removed the concept and significance of legitimacy (or illegitimacy) of an individual for all purposes. The Legitimacy (Guernsey) Law, 1966 provides that the children of void marriages are regarded as legitimate if the parties reasonably believed, at the time of conception, that the marriage was valid, and the disadvantageous effects of illegitimacy have been removed from several significant areas of legislation, such as inheritance. However, there is a general issue as to whether the distinction between persons who are legitimate and those who are illegitimate should be retained at all in modern society and is therefore a policy matter for future consideration.

10.2 In consultation with the Committee *for* Employment & Social Security it has been agreed that this matter sits within its mandate and that it will be will be captured within its 2020 handover report, (in line with Rule 23 of the States of Deliberations Rules of Procedure) to inform its successor committee of policy matters needing further consideration.

Legal protection for co-habiting couples

10.3 On several occasions from various different stakeholder groups concerns were raised about the lack of legal protection for couples who are co-habiting but not married. Although outside of the scope of this Review it is prudent that wider concerns or matters that need further consideration are appropriately flagged as with the matter of legitimacy noted above.

10.4 To ensure that this matter is brought to the attention of the next States of Deliberation the Committee will capture this in its 2020 handover report, (in line with Rule 23 of the States of Deliberations Rules of Procedure). This will be alongside other matters raised through the course of this term to inform the next States of Deliberation on potential future policy areas needing consideration, so that they can be effectively prioritised and suitably resourced.

Establishing a Family Court

10.5 The matter of exploring the establishment of a Family Court was equally raised through the consultation and engagement work. This could be similar in approach to the Single Family Court ("Family Court") established in England and Wales in 2014. At this time different aspects of family proceedings can be heard in both the Royal and the Magistrates Court. The majority of domestic family proceedings are heard in the Magistrates Court. The Committee is of the view that this suggestion requires further exploration.

Pension sharing arrangements

10.6 In September 2019 (Billet d'État XVIII of 2019[46]), the States directed the Committee, in discussion with other relevant Committees, to further consider matters relating to pension sharing that it was not possible to include within the amending legislation, for the reasons set out in the accompanying policy letter.

10.7 The Committee intends to take the same approach as described in paragraph 10.4, for co-habiting couples policy, to ensure that the establishment of a Family Court and the matters relating to pension sharing are suitably assessed by the next government as part of its policy prioritisation.

11. Consultation

11.1 Both Alderney and Sark were consulted at an early stage and in March 2018 the Bailiwick Council agreed that Bailiwick-wide legislation would be preferable as it would provide more consistency. Alderney and Sark have confirmed that they are in agreement with the proposals as set out in this policy letter.

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[46] Billet d'État XVIII of 2019 - The Matrimonial Causes Law Guernsey 1939 Amendment

11.2 Consultation with other committees whose mandates these proposals relate to have been advised and their views have been captured within the respective areas of the policy letter. The committees engaged with include the Committees for Home Affairs and Employment & Social Security.

11.3 The other interest groups and individuals engaged and consulted throughout the Review included: the Royal Court and judiciary; the Family Bar; religious groups; related public service areas; private and charitable support services such as Safer and the Citizens Advice Bureau; States Deputies and members of the public, including those who had been or who were going through the legal separation process.

12. Operational implications

12.1 To implement the proposed changes the Court will incorporate any procedural changes required to matrimonial proceedings into the Rules of Court and related Practice Directions.

12.2 The HM Greffier will produce supporting guidance and documentation to supplement the Rules of Court and ensure that any necessary changes to processes are aligned with the legislation drafting work.

12.3 Future consideration of digitalisation of the process is within the scope of SMART Guernsey, in respect of the work relating to digitalising the functions of the Royal Court. Although this may mean that the work to digitalise aspects of the divorce process does not progress in the near future, there are benefits to embedding the reforms in advance of any digitalisation of a process.

13. Legislative implications

13.1 New primary legislation will be required to implement the recommendations in this policy letter requiring the repeal and re-enactment of the current Law with necessary modifications to reflect current legal practices and requirements. In addition to implementing the new proposals set out in this policy letter the opportunity will be taken to update the legislation and incorporate minor amendments where legally necessary to ensure that the Law and subordinate legislation are consistent with modern standards. By way of an illustration, the provisions relating to jurisdiction and composition of the Court and the appeals provisions are outdated and will require further consideration and consultation with the Court during the drafting process to ensure that they are consistent with modern practice.

13.2 The Law Officers have advised that there may be some consequential amendments needed to other enactments relating to family or marriage law and which would be affected by the recommended changes to the Law, should the proposals in this policy letter be approved.

13.3 The Domestic Proceedings and Magistrate's Court (Guernsey) Law, 1988 enables a party to a marriage to apply to the Magistrate's Court for a separation order and financial provision. Such an application may be based on behaviour, desertion or adultery, or the respondent's failure to provide maintenance for the applicant or the children. If fault is removed from divorce, consideration should be given to the removal of the necessity to prove fault from applications under the 1988 Law. The Committee *for* Home Affairs are aware of this matter and have advised that it is in agreement with the related Proposition 3.

13.4 Similarly, the States of Alderney have been advised that the Separation, Maintenance and Affiliation Proceedings (Alderney) Law, 1964 will require changes.

13.5 There will be a need to align minor aspects of the Law with changes made in comparable jurisdictions such as England & Wales.

13.6 Provision will be made for matters of detail to be included in subordinate legislation, including Rules of Court for procedural matters, such as reporting restrictions, fees and the form of applications.

13.7 Transitional provisions will make provision for proceedings which have already been instituted at the date of commencement.

14. Resource implications

14.1 Law Officer resource will be required to draft the Projet de Loi and subordinate legislation, subject to legislation drafting prioritisation.

14.2 The transition arrangements to the new procedures and formalities including training for Court staff and judges will be one-off costs and will be managed through existing Royal Court resources.

14.3 No ongoing costs are expected, but in due course if the process is to be digitalised then it would be expected that there would be additional costs associated with introducing an online divorce system. Given the ongoing work of SMART Guernsey in scoping the States of Guernsey’s requirements, it is feasible to assume that it would be possible for this requirement to be incorporated into any future digitalisation of the Royal Court.

14.4 The relevant changes will be made to the Court's charges to reflect the proposals agreed. It is anticipated that any reduction in income from court fees will be more than off-set by freeing up of the Court's and its officers’ time in managing and supporting divorce cases.

14.5 It is to be expected that there will be a peak in applications in the short term[47], once the new legislation is in force, as some couples may wait to progress a divorce until the reforms are in place. This, alongside additional enquiries on the new process, will inevitably result in more staff time being required to manage any initial increase in demand. However it is not expected that this will an ongoing need. It is expected that any short-term peak in demand can be managed by existing resources.

15. Timeframe

15.1 The date when the new legislation would come into force is dependent on the prioritisation of the drafting of the legislation, available drafting resources and the required approvals for primary legislation that includes approval by the Privy Council. Therefore, it is difficult to specify an enactment date. It would be anticipated that the legislation would be drafted in 2020 with a view to being enacted during 2021 at the earliest (set out in Appendix E).

16. Conclusions and recommendations

16.1 The premise that couples can divorce without the necessity to prove fault has been in place in many jurisdictions for some time and other jurisdictions similar to ours are considering or are already seeking changes to their legislation to progress no-fault divorce, alongside other reforms to reduce conflict and simplify the process.

16.2 The public were consulted on the suggested proposals for reform and the majority were supportive of the Committee's main proposals.

16.3 The resource and financial costs of each option were essentially the same and it is expected that the proposals recommended can be managed within existing resources.

16.4 The Committee is of the view that the proposals set out in this policy letter to reform the matrimonial causes legislation will deliver the most benefit to all parties involved of all the options and combinations of options considered, thereby delivering to the greatest extent the intended outcomes of reform.

16.5 The Committee recommends that the States approve the Propositions to which this policy letter is attached.

17. Compliance with Rule 4

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, motions laid before the States.

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[47] The Nuffield Foundation - Finding Fault full report

17.2 In accordance with Rule 4(1), the Propositions have been submitted to Her 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 to be put into effect.

17.3 In accordance with Rule 4(4) 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 Committee.

17.4 In accordance with Rule 4(5), the Propositions relate to the duties of the Committee as set out in section (a) of its mandate.

17.5 Also in accordance with Rule 4(5), the Policy & Resources Committee consulted with the Committee *for* Employment & Social Security, the Committee *for* Home Affairs, the Chief Pleas of Sark and the States of Alderney.

Yours faithfully

G A St Pier
President

L S Trott
Vice-President

J P Le Tocq
T J Stephens
A H Brouard

APPENDIX A – TERMS OF REFERENCE

The Review will consider:

- What changes are needed to make the Law more equal and inclusive in application to all married couples, including the feasibility of introducing no-fault divorce;
- How best to support and encourage parties to reconcile, where there is a willingness to do so;
- When a marriage has irretrievably broken down, what is the most appropriate mechanism to end the marriage which causes the least amount of distress and detriment to all parties, especially when children are involved, such as alternative dispute resolution methods;
- What changes might be needed to simplify the procedures when applying the legislation and any changes proposed, to ensure that any unnecessary barriers or avoidable delays are removed;
- The current terms for divorce, annulment and judicial separation and the Court's powers in these matters;
- The use and enforceability of pre-nuptial agreements;
- The impact of any proposed changes on policy, legislation and stakeholders;
- The legislation changes required to support the policies proposed; and
- The management and implementation of the recommended changes.

The following are out of scope of the Review:

- Same-sex marriage as this has recently been legislated upon;
- The marriage procedures and formalities as this is being reviewed separately under the Marriage Law Reform;
- Legislation relating to cohabiting couples as this would require a separate piece of legislation to that which covers how to dissolve a marriage;
- Inheritance laws, as this is already covered by a separate legislation under the Inheritance Laws, 2011;
- How to recognise civil partnerships conducted elsewhere would need a standalone piece of legislation owing to the complexity of recognising different forms of civil partnerships across different jurisdictions;
- Who can be married including the age of consent or the restrictions on marrying within prohibited degrees of kinship, as consideration is being given to this within the Marriage Law Reform Review; and
- Recognising a change of gender while married in relation to the validity of marriage and the introduction of gender recognition legislation, which should form part of any gender recognition legislation. The Committee for Employment & Social Security is considering this work stream under its work on equality and inclusion.

Where the out of scope items above are not yet under way or part of an existing work stream it is expected that these would need to be addressed at some point in the future.

APPENDIX B - OVERVIEW OF THE CURRENT PROCESSES

Divorce

A Petition for divorce can be filed at any time following a marriage. To file for divorce, one party Petitions the other party and the 'Petition' has to be filed at the Greffe. The partner who files the Petition is known as the Petitioner and the other is the Respondent. The Petition is a standard, legal form that provides the relevant details of the marriage and includes the reasons for divorce. A Petition is valid for one year and can be extended. Irretrievable breakdown of marriage is the only ground for divorce, which has to be proven to the Court by one of five 'facts', which are –

1. Adultery - The Respondent has committed adultery and the Petitioner finds it intolerable to live with the Respondent;
2. Behaviour - The Respondent has behaved in such a way that the Petitioner cannot reasonably be expected to live with the Respondent ("unreasonable behaviour");
3. Desertion - The Respondent has deserted the Petitioner for at least two years;
4. Two years' separation with consent - The parties to the marriage have lived apart for at least two years and both parties consent to divorce;
5. Five years' separation without consent - The parties to the marriage have lived apart for at least five years.

In all cases, the Respondent and any Co-Respondent (adultery cases only) must confirm receipt of the papers within 14 days. The papers are issued by post and, if not acknowledged, formally served. In adultery cases only, the Respondent is also required to confirm that they admit to the adultery. In cases where 2 years' separation is the fact, the Respondent must file a Form of Consent. A Memorandum of Appearance ("MoA") is filed by a Respondent or Co-Respondent wishing to defend a Petition or any claim in it for costs or (Respondent only) any claim or to be heard on other related matters such as arrangements for children and finances. In addition, in the case of a defended divorce, where the Respondent does not agree with the Petition, the Respondent may wish to file an Answer A Divorce Petition will usually include general applications for orders re any children and financial relief.

A minimum of 60 days after the Petition has been filed at the Greffe, if the Respondent does not wish to defend the divorce then the Petitioner can apply for a Provisional Order (decree nisi), a temporary Court order put in place until the final outcome is agreed and a Final Order is made. The application for Provisional Order is listed before the Court, which sits every two weeks. Paperwork must be lodged seven days prior to the hearing.

At the Provisional Order hearing, only the Petitioner's advocate need attend. The judge will consider the paperwork and the evidence and if satisfied the grounds for divorce have been met then a Provisional Order will be granted. The judge will also state whether the arrangements for the children are satisfactory. In the event that the arrangements are not satisfactory then a Provisional Order cannot be granted.

The Final Order (decree absolute) cannot be granted until the time limit (one month) for appealing the Provisional Order has expired. Either party can apply for the Provisional Order to be made final. A formal application for the Final Order is required. A Final Order of Divorce terminates the marriage.

Where cases are undefended there is no need for either party to attend Court. Most undefended cases take between three to six months from Petition to Final Order.
If the Respondent does not accept that the marriage has broken down irretrievably or wants to dispute any of the facts alleged in the Petition they can choose to defend the divorce. Defended divorces are rare and require the Respondent to file a memorandum of appearance form, within 14 days of receipt of the Petition, stating a wish to defend the Petition, followed by a document setting out their defence (called an 'Answer'), within another 14 days. The matter then proceeds to trial at which the Court grants the Provisional Order or dismisses the Petition.

Judicial separation by consent
Judicial separation by Consent is unique to the island and which is often (34% of cases, 2016) used as a means to quickly and cost effectively secure an agreement on children and finances. Whether represented or not, both parties must attend Court for a hearing to confirm: that the marriage has broken down; that there is no prospect of reconciliation; and that they both understand and consent to the terms presented in the order. Couples remain married, but can divorce: after two years of separation where there is consent; after five years if there is no consent; or Petition for divorce immediately after the Judicial Separation by Consent using one of the other facts, such as adultery, should they wish to.

Decree of judicial separation
A similar approach to petitioning for divorce is taken for a decree of judicial separation and the facts to be proved are the same as for divorce. The Court needs to confirm that one or more of the 'facts' are present. Likewise, the Petition can be defended and the contents are the same as for a divorce Petition, other than the prayer wording that states a decree of judicial separation is sought, as opposed to a dissolution of marriage.

When the Court is satisfied that the Petition stands has granted a decree of judicial separation it has the same power to grant financial relief that it would have following a divorce. The Petition for decree of judicial separation will normally include an application for ancillary relief.

Parties remain married and so may retain some rights, such as to a spouse's pension, but the duty on couples to cohabit is removed. This option is used for couples who wish to separate but remain legally married perhaps for religious reasons. There are very few instances where this option has been used.

Annulment
A decree of nullity can be obtained if the marriage is by law void (deemed as not legally valid) or voidable (defective), for different reasons some of which are noted below:

- If either party is under the age of sixteen;

- If parental consent for a party under the age of eighteen was not given;
- Between certain individuals who are related by blood or affinity; or

By proving one of the following nine grounds:

- Impotency of one party or both since the celebration of the marriage;
- The marriage was fraudulent or that one party was threatened or forced into the marriage;
- Non-consummation of the marriage due to wilful refusal;
- The Respondent was at the time of the marriage pregnant by a person other than the Petitioner (unless the pregnancy occurred when still married to a former husband);
- Sexually transmitted disease at the time of the marriage;
- Either party was of unsound mind or suffering a mental defect at the time of the marriage;
- Either party was subject to recurrent fits of insanity or epilepsy at the time of the marriage;
- Bigamy; or
- The marriage has been annulled by another Court of competent jurisdiction.

The 1939 Law also refers to "any other ground on which a marriage is by law void or voidable", which could include grounds that are covered in customary law or other legislation, but which are not being considered as part of this Review.

Similar to divorce, a Petition must be filed at the Greffe, citing one of the above grounds and the Court may grant financial relief. Nullity can provide a way forward for some couples who have a religious or other objection to divorce.

APPENDIX C – OTHER JURISIDICTION COMPARISON - 2019

	Guernsey	Jersey	England & Wales	Scotland	France	Australia	Germany	Canada
Grounds for divorce	As the UK	Adultery Unreasonable behaviour Desertion Unsound mind In prison for 15 years or more Separation- 1 year consent 2 yrs without – both continuously lived apart 3 yr ban on filing for divorce	Adultery Unreasonable behaviour Desertion Separation with consent (2 yrs) (stopped and restarted) Separation without consent (5 yrs)	Adultery Unreasonable behaviour Separation with consent (1 yrs) Separation without consent (2 yrs) Another ground – one partner has an interim GRC	Accepte – no consent on ancillary matters Fault – unilateral Mutual consent – via Notary Separation for 2 years – without consent	No fault – 1 year & 1 day separation Via sole or joint application Married less than 2 years encouraged to attend counselling or see Court's approval to file for divorce	No fault – 1 year separation with consent or 3 years without consent	No fault – 1 year separation Adultery Domestic abuse
Judicial separation – legally separate but not divorce	Y – plus habitual drunkenness and others	Y – plus habitual drunkenness	Y	Y – very rare	Y – separation de corps, after 2yrs either can file for divorce, without an audience	N	N	Y

	Guernsey	Jersey	England & Wales	Scotland	France	Australia	Germany	Canada
					with the judge			
Is legal representation required?	Optional	Optional	Optional	Optional – DIY Y - Ordinary	Y – both and for the paperwork	Optional. Free legal advice service	Y - both, sometimes just the petitioner	Optional
Is No fault possible?	Y – through 'divorce by separation'	Y – through 'divorce by separation'	Y – through 'divorce by separation'	Y – through 'divorce by separation'	Y – mutual consent	Y (1975) separation 1 year and 1 day	Y (1977) separation 1 year	Y (1986) – separation 1 year
Marital agreements	Allowed, not binding	Allowed, not binding	Allowed, not binding	Allowed, not binding	Matrimonial regimes – agreement in advance of marriage on split of assets – 3 types	Legally binding – if independent legal advice. Can incl. agreements on child	Similar to France – by Notary Incl. foreign	Known as a marriage contract, exc. children
Ave. time - Filing to Final Order	3-6 months		3-6 months	2-3 months (DIY) 9mths – 1yr (contested)	3-6 months[48]	4 months[49]	10 weeks to six months[50]	2 – 6 months

[48] https://www.expatica.com/fr/family-essentials/Divorce-in-France_106688.html
[49] https://www.diyfamilylawaustralia.com/pages/divorce/how-long-does-a-divorce-take/#.W18B7Y2Wy00
[50] https://www.lawyersgermany.com/divorce-in-germany

	Guernsey	Jersey	England & Wales	Scotland	France	Australia	Germany	Canada
Min. time no fault incl. separation	2 yrs, 3 months	1 yr plus process time	2 yrs, 3 months	1 yr 2 months	1 month – mutual consent	1 yr 4 months	1 yr 10 weeks	1 yr 2 months
Attend Court	Y – in most cases	Not unless there is a dispute	Varies – generally not if uncontested and settlement agreed	Generally not unless defended.	Y – for most grounds, not if mutual consent	Only if sole application and children under 18 or choose to attend. If lived under same roof or married less 2 yrs. Can use telephone / video link		Not if uncontested

APPENDIX D – A SUMMARY OF OTHER JURISDICTIONS LEGAL PROCESSES

Scotland[51]

In Scotland there are currently two forms of divorce: simplified (DIY divorce) or regular divorce. A simplified divorce is based on either one year separation with consent or two years separation i.e. no fault. The cost of a simplified divorce is significantly less than a regular divorce and is available only to those whose meet certain criteria such as those who do not have children over the age of 16 or who do not have children of the marriage[52]. To apply for a simplified divorce a form is completed depending on which fact is being used and submitted to the local Court for review. There can be no other Court proceedings underway to use this method of divorce.

If there are children under 16 years of age, the ordinary procedure must be used. If in agreement about grounds and ancillary matters the divorce can go to Court undefended. If contested, then this is a defended case. In an undefended divorce, an agreement is lodged with the Court. Any disputes need to be resolved before the case can go to Court undefended, so mediation is encouraged. In defended cases, the divorce is normally heard by the sheriff Court, with complex cases sometimes being transferred to the Court of Session. In defended cases, generally, both parties have solicitors.

There are other differences in the Scottish approach to that of Guernsey, Jersey and England and Wales that are worth noting in that:

- Ancillary matters are part of the divorce process including arrangements for any children and assets;
- The Courts can rule against an agreement if it is not felt to in the best interests of the child;
- The assets that can be divided are limited mainly to those acquired during the marriage and do not include gifts or inheritance;
- Spousal maintenance is avoided in Scotland and if awarded, limited to a short time span. In England and Wales, it can be awarded indefinitely; and
- A claim for financial provision cannot be considered after decree for divorce has been granted.

France[53]

To summarise the process, except for the *divorce par consentement mutuel*, i.e. no-fault divorce, the final process of divorce can be highlighted in two stages.

[51] https://www.unlockthelaw.co.uk/divorce-and-dissolution-in-scotland.html
[52] Scottish Courts - simplified do it yourself divorce procedure
[53] http://lethier-avocat.co.uk/en/the-divorce/divorcing-in-france/

Stage one:
The judge will order the divorce, determine who has custody of the children and what financial support should be paid for the children and for the spouse if there is an income disparity. The spouse who does not have custody of the children will be ordered to pay financial support for the children, even if their income is less than their former spouse's income, known as *contribution à l'éducation et à l'entretien des enfants* (contribution for the education and support of the children). The judge assesses the amount due by calculating the needs and expenses of both parties. The judge determines whether the divorce will create a disparity in the financial situation of the parties.

Stage two:
It is not the judge's duty to split assets, this is done by the notary after the divorce. The assets should be split in accordance with the matrimonial regime of the parties. It should be noted that the notary does not have judicial power. They can suggest the way the assets should be split, but if the parties do not reach agreement then the case will return to Court and only a judge can impose the division of assets.

Australia[54]
Since 1975, the only ground for divorce has been irretrievable breakdown of marriage, evidenced by a twelve-month separation. If there are children aged under 18, a Court can only grant a divorce if it is satisfied that proper arrangements have been made for them. Petitions can only be opposed when there has not been 12 months separation as alleged in the application, or the Court does not have jurisdiction. It is likely that attendance in Court would be required, especially if there are children of the marriage under 18 and it is a sole application. The facts stated in the application can be disagreed with and changed through a form, without attending the hearing.

Couples can be separated but continue living in the same home during the 12 months before applying for divorce. This is known as 'separation under the one roof'. In these cases, there is a need to prove to the Court that the couples were separated during this time, usually through an affidavit to evidence that arrangements have changed for sleeting, activities as a family, performing household duties for each other, division of finances and other matters that show the marriage has broken down.

Germany
A marriage may be dissolved upon request of one or both spouses if such a marriage has broken down, without the need to cite fault. Divorce is solely based on whether the marriage has irretrievably broken a decision that is made by the Court via submission of a petition. Generally, both parties need to be legally represented, but in cases of consent, the petition is sometimes allowed with just the petitioner having representation.

[54] Family Court of Australia - Divorce

When the parties have been separated for at least one year (Trennungsjahr) and both agree to a divorce it is presumed that the marriage is irreconcilably broken and an application can be made for a divorce. Where one party is opposed however, the period of separation increases to three years. After a separation of at least three years, it is presumed that the marriage is irreconcilably broken, even if a spouse opposes the divorce. In rare cases it is possible to get a divorce within 12 months. These so-called hardship divorces apply in cases where violence or other unreasonable behaviour is involved. [55]

Once brought before the Court, the judge will consider issues like child custody and support, spousal maintenance and division of common property, called the 'community of accrued gains'. The community of accrued gains is where after marriage, each party remains the owner of his or her assets and it is only the increase in value of the assets accrued during the marriage that are divided.

If the divorce is conducted according to German law, the supply balance needs to be regulated; meaning pension rights earned during the marriage must be equally divided between spouses. In this case, the divorce procedure may take at least six months. If there is no need to calculate the supply balance the divorce can take ten weeks. The supply balance is not calculated if:

- The marriage has lasted at most three years,
- Both spouses have waivered the supply balance,
- Both spouses agree the divorce procedure is tired under a foreign law, which is possible if one of the spouses lives abroad.

Canada

No-fault divorce can be petitioned for once couples have lived separately for one year and should include the details of any arrangements for any children of the marriage[56]. A couple is able to live together for up to 90 days (either before or after the application has been filed) to try to reconcile. If this reconciliation period does not work, the divorce can be continued as if the couple had not spent the 90 days together[57].

Divorces can be contested (both spouses do not agree) or uncontested, (both spouses agree). Uncontested divorces need only one application, whereas for contested divorces both parties file a separate application. Once filed the respondent has 30 days to respond and then the divorce proceeds to Court. Once reviewed the judge will issue a Divorce Order if satisfied. Following which, after 30 days a Certificate of Divorce will be granted.

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[55] https://www.expatica.com/de/family-essentials/Getting-a-divorce-in-Germany_107818.html
[56] http://divorce-canada.ca/divorce-process-in-canada
[57] Department of Justice Canada - Divorce

APPENDIX D – OPTIONS CONSIDERED

The below table sets out the refined short list of proposals considered and appraised against the outcomes to be achieved by reform i.e. to be more inclusive; simplify; modernise; reduce conflict; and align with other legislation, following the initial consultation.

Proposals	Outcomes I – inclusive M – modernise S – simplify R – reduce conflict A - aligned	Initial consultation - summary view	Decision – carry forward, discount (with reasons)
Status quo – do nothing	***None***	***Not supported***	***CFWD – for comparison, but is not seen as fit for purpose***
Divorce			
Change the legal definition of adultery	I, M	Some support	D - unlikely to be accepted, complex and would take time to implement, doesn't align
Change adultery – not required to routinely cite the other party as a co-respondent (who could be named within the evidence instead)	M, R	Some support	D – as CFWD under UR combined option below
Unreasonable behaviour, 'UR' – some changes to threshold	M, A	Some support	D – UR applied differently already. Doesn't address all the objectives of reform
Unreasonable behaviour to include adultery without the need to routinely cite the Co-Respondent and desertion, not listed but by interpretation by the Court	**I, M, S, A,**	**Supported**	**CFWD – addresses most of the objectives Simplifies the grounds by incorporating other fault grounds into one ground. Removes the need to name the other party as co-respondent. Party can be named within the evidence instead should the case be defended**
Lower threshold for meeting unreasonable behaviour than currently.	M, R	Some support	D - Does not take into account those who do not really have grounds for divorce.

Separation with consent of one year	**I, M, S, R**	**Supported**	**CFWD – linked to other proposals** **Shorter time supported for the current no-fault divorce option, as two years is felt to be too long. Aligns to the Scottish model.**
Separation without consent shorter than five years.	**M, S, A**	**Supported**	**CFWD - linked to other proposals. Could be merged into separation only. Aligns to the Scottish model.**
Remove separation without consent	**M, S, R**	**Supported**	**CFWD - to be further considered under shortlist**
Add no fault divorce as an additional ground for divorce	**I, M, S, R**	**Supported**	**CFWD - addresses the aims of the review, in part and most of the issues.**
Remove fault - no-fault divorce only	**I, M, S, R**	**Supported**	**CFWD – removes fault completely, addresses aims and issues of reform. Most likely to have the greatest benefits; saving time and costs, parties and Courts, reduced conflict**
Annulment			
Change the grounds for annulment – void and voidable	**I, M, S,**	**Supported**	**CFWD – to ensure inclusive and to modernise**
Introduce separate categories of void and voidable marriages as in England & Wales	**I, M, S, A**	**Not consulted**	**CFWD – as above and to improve clarity and alignment**
Remove the need for annulment	S, I, A	Not supported	D – needed as a means to address sham or forced marriages and enable some marriages to be regarded as never having happened
Judicial separation by consent			
Retain as is – no change	**I, A**	**Supported**	**CFWD – enables couples to address ancillary matters in advance of divorce**
Some changes to simplify / modernise current e.g. to the requirement to attend Court, to state reconciliation attempts, to title for clarity	**M, S,**	**Not consulted**	**CFWD – what changes are made is dependent on other changes being proposed for divorce such as digitalisation, DIY, removal of reconciliation and any safeguards**
Amend law to raise the thresholds for changing a Judicial Separation Order once Court has ruled	S, R	Limited support	D – not seen as necessary

Decree of judicial separation			
Retain as is – some change	**I, S, R,**	**Supported**	**CFWD – inclusive of those who do not want to divorce for religious/belief reasons**
Financial matters			
Incorporate the principle to seek financial independence as soon as reasonable within the law	**R, M**	**Not consulted**	**CFWD – currently in practice not law**
Publish a simple, accessible means to estimate 'financial needs' – non-statutory, similar to child maintenance that includes guiding principles	**I, M, S, R**	**Not consulted**	**CFWD – combine with below**
Publish guidance on determining 'financial needs' and 'independence' – non statutory	**I, M, S, R**	**Supported in principle**	**CFWD – combine with above**
Greater legal recognition for pre-nuptial agreements excl. children's needs, but including marital property agreements	**S**	**Some support**	**CFWD – other jurisdictions considering**
Compulsory PNAs	S	Some support	D – as removes the choice from couples to decide and would not simplifying the law
Change Final Order 'subject to' requirement for finances to be agreed before Petition	S	Not consulted	D – as potential risks in relation to vulnerable partners
Use of Financial Dispute Resolutions and protocols earlier in the process – after mediation	**S, M, R**	**Supported**	**CFWD – as a potential means to reduce time and conflict**
Capped fee e.g. % of assets	M	Supported	D – state intervention in market, makes the system more complex
Facilitate a more visible fixed fee approach	**S, M**	**Supported**	**CFWD – explore further with the Bar**
Procedures and process			
Simplify current procedures incl. remove the need to publish notice	**All**	**Supported**	**CFWD – essential for most intended outcomes**
Do it yourself divorce – no legal representation – only if combined with greater information and guidance	**I, S, M**	**Supported**	**CFWD - explore as an option if no-fault progresses**

Digitalisation – file for divorce	**S, M**	**Some support**	**CFWD – although not as a priority until the reforms are embedded**
Digitalisation – whole process	**S, M**	**Some support**	**CFWD – although not as a priority as above**
Application only – requires no fault to being place	**S, M,**	**Supported**	**CFWD – explore under no-fault**
Strengthen reconciliation requirements	A	Not supported	D – statutory approaches are no longer seen to be effective or appropriate / risks in cases of abuse.
Retain the requirement to consider reconciliation	A	Supported	D – not seen as adding value
Increase access to impartial, mediation earlier in the process	**I, M, R**	**Supported**	**CFWD - recognised as a successful means to reach agreement and have healthier relationships**
Continue with provision enabling Separate Households – living separate lives, in the same house	**I, M, S**	**Not consulted**	**CFWD – as currently, with exact requirements to be considered**
Establish a bar to filing for divorce following marriage	**A**	**Not consulted**	**CFWD - consider alongside no fault proposals**
Establish a cooling off period once filed for divorce	**S, R, A**	**Not consulted**	**CFWD – as above**
Dissolution agreement before / part of marriage e.g. the French approach	I, R, M	Some support	D – due to the complexity and scale of change required and as it only meets some of the outcomes of reform
Enforcement of Court orders through Courts, not private, including financial	**I, R, M,**	**Some support - concerns raised**	**CFWD - as a means to reduce risks, ongoing legal costs and conflict associated with non-compliance of orders**
Remove the need to attend Court in some cases	**S, M, R, A**	**Some support**	**CFWD – consideration alongside simple cases, no-fault, digitalisation**
Enable unilateral decisions – safeguard vulnerable parties	**All**	**Some support**	**CFWD – needs further consideration across shortlist options, to safeguard vulnerable parties**
Presumption of death reduce timeframe (less 7 years)	N/a	Not consulted	D - not merely related to dissolution of marriage – wider implications **CFWD – retention of provision**
Use of Investigating Officer	R	Not consulted	D – no longer required
Retain relief for CoE clergy	I	CoE supported	D - included in the Marriage Law instead

Agree arrangements for children before Petition (same as finance proposal)	S, M	Not consulted	D – outside of scope as covered under Children Law
Information and guidance			
Publish clear, simple guidance in one accessible place – all matters	**All**	**Supported**	**CFWD – seen as essential to achieve aims and for transparency**
Better co-ordination and signposting to existing services e.g. Children First	**All**	**Supported**	**CFWD – seen as essential to achieve aims and for transparency**
Pre-marriage course / requirement – optional	R	Limited support	D – no appetite or rationale for proposal

APPENDIX E – MATRIMONIAL CAUSES REFORM TIMEFRAME

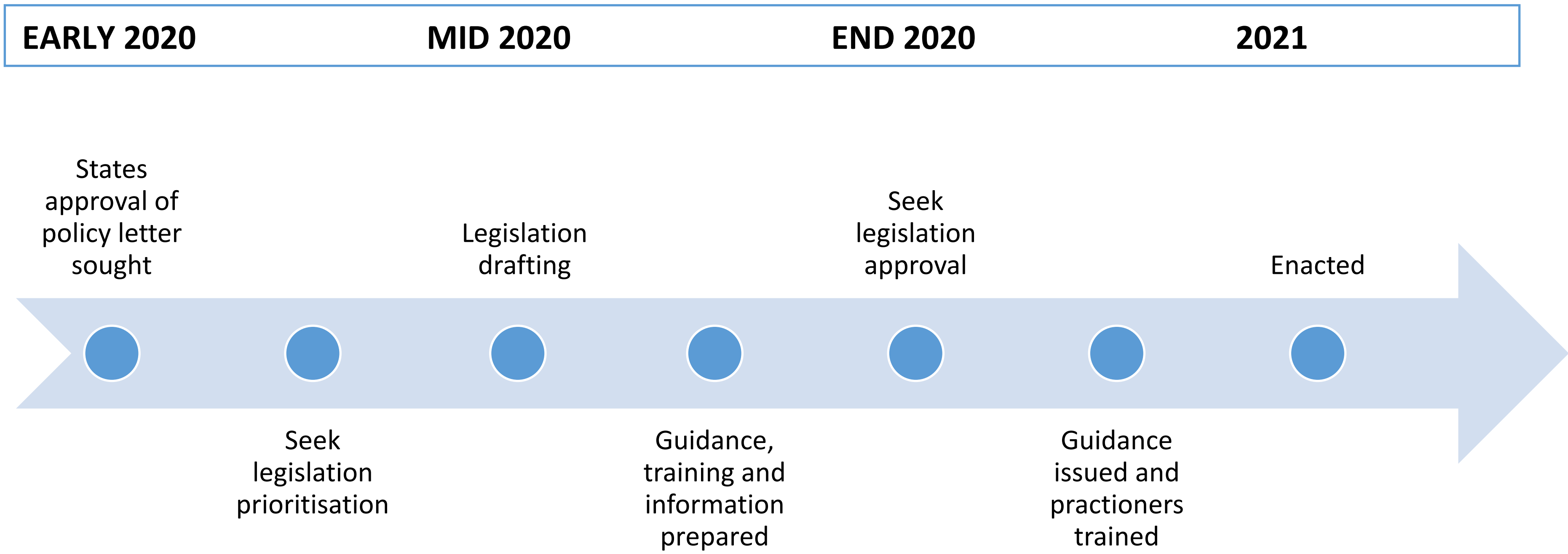


Image 1. Matrimonial Causes Law Reform timeline

P.2019/147

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *FOR* EMPLOYMENT & SOCIAL SECURITY

SECONDARY PENSIONS: DETAILED PROPOSALS FOR THE INTRODUCTION OF AUTOMATIC ENROLMENT INTO PRIVATE PENSIONS AND THE ESTABLISHMENT OF "YOUR ISLAND PENSION"

The States are asked to decide:

Whether, after consideration of the policy letter entitled 'Secondary Pensions: detailed proposals for the introduction of automatic enrolment into private pensions and the establishment of "Your Island Pension"', dated 27th December 2019, they are of the opinion:

1. That a duty should be imposed in legislation on employers to ensure that eligible employees are automatically enrolled in a qualifying pension scheme ("the auto-enrolment duty"), as described in section 1, into which employers and employees shall be required to make defined minimum contributions.

2. That the imposition of the auto-enrolment duty on an employer should be phased in by reference to the number of employees that are employed by that employer, as described in Appendix A.

3. That the defined minimum contributions of employers and employees into a qualifying pension scheme should be increased over seven years from introduction, as described in Table 1 in section 4.

4. That exemptions to the auto-enrolment duty and the attendant duty to make defined minimum contributions should be specified in legislation, as described in section 8.

5. That the sharing of relevant data between the Revenue Service and other government and regulatory bodies and agencies should be permitted through legislation for the purpose of monitoring and enforcing employers' compliance with the auto-enrolment duty and the payment of minimum contributions, as described in section 17.

6. That a pension scheme ("the Scheme") should be established as described in section 3, and that further to this:

a. a statutory corporation should be established to act as the Trustee of the Scheme;

b. the rules governing the scheme and the operation of the Trustee should be publically available, and established and amendable by the Committee *for* Employment & Social Security;

c. the governing board of the Trustee should be appointed by the States of Guernsey on the recommendation of the Committee *for* Employment & Social Security;

d. the Policy & Resources Committee should make available on demand, a loan facility in favour of the Trustee, on such terms as the Policy & Resources Committee may agree, for the purpose of providing financial support to the Trustee until such time that it becomes financially independent;

e. any necessary minor legislative changes are made to ensure that the Trustee and the Scheme may be licensed by the Guernsey Financial Services Commission as appropriate, and are subject to the same regulatory requirements (subject to any necessary modifications) as other comparable pension providers.

7. That Smart Pension Ltd, or a subsidiary of Smart Pension Ltd, should be appointed to deliver administrative and custodianship services to the Scheme, as described in section 14, and in furtherance of this:

   a. the Committee *for* Employment & Social Security should have authority to contract with Smart Pension Ltd to develop these services until such time as the Trustee is established and can assume responsibility for the delivery of administration services, and

   b. to direct the Policy & Resources Committee to make available on demand a loan facility of £800,000 in favour of Smart Pension Ltd, on such terms as the Policy & Resources Committee may agree with Smart Pension Ltd, for the purpose of establishing the scheme.

8. To direct the Committee *for* Employment & Social Security to report back to the States within six months with proposals for enforcing employers' compliance with the auto-enrolment duty and the payment of minimum contributions, as described in section 17.

9. To direct the Committee *for* Employment & Social Security, after consultation with the Revenue Service and the Trustee, to report back to the States by 2025

with an update on the introduction of these proposals, and proposals for the introduction of an auto-enrolment system for self-employed and non-employed people.

10. To direct the Policy & Resources Committee to investigate the best way for the States of Guernsey to fulfil its obligations as an employer under these rules, and make any changes to the public sector pension scheme it deems necessary, following consultation with the members of that scheme, to comply with the proposed legislation.

11. To direct the Policy & Resources Committee to consider the impact of the auto-enrolment duty when preparing the budget for 2021 onwards.

12. To direct the preparation of such legislation as is necessary to give effect to these propositions.

The above propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *FOR* EMPLOYMENT & SOCIAL SECURITY

SECONDARY PENSIONS: DETAILED PROPOSALS FOR THE INTRODUCTION OF AUTOMATIC ENROLMENT INTO PRIVATE PENSIONS AND THE ESTABLISHMENT OF "YOUR ISLAND PENSION"

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

27th December 2019

Dear Sir

1. Introduction

1.1. The 2015 debate on the Personal Tax, Pensions and Benefits Review[1] directed that a report should be produced to establish policies that would meet the objective of improving pension provision and encouraging saving for later life. This was delivered in February 2016 through a policy letter entitled 'Proposed development of a secondary pensions system for Guernsey and Alderney'[2]. The 2016 policy letter set out the rationale for an auto-enrolment pension system and sought in-principle agreement from the States of Guernsey ("the States") to establish such a scheme in Guernsey and Alderney. The policy letter also set out, at high level, some of the operational and structural decisions that would need to be considered.

1.2. The States approved the principle of introducing the Secondary Pensions Scheme ("the Scheme") in 2016. This policy letter provides the detailed proposals for the introduction of the Scheme. It is expected that these proposals will come into effect in 2022.

1.3. As a community, the Bailiwick finds itself faced with the challenge of an ageing population. It is a problem faced by jurisdictions all over the world, particularly in the more developed economies. However, the scale of the

[1] Billet d'État IV of 2015, Article 1
[2] Billet d'État III of 2016, Volume 3, Article 15

challenge is greater in the Bailiwick than it is in many other jurisdictions. In 2017, there were roughly 3.3 people of working age for every person of pensionable age. By 2060, it is projected that there will only be 2.3 people of working age for every person of pensionable age[3]. Maintaining this population balance will be difficult, which is why the States must plan for the future and ensure that today's working population are given opportunities and assistance to prepare for a more financially secure retirement.

1.4. The proposals for an auto-enrolment Secondary Pensions Scheme, set out in this policy letter, can be summarised with three intended outcomes:

1) Where not already in place, to require that **employers establish suitable pension arrangements for their employees**. Under these arrangements, all employers will be obliged to pay at least a minimum contribution towards a secondary pension for their enrolled employees.

2) To require that **employers automatically enrol eligible employees**[4] in their workplace pension scheme. The proposals also provide that employees can opt-out of their secondary pension scheme following auto-enrolment (and employers will not be obliged to contribute in respect of employees who have opted out), and re-enrol at a later date.

3) To facilitate the establishment of a **new, low-cost secondary pensions scheme, open to all Bailiwick employers and workers**, to enable employers who do not currently offer a workplace pension to provide access to a scheme that is compatible with these proposals, and to ensure that everyone can access a high-quality, affordable pension product.

1.5. The first of these outcomes is intended to ensure that all eligible employees have an opportunity to make contributions to their own pension, without duplicating the workload for employers who are already providing pension arrangements for their employees. Many employers already offer workplace pensions, and will be entitled to continue using those schemes for the purpose of these proposals, provided that they meet the qualifying criteria listed in Part One of this policy letter. Some changes to enrolment practices, to ensure that employees are enrolled automatically as set out below, will also be required.

[3] Based on data contained in table 3.2.1. of the Annual Guernsey Population Projection Bulletin, issued in June 2018

[4] The definition of 'eligible employees' is discussed in section 6.

1.6. All employers, including those who offer a qualifying pension scheme, will also be required to make an appropriate contribution on behalf of their enrolled employees. In the first year of the policy, the statutory minimum contribution (by employer and employee) will be an amount equivalent to 2% of an employee's earnings, of which not less than 1% must come from the employer. This figure will gradually increase over the following seven years. The final statutory minimum figure will be a contribution equivalent to 10% of an employee's earnings, of which not less than 3.5% must come from the employer. More information is included in section 4.4.

1.7. There are important reasons why employers must make a reasonable contribution to their employees' secondary pension scheme. Employees are far more likely to remain enrolled if given an economic incentive to do so. The combination of the income tax relief provided by the States and the prospect of a co-contribution by the employer, provides a powerful incentive for the employee to remain opted into a qualifying pension scheme. The employer's contribution allows the fund to build to a substantial pension over a working life. Evidence from the UK suggests that individuals are far less likely to opt-out of a scheme, if they realise that they will lose their employer's contribution by doing so.

1.8. The second outcome is intended to improve participation by establishing an "enrolled by default" position. Employers will have a legal duty to ensure that all eligible employees are automatically enrolled into a workplace pension. The employee's contributions will be deducted directly from their pay and sent to the pension scheme along with their employer's share of contributions. The employee will not need to complete any forms, will not need to register, will not need to select a pension scheme, and will not personally need to transfer any money. If the employee wished, they could have absolutely no engagement with their pension whatsoever, until they wished to retire.

1.9. Free choice is not at risk here, because employees will have a right to opt-out at any time. A huge amount of potential pension saving is lost, at present, because people either do not have access to a suitable pension scheme, or do not take the active steps necessary to participate in one. There are also those who would not personally take active steps to save, but, if auto-enrolled, would not have strong enough reasons to take the time to opt-out. The proposals set out in this policy letter are similar to the UK's policy, which has been in operation since 2012. The UK's experience has been that, of those automatically enrolled, only 9% opt-out[5]. The increase in personal pension

[5] "Automatic Enrolment Review 2017: Maintaining the Momentum", Department for Work and Pensions, 18 December 2017, p 33, https://www.gov.uk/government/publications/automatic-enrolment-review-2017-maintaining-the-momentum

saving has been dramatic, and has gone a long way to addressing under-saving for retirement.

1.10. The third outcome is intended to ensure that all employers can access at least one affordable pension scheme, so that they can fulfil their duty to enrol their employees in a qualifying workplace pension scheme. This pension scheme will also be obliged to take voluntary contributions from any self-employed and non-employed people who wished to opt-in. This pension scheme will be called “Your Island Pension”, or YIP for short.

1.11. Those who have some awareness of the UK pension market will recognise this as similar to the National Employment Savings Trust (NEST) scheme, a pension fund whose establishment was facilitated by the UK government. There will be a degree of States' oversight during the formative years of YIP, but it is hoped that the scheme will achieve more autonomy as the fund stabilises and becomes self-sustaining. As stated above, this scheme will also accept additional voluntary contributions from self-employment and non-employment sources, as set out in section 16.

1.12. Should the propositions accompanying this policy letter be approved, the target date for the scheme coming into effect is 1st January 2022. At this point employers with 25 or more employees will be obliged to comply with their auto-enrolment duties. Employers with a smaller number of employees will see their auto-enrolment responsibilities phased in over the 15 months following. This schedule allows approximately six or seven months for primary legislation to be drafted to govern secondary pensions and auto-enrolment in the Bailiwick, and additional time, particularly for smaller employers, to prepare to meet their new obligations. The Committee considers it vitally important to press ahead with these provisions as quickly as practically possible. It is vitally important that momentum is not lost[6]. A schedule is appended at Appendix A, which sets out the proposed timescale for auto-enrolment duties to come into force. Employers will be able to meet their obligations before the duties come into force if they wish to.

1.13. The Committee will prioritise the establishment of the new Secondary Pension Scheme, YIP, with a view to fully launching the scheme up to six months ahead of the introduction of employers' auto-enrolment obligations. This will allow time for employers who do not currently offer a (qualifying) workplace pension scheme to manage the one-off workload of signing up to the new scheme, and subsequently enrolling employees, at a time most appropriate for them, rather than completing the sign up process during seasonal busy periods.

[6] Comment from the Law Officers’ Chambers on the proposed timescale is included at section 21.

1.14. The terminology of pensions is confusing. The terms often used in general conversation do not necessarily align with the technical uses of those terms. For the benefit of the reader and the avoidance of any doubt, a short glossary is appended to this policy letter at Appendix B.

2. Need for a Secondary Pensions Scheme

2.1. Guernsey's current pension arrangements are not sufficient to enable all individuals to have a comfortable retirement. There is an over-reliance on the States old age pension (soon to be formally renamed 'States pension', the term used hereafter), and many individuals in lower-earning brackets are unable to access workplace or private pensions. This means that they are solely reliant on one source of income during their retirement. The States pension is a contributory benefit. The amount that an individual will receive is linked to the number of weekly contributions they have made or been credited[7]. In order to receive the full States pension, an individual must have made or been credited an average of 50 contributions per year over a period of 45 years. Because the total value of the final pension received is dependent on the number of contributions made, not on the value of the funds paid in, the States pension cannot be used to enable people to save more money for their retirement if they wished to.

Role of the States pension

2.2. It has been known for some time that while the States pension provides a much-needed safety net, it should be supplemented by other sources of retirement income in order to achieve a comfortable retirement. Policy Letters, at least as far back as 1976[8] have noted that workplace pension schemes form a vital part of retirement incomes, and that a system reliant solely on the States pension is undesirable. The need for a secondary pension policy is not new, nor is the general concept. There are numerous examples of secondary pensions in other jurisdictions that can be drawn on to guide the development of a solution to this problem.

2.3. At present, the Guernsey Insurance Fund ("The Fund") is insufficiently funded to meet the projected demand. In recent years, steps have been taken to slow the decline. This includes the staggered increase of pension age from 65 to 70, between 2020 and 2049, and a revision to the uprating policy. Despite these changes, the Fund is still due to deplete unless action is taken. It seems likely

[7] In some circumstances, a person can be credited contributions. In other words, they are deemed to have made a contribution even though they have not paid one. Credits are attached to benefits such as sickness benefit. This helps to ensure that ill-health and other such absences from work, do not detrimentally affect an individual's pension entitlement.

[8] Billet D'État Volume XV of 1976, Article 1, 'Revision of the Social Insurance Scheme and Health Service Contributions', Paragraph 77.

that the necessary solution would be to increase contribution rates in order to maintain benefits at their current level.

2.4. The reason that the Guernsey Insurance Fund is projected to deplete, is because of changing demographics. Like many other jurisdictions, Guernsey operates a 'pay-as-you-go' model for its social insurance funds. This means that today's worker pays for today's pensioner. The worker is not saving for their own future, but rather they are paying for others, in the expectation that when their time comes, the next generation will pay for them. This pay-as-you-go model is effectively an inter-generational contract. In a demographically balanced society, with a constant rate of employment and population growth, this works well. Our community is not demographically balanced.

2.5. The baby boomers began to reach retirement age in 2011 and the number of pensioners in our community is increasing, but there are fewer people entering the workforce to replace them. The number of individuals claiming a States pension is growing, and the number of individuals contributing to funding those States pensions is expected to decrease. Put simply, this means that every worker will have to pay more for the States pension to be retained at the same real terms value. Fortunately, a financial reserve has built up over time. This reserve will soften the blow, but the ultimate result is that, in order to maintain the real terms value of the States pension, contributions must increase. The funding of the social insurance funds is a matter commented on annually in the Committee's uprating report. The introduction of the secondary pension policy is not an attempt to reduce or replace the existing States pension. The proposal of a secondary pension policy is intended to supplement existing sources of pension provision, to increase overall retirement income and create a more stable system for the future, not to change existing sources of retirement income.

2.6. The States pension is not a trivial amount; in 2020 a full rate States pension will provide about £11,500 per annum (£222.58 per week). In 2020, more than £130m will be paid; it is one of the largest single annual expenses of the States of Guernsey. States pension expenditure is more than 100 times greater than the expenditure on unemployment benefit. Despite this, £11,500 per annum alone is simply not enough for a pensioner who lives in rented accommodation. The vast majority of that income would be swallowed up in rent, leaving the pensioner in need of Income Support in order to bring their income up to a more sustainable level. For comparison, the full rate of the UK's new State Pension is £168.60 per week, although this is earned after only 35 years' of contributions. There are also legacy elements of the UK's state pension schemes which provide significant additional benefits, but these are based on contributions made prior to 2016 and as such will be of little to no benefit to younger generations. In order to be eligible for the full rate

Guernsey States pension, an individual must have paid or had credited an average of at least 50 weekly contributions per year over a 45 year period. It should be noted that many people do not achieve the maximum rate of pension. Fewer than 25% of pensions are paid at the full rate.

Replacement rates

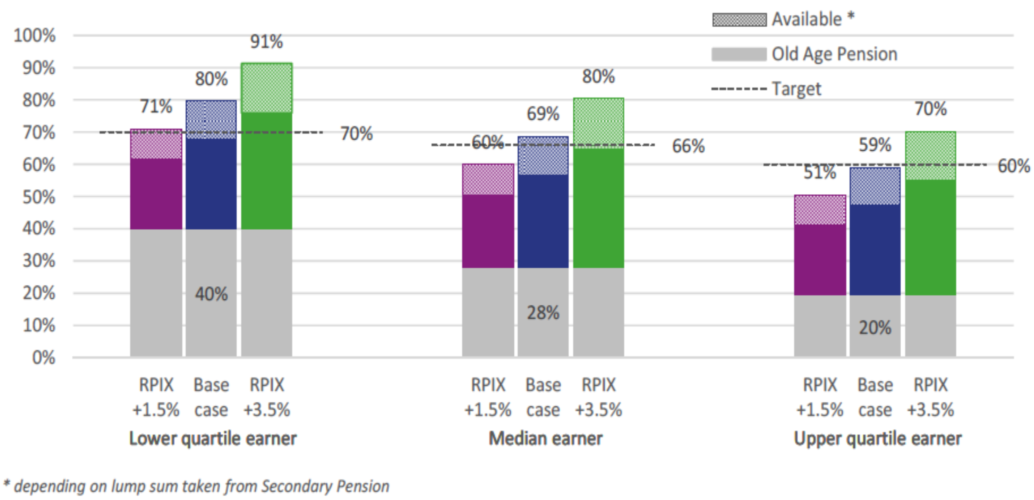
2.7. When assessing the quality of retirement income, it is useful to discuss this in terms of 'replacement rates'. A replacement rate is the amount of retirement income an individual has compared to their pre-retirement income. So an individual, who was earning £30,000 per annum prior to retirement, and has a retirement income of £15,000 per annum, could be said to have a replacement rate of 50%.

2.8. Replacement rates are important because there is no 'fixed' amount of income that every person would agree could provide a comfortable retirement. An individual is likely to determine whether their retirement is comfortable based on how much their lifestyle changes. If they find themselves with less than 50% of the income they had become accustomed to, they are likely to find their circumstances unsatisfactory, even though they may be significantly above the level of relative poverty, and above the threshold for Income Support. It is therefore important when talking about long term saving and retirement planning, to consider that there may not be a "one size fits all" approach to suitable levels of retirement income.

2.9. With that said, people with a lower income prior to reaching pensionable age are clearly less able to afford to make concessions in their lifestyles when they retire. An individual who already has to live frugally has less opportunity to make further cost of living savings. Additionally, an individual with a lower income is more likely to live in rental accommodation and therefore have higher housing costs into retirement. Because of this, it is appropriate to conclude that lower earners need to achieve a higher replacement rate, relative to their pre-retirement income, in order to fund a comfortable retirement.

2.10. Graph 1 overleaf, taken from the economic impact report appended to this paper, shows the impact that the introduction of secondary pensions would have on the replacement rate of scheme members in different income brackets. The variant options outside the base case show how weaker or stronger investment returns would affect the value of the fund. It can be clearly seen that membership of a qualifying pension scheme would significantly increase the retirement incomes of those who benefit from it.

Graph 1 – Income replacement rates by earning bracket (base case is RPIX +2.5%)



2.11. Based on core assumptions, the graph above projects that a person investing in a secondary pension between the ages of 25-70, who would otherwise only receive the States pension, could see replacement rates rise from 40% to 80% for a lower quartile earner and from 28% to 69% for a median earner. What can be seen from this graph is that the policy is projected to provide a significant enhancement to retirement income across the spectrum but lower income households in particular are likely to achieve a much more comfortable retirement if saving can be facilitated.

2.12. The graph above is an excellent demonstration of why the States pension is important. Even for an active saver under this scheme the States pension can make up 50% of their retirement income and take them over half the way to achieving their target replacement rate. With that said, sole reliance on the States pension is not viable without a very significant increase in the rate it is paid at. Even a significant contribution rate increase, leading to a higher States pension, would still fail to meet the retirement needs of the median earner.

The pillars of pension saving

2.13. The idea of a multiple pillar retirement was first proposed by the World Bank in 1994[9]. It suggested that three pillars should be used to support retirement income: the first being State-provided pensions, the second being occupational pensions and the third being personal pensions. Each of these systems of savings has its own benefits and advantages. With these three pillars, or at least more than one in place, a stable retirement income can be achieved whereas a single pillar is likely to be wholly insufficient. Many OECD

[9] World Bank (1994), Averting the Old Age Crisis, page 15

countries are trying to reinforce their 3 pillar strategy. Countries such as Ireland and Poland are looking to establish their own auto enrolment schemes, and as noted above, the UK's scheme has been operating since 2012.

2.14. As noted above the first pillar provides a vital safety net. Unlike the other pillars it tends to provide benefits irrespective of the employment situation of the recipient. Those in employment earn their entitlement through contributions. Those outside of employment for a period, for instance a career break to raise children, are often able to earn contribution credits. However the first pillar has a number of drawbacks. In the case of Guernsey and many other jurisdictions, it is a pay-as-you-go system, which means it becomes less affordable if there is a generational imbalance. People pay into the scheme on the expectation of receiving a pay out, but there is no money allocated in their name. The States pension is not related to an individual's earnings, it does not scale according to the value of the contributions paid by the individual. The States pension is also more rigid than other schemes. It only becomes payable once an individual reaches a certain age and there is no option to claim early, or defer claiming in order to generate a better retirement income.

2.15. The second pillar (occupational) provides earnings-based pensions. The combination of contributions by employees and employers ensures a degree of personal responsibility while also supplementing and improving the savings that an individual could make on their own. The nature of this policy is that individuals save for their own pension, rather than contributing on a pay-as-you-go basis for the generation ahead of them. Second pillar pensions are also generally more flexible than the first pillar; it is quite common to have a range of ages at which benefits can be drawn. As second pillar schemes are earnings-based, however, it is difficult for a lower earner to build up sufficient retirement earnings without the re-distributive effect of the first pillar.

2.16. The third pillar provides for more flexible arrangements than the other two pillars. For instance the chance to transfer larger amounts at a time to suit the saver, for instance inheritance or a bonus, as well as non-cash assets such as rental properties. It is also suited to those who are self-employed or non-employed who may not be able to access a second pillar. Typically, it is the wealthiest in society who are most able to access these third pillar schemes.

2.17. Each of these pillars has its own inherent strengths and weaknesses. Used together these weaknesses can be offset and a better, more consistent retirement income can be achieved. At present Guernsey, particularly in the case of lower income individuals, has an over-reliance on the first pillar. The policy of introducing a secondary pension scheme in Guernsey would significantly expand the availability of second pillar scheme membership as well as making an affordable third pillar pension scheme available to all island residents. The net effect would be a far more financially stable environment for retired people in the Bailiwick and a more sustainable method of funding retirement incomes through demographic instabilities.

How the policy would support a better retirement

2.18. The secondary pension project aims to reinforce the availability and quality of second pillar pensions. This policy would require all employers to make a workplace pension available to all their employees, subject to very few exceptions. The employer would be required to enrol all eligible employees by default. Personal freedom is maintained, as employees can opt-out at any time, but an enrolled-by-default position is expected to maximise savings without removing personal choice. Qualifying pension schemes would be subject to certain quality conditions, together with a requirement for minimum statutory contributions from both employer and employee.

2.19. At present it is estimated that around one third of island households containing employed or self-employed people are contributing to a second or third pillar pension[10]. As it presently stands, the Island's private pension market is populated by a large number of Retirement Annuity Trusts (RATS). These schemes offer considerable freedom. Investments can be tailored at the request of the member, loans can be made from the scheme, and significant lump sums can be drawn from them upon retirement. Some providers offer standardised RATS at cheaper costs tailored towards smaller fund sizes, but ultimately the nature of these schemes and the volumes required to make them profitable under a viable charging structure, means that there are few private pension arrangements which are affordable for lower earners. The same can be said for workplace, second pillar, pension schemes: smaller employers, with relatively lower-earning employees, may well struggle at present to find a pension scheme with an appropriate charging structure.

2.20. Auto-enrolment for all eligible employees should generate significant retirement savings, while "Your Island Pension" will ensure there is an appropriate savings vehicle available for everyone to use. It should be noted that there is a significant chance that the existing pension provider market will expand in response to these proposals. In the UK, after the implementation of auto-enrolment, a number of new and existing providers launched products specifically targeting auto-enrolment. The Committee expects that a number of local providers will develop products for this new market.

[10] Estimate based on 2017 e-census data. Due to the method of extracting this data, there is a small margin of error, estimated to be 1%-2%.

Impact on income support

2.21. The introduction of the secondary pension scheme would bring about substantially increased retirement incomes for many islanders, particularly for lower earners many of whom would struggle to access a suitable pension product without it. With these increased retirement incomes comes a reduced need for States support. As indicated in section 20, over the long term this scheme will reduce income support expenditure, some pensioners will have a reduced financial need, but those younger individuals who take advantage of this policy over their entire working life, in many cases will not need income support at all. The policy allows people to take control of their retirement planning. By implementing this policy the States would be taking a financially responsible step, and empowering islanders to take a personally financially responsible step as well.

2.22. The remainder of this policy letter is in four parts. The first part (Sections 3 – 5) sets out how existing workplace pensions can become qualifying secondary pension schemes for the purpose of these proposals, as well as the minimum contributions that will be required from employers and employees. The second part (Sections 6 – 11) deals with auto-enrolment, opting-in and opting-out of secondary pensions. The third part (Sections 12 – 16) explains the establishment, governance and funding arrangements for the proposed new, affordable and universally-available secondary pension scheme, "Your Island Pension". Other matters, such as enforcement, the territorial scope of the proposals, and their cost and economic impact, are set out in the fourth and final part (Section 17 onwards).

PART ONE: QUALIFYING PENSION SCHEMES

3. Scheme requirements – structural

3.1. Under these proposals, every employee will be automatically enrolled in a secondary pension scheme: either one which is already provided by their employer, or the new "Your Island Pension" scheme. This section explains the requirements that existing workplace pension schemes will need to meet, in order to fulfil the qualifying criteria for this purpose.

3.2. It is vital that the schemes which eligible employees are enrolled into are of a good quality and enrolment is facilitated by the employer. Certain kinds of workplace pension approaches run counter to the objective of this policy: for instance requiring an employee to find or establish their own scheme, which removes the automatic part of auto-enrolment. There will need to be rules about which schemes will qualify from a structural standpoint as well as a quality standpoint.

3.3. Qualifying schemes will have to be an 'approved scheme' for the purposes of section 150(1) of The Income Tax (Guernsey) Law, 1975. A scheme which is approved under Section 150(2) of that Law will always be a qualifying scheme provided appropriate contributions are made into it. These schemes are traditional occupational pension schemes, established by one employer to benefit their employees. The employer must be a contributor to the scheme, and the employee may also contribute, depending on the arrangements.

3.4. Retirement annuity trust schemes (RATS) which are approved schemes under section 157A of The Income Tax (Guernsey) Law, 1975 could be qualifying schemes subject to certain conditions. In order to qualify, the RAT would have to be employer-facilitated, i.e. a RATS selected or established by the employer into which all employees, or all employees of a given category, are auto-enrolled. There would be no requirement for the RATS to be exclusive to one employer, so a multi-employer group RATS would be permissible.

3.5. As well as meeting the criteria above, the qualifying scheme rules must facilitate the auto-enrolment process by allowing for eligible employees to be enrolled with minimal requirements personally to provide any information to the pension scheme administrator or trustee, or make any decisions. This means that there should be default investment strategies, and that employers must be able to provide relevant personal details to the pension scheme administrator or trustee, on behalf of their employees. Amending legislation will need to be drafted so that the sharing of data for this purpose will be permissible under GDPR rules.

3.6. There will of course be exceptions where the scheme administrator or trustee may need to request further information from the employee prior to enrolment; however these will be limited to circumstances where the administrator has a legal obligation to do so. For instance, they may require further information or documentation to meet their anti-money laundering obligations. It should also be noted that there is no reason why employees could not be presented with choices, such as their preferred investment strategy, or an option to transfer funds from other pensions upon enrolment, provided that a lack of action in relation to these choices does not prevent the eligible employee from being enrolled.

3.7. For clarity, where an employer already has a pension scheme which meets the qualifying scheme test there will be no requirement for the employer to set up an alternative, provided that the scheme can be adapted to comply with general auto-enrolment duties.

3.8. The Committee is aware that there are a significant number of less formal pension arrangements already in place. Employers may pay their contribution directly into a RATS which the employee has either established or joined in a personal capacity. This policy does not intend to undermine existing good practice by employers seeking to provide workplace pensions for their employees, provided that such good practice can be demonstrated and compliance enforced. The Committee intends to make arrangements, whereby an employer would be able to contribute to an employee's existing ‘personal’ RATS in lieu of enrolling them in a qualifying scheme. In order to take advantage of this provision the employers’ and employees’ contributions would need to be made directly to the RATS and the contributions would need to be at least in line with the minimum statutory contribution rate. There would also be a requirement for both parties to consent to the arrangement; if either party did not consent then the employer would be obliged to enrol the employee into a qualifying scheme.

3.9. A further requirement would be that all qualifying schemes must be regulated by the appropriate financial services regulator. In many cases this would mean the Guernsey Financial Services Commission (GFSC). Recognising the nature of Guernsey’s international finance industry and the fact that many businesses offer the same pension arrangements as they do for UK or the other Crown Dependencies, it would also be acceptable for an employer to use an appropriate pension scheme located in any of those jurisdictions, provided they are approved for Guernsey income tax purposes. Regrettably international schemes located elsewhere would not be acceptable. This is largely because it is simply not possible to monitor the pension rules in all jurisdictions and ensure that there are sufficient protections to ensure compliance with the regime.

3.10. At present some individuals receive a discretionary allowance as part of their salary, the intention being that the employee should take this sum and invest it in their pension scheme (rather than having a designated workplace pension). It is difficult to monitor this practice in the context of auto-enrolment and there is no significant advantage to the individual arising from this approach. Under these proposals, employers will be required to contribute directly to a qualifying pension scheme in respect of their employees.

3.11. There are a number of ways to fund the administration and governance of a pension scheme. Charging structures can include: fixed annual charges, a percentage of the funds held, a percentage of contributions made, as well as a range of other one-off charges. In other jurisdictions, charge caps have been introduced for qualifying pension schemes to ensure that appropriate value for money is delivered for scheme members. The issue with these caps is that there is always a risk that providers who currently charge less than the cap, will increase their fees to match the cap. Charge caps can also be quite difficult to understand when multiple charging structures are used in one scheme. Therefore, the Committee is not minded to introduce any extensive criteria related to charging at present. However, the Committee is proposing drafting legislation in such a way that the addition of charging restrictions could be made easily at a later date. It is hoped that the local market will be sufficiently competitive to keep charges at a reasonable level. However there is always the potential for abuse, and experience may prove it necessary to introduce restrictions on certain charging practices if they prove to be to the detriment of scheme members. The Committee must be sure that it can respond promptly and effectively if required.

3.12. All employers will be required to find and contribute to a qualifying pension scheme for their employees. However, they are not obliged to use a "one size fits all" solution. Employers will be free to use multiple qualifying schemes if they wish, or offer different qualifying pension schemes to different eligible employees so long as all arrangements meet the minimum requirements set out in these proposals. Examples of acceptable differing practices might include higher employer contributions or contribution matching for certain employees, as part of the employer's overall approach to remuneration. Or, in the case of employers currently offering a defined benefit scheme, they may wish to offer a defined contribution scheme for those on shorter contracts, because, for example, it can be complex to calculate the value of that defined benefit pension on transfer and to provide benefits to someone who has only accrued a very small entitlement.

4. Scheme requirements – quality

4.1. These proposals aim to ensure that people who have saved into a secondary pension throughout their working life are able to receive an adequate pension once they retire. In order to achieve this, it is necessary to set a minimum amount (the "minimum statutory contribution") that employers and employees will be required to save into their pension on a regular basis.

4.2. It is proposed that minimum statutory contribution levels have a phased introduction over an 8 year period. Although this will slow the accumulation of individual pension pots, it will reduce the immediate effect on an individual’s take home salary and on employer’s costs. Phasing in the minimum contribution requirements will allow time for employers and employees to adjust and is intended to reduce the risk of opting-out and prevent a serious economic shock to the local economy.

4.3. Once the phasing-in has been completed, the final combined contribution from employer and employee will be an amount equivalent to 10% of the employee's salary, of which not less than 3.5% must be contributed by the employer. This final combined contribution rate, together with the staging points for its introduction on a phased basis, have not changed since the 2016 policy letter. In the long-term, once the scheme is mature, approximately one-third of the total 10% contribution will normally be made by the employer and two thirds by the employee (see table 1 overleaf).

4.4. Contributions will function identically to social insurance contributions in respect of definition and applicable limits. Employers will not be obliged to auto-enrol an employee or make contributions on their behalf if the employee’s gross earnings in a relevant pay period are less than the pro-rata social insurance lower earnings limit, which in 2020 is £144 per week (£7448 per annum). Once gross earnings exceed that threshold, contributions become payable on all earnings up to the upper earnings limit, beyond which contributions are not applicable. The upper earnings limit in 2020 is £2,880.00 per week (£149,760 per annum). This is explained in more detail in section 6.

Table 1 – Proposed phasing of statutory minimum contribution rates as a percentage of employee gross earnings

Category	Contributions for the Applicable Year							
	Launch Year	+1	+2	+3	+4	+5	+6	+7
Employee	1%	1.5%	2%	3%	4%	5%	6%	6.5%
Employer	1%	1%	2%	2%	3%	3%	3%	3.5%
Total	**2%**	**2.5%**	**4%**	**5%**	**7%**	**8%**	**9%**	**10%**

4.5. Employers may contribute more than their statutory minimum contribution levels if they wish. Indeed, many employers with existing schemes that could qualify as a qualifying pension scheme already contribute at a rate above the minimum. Contributions in excess of the applicable minimum made by the employer can be used to offset the minimum contribution made by the employee, but not vice-versa. For instance, if an employer chose to contribute an amount equal to 10% of earnings, the employee could pay nothing. But if an employee contributed an amount equivalent to 9% of their earnings, the employer would still be required to make their 3.5% contribution.

4.6. An employer, through a contract of employment, can also arrange for an employee's contribution to be higher than the minimum. For instance, where an employer contributes 6% they could deduct 6% from their employee, generating a total combined contribution of 12%.

4.7. These proposals require employees to be auto-enrolled into a pension scheme by their employer. This means the employer is responsible for setting the level of their own contribution, but also the level of contribution to be deducted from their employee's salary, in order to ensure that the minimum combined contribution rate is met or exceeded.

4.8. There will therefore need to be safeguards to ensure that unreasonably large sums cannot be deducted from an employee’s salary without their express consent. Although it is anticipated that there will be little need for these limits, it is possible that an employer might initiate very large deductions from an employee’s salary in order to encourage opt-outs (which in turn would remove the employer’s liability to pay their contributions).

4.9. It is proposed that the Committee *for* Employment & Social Security is given a power to impose a limit on the contributions that can be deducted from the employee’s salary, save for where the employee requests that contribution rate. This limit may be expressed as a fixed overall percentage, or as a ratio of employer-to-employee contributions. These limits may need to change over time, reflecting the gradual increase in the minimum contribution rate. There will also need to be exceptions for pre-existing arrangements.

5. Defined benefit schemes – quality

5.1. In recent times, there has been a general move toward defined contribution schemes for workplace pensions. These are pension schemes where the amount of money available to the scheme member is dependent on the contributions paid in, the level of charges and the performance of the investments. Defined benefit schemes are pension schemes which offer certain benefits which are not limited by a fund size. Instead the benefit is calculated based on the number of years worked and the salary of an employee over a given reference period. As a result, benefits are paid at pre-defined levels (subject to inflationary adjustments) for as long as the pensioner is still alive. The funding mechanisms for these schemes are complex as it requires careful planning: longer-than-expected lifetimes or poor investment returns can result in an underfunding which must be made good over time, and the reverse is also true.

5.2. The nature of defined benefit schemes is such that it does not make sense to apply a minimum contribution rate for employers and/or employees to these schemes. An alternative approach must be used to ensure they will provide an acceptable quality of pension to savers on retirement.

5.3. The approach used in other jurisdictions is to set out reference tests, to demonstrate that the benefit received by the vast majority of scheme members is greater than the minimum qualifying criteria. Because there are a great variety of benefits offered under these bespoke arrangements, one test will not suffice. There must be variant tests for the less common arrangements.

5.4. The Committee does not believe it would be proportionate for Guernsey to set reference tests for all eventualities, as there is only a small number of defined benefit schemes in operation in Guernsey. The nature of a defined benefit scheme is that it tends to be more expensive and more complex than other offerings. Consequently, employers who still offer them are generally very committed to offering a high quality pension for their employees.

5.5. In place of setting out formal tests for defined benefit schemes, the Committee proposes that independent certification that benefits for the majority of scheme members are likely to be at least as good as those they would obtain by paying the minimum statutory contribution rate into a defined contribution scheme, must be provided by the employer. It is proposed that this certificate is provided by an actuary and can be incorporated into actuarial reviews which should occur periodically to ensure funding is stable. The actuary should also note any concerns about scheme funding. Schemes are often underfunded, but concerns should be raised if there is a notable risk of the employer not being able to make sufficient contributions as to enable the scheme to meet its pension liabilities on an on-going basis.

5.6. It is also proposed that defined benefit schemes will be exempt from certain requirements of the qualifying scheme criteria that will apply to other schemes, such as applying a specific definition of pensionable earnings. This is because these schemes tend to have their own definition of earnings. But irrespective of the definition, they will in almost all cases provide a benefit equal to or greater than a minimum qualifying defined contribution scheme. To make these schemes change their definition of earnings would be a significant undertaking for the schemes and would be likely to accelerate their closure. Given the high quality of pension provision that they provide, this would be counter to the objectives of the policy.

PART TWO: AUTO-ENROLMENT

6. Auto-enrolment requirement – eligible employees

6.1. One of the most important elements of this proposal is the requirement on employers to automatically enrol their eligible employees (subject to certain criteria, and the ability to opt-out, as discussed further below) into a qualifying secondary pension scheme. Auto-enrolment is considered to be key in encouraging a sufficient number of people to save, at a sufficient level, to result in decent replacement rates (which the States pension alone cannot secure) for many people in retirement.

6.2. The two most significant criteria for determining who an employer must auto-enrol are age and earnings. If an employee is 16 or older (but below pensionable age[11]) and earning in excess of the social security lower earnings limit in a given pay period (£144 per week or £7,488 per annum), the employer will generally be required to auto-enrol its eligible employees.

6.3. For the sake of clarity, an 'eligible employee' is generally an employee who is resident in Guernsey,[12] earns in excess of the social security lower earnings limit and is not a member of an excluded category of employee. Employers will not be obliged to conform to these requirements for employees located outside of Guernsey. The location of the employer will be immaterial. In certain circumstances an individual who is off island for a short period due to a secondment might still be deemed Guernsey resident. This will be in line with the existing practice for social security contribution liability.

6.4. For the purposes of auto-enrolment, 'earnings' would have substantively the same meaning ascribed to it by the Social Insurance (Guernsey) Law, 1978. This is a broad definition which includes commission, bonuses, overtime payments and other such remuneration. It is a definition which employers will already be familiar with and therefore should be no more difficult to calculate than is currently the case.

6.5. An employer will have to enrol an employee into a qualifying pension scheme once the employee's earnings have exceeded the lower earnings limit. Like social security contributions, this is a cliff edge: should an employee's salary exceed the lower limit, all their salary is subject to the contribution requirement, not just the earnings in excess of the limit.

6.6. If an enrolled employee earns less than the lower earnings limit in a given pay period, there will be no requirement for either the employer or the employee

[11] 'Pensionable Age' is the defined age at which a person can claim a States pension. It is presently 65, but from 2020 will increase by two months every ten months between 2020 until reaching 70 in 2049.
[12] Or Alderney, should the States of Alderney wish to extend this policy.

to make a contribution for that pay period. Of course, if an employer chooses to, it will be permitted to make a contribution on behalf of the employee.

6.7. The definition of earnings will also be subject to the social security upper earnings limit, which in 2020 is £2,880.00 per week (£149,760 per annum). There will be no requirement for employees or employers to make contributions in respect of earnings above this limit. This serves two purposes. Firstly the alignment with social security should make payroll processing easier and immediately understandable to anyone familiar with local social security deductions. Secondly, individuals earning above the Upper Earnings Limit are likely to be able to provide for a very comfortable retirement without the need for further assistance from their employer. Once again, there is nothing to prevent contributions being made above this threshold, on a voluntary basis, should the two parties make those arrangements.

6.8. Employers will be permitted to defer enrolling a qualifying employee for a maximum period of 3 months. But to do so they will be required to provide notice to the employee of their intention to do so. There will also be provisions to ensure that employers cannot abuse this provision by employing people on consecutive short term contracts. This is explained further in section 11.

6.9. Finally, employers will not be obliged to automatically-enrol an employee into a pension scheme if the employee is in full-time education, including higher education. This exclusion is proposed for a number of reasons. Firstly, a student employee may well earn significantly below the annual lower earnings limit, but much of their income is often clustered during academic holidays, during which time they may exceed the earnings threshold, even if just for a few weeks once or twice a year. There seems very little benefit in enrolling an employee for the sake of a few weeks, particularly when they may be using their limited income to pay tuition fees or term time living expenses.

6.10. As well as earning comparatively little per annum in their jobs, student employees are also unlikely to stay with any one employer for very long, resulting in either multiple, very small and soon-to-be-depleted funds, or repeated opt-outs on the part of the employee. Both circumstances are unlikely to generate a positive attitude to pension saving in the future, which may result in an increase in opt-outs. The reason for specifying full-time education rather than a higher age limit is simply because education is not solely the pursuit of younger people. Some people spend longer in education, or take a break between various stages of their education and the Committee believes the grounds remain equally valid in most cases.

6.11. Employers will have to give notice to employees of their enrolment. This notice will explain the details of the enrolment, including who the administrator will be and how employees can find information about the qualifying pension scheme. It must also contain information about the eligible employee's right to opt-out, and their right to a refund, as will be explained in section 8. The employer should keep some record of receipt of the opt-out from their employee and will be required to retain that for a period of up to 7 years in line with retention policies for other employer obligations.

6.12. In the interest of full disclosure it should be noted that there may be a small number of special exceptions not specified above. For instance, it may be the case that serving members of HM armed forces would be exempt from the definition of employees. In this case a comparatively good pension provision is already available and the extension of this provision would likely just create unnecessary complications.

7. Application to self-employed and non-employed individuals

7.1. In the 2016 policy letter, it was proposed that the automatic enrolment process would be carried out through the social security contribution collection system. Secondary pension contributions would have been charged and received alongside social security contributions. This would have applied to all active contributors below pensionable age, irrespective of whether they were employed, self-employed or non-employed.

7.2. When originally proposed, the Secondary Pensions Scheme would have required auto-enrolment for any individual below pensionable age, with earnings in excess of the social security lower earnings limit. This would have included self-employed and non-employed[13] individuals. It is now proposed that the Scheme only apply to employed persons. Collection through the social security contribution system was found to be more complex than first thought. The legacy contributions software system is difficult to amend in the required way. A new Revenue Service platform is being developed, but waiting for this to be implemented would be likely to lead to an unacceptable delay in implementing the project. It would also further complicate what is already a complex project.

7.3. As well as these implementation difficulties, it also became apparent that the quarterly collection cycle for social insurance contributions would have left significant sums collected but not yet paid into the relevant pension fund and as a result not invested. Scheme members would have seen 3 months' worth of contributions deducted from their wages but would not have seen any

[13] For clarification a non-employed person in this context would be an individual who has income from a non-employment source. For instance those with income from a rental property.

contributions in their accounts. It was feared that this would lead to a higher opt-out rate and a lack of faith in the system. It also would have left those funds not invested and unable to earn returns. The cumulative effect of having so much sitting dormant and not invested at any one time would have led to diminished returns, particularly over a lifetime of saving. Lastly, collecting the secondary pension contributions together with the social insurance contributions would not lend itself to the situation where employers may choose to pay higher rates of secondary pension contributions as an employee benefit.

7.4. It is now proposed that employers be obliged to pay into schemes directly, with the scheme providers taking responsibility for collection and ensuring the funds are transferred into the appropriate investments promptly. A benefit of this arrangement is a clear separation between the States pension and individuals' secondary pensions. Money paid by an individual under the Secondary Pensions Scheme is their own money, which will become their retirement income, and it is important that this is recognised.

7.5. Without the States collecting contributions, it is difficult to introduce any kind of meaningful enforcement of auto-enrolment for self-employed or non-employed people, as they would be required to select and enrol with a provider themselves. There would be no mechanism by which they could be enrolled in a default scheme in the event they did not actively select a provider. At most, this would simply be self-employed and non-employed people reporting their pension arrangements (or lack thereof) to a government department.

7.6. It should be noted that the States-facilitated scheme ("Your Island Pension", discussed below) will be open to all self-employed and non-employed people to make both periodic and/or lump sum contributions to. This will ensure that no self-employed or non-employed person feels they cannot save for retirement simply because there is no financially viable product available to them.

7.7. The Committee is still firmly of the belief that the Secondary Pensions Scheme can deliver significant benefits to self-employed and non-employed people. However, given the additional difficulty of introducing these provisions for a comparatively small part of the population, the Committee believes it is advisable to return to those provisions at a later date and not delay the benefits that can be achieved for employed people now. This will also allow time to review the implementation of the auto-enrolment policy and determine whether that is the most effective means of incentivising retirement saving among these groups.

7.8. The economic impact assessment conducted by BWCI and appended to this policy letter is based on the assumption that self-employed and non-employed people would be auto-enrolled. Although this has changed, the Committee still consider it appropriate to append it without amendment, given that the great majority of savers would always have been employed people. The impact assessment still provides an indication of the direction of travel and overall impact the Committee expects this Policy would have, should the proposals be agreed. As the "Your Island Pension" scheme will be available for voluntary contributions, it remains possible that pension saving among the self-employed and non-employed will increase significantly once these proposals are introduced.

7.9. As a consequence of narrowing the application of this scheme, it is necessary to define ‘employed people’. For this purpose, substantially the same definitions used in the Social Insurance (Guernsey) Law, 1971 and its subordinate legislation will be used. In other words, the scheme will apply to any individual obliged to pay social insurance contributions at the employed person’s rate, otherwise known as Class 1 contributions. This links to a long-established definition which would already need to be considered in all cases where there is uncertainty about a person's employment status.

8. The right to opt-out

8.1. It is proposed that, subject to any contractual arrangement between the employer and employee, every qualifying employee will have the right to opt-out of the qualifying pension scheme which they are auto-enrolled into. They do not have to give a reason why, and provided that they opt-out within 6 weeks of being enrolled, they will be entitled to a full refund of their contributions, as will their employer in relation to its contributions for that employee.

8.2. In practice, refunds could be made in one of two ways. The first option is that contributions would be transferred into the fund by the employer during the opt-out window. It would then be the responsibility of the administrator of the pension scheme to transfer the funds back, either directly to both parties or through the employer. The second option is that contributions would not be collected by the scheme administrator during the opt-out window. Once the right to opt-out and claim a refund has expired, all outstanding contributions (which may have been held by the employer up to that point) must then be paid by the employer to the administrator. The Committee believes it is best for administrators and employers to agree their preferred approach between themselves and either option will be permissible.

8.3. Irrespective of which option is chosen, a refund of contributions must equal the contributions initially made. In other words, if the scheme collected the funds and invested them, any money gained would be the scheme's to retain and any money lost would need to be made up by the scheme. The Committee expects that, because of this complication, schemes that collect contributions will retain them as cash for the first 6 weeks.

8.4. The reason for permitting opt-outs is to allow eligible employees to make decisions based on their own personal circumstances. Ultimately there are many situations where it is a financially prudent decision not to pay into a pension scheme, even if that means waiving an employer contribution. An example could be where someone chooses to prioritise paying off credit card debt because of the much higher interest rate they are paying on it.

8.5. If an employee opts-out, their employer will no longer be obliged to contribute to the scheme on that person's behalf. There will not be any obligation on the employer to pay an equivalent sum directly to their employee in lieu of making a contribution.

8.6. In order to opt-out, individuals will be required to contact the administrator of the pension scheme or their employer, in line with whatever procedures their scheme applies. The employer would be required to keep records of opt-outs for inspection, though in practice the employer may choose for the administrator to keep these records on their behalf. Opt-out records could not be a note of a verbal conversation, there would need to be a record of an active decision by the employee, whether that is written or digital.

8.7. The Committee is acutely aware of the impact these proposals may have on those whose finances are already stretched. Fortunately those who are in receipt of Income Support already have pension contributions disregarded from their resource calculation. This means that, up to a certain limit, their benefit entitlement will increase proportionately with their pension contribution. Although this creates a greater dependence on the benefit system in the short term, in the longer term it will mean that they will require less support in their retirement. It also means that many of those who have a short term need for additional financial support will not feel obliged to opt-out of contributing towards their pension.

8.8. Finally, it is proposed that employers will be permitted to make it a contractual condition that contributions must be made to a pension scheme, with no right to opt-out. This is the case for the great majority of public sector employees, who pay into the Public Servants' Pension Scheme, and that is expected to continue under these proposals.

9. Automatic re-enrolment

9.1. Where an individual has opted out, their employer will be obliged to re-enrol them after a period of 3 years[14]. If the employee continues to wish to opt-out they will have to complete the opt-out process again. Over the course of three years many people see a significant change in circumstances. Those who may have opted out for perfectly sensible reasons may find they are now able to contribute to their fund.

9.2. The Committee considered that in some cases people may be making their own pension arrangements outside of the auto-enrolment scheme, and that they may have valid reasons to opt-out continuously. However the Committee is not minded to propose a more permanent opt-out at this time. This is because there is no resource-efficient way to determine and verify these alternative arrangements. In comparison, a fairly simple opt-out process conducted every three years is not particularly onerous.

9.3. In order to minimise the burden on the employer, there will be some leeway with regard to the re-enrolment date. The employer will have to re-enrol the employee within 3 months, commencing on the third anniversary of their original enrolment. This means that larger employers can re-enrol employees in batches on a quarterly basis.

10. The right to opt-in

10.1. In addition to those who are obliged to be auto-enrolled, it is proposed to include a right to opt-in for certain individuals. Employers would be legally obliged to enrol these individuals if the individual requested. This would include the following four categories:

- Individuals of pensionable age, who would be eligible but for their age,
- Individuals who would be eligible, except for the fact that they earn less than the lower earnings limit,
- Individuals who are in full time education, who would be eligible but for their full time education status, and
- Individuals who are entitled to be auto-enrolled but who have previously opted out.

[14] The 2016 policy letter proposed re-enrolment every 2 years. After due consideration, the Committee determined that this was too onerous and that the UK's policy of re-enrolment every three years appeared to be a more appropriate rule. This is in line with the current UK obligations.

10.2. The Committee believes that individuals who work beyond their pensionable age should be entitled to improve their retirement income whenever they choose to take it. With that said, most people no longer wish to contribute to a pension once they are eligible to draw their States pension, so ongoing auto-enrolment may be a frustration to many. A restriction is placed at 75 years old because the limit for income tax relief is 75. The reason for this limit is to avoid pension schemes becoming tax-free inheritance vehicles. Without the benefit of tax relief on contributions, and given that payments from a pension are themselves taxable as income, it would be a rare set of circumstances for this to be a prudent financial decision for any individual.

10.3. In many cases it may not be financially viable for an individual to save if they are earning less than the lower earnings limit. However there may be cases where the individual wishes to. In these circumstances they would have a right to opt-in, though there would be no duty for the employer to make employer contributions on their behalf.

10.4. It is also proposed that the right to opt-in is extended to those who are excluded from auto-enrolment due to being in full time education. Though it is expected that relatively few would choose to opt-in under these circumstances, there may be circumstances in which the employee is keen to save and it makes good financial sense. The Committee considers it would be unreasonable to put barriers in the way of a prudent saver.

10.5. In the case of the three categories mentioned in 10.2 10.3 & 10.4 above, the right to opt-in would carry no obligation for the employer to make an employer's contribution on behalf of the employee. The employer would only be obliged to deduct the applicable contribution from the individual's salary and pay it into a qualifying scheme.

10.6. Individuals who have opted out will also have a right to opt back in. However their employer will not be obliged to enrol them until 6 months have elapsed since the employee opted out. This is to ensure that an individual does not put an undue burden on their employer and the scheme administrator by fluctuating between enrolled and unenrolled at whim.

10.7. If an employer were to receive a valid request to opt-in, they would be obliged to enrol the eligible employee in time for the end of the next full pay period unless they defer enrolment. An employer would be able to defer an opt-in request as if that employee had just become eligible for auto-enrolment (i.e. they could delay enrolment for a period of up to 3 months). The process of deferral and why deferral is permitted is explained in section 11.

11. Deferring enrolment

11.1. An employer will have a right to defer the enrolment of an employee or any group of their employees for a period of up to 3 months. This period will commence either from the date that the employer is obliged to auto-enrol the employee, or in the case of a new employee, from the date on which the employee is hired.

11.2. In order to defer enrolment, the employer will have to provide notice to their eligible employees that they are deferring the employee's enrolment and inform them of the date that they will be enrolled. This ensures that employees are aware of what is happening and confirms that the employer has understood their duties.

11.3. The purpose of the deferment is twofold. Firstly it allows the employer to process enrolments in batches if needed. Secondly it means that the employer does not need to enrol those who are unlikely to gain any significant benefit from enrolment (for instance, those on very short contracts of less than 3 months).

11.4. If an employer defers enrolment, they must enrol the employee at the expiration of that deferment period, unless that employee no longer meets the auto-enrolment requirements. After the deferment period has expired, employers would be required to enrol employees who have opted in, even if employees do not meet the auto-enrolment criteria.

11.5. Provisions would be put in place to ensure that this could not be exploited. For instance if an employer were to rotate an employee's contract between two different companies and attempt to take advantage of a deferral every 3 months. Checks for this would form part of the compliance process. There will also be a route for employees who are concerned that their rights are not being observed to make a complaint which would be investigated.

PART THREE: "YOUR ISLAND PENSION"

12. Your Island Pension – establishment

12.1. There are many employers who do not currently offer workplace pension schemes for their employees, and who would not necessarily find it straightforward to set one up without assistance. In order to achieve its aim, this policy requires there to be an appropriate secondary pension scheme available to every worker in Guernsey. An important part of the work leading to this policy letter has, therefore, been the development of plans for a States-facilitated secondary pension scheme that will be open to all savers, especially those who do not have other alternatives.

12.2. This new scheme, known as "Your Island Pension" or YIP, will be established with a requirement to provide a service to all islanders and their employers. This extends both to auto-enrolment and voluntary contributions. In other words, the scheme will be obliged to accept any employer wishing to use it for auto-enrolment provisions, as well as any individual wishing to make voluntary contributions into a scheme with the characteristics of a personal pension scheme, irrespective of whether or not they are actively enrolled through an employer.

12.3. Transfers into and out of the fund from/to appropriate funds would also be permissible. YIP would not allow any facility for loans, as many retirement annuity trusts (RATs) do. It is anticipated that there will be an option to take a lump sum on retirement. This would be supplemented by the option either to purchase an annuity[15] from a 3rd party provider, or to draw down from the fund at an appropriate rate. This is in line with current practices. Funds invested by a scheme member would be their own, and any remaining sums after their death could provide benefits to their dependants in line with Income Tax rules relating to benefits after death for occupational pension schemes.

12.4. The intention of the scheme is not to replace existing providers in the Bailiwick, but rather to offer an affordable pension product with low charges which is available to anyone for both second pillar and third pillar pension provision. It would allow low-income households to save at least a modest amount for their retirement.

12.5. In the initial years after establishment it is expected that the scheme’s total assets under management will be relatively small. This is largely due to the very low statutory contribution rates in early years. By the end of the first year the scheme is projected to have less than £5 million of total assets. By the end

[15] See Appendix B for a definition of ‘annuity’

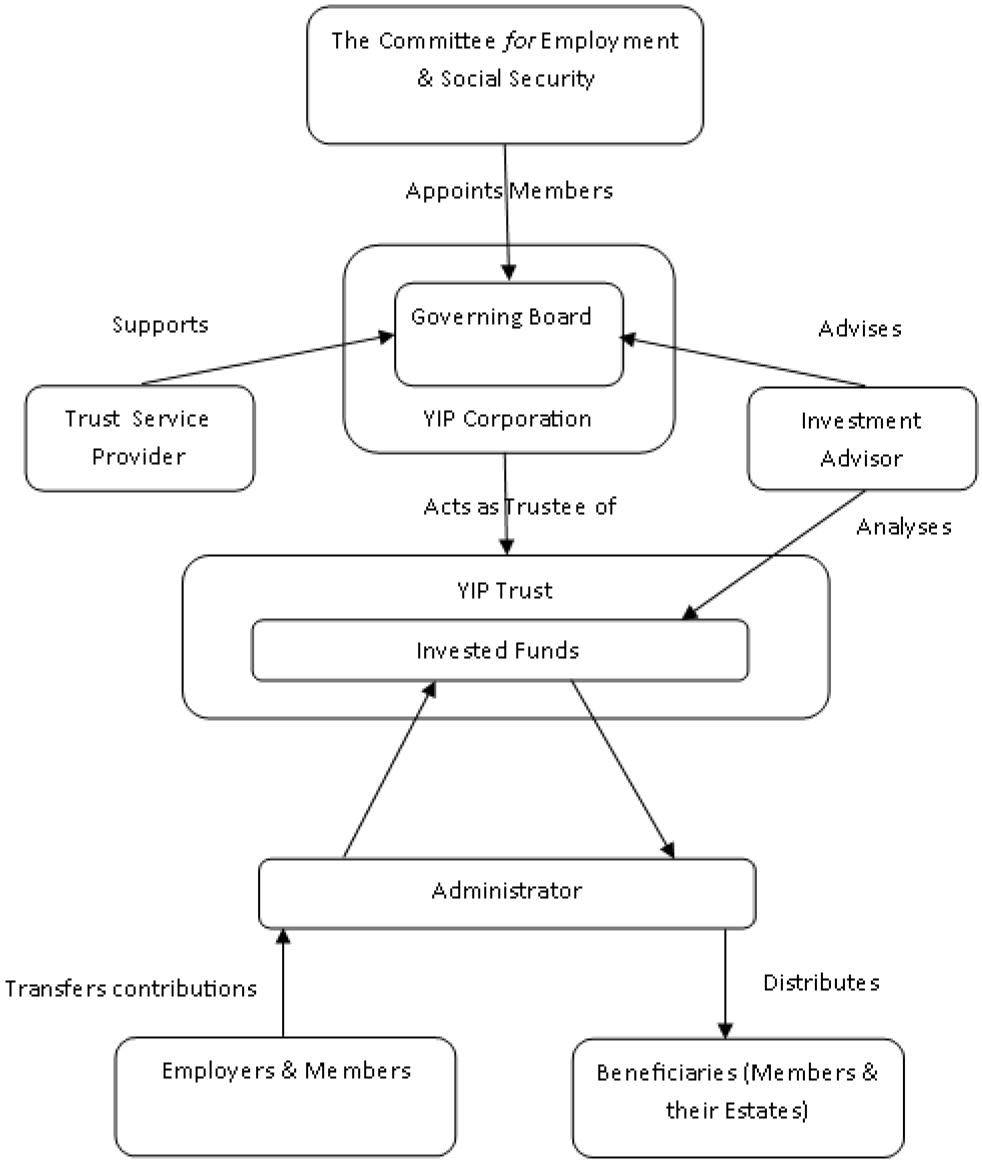
of the 15th year it is expected that the fund assets would be in the £400 million to £500 million range.

12.6. In addition to high running costs relative to the size of the fund in its early years, there are also significant establishment costs associated with the scheme. It is clear that, during the early years, the fund will not be able to cover its costs without placing excessive strain on members' contributions. If it was required to be self-funding from the outset, administration costs would far outweigh any investment returns and members would see less money in their accounts than they had paid in. The Committee considers, therefore, that the States need to provide financial support to the scheme in order to offer a good value-for-money package to savers in its early years. This is explained further in section 20.

13. Your Island Pension ("YIP") – governance

13.1. A Statutory corporation will be established to act as Trustee of YIP. The Trustee will be managed by a Governing Board. YIP and its Trustee will be legally separate from the States of Guernsey and the States will not be able to access the assets of YIP members. The assets would be held in trust for the benefit of the scheme members and their dependants. The Committee would have a responsibility to appoint the members of the Governing Board of the Trustee. In addition to the governing board there will be several providers contracted by the Trustee to deliver services essential to the operation of YIP. This includes the day to day administration. The diagram overleaf shows this structure in a very simple form.

Figure 1 – Structure of "Your Island Pension Scheme"



13.2. The rules governing YIP would be formally set out and available publically. It is intended that any substantial changes to the rules would require the approval of the States, either directly or through power delegated to a Committee. The Trustee would have to obtain a licence from the GFSC to operate, and to operate within the same regulatory environment as its commercial competitors.

13.3. The Trustee, through the Governing Board, would have responsibility for the good governance of YIP and would have a fiduciary duty to act in the best interest of YIP members. This would include appointing service providers such as an administrator, a custodian, an investment advisor and an auditor. The Governing Board would be obliged to keep any contracts of service under review and assess performance against any agreed KPIs. The Governing Board would also be responsible, with the support of the investment advisor, for reviewing the performance of the investment funds and determining which funds should be offered to YIP members, including the default fund. In general it can be said that the Governing Board will hold responsibility for the smooth operation of YIP in its entirety. They will be responsible for oversight and good governance. They are bound to exercise their powers in the interest of the member, not in the furtherance of any corporate or personal interest, or in the interests of any employer.

13.4. It is proposed that the Governing Board of the Trustee would comprise a minimum of five members including a chair. The members would be able to form and delegate power to sub-committees which, subject to the requirement that the chairperson of any sub-committee must be a member of the Governing Board, could be comprised of any individuals the Governing Board wished. This would allow the Governing Board to co-opt other individuals to support them in specific areas of business.

13.5. The members, including the chair, would be selected in the same manner that appointments are made to other arms-length commercial bodies, such as appointments to the board of Guernsey Water. Given the significant public interest and financial support from the States, the Committee believes it appropriate to retain this level of control during at least the early years of the fund.

13.6. The Committee proposes that sitting Deputies and currently-employed public servants are excluded from sitting as members of the Governing Board. As these would be salaried positions, there could be a perception of impropriety if the States were to appoint one of its own. There is also an inherent conflict of interest as the States will be financing YIP in the early years and Trustees should be advocating for sufficient funds to do their work effectively, rather than an amount that suits the States' budget. The exclusion of Deputies and public servants will also help to make the division of responsibilities clear. Though States-facilitated, YIP will be an enterprise which will operate in the commercial world alongside the existing market.

13.7. There will be term limits for the members of the Governing Board. A standard term will be not more than three years. Ordinarily a member could serve for not more than six years continuously. In exceptional cases the Committee would have the right to extend an appointment for an additional year. This might be necessary in cases where there had recently been a high turnover of members, and there was a risk of losing institutional knowledge. Initial appointments would be made on a staggered term basis to facilitate a balanced rotation of members of the Governing Board.

13.8. In order to ensure that the voices of stakeholders are properly considered, the Governing Board would have a duty to consult with employer and employee representatives in relation to key decisions. These representatives would include unions and business groups and would be further defined in the legislation establishing the scheme. Engagement would include, but not be limited to, consulting on any significant change to the scheme rules.

13.9. The Trustee and Governing Board members would be indemnified against losses incurred as a result of their actions made in a professional capacity, with the exception of those actions which would amount to wilful default or fraud. This is common practice and is likely to be a necessity in order to attract high quality candidates for the Governing Board. This is not to say that the positions do not carry the weight of personal responsibility and accountability, and the usual fiduciary and statutory duties and prohibitions would apply to them.

13.10. The Trustee will need a budget and staff to facilitate its day-to-day governance operations. This will include roles such as executive support, a designated data protection officer, accountancy, payroll and IT. Having considered the staffing requirements of the Trustee, it appears that it would be inefficient for it to have a full complement of all the required staff to support it. The Trustee would be likely to be able to access a better range of experience on an as-needs basis by employing the services of an existing service provider. It is anticipated that this will also represent better value for YIP members. This would be a contract of service; however, in order to satisfy some conditions of obtaining a GFSC licence, it is possible that the service provider will need to hold some sort of position within the Governing Board. It will ultimately be a matter for the Governing Board to determine the precise nature of how its support is structured. The intention is that the Committee will support the Governing Board through a tender exercise soon after they have been selected.

13.11. Additional support will also be provided by way of an independent investment advisor. It is near-ubiquitous to recruit this kind of service for a pension scheme of this size. To do otherwise would be considered poor practice. It will be the Governing Board’s responsibility to determine which investment funds are available for YIP members to select, and what the default investment fund will be for those who make no active decision. The investment advisor will support the Governing Board by conducting analysis and due diligence on funds, according to the statement of investment principles set out by the Governing Board. This will mean providing independent advice on the relative risk of the fund and the achievability of the target returns, scrutinising the very technical proposals of investment managers. Ultimately, the independent advisor should give peace of mind to both the Governing Board and to YIP scheme members.

13.12. The final service provider reporting to the Trustee will be the Administrator. The Administrator's role is the day to day operation of YIP. They will be the face of "Your Island Pension", operating the vast majority of services that YIP members and employers will utilise. Unlike the other service providers, the proposed Administrator has already been selected for States approval. The details of the administration services are set out in more detail in section 14. The Governing Board will be responsible for ensuring this service is delivered effectively and in compliance with legislation and regulatory requirements.

13.13. The usual position for similar funds is that the Trustee's expenses and the cost associated with managing the fund are taken from the assets held in trust. The Committee intend that this should be the case in the long term. However, the nature of the phased introduction of this policy means that in the early years of the fund, the total assets will be relatively small. Paying for Trustee services would put a heavy draw on individual members' assets and deplete a significant proportion of savings in the early years.

13.14. The Committee is therefore proposing that the States make a loan to the Trustee in order to fund its establishment and early operation costs. These costs are explained further in Section 20. The Trustee will draw an asset management charge (AMC), which will fall within the headline AMC described in Section 15. On this basis the overall charges will be able to remain comparatively low. In due course, once the fund grows, it may be possible to reduce this charge further.

13.15. It will take some time for the Trustee to be established. However, it is proposed that a shadow board should be established in advance. The shadow board would be authorised by the Committee to act as the regular board of the Trustee in respect of the decisions necessary to establish YIP. This would mean that much of the preparatory work to set up YIP could be done while detailed scheme rules are drafted. This could include the selection of an investment advisor and an auditor, securing suitable support by way of employees or a corporate service provider, selecting the investment options available to members, preparing a plan for the scheme launch and preparing a licence application for the GFSC. Once the Trustee was established the shadow board (subject to States approval) would be formally appointed as members of the Governing Board of the Trustee. This will mean that YIP can be launched relatively quickly once drafting is complete.

13.16. Because of the unique structure of YIP, it may not fall under some existing legislative definitions, for instance relating to GFSC licencing or Income Tax 'approved schemes'. It is proposed that any necessary minor amendments (or other provision) are made to ensure that YIP can operate in the same fashion, and subject to the same regulatory restrictions as if it were a privately established pension scheme with a regulated licensee as trustee.

14. Your Island Pension – administration

14.1. While the Trustee will be responsible for the governance of YIP and will have a duty to act in the interests of members, the Trustee will not be conducting the day-to-day administration of the fund. That work will instead be done by a service provider who will deliver administration and custodian services. Rather than establishing a bespoke organisation to do this, the administration of YIP was a service that was tendered for.

14.2. The administration services required include: the operation of a digital portal accessible by members and by employers, the collection of contributions and the allocation of these contributions to the relevant investment funds, the operation of digital and telephone contact points for service users, undertaking due diligence on customers, establishing anti-money laundering processes, and the processing of drawdown and the transfer of funds into and out of YIP.

14.3. Having tendered for services during 2018 and conducted an extensive and thorough review of these bids, the Committee proposes the appointment of Smart Pension Ltd to offer administration and custodian services on a 15-year contract. The tender process included an evaluation of all providers on a similar basis, as well as an evaluation of a number of different component services. It was noted that a bundled solution provided by one or more organisations was preferred. In accordance with States of Guernsey procurement rules, the scoring included an allocation for community benefits which gave an advantage to locally-based bidders.

14.4. It has been agreed that Smart Pension Ltd's charging structure will work on an asset management charge (AMC) basis. This means that Smart will take a percentage of the assets in the fund, rather than a fixed charge or a percentage of every contribution as it is collected. The charging structure includes no sign-up fees for the employer or employee and the percentage-based charge is a model particularly favourable to lower earners. If target investment returns are achieved, even the smallest pots should not be depleted over time. More information about the overall scheme charges is available in section 15.

14.5. Due to the high start-up and development costs, Smart Pension Ltd has requested £800,000 from the States, in order to meet development costs and to share the financial risk in the pre-launch period. It has been agreed that this should be structured as an interest-bearing loan which would be repayable to the States within two years of the launch of YIP.

14.6. While a percentage-based charging structure at this threshold offers good value for lower earners, it means that the provider is likely to incur losses in the early years of the fund. In order to make this a viable proposal for service providers, the Committee therefore determined that it was appropriate to offer a long-term 15 year contract. In order to protect the interests of YIP members, terms have been agreed which allow the charges to adapt if there are significant market changes and the offering no longer represents good value compared to the price of similar services at the time. The nature of the AMC-based charging structure is such that the revenue from the contract will increase year on year. In order to partially offset the tail-end gains, reductions in charges have been agreed should the fund reach certain values. The Committee believes that this proposal represents excellent value for all concerned. Financial matters are discussed further in section 20.

14.7. The agreement with Smart Pension Ltd will be structured under two contracts. The first will be a contract for development entered into with the States. This will be an agreement for Smart Pension Ltd to adapt their existing digital platform for Guernsey's needs and to establish suitable procedures for Guernsey business. The second contract will be a contract for services entered into with the Trustee. It is the latter of these that will last 15 years. The development contract is expected to last approximately 18 months. Once the development contract is completed, the contract for services will be entered into and then two years after launch the loan from the States will become repayable with interest.

14.8. Employers wishing to use YIP will need to register. This process will require Smart Pension Ltd to complete anti-money laundering checks on the employer; this is in line with GFSC requirements. Employers will have access to a digital platform. This platform will guide them through the steps needed to meet their legal duties. The employer will need to register their employees through the site. This creates a unique user ID and profile for the employee, which can be registered to a work and/or personal e-mail. Employers are able to set up different groups of employees and offer different contribution arrangements for the groups. For instance, if the employer wanted to contribute an amount greater than the statutory minimum contribution, but only for senior employees, that could be done quickly and easily.

14.9. The employer can upload their business branding to the platform which would appear to the employee when they log-in to the portal. This will help to ensure the employer's contribution is recognised. It can also be used to generate automated documentation with the appropriate branding, for instance letters and e-mails for employees. Smart Pension Ltd are also able to automate reminders for things such as the re-enrolment of opted out employees. The platform will automatically generate any letters or information that the employer is legally obliged to serve their staff. This further reduces workload and pressure for employers.

14.10. Employers will need to upload payroll data every pay period. This data is required to calculate the correct contribution rate. This process can be done in a variety of ways. At the most basic end of the spectrum, a template provided by Smart Pension Ltd can be completed with the required information; this is then uploaded through the portal for the assessment, automatic enrolment and calculation of contributions for employees. If the employer's payroll software assesses pension contribution liability as part of its features and generates a file in the correct format, it may be possible to send this directly to Smart Pension Ltd. Alternatively a file containing this information can be prepared by the employer in the correct format. Finally, Smart Pension Ltd has established relationships with a large number of payroll software providers. Through these relationships they have developed tools which can automate the process with direct integration. These providers include Sage, MyPaye and Quickbooks. Approximately 15 payroll programs already offer some degree of simplified upload process. This degree of simplicity and choice ideally places Smart Pension Ltd to be able to support smaller employers with minimal effort.

14.11. Once the correct contributions have been determined, the employer can make a payment through Smart Pension Ltd into YIP. Contributions are made by direct debit. Once the funds are received, Smart Pension Ltd will process the payments ensuring that the amount is correctly allocated to the employee's account and invested either into the default fund or into another investment option that has been selected by the employee.

14.12. Employees will be able to access information about their pension through an online portal. The first time they log in they will be asked to submit their personal contact details; this makes it much easier for the pension provider to remain in touch with the employee even if they cease to work for their current employer. The home page of the employee's portal will display basic information, such as how much the employee has currently saved and the contribution rates paid by both the employee and employer. Employees will then be able to access more detailed information, such as how much of their total savings is from their contribution, how much is from their employer's contributions and how much is from investment returns. Annual statements are also provided and Smart Pension Ltd are currently investigating better ways to deliver this information beyond a simple piece of paper with a financial statement. In the future, statements are expected to include infographics and comparisons with peers to provide information in a way which is difficult to contextualise on its own.

14.13. Employees will also be able to take various actions through the portal. These actions may include opting out of enrolment or changing investment allocations between a selection of investment options that have been pre-approved by the Trustee. The investment options may include alternatives such as a specific ethical investment fund and more or less aggressive investment strategies. The precise funds which are to be offered will be determined by the Trustee closer to the launch of YIP, but it is expected that as a minimum they will include lower and higher risk options.

14.14. In order to operate in Guernsey, Smart Pension Ltd will be opening a local office staffed with a minimum of two full-time employees as well as locally based directors. Their operations would be subject to GFSC licencing rules. Smart Pension Ltd do not yet have a licence, but will apply for one in due course as part of the development stage. Customer services would primarily be delivered to employers and employees via e-mail, messaging through the online portals, and telephone. At present Smart Pension Ltd's customer services are based in Poole, with most other services being delivered in London. On the rare occasion that face-to-face customer services are required, the locally-based staff could make the necessary arrangements. This would also be true for Alderney-based employers.

14.15. The data collected by Smart Pension Ltd would ultimately belong to the Trust, and should Smart Pension Ltd ever be replaced as administrator, there would be procedures in place to transfer all data to the newly-appointed administrator. The data held by Smart Pension Ltd is held securely off island in a state-of-the-art European data storage facility. On-island data storage is not an option at this time due to the integration of the database and Smart Pension Ltd's platform. With that said, the Committee is satisfied that all data held by Smart Pension Ltd would be secure and compliant with all applicable data protection legislation.

14.16. More information about Smart Pension Ltd and its general business is provided at Appendix C of this policy letter.

15. Your Island Pension – charging

15.1. As previously noted, it is intended to pursue an annual management charge (AMC) only based charging model. This means that the charges will come in the form of a percentage-based deduction applied equally across all funds. There will not be any fixed fees for accessing any aspect of the service. The expected charge will be between 0.85 percent and 0.95 percent. This means that a person with a fund of £1,000 would pay less than £10 in fees for the year. These charges cover administration services, investment management and governance costs.

15.2. The Committee is acutely aware that YIP needs to meet the needs of lower-earning employees and smaller employers. Therefore there would be no fixed costs and no sign up fees. From the perspective of the employer, it is free to use. From the perspective of the employee, this model ensures affordable fees even for those with relatively small funds.

15.3. The reason why a specific charge cannot be confirmed at this point is because it will be dependent on the default investment options selected. It should also be noted that if YIP members choose to use a non-default investment option which the Trustee has chosen to offer, that may come with an increased charge. Some investment products, for instance Sharia or Environmental, Social and Governance funds, tend to come with a higher management charge than their more conventional alternatives.

15.4. The nature of this charging model is such that it will produce early losses for both the Trustee and the Administrator. The growth of the fund as contribution rates increase and existing pots build, means that in the medium term the charging model will mirror the 'hockey stick' growth curve of the fund and losses should be recouped. It should be noted that in the long term (approximately 20 years), the fund should have built to a point where early losses will have been recovered and the charging model can be revised downward.

16. Additional voluntary contributions

16.1. In addition to the default enrolment contribution made by the employee, there will also be two ways to make additional contributions. Through YIP's digital platform, employees will have the ability to adjust contribution rates from the default established by their employer. For instance, if an employer had set a default rate of 6.5% contributions by the employee, the employee could adjust this to, say, 10%. To be clear, this feature would be structured so that an employee could not adjust their contribution so that the combined contribution would fall below the statutory minimum. These kinds of adjustments could also apply in contribution matching arrangements, where employers incentivise saving by agreeing to match the employee's contribution up to a certain threshold.

16.2. YIP would also have an obligation to accept contributions directly from an individual, provided they meet certain criteria. The individual would have to be a Bailiwick resident and the sum would have to be over a minimum threshold to ensure it is still commercially viable to process. Individuals making these contributions may have to go through an anti-money laundering check in line with GFSC rules and good practice. These kinds of contributions would be suited to non-employed and self-employed individuals who do not benefit from the auto enrolment provisions. It could also be used in situations where someone comes into a large sum of money, perhaps through inheritance or from downsizing their home. These are options that are currently open for existing pension providers if they wish to offer them. However there would be no obligation for a pension scheme to accept additional voluntary contributions as a condition of being a qualifying scheme for the purpose of auto-enrolment.

PART FOUR: OTHER MATTERS

17. Enforcement

17.1. Under the legislation that will bring the Secondary Pensions scheme into effect, a number of offences will be created. Such an offence would be where an employer does not enrol an eligible employee when they are newly employed, are due for re-enrolment, or exercise a right to opt-in. Another example would be submitting fraudulent documentation in relation to auto-enrolment compliance.

17.2. There will be legislative requirements to ensure that the employer and employee cannot conspire to make alternative arrangements in lieu of pension contributions, except where the alternative arrangement is a payment made directly by the employer into another pension scheme which the employee had enrolled into privately. This would include circumstances where an employer offers an incentive, financial or otherwise, to opt-out.

17.3. It is noted that it may also be appropriate to include further provisions to protect employees' rights, for instance: granting an appropriate body the power to issue civil penalties; providing for employees to be able to pursue an underpayment of their employer's contribution through the courts; and confirming the status of employer's contributions in relation to insolvency proceedings. These enforcement options are not considered further in this policy letter but may be revisited by the Committee in future.

17.4. It is proposed that compliance powers similar to those held by the Revenue Service compliance team and the Employment Relations Service should be granted to those responsible for monitoring compliance with the policy. These powers would include the power to compel sight of corporate records and to make on-site visits to employers. Providing false statements or otherwise obstructing an investigation would be an offence.

17.5. The Channel Islands Financial Ombudsman (the 'Ombudsman') provides a route of redress for those with a grievance who have been unable to settle it with a financial services provider. Examples could be if a payment was substantially and unjustifiably delayed, or the customer has lost money to fraudsters which they believe the financial services provider should have protected against. The Ombudsman has the authority to investigate a matter and, if it deems appropriate, order the business to pay compensation to the complainant. The present remit of the Ombudsman in Guernsey excludes many workplace pension schemes.

17.6. The Committee would be amenable to a proposed expansion of the Ombudsman's role, including the inclusion of YIP. The Committee has raised the matter with the Committee *for* Economic Development and will continue to work together to assist that Committee in exploring the matter further. The Committee notes that this matter also affects Jersey and so consultation would be required before any changes could be considered.

17.7. In addition to the potential expansion of the Ombudsman's role there are, at present, a variety of organisations who take responsibilities for various aspects of occupational pensions. The Revenue Service determines which pension schemes meet the standards for contributions to be tax-exempt, as well as collecting information about earnings and pension contributions. The GFSC regulates certain pension schemes where a regulated licensee acts as trustee or administrator of the scheme and ensures compliance with governance standards. The Employment Relations Service provides advice on good employment practices and investigates possible breaches of employment law. While the proposed legislation would ensure that there is a clear distinction in the responsibilities of these parties, it is inevitable that through the course of their ordinary day-to-day business, they all have the potential to uncover information which would benefit one another.

17.8. Evidence of this is already seen in the statutory data sharing arrangements between the Revenue Service and the Employment Relations Service. Through assessments of contribution records, the Revenue Service occasionally finds evidence of sub-minimum wage pay. This information may be conveyed to Employment Relations for subsequent investigation. The Committee consider it to be in the interest of all parties, and firmly within the public expectation, that information-sharing be permitted for the purpose of detecting breaches of Secondary Pension legislation. Therefore, the Committee is proposing that the legislation is drafted in such a way (which may also require amendments to existing legislation) to allow the aforementioned parties to share information with the enforcement organisation responsible for Secondary Pensions.

17.9. The nature of the enforcement function is such that it will need access to a database of all employers and employees on the island as well as earnings information and access to a list of pension schemes approved for income tax purposes. Because of this, the enforcement function will be added to the remit of the Revenue Service, which in some cases is the only organisation on the island to have a database of this information. This is not to say that compliance can be achieved using nothing more than its existing databases. Nor is it to say that the Revenue Service could conduct this work without additional resources. Early bids have already been noted for an additional staff resource. It is expected that multiple additional staff will be required, with a total cost of £100,000 per annum once the scheme is launched.

17.10. The intention is to ensure that compliance will be proportionate and that duplication of data collection should be limited where possible. It is anticipated that compliance reporting would be a duty of the employer not of the scheme administrator/trustees.

17.11. It is expected that the Revenue Service would have the power to compel the production of relevant information on demand. This is likely to include periodic reporting, and may be incorporated wholly or partly into existing reporting mechanisms. The Committee is confident that the Revenue Service can establish a proportionate and effective system of compliance monitoring.

18. Alderney and Sark

18.1. The 2016 policy letter suggested that Secondary Pensions proposals would cover Guernsey (including Herm and Jethou) and Alderney. These proposals have been designed with that aim in mind. However, it is a matter for the States of Alderney to determine whether or not these provisions will apply in that Island. The Your Island Pension Administrator has indicated that they would welcome Alderney's inclusion and, while they will have no permanent offices there, their Guernsey staff would make regular visits, as required.

18.2. During the drafting of this policy letter, States of Alderney representatives were consulted on the proposals. Should the propositions in this policy letter be approved, a proposal to extend the scheme to Alderney may be debated in the States of Alderney in the near future.

18.3. While auto-enrolment provisions will not apply to Sark, the extension of any form of Secondary Pensions Scheme would be a matter for their government to determine.

18.4. Although auto-enrolment may not apply, Your Island Pension will be open to Alderney and Sark residents wishing to make voluntary contributions unrelated to employment. Opening the scheme to the other Islands of the Bailiwick comes at no cost to Guernsey, but is likely to be of significant benefit to both Alderney and Sark residents.

19. Possible exemptions

19.1. Following a successful amendment to the 2016 policy letter, the Committee was directed to consider "the possibility of temporary exemptions for business start-ups". Having carefully considered the matter, the Committee is not proposing the introduction of such an exemption.

19.2. In the course of coming to that conclusion, the Committee had regard to three significant factors:

- The financial impact on start-ups
- The operational impact on start-ups
- The impact on the policy outcomes

19.3. The financial impact on start-ups may indeed be of significance. However, as a start-up, the employer will be in a good position to factor this cost in when determining the overall remuneration package and to introduce appropriate processes when setting out payroll processes. The Committee has been mindful of limiting the cost to employers, which is why YIP has been designed to offer a service which is administratively simple and will be free to employers (apart from their statutory contributions).

19.4. In practice, the Committee considers that the operational impact on start-ups will not be excessive. Again, the Committee, mindful of the need to keep processes simple for all employers, has selected an administrator for YIP whose business model was founded on the idea that auto-enrolment should be made as simple as possible for small businesses. Enrolling to the scheme will be a relatively simple and user-friendly process. Anti-money laundering procedures will be robust, but automated checking and digital submission of documents should keep things efficient. Once enrolled, payroll information can be uploaded very easily, and using a payroll software compatible with the administrator's platform can reduce this to just a few clicks. Start-ups are likely to be in the best position to take advantage of this if they so wish. The Committee also expects it to be likely that the existing pensions market will make simple auto-enrolment products available which suit the needs of small and growing businesses. It is also worth noting that, as with all other employers, start-ups can take advantage of the three month deferral to take some time to sort out arrangements after first hiring someone.

19.5. The Committee considers that allowing an exception for start-ups would be damaging to the overall policy objective. The number affected may be comparatively small and the individuals may only be affected for a short time, but the impact of the loss of one year's contributions could be quite significant, particularly in the early part of a person’s working life when there is the potential for years and years of cumulative investment returns. While the introduction of this policy is projected to improve retirement income significantly, in many cases it will still not be enough to deliver a target replacement rate. Any exception to the policy needs to be carefully considered, and in this case the Committee is not convinced that the benefits outweigh the negative impact on pension saving.

19.6. The Committee also had concerns that it would be difficult to apply a fair and consistent policy to start-ups. The stereotype of a start-up is a sole entrepreneur, putting everything they have on the line to set up a business.

However many start-ups are new businesses but owned by individuals with considerable wealth and expertise running a business, and capable of injecting the necessary capital to start the business. In some cases a start-up may be more able to afford these pension contributions than many well established businesses. The Committee does not believe that there is an easy and proportionate way to differentiate between these two.

19.7. The Committee has concluded that rather than excluding start-ups, it is better to mitigate the impact on them as much as possible, by limiting fees and ensuring that the administrative burden is minimised.

19.8. The Committee also considered whether there should be an exception for 'smaller' employers. Ultimately it was determined that this would not be appropriate either. Guernsey's labour market, more so than other jurisdictions, is reliant on so called 'micro employers'[16] with fewer than ten employees. Exempting micro employers would exempt about three quarters of all employers in Guernsey. Even exempting employers with just one employee would exclude about one quarter of employers. Although these single person employers may only employ about 2% of the employed population, an exception for 2% of the employed population at any one time would be unacceptable and have a serious effect on saving. The implication of such a blunt exception would also be unfair: an employer who employed two people part-time in lieu of one person full-time would be unfairly impacted. This is not something the Committee would wish to happen at a time when the community should be encouraging a diversity of working arrangements to maximise workforce participation.

19.9. If an exemption were to be given to be given to 'smaller' employers, it would have to be a complex one, taking into account hours worked, and probably financial considerations as well. In order to apply an exemption fairly, a series of complex rules would need to apply. The implications of these proposals are already challenging enough to understand, implement, and enforce. A further complication, which has the effect of reducing saving cannot be justified.

20. Cost

20.1. The costs to the States associated with the introduction of this scheme can be divided into three categories; income foregone, additional expenditure, and loans. In the case of the first two categories, costs are likely to increase as the statutory minimum contribution rate increases.

[16] Different definitions of 'micro employers' are used in different contexts, in this case we are referring to employers with fewer than ten employees. In some cases a lower number is used and/or financial criteria are applied.

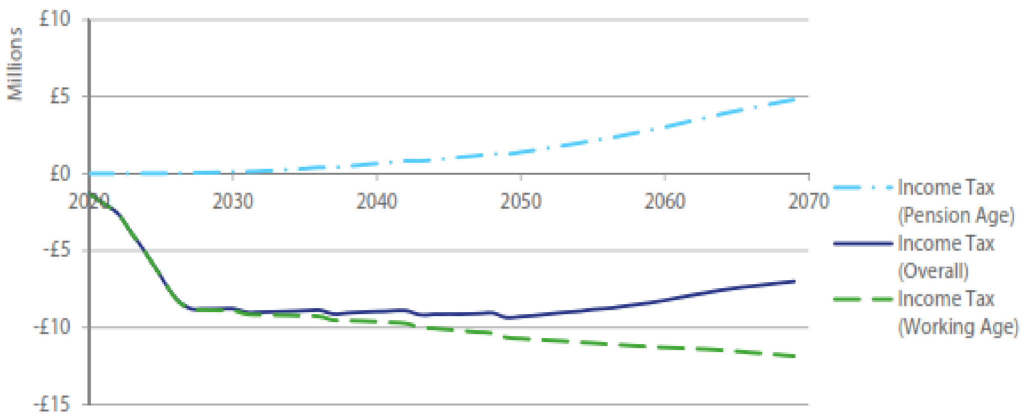
<u>Income foregone</u>

20.2. Projections regarding income foregone are based on a BWCI economic impact assessment which is appended to this policy letter. There are two notable impacts on these figures. The first is that they are based on 2017 figures. The second is that they are based on the policy as originally envisioned, which means the numbers assume the self-employed and non-employed being automatically enrolled (this affects some but not all of the figures).

20.3. Income Tax relief is generally available on contributions to approved pension schemes, subject to certain limits and restrictions. As more people become enrolled in pension schemes the number of people benefiting from this tax allowance will increase, and there will be a consequential reduction in income tax receipts. As the projections factored in self-employed and non-employed people, there is likely to be an overestimation included in these figures, but the overall cost is likely to remain similar, just spread over a longer period, assuming that provisions for the self- employed and non–employed will follow in due course.

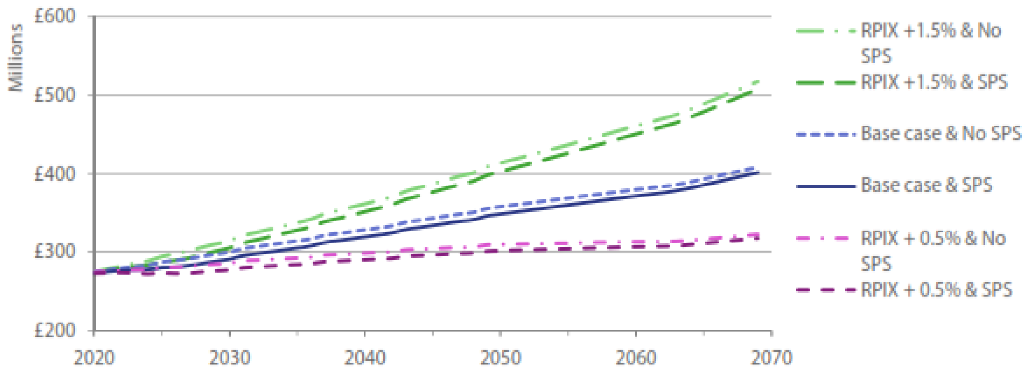
20.4. During the first year that the Secondary Pensions scheme is active it is expected that there will be a £1.3m reduction in Income Tax receipts when compared to the revenue that would have been generated had the policy not been introduced. Once the scheme is fully operational the reduction is expected to be £8.8m. It should be noted that over a long term horizon the effects of this reduction will start to reduce, as pensions are taxable once drawn down. The graph overleaf is extracted from the economic impact assessment and shows the long term projected effect on income tax receipts.

Graph 2 – Projected marginal impact on income tax receipts



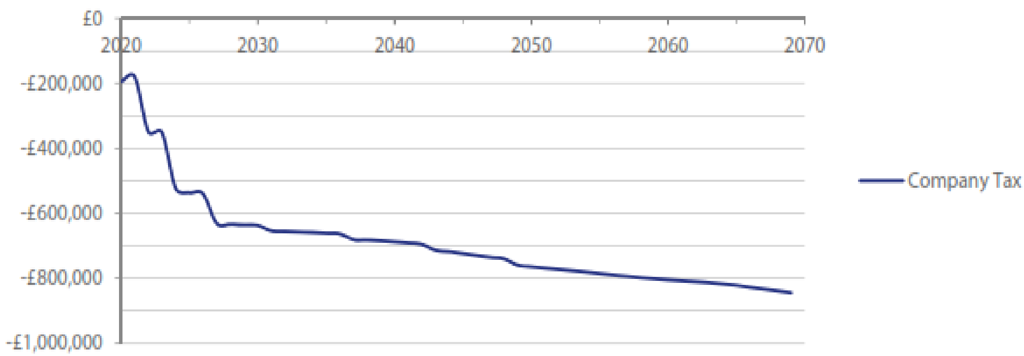
Graph 3 below shows the impact of the introduction of secondary pensions in the context of expected income tax revenue. It demonstrates that while there will be a negative impact on revenue, the effect is relatively stable and while this impact should not be dismissed as insignificant, in context the difference is much less than the impact of other factors over a long term.

Graph 3 – Projected impact on total income tax receipts, including variants for differing economic forecasts



20.5. Company tax receipts will also be affected but to a lesser extent. This is because profits are expected to decrease slightly as a result of the additional expense incurred by the introduction of auto-enrolment. The impact in the first year of operation is expected to be approximately £200k. The impact once the 10% minimum contribution rate is in place is projected to be £630k. Graph 4 below shows the long-term effect.

Graph 4 – Projected marginal impact on corporate tax receipts

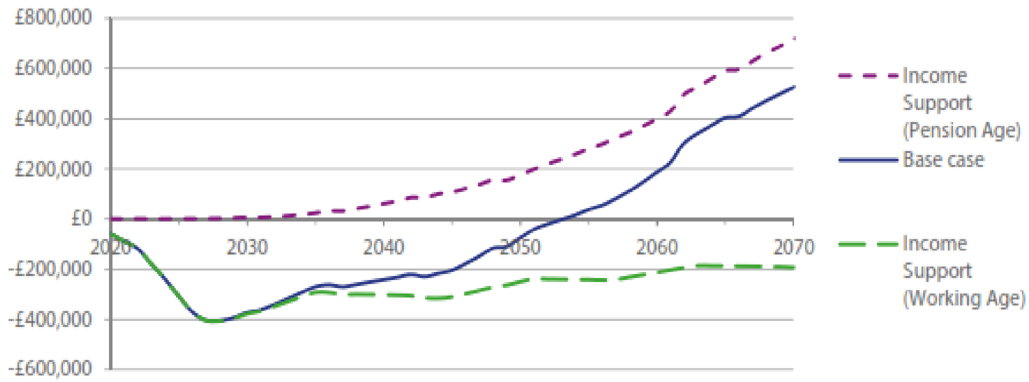


20.6. The cumulative effect of these two figures suggest that once the Secondary Pensions scheme is implemented and achieves the combined 10% statutory minimum contribution, the overall expected decline in States revenue would be £9.4m for that year, compared to what it would have been had the policy not been adopted. This figure will reduce over time as pensions are drawn down and become subject to income tax.

Additional costs

20.7. As noted in section 8.7, initially there will be an increased cost to Income Support, because pension contributions are wholly or partly disregarded from the resources of a claimant. This means that in most cases an increase in benefit will offset the pension payments. In the first year of operation it is expected that the additional expenditure will be in the region of £100k, rising to £400k once the scheme reaches the combined 10% statutory minimum contribution. This increased cost will continue for some time but will ultimately reduce year on year. This is because the increase in retirement income for so many people will reduce later life dependency on income support. Ultimately the expense to income support should become net neutral around 2055 and by the end of the projected period (2072) income support expenditure is projected to be £500k lower than it would otherwise have been. Graph 5 overleaf illustrates this.

Graph 5 – Projected marginal impact on income support expenditure



20.8. The States as an employer is not fully compliant with these proposals as they currently stand. There are a number of staff who are not eligible to become a member of the public servants' pension scheme. This includes staff on temporary contracts of less than one year in duration and bank staff.

20.9. Given that pension matters for the States as an employer are not within the mandate of the Committee *for* Employment & Social Security, the Committee suggests that the best way to address this matter is for the Policy & Resources Committee to make appropriate arrangements and to report back to the States in due course, if necessary.

20.10. Although it will be a matter for the Policy & Resources Committee to determine in due course, it appears likely that the most appropriate solution will be to identify or establish an alternative pension scheme for those not currently eligible to be enrolled in the Public Servants' Pension Scheme. Should there be any proposed change that might impact on current members of the Public Servant's Pension Scheme, appropriate consultation would need to take place.

States of Guernsey loan to the Administrator

20.11. The cost of establishing a pension can be significant, particularly if an assets-under-management, annual management charge (AMC) is used. The problem is exacerbated in this case due to the phased introduction of the statutory minimum contributions. In order to generate revenue and cover early costs, many providers choose to issue a contribution charge, fixed annual fee, or sign up cost. The Committee wishes to avoid these charges in respect of the universally-available "Your Island Pension" (YIP) scheme, as they can have a significant and disproportionate effect on savers with low incomes. However, avoiding such charges means that YIP is unlikely to be self-funding for some time, although the fund size is projected to grow quite quickly once the full statutory minimum contribution rate is reached.

20.12. The proposal from Smart Pension Ltd is predicated on an assets-under-management charge and a loan of £800k. The loan is required because costs will be incurred during the development phase, with no active revenue stream to replace them. The loan would be interest-bearing and paid in tranches upon completion of agreed milestones in the development phase. The loan would be repaid within two years of the launch of YIP. This is before Smart expects to make any profit from the scheme and as a result represents a sharing of the commercial risk.

20.13. Having considered a number of other possible funding models the Committee believes that this proposal represents the best value for the States and for the eventual scheme users. The Committee proposes that authority be given for the Policy & Resources Committee, acting on behalf of the States, to make a loan facility of not more than £800k available to Smart Pension Ltd. It should be noted that this loan would be unsecured, and that therefore the States would be taking more risk than it otherwise might. Having regard to the risk it was considered that this still represented the best and most prudent use of public funds in this matter, particularly because the unsecured loan was a direct alternative to a non-refundable grant.

20.14. Given that the proposed loan to Smart would be unsecured, there is an inherent risk of non-repayment. The Committee has undergone significant financial due diligence and while the risk of default can never be totally eliminated, the Committee considers it to be acceptable in this instance, particularly because of Smart Pension Ltd's very robust business planning and the company's financial backing from household name companies.

Funding the trustee and support services

20.15. The funding of governance arrangements for the "Your Island Pension" (YIP) scheme is a complex matter. The Trustee will incur significant expense, of which the Governing Board's remuneration will only comprise a small percentage. There will be additional costs relating to procuring investment advice, auditors, trustee support services, paying licence fees and so forth. It is projected that the total average annual operating cost of the Trustee will be approximately £400,000.

20.16. It is proposed that members of the Governing Board are paid in line with the UK average remuneration for Trustees of similarly sized funds. The most significant costs are expected from the retention of an independent investment advisor and the procurement of Trustee support services. The independent investment advisor is a variable cost as detailed review of the investment funds does not need to take place every year, although investment performance of the funds does of course require continuous monitoring and reporting. Once the groundwork is laid in Year 1, the investment advisor costs are generally lower until the year of contract expiry. The cost of Trustee administration services is more of an unknown as this specific service has not been tendered for previously by the Committee. However, the Committee believes that this is a service which should receive significant interest from the market when tendered.

20.17. While governance comes at a significant expense, it is necessary to ensure robust and proper governance of what will ultimately be one of the largest pension schemes in the Bailiwick. As a States-facilitated scheme it must also hold itself to the very highest standards of governance and ensure it leads the way in respect of good practice.

20.18. A proportion of the AMC charge for YIP will be paid to the Trustee. Bearing in mind that the charge needs to remain at a relatively low level to ensure it is appropriate for low-income savers, the Trustee's share is unlikely to generate more than a few thousand pounds in the first year. However, that same percentage charge should generate a revenue approaching £1m by year 15 of operation. This means that a reasonable charge will not meet expenditure in the early years, but will generate a substantial surplus for the Trustee in later years. The Committee propose that the States make an annual loan to the Trustee to account for the difference in their income and expenditure in the early years of YIP. If this proposal were to be approved, it is likely that the Trustee would require a gradually-reducing annual loan until approximately Year 10 of operation, after which it should become self-sustaining.

Economic impact

20.19. The implementation of the Secondary Pensions Scheme will have an impact on the economy. The increased expenditure from businesses and increased public saving will limit growth and effectively remove funds from the economy. Once contribution levels reach their maximum levels, consumption is expected to reduce by £30m, equivalent to less than 1% of GDP. The proposal to phase in contributions over a number of years means that this is likely to manifest itself as a suppression of growth until such time the economy has adjusted to new levels of savings. In the very long term, as pensioner incomes are increased, the effect on GDP may be at least partially reversed by an increase in pensioner income and consequent consumption.

20.20. It is also likely that there will be some impact on the labour market. Increased costs may result in some employers needing to take cost-cutting measures such as employment or wage freezes. However, the Committee does not expect the impact on unemployment levels to be material: indeed, since introducing their auto-enrolment scheme, UK unemployment levels have fallen. Guernsey has an enviably low rate of unemployment rate, holding at around 1% over the last decade.

20.21. Employers are likely to consider the additional pension benefits offered as part of the employee's remuneration package and take this into consideration when reviewing pay. As a result, employees may see their take home pay increase at a lower rate than it might otherwise. However there is no reason why the combined value of their pay and benefits should not grow at the same rate as it would have were the scheme not to be introduced.

20.22. The costs of introducing Secondary Pensions are varied and far from insignificant. However securing an adequate retirement income is vital. If The States do not encourage additional savings now, the price will be paid in future through increased income support expenditure and through deterioration in social wellbeing. The Committee firmly believes that it is vital that the action is taken now.

20.23. A detailed breakdown of the economic impact of the proposal is contained in the independently-produced economic impact report appended to this policy letter.

Summary

20.24. The table below summarises the expected total revenue impact to the States up to the fifth year of the operation of the scheme. This includes both costs and revenue forgone.

Table 2 – Summary of total projected revenue impact to the States

	Y-2 (2020)	Y-1 (2021)	Y1 (2022)	Y2 (2023)	Y3 (2024)	Y4 (2025)	Y5 (2026)
Loan to administrator	£600k	£200k	£0	-£930k	£0	£0	£0
Loan to trustee	£200k	£400k	£400k	£400k	£390k	£380k	£360k
Lost income tax revenue	£0	£0*	£1.3m	£2.0m	£2.6m	£3.9m	£5.2m
Lost company tax	£0	£0*	£200k	£180k	£340k	£340k	£500k
Income support	£0	£0*	£120k	£180k	£240k	£355k	£470k
Staffing and other costs	£50k	£100k	£100k	£100k	£100k	£100k	£100k
Total revenue impact	**£850k**	**£700k**	**£2.1m**	**£1.9m**	**£3.7m**	**£5.1m**	**£6.6m**

* These figures do not take into account the likelihood that some employers will comply with auto-enrolment requirements before the duties officially commence. The financial impact of such action ahead of the launch is difficult to forecast.

21. Consultation and engagement

21.1. Through the development of these proposals, the Committee has consulted with the Policy & Resources Committee and a member of that Committee has also been a members of the project board. The Committee has also consulted with the Committee for Economic Development and has engaged with business representatives.

21.2. The Committee has consulted with the Law Officers regarding the legal implications of and legislative drafting requirements resulting from, the propositions set out in this policy letter. The Law Officers have made clear to the Committee that the proposed timetable is very optimistic for a project of this size and complexity, and that there is a risk that it will not be met.

22. Conclusion

22.1. In 2016, the States gave overwhelming support in-principle for the development of a secondary pensions system for Guernsey, based on the auto-enrolment model that had been introduced in the UK with notable success.

22.2. Throughout this political term, the Committee has developed the outline of the scheme, approved in 2016, into a detailed specification sufficient for the drafting of legislation. In so doing, the Committee, through a rigorous tender process, has selected Smart Pension Ltd as a suitable administrator scheme.

22.3. In developing the detailed proposals, the Committee has remained absolutely convinced of the need for this type of easily accessible, relatively low-cost pension provision in Guernsey, to add to the valuable, but limited, provision of the States' pension.

22.4. The development of a Secondary Pensions system appears in the Policy & Resource Plan as a priority policy area for the States. The propositions associated with this policy letter address that priority are and fully accord with the Committee's purpose:

> "To foster a compassionate, cohesive and aspirational society in which responsibility is encouraged and individuals and families are supported through schemes of social protection relating to pensions, other contributory and non-contributory benefits, social housing, employment, re-employment and labour market legislation."

22.5. In accordance with Rule 4(4) of the Rules of Procedure of the States of Deliberation and their Committees, it is noted that the propositions are supported by all Committee members.

Yours faithfully

M K Le Clerc
President

S L Langlois
Vice-President

J A B Gollop
E A McSwiggan
P J Roffey

M J Brown
Non-States Member

A R Le Lièvre
Non-States Member

APPENDIX A

23. Proposed timescale at which an employer's auto-enrolment obligations will come into force

23.1. Table 3 below shows the Committee's proposed timescale for when an employer will become obligated to enrol their employees into the Secondary Pensions Scheme. The dates vary according to the size of the employer.

Table 3 – Commencement dates for employers' auto-enrolment obligations

Duty commencement date	Number of employees as of 1st January 2022
1st January 2022	26+
1st April 2022	11-25
1st July 2022	6-10
1st January 2023	2-5
1st April 2023	1

APPENDIX B

24. Glossary

24.1. **“Annuity”** – In exchange for all or part of a person’s accumulated retirement savings, an annuity provider, will provide the purchaser or member with a fixed regular income throughout their retirement. A purchased annuity provides a degree of certainty that, come what may, the purchaser will not run out of funds in retirement.

24.2. **“Defined benefit scheme”** – This is pension where a member will receive a fixed periodic payment which is guaranteed on retirement (subject to scheme funding levels and/or the employer’s ability to fund a scheme in deficit). The amount of the payment is usually dependant on salary and length of service. In other words, when you retire you know how much you will receive every week or month for the rest of your life, irrespective of how long that may be. There are no individual funds, only one collective fund from which the cost of paying out the benefits must be met. These schemes are becoming less common, remaining primarily in public bodies.

24.3. **“Defined contribution scheme”** – This is a pension scheme where money is paid in by, or on behalf of, the scheme member. It accumulates into a personal pot of money which can be drawn from periodically during retirement. The amount available at retirement is dependent on how much is contributed, investment returns, and fees. These represent the vast majority of pension schemes.

24.4. **“First pillar pension”** – A pension provided by a government, available to residents or contributors in that jurisdiction. Eligibility can be based on a variety of criteria, which may or may not be means tested.

24.5. **“KPIs”** – Key performance indicators.

24.6. **“Occupational Pension/Second Pillar Pension/Secondary Pension”** – savings for retirement through a scheme made available by an individual’s employer. Typically both employer and employee contribute to these.

24.7. **“Private Pension/Third Pillar Pension”** – savings for retirement made into a personal pension scheme and paid into by the individual.

24.8. **”Retirement Annuity Trust Scheme (RATS)”** – A specific type of pension scheme available in Guernsey; these are very common and are offered by a wide variety of providers. The structure of RATS can vary quite significantly, from ‘off-the shelf’ standard packages to bespoke products.

24.9. **"Retirement Income"** – The combination of income which a person can obtain from the first, second, and third pillar pensions which they can access.

24.10. **"States pension"** – the new name for 'old age pension', is the benefit available through Social Security, which is funded by contributions to the Guernsey Insurance Fund. This is an example of a first pillar pension.

24.11. **"Workplace pension"** – A workplace pension in the context of this policy letter can be either an occupational pension or a private pension scheme. This is a technical distinction. A RAT is a private pension arrangement but can be used to meet auto-enrolment obligations in some circumstances. So a workplace pension could mean either a private or occupational pension which is capable of meeting auto-enrolment obligations.

24.12. **"YIP/Your Island Pension"** – See part 3, sections 12-16.

APPENDIX C

25. Information about Smart Pension Ltd

25.1. Smart Pension Ltd is a UK based company, with their principal office based in London and other UK offices based in Poole and Brighton. They also have six other offices worldwide. Its core business is an authorised UK master trust, specialising in meeting the UK's auto-enrolment requirements for smaller employers. Smart Pension Ltd was established in 2014. At the time of writing, their UK master trust has over 61,000 employers, 449,000 members, and £450million in assets under management. The master trust has received Master Trust Assurance Framework (MAF) Accreditation, jointly created by the Pensions Regulator in the UK and the Institute of Chartered Accountants in England and Wales (ICAEW). The framework allows the trustees to obtain independent assurance that the controls that they have established around their key streams and processes are in place and effective.

25.2. More importantly, the scheme, in line with the UK's new authorisation regime, has been awarded Master Trust Authorisation by the Pensions Regulator. This new licensing regime has significantly increased the standards required to operate a Master Trust in the UK. All Master Trusts needed to apply for authorisation from 1st October 2018, in order to continue to operate and it is expected that in excess of half of the market operators will exit the market either voluntarily or by failure to obtain authorisation.

25.3. Although a relatively new company, Smart Pension Ltd is making significant progress in the UK pension industry, having won multiple industry accolades. This includes:

- DC Master Trust of the Year, DC Innovation of the year, and Retirement Innovation of the year – 2019 UK Pensions Awards
- Technology Services of the Year – 2019 Financial Times Pensions and Investments Provider Awards
- European Pension Fund of the Year – 2018 European Pensions Awards

25.4. Smart Pension Ltd is also expanding their pension platform services into other markets, largely on a partnership basis with existing businesses in the respective jurisdictions. Recently they have signed agreements to enter into markets within Ireland and the United Arab Emirates to provide defined contribution platform services.

25.5. Smart Pension Ltd uses a proprietary platform which offers an extremely user-friendly experience. This allows members to view their account online, through a website and mobile app. Access to the mobile app can be controlled by fingerprint recognition for an added level of security. It is also possible to access some features using a smart speaker such as Amazon Echo. Smart Pension Ltd would develop a Your Island Pension website and app based on their existing platform. This would be white-labelled so that it could be offered with YIP branding. Using the online platform, members would be able to adjust the percentage of their salary which is deducted from their wages and contributed to the fund, and select their preferred investment approach from schemes approved by the Trustee. Smart Pension Ltd is also developing tools to encourage people to engage with their pension. It is expected that these tools will be available to scheme members, and will help them to better understand their pension and their saving needs.

25.6. With its proprietary platform, Smart Pension Ltd is well suited to deliver the administration of this scheme. Although Your Island Pension is intended to represent a competitive offering, and will be open to any employer who wishes to use it, it is recognised that a great deal of its business will be higher volume and lower value from employers who may not be able to access an affordable service elsewhere. By offering a digital solution and a highly automated process, Smart Pension Ltd is able to deliver a service that can cope with scale, even with comparatively low value contributions.

25.7. Because the company was only founded in 2014, and is on a rapid upward growth curve, the Committee conducted extensive due diligence on the company in relation to its long term financial viability. Smart Pension Ltd has financial backing from Legal & General and JP Morgan, both of whom have a substantial ownership interest. Smart's core business as a UK master trust appears to be viable as a standalone business, and the Committee is confident that Smart has adequate plans and procedures in place to ensure that their plans for growth would not jeopardise their viability. Based on this due diligence, the Committee is satisfied that the company is a stable and reliable partner to deliver this service.

25.8. Smart Pension Ltd has come under scrutiny from two regulators. Firstly, it received a fine from the Pensions Regulator for failing to promptly report employers who were not making the required minimum payments into their employees' accounts. Despite this fine, Smart Pension Ltd retained their Master Trust Assurance status awarded by the same regulator, which indicates that they are a high calibre provider. Smart worked with the regulator to improve its procedures which are now robust. Secondly, Smart Pension Ltd has received three challenges from the advertising standards agency over direct marketing letters sent to employers between 2016 and 2018. One of these challenges was overturned on appeal. The project board reviewed this regulatory action and was satisfied that Smart had responded appropriately, and that the breaches were comparatively minor oversights which did not amount to disregard for the law and proper procedures.

APPENDIX D

Secondary Pension Scheme for Guernsey & Alderney

Scheme Projections & Economic Impact Assessment

Prepared by BWCI Consulting Limited &
Island Global Research Limited,
part of the BWCI Group.

3 January 2018

CL2422598.2

About the Authors

The report was prepared by BWCI Consulting Limited and Island Global Research Limited, which are part of the BWCI Group.

The authors are Michelle Galpin, Andrew Mountford and Lindsay Jefferies.

Provision of Advice

This report is produced in accordance with the terms of the Client Agreement for Consultancy Services of 24 April 2017 between BWCI Consulting Limited and the States of Guernsey on the understanding that it is solely for the benefit of the addressee. It should be considered in its entirety as parts taken in isolation could be misleading.

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Professional Standards

The actuarial work in section 4 of this report has been prepared in accordance with the applicable Technical Actuarial Standards ("TASs") issued by the Financial Reporting Council:

- TAS 100: Principles for Technical Actuarial Work (version 1.0 effective from 1 July 2017).

The other sections of this report are not actuarial work and therefore fall outside the scope of the TASs.

Executive Summary

Background

1. In February 2016 the States agreed, in principal, to the introduction of a Secondary Pension Scheme[1] in Guernsey and Alderney to be phased in over a 7-year period (2020-2027). The Committee *for* Employment & Social Security (the Committee) are taking this forward.

2. The Secondary Pension Scheme has three objectives:
   - To encourage residents to take greater responsibility for saving for their own retirement;
   - To increase both the number of residents saving in a private pension and the total amount of private pension saving by residents, in order to reduce the likelihood of future generations of retirees falling back on the taxpayer funded benefits;
   - To provide residents with the opportunity to save for their retirement by establishing a well-governed, cost-effective pension saving vehicle (i.e. a States-facilitated Secondary Pension Scheme)

3. The Secondary Pension Scheme will require employers to automatically enrol their employees into either the States-facilitated Secondary Pension Scheme or an alternative qualifying scheme which satisfies some minimum criteria, which are yet to be specified. Eligible self-employed and non-employed people will be automatically enrolled through the Social Security system.

4. The Secondary Pension Scheme is not compulsory for individuals; anyone automatically enrolled into the Secondary Pension Scheme may opt out. However, those who opt out would be re-enrolled at regular intervals.

Scope of Report

5. This report was commissioned by the Committee to:

   i) Project the size of the funds in the States-facilitated Secondary Pension Scheme over the 50-year period 2020-2069

   ii) Consider the economic impact of the introduction of the Secondary Pension Scheme on the various stakeholders:
   - ♦ individuals
   - ♦ households
   - ♦ employers
   - ♦ the government
   - ♦ the economy

A wide range of assumptions are required for the development of the actuarial and economic projection models to address these two issues. Our central results are based on a “base case” set of assumptions. We have also considered the sensitivity of the projections to changes in key assumptions. The assumptions

[1] The Secondary Pension Scheme refers to a system of automatic enrolment into a private pension for residents in Guernsey and Alderney. It is expected that there will be both a States-facilitated secondary pension scheme and alternative qualifying secondary pension schemes.

and the range of sensitivities have been discussed and agreed with the Committee. **See section 3.4 for details of the assumption and Appendix 11 for a detailed discussion of the rationale.**

Size of the States-facilitated Secondary Pension Scheme

6. Under the base case assumptions, the assets of the States-facilitated fund are projected to grow, in real terms, to £1.3 billion (in 2017 terms) over the first 50 years of operation. The Secondary Pension Scheme is expected to reach an "equilibrium" towards the end of the projection period. From that point, the size of the fund is expected to increase in line with the population-related real growth in employment income, which is 1% per annum for the base case assumption.

Impact on individuals

7. No-one already receiving their States old age pension when the Secondary Pension Scheme is introduced will be directly affected. However, they may be affected indirectly by the impact on the economy, the government or their employer (if they are still in employment). It may make employment of those over pension age more attractive financially to employers since the employer would not need to pay any Secondary Pension Scheme contribution for these employees; this would be broadly a saving of 3.5% of earnings after the phasing in period in respect of any employees over pension age relative to those of working age.

8. The working age population is projected to be 41,500 in 2020. The introduction of the Secondary Pension Scheme is expected to increase the proportion of the working population saving for retirement in a pension scheme from 22% to 61%. Under the base case assumptions 20,200 individuals would be automatically enrolled into the Secondary Pension Scheme in 2020 and it is estimated that 16,200 would remain in the Secondary Pension Scheme, as shown in Figure 1 (**see also section 5.1**).

Figure 1. Membership of Secondary Pensions among working age population (2020)

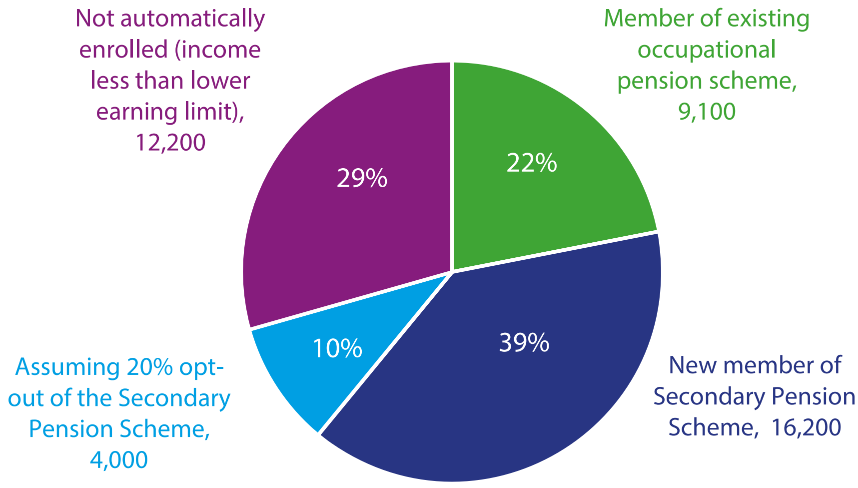
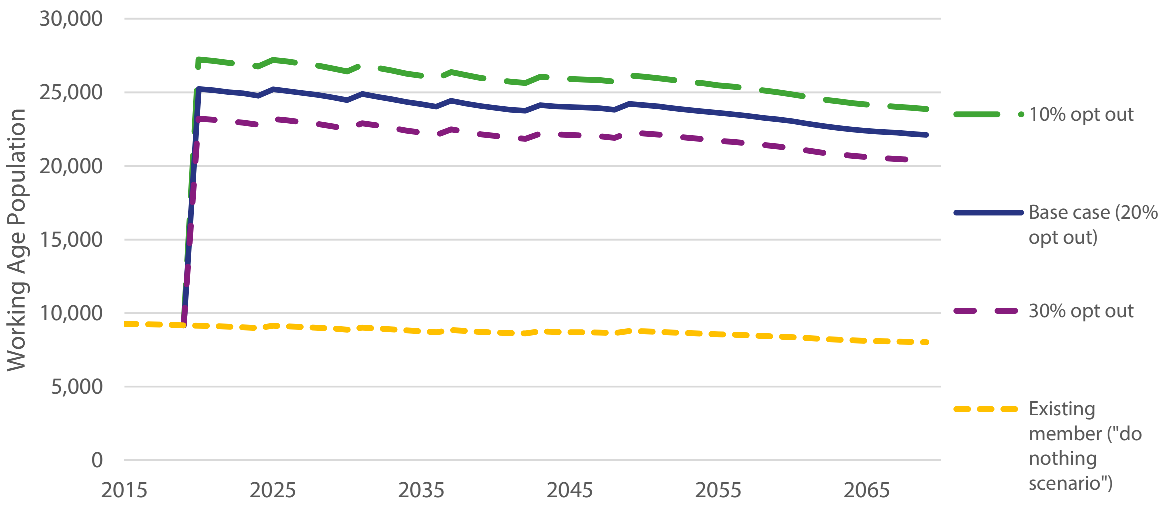


Figure 2 shows the projected membership of the Secondary Pension Scheme among the working age population until 2069 under the base case 20% opt out assumption, and sensitivity on the opt out rate. The projection assumes the proportion of the working age population who are members of the Secondary Pension Scheme remains constant, while the actual working age population is decreasing slightly over this period after allowing for both demographic changes and changes to the States pension age.

Figure 2. Membership of Secondary Pensions among working age population (2020-2069)[2]



At the end of the phasing-in period, employees would be saving 10% of their earnings each year into the Secondary Pension Scheme as follows:

- 6.5% of gross earnings from the individual[3]
- 3.5% of gross earnings from their employer

9. The maximum contribution[4] an employee would make (in 2017 terms), after the end of the phasing-in period, would be £9,014. 20% tax relief is generally available on contributions[5], so for most contributors the reduction in their disposable income would be 80% of the amount contributed, provided that they are paying their contributions from earnings in excess of the personal allowance (£10,000 in 2017).

10. The additional pension that these contributions are expected to provide at retirement is expressed in terms of an individual's level of income immediately before retirement; the income replacement rate. In view of the objective to reduce the likelihood of future pensioners falling back on taxpayer-funded benefits, the impact of the Secondary Pension Scheme is particularly important for those on relatively low earnings. Figure 3 illustrates that for the base case assumptions, the projected income replacement rate for a lower quartile earner increases from just below 40% (the old age pension alone) to up to around 80% for a person who contributes to the Secondary Pension Scheme throughout their

[2] In this and subsequent line charts the order of the categories in the legend corresponds to the order of the series at the end of the time period (i.e. with the highest value listed first).

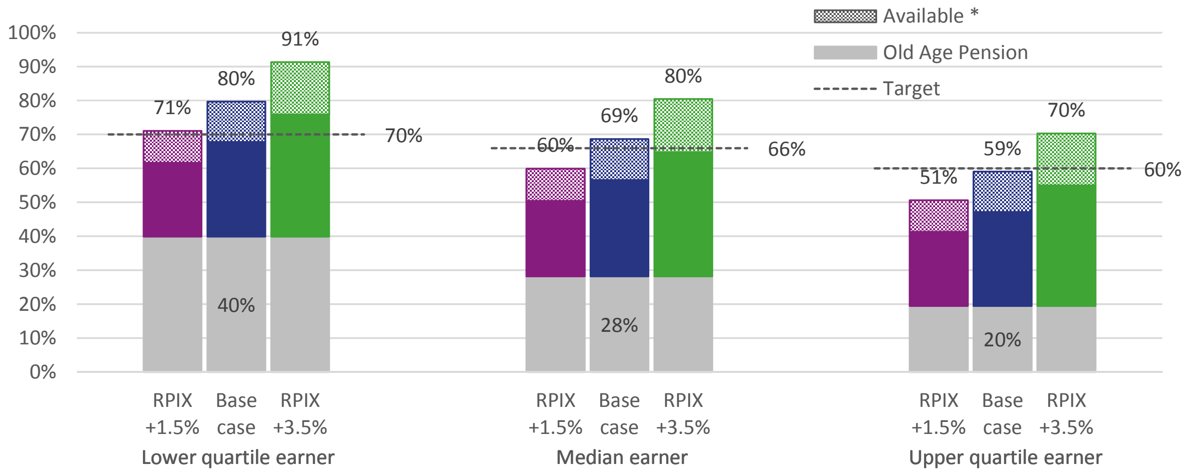
[3] As pension contributions are tax-deductible, individuals contributing to the Secondary Pension Scheme would receive income tax relief up to 1.3% of their gross salary.

[4] For those earning in excess of the Upper Earnings Limit ("UEL") of £138,684 in 2017

[5] The 2018 budget reduced tax relief on pension contributions for those with income in excess of the UEL.

working life from age 25 to age 70 and takes no lump sum **(see also Section 5.2.3).** The chart shows the impact of members taking lump sums from their Secondary Pension Scheme. An additional amount is shown as available (dotted area) which can be accessed by taking less than the maximum lump sum of 30% of their Secondary Pension Scheme fund at retirement. The chart also illustrates how the ultimate pension from the Secondary Pension Scheme depends on the investment return achieved on the funds invested.

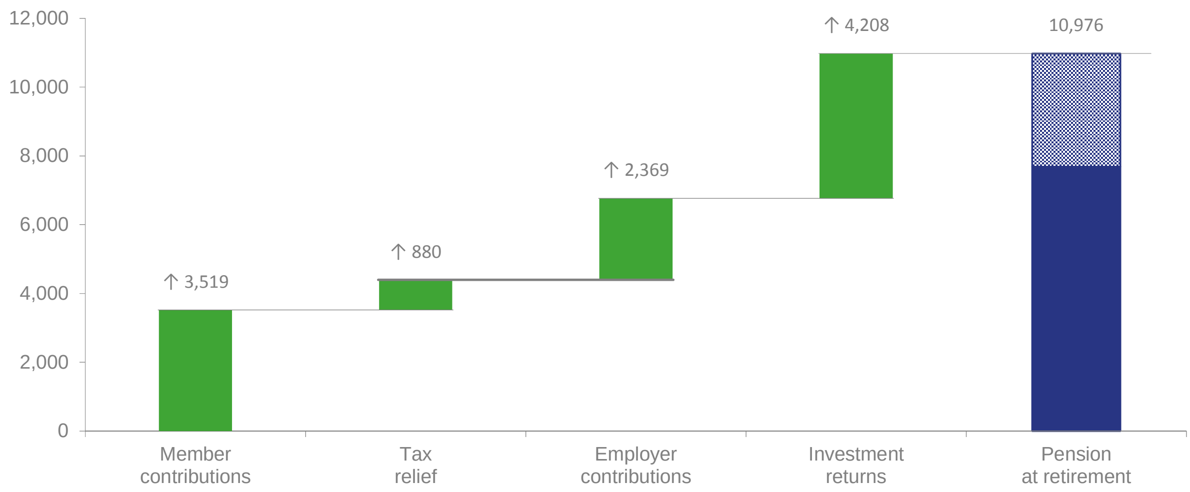
Figure 3. Income replacement rates[6]



** depending on lump sum taken from Secondary Pension*

11. Figure 4 illustrates the pension at retirement for the lower quartile earner for an individual who joins the Secondary Pension Scheme aged 25 (as per the income replacement rate examples in Figure 3). It shows how the different components of the Secondary Pension Scheme are expected to contribute to the size of the pension for the individual, under the base case assumptions.

Figure 4. Source of Secondary Pension Scheme pension for lower quartile earner



[6] The RPIX references in the chart relate to sensitivities on the rate of investment return assumed.

The dotted area shows the amount of pension which would not be available if the maximum lump sum is taken at retirement. If no lump sum is taken then a pension of £10,976 per annum is available to the lower quartile earner. If the maximum lump sum of £64,441 is taken then a pension of £7,683 per annum is expected to be available to the lower quartile earner.

The chart shows that the contributions paid by the member provide a pension of £3,519 per annum at retirement, in terms of current prices. However, because of the positive impact of tax relief, employer contributions and investment returns (net of charges), the cumulative impact is to provide a pension of £10,796 per annum at retirement (if no lump sum is taken). Therefore, the pension that the lower quartile earner is expected to receive at retirement is worth around three times what the member has contributed.

Impact on Households

12. It is important to consider the impact of the Secondary Pension Scheme at a household level, since this is how eligibility for income support[7] will be assessed. Income support is designed to top up a household's income to the level considered necessary to live on. The amount of capital that a household has is also included in the assessment. About 10% of households currently receive supplementary benefit. We have illustrated the impact on a range of different household types. (**See Table 8 and 8 in section 5.3**).

13. Those in the working age population who qualify for income support will not have their income reduced if they contribute to the Secondary Pension Scheme. This is because pension contributions are an allowable deduction for income support purposes. If the payment of Secondary Pension Scheme contributions reduced a household's income, it could result in some additional households becoming eligible for income support. For households which are not receiving income support, there would be a reduction in household income. However, part of the reduction would be offset by a lower income tax liability.

14. Joining the Secondary Pension Scheme is expected to yield additional pension income in retirement for all those who participate. In addition, the extra pension income created as a result of participation in the Secondary Pension Scheme is expected to remove some pensioner households from needing income support. It should be noted that if part of the pension were to be taken in lump sum form it could increase the household's capital and make them ineligible for income support until their capital falls below the income support threshold.

Impact on Employers

15. There are no reliable data on the number of employers who currently offer a pension as part of their remuneration package. There are around 2,500 employers in Guernsey; 69% of them are "micro employers" with up to 5 employees, and 82% of all employers have up to 10 employees.

16. We have estimated that about 7% of employers have an occupational pension scheme. Micro employers are the least likely to offer an occupational pension. Therefore, the vast majority of employers are expected to start to pay pension contributions for their employees for the first time when the Secondary Pension Scheme is introduced. The first-year contributions under the base case assumptions are expected to be around £5 million; this will increase to a projected £19 million (in 2017

[7] Income support is expected to replace supplementary benefit and rent rebate in 2018

terms) by 2027. Thereafter the contributions are expected to increase in line with increases in real earnings: under the base case assumption of real earnings growth of 1%, employer contributions reach £25 million by 2069 (**see Section 6.2.1**).

17. It is difficult to know at this stage how employers will respond in practice. The net impact on their profits may be less than the costs they incur (in contributions and administration expenses) if they chose to take some mitigating action. This could be achieved in a number of different ways; by making changes that reduce the wage bill in real terms, increasing productivity or passing on some of the costs to consumers through increasing prices.

18. The projected impact is greater on the smallest employers because they are less likely to offer an existing pension, and in relation to resources allocated (e.g. staff time or professional advice) to ensure they comply with the new Secondary Pension Scheme legislation. It will be important to ensure that the Secondary Pension Scheme is effectively communicated to employers, easy to understand, and the process of auto-enrolment is straightforward and manageable for the smaller employer. However, only in some instances will the additional resources represent a monetary cost. In other cases, the additional resources required will be staff time that can be absorbed within the existing workload.

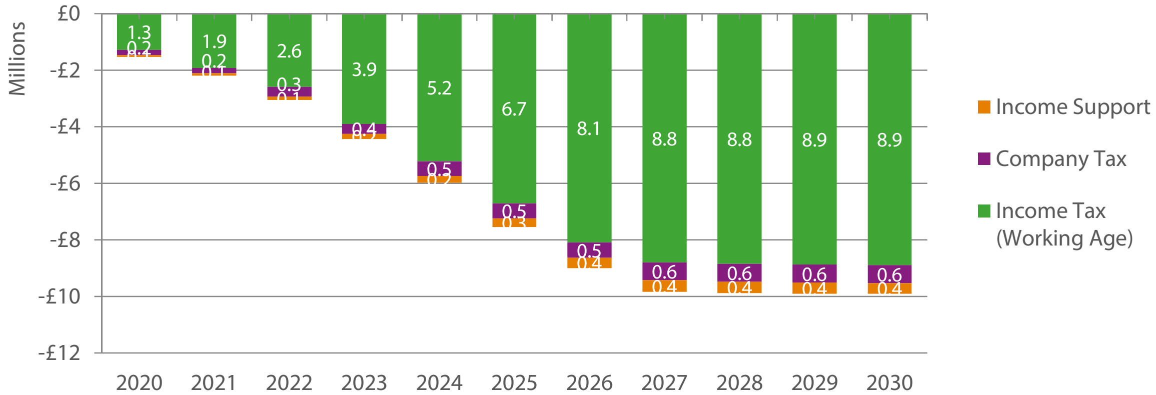
Impact on Government

19. We have estimated the marginal impact on government finances, which compares introducing the Secondary Pension Scheme to "doing nothing". To put the figures in context, in 2016, total general revenue was £407 million. The largest single component was personal income tax, which accounted for 60% of the income (£246 million). Company tax made up a further 12% (£47 million).

20. The Secondary Pension Scheme will impact on the revenue from personal income tax in two ways:
    - Individuals contributing to a secondary pension will typically pay less in income tax since pension contributions are largely tax exempt
    - Individuals receiving income from a secondary pension may pay more in income tax since pension income is included in the income tax assessment.

21. Pensions are long-term savings and therefore it will take a considerable period (around 70 years) until the system reaches a broadly stable state. There will be a reduction in government revenue, largely due to the fall in personal income tax receipts, due to the tax relief on pension contributions (Figure 4). In the first year of the Secondary Pension Scheme, the projected loss in income tax revenue is £1.3 million. By 2027, when the employee contribution rate reaches 6.5%, the projected reduction in income tax revenue is £8.8 million (Figure 5). There will also be a small increase in the amount paid in income support and a fall in company tax revenue, since pension contributions are a deductible expense. The total projected impact on the government budget in 2027 is estimated to be a £9.8 million reduction (in 2017 terms). **See Section 7 for further details.**

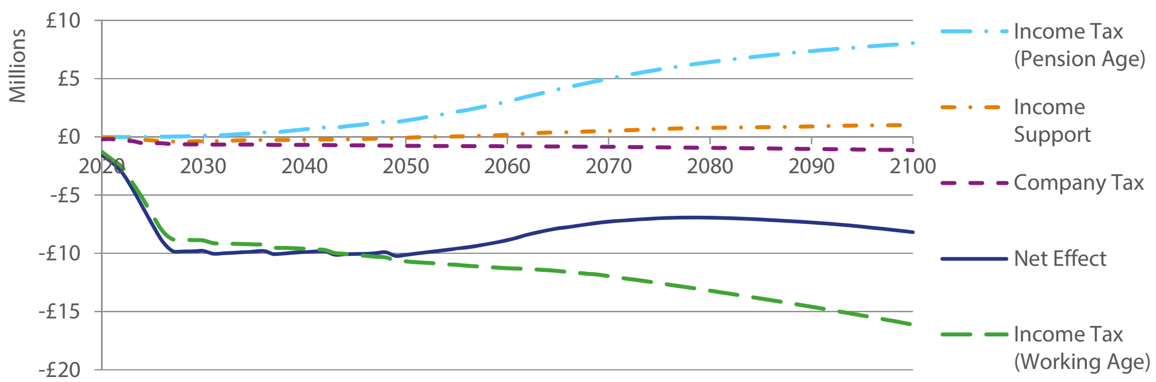
Figure 5. Marginal impact on government budget in the short-term (2020-2030)



22. In monetary terms, the magnitude of the fiscal impact reduces slightly over the medium-term but ultimately the net effect of the Secondary Pension Scheme is a sustained and increasing loss in government revenue compared to the "doing nothing" scenario. The net effect is shown as the dark blue line on Figure 6.

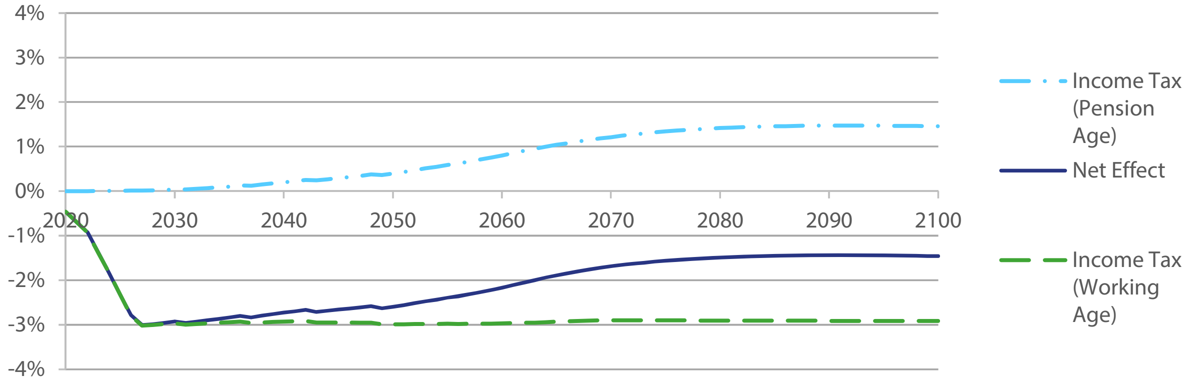
23. Figure 6 also illustrates the interaction of the different components. As shown, the loss in income tax revenue from the working age population increases over time. This loss is in part offset, as the additional pension income generated by the Secondary Pension Scheme will increase the taxable income of those over pension age. Initially this effect is small, as the first recipients of the Secondary Pension Scheme pension will only have contributed to it for part of their career. As contributions are invested for an entire working life, the amount of pension will increase as the Secondary Pension Scheme matures so increasing income tax payments. **See Sections 7.1, 7.5 and 7.6 for further details.**

Figure 6. Marginal impact on government budget in the long-term (2020 to 2100)



24. In the long-term loss in revenue is equivalent to 1.5% of the personal income tax revenue. Figure 6 focuses on personal income tax revenue, showing the loss as a percentage of the total. Relative to the total, the maximum impact over the projection period occurs in 2027 when the contributions reach 6.5%. Thereafter, the impact of the loss lessens, because there will be a growing number of pensioners receiving income from a secondary pension (Figure 6). **See Section 7.1 for further details.**

Figure 7. Marginal impact on personal income tax revenue, as a percentage of total personal income tax revenue



Impact on the Economy

25. Individuals who pay into a secondary pension will see a reduction in their disposable income. This will lead to a reduction in consumer spending in the short-term. However, in time consumption will increase as pensioners who have contributed to the Secondary Pension Scheme will have higher incomes in retirement and would be expected to spend at least some of their additional income.

26. The Secondary Pension Scheme is unlikely to impact on labour participation rates, but may impact on employment and suppress wage growth in the short-term. Firms may look to offset their pension contributions by limiting salary increases and bonuses. However, firms that want to recruit and retain high quality staff will need to offer an attractive remuneration package as the size of the workforce is limited and there are very low unemployment rates. This means firms will face some constraints on their ability to recover the additional wage bill through lower pay awards.

27. In the short-term the Secondary Pension Scheme will put pressure on economic growth, primarily reflecting the reduction in disposable income and consumer spending. Over time the impact will reduce, as the Secondary Pension Scheme will cumulate in an increase in the disposable income, consumption and economic activity of households in retirement. In the long term, the marginal cost of the Secondary Pension Scheme is likely to be small; the assumed rate of real earnings growth would be associated with higher levels of economic growth. The magnitude of the impact is likely to be relatively limited, and the risks will be small compared to other economic challenges, such as the impact of Brexit.

Contents

1. Introduction

1.1 Introduction to the Secondary Pension Scheme

The States of Guernsey is proposing to introduce a new system of automatic enrolment into a private pension for residents of Guernsey and Alderney, known as the Secondary Pension Scheme[8]. As set out in the Billet d'État[9] from 16 February 2016 ("the 2016 Billet"), the policy aims are:

- to encourage residents to take greater responsibility for saving for their own retirement;
- to increase both the number of residents saving in a private pension and the total amount of private pension saving by residents in order to reduce the likelihood of future generations of retirees falling back on taxpayer funded benefits;
- to provide residents with the opportunity to save for their own retirement by establishing a well-governed, cost-effective private pension savings vehicle (i.e. a States-facilitated Secondary Pension Scheme).

It is proposed that eligibility to join a Secondary Pension Scheme will be based on an individual's income and their social insurance classification:

- SI Class 1: Employed individuals will be eligible if their employment income exceeds the lower earnings limit ("LEL")[10]
- SI Class 2: Self-employed individuals will be eligible if either their employment income or their business income exceeds the LEL
- SI Class 3: Non-employed individuals will be eligible if their gross income exceeds the lower income limit ("LIL")[11]

Non-employed individuals under pensionable age, who do not receive an income and do not make social security contributions, would not be automatically enrolled in the Secondary Pension Scheme, but would be able to opt in on a voluntary basis.

Employers will be responsible for enrolling eligible employees; eligible self-employed and non-employed individuals will be enrolled by the Committee *for* Employment & Social Security. Individuals who are automatically enrolled will be able to opt out of the Secondary Pension Scheme, but would be re-enrolled at regular intervals.

Employers will be able to choose to use either a States-facilitated Secondary Pension Scheme or an alternative qualifying scheme. The criteria for alternative qualifying schemes are yet to be finalised. However, occupational pension schemes that are as good or are better than the States-facilitated secondary pension scheme are expected to qualify.[12]

[8] It is expected that there will be both a States-facilitated secondary pension scheme and alternative qualifying secondary pension schemes.

[9] Billet d'Etat Volume III, page 816

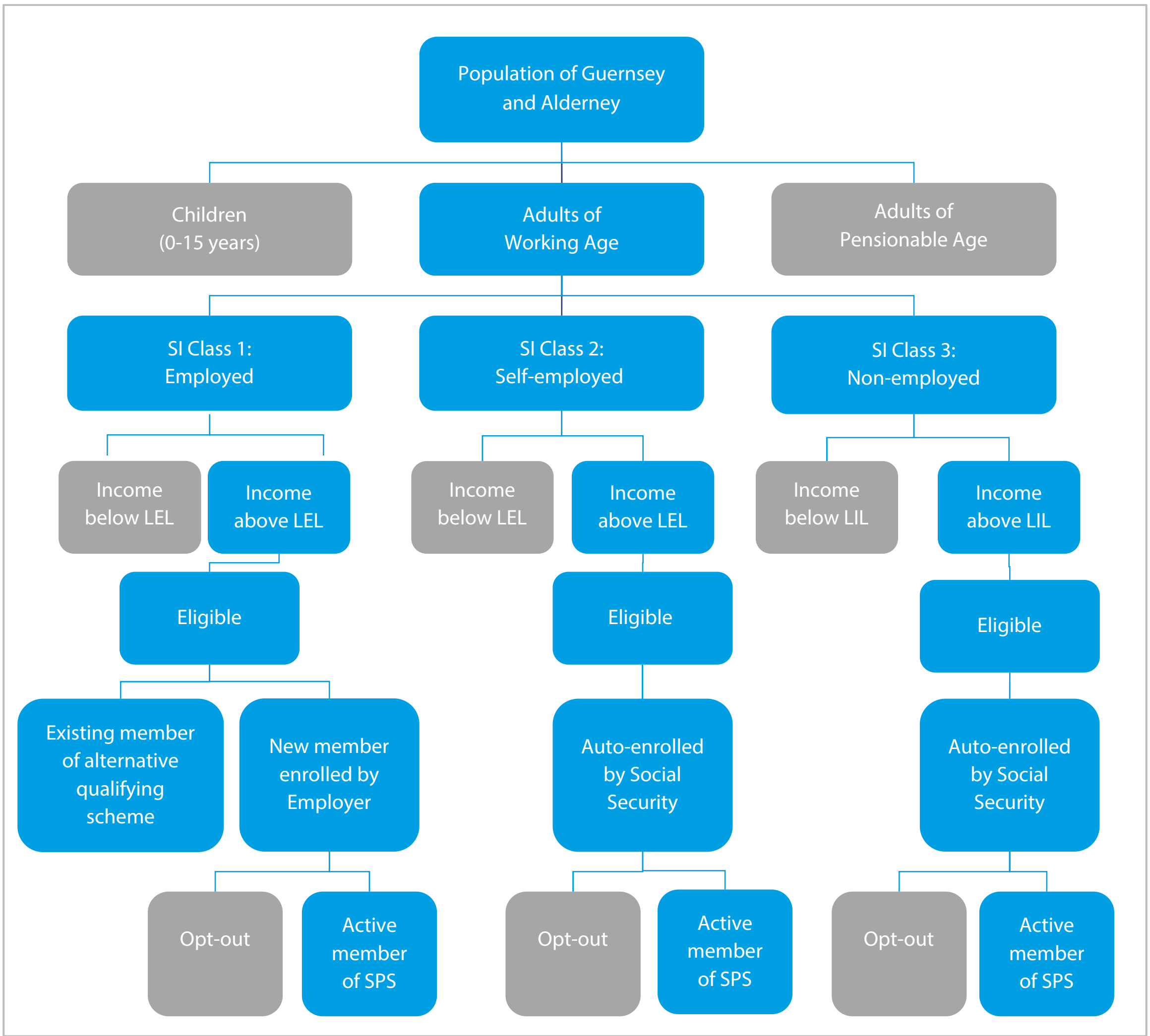
[10] In 2017 the LEL was £6,968 and this value has been used in the modelling. The LEL will be £7,176 in 2018.

[11] In 2017 the LIL was £17,420 and this value has been used in the modelling. The LIL will be £17,940 in 2018.

[12] It is possible some employers may want to change their pension provision in light of the policy change and the introduction of a States-facilitated scheme.

Figure 8 illustrates eligibility for the Secondary Pension Scheme.

Figure 8. Flow chart depicting eligibility, auto-enrolment and participation in the Secondary Pension Scheme



It is proposed that the Secondary Pension Scheme will be introduced over an eight year period, with the proposed statutory minimum contribution rates gradually increasing over this period (Table 1). Individuals will also be able to make additional voluntary contributions or lump-sum investments into the Secondary Pension Scheme.

Table 1. Minimum individual and employer pension contribution rates

	2020	2021	2022	2023	2024	2025	2026	2027 (onwards)
Individual contribution	1%	1.5%	2%	3%	4%	5%	6%	6.5%
Employer contribution	1%	1%	2%	2%	3%	3%	3%	3.5%
Total	2%	2.5%	4%	5%	7%	8%	9%	10%

Source: Billet d'État III 2016 Table 2.

Contributions to the Secondary Pension Scheme will be assessed on an individual's income and depends on their social insurance classification, as described below:

SI Class 1: Employed	Assessed on employment income up to the upper earnings limit ("UEL")[13] (£138,684 in 2017).
SI Class 2: Self-employed individuals	Assessed on i) employment income if employment income exceeds the LEL, and ii) business income if business income exceeds the LEL. Contributions would be based on combined earnings from employment and business income up to the UEL.
SI Class 3: Non-employed	Assessed on gross taxable income less allowance for non-employed[14] (£7,875 in 2017) up to the UEL.

1.2 Estimating the size of States-facilitated Secondary Pension Scheme

The States-facilitated Secondary Pension Scheme will be built up from contributions paid in by individuals and their employers, along with investment returns achieved, less the benefits and expenses paid out. In order to project the future size of the fund, assumptions about each of these are required. The assumptions underlying the projections are set out in Section 3.4, which have been agreed with the Committee *for* Employment & Social Security.

[13] In 2017 the UEL was £138,684 and this value has been used in the modelling. The UEL will be £142,896 in 2018.

[14] In 2017 the allowance was £7,875 and this value has been used in the modelling. The allowance will be £8,110 in 2018.

2. Demographic and Economic Context

2.1 Estimating the Economic Impact

The Secondary Pension Scheme will have an economic impact on individuals and households, employers, government finances, and the economy as a whole. Specifically, the economic impact assessment considers the following effects:

Individuals & Households

- Impact on income of working age individuals who are automatically enrolled in a Secondary Pension Scheme (including income tax paid and effective tax rates)
- Impact on income of pension age individuals who contributed to a Secondary Pension Scheme and receive pension income in retirement, including income replacement rates
- Impact on household income, including eligibility for income support

Employers

- Short- and long-term impact on costs incurred by employers (by sector and size) as they enrol employees into a secondary pension and are required to make an employer contribution

Government Budget

- Marginal impact on income tax revenue
- Marginal impact on company tax revenue
- Net effect on tax revenue, including the implications of changing the tax strategy from EET to TEE
- Marginal impact on government expenditure
- Marginal impact on overall government budget

Economy

- Short- and long-term impact on consumption
- Potential impact on economic growth

2.2 Demographic Profile of Guernsey and Alderney

Guernsey has a population of 62,821 and Alderney has a population of 2,035 (Table 2). A notable difference between the demographic profiles of Guernsey and Alderney is the much higher proportion of the population in Alderney than in Guernsey who are aged 65 and over (35% compared to 19%).

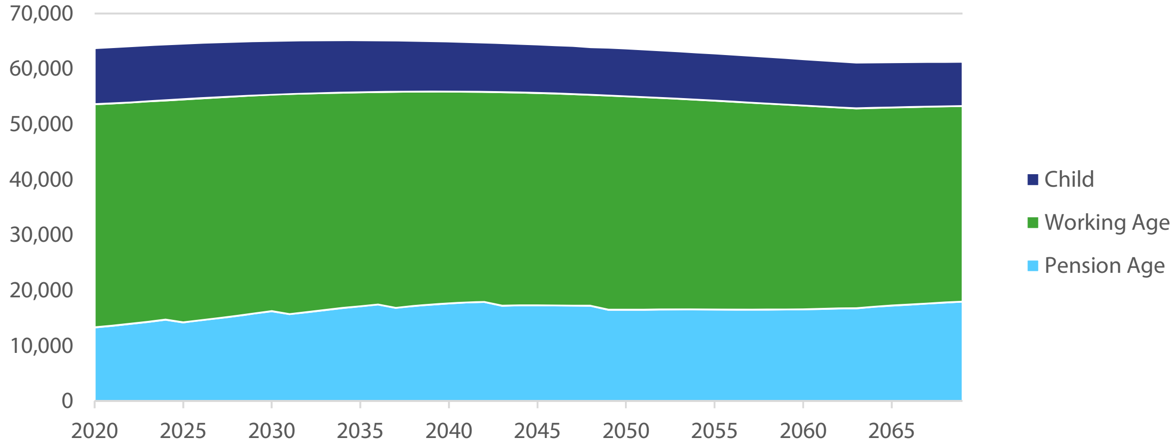
Table 2. Prevailing age distribution of the population in Guernsey and Alderney

	Guernsey (as at 31 September 2016)		**Alderney** (as at 31 March 2016)	
Children 0-15 years	10,242	16%	202	10%
Adults 16-64 years	40,492	65%	1,133	56%
Adults 65 years and over	12,087	19%	700	34%
TOTAL	62,821		2,035	

Source: States of Guernsey (2017). Guernsey Quarterly Population, Employment and Earnings Bulletin. Issue Date 4 August 2017. States of Alderney (2017). Alderney Electronic Census Report 31 March 2016. Population snapshots and trends. Issued on 21 April 2017.

The projected population is expected to be reasonably stable over the next 50 years. However, there are demographic changes resulting in an ageing population. By 2069, it is expected that 29% of Guernsey's population will be aged 70 years or older (i.e. of pension age). The projected changes to the age distribution are shown in Figure 9, and take into account the planned changes to the States pension age.[15]

Figure 9. Population Projection for Guernsey until 2069

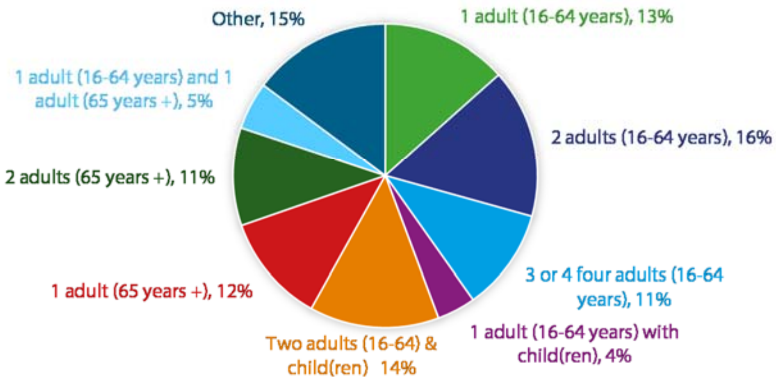


Source data supplied by States of Guernsey.

2.2.1 Household Composition

According to the recent Guernsey Household Income Report most households contain one or two adult members, as shown in Figure 10.[16]

Figure 10. Household Composition in Guernsey



Source: States of Guernsey (2017) Guernsey Household Income Report, which reports on 22,209 households in Guernsey as at 31 December 2014.

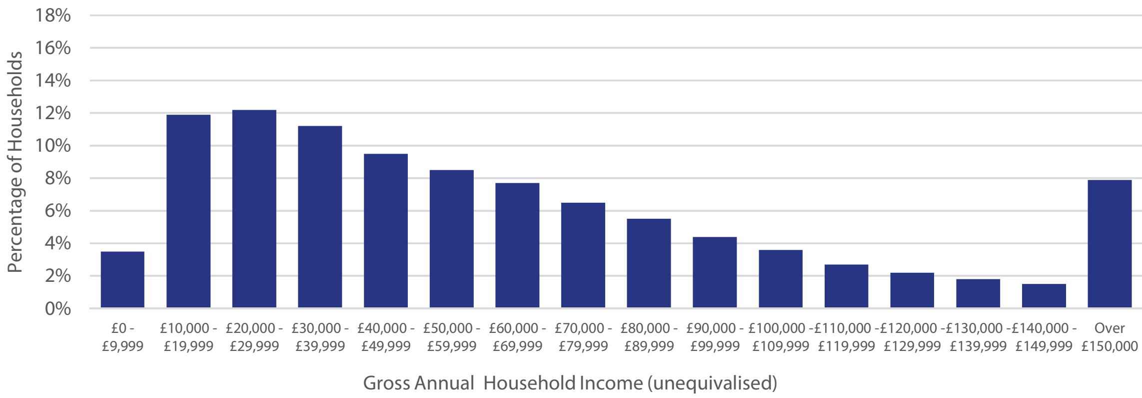
[15] The State pension age will be gradually increased. From 1 March 2020 the pension age will increase by 2 months annually until it reaches 70 years of age (https://www.gov.gg/oldagepension). Our analysis takes into account the planned increases in the States pension age, but only when they reach the next full year. Thus, it has been assumed the State pension age will increase to 66 in 2025, 67 in 2031, 68 in 2037, 69 in 2041 and 70 in 2049. These step changes explain the ripples that occur at 2025, 2031, 2037, 2041 and 2049 in Figure 9.

[16] There are no published statistics on the household composition and household income in Alderney.

2.2.2 Household Income

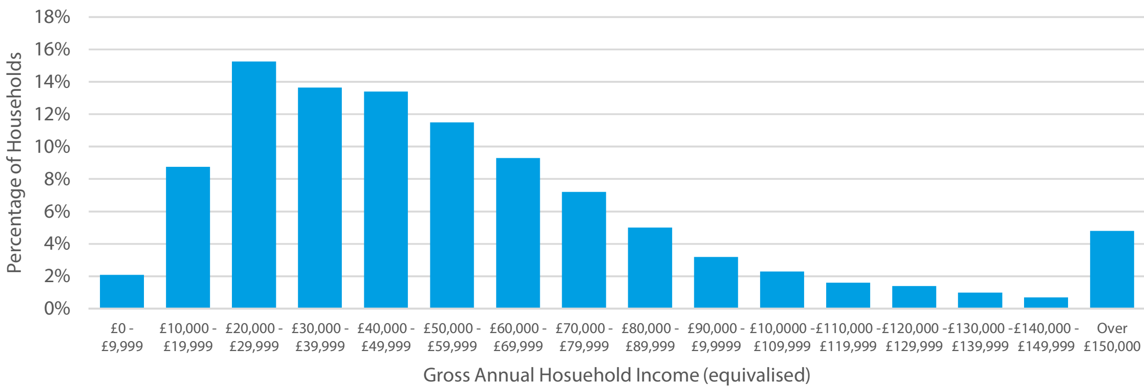
Mean annual gross household income[17] in 2014 was £71,129, and median gross household income was £51,877.[18] On an equivalised basis, mean gross annual household income was £61,099 and median gross annual household income was £47,838.[19] Equivalised incomes take into account the exact size and composition of the household, and were determined for each household using an international standard adjustment. Income is then expressed relative to the level of income for a two adult household which would represent an equivalent level of resources. The distribution of annual gross household income for 22,209 households in 2014 is shown Figure 11 and Figure 12.

Figure 11. Distribution of annual gross income for households in Guernsey



Source: States of Guernsey (2017) Guernsey Household Income Report.

Figure 12. Distribution of annual gross income for households in Guernsey (equivalised to adjust for differences in household composition)



Source: States of Guernsey (2017) Guernsey Household Income Report.

[17] Gross household income is defined as the total income of a household derived from the following sources: employment income, business income, old age (i.e. States) pension, private occupational pension, private personal pension, distribution income, annuity income, bank interest, loan interest, benefits and rent rebates.

[18] States of Guernsey (2017) Guernsey Household Income Report, which reports on 22,209 households in Guernsey as at 31 December 2014

[19] States of Guernsey (2017) Guernsey Household Income Report.

Individuals typically spend a large proportion of their net income. Total household expenditure (excluding capital investments and money transfers) was reported to be 74% of mean total household income and 90% of median total household income in Guernsey in 2012-13.[20] Housing, fuel and power are often a large portion of household expenditure, and these categories constituted 26% of overall household expenditure. Groceries (excluding alcohol) and transport were also key areas of spend, and each represented almost 10% of household expenditure. It should be noted that expenditure can be funded from income or savings.

2.2.3 Employment Status

Two-thirds (67%) of working age adults in Guernsey and Alderney are employed, and a further 8% are self-employed (Table 3). The remaining 25% are classified as non-employed for social security purposes (this includes individuals 16 years and over in full-time education).

Table 3. Social Insurance Classification

	Guernsey (as at 31 March 2017)	**Alderney*** (as at 31 March 2016)	**Guernsey and Alderney**	
Class 1: Employed	27,150	633	27,783	**67%**
Class 2: Self-employed	3,094	148	3,242	**8%**
Class 3: Non-employed**	10,248	352	10,600	**25%**
Total	40,492	1,133	41,625	**100%**

*Assumes all employees and self-employees are working age.

** Number non-employed is the total working age adults less number employed and self-employed.

Source: States of Guernsey (2017). Guernsey Quarterly Population, Employment and Earnings Bulletin. Issue Date 4 August 2017. States of Alderney (2017). Alderney Electronic Census Report 31 March 2016. Population snapshots and trends. Issued on 21 April 2017.

[20] States of Guernsey (2014). The 2012-13 Household Expenditure Survey Report.

2.3 Economic Profile of Guernsey and Alderney

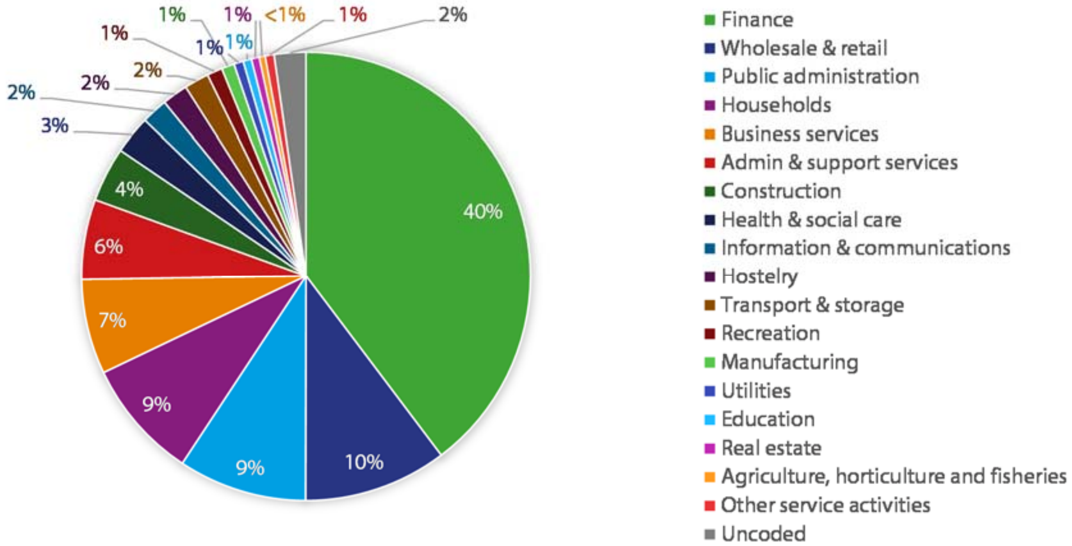
To understand the economic impact of the proposed Secondary Pension Scheme, it is useful to outline some of the important structural features of Guernsey and Alderney's economy:

- High Gross Domestic Product (GDP) per person
- An ageing population and a high dependency ratio
- Very low unemployment rates, representing "full employment" by international standards
- Labour constraints in Guernsey due to housing and migration controls, and compounded by geographic location and size
- Employment concentrated in a small number of sectors that are export-focused and compete globally (especially financial services).
- Employment in service sectors primarily satisfy local demand because of the islands' remote location. As such firms may find it easier to pass on additional costs in price increases, than businesses serving the export market.
- Seasonal variations in labour in some sectors, with employment rising in the summer and decreasing in the winter months.

2.3.1 Gross Domestic Product in Guernsey

GDP is the principle measure of economic output and economic growth is the change in economic output, usually measured as the change in GDP.[21] In Guernsey, GDP is calculated as the sum of the island's income. The first estimate of GDP in 2016 was £2,868 million, of which 45% was compensation of employees, 38% was gross operating surplus, 8% was rental income of households, 6% was mixed income and 2% was taxes less subsidies.[22] As Figure 13 shows, finance is by far the largest economic sector in Guernsey; in 2015 it contributed 40% of GDP. Wholesale and retail and, public administration are also relatively large contributors to GDP.

Figure 13. Contribution to Gross Domestic Product, by economic sector in 2016



Source: States of Guernsey (2017). Guernsey Annual GVA and GDP Bulletin

[21] Annual GDP is the total value of a country's annual output of goods and services and is the sum of consumption, investment, public spending and the balance of trade (exports minus imports).

[22] States of Guernsey (2017) Guernsey annual GVA and GDP Bulletin, Issue date 7 December 2017. The totals do not sum to 100% due to rounding.

2.3.2 Profile of Employers in Guernsey and Alderney

There are just over 2,500 employers; micro and small employers are prevalent (Table 4). Across the islands, 69% of employers have up to 5 employees, and 82% have up to 10 employees. Less than 4% of employers are medium and large firms. However, some employers are part of larger UK or international groups. It is also notable that just over a third of employers have a single employee.

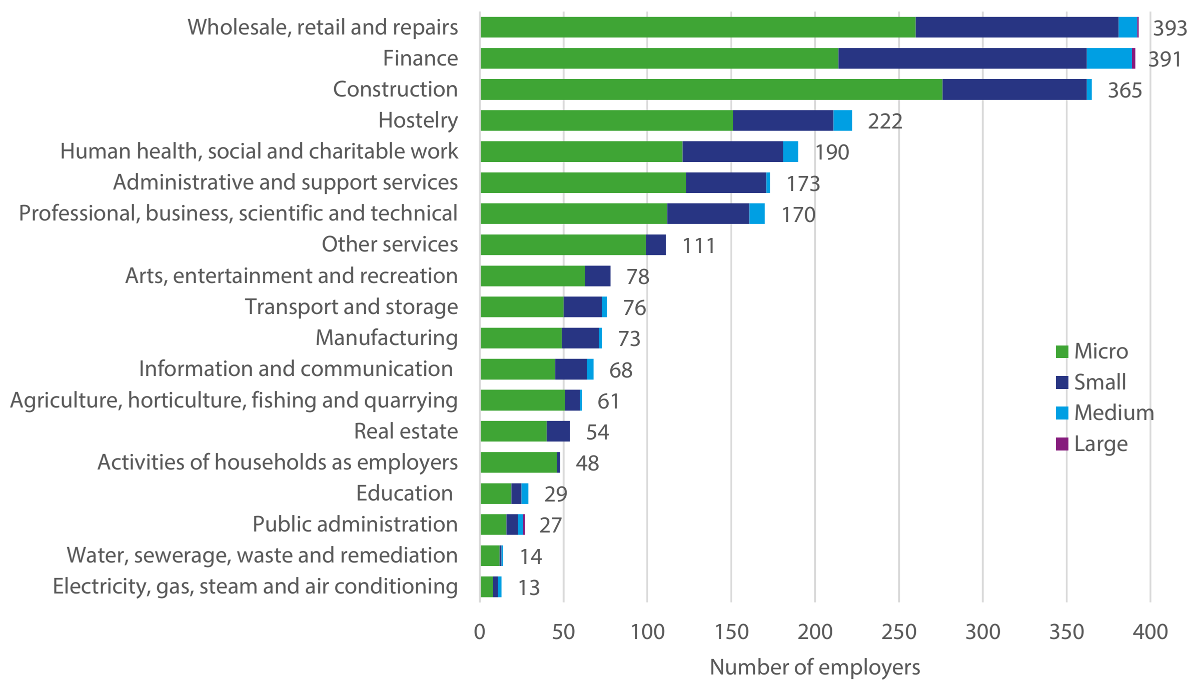
Table 4. Number of employers in Guernsey and Alderney, by size

Employer Size (number of employees)		Guernsey (as at 31 September 2016)		Alderney (as at 31 March 2016)		Guernsey and Alderney	
Micro	1	802	33%	60	44%	862	34%
	2 to 5	842	35%	51	38%	893	35%
Small	6 to 10	325	13%	10	7%	335	13%
	11 to 25	248	10%	10	7%	258	10%
	26 to 50	108	4%	4	3%	112	4%
Medium	51 to 100	57	2%	0	0%	57	2%
	101 to 250	34	1%	1	1%	35	1%
Large	251 to 1000	3	<1%	0	0%	3	0%
	Over 1000	1	<1%	0	0%	1	0%
TOTAL		2420		136		2556	

Source: States of Guernsey (2017). Guernsey Quarterly Population, Employment and Earnings Bulletin. Issue Date 4 August 2017.
States of Alderney (2017). Alderney Electronic Census Report 31 March 2016. Population snapshots and trends. Issued on 21 April 2017.

Figure 14 shows the distribution of employers by sector and size. Just over half (54%) are from four sectors of the economy: wholesale, retail & repairs (15%); finance (15%); construction (14%); and hostelry (9%).

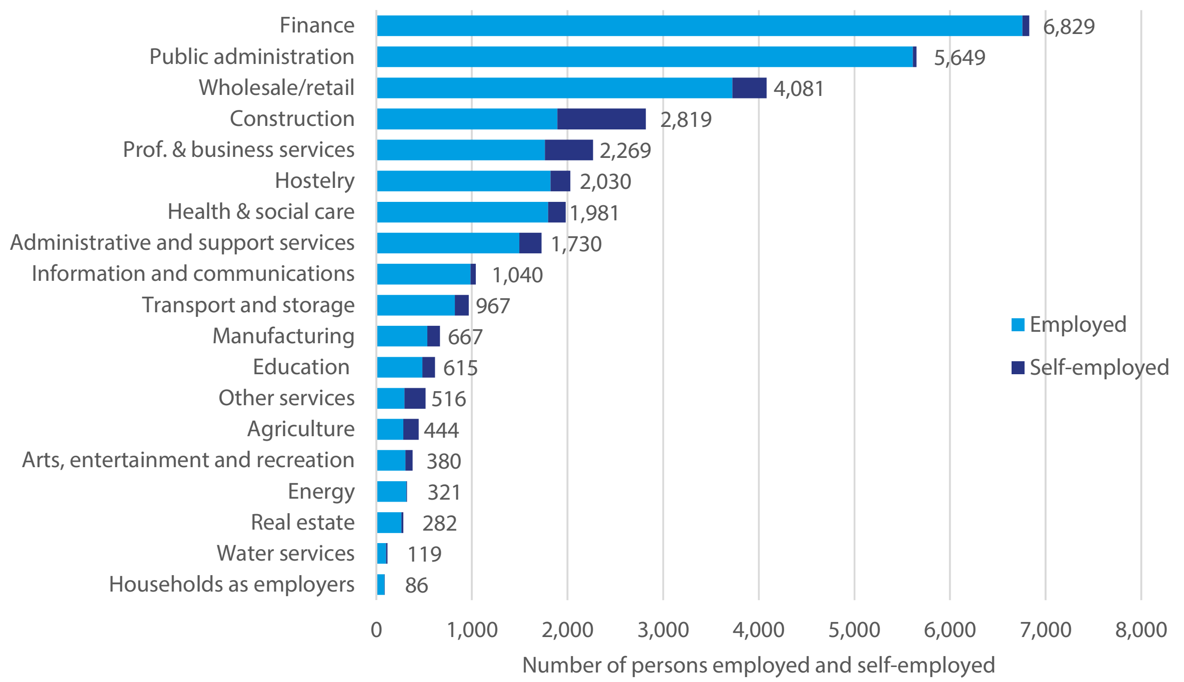
Figure 14. Number of employers in Guernsey and Alderney, by economic sector and employer size



Source: States of Guernsey (2017). Guernsey Quarterly Population, Employment and Earnings Bulletin. Issue Date 4 August 2017.
States of Alderney (2017). Alderney Electronic Census Report 31 March 2016. Population snapshots and trends. Issued on 21 April 2017.

Figure 15 shows the number of people employed and self-employed across the two islands by sector. Half (50%) of the workforce are in three sectors: finance (21%); and public administration (17%); and wholesale, retail & repairs (12%).

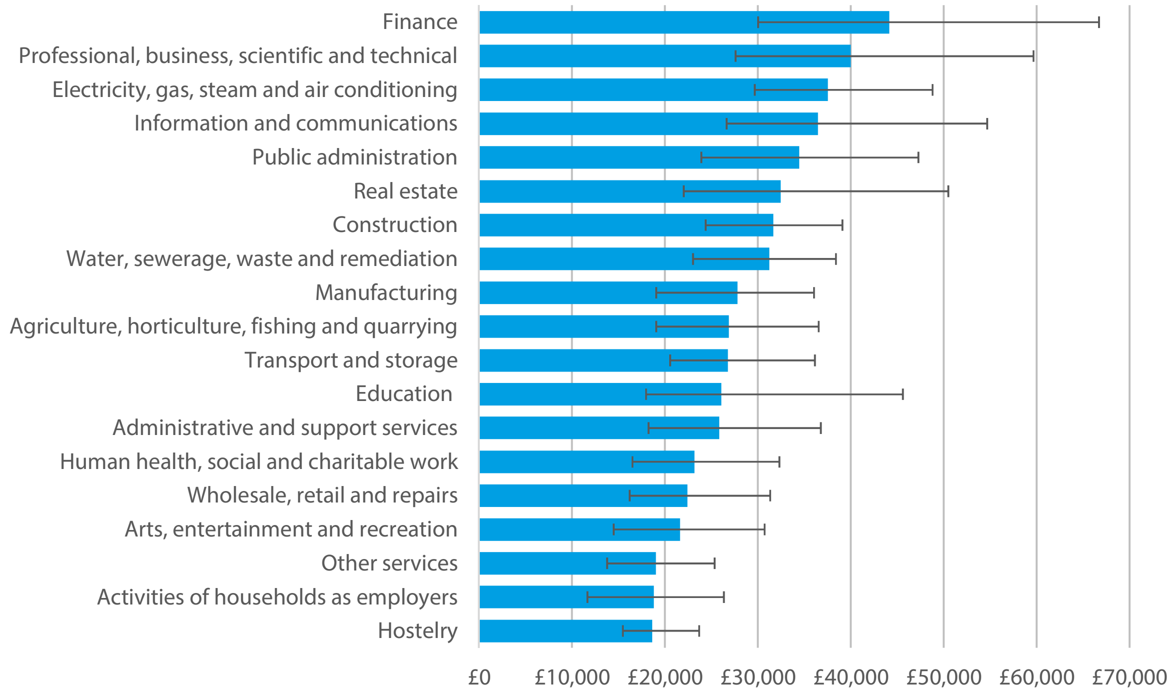
Figure 15. Number of persons employed and self-employed, by economic sector



Source: States of Guernsey (2017). Guernsey Quarterly Population, Employment and Earnings Bulletin. Issue Date 4 August 2017. States of Alderney (2017). Alderney Electronic Census Report 31 March 2016. Population snapshots and trends. Issued on 21 April 2017.

Median earnings were £31,773 in Guernsey (as at 31 March 2017) and £23,609 in Alderney (as at 31 March 2016).[23] Median earnings by sector for Guernsey are shown below (equivalent data for Alderney were not available).

Figure 16. Median Earnings, by sector in Guernsey (with lower and upper quartile range)



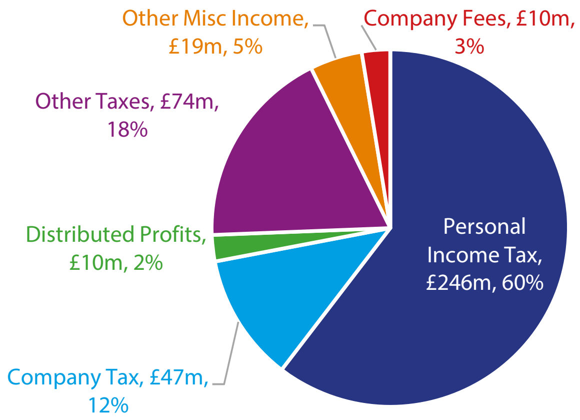
Source: States of Guernsey (2017). Guernsey Quarterly Population, Employment and Earnings Bulletin. Issue Date 4 August 2017.

[23] States of Guernsey (2017). Guernsey Quarterly Population, Employment and Earnings Bulletin. Issue Date 4 August 2017.

2.3.3 Government Budget for the States of Guernsey

In 2016 the States of Guernsey received £407 million in general revenue income and further £37.4 million in operating income, £10.5 million in capital income.[24] As shown in Figure 17, personal income tax was the largest single source of revenue, yielding £246 million; a further £47 million was raised in company tax revenue.

Figure 17. Government Revenue Income



Source: States of Guernsey 2016 Government Accounts

Gross revenue expenditure was £400.5 million in 2016, and there was a further £60.4 million in formula led expenditure (which includes the cost of Social Insurance and Health Service grants). Net revenue expenditure for the Committee *for* Employment & Social Security was £70.2 million. There were 2,327 households receiving almost £21 million in supplementary benefit at the end of 2016.

[24] States of Guernsey (2017). Billet d'Etat XIII 2017. The States of Guernsey Accounts 2016.

3. Methodology

3.1 Actuarial Model

3.1.1 Projecting the States-facilitated Secondary Pension Scheme

The pension scheme projections model the impact of the introduction of the Secondary Pension Scheme over a 50 year period (from 2020 to 2069). The projections have been carried out for the States-facilitated Secondary Pension Scheme and do not include any alternative qualifying schemes.

3.1.2 Approach to projecting the States-facilitated Secondary Pension Scheme

The pension scheme model projects the future size of the States-facilitated fund over each year into the future over the 50 year time horizon. Assumptions are then varied in order to illustrate the sensitivity of the results to changes to a range of different assumptions. The assumptions underlying the projections are set out in the Section 3.4.

The following approach to the modelling has been adopted:

- The population has been split up into groups of individuals with similar characteristics
- A population profile has been created, consisting of model points representing each group of individuals (including those not yet born)
- Each model point has been projected into the future, in order to establish the expected contributions payable and the benefits expected to be received
- Results for the entire pension scheme have then been constructed from the model points by applying appropriate weightings

3.1.3 Model points

The model points represent an "average" individual within each population group. There is a separate group for each of the following factors:

- Age
- Income band
- Social Insurance Classification (employed, self-employed and non-employed)

3.1.4 Projecting individuals

In order to project future contributions and benefits for each model point, assessable income is projected up to retirement. The income projection is derived by considering the age dependent income percentiles of the current population and applying the same pattern of growth as the income percentiles imply (i.e. if a member is a median earner for their current age then they will continue as a median earner throughout their working lifetime.

The pension fund is accumulated in line with the investment return assumption. This assumption includes an Annual Management Charge (AMC) of 0.5% per annum. The investment return is assumed to reduce gradually over the period approaching retirement, in anticipation of members taking lower investment risk.

At retirement, a lump sum benefit is calculated and the remaining funds are converted into pension using expected market annuity rates. The model allows for the planned increases to the States pension age (see Section 2.1).

3.1.5 Constructing the scheme population

The individual projections for each model point were combined by applying weightings, reflecting the proportion that each model point represents of the total population. The weightings are adjusted to allow for changes to the population over time, as provided by the States' General Economic Model under the States' central population projection assumptions.

When combining the results, the model applies the opt out rates and assigns the proportion of contributions and benefits which are expected to fall within the States-facilitated scheme (i.e. it excludes those expected to fall within existing occupational schemes and new qualifying schemes set up by employers).

3.1.6 Additional modelling to feed into the economic impact assessment

The economic impact assessment requires projections of pension benefits for any new pension income arising directly as a result of the Secondary Pension Scheme. In order to do this, the actuarial projections model is used to generate results that include both the States-facilitated scheme and all new alternative qualifying schemes.

3.2 Economic Impact Assessment

The economic impact assessment examines the introduction of the Secondary Pension Scheme compared to 'doing nothing' (i.e. Secondary Pension Scheme is not introduced) over a 50 year period (from 2020 to 2069).[25] It focuses on the marginal impact and does not differentiate between whether the individual contributes to the States-facilitated scheme or alternative qualifying schemes.

3.2.1 Conceptual Framework for Economic Impact Assessment

Figure 18 depicts the direct effects of the Secondary Pension Scheme on the financial flows that occur between individuals/households, employers and the government. These effects are summarised below and described in further detail in Sections 5-8 of the report.

Impact on individuals and households (see Section 5)

- Individuals of working age who meet the eligibility criteria and are not already in an occupational pension will be automatically enrolled into the Secondary Pension Scheme. Individuals who are automatically enrolled will be allowed to opt out.

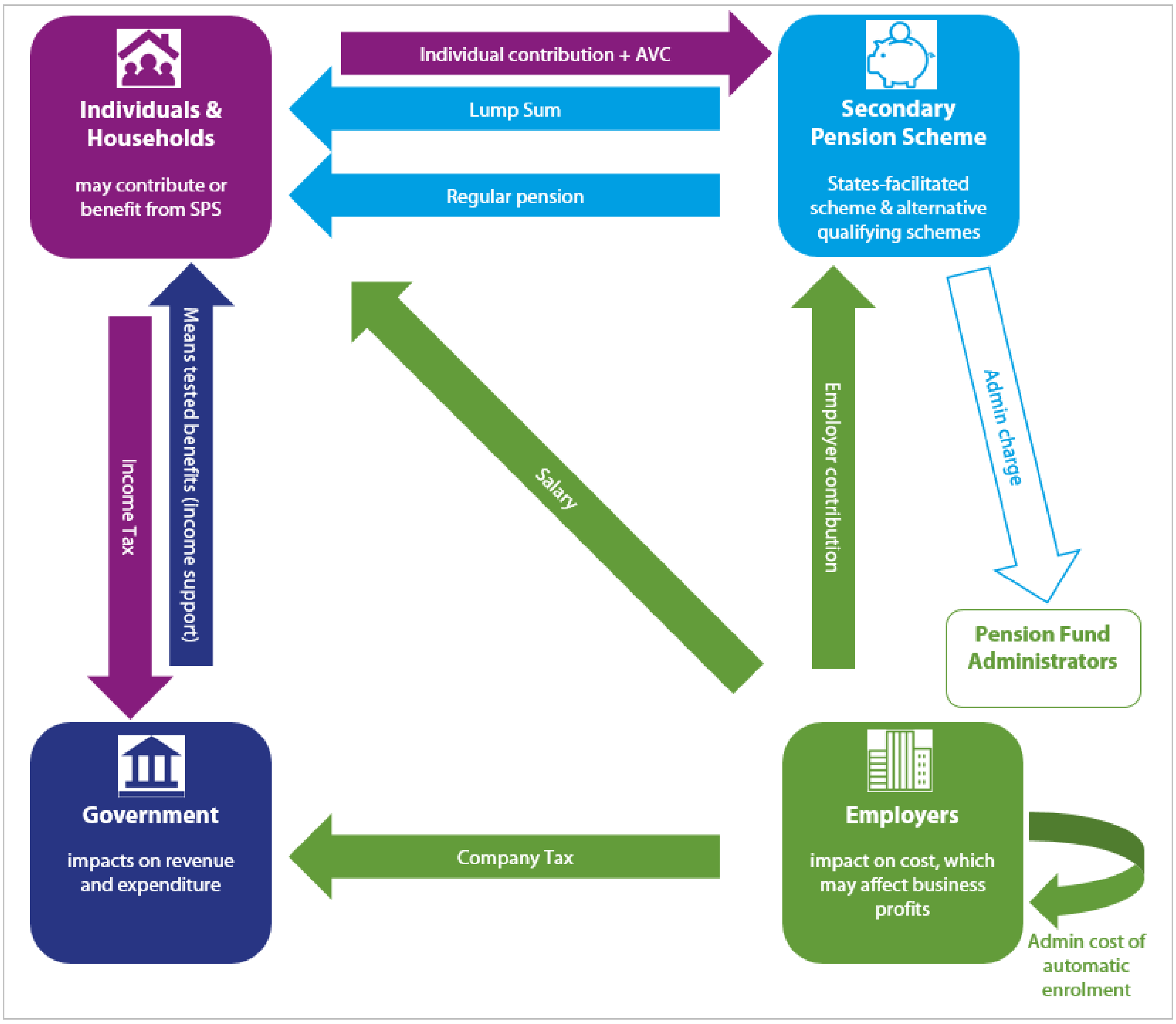
- Individuals who pay income tax and contribute to a Secondary Pension Scheme will pay less in income tax since pension contributions will be tax exempt.

- Individuals of pensionable age who have contributed to a secondary pension would benefit from regular pension income when they reach the States pension age. They may then pay more in income tax, since the pension income will be included in their income tax assessment.

- Household income may be affected by the Secondary Pension Scheme. However, this will depend on household composition and whether household members contribute to or benefit from the Secondary Pension Scheme. The proportion of pensioners requiring income support (currently supplementary benefit and rent rebate) and any other means-tested benefits may also be reduced as they benefit from a secondary pension income. The income of working age individuals on income support is unlikely to be affected as pension contributions are included when calculating the benefit and income support may be increased.

[25] The results of the economic model would not be significantly affected by minor delays to the start date.

Figure 18. Direct effect of the Secondary Pension Scheme on financial flows between individuals and households, employers and the government



Impact on Employers (see Section 6)

- Employers will be required to make the minimum employer contribution for employees who do not opt out of the Secondary Pension Scheme.

- Employers may also incur administrative costs to comply with the legislation.

- The impact on the employer will depend on whether they already offer an occupational pension, salary levels, and how the employer responds to the policy change.

Impact on the Government Budget (see Section 7)

- Government revenue from personal income tax will be affected. Secondary pension contributions and any lump sum benefit payments are expected to be exempt from tax; regular pension income may be taxed and will be included in individuals' income tax assessment.

- Government revenue from company tax may also be affected if employers are unable to recover the costs relating to the Secondary Pension Scheme (through cost savings elsewhere, sales revenue or productivity gains) and company profits are reduced.

- As individual and household incomes increase in the pension age population, government expenditure on income support may be reduced. However, it is also expected that there would be an increase in the amount of income support paid to working age individuals, since the eligibility assessment for income support allows for pension contributions.

Impact on the Economy (see Section 8)

- Consumption (i.e. consumer spending) will be affected, as household disposable income is expected to change. An increase in disposable income would be expected to increase consumer spending, while a reduction in disposable income would be expected to lead to a reduction in consumer spending.

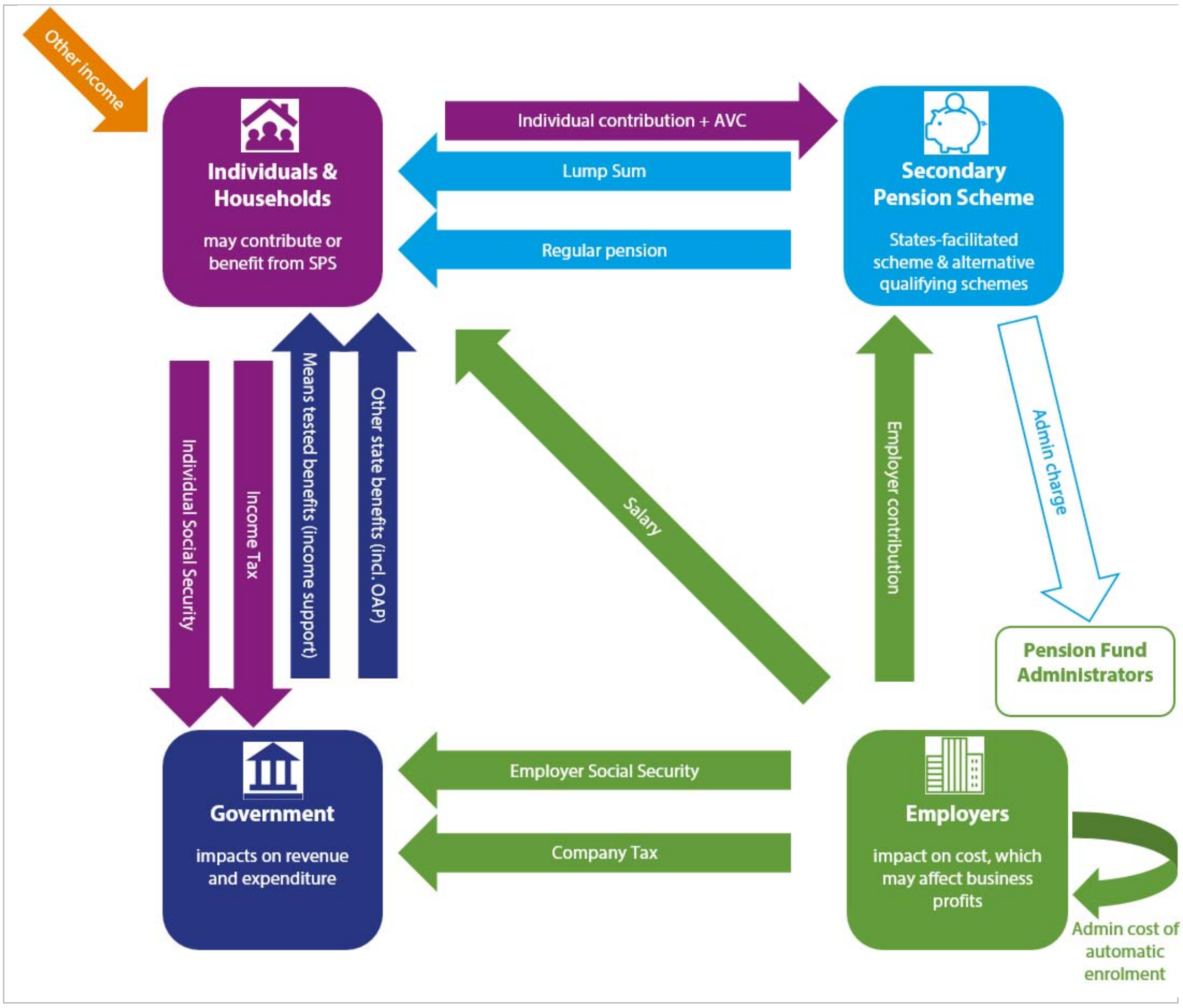
- It may also impact on economic growth, as this is a function of consumption, investment, government spending, and the value of exports less imports.

- The economic impact will evolve over time. In the short- to medium-term the costs will outweigh the benefits, as there will be many more contributors than beneficiaries. As time passes, the number of beneficiaries will increase. The amount an individual can expect in pension income as a result of the Secondary Pension Scheme contributions will also increase, since pension income is a function of the amount paid into the scheme and the investment return achieved. A steady state is expected to be achieved by the end of the century.

3.2.2 Economic model

The marginal impact of the Secondary Pension Scheme is estimated by comparing a future scenario in which the scheme is introduced to a scenario of 'doing nothing'. Estimating the magnitude of these impacts requires certain assumptions about how individual, employers and consumers behave, as well as about the wider policy environment. The structure of the economic model is illustrated in Figure 19.[26]

Figure 19. Elements of the Economic Model



[26] Note – differs slightly from conceptual framework as does not include the pension fund administrator and needs to include other income and social security

3.2.3 Economic model for impact on individuals, households and government finances

The economic model has been structured to take into account the following inputs:

- Year (and corresponding contribution rate) from 2020 to 2069.
- Age profile of the population, and projected population changes
- Employment status of the working age population, as defined by social insurance classification: employed, self-employed and non-employed.
- Assumptions about the percentage of employees who are active members of an existing occupational pension
- Gross taxable income (and source of income)
- Household composition
- Proposed changes in the States pension age
- Prevailing tax and benefit rates and allowances
- Assumptions about the opt out rate

The model uses data provided from the Electronic Census in Guernsey and Alderney, population projections supplied by the States of Guernsey, and official States publications.

The model includes 80 profiles for individuals of working age, which are defined by:

- Gross taxable income: 20 income bands
- Social insurance classification: employed, self-employed, non-employed
- Whether employees are an active member of existing scheme: yes or no

Pension age profiles are defined by gross taxable income and take into account an individual's age and the year as these factors determine the pension income that an individual can expect from the Secondary Pension Scheme.

The profiles are combined to estimate the overall impact of the Secondary Pension Scheme using population weights. The weight assigned to each profile is derived from population projections supplied by the States of Guernsey and the 2014 Electronic Census dataset. The income and employment profile of the working age population is assumed to remain constant over time in the 'do nothing' scenario. The income profile of the pension age population is assumed to remain constant over time in the 'do nothing' scenario. Thus, changes in income that arise if the Secondary Pension Scheme is introduced can be attributed to it.

The economic model predicts the following outputs for each year of the projection:

- Number of individuals who are eligible to join the scheme
- Number of individuals who are active members of an existing occupational pension
- Number of new members of a secondary pension (auto-enrolled by employer or Social Security)
- Number of new members who opt out of the Secondary Pension Scheme
- Total income tax due
- Total social security contributions
- Individual and employer pension contributions
- Change in net income (gross taxable income less income tax, social security and pension contributions)
- Change in eligibility for means-tested benefits, and estimated change in income support payments

The model has been structured to enable sensitivity analysis on key parameters, as set out in Section 3.4. The model is comprehensive and, with some adaption, could be used to assess the economic impact of other changes to the tax and social security system.

3.2.4 Economic Model for Impact on Employers

The model predicts the impact on employers of different sizes and the impact on company tax revenue (which depends on sector). It has been structured to take into account the following inputs:

- Year (and corresponding contribution rate) from 2020 to 2069.
- Economic sector
- Employer size (i.e. number of employees)
- Assumption about the availability of existing occupational pensions
- Fixed and variable administration costs incurred by employers
- Mean employment income by economic sector
- An opt out rate
- Prevailing company tax rate
- Assumptions on the proportion of costs borne by the employer and ability of employers to recover costs incurred through productivity gains.

It has also been assumed that the Secondary Pension Scheme will be rolled out to all employers at the same time given the prevalence of micro and very small employers (82% of employers in Guernsey and Alderney have 10 or fewer employees).[27] Changes to the implementation start date, or adopting a staged implementation, would have a relatively minimal impact on the overall model results.

The model uses employment and earnings data published by the States of Guernsey and Alderney. Electronic Census data from Guernsey and Alderney were used to validate assumptions about the existing availability of occupational pensions by economic sector and employer size.

The model includes 116 profiles for employers, which combined data on economic sector and employer size. The profiles are combined to estimate the overall impact of the Secondary Pension Scheme in Guernsey and Alderney using employer weights. The weight assigned to each profile is taken from published data on the number of employers by sector and size for Guernsey and Alderney.

The economic model predicts the following outputs for each year of the projection:

- Number of new employers who offer a Secondary Pension Scheme (either the States-facilitated scheme or an alternative qualifying scheme)
- Number of employees who are automatically enrolled to a Secondary Pension Scheme
- Number of employees who opt out
- Individual and employer pension contribution
- Administrative cost incurred by employers
- Total cost of the Secondary Pension Scheme on employers
- Potential reduction in company profits
- Expected loss in company tax revenue

The model has been structured to enable sensitivity analysis on key parameters, as set out in Section 3.4.

[27] If a staged roll out were desired, then it may be preferable to stage by economic sector than by employer size.

3.3 Data Sources

We were provided anonymised individual level data from the Electronic Census for 2014, which contained data from 76,757 individual income tax and social security records. Raw data were cleaned following the steps set out in the Guernsey Household Income Report[28] and with advice from Data and Analysis, States of Guernsey. The clean dataset has records for 58,010 individuals from Guernsey and Alderney. These represent 36,905 adults of working age, 11,500 adults aged 65 and over and 23,109 households. Monetary values have been inflated to 2017 terms using RPIX[29]. Missing data were accounted for in the analysis using population weights that take into account social insurance classification and age category.

Table 5. Cleaned Electronic Census Data vs Annual E-Census Reports for Guernsey and Alderney

	Published Statistics (as at 31 March 2016)			**Clean E-Census Data** (as at 31 Dec 2014)	
	Guernsey	**Alderney**	**Combined**	**N**	**% missing**
Children 0-15 years	10,155	202	10,357	9,605	7%
Working Age (16-64 years)	40,638	1,133	41,771	36,905	12%
Employees	27,764	633	28,253	28,253	<1%
Self-employed	3,131	148	3,279	3,121	5%
Non-employed	9,743	352	10,095	5,531*	45%
Pension Age (65 years +)	11,930	700	12,630	11,500	9%
TOTAL	**62,723**	**2,035**	**64,758**	**58,010**	**10%**

* of whom 658 made SI contributions in 2014

[28] States of Guernsey (2017). Guernsey Household Income Report, which reports on 22,209 households in Guernsey as at 31 December 2014. Appendix 1.

[29] States of Guernsey (2017). Guernsey Quarterly Inflation Bulletin Quarter 2 2017. Issue date 21 July 2017.

3.4 Assumptions for modelling

The actuarial and economic models are based on the following assumptions.

3.4.1 Secondary Pension Scheme Structure

Feature	Assumptions	Sensitivity	Justification
Launch date	2020	N/A	February 2016 Billet
Potential membership	Individuals of working age who pay Social Security contributions	N/A	February 2016 Billet
Contributions Structure (% of gross salary up to Upper Earnings Limit)	**Employed, self-employed and non-employed**: Initially 1%, increasing to 6.5% over 7 years, no additional voluntary contributions **Employer:** 1% initially, increasing to 3.5% over 7 years	N/A	February 2016 Billet
Retirement Age	Increasing with increases in States Pension Age (66 years from 2025, 67 years from 2031, 68 years from 2037, 69 years from 2043 and 70 years from 2049)	N/A	February 2016 Billet

3.4.2 Population Projections

Feature	Assumptions	Comment
Population projections	Generated by the States General Economic Model using the States of Guernsey's central projection assumptions	Projections over 2020 – 2069
Working age population	Retirement age increases with increase in States Pension Age to 70 by 2049	States agreed policy
Employment status of the working age population	67% are employed, 8% are self-employed, 25% are non-employed (of whom 7% earn above the lower earnings limit)	Guernsey Quarterly Population, Employment and Earnings Bulletin. Alderney Electronic Census Report 31 March 2016. Electronic Census Data

3.4.3 Behavioural Assumptions

Parameter	Assumption	Sensitivity	Comment
Opt-out rate	20%	10%, 15%, 25%, 30%	This is a key assumption and UK experience has shown that it is difficult to predict. See Appendix 11.1 for more details.
Persistency	100%	None	Simplifying assumption. Once employees are enrolled and contributing they are assumed to continue to contribute until States Pension Age.
Lump sum at retirement	25%	± 5%	The maximum permitted under current tax legislation is 30%. The availability of tax-relief on the lump sum is expected to make it a popular option.
Proportion of employers who use an alternative qualifying scheme (rather than the States-facilitated scheme)	50%	± 20%	This is difficult to estimate due to the lack of available data.
Proportion of employees who are existing active members of an occupational pension	32% on average, though the model uses a % that varies by gross taxable income (see Appendix11.2)	Lower and upper estimates in which base case values are scaled up and down by 10% (i.e. 28% to 36% on average)	Income Tax records from 2014 on proportion of employees contributing to an occupational pension, adjusted based on an assumption that 20% of private sector schemes are non-contributory. See Appendix 11.2 for more details.
Proportion of employers who currently offer an occupational pension	% varies by sector and employer size (see Appendix 11.3)	None, but have varied % of employees who are existing active members.	Estimate based on published data on Employment and Earnings and on the proportion of employees who are active members of an occupational pension. See Appendix 11.3 for more details.
Employer response	100% costs borne by employer	50% costs borne by employer	This is difficult to predict. Model the worst case and a moderate scenario in which employers reduce future pay awards.
Marginal propensity to consume (marginal change on consumption following a change in income)	0.8	0.6, 1	2012-13 Household Expenditure Survey reported expenditure was 74% of mean total household income, and 90% of median household income. A study on the economic and fiscal impact of the increasing the minimum wage in Jersey assumed lower earners would spend all additional income.

3.4.4 Financial and Economic Assumptions

Parameter	Assumptions	Sensitivity	Comment
Investment return on Secondary Pension Scheme	• RPIX +2.5% per annum up to 10 years before retirement • Transitioning to RPIX in the last 10 years prior to retirement	± 1%	A move to a lower risk / return strategy is assumed as an individual approaches retirement age. See Appendix 11.4 for more details
Earnings Growth	• Increase at the rate of inflation RPIX + 1% per annum • Promotional increases to maintain existing salary profile of the population by age	± 0.5%	As advised by the States
Conversion of funds into pension at retirement	• Market annuity rates	None	Current market rates for a level single life annuity will be adjusted to allow for expected future improvements in mortality. Conversion terms at age 70 in 2020 are assumed to be 6.2%, and in 2069 are assumed to be 5.1%.
Tax and Benefit Rates and Allowances	• Tax and social security rates remain constant • Tax and social security allowances increase in line with earnings growth • Benefits increase RPIX plus at 1/3 of real earnings growth until 2024 and then at RPIX • Income support (which combines supplementary benefit and rent rebate) is introduced as planned.	None	Benefit Payment & Contribution Rates for 2017 no. 50. March 2016 Billet Increases as advised by the States
Economic conditions	• Underlying economic conditions remain stable over analysis period	N/A	Simplifying assumption so changes in the model reflect the impact of the Secondary Pension Scheme

3.4.5 Other Assumptions

Feature	Assumptions	Sensitivity	Justification
Administrative costs for employers	**Year 1**: fixed cost of £500 per firm + variable cost of £25 per employee **Thereafter:** £200 per firm + £10 per employee	± 50%	Based on UK experience of small and medium employers. See Appendix 11.5

4. Size of States-facilitated Secondary Pension Scheme

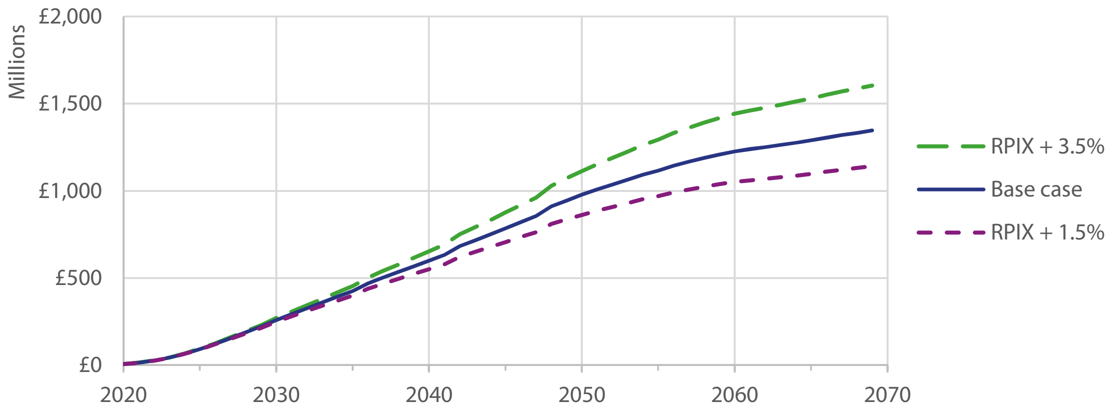
The States-facilitated Secondary Pension Scheme is projected to have assets of around £1.3 billion after 50 years, under the assumptions set out in Section 3.4. The results are sensitive to the assumptions chosen and the charts illustrate how the results change when certain key assumptions are changed. In each graph the "Base Case" assumptions are show as the dark blue line.

The size of the fund is expected to begin to stabilise by the end of the 50 year period, when the benefit payments reach a level which broadly balances the total of the contribution income and investment returns. This is due to the maturing nature of the scheme, with benefit payments being lower in earlier years since those receiving benefits in the early years will not have contributed for their entire working life. The Secondary Pension Scheme is expected to reach an equilibrium towards the end of the projection period. From that point, the size of the fund is expected to increase in line with the population-related real growth in income, which is 1% per annum for the base case assumption.

4.1 Sensitivity to Investment Return

The size of the fund is sensitive to the investment returns achieved. Figure 20 shows that if investment returns are 1% per annum higher than assumed then the fund size is projected to be 19% higher after 50 years (the base case assumption is broadly an investment return of RPIX + 2.5% per annum). If investment returns are 1% per annum lower than assumed then the fund size is projected to be 15% lower after 50 years.

Figure 20. Fund size for States-facilitated scheme: sensitivity to investment return



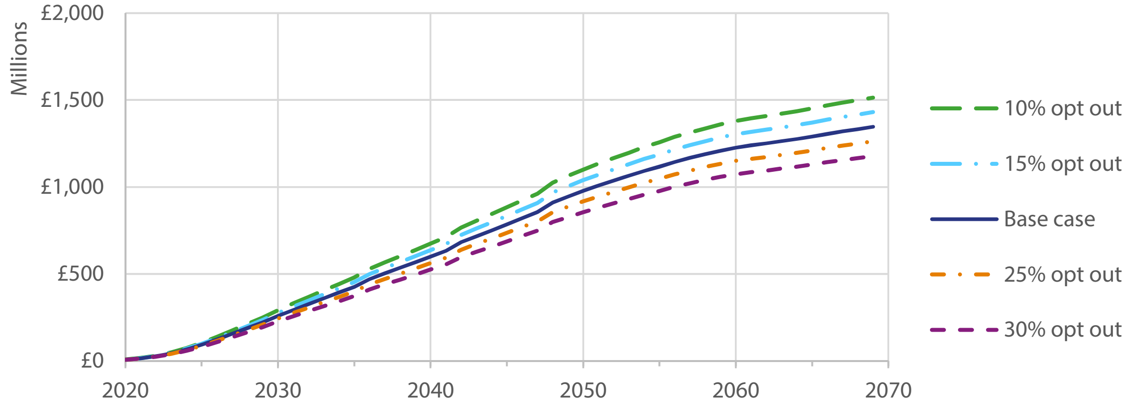
In addition, as the investment return assumption is net of the Annual Management Charge (AMC), Figure 20 also effectively illustrates the sensitivity of results to changes to the AMC. This is because an increase to the AMC has the same effect as a reduction to the investment return assumption (and vice versa). For example, a reduction to the investment return assumption of 1% per annum (i.e. RPIX + 1.5% per annum, the purple line on Figure 20) could also result from an increase to the AMC assumption of 1% per annum (i.e. from an AMC of 0.5% per annum to an AMC of 1.5% per annum).

This illustrates that it will be important to keep the expenses of the Secondary Pension Scheme (whether expressed as just an AMC or an AMC in conjunction with other expense types) as low as possible to maximise the funds available to provide retirement benefits.

4.2 Sensitivity to Opt Out Rates

As Figure 21 shows, if only 10% of employees opt out of the scheme then the fund size is projected to be 13% higher each year (the base case assumption is that 20% of members will opt out of the scheme). If 30% of members opt out of the scheme then the fund size is projected to be 13% lower each year.

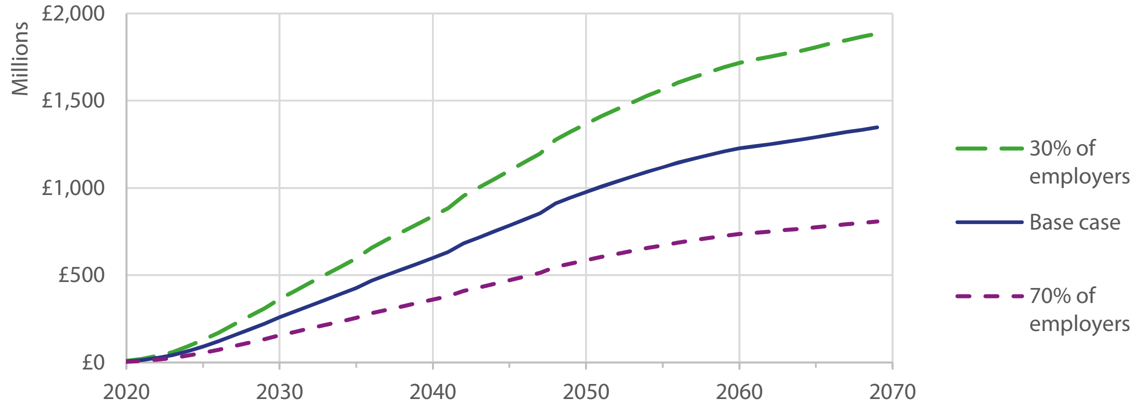
Figure 21. Fund size for the States-facilitated Scheme: sensitivity to opt out rates



4.3 Sensitivity to Employer's Choice of Scheme

Figure 22 shows that if 30% of employers set up their own qualifying scheme then the States-facilitated Secondary Pension Scheme fund size is projected to be 40% higher each year (the base case assumption is that 50% of employers set up their own qualifying scheme). If 70% of employers set up their own qualifying scheme then the fund size is projected to be 40% lower each year.

Figure 22. Fund size for States-facilitated Scheme: sensitivity to the percentage of employers setting up their own scheme



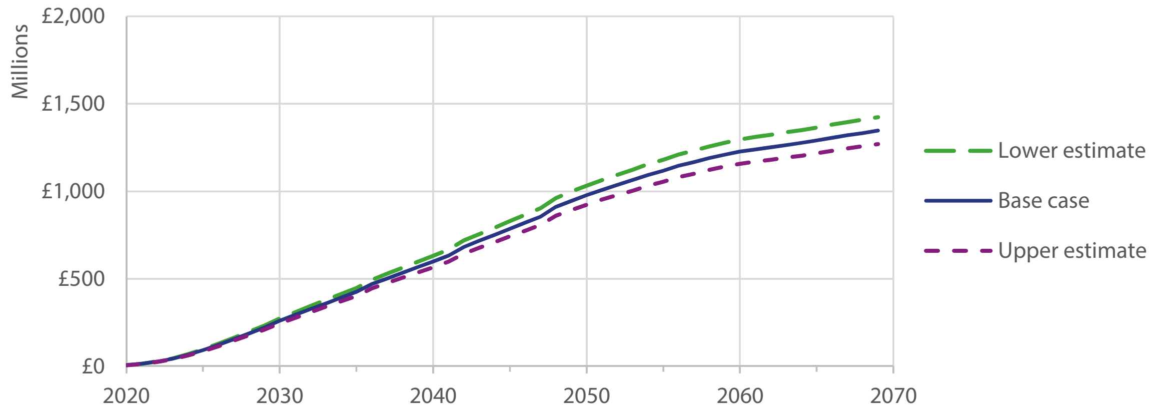
Of all of the sensitivities considered relating to the projected fund size of the States-facilitated Secondary Pension Scheme the proportion of employers who opt to use it is critical.

If the process to select the States-facilitated scheme is kept simple and assistance for employers is readily available this is likely to maximise the take up rate.

4.4 Sensitivity to Employees Already in an Occupational Pension Scheme

Figure 23 illustrates that if the lower estimate for the number of employees with an existing occupational scheme is used then the fund size is projected to be 6% higher each year (the base case assumption is an income related scale, as set out in Section 11.4). If the upper estimate for the number of employees with an existing occupational scheme is used then the fund size is projected to be 6% lower each year.

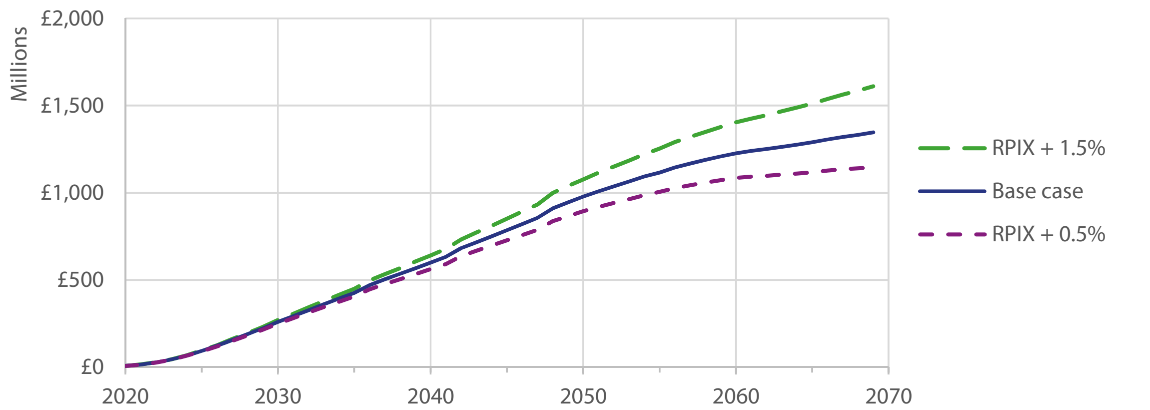
Figure 23. Fund size for States-facilitated scheme: sensitivity to the percentage of employees with existing occupational pension



4.5 Sensitivity to Income Growth

The size of the fund is sensitive to the growth in income. The growth in income can be separated into two elements. An age-related growth expected to be experienced by an individual as they get older (eg promotional growth for employees). In addition, the population as a whole can experience growth in incomes (ie a population-related growth). Figure 24 shows the sensitivity of the size of the fund to the population-related growth in income. It shows that if the population-related growth in income is 0.5% per annum higher than assumed then the fund size is projected to be 20% higher after 50 years (the base case assumption is a population-related growth in income of RPIX + 1.0% per annum). If the population-related growth in income is 0.5% per annum lower than assumed then the fund size is projected to be 15% lower after 50 years.

Figure 24. Fund size for States-facilitated scheme: sensitivity to the population-related growth in income



5. Economic Impact on Individuals and Households

The Secondary Pension Scheme will have a marginal impact on both the income and tax paid by individuals and households. This section describes the impact of the Secondary Pension Scheme on working age individuals, pension age individuals and on households. In summary:

- Working age individuals, who are not already in an occupational pension scheme, will see a reduction in their disposable income. However, they will also pay 20% less in income tax, since the pension contribution is deducted from income before tax is calculated. For most individuals the reduction in net income will be 80% of their pension contribution. However there will be some individuals whose income is less than the personal allowance and therefore will not benefit from the tax saving.[30]

- Pension age individuals who have contributed to a Secondary Pension Scheme would benefit from secondary pension income when they reach the States pension age. They may pay more in income tax, since pension income is included in individual income tax assessment.

- The impact on household income will depend on its composition and whether household members contribute to, or benefit from, the Secondary Pension Scheme. Individuals who are eligible for income support may receive additional income support payments as pension contributions are taken into account in the income support assessment. There are also likely to be fewer pension age individuals eligible for income support as they will be receiving income from a secondary pension.

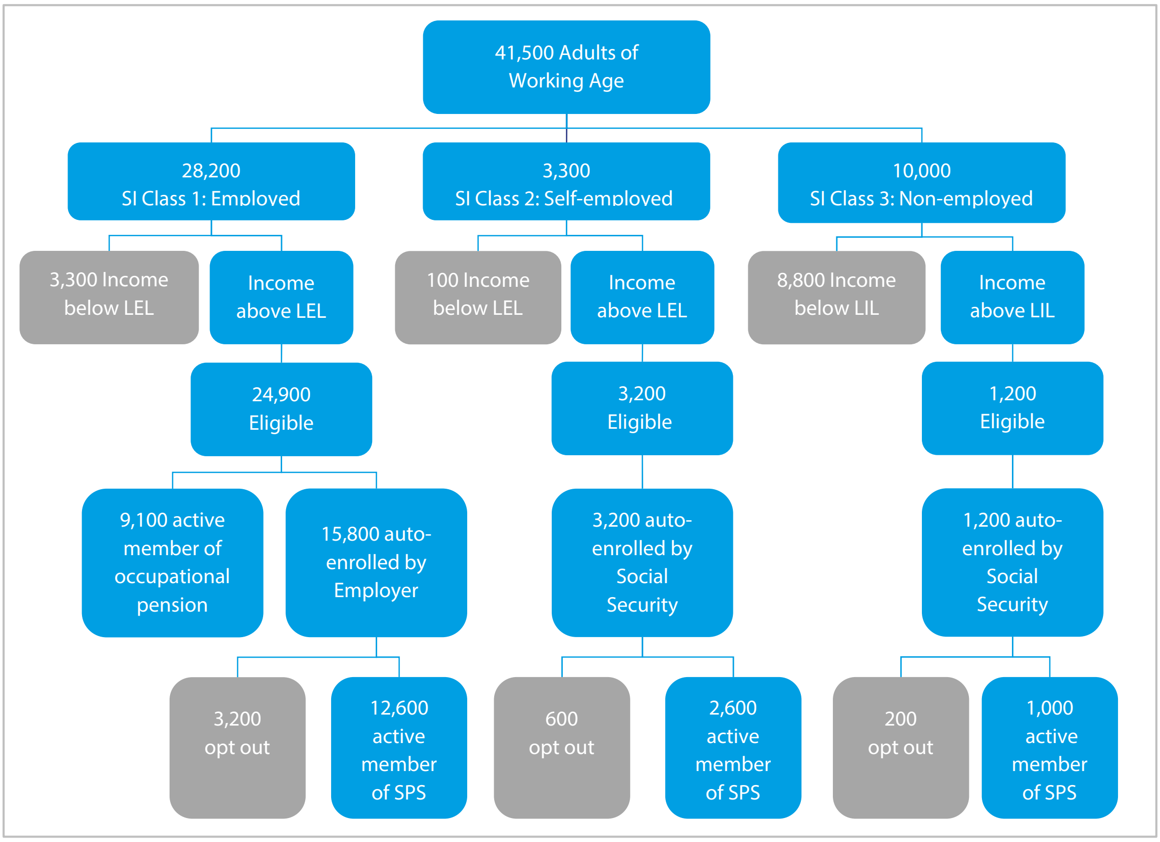
[30] The proposed phasing out of most of the pension contribution tax relief for high earners in the 2018 Budget proposals has not been taken into account in the modelling.

5.1 Impact on Working Age Individuals

5.1.1 Number of Individuals Eligible to join the Secondary Pension Scheme ("SPS")

Figure 25 depicts the estimated eligibility and participation in the Secondary Pension Scheme in 2020 for 41,500 adults of working age.[31] We estimate that 29,300 individuals (aged 16-64 years) will be eligible to join the Secondary Pension Scheme, which represents 70% of the projected working age population. This includes 9,100 working age individuals who are already in an occupational pension (32% of employees, or 22% of all working age adults). Thus, we expect 20,200 individuals would be automatically enrolled into either the States-facilitated scheme or an alternative qualifying scheme following the introduction of the Secondary Pension Scheme. With an opt out rate of 20%, it is expected that 16,200 individuals will join a secondary pension for the first time.

Figure 25. Projected eligibility and participation in Secondary Pension Scheme in 2020



Note: Figures rounded to nearest 100.

[31] SOG population projection for Guernsey was 40,298 and this has been adjusted by a factor of 1.03 to include an approximate allowance for the population in Alderney.

As Figure 26 shows, in 2020 the introduction of the Secondary Pension Scheme is expected to increase the number of working age adults who have a secondary pension from 9,100 (22% of working age adults) to 25,300 (61% of working age adults).

Figure 26. Impact of Secondary Pension Scheme on membership of secondary pensions among working age population in 2020

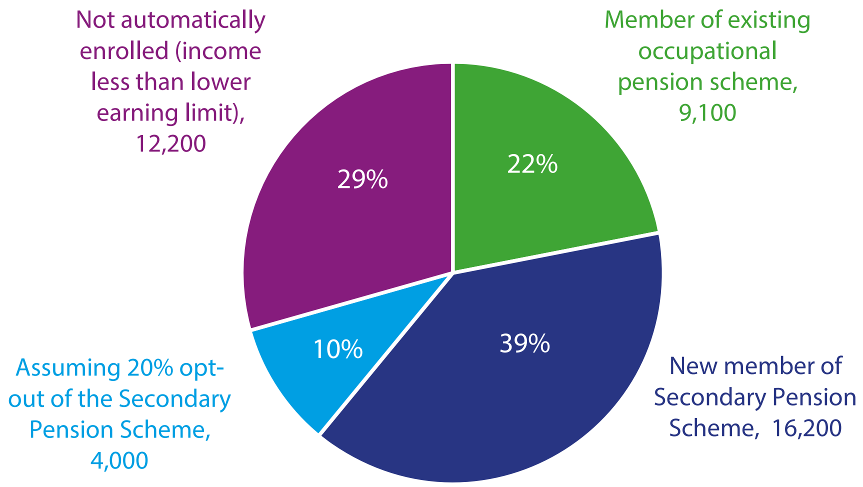
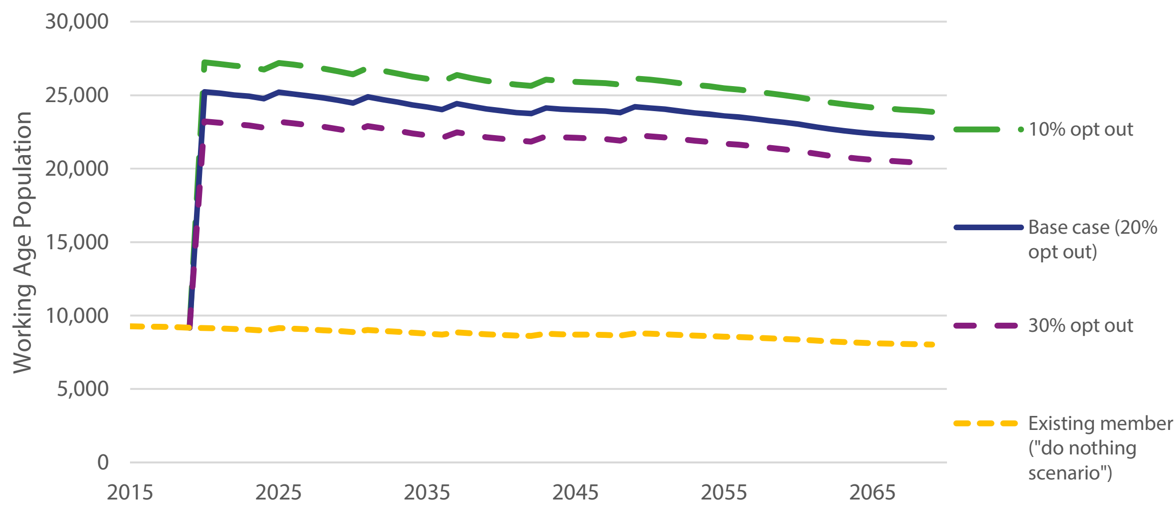


Figure 27 shows how the working age population saving for retirement is expected to increase as a result of the introduction of the Secondary Pension Scheme. The percentage in a pension scheme is expected to have increased from 22% (in the "do nothing" scenario") to 61% of the working age population.

Figure 27. Impact of Secondary Pension Scheme on number of working age individuals contributing to a secondary pension (2020-2069)



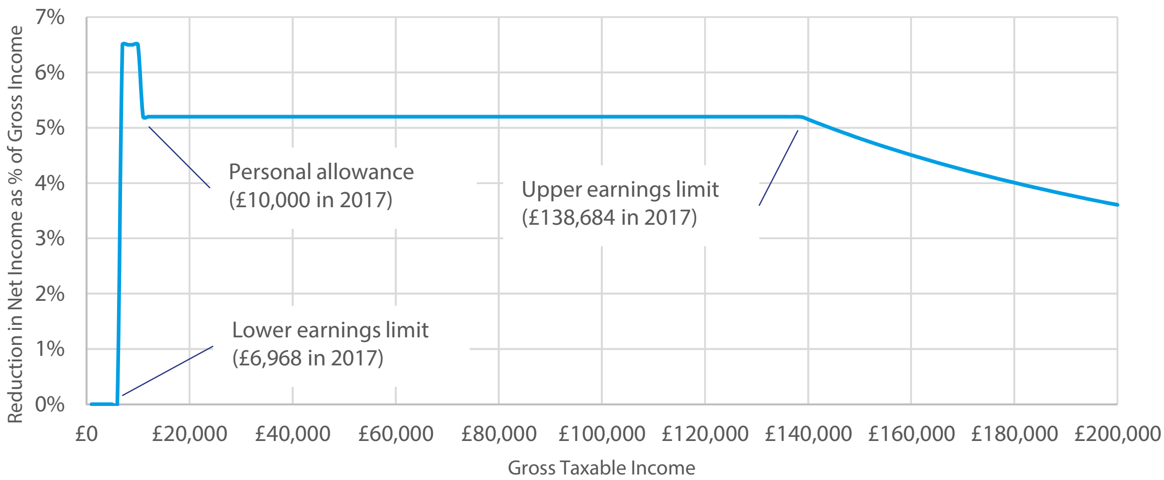
5.1.2 Impact on an Individual's Net Income

The amount an individual will contribute to the Secondary Pension Scheme will depend on their assessable income and the prevailing contribution rate (Table 1). The assessable income is calculated taking into account the individual's social insurance classification and income from employment, self-employment and other sources.

Working age individuals who participate in the Secondary Pension Scheme will see a reduction in their net income.[32] As pension contributions are tax exempt[33], the reduction in net income is partly offset by a reduction in the amount paid in income tax.

Figure 28 shows the reduction in net income, expressed as a percentage of gross taxable income for different income levels, and a long-term individual contribution rate of 6.5%.

Figure 28. Reduction in net income, expressed as a percentage of gross taxable income



For the majority of individuals, who have income between personal allowance (£10,000 in 2017) and the UEL (£138,684 in 2017), the reduction in net income will be 80% of the pension contribution. Thus, once the contribution rate has reached 6.5%, individuals who contribute to a secondary pension will have a 5.2% reduction in net income. Individuals who have income below the personal allowance do not pay income tax and therefore would have a reduction equivalent to 100% of the pension contribution. This explains the peak on the line chart that occurs between the lower earnings limit and the personal allowance. Individuals who have income above the UEL will see a reduction of less than 5.2% since pension contributions are only paid on income up to the UEL. The maximum individual contribution would be £9,014 in (2017 terms). A person paying the maximum contribution would pay £1,803 less in income tax, so the net effect would reduce their income by £7,211. However, it is proposed that tax relief for those earning above the UEL is largely phased out in the 2018 budget.

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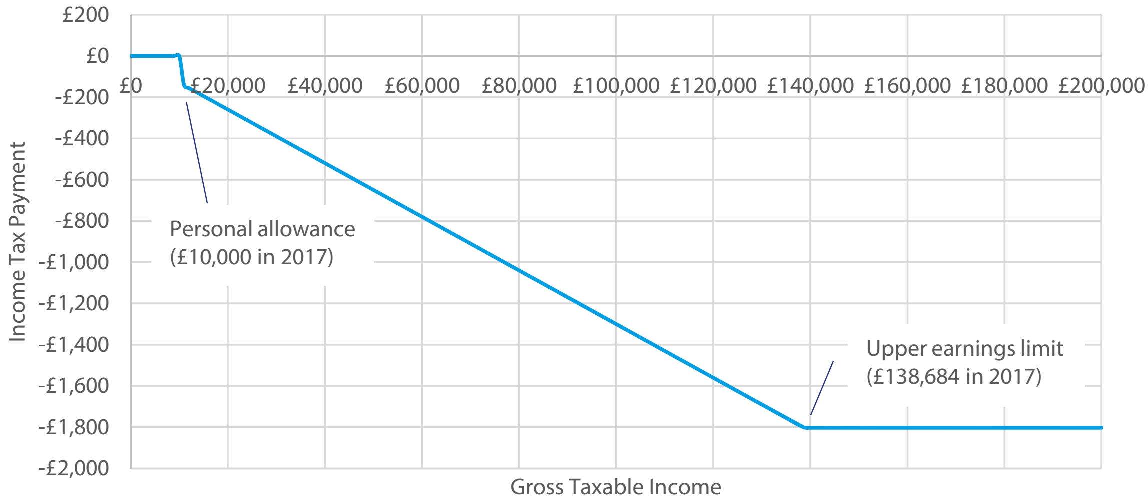
[32] Net income is defined as gross taxable income less income tax, social insurance and pension contributions Note, this definition does not include state benefits which are not assessed for income tax.

[33] In 2017 the maximum pension contribution that would be tax exempt is £50,000, though the 2018 budget has reduced this to £35,000.

5.1.3 Impact on Personal Income Tax Payment

Figure 29 shows the reduction in income tax paid by individuals on different income levels, based on a contribution rate of 6.5%.[34] As the graph shows, the tax saving is achieved when gross taxable income exceeds the personal allowance and continues up to the UEL.

Figure 29. Reduction in income tax at different levels of gross taxable income



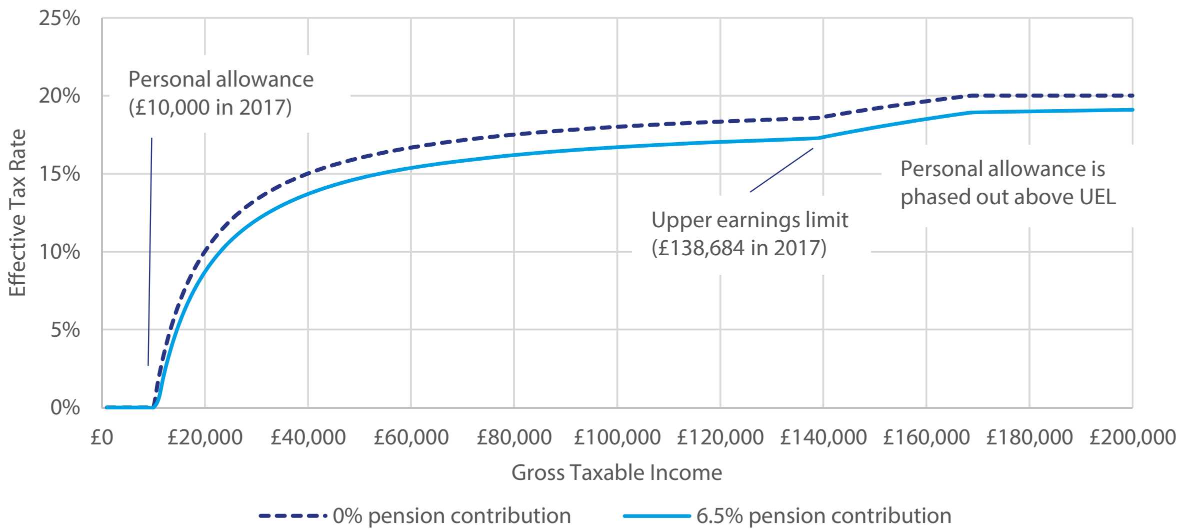
[34] This graph assumes all income is assessed when calculating the tax relief and does not illustrate the changes proposed in the 2018 Budget.

5.1.4 Impact on the Effective Tax Rate

The effective tax rate is an alternative metric for showing the impact of the Secondary Pension Scheme for different levels of income. The effective tax rate is the total amount of tax payable expressed as a percentage of gross income. It shows, for example, how the percentage of income paid in tax varies between the lowest and highest earners in society.

Income tax is paid once gross taxable income exceeds the personal allowance and increases up to a maximum level of 20%. The personal allowance is phased out once income exceeds the UEL, so that individuals earning above £168,684 (in 2017) pay income tax at 20% on all of their income. As tax relief is available on contributions up to the lower of 100% of earnings and £50,000, contributing to a secondary pension reduces the effective tax rate.[35] The impact is illustrated in Figure 30.

Figure 30. Impact of the Secondary Pension Scheme on the Effective Tax Rate



[35] The 2018 budget proposed some changes that are not shown here.

5.1.5 Illustrative Example: Employee with Gross Salary of £30,000 in 2020

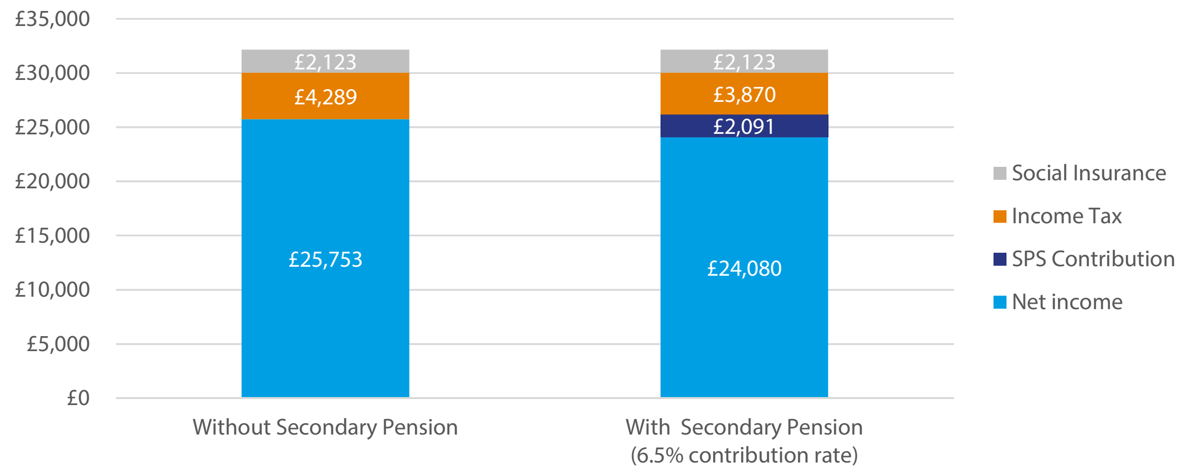
Table 6 shows how the Secondary Pension Scheme would affect an employee earning £30,000 in 2020[36] over the first eight years. From 2027 contribution rates will remain stable at 6.5% of eligible income. The results are presented in real terms, given the assumptions in the base case scenario.[37]

Table 6. Net income for an employee with a gross salary of £30,000 in 2020

	2020	2021	2022	2023	2024	2025	2026	2027 onwards
Gross Income	£30,000	£30,300	£30,603	£30,909	£31,218	£31,530	£31,846	£32,164
Social Insurance	£1,980	£2,000	£2,020	£2,040	£2,060	£2,081	£2,102	£2,123
Secondary Pension Scheme Contribution	£300	£455	£612	£927	£1,249	£1,577	£1,911	£2,091
Income Tax	£3,940	£3,949	£3,958	£3,936	£3,913	£3,889	£3,864	£3,870
Net Income	£23,780	£23,897	£24,013	£24,006	£23,996	£23,984	£23,969	£24,080
Change in Tax Paid	(£60)	(£91)	(£122)	(£185)	(£250)	(£315)	(£382)	(£418)
Effective Tax Rate	13.1%	13.0%	12.9%	12.7%	12.5%	12.3%	12.1%	12.0%
Change in Net Income	(£240)	(£364)	(£490)	(£742)	(£999)	(£1,261)	(£1,529)	(£1,673)
Change in Net Income as % of Gross Income	0.8%	1.2%	1.6%	2.4%	3.2%	4.0%	4.8%	5.2%

In 2027, once the Secondary Pension Scheme has been fully rolled out, the employee will pay £2,091 into a secondary pension, but pay £418 less in income tax. Net income is reduced by £1,673 from £26,010 to £24,080. The impact is also illustrated in Figure 31.

Figure 31. Impact of the Secondary Pension Scheme on an employee with a gross salary of £30,000 in 2020 (i.e. £32,164 in 2027)



Section 5.2.3 discusses how membership of the Secondary Pension Scheme increases expected retirement income. An individual earning £30,000pa in 2020 is expected to be slightly below the median earnings level. The Secondary Pension Scheme could potentially increase their income at retirement age to around double what they would have received from the old age pension alone.

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[36] Earnings are adjusted to for real earnings growth of 1%. The individual has no other sources of income and was not an existing active member of an occupational pension scheme

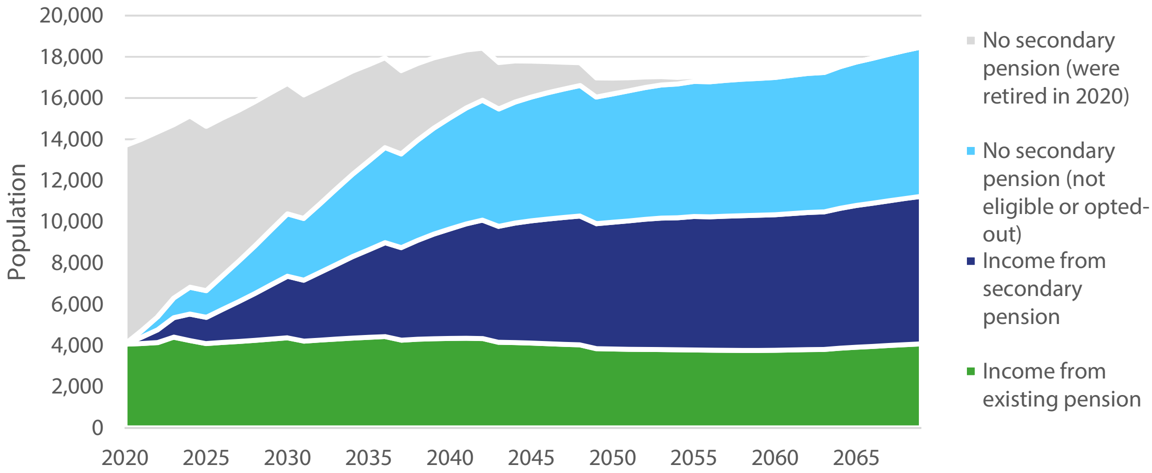
[37] Takes into account the personal tax allowance of £10,000 in 2020 (which is increased in line with real earnings). Mortgage interest relief has not been included in the calculations as it will be phased out by 2025.

5.2 Impact on Pension Age Individuals

5.2.1 Number of Individuals Expected to Benefit from Secondary Pension Scheme

The number of individuals who will be expected to benefit from the Secondary Pension Scheme will gradually increase over the next 50 years, as they reach the States pension age. As Figure 32 shows, the proportion of the pension age population who receive income from an occupational pension is expected to increase to 61% of the pension age population by 2069, compared with 22% currently. The remaining 39% either did not meet the criteria for automatic enrolment or are assumed to have opted out of the Secondary Pension Scheme.

Figure 32. Number of individuals with pension income in retirement following the introduction of the Secondary Pension Scheme



5.2.2 Impact on Income in Retirement

Individuals who contribute to the Secondary Pension Scheme will benefit from additional pension income in retirement. The amount of additional income will depend on various factors. A member is expected to receive a higher pension under the following conditions:

- joins at a younger age (without opting out)
- receives a higher amount of assessable income
- the scheme has a higher total contribution rate (employee plus employer)
- investment performance is better
- States pension age is higher
- lump sum taken at retirement is lower
- annuity purchased from insurance company is cheaper

The pension amounts are expected to be lower in the earlier years following the introduction of the Secondary Pension Scheme. This is because the accumulated funds will be smaller, since contribution rates will be lower initially and the period that the contributions will have been paid will only have been for a small proportion of working life.

5.2.3 Income Replacement Rates

A replacement rate is calculated as the percentage of an individual's pre-retirement earnings that would be replaced by the total pension income immediately after retirement. The replacement rates illustrated below are based on gross income (i.e. before tax and other deductions).

The 2016 Billet refers to the different levels of target replacement rates, depending on the level of pre-retirement income. Table 7 shows the latest published statistics for Guernsey, and the target replacement rate in retirement.

Table 7. Average earnings in Guernsey and target replacement rate in retirement

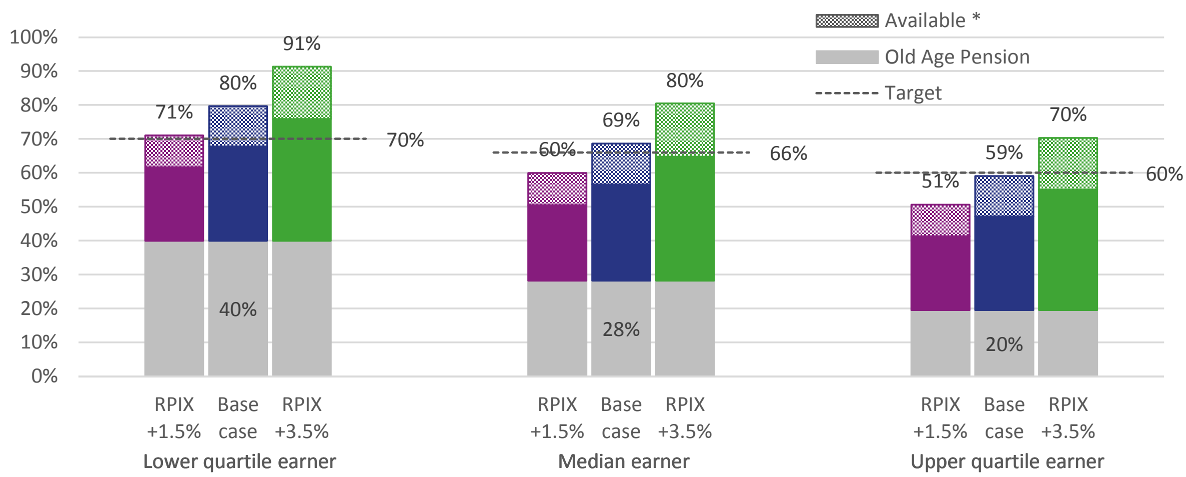
Category of Earner	Four quarter average earnings (at June 2017)	Target Replacement Rate	Target Retirement Income per annum (2017 terms)
Lower Quartile	£22,016	70%	£15,411
Median	£31,906	66%	£21,058
Upper Quartile	£46,838	60%	£28,103

Source: States of Guernsey (2017). Guernsey Quarterly Population, Employment and Earnings Bulletin. Issue Date 26 October 2017 and Billet d'État III 2016.

Figure 33 illustrates the income replacement rates for an individual who joins the Secondary Pension Scheme aged 25 and continues in employment until their States pension age. It is assumed that they have no other income in retirement other than from the States old age pension and from the Secondary Pension Scheme. The examples are based on the longer term stable structure of the scheme (i.e. the member has a States pension age of 70 and the phasing in of contribution rates has been completed before the member joins the scheme).

The chart shows the impact of individuals taking lump sums from the Secondary Pension Scheme. An additional amount is shown as available (dotted area) which can be accessed by taking less than the maximum lump sum of 30% of their Secondary Pension Scheme fund at retirement. The chart also shows the sensitivity of the replacement rates to the investment return assumption.

Figure 33. Income replacement rates



** depending on lump sum taken from Secondary Pension*

The chart shows the expected replacement rates for three members, as follows:

- an individual earning at the lower quartile level throughout their working life

- an individual earning at the median level throughout their working life
- an individual earning at the upper quartile level throughout their working life.

The individual is assumed to have a full social security contribution record. Therefore, the chart reflects a full old age pension. In practice, it is understood that only around a quarter of people have a full contribution record. Consequently, the income replacement rates for those with an incomplete social security record are expected to be lower

The age-related growth in employment income has been taken from the age-specific income percentiles for the current working population, assuming individuals continue to earn at the same age-related percentile throughout their career. The population-related growth in income for the base case assumption has also been applied (the base case assumption is a growth in income of RPIX + 1.0% per annum in addition to the age-related growth).

The target replacement rates shown in Figure 33 are different from those shown in Volume III of the 16th February 2016 Billet d'État. This is due to differences in the assumptions including updated annuity rates and a lower level of growth in employment incomes. Higher rates of assumed growth in employment incomes would reduce the replacement rates.

Figure 33 illustrates that for the base case assumptions, the projected income replacement rate for a lower quartile earner increases from just below 40% (the old age pension alone) to up to around 80% for a person who contributes to the Secondary Pension Scheme throughout their working life from age 25 to age 70 and takes no lump sum at retirement.

It also illustrates that a median earner could expect to receive a retirement income of only around 28% of their pre-retirement income if they relied solely on the States old age pension, whereas they are projected to achieve the target level of 66% of their pre-retirement income if they contributed to the Secondary Pension Scheme throughout their working life.

Under the base case assumptions, the lower quartile earner and median earner are projected to have pensions which would achieve the target replacement rate. Furthermore, the lower quartile earner could achieve the target replacement rate even after taking 24% of their fund as a lump sum at retirement rate.

If investment returns are 1% per annum higher than the base case assumption (i.e. RPIX + 3.5% per annum) then the projected retirement income exceeds the target rates by a significant margin.

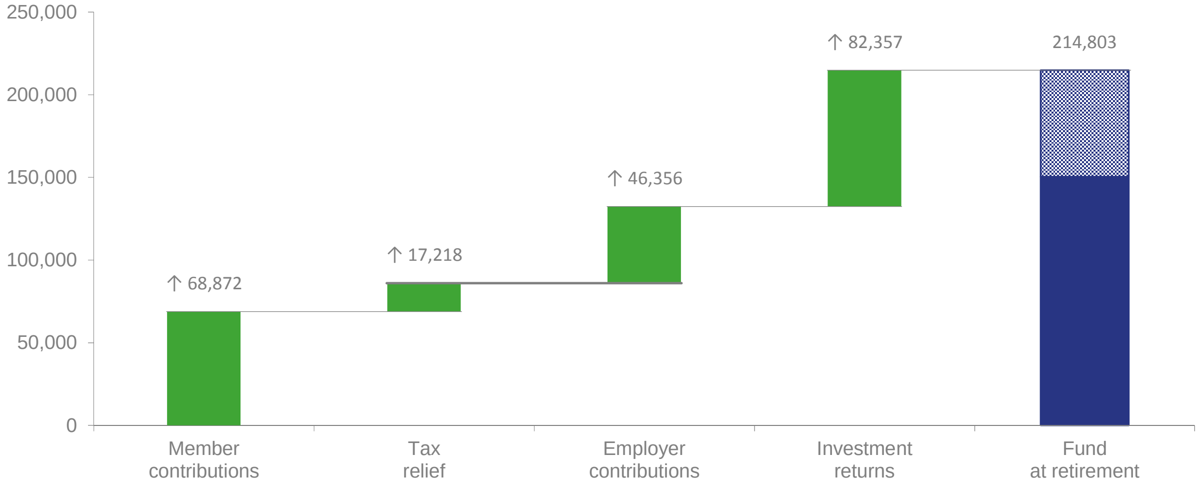
If investment returns are 1% per annum lower than the base case assumption (i.e. RPIX + 1.5% per annum) then the target replacement rates are generally achieved for the lower quartile earner. However, target replacement rates would not be expected to be achieved by the median earner and upper quartile earner.

Figure 33 clearly illustrates that the Secondary Pension Scheme will lead to a significant increase in retirement income. The projected income for the lower quartile earner under the base case is potentially double the rate of the full old age pension.

5.2.4 Impact over lifetime

Figure 34 illustrates the pension fund at retirement for the lower quartile earner for an individual who joins the Secondary Pension Scheme aged 25 (as per the income replacement rate examples in Section 5.2.3). It shows how different components of the Secondary Pension Scheme are expected to contribute to the size of the fund for the individual, under the base case assumptions.

Figure 34. Source of Secondary Pension Scheme fund for lower quartile earner



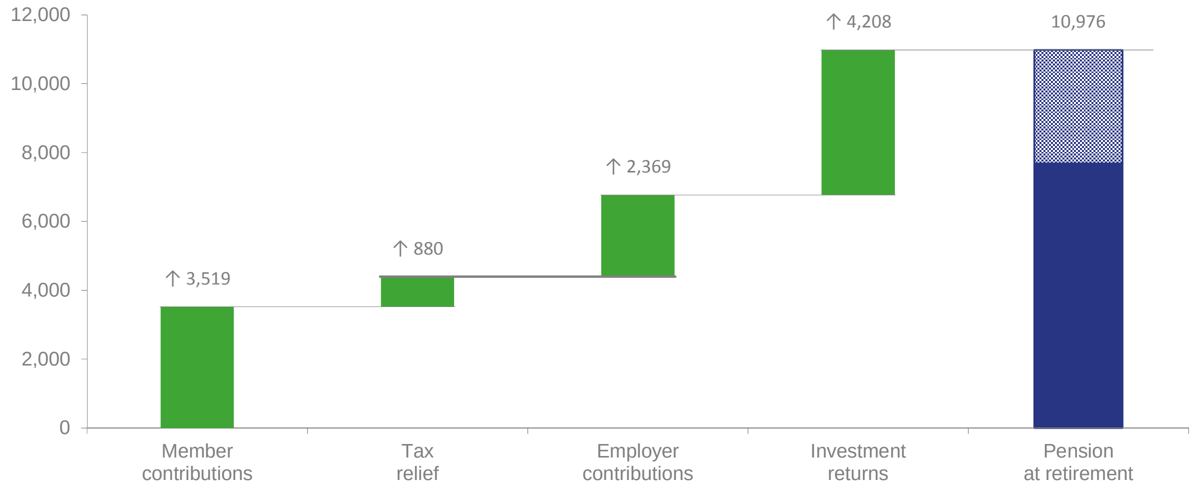
The investment returns shown in the charts are net of charges.

The chart shows that the member is expected to contribute £68,872 over their career, in terms of current prices. There is an additional £17,218 added to the fund due to tax relief on the member contributions. In addition, the employer is expected to pay in £46,356. These contributions are expected to increase in real terms with investment returns (net of charges), which add £82,357, resulting in a projected fund at retirement of £214,803.

This fund is then used to purchase an annuity at retirement. A lump sum may be taken prior to purchasing the annuity, which would reduce the funds available and also reduces the size of the pension purchased. The lump sum that can be taken is shown as a dotted area in the chart. Where no lump sum is taken, the full fund is available to purchase an annuity (ie £214,803). However, if the maximum lump sum is taken at retirement then the fund is reduced by the dotted area (a maximum lump sum of £64,441 in the above example, leaving a fund size of £150,362 with which to purchase an annuity).

The size of the resulting pension available (to the lower quartile earner example) is shown in Figure 35.

Figure 35. Source of Secondary Pension Scheme pension for lower quartile earner



The dotted area shows the amount of pension which would not be available if the maximum lump sum is taken at retirement. If no lump sum is taken then a pension of £10,976 per annum is available to the lower quartile earner. If the maximum lump sum of £64,441 is taken then a pension of £7,683 per annum is expected to be available to the lower quartile earner.

Figure 35 shows that an individual's contributions over their career, in terms of current prices, equate to a pension of £3,519 per annum at retirement. However, because of the positive impact of tax relief, employer contributions and net investment returns, the cumulative impact is a fund, which equates to a pension of £10,796 per annum at retirement (if no lump sum is taken). Therefore, the pension that the lower quartile earner is expected to receive at retirement is worth around three times what the member has contributed to the Secondary Pension Scheme.

5.3 Impact on Household Income

The impact of the Secondary Pension Scheme on household income will depend on the composition of the household and the circumstances of the individual members. Working age individuals who contribute to a secondary pension will have their net income reduced before retirement. However, they will ultimately benefit from additional pension income in retirement. To understand the magnitude of the impact of the Secondary Pension Scheme on disposable income, it is necessary to consider the impact at the household level. This is because the Secondary Pension Scheme may impact on the amount of income support a household would receive.

Income support is a new social welfare benefit that is expected to be introduced in 2018, combining supplementary benefit and rent rebate into a single system. Income support is a means-tested benefit assessed at the household level. It is paid to bring a household's income up to a level that is considered the minimum amount required to live on. This minimum amount, known as the requirement rate, reflects the household composition and circumstances of the household members. The assessment also takes into account the amount of capital the household has available.[38] This is why two households with the same income may not necessarily both be eligible for income support or may receive different amounts.

5.3.1 Illustrative Examples of Impact on Household Income

The potential impact of the Secondary Pension Scheme on household income is shown using a range of simple illustrative examples in Table 8 and Table 9 on different household types. We have assumed:

- Gross household income is defined as gross taxable income (which includes the old age pension) plus income support and family allowance.[39] Other benefits are presumed to be zero.
- Net household income is defined as gross household income less income tax, social security, and pension contribution.
- Eligible working age individuals do not opt out of the secondary pension and contribute 6.5% of their income to the Secondary Pension Scheme.
- Income tax is assessed on an individual basis.[40]
- Income support will be implemented as set out in the Billet d'État Volume II from 8 March 2016.[41]
- Pension contributions are a deductible allowance in the income support assessment.[42]
- Income support payment for eligible households is adjusted to take into account the change in the net household income.
- The income support payment can be increased, but only up to the maximum requirement rate and this depends on the household composition.[43]

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[38] States of Guernsey (2015). Supplementary Benefit Leaflet SPB 2.

[39] Family allowance is £13.50 per child per week in 2017.

[40] Since the married persons tax allowance will be gradually withdrawn. See States of Guernsey (2016). Summary of Allowances Year of Charge 2017.

[41] The monetary values in the Billet d'Etat were presented in 2015 prices and have been inflated to 2017 terms.

[42] This is consistent with the existing legislation (The Supplementary Benefit (Implementation) Ordinance, 1971) on supplementary benefit.

[43] The long-term requirement rate for a single adult was proposed to be £170.60 per week, for a couple £282.79 per week, per child (aged 11 years and over) £100.16 per week. The maximum rent allowance for a single or couple adult without children was £207.00 per week (2015 prices). The maximum rent allowance with two children was £316.10. Thus, for a single adult the maximum rate would be £19,635 per year (2015) or £20,354 in 2017 terms. For a couple without children the maximum rate would be £25,469 per year (2015) or £26,395 in 2017 terms. For a couple with two children the maximum rate would be £36,351 per year (2015) or £37,672 in 2017 terms.

For example, household E consists of two working age adults, one earning £15,000 per annum from employment. The other is not employed but receives £5,000 in other income. Without the Secondary Pension Scheme the couple have a gross income of £20,000 and pay £1,000 in income tax, and £990 in social insurance (not shown). Their net household income is £18,010. With Secondary Pension Scheme the maximum pension contribution the employed adult will pay is £975, pay £805 in income tax and £990 in social insurance. As a household, their net income will be reduced by £780 to £17,230. Comparing the household profiles shows the impact of the Secondary Pension Scheme is broadly proportionate to the amount of household income. However, the actual impact depends on their specific circumstances.

Several profiles show how income support can offset the reduction in household income (e.g. B&C, E&F, H&I). In two of these comparisons (B&C and E&F) the household is entirely reimbursed for the reduction in net income associated with the pension contribution. For example, households E and F are similar, though only Household F is eligible for income support and receives £5,000 per annum. The income support payment to Household F will increase by £780 to offset their reduction in net income due to Secondary Pension Scheme contributions. In the other comparison (H&I) the reduction in net income is only partly offset because of the maximum requirement rate.

Table 8. Illustrative examples to show the impact on working age households

	Household Composition & Income[44]	Receive Income Support		Gross Income	Income Support Paid	Pension contri-bution	Income Tax Paid	SI Paid	Net Household Income
A	**1 Working Age**	No	No SPS:	£30,000	n/a		£4,000	£1,980	£24,020
	£30,000 salary		SPS:	£30,000		£1,950	£3,610	£1,980	£22,460
			Change			**-£1,950**	**£390**	**£0**	**- £1,560**
B	**1 Working Age:**	No	No SPS:	£15,000	n/a		£1,000	£990	£13,010
	£15,000 salary		SPS:	£15,000		£975	£805	£990	£12,230
			Change			**-£975**	**£195**	**£0**	**-£780**
C	**1 Working Age:**	Yes	No SPS:	£18,000	£3,000		£1,000	£990	£16,010
	£15,000 salary		SPS:	£18,780	£3,780	£975	£805	£990	£16,010
			Change		**£780**	**-£975**	**£195**	**£0**	**£0**
D	**2 Working Age:**	No	No SPS:	£60,000	n/a		£8,000	£3,960	£48,040
	£30,000 salary;		SPS:	£60,000		£3,900	£7,220	£3,960	£44,920
	£30,000 salary		Change			**-£3,900**	**£780**	**£0**	**-£3,120**
E	**2 Working Age:**	No	No SPS:	£20,000	n/a		£1,000	£990	£18,010
	£15,000 salary;		SPS:	£20,000		£975	£805	£990	£17,230
	£5,000 other		Change			**-£975**	**£195**	**£0**	**-£780**
F	**2 Working Age:**	Yes	No SPS:	£25,000	£5,000		£1,000	£990	£23,020
	£15,000 salary;		SPS:	£25,780	£5,780	£975	£805	£990	£23,010
	£5,000 other		Change		**£780**	**-£975**	**£195**	**£0**	**£0**
G	**2 Working Age**	No	No SPS:	£81,404	n/a		£12,000	£5,280	£64,124
	+ 2 Children*:		SPS:	£81,404		£5,200	£10,960	£5,280	£59,964
	£50,000 salary;		Change			**-£5,200**	**£1,040**	**£0**	**-£4,160**
	£30,000 salary								
H	**2 Working Age**	No	No SPS:	£31,404	n/a		£2,000	£1,980	£27,424
	+ 2 Children*		SPS:	£31,404		£1,950	£1,740	£1,980	£25,734
	£20,000 salary;		Change			**-£1,950**	**£260**	**£0**	**-£1,690**
	£10,000 salary								
I	**2 Working Age**	Yes	No SPS:	£36,404	£5,000		£2,000	£1,980	£32,424
	+ 2 Children*		SPS:	£37,672	£6,268	£1,950	£1,740	£1,980	£32,002
	£20,000 salary;		Change		**£1,268**	**-£1,950**	**£260**	**£0**	**-£422**
	£10,000 salary								

* Family allowance of £1,404 per annum for 2 children

[44] Images sourced from www.freepik.com

Table 9 illustrates the potential impact of pension income on the disposable income of pension age households and shows that the household income in retirement will either increase or stay the same (in current terms) as a result of contributing to the Secondary Pension Scheme. For example, Household N is a pension age couple with a gross income of £22,500. Contributing to a secondary pension could yield a pension income of £10,000 per annum. The couple will pay income tax and social insurance on the pension income, which in this example means that the household would have £7,963 more in disposable income each year.

Several household profiles show how receiving pension income would impact on eligibility for income support (K&L, N&O and P&Q). In all cases it is expected to reduce the amount of income support paid or eliminate it entirely. For instance, households L, O and Q would be expected to see a reduction in their income support payment. In two of these cases (L and O) the additional pension income exceeds the reduction in income support and so contributing to a secondary pension is expected to lead to a higher disposable income. In the remaining case (Q) the pension income is less than the income support, and their net income remains unchanged since income support payment is reduced by the amount received in pension income.

Table 9. Illustrative examples to show the impact on pension age households

	Household Composition & Income[45]	Receive Income Support		Gross Income	Income Support Paid	Pension Income[46]	Income Tax Paid	SI Paid	Net Household Income
J	**1 Pension Age:** £30,000	No	No SPS:	£30,000			£3,710	£752	£25,538
			SPS:	£42,500		£12,500	£6,210	£1,177	£35,113
			Change			**£12,500**	**-£2,500**	**-£425**	**£9,575**
K	**1 Pension Age:** £15,000	No	No SPS:	£15,000			£710	£0	£14,290
			SPS:	£23,000		£8,000	£2,310	£514	£20,176
			Change			**£8,000**	**-£1,600**	**-£514**	**£5,886**
L	**1 Pension Age:** £15,000	Yes	No SPS:	£20,000	£5,000		£710	£0	£19,290
			SPS:	£23,000	£0	£8,000	£2,310	£514	£20,176
			Change		**-£5000**	**£8,000**	**-£1,600**	**-£514**	**£886**
M	**2 Pension Age:** £20,000; £20,000	No	No SPS:	£40,000			£3,420	£825	£35,756
			SPS:	£60,000		£20,000	£7,420	£1,505	£51,076
			Change			**£20,000**	**-£4,000**	**-£680**	**£15,320**
N	**2 Pension Age:** £12,500 £10,000	No	No SPS:	£22,500			£210	£0	£22,290
			SPS:	£32,500		£10,000	£1,920	£327	£30,253
			Change			**£10,000**	**-£1,710**	**-£327**	**£7,963**
O	**2 Pension Age:** £12,500 £10,000	Yes	No SPS:	£24,500	£2,000		£210	£0	£24,290
			SPS:	£32,500	£0	£10,000	£1,920	£327	£30,253
			Change		**-£2,000**	**£10,000**	**-£1,710**	**-£327**	**£5,963**
P	**2 Pension Age:** £10,000 £5,000	No	No SPS:	£15,000			£0	£0	£15,000
			SPS:	£19,000		£4,000	£510	£0	£18,490
			Change			**£4,000**	**-£510**	**£0**	**£3,490**
Q	**2 Pension Age:** £10,000 £5,000	Yes	No SPS:	£20,000	£5,000		£0	£0	£20,000
			SPS:	£20,510	£1,510	£4,000	£510	£0	£20,000
			Change		**-£3,490**	**£4,000**	**-£510**	**£0**	**£0**

[45] The income given here is the amount of income for each individual, without income from the secondary pension.
[46] Note, the pension income values are indicative amounts rather than exact projections.

6. Economic Impact on Employers

The introduction of the Secondary Pension Scheme will require employers to review the benefits they offer their employees as they will be legally required to automatically enrol eligible employees into a secondary pension. Employees earning more than the LEL (which is £6,968 in 2017) will be eligible.

Employers will be required to contribute into the scheme at minimum statutory levels for each employee who has not opted out of the scheme. It is proposed that the employer contributions will be phased in over 8 years up to 3.5% of gross salary by 2027 (Table 1).

6.1 Number of employers affected by the Secondary Pension Scheme

All employers will need to comply with the Secondary Pension Scheme legislation. However, how they are affected depends on their existing occupational pension provision:

- Employers who do not currently offer employees an occupational pension will need to join a Secondary Pension Scheme (either the States-facilitated Secondary Pension Scheme or an alternative qualifying scheme).

- Employers who currently offer employees an occupational pension that satisfies the criteria for an alternative qualifying scheme and have high membership participation will be largely unaffected. They will, however, need to contact any employees who have previously opted out of the scheme and explain they will be automatically enrolled in a secondary pension, but can subsequently decide to opt out.[47]

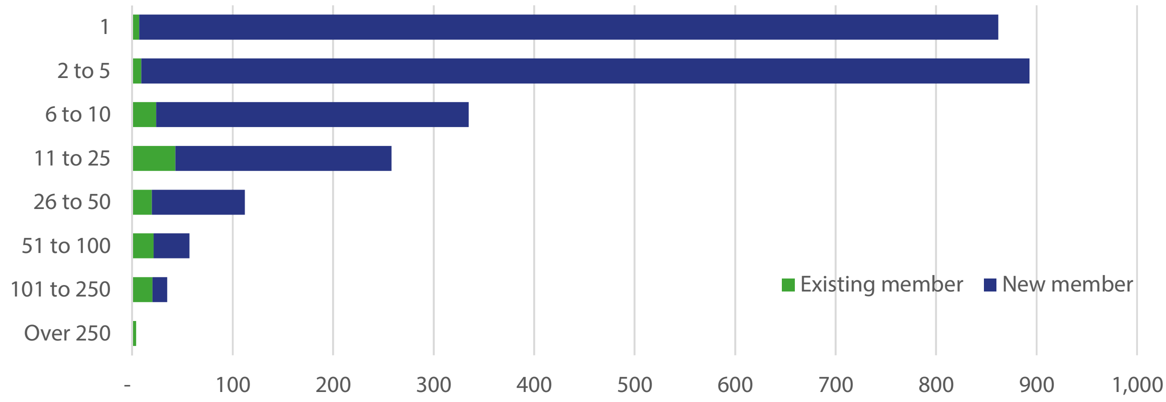
- Employers who currently offer employees an occupational pension that is not an alternative qualifying scheme will need to modify their pension arrangements. They could either revise their existing scheme (i.e. by changing the contribution rates) so that it qualifies or join a qualifying scheme (either the States-facilitated scheme or an alternative qualifying scheme).

There do not appear to be any reliable data on the percentage of employers who currently offer an occupational pension. Income Tax records for 2014 showed that the percentage of employees who contributed to an occupational pension varies considerably by economic sector. Unfortunately the available data do not show how this varies by employer size. The assumptions we have made are detailed in Section 11.3 of the Appendices. Based on these assumptions, it is estimated that of the 2,556 employers in Guernsey and Alderney, 148 currently offer an occupational pension, and 2,408 (94%) employers will be affected by the introduction of the Secondary Pension Scheme.

[47] Model assumes that all existing occupational schemes will meet the alternative qualifying scheme criteria – does not take into account that some occupational pensions will be improved.

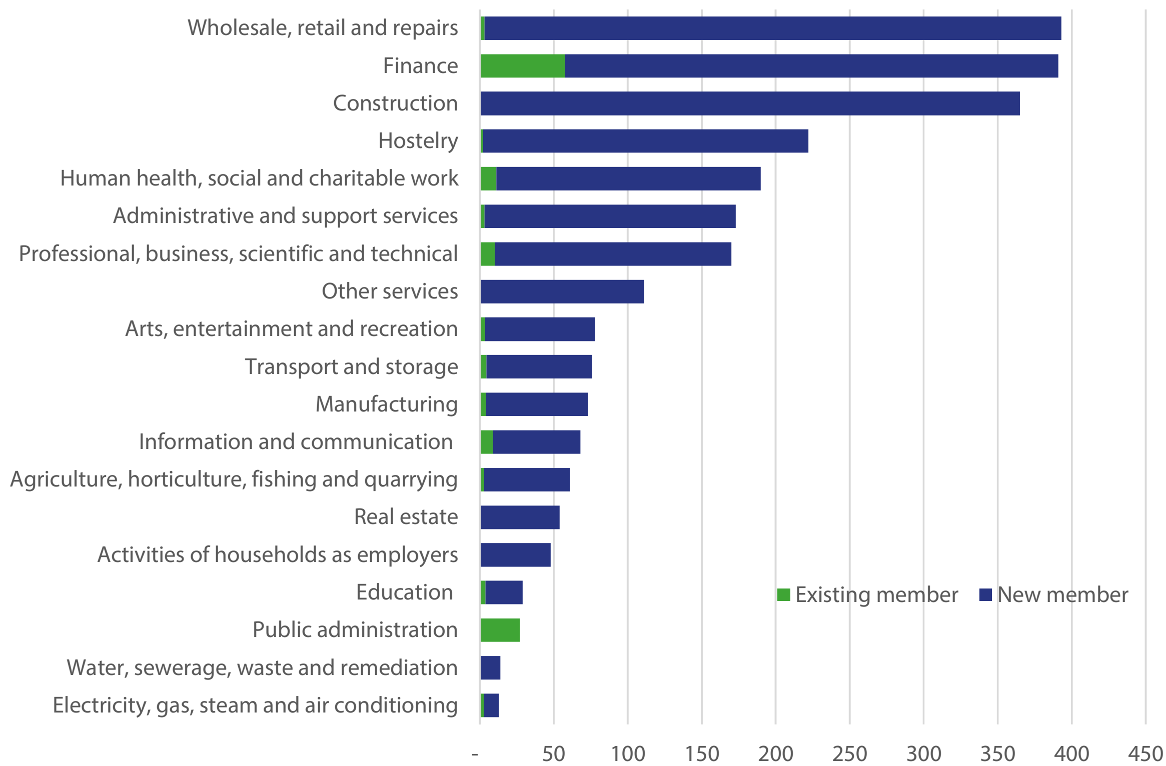
Employers of all sizes will be affected by the Secondary Pension Scheme, however micro-employers are likely to be the most affected since they are the least likely to offer an occupational pension. Figure 36 and Figure 37 show the number of employers who will need to join a Secondary Pension Scheme, by sector and by size.

Figure 36. Number of employers who will need to enrol employees in a Secondary Pension Scheme, by employer size



All economic sectors, except public administration, will be affected. Construction; hostelry; and wholesale, retail and repairs will be particularly affected. It is estimated that these sectors employ 25% of the workforce. These sectors are also likely to have the highest administrative burden, due to staff turnover and seasonal workers and part-time workers.

Figure 37. Number of employers who will need to enrol employees in a Secondary Pension Scheme, by economic sector



6.2 Marginal Impact on Employer Costs

Employers that do not currently offer an occupational pension will incur additional costs as they will be required to contribute to the Secondary Pension Scheme. These costs will be the pension contributions, together with any administrative costs incurred.

6.2.1 Employer Pension Contributions

Figure 38 shows the total projected additional amount that employers will contribute to secondary pensions each year. The amount employers contribute increases to £18 million by the end of 2027, as the contribution rate increases, and increases gradually thereafter in line with real earnings growth.

Figure 38. Marginal impact on the annual amount paid into secondary pensions schemes by employers in Guernsey and Alderney

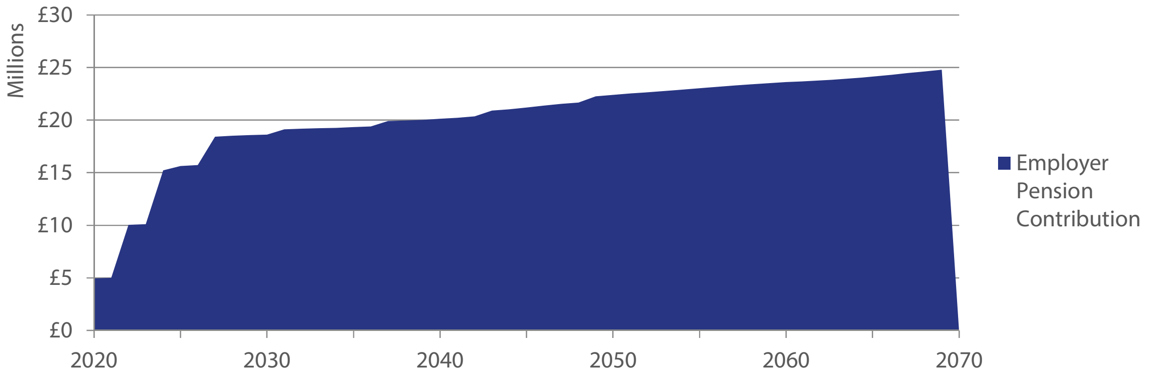


Figure 39, Figure 40 and Figure 41 show the sensitivity of the employers' pension contributions to assumptions about the rate of real earnings growth, opt out rates, and the percentage of employees who are members of an existing scheme.

Figure 39. Marginal impact on employers' secondary pension contribution: sensitivity to the assumption on real earnings growth

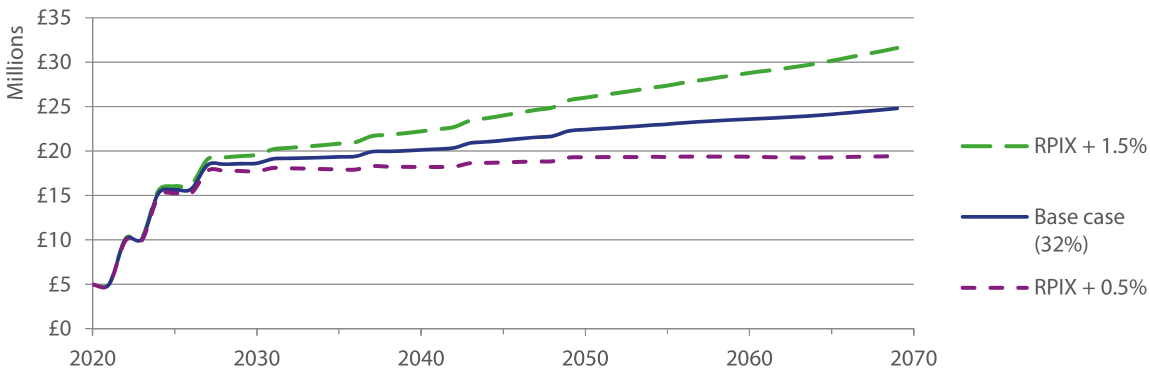


Figure 40. Marginal impact on employers' secondary pension contribution: sensitivity to opt out rate

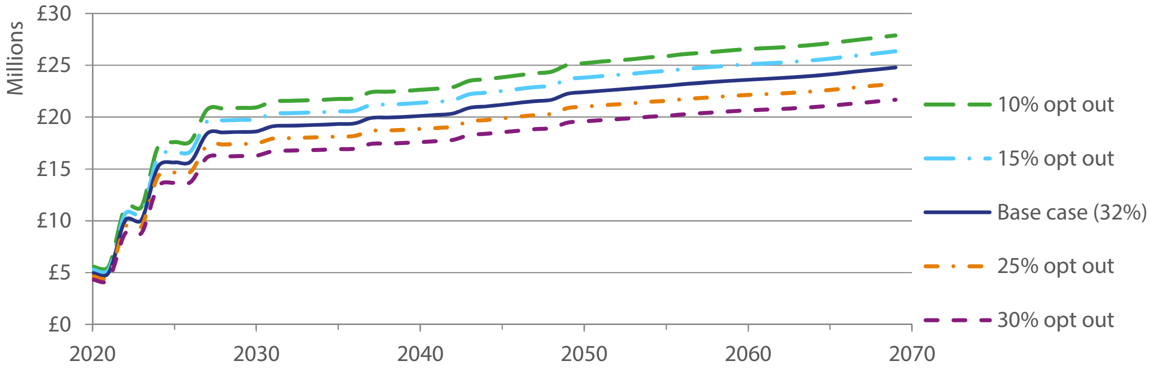
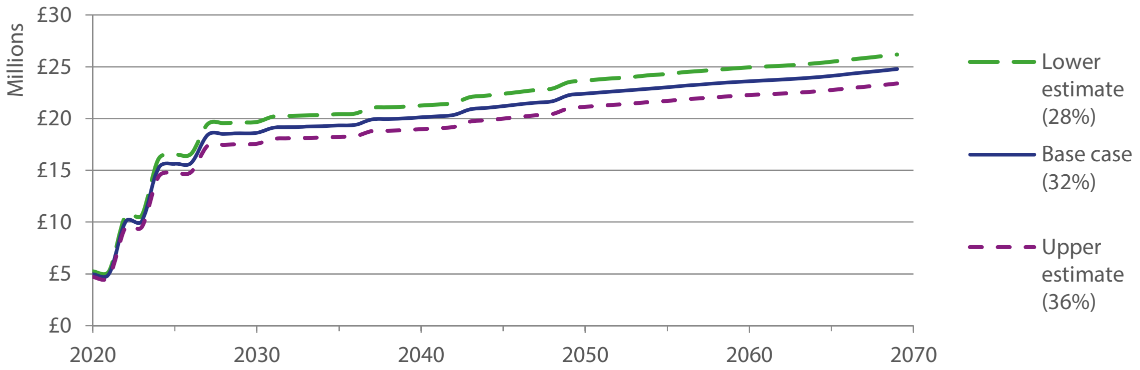


Figure 41. Marginal impact on employers' secondary pension contribution: sensitivity to the assumption on percentage of employees with existing occupational pension

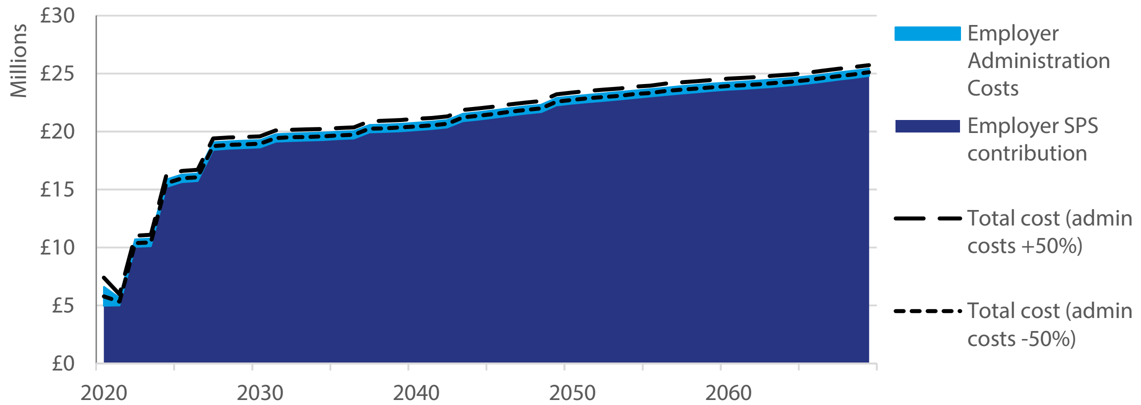


6.2.2 Employer Administration Costs

The economic model also acknowledges employers may face some additional administrative costs to comply with the Secondary Pension Scheme. Administration costs have been included in the economic model since they represent an opportunity cost. In other words, resources will need to be allocated to administering the Secondary Pension Scheme that could have an alternative productive use. However, it should be noted that only in some instances will the additional resources represent a monetary cost. Employers who pay for professional advice, who outsource their payroll may incur additional charges. However, there will be others for whom the additional resources required are staff time that can be absorbed within the existing workload.

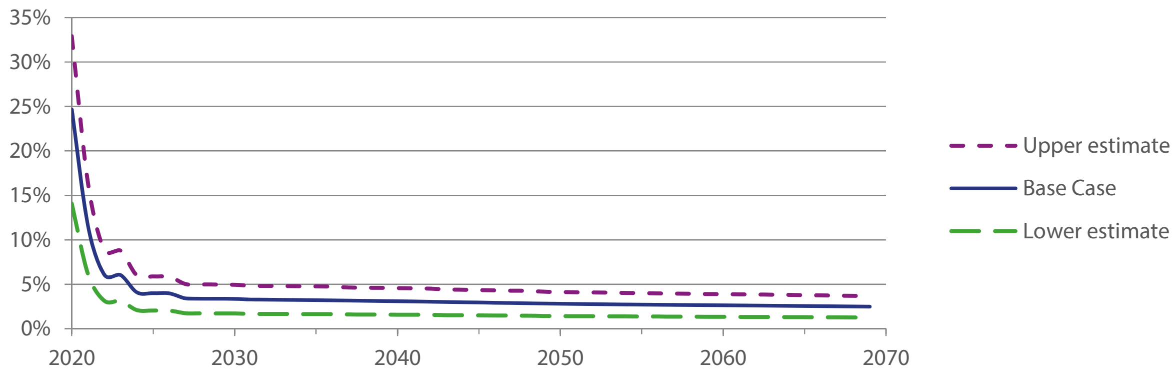
In the base case scenario it has been assumed employers will incur a fixed cost of £500 per employer in the first year and £200 in subsequent years, together with a variable cost of £25 per employee in the first year and £10 per employees in subsequent years. In the first year the fixed component reflects the time and/or advice required to understand their statutory duties and make system changes to human resource or payroll systems. In subsequent years the fixed costs reflect the time and/or advice required to monitor policy changes (such as increases to the contribution rate). The variable costs reflects the staff time required to enrol each employee. The projected costs are shown in Figure 42.

Figure 42. Total annual cost of the Secondary Pension Scheme on all employers



After the first year, under base case assumptions the administration costs represent a relatively small proportion (3.8%) of the overall cost on employers. This is illustrated in Figure 43.

Figure 43. Employers' administration costs as a percentage of the total employer cost



6.2.3 Impact on employers of different sizes

This section considers how the Secondary Pension Scheme will impact on employers of different sizes. For illustrative purposes, in this section it has been assumed that all employees receive a gross salary that remains fixed at £30,000 throughout the implementation period.

Figure 44 shows the average annual cost of the Secondary Pension Scheme per employee over the implementation period. For employers with a single employee the administrative costs are larger than the pension contribution in the first year of the scheme.

Figure 44. Average annual cost of the Secondary Pension Scheme per employee, by employer size

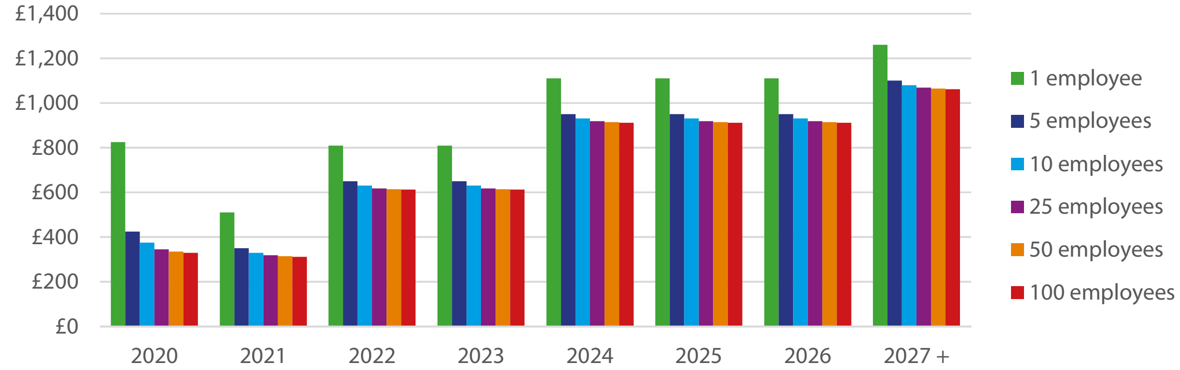


Figure 45, Figure 46, Figure 47 and Figure 48 illustrate the total cost per employer for employers of different sizes, spilt between the employers' pension contribution and the administrative cost.

Figure 45. Projected total cost of the Secondary Pension Scheme for an employer with one employee

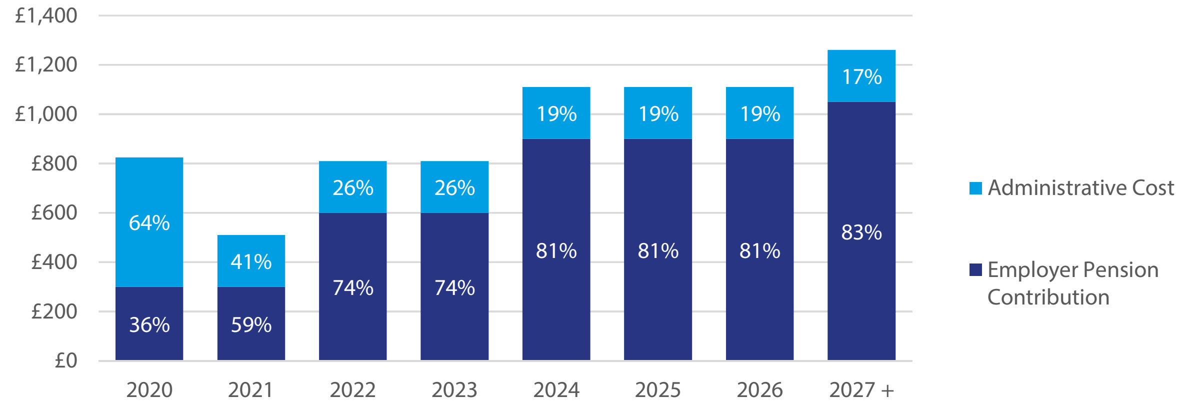


Figure 46. Projected total cost of the Secondary Pension Scheme for an employer with five employees

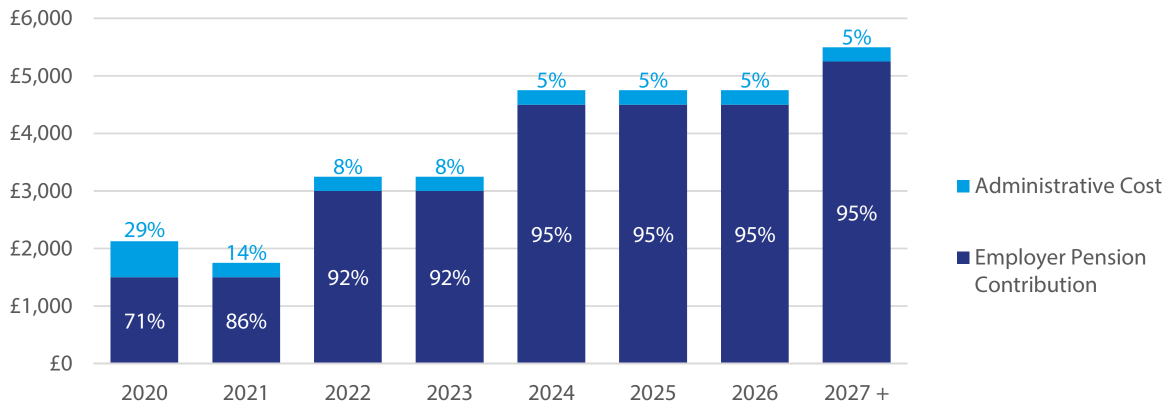


Figure 47. Projected total cost of the Secondary Pension Scheme for an employer with 15 employees

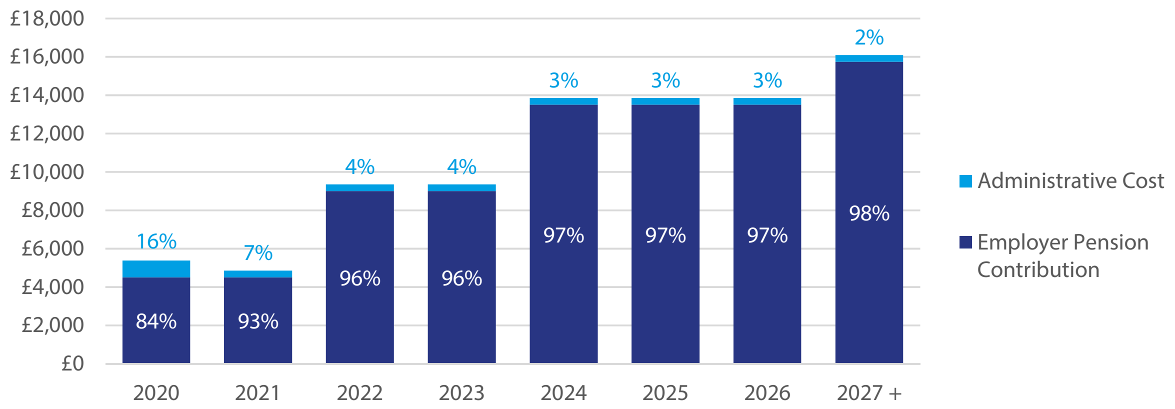
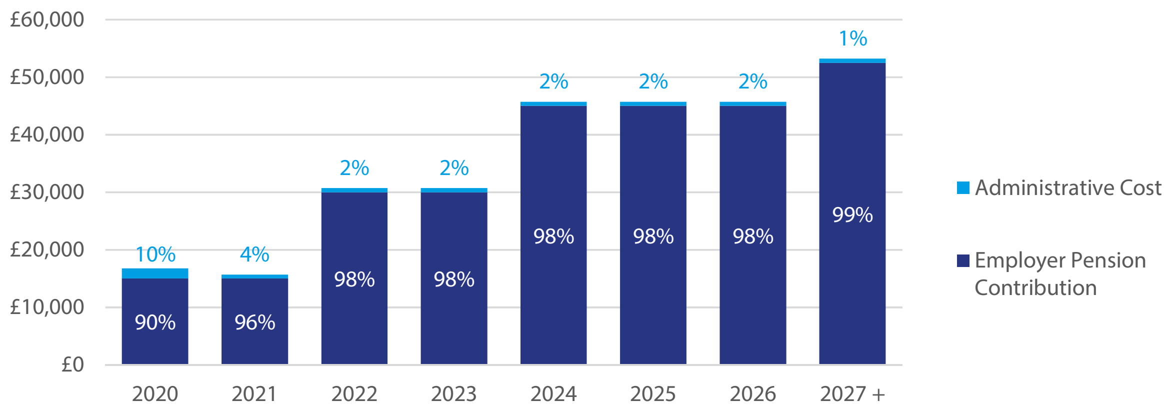


Figure 48. Projected total cost of the Secondary Pension Scheme for an employer with 50 employees



The cost of the employers' pension contribution is proportionate to the payroll. However, as Figure 45, Figure 46, Figure 47 and Figure 48 illustrate the Secondary Pension Scheme will have a disproportionate impact on sole traders and the smallest employers and this is because the fixed component of the administration costs will be distributed across fewer employees.

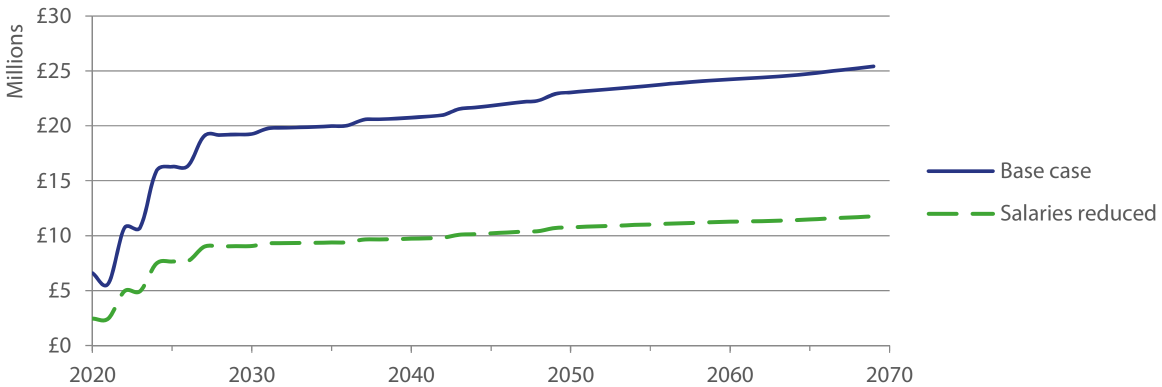
6.3 Employer Response to Secondary Pension Scheme

The base case scenario assumes 100% of the costs are borne by employers, with a corresponding reduction in company profits and therefore company tax. It is difficult to predict exactly how employers will response, but the base case is the worst case scenario. In practice, employers may be able to recover some of the additional costs and could respond using one or a combination of the following strategies:

- Reduce the number of hours worked or overtime available in order to limit the payroll
- Reduce the number of people employed, freeze recruitment or make redundancies in order to limit the payroll
- Defer or reduce future pay rewards to offset the increased pension costs
- Cut costs in other areas
- Increase productivity
- Increase prices to pass on increased labour costs to consumers
- Reduce their profits or dividends

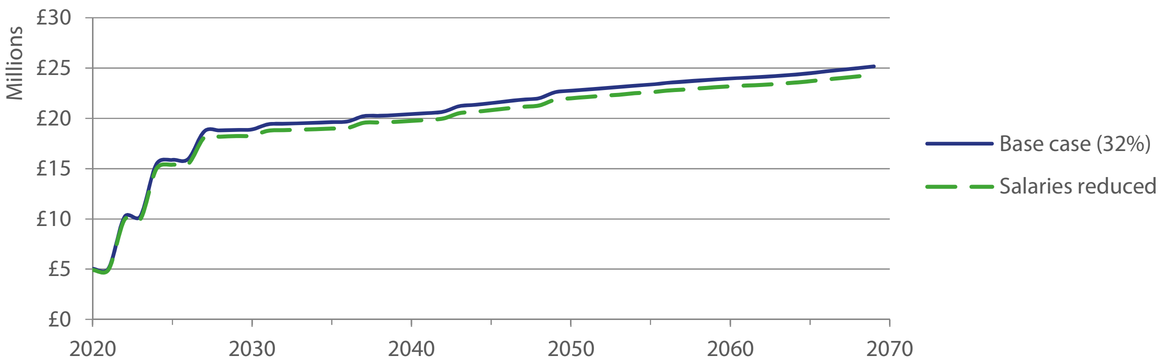
Sensitivity analysis has been used to assess an alternative scenario where employers recover 50% of the Secondary Pension Scheme costs by reducing future pay awards. The marginal cost to employers is show in Figure 49.

Figure 49. Marginal cost of Secondary Pension Scheme on employers if offset 50% of the additional costs by reducing salaries



As Figure 50 shows, reducing salaries to recover some of the Secondary Pension Scheme costs will also reduce the amount that employers contribute to the Secondary Pension Scheme.

Figure 50. Marginal impact on employers' secondary pension contribution: sensitivity on employers response (recover 50% of additional costs by reducing salaries)



7. Impact on the Government Budget

This section describes the estimated marginal impact of the Secondary Pension Scheme on government finances. We present the results of the economic model on the following components, before describing the overall impact:

- income tax revenue from working age population
- income tax revenue from pension age population
- company tax revenue
- expenditure on income support

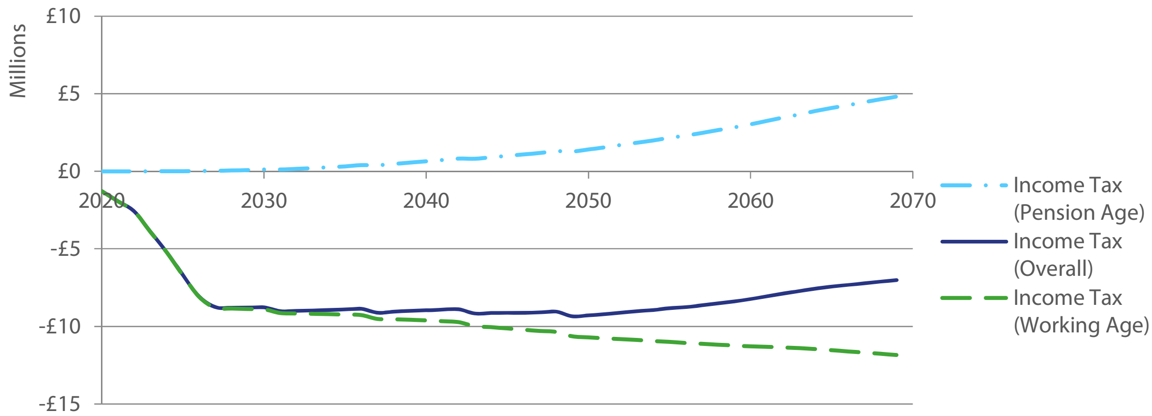
7.1 Marginal impact on Income Tax Revenue

The Secondary Pension Scheme will impact on the revenue from personal income tax in two ways:

- Individuals contributing to a secondary pension are likely to pay less in income tax since pension contributions are tax exempt
- Individuals receiving income from a secondary pension may pay more in income tax since pension income will be included in the income tax assessment.

The economic model focuses on the marginal impact on income tax at the population level, based on a 20% income tax rate, assumptions about the age, income and employment profile of the population, and that personal allowances increase in line with real earnings (as set out in Section 3.4). Figure 51 shows the estimated marginal impact of the Secondary Pension Scheme on income tax revenue over the next 50 years overall, and for the working and pension age populations in the base case scenario.

Figure 51. Marginal impact of Secondary Pension Scheme on Income Tax Revenue



The introduction of the Secondary Pension Scheme will lead to an overall loss in income tax revenue. This is because of the reduction in income tax revenue from the working age population in tax relief on pension contributions is greater than the increase in income tax revenue from the pension age population who benefit from additional pension income in retirement.

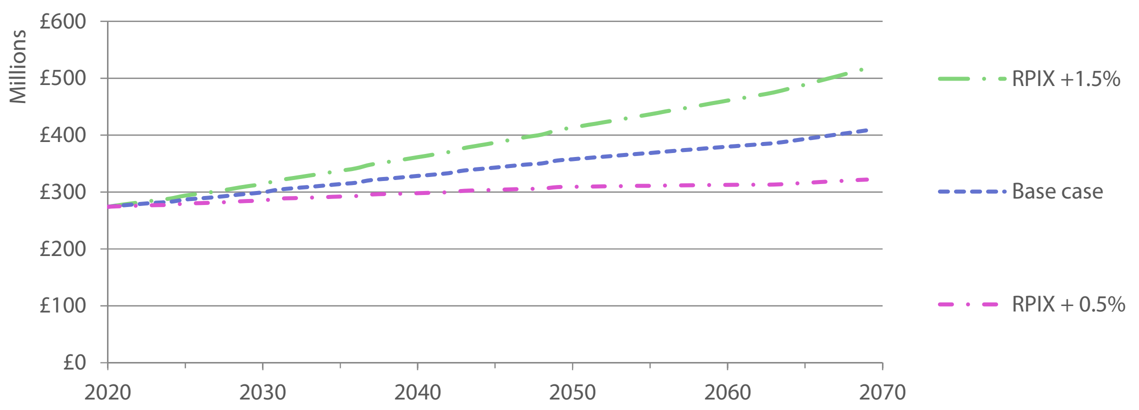
Figure 51 shows the reduction in income tax revenue from the working age population as the contribution rate increases. In 2027, when the individuals' contribution rate reaches 6.5%, the projected loss in income tax revenue is £8.8 million (in 2017 terms).[48] By 2069 the net effect on income tax revenue is projected to be a loss

[48] States of Guernsey (2017). Billet d'Etat XIII 2017. The States of Guernsey Accounts 2016. The accounts reported total revenue from personal income tax was £246 million in 2016. Total revenue from personal income tax in 2027 is projected to be £275 million, based on the assumption of real earnings growth of 1%.

of £7 million (in 2017 terms). The impact of the Secondary Pension Scheme lessens over time. This is because there will be an increasing number of pension age individuals who have participated in the Secondary Pension Scheme and will pay income tax on their Secondary Pension Scheme pension. In addition, the average pension income will increase (as they will have contributed for more of their working life). The ripples occurring in 2031, 2037, 2043 and 2049 reflect the planned changes to the States pension age, which have been modelled on a full year basis.[49]

The Secondary Pension Scheme will mean total income tax revenue is lower than it would be than if the Secondary Pension Scheme was not introduced, However, it is important to note that the States' assumption of real earnings growth of 1% per annum (i.e. at the population level employment and self-employment income increase at 1% per annum above inflation) means that total income tax revenue is projected to increase over the next 50 years. Figure 52 shows the projected increase in income tax revenue under different assumptions for real earnings growth (allowing for demographic changes and increases in the States' pension age).

Figure 52. Projected total income tax revenue 2020 to 2069: sensitivity to the assumption on real earnings growth



In the base case scenario, where real earnings grow by 1% per annum then total income tax revenue is projected to increase from approximately £265 million in 2020 to £400 million by 2069 (in 2017 terms). As the alternative scenarios show, real earnings growth of 0.5% per annum would yield £325 million in total personal income tax revenue by 2069, while real earnings growth of 1.5% per annum would yield income tax of more than £500 million by 2069 (again in 2017 terms).

This chart illustrates that the assumption about real earnings growth over the projection period is a key factor in how much income tax is expected to be generated. However it is important to put the impact of introducing the Secondary Pension Scheme in context.

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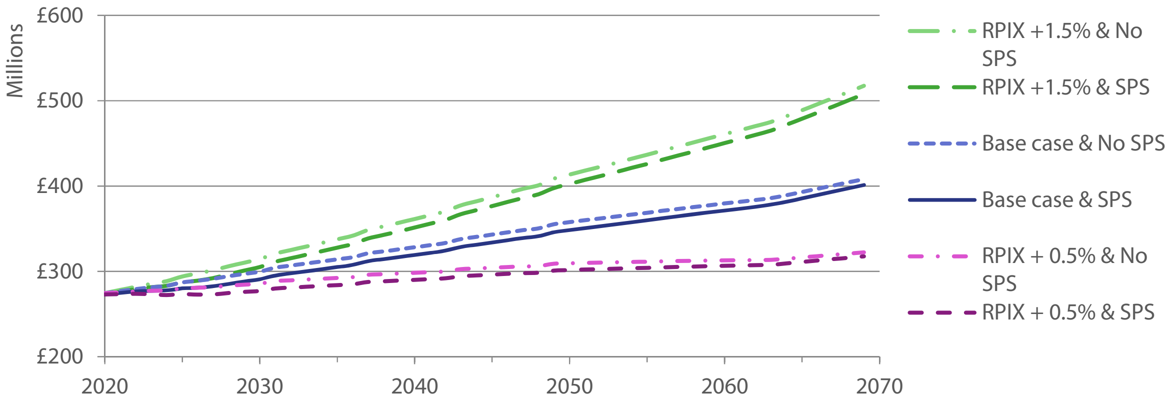
[49] From 1 March 2020 the pension age will increase by 2 months annually until it reaches 70 years of age (https://www.gov.gg/oldagepension). Our analysis takes into account the planned increases in the States' pension age, but only when it reaches the next full year. Thus, it has been assumed the State pension age will increase to 66 in 2025, 67 in 2031, 68 in 2037, 69 in 2041 and 70 in 2049.

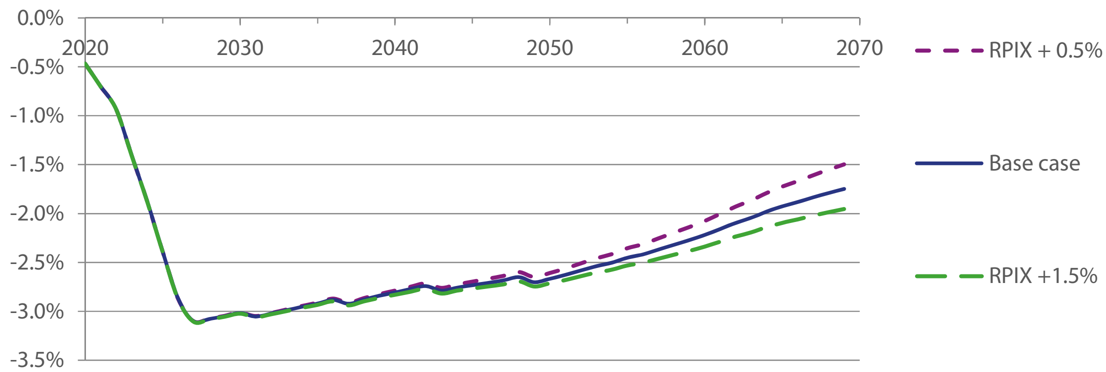
The impact of the Secondary Pension Scheme on total income tax revenue is shown in Figure 53. This shows that the Secondary Pension Scheme will reduce income tax revenue relative to 'doing nothing'. The marginal impact on income tax revenue is the difference between the two lines under each earnings growth scenario.

Figure 53. Impact of Secondary Pension Scheme on total personal tax revenue: sensitivity to the assumption on real earnings growth



We have also illustrated this as the marginal impact of the Secondary Pension Scheme on income tax revenue as a proportion of total income tax revenue. Figure 54 shows that the maximum loss in income tax revenue relative to total income tax revenue occurs in 2027, and the loss is equivalent to 3% of total income tax revenue. The impact of the Secondary Pension Scheme, relative to the total income tax revenue lessens over time.

Figure 54. Marginal impact of Secondary Pension Scheme on income tax revenue as a proportion of total income tax revenue



Finally, in the short-term, the loss in income tax revenue from the introduction of the Secondary Pension Scheme could be viewed against the expected increases in income tax revenue arising from real earnings growth. Figure 55 shows the projected increases in income tax revenue compared to 2020 alongside the projected loss in revenue from the Secondary Pension Scheme. The line shows the difference between the two values. Under the States' assumption of real earnings growth of 1% per annum, the additional in income tax revenue from real earnings growth is expected to exceed the cost of the Secondary Pension Scheme after 7 years.

Figure 55. Loss in income tax revenue compared to expected increases in income tax revenue with real earnings growth of 1% per annum

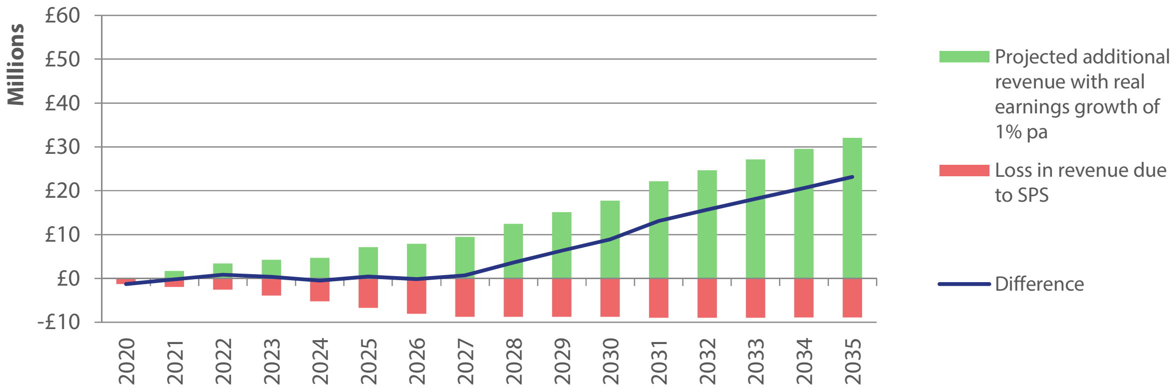


Figure 56 and Figure 57 also show the loss in income tax revenue compared to the expected increases in income tax revenue under alternative assumptions for real earnings growth. These graphs illustrate how the short-term fiscal impact of the Secondary Pension Scheme is sensitive to the assumption on real earnings growth.

- With real earnings growth of 0.5% per annum, the additional in income tax revenue from real earnings growth is expected to exceed the cost of the Secondary Pension Scheme after 14 years.
- With real earnings growth of 1.5% per annum, the additional in income tax revenue from real earnings growth is expected to exceed the cost of the Secondary Pension Scheme after one year.

Figure 56. Loss in income tax revenue compared to expected increases in income tax revenue with real earnings growth of 0.5% per annum

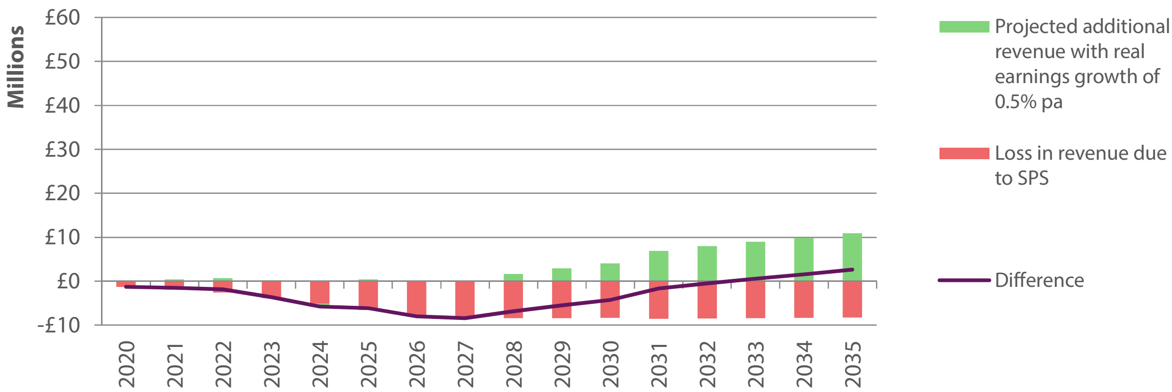
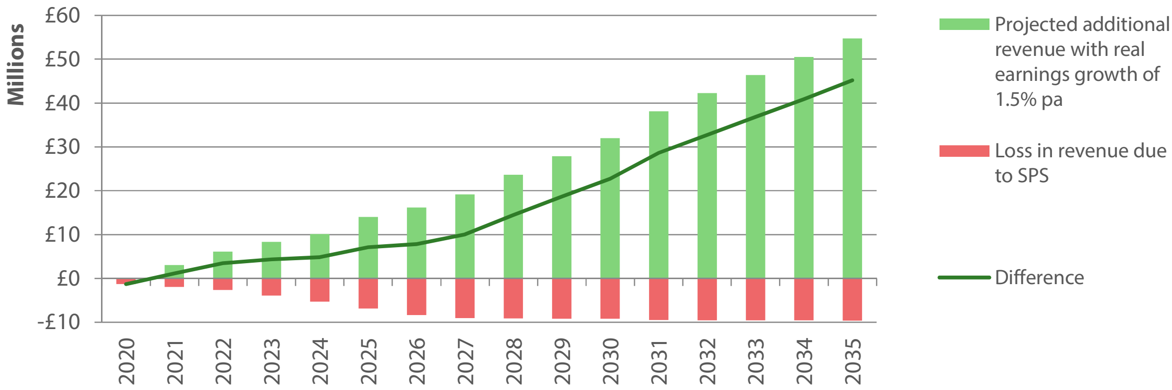


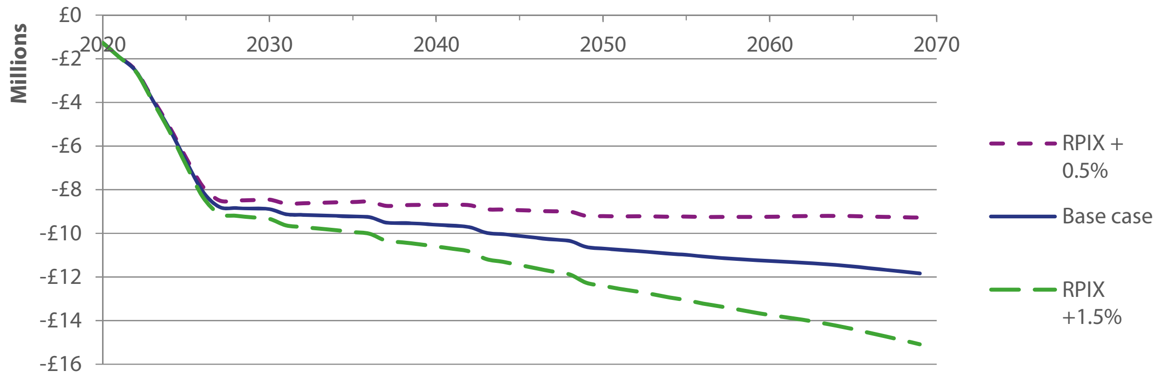
Figure 57. Loss in income tax revenue compared to expected increases in income tax revenue with real earnings growth of 1.5% per annum



7.1.1 Impact on Income Tax Revenue from Working Age Population: Sensitivity Analysis

Sensitivity analysis has been undertaken to estimate the impact of the Secondary Pension Scheme on income tax revenue from the working age population, with respect to the assumptions on real earnings growth, the opt out rate and membership of existing occupational pensions.

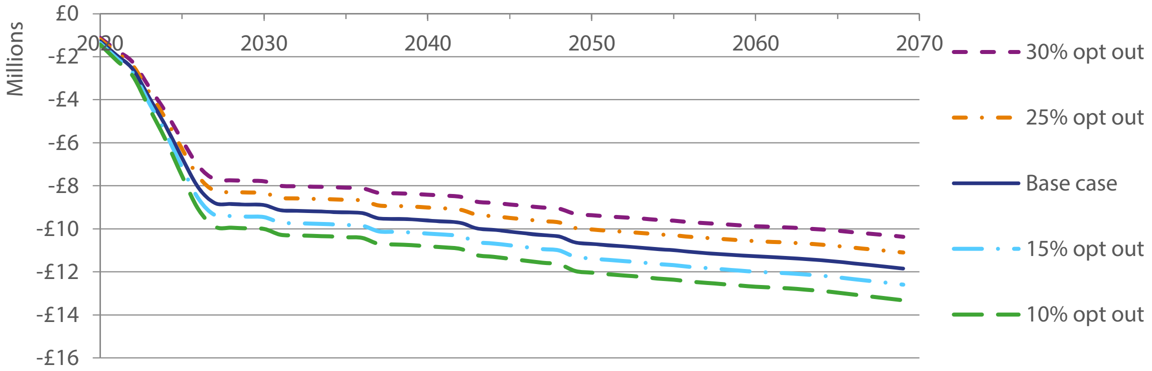
Figure 58. Marginal impact on Income Tax Revenue from Working Age Population: sensitivity to the assumption on real earnings growth



The income tax projections are sensitive to the assumption on real earnings growth. In monetary terms, higher rates of real earnings growth will lead to greater reductions in income tax revenue.

- If real earnings growth is RPIX +0.5% per annum then the loss in income tax revenue is projected to be 22% lower than in the base case by 2069.
- If real earnings growth is RPIX +1.5% per annum then the loss in income tax revenue is projected to be 27% higher than in the base case by 2069.

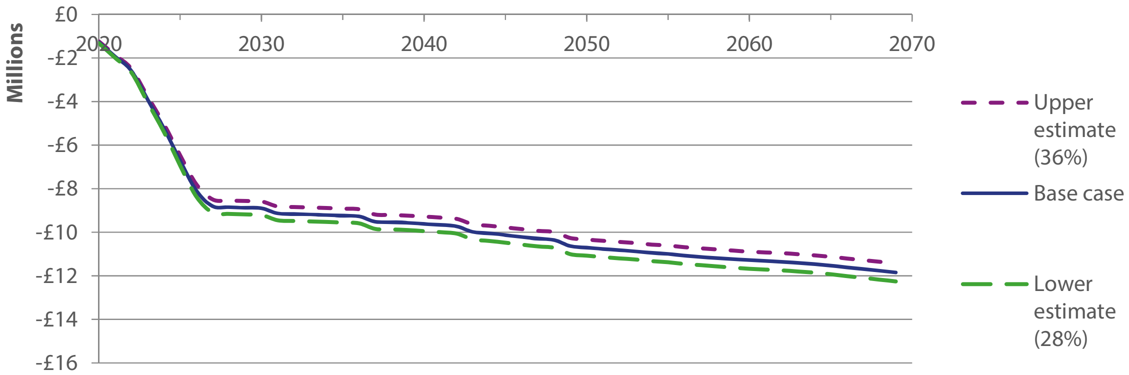
Figure 59. Marginal impact on Income Tax Revenue from Working Age Population: sensitivity on opt out rates



If opt out rates are lower than assumed then the loss in income tax revenue from the working age population would be higher than in the base case, whilst higher opt out rates would have a smaller impact:

- If the opt out rate is 10%, the loss in income tax revenue would be 12.5% higher than the base case
- If the opt out rate is 15%, the loss in income tax revenue would be 6.3% higher than the base case
- If the opt out rate is 25%, the loss in income tax revenue would be 6.3% lower than the base case
- If the opt out rate is 30%, the loss in income tax revenue would be 12.5% lower than the base case.

Figure 60. Marginal impact on Income Tax Revenue from Working Age Population: sensitivity to the assumption on percentage of employees with existing occupational pension



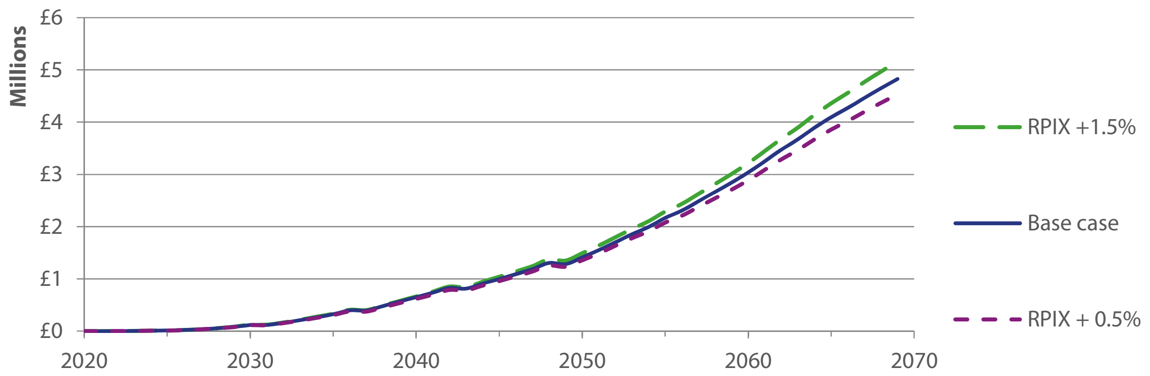
The income tax projections are less sensitive to the percentage of employees already in an occupational pension than they are to the opt out rates. The lower estimate means that more people would be eligible to join the new Secondary Pension Scheme than assumed, so the loss in income tax revenue would be greater, whilst the upper estimate means that fewer people would be enrolled to the new secondary pension and the loss in income tax revenue would be smaller:

- If 28% of employees are active members of an occupational pension, the loss in income tax revenue would be 3% higher than the base case
- If 36% of employees are active members of an occupational pension, the loss in income tax revenue would be 3% smaller than the base case.

7.1.2 Impact on Income Tax Revenue from Pension Age Population: Sensitivity Analysis

We have considered the sensitivity of income tax revenue from pensioners, with respect to the assumptions on real earnings growth, opt out rates, membership of existing occupational pensions, investment return and the percentage of pension income taken as a lump sum. The results are set out in Figure 61, Figure 62, Figure 63, Figure 64 and Figure 65 respectively.

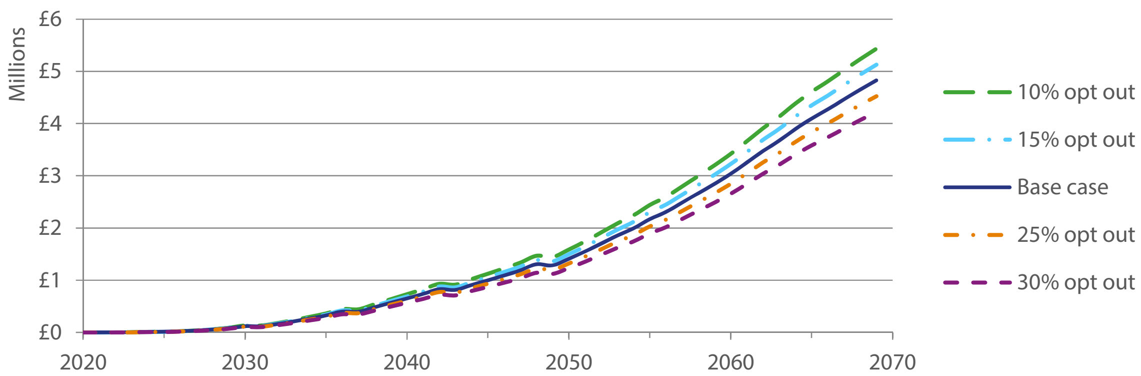
Figure 61. Marginal impact on income tax revenue from pension age population: sensitivity to the assumption on real earnings growth



The assumption on real earnings growth will impact on the amount contributed to the Secondary Pension Scheme and will therefore impact on the tax paid on pension income.

- If the real earnings growth is 0.5% lower than expected, then in income tax revenue from the pension age population would be 4% lower than the base case by 2069
- If the real earnings growth is 0.5% higher than expected, then in income tax revenue from the pension age population would be 7% higher than the base case by 2069

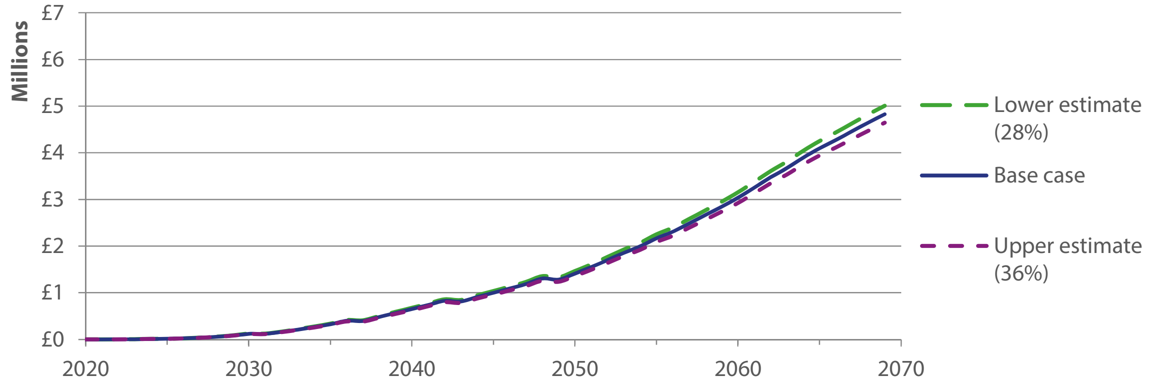
Figure 62. Marginal impact on income tax revenue from pension population: sensitivity to opt out rates



If opt out rates are lower than assumed then the income tax revenue would be proportionately higher than in the base case, while at higher opt out rates would have a smaller impact:

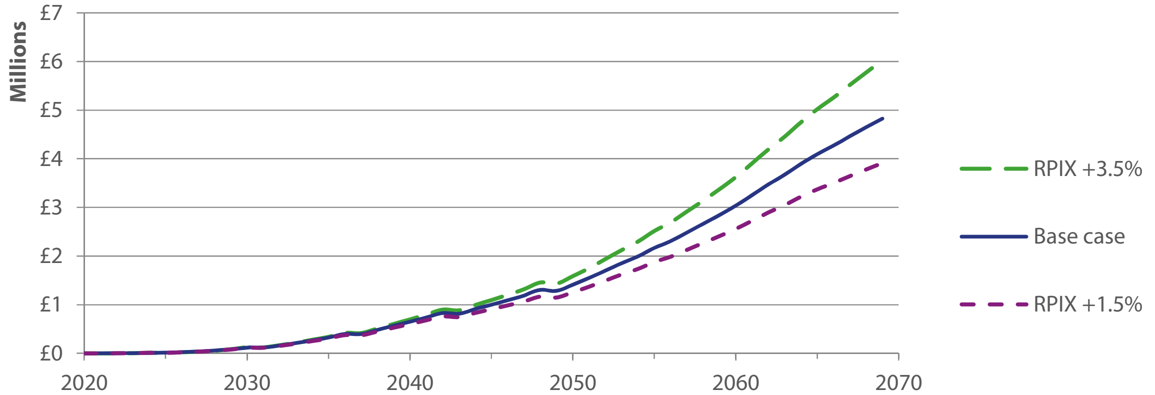
- If the opt out rate is 10%, the gain in income tax revenue would be 12.5% higher than the base case
- If the opt out rate is 15%, the gain in income tax revenue would be 6.3% higher than the base case
- If the opt out rate is 25%, the gain in income tax revenue would be 6.3% lower than the base case
- If the opt out rate is 30%, the gain in income tax revenue would be 12.5% lower than the base case.

Figure 63. Marginal impact on income tax revenue from pension population: sensitivity to assumption on percentage of employees with existing occupational pension



The income tax projections are less sensitive to the assumption on the percentage of employees with an existing occupational pension than they are to the opt out rates. The lower estimate means that more people would contribute to the new Secondary Pension Scheme than assumed, so more people would receive pension income in retirement, and the income tax revenue from the pension age population would be greater. Conversely, if fewer people contribute to a secondary pension, the income tax revenue would be smaller. The variation around the base case is ± 4%.

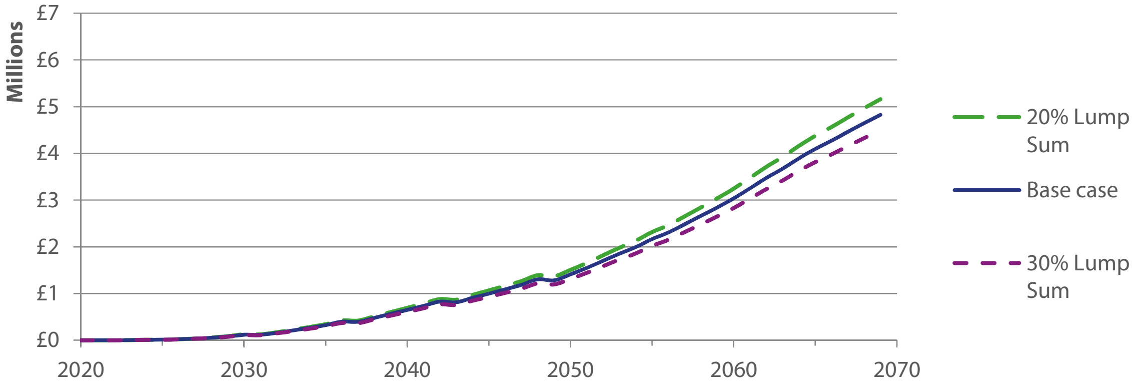
Figure 64. Marginal impact on income tax revenue from pension population: sensitivity to investment return



The income tax projections are sensitive to the assumption on investment return. If the investment return is lower than assumed then pension incomes will be lower and the gain in income tax revenue would be lower. Conversely, if the investment return is higher than assumed, pension incomes would be higher and the gain in income tax revenue would be higher.

- If investment return is RPIX +1.5% per annum then the gain in income tax revenue is projected to be almost 20% lower than in the base case by 2069.
- If investment return is RPIX +3.5% per annum then the gain in income tax revenue is projected to be 25% higher than in the base case by 2069.

Figure 65. Marginal impact on income tax revenue from pension age population: sensitivity to percentage taken as lump sum



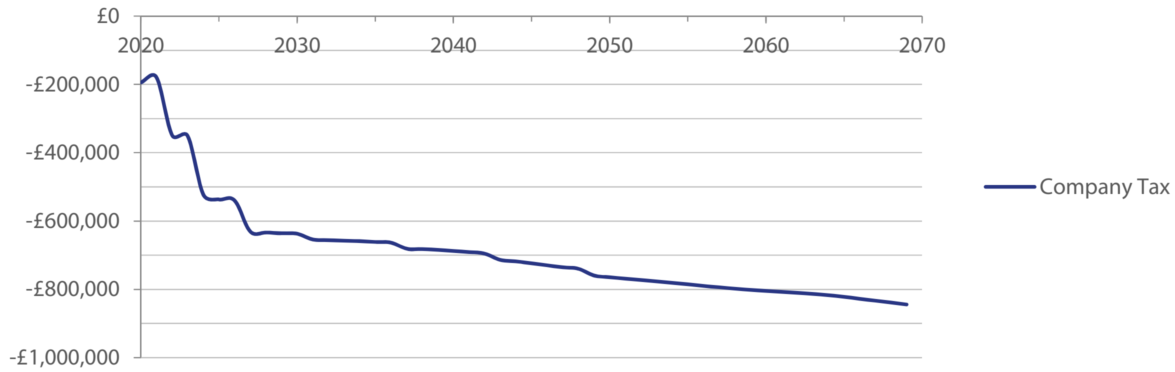
The amount an individual receives in pension income depends on how much is taken as a tax-free lump sum upon retirement. The maximum lump sum permitted by the income tax legislation is 30% of the value of a person's benefits. The first £188,000 of the lump sum (in 2017) is tax-free.

- If individuals take 20% as a lump sum payment (compared to 25% in the base case), then the marginal impact on income tax revenue would be 7% higher than in the base case.
- If 30% is taken as a lump sum, the marginal impact on income tax revenue would be 7% lower than in the base case.

7.2 Marginal Impact on Company Tax Revenue

The introduction of the Secondary Pension Scheme is expected to reduce company tax revenue. As firms incur additional costs, this will have a negative impact on company profits. The economic model estimates the marginal impact on company tax revenue, taking into account the economic sector and employer size. We have assumed there are no changes to the existing company tax policy and rates.[50] The estimated marginal impact of the Secondary Pension Scheme on company tax revenue over the next 50 years is shown in Figure 66.

Figure 66. Marginal impact of the Secondary Pension Scheme on company tax revenue



By 2027 the loss is projected to be approximately £630,000, which is 1.3% of the total revenue from company tax that was received in 2016.[51] From 2027 the loss in company tax revenue increases gradually, in line with real earnings. The impact on company tax revenue is relatively limited, since most companies do not pay company tax, and those sectors (such as finance, energy and large retail) are already more likely to provide their employees with an occupational pension.

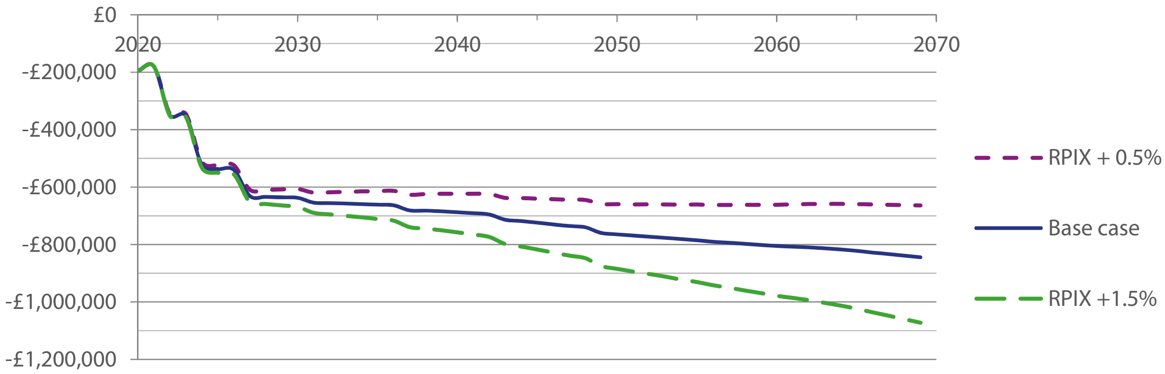
[50] Tax for businesses, companies and employers: https://www.gov.gg/article/120167/Tax-for-businesses-companies-and-employers. Accessed on 28 October 2017. The amount paid in company tax depends on the source of income. The company standard rate of 0% applies to most companies, though companies in the finance sector typically pay the company intermediate rate of 10%. There are also some sources of income subjected to a company higher rate of 20%.

[51] States of Guernsey (2017). Billet d'Etat XIII 2017. The States of Guernsey Accounts 2016. The accounts reported that total revenue from company tax was £47 million in 2016.

7.2.1 Impact on Company Tax Revenue: Sensitivity Analysis

We have considered the sensitivity of the company tax revenue with respect to the assumptions on real earnings growth, the opt out rate, membership of existing occupational pensions, and the extent to which employers incur the additional cost of the Secondary Pension Scheme. The results are shown in Figure 67, Figure 68, Figure 69 and Figure 70.

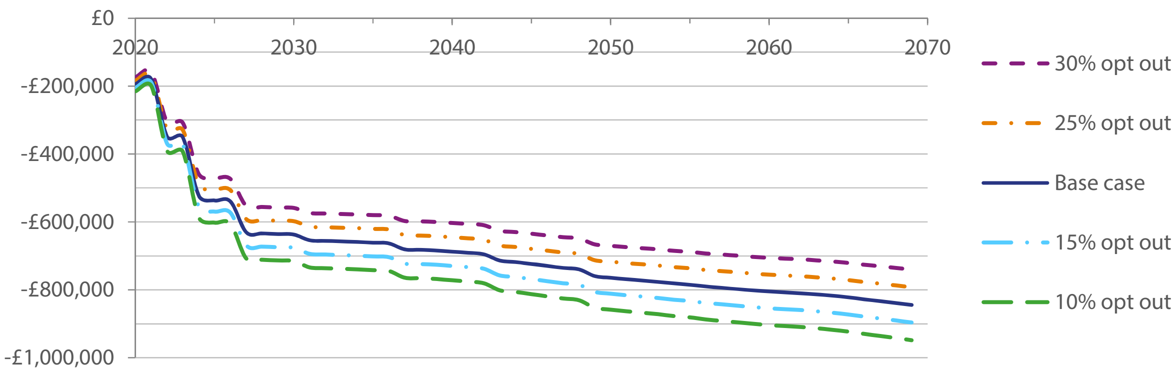
Figure 67. Marginal impact on company tax revenue: sensitivity to the assumption on real earnings growth



The company tax projections are sensitive to the assumption on real earnings growth.

- If real earnings growth is RPIX +0.5% per annum then the loss in income tax revenue is projected to be 21% lower than in the base case by 2069.
- If real earnings growth is RPIX +1.5% per annum then the loss in income tax revenue is projected to be 27% higher than in the base case by 2069.

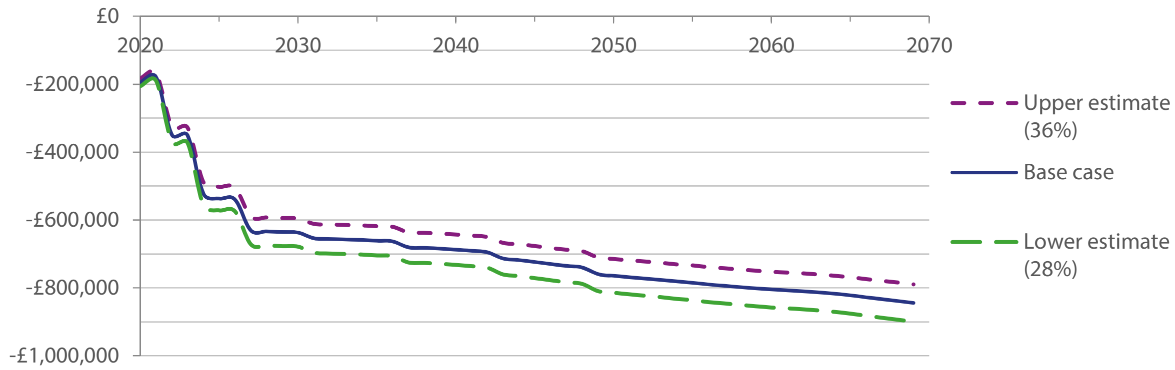
Figure 68. Marginal Impact on company tax revenue: sensitivity on opt out rates



If opt out rates are lower than assumed then the loss in company tax revenue would be greater than in the base case, while higher opt out rates would have a smaller impact on company tax revenue:

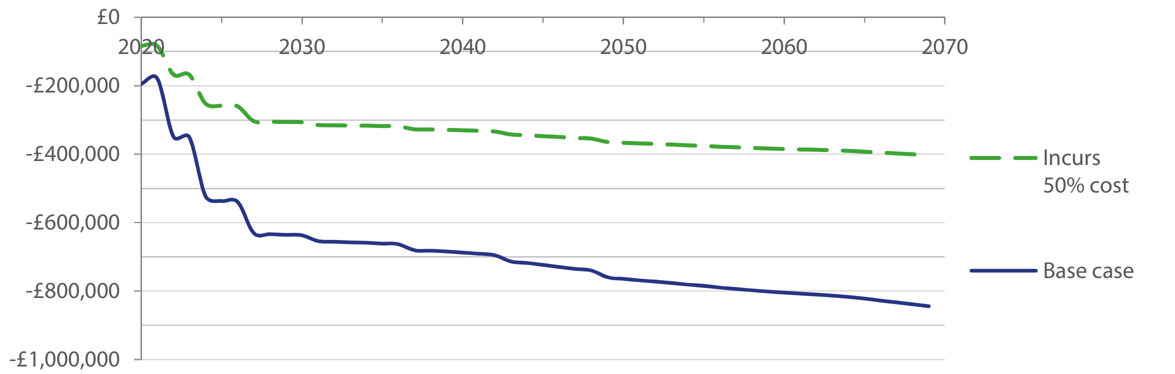
- If the opt out rate is 10%, company tax revenue would be 12% higher than the base case
- If the opt out rate is 15%, company tax revenue would be 6% higher than the base case
- If the opt out rate is 25%, company tax revenue would be 6% lower than the base case
- If the opt out rate is 30%, company tax revenue would be 12% lower than the base case.

Figure 69. Marginal impact on company tax revenue: sensitivity on assumption on percentage of employees with existing occupational pension



The company tax projections are also sensitive to the assumption on the percentage of employees with an existing occupational pension. The lower estimate means than more employees would contribute to the new Secondary Pension Scheme than assumed, so employers would contribute more into secondary pensions, incur higher costs, have lower profits and the marginal impact on company tax revenue would be greater. Conversely, if fewer employees are enrolled into the new secondary pension than assumed, there would be a smaller impact on company profits and the marginal impact on company tax would be smaller. The variation around the base case result is ± 6.5%.

Figure 70. Marginal impact on company tax revenue: sensitivity on employer response

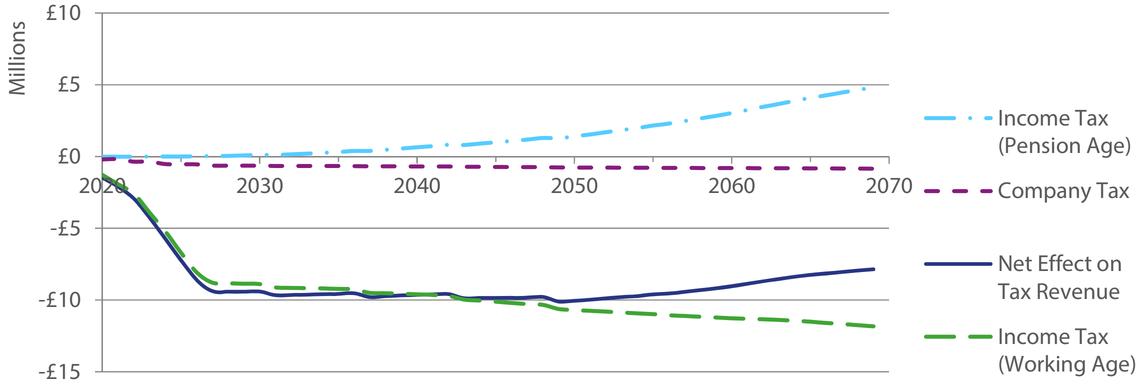


The marginal impact on company tax revenue is especially sensitive to the assumption about the employers' response to the introduction of the Secondary Pension Scheme. In this respect, the base case represents a worst case scenario, as it is assumed that 100% of the cost of the secondary pension is borne by the employer. As discussed in Section 6, employers are likely to look to mitigate the cost and may do this in a number of ways. The sensitivity analysis shows the marginal impact on company tax revenue if employers are able to recover 50% of the costs they incur. In this scenario, the marginal impact on company tax revenue is halved.

7.3 Marginal Impact on Government Revenue

The net impact of the Secondary Pension Scheme on government revenue is illustrated in Figure 71, along with its component parts: the marginal impact on income tax from the working age and pension age populations, and marginal impact on company tax. It should be noted that the impact of Secondary Pension Scheme on distributed profits has not been estimated. This omission may mean the impact is underestimated but is unlikely to significant as distributed profits yield only 2% of government revenue.[52]

Figure 71. Marginal impact of the Secondary Pension Scheme on government revenue



This figure is very similar to Figure 51 since the loss of company tax is small relative to the loss in income tax revenue. By 2027, the loss in government revenue is projected to be £9.4 million.[53] By 2069 the projected loss in government revenue is projected to be £7.9 million. Over time, the magnitude of the loss in revenue is reduced as there will be an increasing number of pension age individuals who have participated in the Secondary Pension Scheme. In addition, pension incomes will be increasing over this period as the individuals retiring will have contributed to a secondary pension for more of their working life.

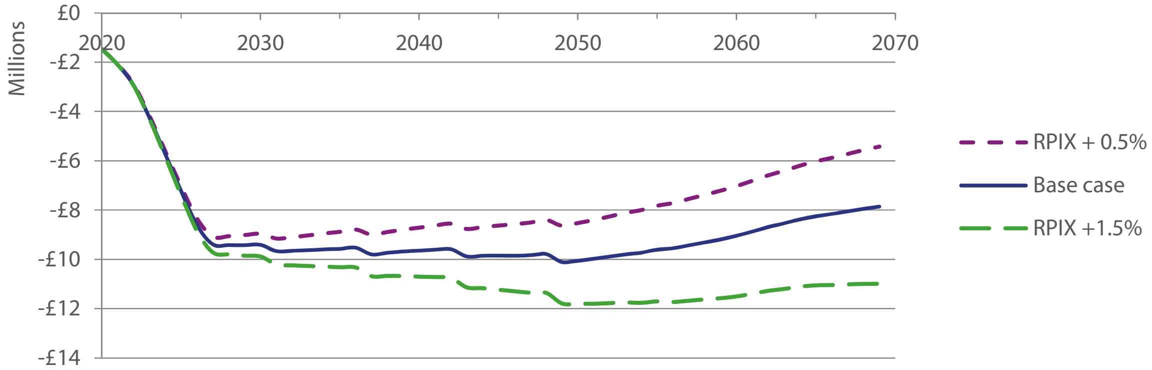
[52] States of Guernsey (2017). Billet d'Etat XIII 2017. The States of Guernsey Accounts 2016. Distributed profits were £10 million in 2016.

[53] States of Guernsey (2017). Billet d'Etat XIII 2017. The States of Guernsey Accounts 2016. Total general revenue income was £407 million in 2016.

7.3.1 Impact on Government Revenue: Sensitivity Analysis

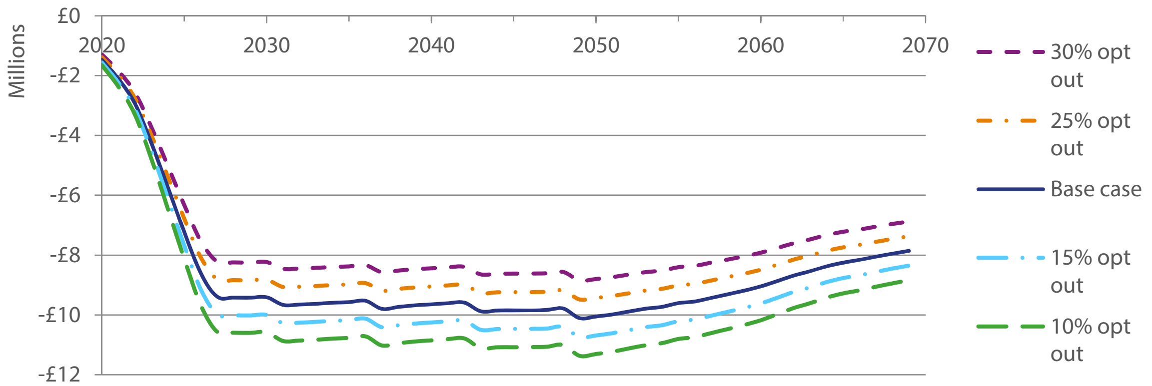
We have considered the sensitivity of government revenue with respect to the assumptions on real earnings growth, the opt out rate, membership of existing occupational pensions, the investment return and the percentage of pension income taken as a lump sum. The results are shown in Figure 72, Figure 73, Figure 74, Figure 75 and Figure 76 respectively.

Figure 72. Marginal impact on government revenue: sensitivity to the assumption on real earnings growth



The results are diverging in Figure 72 as the assumption on real earnings growth has a compounding impact over time. Figure 72 shows the combined effect of the loss in income revenue from the working age population, the gain in income revenue from the pension age population and the loss in company tax revenue (Figure 58, Figure 61 and Figure 67).

Figure 73. Marginal impact on government revenue: sensitivity to opt out rates



The lines converge slightly, reflecting the combined effect of the loss in revenue from the working age population and the gain in revenue from the pension age population (Figure 58 and Figure 61). The working age population eligible to participate in the Secondary Pension Scheme remains relatively stable over the next 50 years, however the proportion of the pension age population who will have contributed to a secondary pension will increase gradually. By 2100 almost all individuals of pension age would have had the opportunity to participate and have contributed for their entire working lives.

Figure 74. Marginal impact on government revenue: sensitivity to assumption on percentage of the employees with existing occupational pension

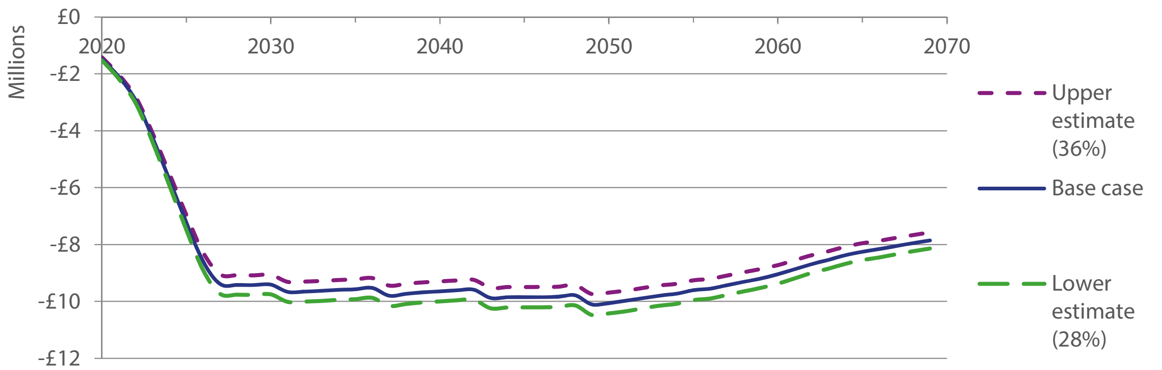
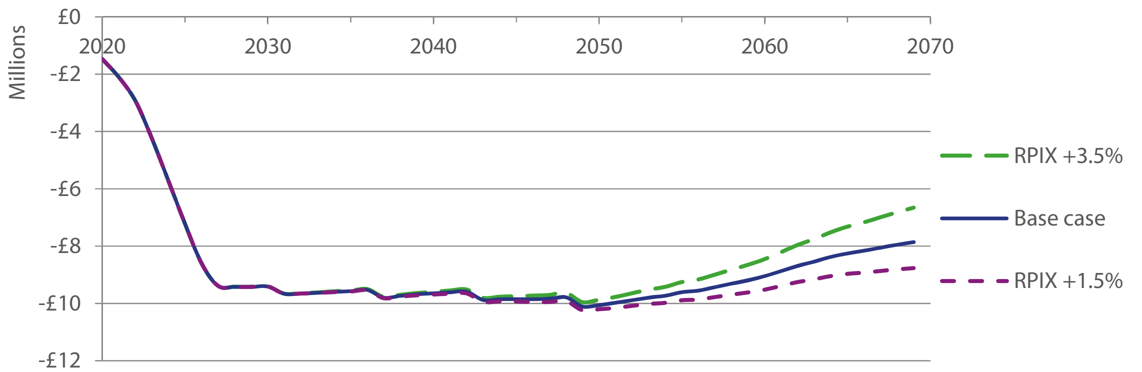


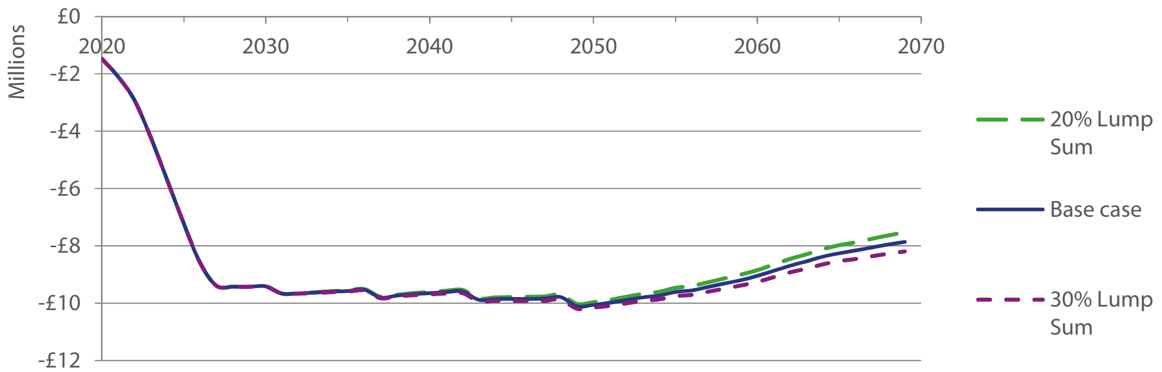
Figure 74 shows the marginal impact on the sensitivity around the assumption about the percentage of individuals who are a member of an existing occupational pension. The impact is small compared to the opt-out rates.

Figure 75. Marginal impact on government revenue: sensitivity to the investment return



The results are diverging in this scenario, since the investment return assumption only impacts on the income tax revenue from the pension age population. If the investment return is higher than assumed, the loss in government revenue would be smaller.

Figure 76. Marginal impact on government revenue: sensitivity to percentage taken as lump sum



Again, the results are diverging in this scenario (Figure 76) and this is because the assumption on the amount taken as a lump sum only impacts on the income tax revenue from the pension age population. The projections are less sensitive to the assumption on the lump sum than they are to the investment return.

7.4 Marginal Impact on Government Expenditure

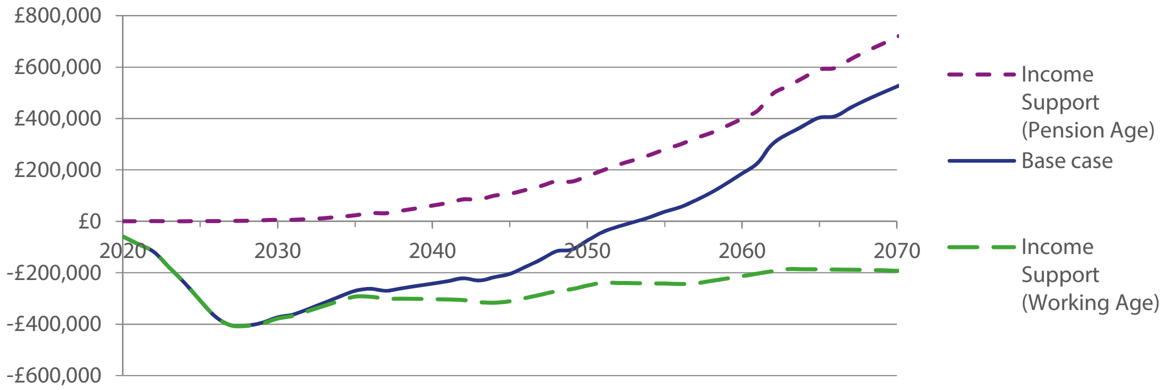
The Secondary Pension Scheme will impact on the amount the government will spend on income support in two ways:

- Individuals contributing to a secondary pension who are eligible for income support may receive more income support as pension contributions are deducted as an allowable expense.
- Individuals receiving income from a secondary pension may no longer be eligible for income support or receive a reduced payment.

The assumptions in the economic model around the impact of the Secondary Pension Scheme on income support on household income are set out in Section 5.3.1. In estimating the marginal impact on income support at the population level, we also take into account the profile of those currently receiving either supplementary benefit or rent rebate with respect to their age, gross taxable income, and employment status. We also take into account the States' assumption that earnings will grow in real terms, while benefits will remain constant in real terms from 2025. However, some simplifying assumptions were necessary and the inflections from 2060 onwards correspond to the income profile on which the modelling was based.

Figure 77 shows the cost of income support on the government budget, with an increase in expenditure shown as a cost (i.e. negative) and a reduction in expenditure is cost saving (i.e. positive).

Figure 77. Marginal Impact of the Secondary Pension Scheme on Government Budget relating to income support



In the short-term the Secondary Pension Scheme will mean income support expenditure is expected to be slightly higher, since pension contributions are allowed for in the income support assessment. In the base case scenario, the spending on income support expenditure will increase to a maximum around £400,000. This occurs in 2027 and the cost is equivalent to 2% of the amount spent on supplementary benefit in 2016.[54]

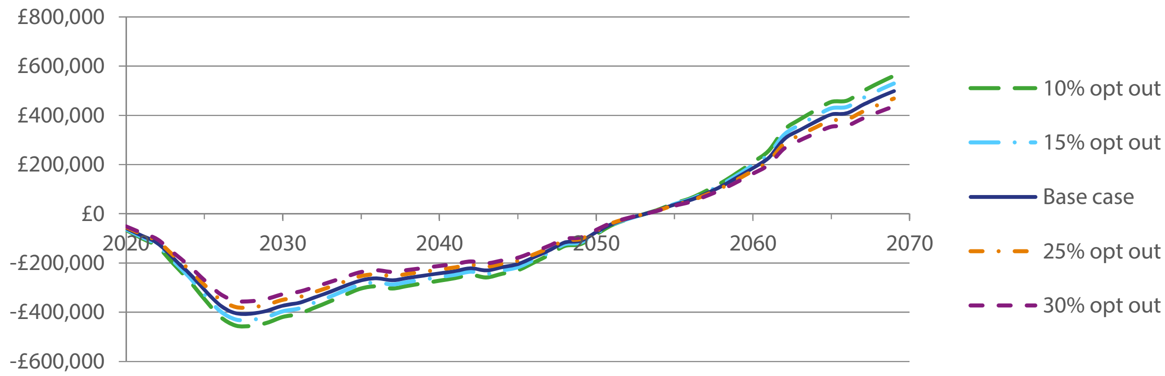
The marginal cost will reduce over time and ultimately becomes cost saving. By 2069 it is estimated that the government would be saving £500,000, which is equivalent to 2.5% of the amount spent on supplementary benefit in 2016. The cost reduces because, the real earnings growth assumption means there will be fewer individuals eligible for income support, and also because there will be more individuals receiving an income from a secondary pension and so fewer pensioners who need income support. In addition, pension incomes will be increasing over this period as the individuals retiring will have contributed to a secondary pension for more of their working life.

[54] States of Guernsey (2017). Billet d'Etat XIII 2017. The States of Guernsey Accounts 2016. The accounts reported net revenue expenditure on supplementary benefit was £20.983 million in 2016.

7.4.1 Impact on Government Expenditure on Income Support: Sensitivity Analysis

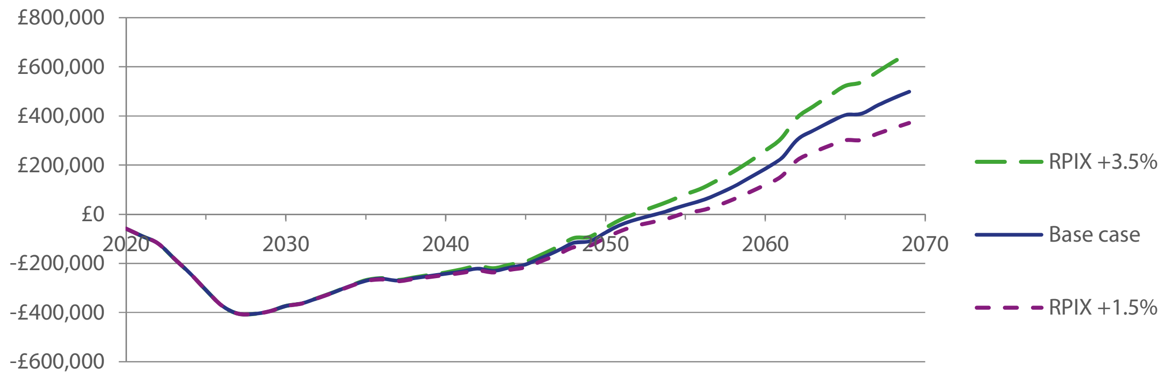
We have considered the sensitivity of government expenditure on income support, with respect to the assumptions on opt out rates, and the investment return and the percentage of pension income taken as a lump sum. The results are presented in Figure 78, Figure 79 and Figure 80 respectively.

Figure 78. Marginal impact on income support: sensitivity to opt out rates



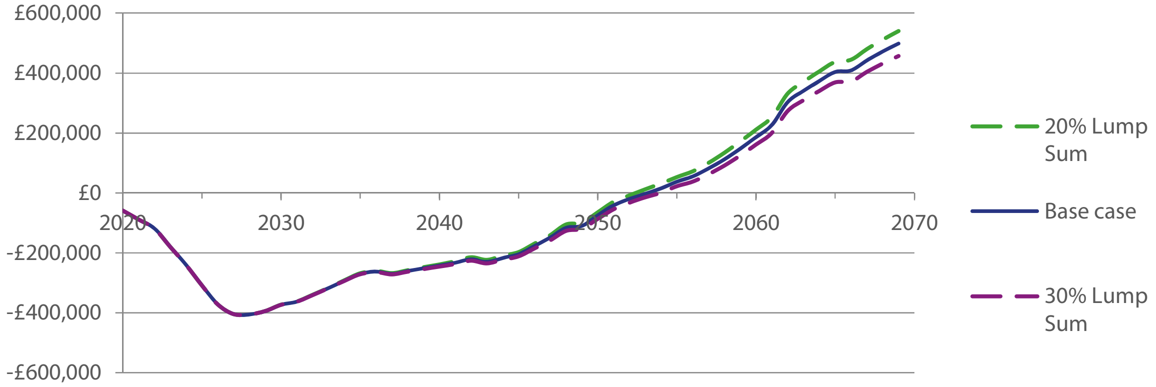
If the opt out rates are lower than assumed then the marginal impact on the government budget will be greater than the base case, while higher opt out rates the impact will have a smaller effect. The lines converge, reflecting the combined effect of the increased income support expenditure on the working age population and a reduced income support expenditure on pension age population.

Figure 79. Marginal impact on income support: sensitivity to investment return



The results are diverging in this scenario, since the assumption on the investment return only impacts on the income support expenditure on the pension age population. If the investment return is higher than assumed, pension incomes will be higher and the pension age population will be less reliant on income support. If the investment return is lower than assumed then the budgetary impact will be greater.

Figure 80. Marginal impact on income support: sensitivity to percentage taken as lump sum



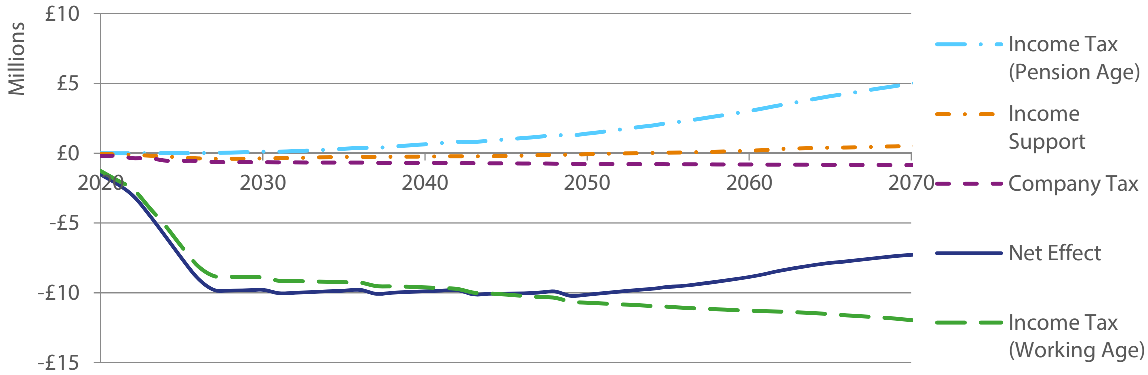
The results are also diverging in this scenario, since the assumption on the amount taken as a lump sum only impacts on the income support paid to the pension age population. The projections are less sensitive to the assumption on the lump sum than they are to the investment return.

7.5 Marginal Impact on Overall Government Budget

This section brings together the projected marginal impact on income tax revenue, company tax revenue and income support and considers the overall impact on the government budget. Figure 81 presents the net effect on the government budget along with its component parts:

- income tax revenue from working age and pension age population
- company tax revenue
- expenditure on income support.

Figure 81. Marginal impact of Secondary Pension Scheme on overall government budget



Over the projection period considered the Secondary Pension Scheme will increase costs for the government. The Secondary Pension Scheme is expected to have a marginal cost of £9.8 million in 2027 when the individual contribution rate reaches the maximum rate of 6.5%. In the short-to medium term, the net effect is dominated by the loss in income tax revenue from the working age population due to the tax relief on pension contributions. By 2069, the marginal cost will have reduced slightly and is projected to be £7.4 million, which includes a loss of £11.8 million in income tax revenue from the working age population.

Over time there will be a gain in income tax revenue from the pension age population, due to the increasing number of pensioners who have participated in the Secondary Pension Scheme. Average pension incomes are also increasing over this period (as they will have contributed for more of their working life). The loss of company tax revenue will be approximately £850,000 by 2069, which is small relative to the loss in income tax revenue. The impact on income support payment is also relatively small. Initially the cost of income support will increase, but the impact is projected to be cost saving by 2054.

7.5.1 Impact on Government Expenditure on Income Support: Sensitivity Analysis

We have considered the sensitivity analysis of the government budget, with respect to the assumptions on real earnings growth, opt out rates, membership of existing occupational pensions, the investment return and the percentage of pension income taken as a lump sum. The results are presented in Figure 82, Figure 83, Figure 84, Figure 85 and Figure 86.

Figure 82. Marginal impact on government budget: sensitivity to the assumption on real earnings growth

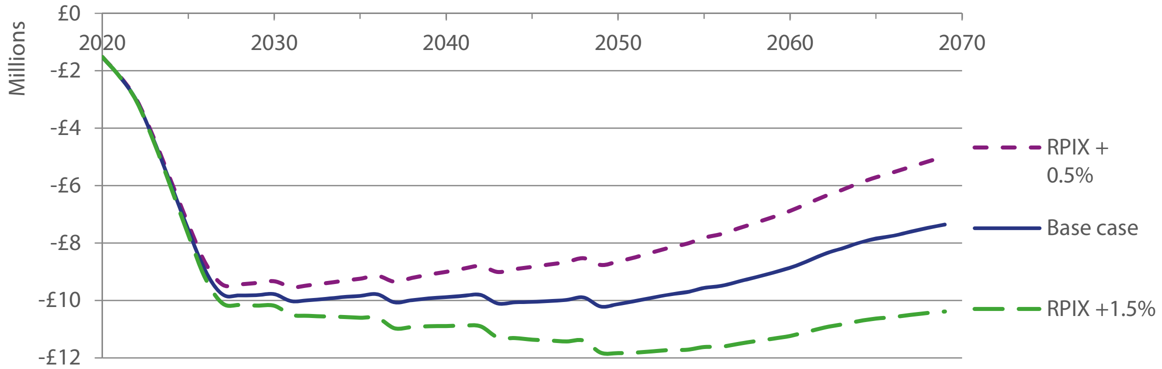


Figure 82 shows how the assumption on real earnings growth impacts on the government budget, with the effect becoming more pronounced over time.

Figure 83. Marginal impact on government budget: sensitivity to opt out rates

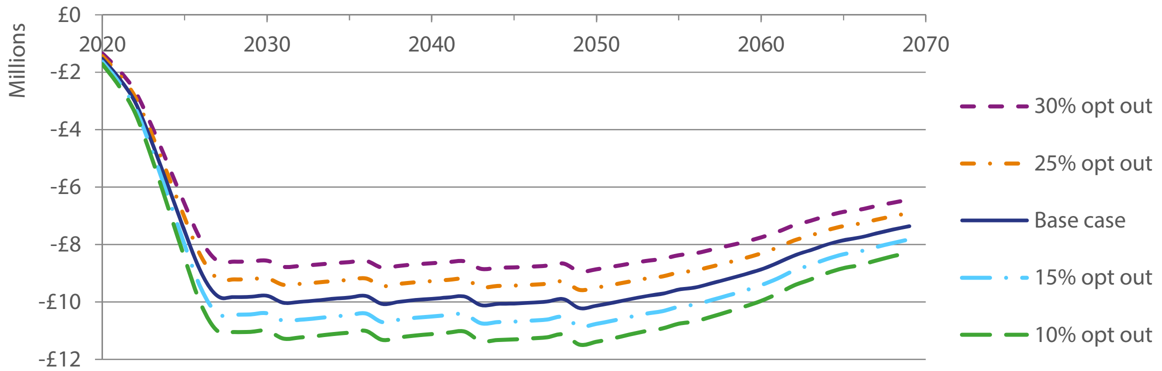


Figure 83 shows how variation in the assumption on the opt out rate will impact on the government budget. The lines appear to converge, and this reflects the combined effect on the working age population (i.e. reduced income tax revenue and higher spend on income support) and the pension age population (i.e. greater income tax revenue and lower spend on income support).

Figure 84. Marginal impact on government budget: sensitivity to assumption on percentage of employees with existing occupational pension

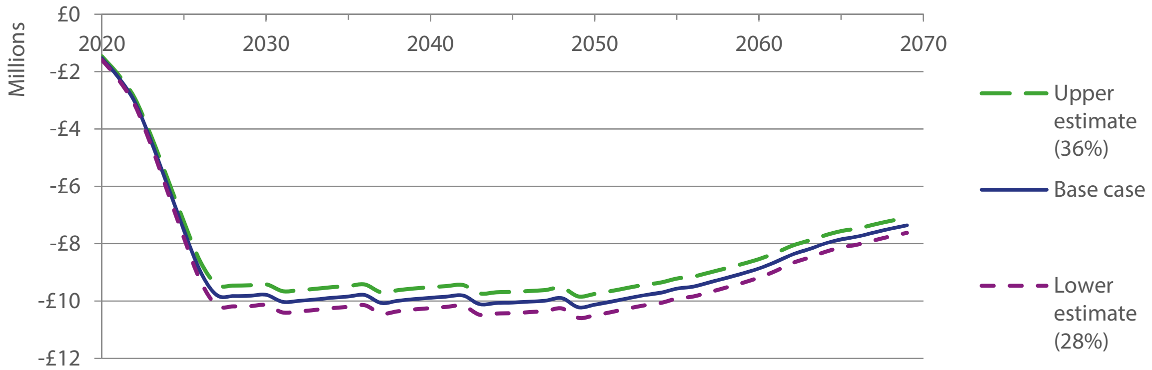
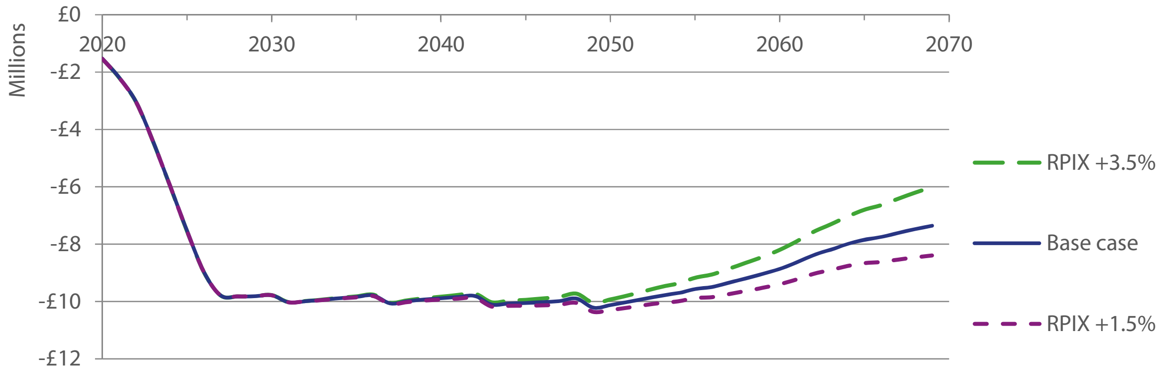


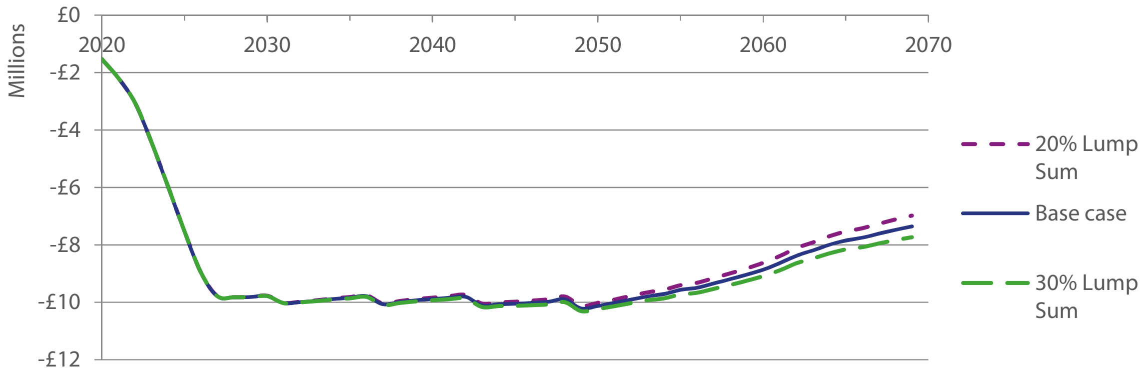
Figure 84 shows the marginal impact on the sensitivity around the assumption about the percentage of individuals who are a member of an existing occupational pension. The variation is smaller than that on the opt-out rates, and as in the last scenario the impact converged because the assumption impacts on both the working age and the pension age populations.

Figure 85. Marginal impact on government budget: sensitivity to investment return



The results are diverging in this scenario, since the assumption on the investment return only impacts on the pension age population. If the investment return is higher than assumed in the base case then the marginal cost to the government would be smaller.

Figure 86. Marginal impact on government budget: sensitivity to percentage taken as lump sum



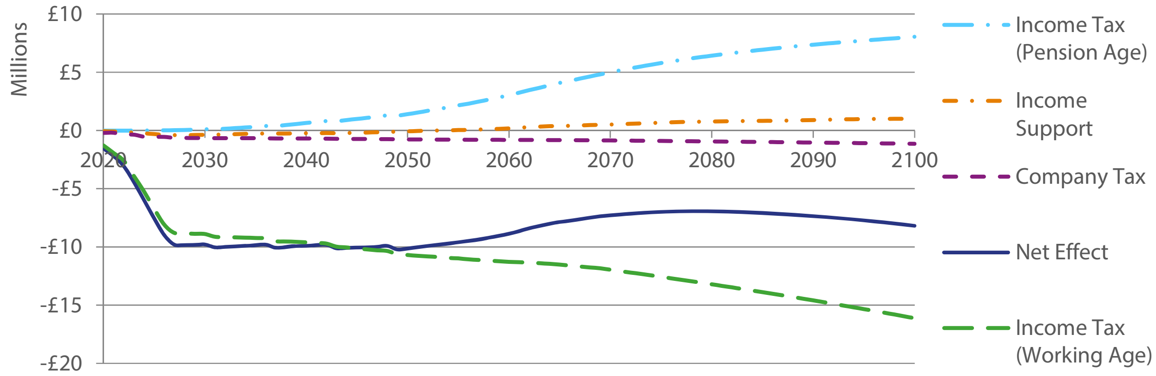
As above, the results are diverging slightly in this scenario, since the assumption on the amount taken as a lump sum only impacts on the income tax revenue from the pension age population. The sensitivity of the projections to the assumption on the lump sum is less than to the investment return.

7.6 Estimating the impact beyond 2069

We have extrapolated to estimate the impact of the Secondary Pension Scheme beyond 2069 to provide an indication of the impact in the very long-term, when all individuals in the population have had the opportunity to participate in the Secondary Pension Scheme, and all pensioners would have been able to contribute to a secondary pension for their working life.

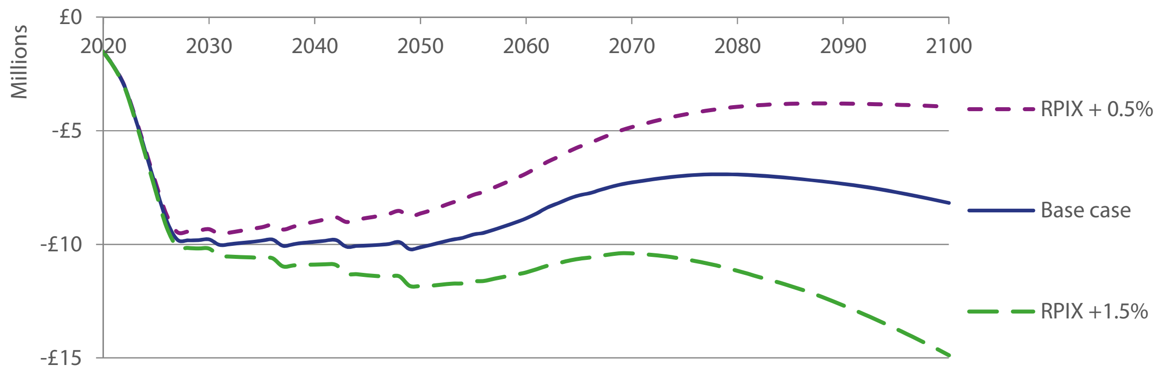
Figure 87 shows the projected marginal impact on the government budget, assuming the population size and age distribution remains stable after 2069.

Figure 87. Marginal impact on overall government budget (2020 to 2100)



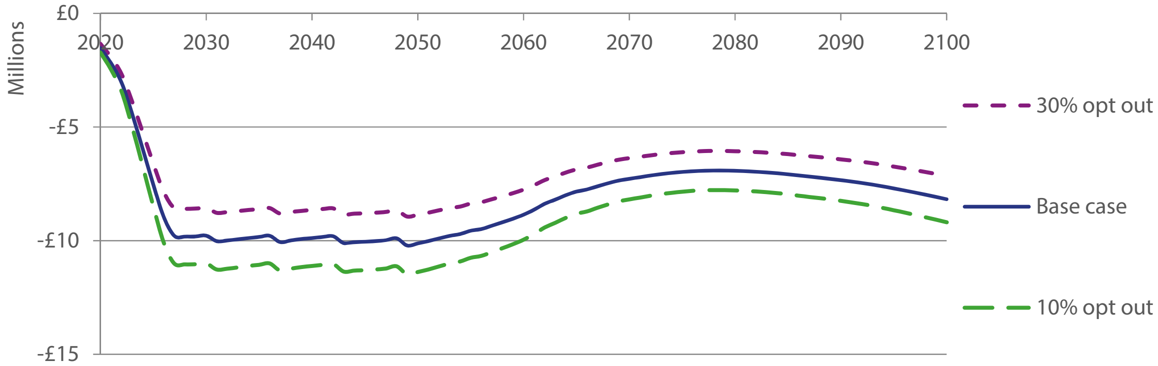
We have considered the sensitivity analysis of the government budget, with respect to the assumptions on real earnings growth, opt out rates and the investment return. The results are presented in Figure 88, Figure 89 and Figure 90.

Figure 88. Marginal impact on overall government budget (2020 - 2100): sensitivity to the assumption on real earnings growth



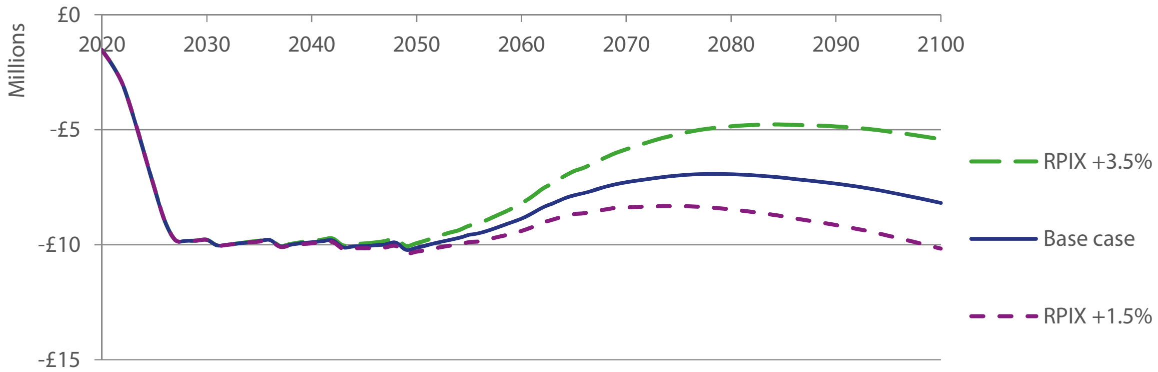
Over the very long term the marginal impact on the government budget is extremely sensitive to the assumption on real earnings growth because it has a compounding effect. However, as discussed in Section 7.1, the assumptions on real earnings growth will also mean total income tax revenue will be increasing over this period.

Figure 89. Marginal impact on overall government budget (2020 - 2100): sensitivity to opt out rates



As Figure 89 shows, the assumption on the opt out rates has relatively minimal impact in the very long-term. The variation is relatively small because the reduction in the income tax revenue from the working age population is largely offset by the increase in income tax revenue from the pension age population.

Figure 90. Marginal impact on overall government budget (2020 - 2100): sensitivity to investment return



The long-term projections are sensitive to the assumption on the investment return. As Figure 90 shows, the difference between the lower and upper estimates on investment return is projected to be of the order of £5 million in current prices. This highlights that the rate of investment return achieved on the Secondary Pension Scheme is central to achieving the policy aims.

7.7 Change of Tax Strategy from EET to TEE

The impact of the Secondary Pension Scheme has been estimated assuming that the tax system remains "Exempt-Exempt-Taxed" (EET). This means secondary pension contributions are exempt from tax, investment income and capital gains are also exempt, but pension income is subject to income tax. TEE is an alternative tax system, in which pension contributions are taxed, but returns and pension income are tax-free.

A change in tax strategy would have a very different impact on the government budget. In the short- to medium-term, the Secondary Pension Scheme would have almost no impact on the government budget as there would be no loss in income tax receipts from the working age population. The downside is in the long-term, as under TEE there would be no income tax revenue generated from the additional pension income.

In theory, both approaches are valid. On first consideration, a change in tax strategy has merit from a fiscal perspective. However, the challenge is switching from one system to the other. The Economist decribed the complications involved in such as shift as "mind-boggling" and likened the change to "decreeing that British cars should shift to driving on the right, with the move phased in gradually".[55]

A key part of the challenge is that the change in tax system would impact on existing pensions. Presumably TEE would only apply to benefits arising from future contributions. If it did not, individuals could transfer their existing pension on which they had received tax relief, to a new one in which they would not have to pay tax on pension income. So this means anyone who already has a pension, would have need to have two schemes going forward, one under EET and the other under TEE.

Opt out rates would be expected to be much higher under TEE. Paying tax on pension contributions would lead to a much larger reduction in disposble income, and incentives for retirement saving would be undermined. In addition, if employee contributions were to be taxed, then individuals already in a pension scheme would effectively receive a reduction in net pay.

Finally, given that population projections show an ageing demographic and a slight reduction in the size of the working population, the fiscal pressures are only likely to increase over time. This suggests that the additional tax revenue from pension income will be critical for the long-term fiscal situation in Guernsey and Alderney.

[55] The Economist (2015). "EET your TEE, George" from 5 August 2015, https://www.economist.com/blogs/buttonwood/2015/08/pensions-and-tax

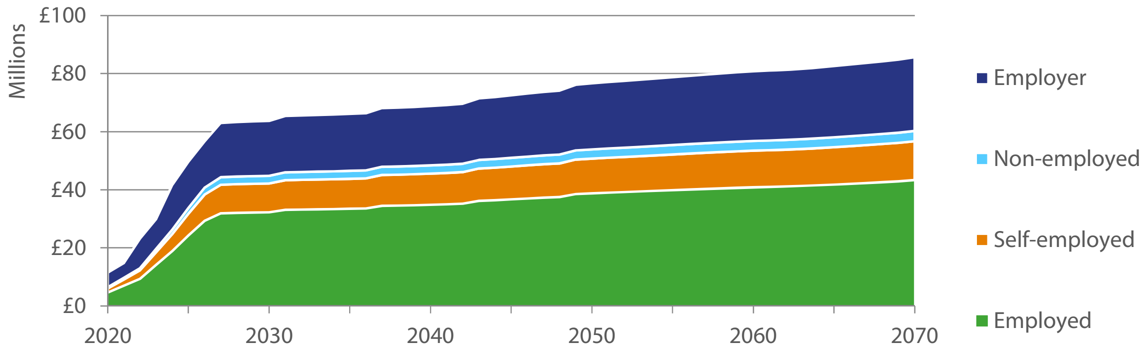
8. Impact on the Economy

The Secondary Pension Scheme will have an impact on the local economy. The overall economic impact will reflect the combined effect on individuals and households, on firms and on the government budget. In this section we discuss the implications of the Secondary Pension Scheme for saving, consumption, the labour market and economic growth.

8.1 Impact on Saving

The Secondary Pension Scheme is expected to increase the amount of pension saving. Figure 91 shows the annual pension contributions into the Secondary Pension Scheme[56] from new members by type of contributor.

Figure 91. Annual pension contributions in the Secondary Pension Scheme from new members



It is expected that the annual pension contributions from new members will be in the region of £60 million by 2027, with £40 million from individuals and £20 million from employers. From 2027, annual pension contributions increase in line with real earnings growth. However, it is important to acknowledge that not all of the increase in saving will constitute new or additional saving as some people will substitute away from existing savings once they start contributing to a Secondary Pension Scheme. In the UK it was estimated that up to 70% of new savings could be generated by the introduction of auto-enrolment into “Workplace Pensions”.[57] The features of the Workplace Pension that were designed to encourage new saving included automatic enrolment, mandatory employer contributions, and tax relief on pension contributions. In addition, the scheme was intended to target lower and middle income earners.

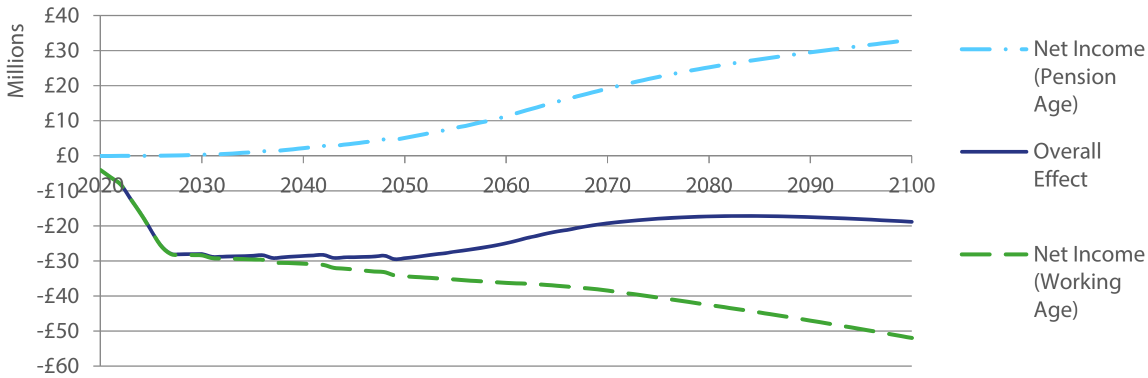
[56] Includes contributions in the States-facilitated scheme and alternative qualifying schemes.
[57] Department for Work and Pensions (2010). Workplace pension reform regulations. Impact assessment.

8.2 Impact on Consumption

Individuals who pay into a secondary pension will see a reduction in their disposable income. This will lead to a reduction in consumer spending, especially in the short-term. However, in time, consumption will increase as pensioners who have contributed to the Secondary Pension Scheme will have higher incomes in retirement and would be expected to spend at least some of their additional income.

The impact of the Secondary Pension Scheme on consumption can be estimated from the projected change in net income for the population as a whole. In the base case, it is assumed that the average marginal propensity to consume is 0.8, which means that 80% of additional income would be spent. Other economic conditions are presumed to remain stable. Figure 92 shows the marginal impact of the Secondary Pension Scheme on consumption for the period 2020 to 2100 for the entire population, and also disaggregated for the working age and pension age populations.

Figure 92. Marginal impact of Secondary Pension Scheme on annual consumption



The pattern is a familiar one. At the population level, consumption is projected to reduce in the short-term. The reduction in consumption is estimated to be close to £30 million by 2027, when contribution rates reach their maximum levels. This reduction in consumption is sustained until 2050. Thereafter the impact then begins to reduce because there will be an increasing number of pensioners benefiting from additional pension income.

It should be noted that these estimates are from a partial equilibrium analysis, and therefore focus only on the first-round effects. In other words, the estimates do not take into account interaction with other economic variables, or any second-round effects, that may result from the initial change in consumption. In addition, the impact on consumption has been estimated from the change in saving among individuals. It does not take into account any changes in consumption that may arise from the employers' pension contribution.[58] Nevertheless, the simple modelling helps to give some indication of the magnitude of the impact.

The projected changes in consumption is small relative to GDP, which was estimated to be £2,355 million in 2015. This means that the change in consumption is equivalent to a loss of approximately 1% of GDP in the short-term; it is likely to be less than 1% of GDP in the long-term. The impact on the local economy will also depend on the extent to which it changes consumer spending within Guernsey and Alderney. At least some

[58] For example, it does not take into account the impact of the SPS on pay awards and bonuses. If salary increases and bonuses are lower, consumer spending is also expected to fall. The economic impact of the employers' contribution on wages, the labour market and investment rates are discussed in Sections 8.3 and 8.4.

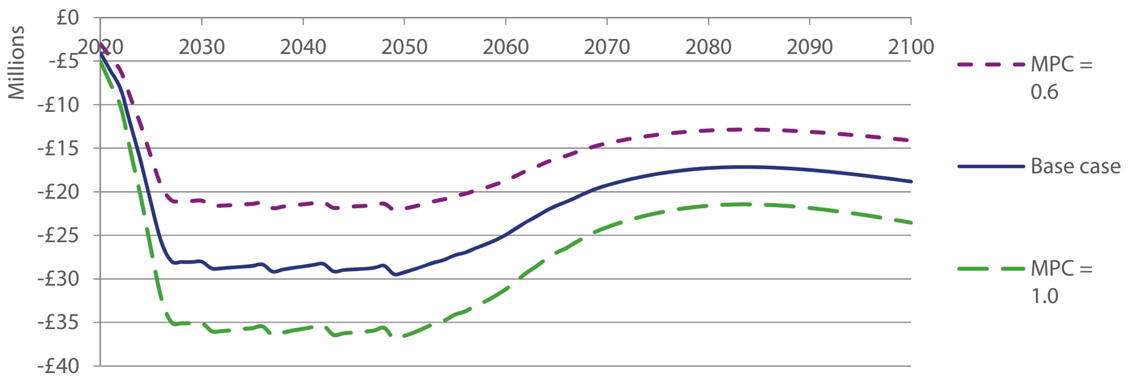
of the change in consumption is likely to impact on spending on goods or services from elsewhere (including goods directly imported from UK suppliers).

Research undertaken in the UK prior to the introduction of the Workplace Pensions, which used a general equilibrium model, concluded that the reduced consumption would have a minimal impact on economic output. In the short-term they estimated that the impact would not exceed -0.15% of GDP, and that in the medium- to long-term the economy would adjust to the new level of savings and gradually revert back to the original growth path.[59]

8.2.1 Impact on Consumption: Sensitivity Analysis

We have considered the sensitivity of consumption to the assumption on the average marginal propensity to consume (MPC), real earnings growth and the investment return. The results are presented in Figure 93, Figure 94 and Figure 95 respectively.

Figure 93. Marginal impact on annual consumption: sensitivity to marginal propensity to consume (MPC)

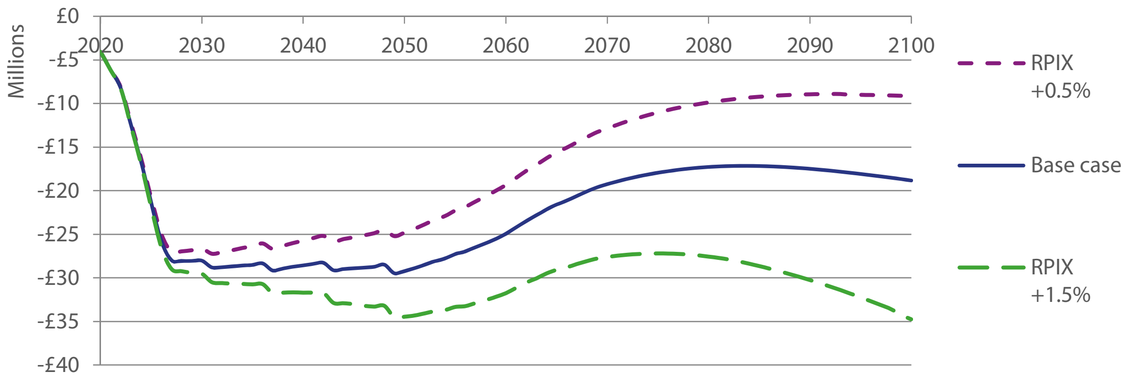


The base case assumed that a 1% change in income would lead to a 0.8% change in consumption. If individuals adjusted their spending so that it was 100% responsive to changes in income (i.e. the MPC was 1.0), then the impact in consumption would amount to a reduction of annual consumption of approximately £32 million in the short-term.[60] Conversely, a MPC of 0.6 would have a smaller impact on consumption, and the reduction of annual consumption would be approximately £20 million.

[59] Van de Coevering et al. (2006). Estimating economic and social welfare impacts of pension reform. DWP Pensions Technical Working Paper.

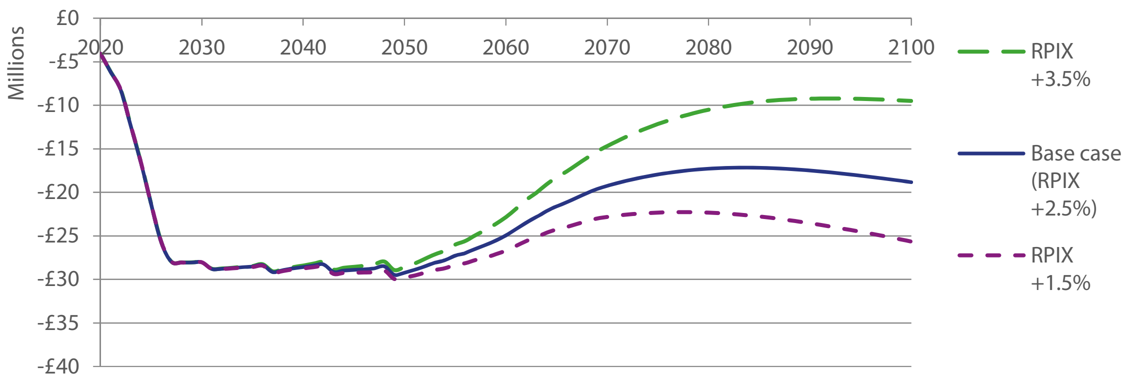
[60] With an MPC of 1.0, the change in income, and therefore the change consumption is approximately 80% of the individual pension contributions (sum of employed, self-employed and non-employed contributions in Figure 93). The remaining 20% is the total amount that individuals saved in income tax.

Figure 94. Marginal impact on annual consumption: sensitivity to the assumption on real earnings growth



As the impact of Secondary Pension Scheme was sensitive to real earnings growth, we also consider how this would impact on annual consumption. As Figure 94 shows, the real earnings growth will impact on consumption in the long-term.

Figure 95. Marginal impact on annual consumption: sensitivity to investment return



As the impact of the Secondary Pension Scheme was sensitive to the investment return, we also consider how this would impact on annual consumption. As Figure 95 shows, the investment return impacts on consumption in the long-term.

8.3 Impact on the Labour Market

In Section 6 we described how the Secondary Pension Scheme is expected to impact on employers. We now build on these findings and consider the likely implications on the labour market.

The Secondary Pension Scheme is unlikely to impact on labour participation rates since individuals who were concerned that paying into a secondary pension would reduce their take-home pay can choose to opt out. The policy is also unlikely to impact on the ability of Guernsey and Alderney to attract migrant workers.

The Secondary Pension Scheme will, however, impact on wages and employment. The pension contributions firms are required to make increase their payroll. Firms may look to recover some additional costs using one or more of the following strategies. Otherwise, the Secondary Pension Scheme will impact on company profits and dividends.

- Increase consumer prices
- Increase productivity
- Reduce the number of hours worked or overtime available
- Reduce the number of people employed, freeze recruitment or make redundancies
- Defer or reduce future pay rewards and bonuses
- Cut costs in other areas

The extent to which employers are able to deploy these strategies depends on the extent to which their goods and services can be substituted by imports, and the extent to which local firms need to offer attractive remuneration package to recruit and retain staff.

Firms that primarily sell their goods and services to the local market, and cannot be easily substituted by imported products, will be better able to recover some of the additional costs through increased consumer prices. For example, some local retailers may be able to increase the price of their goods without incurring a large reduction in demand and preserve their profitability. However, other firms who face competition from international firms, or from online providers, would be unlikely to find this an effective strategy. The ability of firms to pass on costs to the consumers is also likely to be impeded by the lower levels of disposable income in the short- to medium-term.

Some firms may look to increase productivity. This would be particularly effective if labour can be replaced by capital, such as new technology. However, this is likely to be challenging to achieve and evidence from the UK shows persistently low levels of productivity growth.[61]

Strategies that target the wage bill are likely to be more effective. It is expected that firms would look to offset their pension contributions by limiting pay awards and bonuses. This means we can expect lower wage growth during the implementation period; median earnings may even fall in real terms. Having said that, given the limited labour supply and low unemployment rates, firms that want to recruit and retain high quality staff will need to offer an attractive remuneration package. Thus, while firms may want to adjust their wage bill through lower salary increases, there will also be some limits on their ability to do so.

Another strategy for reducing the wage bill is to reduce the number of hours worked, or people employed. For instance, there may be fewer opportunities for earn overtime, or a freeze on additional recruitment. Firms

[61] Office for National Statistics. (2017). Labour productivity: April to June 2017. Statistical Bulletin

could also change the composition of their workforce. This could involve making more use of workers who would not be automatically enrolled, such as using part-time workers whose annual earnings would fall below the lower earnings limit, or employing staff who are over the States pension age. It is also possible that some firms may seek to limit their wage bill by using self-employed contractors, or encouraging workers into the informal sector.

Finally, there is also the possibility that some firms will incur redundancies or be forced to close because they cannot afford the higher wage bill. In practice, this seems less likely as the employer contribution rate is increased gradually over seven years; this should allow firms the opportunity to look for cost savings in other areas. Overall, we would not expect significant increases in unemployment rates following the introduction of the Secondary Pension Scheme. In the UK, unemployment rates have fallen in the period since the introduction of Workplace Pensions, and this implies that automatic enrolment has a relative small influence on labour market when compared to other factors.

8.4 Impact on Economic Growth

In considering the impact of the Secondary Pension Scheme on Gross Domestic Product (GDP) and economic growth we bring together the range of effects that have been previously discussed along with impact on trade, investment and international competitiveness.

Consumption is the largest single contributor to GDP. As explained earlier, consumption is likely to be reduced particularly in the short-term, as more individuals contribute to a secondary pension and working age individuals will incur a reduction in their net income. Over time, the impact on consumption will reduce as individuals benefit from additional pension income in retirement, and are expected to have higher levels of consumer spending. In the very long-term, the marginal impact of the Secondary Pension Scheme is sensitive to the assumptions on the marginal propensity to consume, real earnings growth and the investment return.

Public sector spending contributes to GDP. In the short- to medium-term the States will see an annual reduction in government revenue, which is expected to be around £10 million in the short- to medium-term. There is also expected to be some additional spending on income support in this period. The impact on economic growth will depend on how the States looks to fund the shortfall in the government budget. Reductions in government spending may reduce the level of economic output. However, the cost of the Secondary Pension Scheme will be small relative to the projected increases in revenue that result from the real earnings growth of 1% per annum.

Investment and international trade can also contribute to GDP. Local firms will face additional costs as they will be required to contribute to the Secondary Pension Scheme. This is likely to limit the scope for local investment. It is possible the Secondary Pension Scheme could act as a disincentive for inward investment or adversely impact on international trade as firms operating in Guernsey and Alderney would incur higher employment costs than they would have done before. However, in practice, the effect is likely to be minimal. Financial services are the largest economic sector, and a major source of exports. Many firms in this sector already offer occupational pensions, which means the impact of the policy will be limited. Moreover, investment decisions would be expected to take into account a wide range of factors, such as the tax regime and the regulatory environment.

In the long-term, the marginal cost of the Secondary Pension Scheme is likely to be small given the States' assumption on real earnings growth, which will be associated with higher levels of economic growth. In the short-term the Secondary Pension Scheme will put pressure on economic growth, primarily reflecting the reduction in disposable income and consumer spending. The magnitude of the impact is likely to be relatively limited, and the risks will be small compared to other economic challenges, such as the impact of Brexit.

Finally, some may argue wider economic uncertainties may bring into question the merits of the Secondary Pension Scheme or the timing for its implementation. However, it may be worth noting that the case for pension reform in the UK was advanced at a time of economic and fiscal austerity. Research commissioned by the UK Department for Work and Pensions assessed whether it remained appropriate to promote private retirement saving in the wake of the 2008-09 global financial crisis.[62] It was concluded that although the recession may reduce people's willingness to save in pensions, and there may be preferences for savings vehicles that offered greater liquidity, on balance, the workplace pension reforms remained appropriate despite the economic downturn.

[62] Department for Work and Pensions (2010). Workplace pension reform regulations. Impact assessment.

9. Conclusions

This report sets out the results of the actuarial modelling of the projected growth in the States-facilitated Secondary Pension Scheme. The central results have been generated from a “base case “set of assumptions. In addition we have illustrated the sensitivity of the projections to changes in the assumptions. The assumptions used were derived in conjunction with the Committee *for* Employment & Social Security. The results shown in this report are projections and do not necessarily reflect what will happen in practice. The sensitivities considered do not necessarily represent the extremes of the outcomes. However, they are useful in quantifying the relative effect of different assumptions.

The economic impact assessment illustrates how the introduction of the Secondary Pension Scheme could potentially have implications for individuals and households, employers, the government, and on the economy. The economic projections are also estimated using the base case assumptions, and sensitivity analyses have been undertaken.

In the long-term, the introduction of a Secondary Pension Scheme is expected to cumulate in an increase in economic activity among pensioners by increasing the income of households in retirement. It will also enable people to distribute their income more evenly across their lifespan. However, to achieve this increase in the savings rate, there would be a loss of disposable income among the working age population, with reductions in income tax revenue, aggregate consumption and a possible suppression of economic growth. These effects would be due to part of the disposable income of households being diverted into long-term saving which will defer some consumption.

10. Useful References

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11. Appendix: Derivation of Assumptions

This appendix sets out the derivation of the base case assumptions which have been agreed with the Committee *for* Employment & Social Security.

11.1 Employee opt out rate

11.1.1 Key Assumption

The opt out rate assumption is one of the principal assumptions; the outcome of the Secondary Pension Scheme projections and analysis will be highly sensitive to this assumption. In order to consider the central assumption in a Guernsey context, it is helpful to consider the data that has been published so far on the opt out rates experienced in the UK.

11.1.2 UK Experience

The UK has been phasing in auto-enrolment since 2012, starting with the largest employers (120,000 or more employees) first. The phasing in process has been spread over around 5 years, and so it was not until 2015 that employers with fewer than 30 employees began to introduce auto enrolment.

Prior to the introduction of auto enrolment in the UK, opt out rates had been estimated. At that time it was anticipated that the opt out rate could be in the range 15%-30%. However, it transpired that the actual opt out rates observed initially were lower than expected, at around 10% amongst employees of the largest employers.

There is some evidence that the opt out rate has increased as smaller employers introduce auto enrolment. In particular, data from the Employers' Pension Provision Survey 2015[63] indicates that employers with between 1 and 19 employees experienced a much higher opt out rate of 17%, compared to an average across all employers of 9%. Data for 2016 does not appear to have yet been published at the time of preparing this paper.

11.1.3 Guernsey-specific considerations

How the opt out rate may change in future in the UK is unknown. However, we would expect the long-term opt out rate in the UK to increase as the employees' contribution rate increases to 5%.

The average opt out rate in Guernsey may be higher than that experienced in the UK for a number of reasons:

- Most Guernsey employers would be considered "small" in UK terms
- Guernsey's employees' proposed long-term contribution rate under the Secondary Pension Scheme is 6.5%, compared to 5% in the UK
- The minimum age of auto enrolment in the UK is 22, compared with 16 proposed for the Secondary Pension Scheme

11.1.4 Assumption

Considering the UK evidence so far for small employers, and the higher long-term contribution rate in the Secondary Pension Scheme, we would expect that a long-term realistic opt out rate could be around 20%. However, we recognise that this assumption is difficult to predict accurately and therefore we have illustrated sensitivity of the output to this assumption.

[63] Department of Work and Pensions (2016). Employers' pension provision survey 2015. (www.gov.uk/government/publications/employers-pension-provision-survey-2015)

11.2 Membership of existing occupational pension schemes

11.2.1 Key Assumption

The percentage of employees who are existing active members of an occupational pension is an important assumption for estimating the economic impact of the Secondary Pension Scheme.
The number of individuals who join an occupational pension scheme as a result of the Secondary Pension Scheme is estimated to be the number of individuals who would become eligible, less the number of employees who are existing members of an occupational pension scheme.

11.2.2 Evidence

We have estimated this percentage using income tax data on contributions to occupational pension schemes and on an assumption about the percentage of occupational schemes that are non-contributory.

Anonymised individual level data from the Electronic Census for 2014 were provided containing Income Tax and Social Security records. Raw data were cleaned following the steps set out in the Guernsey Household Income Report and advice from the States Data and Analysis Unit. The cleaned dataset contained 58,010 records, of whom 28,253 were individuals of working age and who were classified as employed. Complete tax records were available for 23,444 working age employees and showed that 28% of working age employees contributed to an occupational pension.

Contribution rates to an occupational pension vary by employment sector. According to income tax records, 85% of individuals in public administration[64] pay into an occupational pension. The percentage is also relatively high for those working in energy and communications.[65] It is estimated that 18% of all employees have access to the public sector pension scheme.

The remaining 82% of employees work in the private sector. Income tax records showed that 16% of private sector employees pay into an occupational pension. This could be an underestimate, as the 2012 Pensions Survey found that approximately 20% of occupational pension schemes in the private sector were non-contributory schemes.[66] Based on the assumption that 20% of occupational pension schemes were non-contributory for the employees, then it can be inferred that 20% of individuals working in the private sector are active members of an occupational pension scheme.[67]

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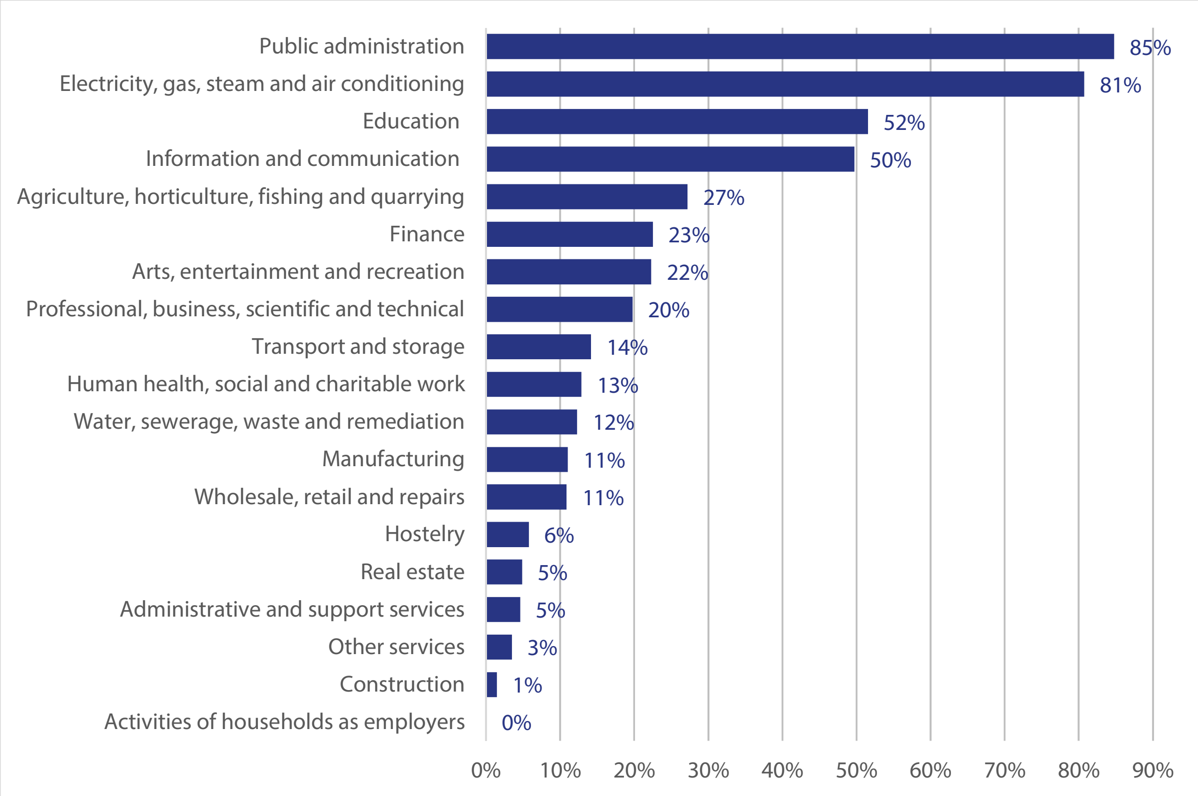
[64] Including medical and teaching staff who are employed by the States of Guernsey.

[65] Includes employees of Guernsey Electricity and Guernsey Post who also have access to the public sector scheme Billet d'Etat

[66] States of Guernsey Policy Council, Pensions survey 2012.

[67] This is lower than was reported in the 2012 Pensions Survey, which surveyed residents working in the private sector and found 27% of respondents were in active occupational pension scheme members and 45% of respondents were actively saving in a private sector pension scheme.

Figure 96. Percentage of individuals contributing to an occupational pension, by economic sector



Note: Used E-Census data from 23,444 individuals who are of working age and have SI classified as employed for whom the employment sector and whether they paid into an occupational pension was known. Uses first employment category if work in more than one industry.

Combining evidence from the employment data and assumptions about membership of occupational pension schemes in the public and private sector, it is estimated that, on average, 32% of all working age employees are existing active members of an occupational pension scheme. This is based on the following calculation:

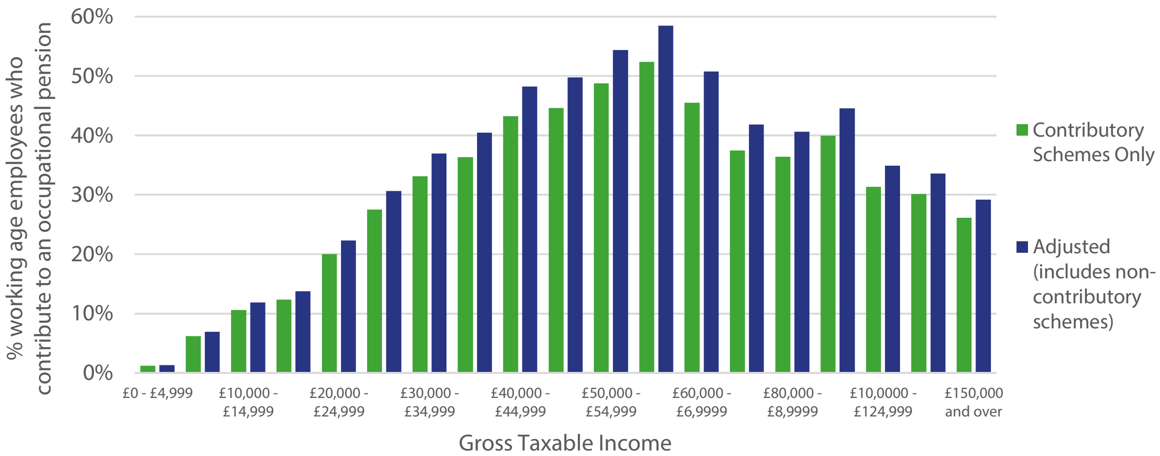
% of employees who are existing active members = (18% x 85%) + (82% x (16% + X%)).
Where:

- 18% of employees work in the public sector. 85% of these employees have an occupational pension.
- 82% of employees work in the private sector. 16% of these employees are an active member of a contributory scheme and the % of whom are an active member of a non-contributory scheme is unknown (X).
- X can be inferred if we assume that 20% of all private sector occupational pensions are non-contributory (as reported in the 2012 Pensions Survey). If the 16% of private sector who are active members of contributory scheme represent 80% of all private sector occupational pensions, then there must be a further 4% of private sector employees who are active members of a non-contributory schemes.

Furthermore, the economic model assumes existing membership of occupational pension scheme depends on an individual's gross taxable income. Figure 97 shows the percentage of working age employees who are existing active members of an occupational pension by gross taxable income band.

Income tax records show that membership of occupational pension schemes is associated with gross taxable income, and those with a higher gross taxable income are more likely to contribute to an occupational pension. To allow for non-contributory schemes an adjustment has been made in which the percentage of employees who are active members in each income band has been increased by 1.142 (i.e. 32% / 28%).[68]

Figure 97. Percentage of working age employees who pay into an occupational pension



Source: E-Census data containing income tax records from 2014.

[68] Where 32% is the estimated % of employees who are active member of any (contributory and non-contributory) occupational pension scheme and 28% is the % of individuals who are active members of contributory occupational pension scheme. No data are available on the relationship between membership in a non-contributory scheme and gross taxable income, so we apply the simplifying assumption that the distribution of non-contributory schemes by income band is the same as the distribution of contributory scheme by income band.

11.2.3 Assumption

The assumption of the percentage of employees who contribute to an occupational pension in each gross taxable income band is shown Table 10.

Table 10. Percentage of employees who are active members of an occupational pension

Gross Taxable Income	Base Case	Base Case scaled down by 10%	Base Case scaled up by 10%
£0 - £4,999	1%	1%	1%
£5,000 - £,9999	7%	6%	8%
£10,000 - £14,999	12%	11%	13%
£15000 - £19,999	14%	12%	15%
£20,000 - £24,999	22%	20%	25%
£25000 - £29,999	31%	28%	34%
£30,000 - £34,999	37%	33%	41%
£35000 - £39,999	40%	36%	45%
£40,000 - £44,999	48%	43%	53%
£45000 - £49,999	50%	45%	55%
£50,000 - £54,999	54%	49%	60%
£55000 - £59,999	58%	53%	64%
£60,000 - £69,999	51%	46%	56%
£70,000 - £79,999	42%	38%	46%
£80,000 - £89,999	41%	37%	45%
£90,000 - £99,999	45%	40%	49%
£100,000 - £124,999	35%	31%	38%
£125,000 - £149,999	34%	30%	37%
£150,000 and over	29%	26%	32%
All incomes	32%	28%	35%

11.3 Employers offering an occupational pension

11.3.1 Key Assumption

The percentage of employers who currently offer an occupational pension is an important assumption for estimating the economic impact of the Secondary Pension Scheme.

11.3.2 Evidence

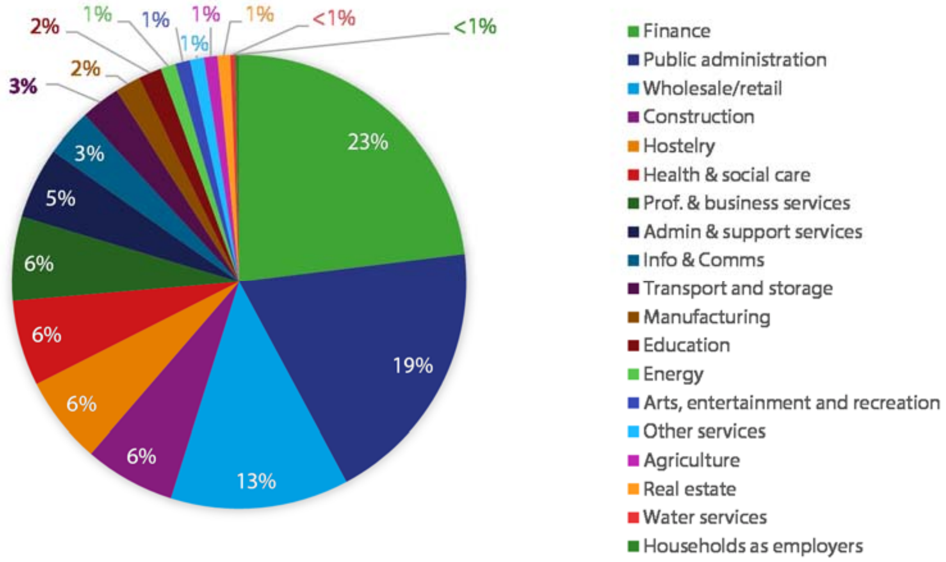
There do not appear to be any reliable data on the percentage of employers who currently offer an occupational pension. Income tax records showed that the percentage of employees who contributed to an occupational pension varies considerably by economic sector. However, the available data do not show how this varies by employer size. The policy documents cite a BWCI survey from 2010, but no general assumptions can be made, as the respondents were predominately employers in the finance sector.

The economic model requires an assumption that the percentage of employers who currently offer an occupational pension varies by sector and size. The assumption is based on an extrapolation of employment data. Income tax data were used to validate the assumptions.

11.3.3 Approach

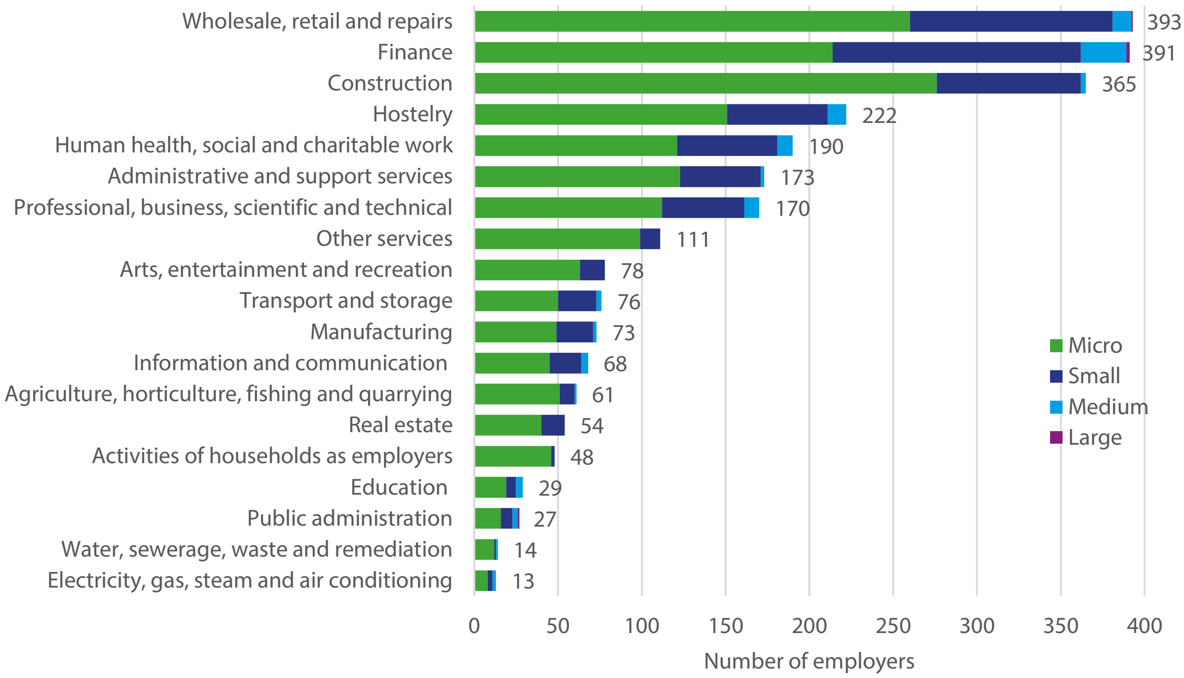
The first step was to estimate the number of employees per economic sector and employer size. The number of employees by sector is available; the number of employers by sector and size is known (Figure 98 and Figure 99).

Figure 98. Distribution of employees by economic sector



Source: States of Guernsey (2017). Guernsey Quarterly Population, Employment and Earnings Bulletin. Issue Date 4 August 2017; States of Alderney (2017). Alderney Electronic Census Report 31 March 2016. Population snapshots and trends. Issued on 21 April 2017.

Figure 99. Number of employer, by size and economic sector



Source: States of Guernsey (2017). Guernsey Quarterly Population, Employment and Earnings Bulletin. Issue Date 4 August 2017; States of Alderney (2017). Alderney Electronic Census Report 31 March 2016. Population snapshots and trends. Issued on 21 April 2017.

The number of employees per sector and size was estimated by selecting median values for employer size category (Table 11).

Table 11. Estimated number of employers by employer size and sector

	Estimated Number of Employers per Size										Number of employees
	1	2 to 5	6 to 10	11 to 25	26 to 50	51 to 100	101 to 250	251 to 1000	Over 1000	Total	
Agriculture, horticulture, fishing and quarrying	21	105	56	15	35	65	0	0	0	297	282
Manufacturing	22	95	72	180	35	130	0	0	0	534	534
Electricity, gas, steam and air conditioning	5	11	16	0	35	65	150	0	0	282	316
Water, sewerage, waste and remediation	5	25	0	15	0	65	0	0	0	110	100
Construction	131	508	376	510	175	65	300	0	0	2065	1,892
Wholesale, retail and repairs	102	553	536	510	700	455	600	300	0	3756	3,724
Hostelry	71	280	248	360	175	715	0	0	0	1849	1,823
Transport and storage	28	77	80	135	140	130	150	0	0	740	821
Information and communication	25	70	56	120	140	130	300	0	0	841	986
Finance	110	364	424	900	1,225	910	1,950	600	0	6483	6,758
Real estate	22	63	40	120	35	0	0	0	0	280	263
Professional, business, scientific and technical	59	186	184	315	175	260	750	0	0	1929	1,763
Administrative and support services	60	221	144	225	525	0	300	0	0	1475	1,496
Public administration	7	32	8	75	35	0	450	0	5,000	5607	5,612
Education	10	32	8	60	35	195	150	0	0	490	484
Human health, social and charitable work	57	224	272	225	385	520	150	0	0	1833	1,797
Arts, entertainment and recreation	33	105	56	105	35	0	0	0	0	334	306
Other services	62	130	88	0	35	0	0	0	0	315	294
Activities of households as employers	32	49	16	0	0	0	0	0	0	97	84
TOTAL	862	3,126	2,680	3,870	3,920	3,705	5,250	900	5,000	29,313	29,335

The next step was to select assumptions for the percentage of employers that offer an occupational pension scheme that are plausible given income tax data. The expected percentage of employees with an occupational pension by sector are similar to the income tax data, with the exception of Finance, which is intentionally higher to reflect the prevalence of non-contributory schemes in the finance sector.[69]

[69] States of Guernsey Policy Council, Pensions Survey 2012.

11.3.4 Assumption

The following assumptions have been used to model the percentage of employers who currently offer an occupational pension, by sector and employer size.

Table 12. Assumption on percentage of employers who currently offer an occupational pension

Employer Size	Micro		Small			Medium		Large	
Number of employees	1	2 to 5	6 to 10	11 to 25	26 to 50	51 to 100	101 to 250	251 to 1000	Over 1000
Public administration	100%	100%	100%	100%	100%	.	100%	.	100%
Electricity, gas, steam and air conditioning	0%	0%	20%	30%	30%	100%	100%	.	.
Information and communication	0%	0%	20%	30%	30%	100%	100%	.	.
Agriculture, horticulture, fishing and quarrying	0%	0%	20%	30%	30%	100%	.	.	.
Arts, entertainment and recreation	0%	0%	20%	30%	30%	.	.	.	.
Finance	0%	0%	20%	30%	30%	50%	75%	100%	.
Education	0%	0%	20%	30%	30%	50%	75%	.	.
Human health, social and charitable work	0%	0%	10%	20%	20%	30%	30%	.	.
Transport and storage	0%	0%	10%	20%	20%	30%	30%	.	.
Professional, business, scientific and technical	0%	0%	10%	20%	20%	30%	30%	.	.
Manufacturing	0%	0%	10%	20%	20%	30%	.	.	.
Administrative and support services	0%	0%	0%	10%	10%	.	20%	.	.
Real estate	0%	0%	0%	10%	10%	.	.	.	.
Water, sewerage, waste and remediation	0%	0%	.	10%	.	20%	.	.	.
Wholesale, retail and repairs	0%	0%	0%	0%	0%	20%	20%	100%	.
Construction	0%	0%	0%	0%	0%	20%	20%	.	.
Hostelry	0%	0%	0%	0%	0%	20%	.	.	.
Other services	0%	0%	0%	.	0%	.	.	.	.
Activities of households as employers	0%	0%	0%	.	.	.	.	.	.

Note: "." where there are no employers in Guernsey and Alderney of that sector and size.

11.4 Expected rate of return on Secondary Pension Scheme contributions

11.4.1 Key Assumption

The investment return assumption models the expected rate of return on the contributions invested in the States-facilitated Secondary Pension Scheme. This is a key assumption which will affect the size and expected rate of increase in the Secondary Pension Scheme funds. In addition, it will affect the size of each individual's pension account and so ultimately their retirement income from the Secondary Pension Scheme.

11.4.2 Investment Expenses

The assumption is net of any investment management expenses or charges, to eliminate the need for an explicit allowance for expenses.

11.4.3 Investment Strategy

While the actual rate of return achieved each year will fluctuate with market conditions, a key driver for the expected investment returns will be the long-term strategy adopted. While this strategy is not known at this stage, the February 2016 Billet states that "*the Secondary Pensions Scheme would be required to offer a range of investment choices, including an option to invest in a fund mirroring the investment strategy of some of the capital funds currently administered by the States.*"

There are three main States investment funds as follows:

Fund	Target Investment Objective
Long-term Fund	UK RPI +4%
Medium-term Fund & Cash Pool	UK RPI + 3.5%
Common Investment Fund	Guernsey RPIX + 3.5%

These are aspirational target returns and it would be more prudent to assume a slightly lower long-term average rate of return for projection purposes. The initial projections included within the February 2016 Billet, to illustrate possible benefit levels provided by the Secondary Pension Scheme, assumed a real rate of return of 3% pa (i.e. 3% pa in excess of price inflation).These initial projections also assumed an annual management charge on funds under management of 0.5% pa. Combining these two assumptions leads to an assumption of 2.5% pa in excess of inflation.

11.4.4 Lifestyle Strategy

It has been assumed that, over the 10 years prior to retirement, there would be a gradual reduction in the level of return-seeking assets in an individual member's pension account, in order to move to a more matched position for purchasing an annuity at retirement.

11.4.5 Assumptions

In view of the target investment return on the Common Investment Fund and the assumption made in the February 2016 Billet, a central investment return of RPIX + 2.5% pa has been used, reducing to RPIX over the 10 year period prior to retirement. We illustrate the sensitivity of the output to this assumption.

11.5 Administrative costs for employers

11.5.1 Key Assumption

Employers will be legally required to automatically enrol eligible employees into a Secondary Pension Scheme. As well as the costs to employers arising from the pension contributions they will be required to make, employers are also expected to incur some administrative costs. These costs will predominately be additional HR and payroll costs. However, some employers may also seek professional advice on how best to comply with the requirements in their particular circumstances.

11.5.2 UK Evidence

An impact assessment was undertaken prior to the launch of the UK workplace pension.[70] This assumed that the administrative cost would depend on firm size, and they reported both the cost per firm and the equivalent cost per employee. The projected costs are shown Table 13 and expressed in GBP at 2009/10 prices.

Table 13. Assumptions on administrative cost of participation in UK workplace pension, by firm size

Firm Size		Cost per firm		Equivalent cost per employee	
		Cost in First Year of Scheme	Ongoing cost in future years	Cost in First Year of Scheme	Ongoing cost in future years
Micro	1-4 employees	200	100	£130	£50
Small	5-49 employees	400	100	£50	£15
Medium	50-249 employees	1,800	400	£30	£6
Large	250 employees	12,000	1,900	£20	£3

There is also UK evidence from employers on the costs incurred to implement a workplace pension. A 2015 survey of employers showed the median implementation cost varied by firm size.[71] As expected, the reported costs were higher if they sought independent advice. Several employers reported they had incurred no costs. The results are presented in Table 14.

Table 14. Median implementation costs reported by Staged Employers in UK in 2015

Firm size	Cost per firm	Equivalent cost per employee
1-19 employees	£200	£25
20-49 employees	£1,000	£30
50-99 employees	£1,000	£16
100-249 employees	£2,500	£16
250-499 employees	£5,000	£13
500-999 employees	£5,000	£6
1000+ employees*	£20,000	£8

* There are no private sector employers in Guernsey and Alderney with more than 1000 employees.

11.5.3 Assumption

It is assumed that employers will incur a fixed cost of £500 per employer in the first year and £200 in subsequent years, together with a variable cost of £25 per employee in the first year and £10 per employee in subsequent years. In the first year the fixed component reflects the time and/or advice required to understand their responsibilities under the Secondary Pension Scheme and make system-wide changes to human resource or payroll systems. In subsequent years the fixed costs reflects the time and/or advice required to

[70] Department for Work and Pensions. Workplace Pension Reform Regulations Impact Assessment, 2010.

[71] Department for Work and Pensions. Employers' Pension Provision Survey 2015. Published 2016.

monitor policy changes (such as increases to the contribution rate). The variable cost reflects the staff time required to enrol each employee.

These assumptions are conservative compared to the UK evidence, which are shown in Table 15. Sensitivity analysis is undertaken in which these costs are varied by ± 50%.

Table 15. Assumption on administrative cost per firm and per employee

Firm Size	Number of firms in Guernsey	Cost per firm		Equivalent cost per employee*	
		2020	2021 onwards	2020	2021 onwards
1	810	£525	£210	£525	£210
2 to 5	858	£588	£235	£168	£67
6 to 10	328	£700	£280	£88	£35
11 to 25	251	£875	£350	£58	£23
26 to 50	109	£1,375	£550	£39	£16
51 to 100	56	£2,125	£850	£33	£13
101 to 250	34	£4,250	£1,700	£28	£11
251 to 1000	3	£8,000	£3,200	£27	£11

* assumes mid-point values for each range of 1, 3.5, 8, 15, 35, 65, 150, and 300 respectively

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<u>THE STATES OF DELIBERATION</u>
<u>of the</u>
<u>ISLAND OF GUERNSEY</u>

COMMITTEE *FOR THE* ENVIRONMENT & INFRASTRUCTURE

THE ON-ISLAND INTEGRATED TRANSPORT STRATEGY – FIRST PERIODIC REVIEW

The States are asked to decide whether, after consideration of the Policy Letter entitled "The On-Island Integrated Transport Strategy – First Periodic Review" dated 27 December 2019, they are of the opinion:

1. To note the progress to date on meeting the objectives of the On-Island Integrated Transport Strategy; and

2. To direct the Committee *for the* Environment & Infrastructure to report back to the States with a second periodic review in 2023.

Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *FOR THE* ENVIRONMENT & INFRASTRUCTURE

THE ON-ISLAND INTEGRATED TRANSPORT STRATEGY – FIRST PERIODIC REVIEW

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

27 December 2019

Dear Sir

1 Executive Summary

1.1 In May 2014 the States approved the On-Island Integrated Transport Strategy ("the Strategy") as set out in the resolutions[1] and detailed in the Minority Report[2]. This Policy Letter sets out the progress against the Strategy's objectives. The Committee *for the* Environment & Infrastructure ("the Committee") is also presenting as an appendix report[3] the First Periodic Review of the Strategy, which measures and evaluates progress towards the Strategy's core aims and objectives. The States is also asked to direct the Committee to report back with a second periodic review in 2023.

1.2 The vision statement ("the Vision") at the heart of the Strategy is:

> *"To facilitate safe, convenient, accessible and affordable travel options for all the community, which are time and energy efficient, enhance health and the environment and minimise pollution."*

[1] Resolutions Billet D'État No IX, 2014
[2] Annexe, Billet D'État No IX, 2014
[3] Integrated Transport Strategy: First Periodic Review, dated November 2019

The Strategy's aim is to encourage active travel as a priority, followed by encouraging the use of public transport and reducing vehicle movements, particularly the number of solo-occupancy car journeys.

1.3 Transport plays a critical role in virtually every aspect of our community. A sustainable and integrated transport strategy seeks to give people the freedom to choose how they move around Guernsey, whilst recognising the importance of our environment and the island's unique culture and history.

1.4 Access to transport is fundamental to social equity. The Strategy therefore helps to deliver the Policy and Resource Plan (Future Guernsey Plan) principal policy outcome 'One Community: inclusive and committed to social justice'. A safe and efficient transport system provides economic and social benefits and mitigates negative environmental impacts. This supports the principal policy outcomes of the Policy and Resource Plan relating to 'Our Quality of Life' and 'Our Economy' – specifically 'Healthy Community' and 'Strong, Sustainable and Growing Economy'. Improving road safety also accords with another principal policy outcome of a 'Safe and Secure Place to Live'.

1.5 The Strategy is key to the successful delivery of the States' agreed areas of focus to enhance the seafront and mitigate climate change. It will support the delivery of the Economic Development Strategy, the Disability, Equality and Inclusion Strategy, the Health and Wellbeing Policy under the Partnership of Purpose and identification of the strategic requirements for meeting Guernsey's energy needs and transport related infrastructure across the island. The Strategy also supports the delivery of the aims and objectives of the Strategic Land Use Plan and the Harbour Action Areas and Regeneration Areas, which are key designations approved by the States in the Island Development Plan.

1.6 The Strategy's effectiveness in meeting some of its objectives has (as anticipated) been diluted by the absence of several important policy levers designed to encourage change, such as charging for commuter parking through paid long-stay parking, free bus travel and a first registration duty based on width as well as emissions. Even without these key policy levers, however, progress has been made.

1.7 Guernsey's physically constrained road infrastructure limits the potential for engineering solutions to issues such as congestion and traffic management: in other words, making our roads wider often isn't an option. This makes the Strategy's 'demand side' solutions particularly important.

1.8 The Strategy identifies a range of objectives designed to achieve the aim of encouraging active travel and realising the Vision. In summary, the key achievements identified in the First Periodic Review and listed in accordance with the agreed Strategy objectives are detailed below.

Table 1 – Key Achievements listed by Strategy Objective

Strategy Objective	Key Achievements since 2014
To reduce the number of car journeys, particularly solo-occupancy trips - reducing peak-hour traffic by an expected 10%.	• Average weekday traffic movements into Town in the morning commute have reduced by 4.7% (representing 130 fewer motor vehicles entering Town between 08:00 and 09:00 each day); • Average 24 hour weekday vehicle movements on key arterial routes into Town have reduced by 1.6% (842 movements per day); • The number of cars registered annually in Guernsey has reduced by approximately 19%; • Solo-occupancy vehicle journeys have reduced by around 5%.
To increase the number of journeys made by alternative forms of transport, particularly active travel modes - ideally doubling the number of people travelling by foot, bike and bus.	• Bus passenger numbers have increased by over 32%, representing an additional 470,000 passenger journeys per annum (equivalent to circa 1,175,000 fewer car miles per annum); • Bus passenger journeys originating from Town during the weekday afternoon commute (between 16:00 and 18:30) have increased by approximately 25%, up from circa 570 to 710; • Surveys of people walking along Glategny Esplanade show a 25% increase during the morning commute; • Surveys of people cycling along Les Banques show an increase of up to 50%; • Surveys of people who purchased an e-bike under the subsidy scheme in 2018 indicate an estimated reduction of 100,000 car journeys per annum (equivalent to circa 250,000 fewer car miles per annum).
To achieve a greater proportion of smaller motor vehicles, especially in terms of car widths.	• Registrations of new small cars have remained at or around 15% of the annual total over the last 5 years, with small cars now making up approximately 9% of total cars registered in Guernsey – compared to just 4% in the UK.
To achieve a greater proportion of cleaner, low emissions motor vehicles.	• Electric car numbers have increased around 14-fold to 384 from a low base in 2014. The number of hybrid cars has more than doubled in

	the same period to 473 and the number of electric motorcycles has quadrupled to 46; • Nitrogen Oxide and Particulate Matter emissions from Guernsey's new buses have reduced by 98% and 90% respectively. Resultant annual NOx emissions across the fleet are down 75% from 15.0T to 3.7T; • 33 of the 125 licensed taxis are now hybrid cars, compared to just a couple in 2014.
To improve safety for all road users, particularly vulnerable road users.	• Bikeability training is now being delivered across all States primary schools; • New pavements and safe crossing points have been introduced at key locations and improvements made to the seafront cycle path; • Speed limits have been reduced in areas where there is a heightened risk of conflict between motor vehicles and vulnerable road users.
To improve transport accessibility for all members of the community, particularly non-drivers and those with disabilities or on low incomes.	• Improvements to the scheduled and school bus services have been introduced, including new routes, with fares and concessions maintained at affordable levels. • The public bus fleet is now fitted with a passenger announcement system providing both visual and verbal prompts for passengers who may require assistance with using the service. An Access Card scheme to assist passengers who may have a hidden disability has also been introduced; • Accessible Taxi Cabs have been licensed since 2015, markedly improving the availability of wheelchair-accessible taxis; • parking spaces have increased in number and their location and design improved; • Dropped kerbs and blister paving are now considered as part of all road resurfacing projects.
To improve the public realm, particularly in the main centres	• The public amenity of Market Street has been enhanced and a trial with a view to improve North Plantation is underway.

1.9 Important new priorities identified by the Committee following consideration of the First Periodic Review include improving access within the St Sampson and Vale Main Centre and Main Centre Outer Areas, carrying out cost benefit analyses of mechanisms to enhance and improve enforcement of road safety measures, reviewing the option of assessing the effectiveness of workplace parking levies as a means of achieving various transport objectives and reviewing first registration duty rates in light of the increase in the registration of vehicles in the highest emissions brackets.

1.10 Other priority areas relating to investigating the feasibility and viability of installing a bus and taxi lane southbound between Bulwer Avenue and the Red Lion, improving public amenity space and addressing a variety of road safety issues are also highlighted in Section 6 of this Policy Letter.

1.11 In terms of its overall Vision, the Strategy is moving in the right direction. In many areas there has been significant progress on the stated objectives, despite the absence of some key policy levers upon which the original Strategy was based.

1.12 However, the Strategy is very much a work in progress and more needs to be done to achieve meaningful and effective change for the better.

1.13 The Committee is therefore determined in its efforts to build on the successes to date to improve the efficiency of our transport system and provide a safer, less congested, and less polluted environment in which to live.

2 Background

2.1 In May 2014 the States approved the On-Island Integrated Transport Strategy as set out in the resolutions[4] and detailed in the Minority Report[5]. The Strategy was, however, subject to some significant changes over the following 14 months which fundamentally affected the dynamics of the Strategy as originally envisaged and agreed.

2.2 As with any strategy, it is useful to understand its effectiveness and to update it as necessary. Therefore, the States resolved:

> *"To direct the Environment Department to conduct a review of the Transport Strategy and report back to the States by December 2018 with an analysis of the effectiveness of the measures implemented, and recommendations in relation to changes that may be required in order to continue to deliver the Vision."*

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[4] Resolutions Billet D'État No IX, 2014

[5] Annexe, Billet D'État No IX, 2014

2.3 To fulfil this resolution, the Committee *for the* Environment & Infrastructure has collected, collated, and analysed as much relevant data as possible in order to measure current indicators against specific objectives. This is set out in Appendix A and evaluates how successful the implemented Strategy has been in achieving its original aims. It also highlights some of the reasons why certain expectations of the Strategy have not yet been realised. Brief summaries of each of the objectives are provided in the body of this Policy Letter.

2.4 The submission of this Policy Letter is later than originally planned, mainly due to key officers being required to work on pressing Brexit-related issues. However, the delay has allowed time for more data to be gathered which has resulted in more detailed reporting.

3 Strategic context

3.1 Transport is important in virtually every aspect of our community. Transport infrastructure connects people to jobs, education, healthcare, and social interaction, while also facilitating the supply of goods and services to the community. The universal aim of transport policy is to allocate transport resources as efficiently and effectively as possible to maximise its advantages and minimise its detriments. An efficient transport system provides economic, health and social benefits and mitigates negative environmental impacts.

3.2 The delivery of a sustainable and integrated transport strategy is fundamental to social equity, providing for freedom of movement and access to transport for all, while safeguarding vulnerable road users. This policy area provides essential support for a vibrant economy by facilitating access to businesses and services and the efficient and safe movement of goods and people around the island. Inadequate transport systems will be a barrier to the delivery of many of the Areas of Focus in the Policy and Resource Plan including Economic Development Policy, the Disability, Equality and Inclusion Strategy and the Health and Wellbeing Policy under the Partnership of Purpose.

3.3 Improving road safety, including driver competency, safety, and licensing, is one of the priorities within the Strategy. This accords with a principal policy outcome of the Policy & Resource Plan, being a 'safe and secure place to live', given that interaction with the public highway is generally a necessity for all members of the public as soon as they leave the security of their home or place of work.

3.4 The Strategy is key to the successful delivery of other States-agreed priorities, such as the Seafront Enhancement Area Programme and Fighting Climate Change, as well as the identification of strategic requirements for meeting Guernsey’s energy needs and transport related infrastructure across the island.

3.5 The Committee has within its mandate the responsibility to advise the States on policy matters relating to climate change and is currently leading on the States' area of focus to develop a climate change policy and action plan for the island. A more sustainable integrated transport system that encourages and enables alternative modes of transport will play a critical role. In respect of road transport, managing the shift from internal combustion engine (ICE) vehicles towards active travel and electric vehicles (EVs) is one of the aims of the Strategy and will support the long-term work on climate change.

3.6 The Committee also has within its mandate the responsibility to advise the States on strategic land use policy. The Strategic Land Use Plan (SLUP), approved by the States in 2011, is the critical instrument in identifying the best way to achieve the States' objectives through land use and spatial planning, with an emphasis on the delivery of positive, sustainable development. A core objective of the SLUP is that support be given to corporate objectives and associated policies relating to, amongst other things, reduction of our carbon footprint, which is one of the key drivers of the Strategy. The SLUP acknowledges one of the main contributors of greenhouses gases in the island is through use of motorised vehicles and requires that policies that lead to a reduction in the need to travel by them should be supported. It notes that this can be achieved through reducing the overall need to travel (for example by reducing journey distances through supporting mixed use development concentrated in centres) and ensuring good accessibility to public transport and other sustainable travel modes.

3.7 The States' land use spatial strategy provides for the development of sustainable centres and is at the heart of the island's land use policies. The SLUP recognises that the promotion of safe and easy access within and between the sustainable centres is an intrinsic part of the success of the spatial strategy. The SLUP requires the States to support projects that enable the Town and the Bridge to be maintained as the island's main economic centres by, amongst other things, ensuring they are accessible by a range of transport methods. The States have agreed, through the SLUP, that it should investigate measures and support projects for Town and the Bridge that improve access by foot and by bike, improve public transport links, and facilitate the provision of appropriate levels of car parking. Therefore, there are some specific requirements set out in the SLUP which guide the Strategy objectives. A number of principles in the Strategy are fundamentally essential to the delivery of the States' approved spatial strategy and, in turn, its land use policies embodied in the Island Development Plan.

3.8 The Strategy will also have a direct influence on the delivery of the Harbour Action Areas and Regeneration Areas which are designations approved by the States in the Island Development Plan.

3.9 Transport strategies around the world share the common aim of increasing levels of access to economic and social opportunities by making mobility more efficient. For all but the most isolated locations, domestic land transport policies typically aim to do this by reducing the use of private motor vehicles and increasing the use of public transport and active travel modes. This is because public transport and non-motorised modes are a much more efficient use of resources, including money, oil, surface area and even time, and generate far fewer negative impacts and/or more positive impacts in terms of public health, safety, infrastructure, public realm, economic growth, social connectivity, congestion, pollution, and climate change. This is particularly important in Guernsey where land is a scarce resource and often infrastructure cannot easily be expanded.

3.10 Cars often seem more convenient than public transport, but they are costly, low capacity and both energy- and area-intensive. Motor vehicles present the highest levels of risk to the travelling public, are the main causes of congestion and pollution (primarily air and noise pollution), limit economic productivity in urban areas and present the biggest barrier to active travel. These are some of the main reasons transport policies everywhere seek to reduce dependency on cars and increase the range and viability of more efficient and sustainable alternatives.

4 Funding and resources

4.1 Prior to the introduction of the Strategy, funding was largely limited to maintaining the existing road infrastructure. There was very little money available to invest in road safety and improvements aimed at facilitating alternative travel options such as walking and cycling.

4.2 The annual budget for the Strategy was set by the States in 2015 with a maximum limit of £3.45m. It is funded from a combination of three sources, namely a £1.1m increase in the Committee's annual cash allocation to meet the additional cost of the bus service contract over the 2014 figure, an emissions-based First Registration Duty and bus fare income.

5 Progress against Strategy objectives

5.1 <u>To reduce the number of car journeys, particularly solo-occupancy trips - reducing 'peak-hour' traffic by an expected 10%</u>

5.1.1 There are four main arterial routes into St Peter Port, namely Les Banques (from the north), the Grange and Fountain Street (from the west) and Le Val des Terres (from the south). These roads are exceptionally busy during commuter periods (08:00 to 09:00 and 17:00 to 18:00 Monday to Friday) but can also experience high traffic volumes at other times, particularly when other nearby roads are closed. Road space is at a premium during these times. These four routes currently accommodate a combined total of circa 53,000 two-way vehicle movements per day (Monday to Friday). Up to 19,000 vehicle movements occur each weekday along The Quay between the Albert Pier and Victoria Pier.

5.1.2 When an arterial route into Town is closed, traffic volumes on remaining routes into St Peter Port increase sharply, causing congestion. Closure of other busy roads such as Landes du Marché or Mont Arrive can also cause congestion as nearby junctions struggle to manage increased flows of traffic. More generally, congestion concentrates around junctions where competing traffic flows come into conflict.

5.1.3 Studies show that people use cars for a number of reasons[6]. These include ease and convenience, travel time, comfort, encumbrance, trip chaining (i.e. where one journey is dependent on or closely associated with another), and cost. There are two important underlying influences: habit, and the availability of alternatives. As the Strategy does not go as far as it originally envisaged in terms of direct push and pull factors (paid long-stay parking and a free bus service), it does not have as much influence to reduce the number of car journeys.

5.1.4 However, despite the absence of these critical policy levers, there is evidence that there has been a reduction in vehicle movements since the Strategy was first introduced. For example, vehicle movements during the morning commute Monday to Friday on key routes into Town have reduced by 4.7% (down from 2,767 to 2,637 vehicle movements on average per weekday between 2014 and 2018). This equates to 130 fewer vehicle movements into Town each weekday, or 33,800 fewer movements per annum. Daily average vehicle movements Monday to Friday on key routes into and out of Town have also reduced by 1.6%, down from 53,071 to 52,229 movements on average per weekday between 2014 and 2018. Overall, this represents a reduction of approximately 842 vehicle movements each weekday or 218,920 vehicle movements per annum. Data also show that there has been a slight decrease in solo occupancy vehicles, from 85% to 80%.

5.1.5 The following analysis compares weekday average traffic movements along the four key arterial routes into and out of St Peter Port in 2014 and 2018 over a 24hr period and during the morning commute.

[6] Task Force – Technical Note 15: Why do People Travel by Car? Roads Task Force Thematic Analysis, 2013

Table 2 – Weekday average 24 hour vehicle movements (both directions)

Principal Roads	Weekday Average 2014	Weekday Average 2018	Difference	% change
St George's Esplanade	22,319	22,152	-167	-0.7%
St Julian's Avenue	13,524	13,381	-143	-1.1%
Le Bordage	9,775	9,480	-295	-3.0%
Le Val des Terres	7,453	7,216	-237	-3.2%
Total	**53,071**	**52,229**	**-842**	**-1.6%**

Source: Traffic counter studs (24 hour)

Table 3 - Weekday average movements into Town during the morning commute

Principal Roads	Weekday Average 2014	Weekday Average 2018	Difference	% change
St George's Esplanade	1,127	1,043	-84	-7.5%
St Julian's Avenue	650	615	-35	-5.4%
Le Bordage	481	468	-13	-2.7%
Le Val des Terres	509	511	+2	0.4%
Total	**2,767**	**2,637**	**-130**	**-4.7%**

Source: Traffic counter studs (08.00-09:00)

5.1.6 The busiest route into and out of St Peter Port is through St George's Esplanade, which handles around 22,000 vehicle movements per weekday (both directions combined). In contrast, just 7,500 vehicles use Le Val des Terres in the same period. At peak times, more than 1,000 vehicles per hour travel southbound along St George's Esplanade, as compared to 500 using Le Val des Terres.

5.1.7 Another busy area, particularly on Saturdays, is the road network linking the Bridge to the centre of the island, including Braye Road, Camp du Roi and Landes du Marché. Here traffic volumes can exceed 12,000 movements per day.

5.1.8 Seafront motor vehicle journey times during the morning commute from Bulwer Avenue into Town have increased marginally since 2013 when baseline surveys were carried out, averaging 16min 3sec in 2018 as compared to 15min 39sec in 2013. However, journey times halve during school holidays, dropping to 7min 1sec and 7min 8sec respectively.

5.1.9 Annual registrations of cars in Guernsey have reduced by approximately 14.9% between 2014 and 2018 (down from 4,055 registrations in 2014 to 3,451 in 2018). A further reduction of around 5% has been experienced during the first eleven months of 2019.

5.1.10 In terms of the working population (as defined by employment sector), the number of people in employment has increased from 31,632 in December 2014 to 32,723 in June 2019, an increase of 1,091 (3.4%). This increase could have been expected to generate a small increase in commuter traffic volumes, so in real terms the reduction in car journeys is a little greater than the raw data suggest. In other words, it is extremely likely that traffic volumes would have been higher and congestion more prevalent but for the increases achieved in other transport modes, most notably in relation to bus use.

5.1.11 The Strategy has therefore had a positive impact in terms of reducing traffic volumes and the consequent impact on existing road infrastructure.

5.1.12 Several signalised junctions already operate at or close to practical capacity (see 5.1.13 below), examples being Braye Road/Route Militaire, La Vrangue/Grand Bouet and Admiral Park/Les Banques. Other busy junctions, especially on Saturdays, include Landes du Marché/Les Rouvets and Grand Fort Road/Route Carre. The filter-in-turn at Les Banques/Vale Road is also exceptionally busy, particularly on weekdays, and is not operating as efficiently as it could if it were signalised.

5.1.13 As signalised junctions exceed 90% practical capacity (the maximum efficient throughput), traffic flow becomes increasingly congested and long delays can ensue, particularly if significant numbers of vehicles are attempting to turn right against the priority flow of traffic. The absence of dedicated right turn lanes, in most cases due to insufficient road width or lack of available land to widen the carriageway, exacerbates the issue. Traffic signal technology such as priority green arrows and MOVA (Microprocessor Optimised Vehicle Actuation) can improve matters slightly, but there are limitations to what can be achieved.

5.1.14 The Committee intends to review junction designs and investigate potential technological solutions to assist with managing traffic flows.

5.1.15 Significant reductions in car journey times during school holidays highlights the potential benefits from reducing dependence on private motorised transport.

5.1.16 The Committee is prioritising several initiatives in 2020 aimed at reducing demand during peak periods:

- Introducing lift sharing technology that can be used in schools, workplaces, and the public sector;
- A trial priority parking initiative for multi-occupancy vehicles;
- Maximising the use of school bus services;
- Progressing measures to make public sector travel plans more effective (more on this in 5.2 below); and
- Investigating measures to make corporate travel plans effective, including (but not limited to) recommendations on workplace parking levies or benefit in kind, with a view to reporting back to the States in due course.

5.2 <u>To increase the number of journeys made by alternative forms of transport, particularly active travel modes – ideally doubling the numbers of people travelling by foot, bike and bus</u>

5.2.1 Because the baseline data were very limited on numbers of journeys made on foot or by bike, it is difficult to accurately quantify progress towards this objective since the start of the Strategy. However, like-for-like surveys show a 25% increase of people walking along Glategny Esplanade and a 48% increase in people cycling along Les Banques. Anecdotal and proxy evidence from employers, bike retailers and the Guernsey Bicycle Group also support the hypothesis that there has been a significant increase in people riding for transport (especially to and from work) over the last five years.

5.2.2 A cohesive, continuous, and safe infrastructure platform is essential to achieve meaningful change in the numbers of people choosing to walk or cycle. Whilst progress so far has been encouraging, the Committee is looking at ways to allocate more road space to these travel modes, for example by providing better pavements and cycling infrastructure, making roads one-way where necessary. This will have the added benefit of making roads safer, giving greater protection to vulnerable road users and reducing pavement surfing. Priority areas for continuous, safe walking and cycling routes include primary access routes into Town, the Seafront Enhancement Area and in the vicinity of schools.

5.2.3 Providing protected infrastructure (pavements and cycle paths separated from the main carriageway by a kerb, for example) for vulnerable road users is the optimum solution, as many people are put off the idea of travelling by foot or by bike if it means mixing with motorised traffic, but it is not always a realistic option on our roads. The Committee is investigating the possibility of creating an off-road foot and cycle path that would ultimately link the west coast with the east coast, from Cobo to St Peter Port – an idea originally suggested and scoped by a local chartered architect and surveyors' firm.

5.2.4 Given that commuters taking the bus to work are currently caught up in the same congestion as other motorised vehicle users during peak periods, the Committee also intends to investigate the feasibility of introducing a southbound bus/taxi lane along parts of the eastern seafront between Bulwer Avenue and the Red Lion. This would make commuting by public transport more convenient, especially during the morning commute.

5.2.5 The Committee has been supporting the Health Improvement Commission in the development of a communications strategy for promoting Active Travel. This is aligned to and consistent with The Committee *for* Health & Social Care's (HSC) Partnership of Purpose and is a good example of government working with the third sector.

5.2.6 The Committee continues to promote the adoption of travel plans across the States estate and the private sector. Travel plans are a package of actions designed to encourage safe, healthy, and sustainable travel options which, by reducing reliance on travelling by car, can improve health and wellbeing, free up car parking space and make a positive contribution to the community and the environment. Work in this regard to date includes:

- Commissioning and delivery of a comprehensive travel plan for the Princess Elizabeth Hospital (for the Committee *for* Health & Social Care);
- Commissioning and delivery of a comprehensive travel plan for Sir Charles Frossard House (for the Policy & Resources Committee);
- Assisting the Committee *for* Education*,* Sport & Culture with preparation of travel plans for the one school on two sites model; and
- Working with schools and businesses on the promotion and creation of travel plans in conjunction with the Health Improvement Commission.

5.2.7 In April 2018 an e-bike subsidy scheme was launched: a 25% discount was given on new e-bike purchases (subject to various conditions), 20% of which was met by the States of Guernsey and 5% by the retailers. The results of participant surveys indicate that, on average, each e-bike completed 683 miles over 12 months. This is equivalent to circa 250,000 miles in total, many of which (the survey confirms) would have otherwise been travelled by car.

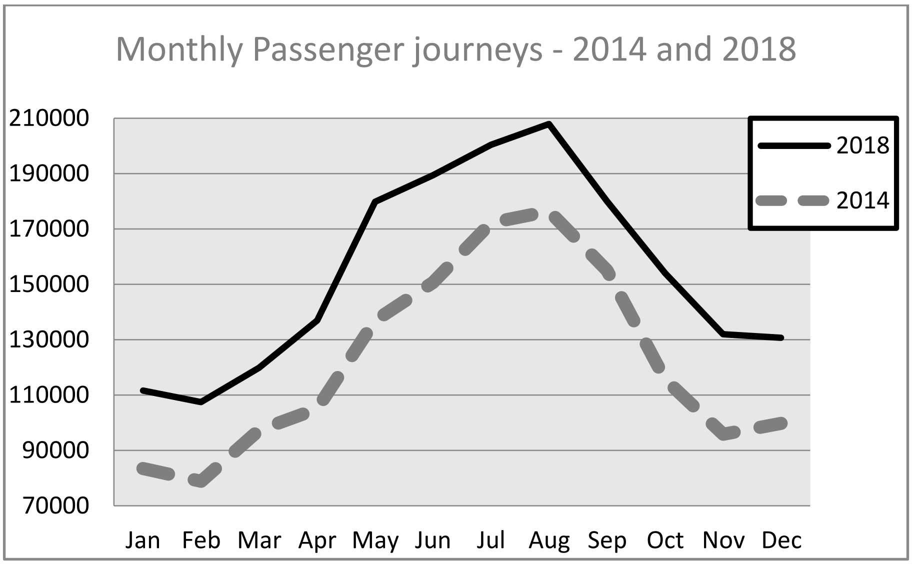
5.2.8 Buses play a key role within the Strategy and use of the public bus services has risen significantly in each consecutive year since its inception. Because buses are considerably more space-efficient than cars, they are the most effective means of reducing congestion and the associated pollution that it generates.

5.2.9 The upward trend in bus passenger journeys over the last four years has been significant, with 1,837,560 passengers carried on scheduled bus services in 2018. The additional 370,457 passenger journeys since 2014 represent an increase of 25.3%. Up until 30th November 2019, an additional 100,489 passenger journeys have been recorded over and above the figures for 2018, representing a further increase of nearly 6%.

5.2.10 Using a conservative estimate of 2.5 miles per passenger journey, circa 1.18 million more road miles were travelled by bus in 2019 as compared with 2014. Again, many of these journeys might otherwise have been taken by car.

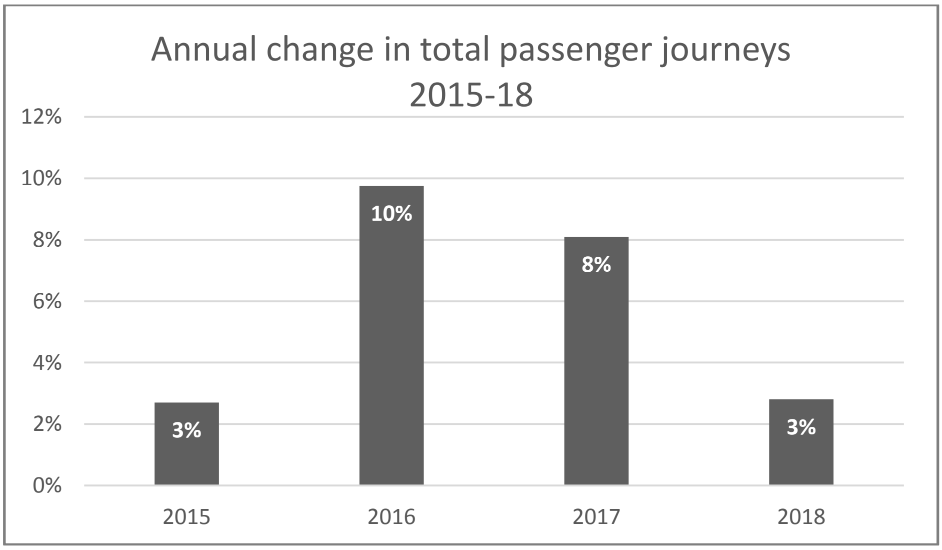
5.2.11 When adding the unpublished data, which include students using integrated school services and 'transfer' passengers using the same ticket to undertake a single journey across two services, the total number of passenger journeys on the public bus network exceeded 2 million for the second year running in 2018. It is set to rise still further in 2019. In addition, a further 170,000 students are transported to/from school annually on private hire coaches.

Graph 1 – Monthly bus passenger journeys since 2014



Source: Ticketer

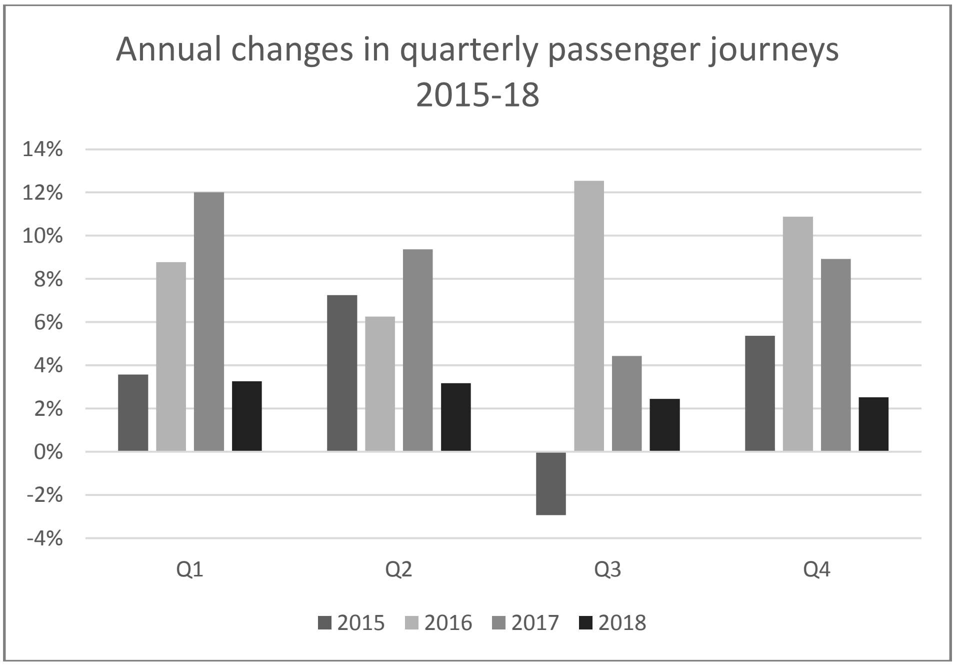
Graph 2 – Annual change in published scheduled bus service passenger journeys



Source: Ticketer

5.2.12 Annual growth in scheduled bus service journeys is being experienced throughout the year across the network, but is most evident in the shoulder months (Q1 and Q4) when the service is primarily used by the resident population. During the first quarter of 2019, passenger journeys totalled 375,673, representing an increase of 11% compared to the same period in 2018 – up 45% from the first quarter of 2014 when just 259,691 journeys were recorded.

Graph 3 – Annual change in quarterly published passenger journeys on scheduled bus services



Source: Ticketer

5.2.13 Growth in passenger journeys during commuter times is encouraging, with a 16.1% increase identified since new ticketing equipment was introduced in 2015. Analysis of all passengers boarding the bus from the Town Terminus and other central Town stops between 4.00pm and 6.30pm on a weekday in November 2015 and again on a weekday in November 2019 shows that the number of passengers using the bus during the afternoon commuter period is up by around 25% (from circa 570 passenger journeys to 710).

5.2.14 With much of the bus fleet now consisting of new Euro 6 Ultra Low Emission (Diesel) StreetVibe buses (including free Wi-Fi and USB charging points) and an improved route network, using the bus has become less polluting, more convenient, and more accessible. It remains an affordable travel option, especially compared to using a car.

5.2.15 The Committee, along with the current service provider CT Plus, will strive to continue delivering growth in annual bus passenger journeys. Further proposed improvements in the public bus network include switching to a more user-friendly app for real time information on personal phones, providing real time information at key bus stops around the island, and building more bus shelters, especially at interchange hubs.

5.2.16 Having completed Phases 1 and 2 of the Bus Replacement programme, the Committee's preference for the next phase, Phase 3, is to invest in hybrid/electric vehicles if the market is able to produce vehicles that meet Guernsey's requirements in terms of vehicle width, range and capacity. The eight remaining Euro 3 Dart Nimbus buses are currently due for replacement from 2020.

5.2.17 A number of additional school bus services have been provided in recent years: approximately 1,900 students per day (1,450 secondary school pupils and 450 primary school pupils) are now making use of integrated and private hire school bus services. There are currently some 87 dedicated school bus services operating on school days, 40 in the mornings and 47 in the afternoons.

5.2.18 Improving school bus service provision, particularly when the new one school on two sites model is introduced by the Committee *for* Education, Sport & Culture, is an important element in reducing the overall impact of vehicle movements in areas local to schools and on the wider road network in general. The impact of school run traffic on vehicle congestion is clearly illustrated by the reduction in vehicle congestion during school holidays. The change from a four-school to a one school on two sites model will have an impact on dedicated school bus services, and this change is currently being addressed.

5.2.19 Overall, there has been significant progress towards the Strategy objective of increasing the number of journeys made by alternative forms of transport. The work streams that are now complete, close to completion or ongoing are listed below:

Physical Environment

- Replacement of Bus Fleet Phases 1 and 2 (34 of the old Dennis Dart fleet replaced by new StreetVibe buses purchased following a States resolution);
- Expanding the scheduled bus network and increasing capacity at peak times;
- Enhancements to school bus services;
- Walking Infrastructure – measures to improve walking as a safe mode of transport, including new pavements – e.g. La Vallette and L'Eree;
- Road and pavement widening at La Vrangue;
- Improvements to Seafront Cycle Path – junction improvements at La Salerie and Toucan crossing at Grandes Maisons Road;
- The introduction of a 'shared' pavement at Le Val des Terres, allowing people on bikes to ride uphill;
- Increased provision for bike racks, hoops, and shelters;
- Improved terminus (kiosk) and waiting facilities;
- Extension of bus shelter provision;
- Introduction of Bus Wi-Fi;
- Introduction of 'real time' information on the location of buses;
- Trial free bus service for hospital workers.

Education and information

- Development of travel plans for States buildings and schools, and support for business travel plans;
- Bikeability programme for primary schools and other groups;
- Promotion and funding incentives for e-bikes;
- Development and promotion of safe walking routes to schools, community facilities, and workplaces.

Improving standards and requirements

- Updating and improvement of technical guidance for pavements;
- Complete review of cycle path legislation requirements;
- Introduction and extension of cycling through closed roads policy.

Increased data and analysis

- Increased data collection and analysis: e.g. vehicle speeds/speed limits, vehicle and pedestrian movements and collision data.

5.3 <u>To achieve a greater proportion of smaller motor vehicles, especially in terms of car widths</u>

5.3.1 The benefits of owning a small car often include a more affordable purchase price, fuel efficiency, manoeuvrability on our narrow roads and preferential parking. The number of small cars registered annually in Guernsey between 2014 and 2018 continues to represent around 15% of all new car registrations. Overall, small car models currently in production make up about 9% of all cars on the vehicle database. This compares favourably to the UK where the figure is just below 4%.

5.3.2 In the absence of the hard incentive originally built into the Strategy, options to further encourage the use of small cars are currently limited to soft incentives such as providing more preferential parking spaces.

5.4 To achieve a greater proportion of cleaner, low emissions motor vehicles

5.4.1 Progress towards this objective has been slower than it might have been had the financial subsidy for electric vehicles been implemented as per the original Strategy, but even so, an increase in the proportion of cleaner, low emissions vehicles (both in terms of private vehicles and public service vehicles) has been achieved.

5.4.2 The last few years have seen significant changes in the market, with more fuel efficient motor vehicles being produced all the time. This has meant that fossil fuel consumption for road transport has gradually fallen, with more efficient vehicles replacing older vehicles, typically in the region of 2 to 3% per annum. The market will continue to drive further changes, influenced by factors including consumer demand and governments moving towards a considerably lower-carbon economy.

5.4.3 In Guernsey, the registration of electric vehicles has increased from only 28 in 2015 to 384 by the end of September 2019. Whilst this figure still represents less than 1% of the total number of vehicles currently registered in the island, the increasingly rapid uptake of EVs is a clear trend that is likely to continue. Car manufacturers will continue to respond to and shape consumer preferences, with many planning to cease the production of the traditional internal combustion engine (ICE) vehicles in the short to medium term. Car manufacturers are planning to cease the production of purely ICE vehicles well in advance of any government ban (the UK, for example, has a target of 2040 for the cessation of the sale of ICE vehicles).

Table 4 – Number of registered electric cars/vans, motorcycles and hybrids

Date	Electric Vehicles	Electric M/Cs	Hybrids
31/12/2015	28	12	181
31/12/2016	52	16	236
31/12/2017	147	21	288
31/12/2018	281	23	384
30/09/2019	**384**	**46**	**473**

Source: Driver and Vehicle Licensing Database

5.4.4 In terms of current emissions, the Committee has made significant efforts to reduce its carbon footprint on its own fleet of vehicles. The recent replacement of 33 States-owned Euro 3 diesel buses with 34 Euro 6 Ultra-low emission buses (ULEBs) has reduced Nitrogen Oxide (NOx) and Particulate Matter (PM) emissions by as much as 98% and 90% respectively. Atmosclear units (formerly called Cgon) have been fitted to the remaining eight Euro 3 diesel buses, further reducing bus fleet emissions to a mere fraction of what they were previously. The Committee also operates an electric vehicle and owns a pool of e-bikes that are shared around various States offices.

5.4.5 The Committee instigated and is supporting a broader work stream looking at phasing electric vehicles into the wider States fleet. A couple of different vehicle types may soon be trialled to determine suitability.

5.4.6 Considering the anticipated future growth of EV and hybrid vehicles, there is also a pressing need for the States to invest in the necessary physical infrastructure. The Committee is rolling out the programme for publicly accessible EV charging points, the next sets of which will be installed at Salerie Corner and the Odeon Car Park in St Peter Port and at Le Crocq, St Sampson.

5.4.7 In recognition of the increased weight of certain electric vehicles it may also be necessary to increase the maximum permitted weight of a vehicle to be driven on a Category B driving licence to approximately 4,250 kg.

5.5 To improve safety for all road users, particularly vulnerable road users

5.5.1 This is a key element of the Strategy: everyone should feel safe travelling from A to B in the island. Accordingly, several measures have been implemented to improve safety, both in actual terms and in terms of how safe people feel.

5.5.2 People’s perception of safety is just as important as the factual data relating to collisions on our roads, as it is much more often the fear of a collision rather than an actual experience of one that acts as a barrier to walking and cycling. Numerous studies have borne this out.

5.5.3 In April 2019, the Committee introduced Phase 1 of the Island Speed Limit Review, expanding the existing 25mph speed limits within some Local Centres and Main Centre Outer Areas where there is a heightened risk of conflict between motor vehicles and vulnerable road users, and extending the lower limit to four new zones of the same profile. Initial results of speed surveys undertaken before and after the changes were implemented show small but significant reductions in speeds on all of the roads that have been subject to a speed limit reduction. Average speeds have reduced by 3.6mph in the case of Saltpans Road (heading east), for example, where the peak hour speed has reduced from 24.4mph to 20.8 mph. In Braye Road, average speeds have reduced from 30.1mph to 28.7mph in a westbound direction and from 29.7mph to 27.8mph in an eastbound direction.

5.5.4 These decreases in speed are encouraging considering that no traffic calming measures have been introduced. For each 1 mph decrease there is an approximate 4% to 5% reduction in the likelihood of serious injury or death being caused in the event of a collision with anyone not inside a vehicle.

5.5.5 Phase 2 of the Island Speed Limit Review is likely to concentrate on areas around schools, States housing estates and areas where speeding is known to be a potential problem. As part of this, the Committee would like to investigate the possibility of introducing technology to assist with managing traffic speeds.

5.5.6 Another important safety concern is that there are many key roads in Guernsey, including some within Local Centres, that do not have adequate – or any – pavements, or safe crossing points. The Strategy has already enabled many new or widened pavements to be introduced and several new crossings have been installed.

5.5.7 There are currently only two sections of separated cycling infrastructure in the Island (Baubigny and the eastern seaboard). The Strategy is delivering incremental improvements to both established cycle paths.

5.5.8 Investing in new infrastructure for people walking or cycling is proven to be the most effective way of encouraging more people to travel by foot and bike. Good quality infrastructure improves both road safety and people's perceptions of road safety. Ideally, walking and cycling infrastructure should be designed for people of all ages and abilities, known as the AAA standard, and should be designed in such a way that minimises potential conflict between motorised and non-motorised vehicles.

5.5.9 In terms of vehicle safety, the phased introduction of periodic roadworthiness tests for all cars over five years old and motorcycles over three years old is planned to commence in 2021. Initially this will be restricted to inspections of all vehicles meeting the age criteria entering international traffic (excluding driving in the UK) or being imported into the island for the first time (including second hand vehicles imported from the UK). This will then be followed in 2023 by the commencement of regular testing of all registered vehicles in Guernsey with cars being inspected at five years and every three years thereafter, motorcycles at three years and every two years thereafter, and commercial vehicles annually.

5.5.10 This is a significant piece of work. The Committee is considering the most appropriate means of introducing testing of vehicles by way of an options appraisal. Options include a UK style roadworthiness test centre approach or a private sector or government-run single test centre approach along the lines operated in Ireland and Northern Ireland respectively.

5.5.11 A considerable amount of work has been undertaken to meet this objective of the Strategy, including:

Physical environment

- Provision of new zebra crossings in La Vrangue and La Couture, and an informal crossing point at South Esplanade;
- Restoring grip to granite surfaces at Smith Street/Hirzel Street, Pier Steps, and St James Street;
- Improved signage and illuminated cats' eyes at notorious black spots.

Information and education

- Road safety educational campaigns;
- Resourcing for Bikeability in schools;
- Education of young drivers in partnership with Guernsey Police.

Improving safety standards and requirements

- Speed Limit Review – Phase 1 (Local Centres, Main Centres and Main Centre Outer Areas);
- Register of Driving Instructors – project approved;
- A commitment to the phased introduction of periodic technical inspections of all motor vehicles;
- HGVs – implementation of enhanced standards for wing mirrors, sideguards and rear under-runs;
- Review of rear seat belts (legislation by the Committee *for* Home Affairs).

Improved data and analysis

- Data collection to better understand the issues and the impact of potential solutions has been undertaken across a range of areas including road layout, traffic volumes, walking desire lines (including risk profile), collision statistics and junction capacity, etc.

The next step will be to present data spatially on a map to further enhance performance reporting in future reviews.

5.6 To improve transport accessibility for all members of the community, particularly non-drivers and those with disabilities or on low incomes

5.6.1 One of the key elements of any transport strategy is to make transport as inclusive as possible. This requires consideration at all levels, including the need to provide a public transport service that has good network coverage and is accessible, affordable, timely and reliable.

5.6.2 It is also important that operators of licensed public service vehicles have access to disability awareness training, that adequate provision is made for disabled parking in key locations and that safe access is provided to roads and pavements.

5.6.3 Investment in our road infrastructure has historically been less than the rate of deterioration and there had been little provision for the introduction of safe crossing points, dropped kerbs and blister paving. However, in line with the aims of the Strategy, it is now standard practice to give consideration to vulnerable road users when planning road resurfacing projects, including for people with mobility issues or other disabilities that might impact their ability to get around.

5.6.4 All our public buses are fully accessible. Since 2015 the Committee has issued four additional taxi plates specifically for accessibility compliant taxis and has provided a programme of disability equality training for all public service vehicle drivers.

5.6.5 The Committee has been working with Health Connections to investigate the possibility of introducing a demand responsive/dial-a-ride service, specifically regarding people with mobility issues and people who do not drive. This is a very important piece of work, especially with respect to the ageing demographic. Because alternative transport options aren't always viable for older people, many are fearful of losing their independence if they lose or relinquish their driving licence. As a result, our current system encourages some people to hold on to their driving licence for longer than they feel comfortable driving. A demand responsive/dial-a-ride service could offer an affordable and convenient service to those who do not live on a scheduled bus route, for example, and could give people confidence that they will not lose their independence if or when they stop driving.

5.6.6 Financial accessibility to transport is another key consideration. The cost of operating a car is considerably more expensive than cycling or using the bus, albeit in Guernsey the current cost of owning and operating a car is significantly cheaper than Jersey and the UK, where one-off and annual taxes and duties are much higher. These issues are explored in more detail in the First Periodic Review document appended to this Policy Letter.

5.6.7 Achievements to date on this objective include:

Physical environment

- Dropped kerbs and blister paving installed at locations such as Havelet, Le Truchot, Les Gravées, Route de Carteret and Rocque Poisson/Les Adams;
- New zebra crossings at La Couture and La Vrangue and an informal crossing at South Esplanade;
- A review of disabled parking provision and updating of parking space design.

Education and information

- Disability and Inclusion training for public service vehicle drivers.

Improving standards and requirements

- Updating technical guidance on pavements to better accommodate wheelchair users;
- Review of Disabled Badge policy;
- Introduction of Accessible Taxi Cab plates.

Improved data and analysis

- Data collection/survey work to determine accessibility priorities.

5.7 <u>To improve the public realm, particularly in the main centres</u>

5.7.1 The opportunity to enhance the public realm by providing a sense of connectivity between people and place is important. It is one of the statements of intent of the Seafront Enhancement Area Programme that brings with it a host of community benefits. The Strategy is working to support the delivery of that connectivity.

5.7.2 The Strategy is rejuvenating walking routes in the centre of Town. Granite pavements and steps in Town can become 'polished' (worn) through many decades of use and can be slippery, especially when wet. The Strategy is improving the areas of highest risk on a rolling basis. Work so far has restored grip to surfaces at the top of Smith Street on both sides towards Hirzel Street and Rue du Manoir respectively, St James Street, and Pier Steps.

5.7.3 Following this work, there have been no reported slips on these surfaces, whereas there had been a number previously, particularly amongst older members of the community. Giving those with mobility issues the confidence to be able to walk and shop in their Town is of great benefit to the community. These projects have been well received by the public and the parish.

5.7.4 When Market Square was originally closed to through traffic in the early 2000s it resulted in significant improvements to the public realm, attracting increased footfall and dwell time. Recent work to improve accessibility in Market Street has further enhanced the area as a public space. Other recent successes include the replanting of trees and pavement reinstatement works in St Julian's Avenue and works to improve walking infrastructure at La Vallette, Havelet Waters, South Esplanade Plantation, Cornet Street and Le Truchot. Pedestrianisation of North Plantation on a trial basis for large parts of the day this summer, followed by a proposed full resurfacing project in 2020/21, will see similar improvements to the public realm along parts of the seafront.

5.7.5 Access issues within St Peter Port and St Sampson are acknowledged as a potential block to people with disabilities and the Committee is cognisant that these concerns need to be addressed. Recent improvements undertaken at Market Street, Cornet Street, Town Church, Le Truchot and South Esplanade are positive, but these improvements need to extend into the High Street and Le Pollet to have wider benefits. This is likely to present logistical challenges. There will also be a need to strike the right balance between improving access and finding the right solution in terms of accessibility, cost, and heritage in what is a historically and culturally important area.

5.7.6 The Seafront Enhancement Area has provided an added impetus and political support for public realm improvements in Town. Potential initiatives include pedestrianisation of Church Square and the resurfacing of the High Street to improve accessibility. Other measures that have already delivered significant improvements in the physical environment to support community priorities include:

- Putting in place measures to address nuisance parking, primarily in coastal car parks;
- The provision of more dedicated small car parking spaces as an enabler for other road improvements, such as the provision of an informal crossing and pavement at La Vallette;
- Investigating expansion of the current residents' parking scheme.

6 Proposed new priority work streams

A number of further initiatives have been identified following the implementation of the original Strategy and analysis of its effectiveness and potential.

6.1 Improved access within the St Sampson and Vale Main Centre and Main Centre Outer Areas

6.1.1 Realisation of potential development in the St Sampson and Vale Main Centre and Main Centre Outer Area will provide further opportunities to improve the public realm and enhance facilities for vulnerable road users. It may also be necessary to review existing traffic management arrangements and to assess whether the operational capacity of junctions which have previously been identified as operating at or close to capacity can accommodate potential further changes.

6.1.2 Opportunities to reduce demand on road space (and therefore additional pressure on junction capacities) will help to mitigate the impact of future development. There may also be opportunities to make use of new technology to better manage existing junction capacities.

6.1.3 The Committee is already in discussion with the Development and Planning Authority as to how to mitigate potential impacts and will continue to liaise as necessary with the Constables of the Vale and St Sampson with a view to considering how meaningful and effective change might be implemented.

6.2 Mechanisms to enhance and improve enforcement of road safety measures

6.2.1 The Committee sees merit in investigating mechanisms to enhance and improve road safety, including the potential benefits of introducing a points-based system for driving licences, the use of fixed speed cameras and systems that facilitate the use of video (dash cam) footage as permissible evidence in law enforcement. The Committee will investigate these and other potential mechanisms in greater detail in consultation with the Committee *for* Home Affairs.

6.2.2 Many countries have some form of penalty points system, which penalises drivers who break the law by allocating demerit points for offences such as speeding or using a mobile phone at the wheel, with the threat of disqualification on the accumulation of a given number of points. Such schemes are proven to be an effective deterrent[7]. They are often linked to driver awareness and retraining schemes that offenders can opt for in lieu of a fine and/or disqualification.

6.2.3 There is a substantial body of evidence from studies in the UK and internationally[8] showing that the introduction of speed cameras causes a significant reduction in speeding, and that this reduction is sustained over time.

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[7] https://www.roadsafetyobservatory.com/Evidence/Details/11287
[8] https://www.roadsafetyobservatory.com/HowEffective/compliance-and-law/safety-cameras

Studies also show that the most notable reductions in excessive speed are in 30mph and 40mph zones, and that fixed speed cameras are significantly more effective than mobile speed cameras, showing an average drop of 70% of vehicles exceeding the speed limit at fixed camera sites compared with just 18% at mobile camera sites.

6.2.4 Another emerging area worthy of investigation is in relation to dashboard camera (dash cam) footage of road safety offences. A 2016 pilot scheme in North Wales called Operation SNAP trialled a system that allowed them to process dash cam footage quickly and efficiently as evidence, and the pilot was so successful that it has now been extended to all four police forces in Wales. Similar initiatives are being rolled out in forces across the UK.

6.2.5. The Committee will therefore investigate the feasibility of these options in the Guernsey context, in conjunction with the Committee *for* Home Affairs. These investigations will focus on whether opportunities might exist to help simplify enforcement procedures and, if so, to determine how matters might be taken forward. Any proposed changes would result in the need to amend existing legislation, so a full report would be brought to the States at an appropriate time.

6.3 First Registration Duty

6.3.1 Data show that while overall numbers of vehicle registrations have fallen by approximately 19% since the introduction of the first registration duty, registrations in the highest emissions brackets for diesel and petrol vehicles have risen by 7.7% and 12.4% respectively in the last year alone. This illustrates that the rate of duty for these upper brackets (£690) is not effective in encouraging a switch from high emissions to low emissions vehicles. The Committee will review the first registration duty rates accordingly.

6.3.2 Vehicles in the highest emissions brackets tend to be larger, with consequentially greater negative impacts in terms of space efficiency, pavement surfing and the perceived and actual safety of other road users. There are a number of factors that influence vehicle purchasing decisions but islanders' choices closely reflect the patterns and trends in the UK market, despite factors such as our short travel distances, narrow lanes and granite walls. The Committee will consider (within a cost neutral envelope) a range of potential mechanisms relating to the Strategy's objectives and will return to the States with any recommendations it considers appropriate.

6.4. Benefit in kind/workplace parking levy

6.4.1 Investigations into categorising corporate parking as a benefit in kind for tax purposes or implementing a workplace parking levy were carried out by the former Treasury and Resources Department in 2015, as directed by a resolution in the Strategy. Either one of these initiatives would have been an important complementary component of paid long-stay parking: charging some commuters to park on public land while others could continue to park in space provided free of charge by their employer would have been perceived as unfair unless mitigating measures were also implemented.

6.4.2 Because paid long-stay parking was not progressed, neither was this work stream. However, it may be worth re-examining the potential advantages and disadvantages of such schemes in their own right, as corporate parking has a significant influence on commuter travel. Also, compared with 2015, there is now a lot more data with which to assess the effectiveness of workplace parking levies in achieving various transport objectives. The Committee will therefore investigate whether this work stream should be revived.

6.5 Other matters

Public transport priority lane

6.5.1 Currently commuters using the bus to travel into St Peter Port are delayed by the same traffic queues as they would if they had been driving a car. Whilst opportunities for creating dedicated infrastructure for public service vehicles is somewhat limited in Guernsey, the Committee considers that it is worthwhile investigating whether a southbound bus/taxi lane can be created along the seafront between Bulwer Avenue and the Red Lion. Data indicate that such an initiative could reduce commuter journey times during the morning peak by as much as 10 minutes.

Reducing unnecessary vehicle movements through Town

6.5.2 Investigating means of improving public amenity space within St Peter Port, including opportunities to reduce unnecessary vehicle movements through the centre of Town, is an area of work that has been identified as being worthy of further investigation as part of the Seafront Enhancement Area Programme.

Personal light electric vehicles

6.5.3 There are a few different types of personal light electric vehicles (PLEVs) such as e-scooters, self-balancing vehicles, and motorised skateboards on roads worldwide. These have various benefits and disadvantages. It is currently illegal to ride a PLEV on the public highway in Guernsey, but the Committee believes there would be benefit in clarifying the position moving forward. At present only an e-cycle is exempted from the requirement to be registered and these are subject to certain qualifying criteria. There is no straightforward way to extend this exemption to other PLEVs, making this a (perhaps surprisingly) complex piece of work, but it is a necessary one given the increasing popularity of these vehicles.

Licensing of commercial vehicle operators

6.5.5 One major area where domestic driving licence and vehicle construction and use legislation differs to EU standards is in relation to the licensing of commercial vehicle operators. This is not such an issue for domestic traffic but may have an impact if Guernsey registered commercial vehicles are driven abroad. Consideration is currently being given to the requirements for establishing a system of operator licensing in Guernsey, including options relating to supporting continuous driver training that will make it easier for commercial drivers wishing to drive abroad.

Domestic cats

6.5.6 There are numerous incidents involving motor vehicles and domestic cats on our island roads. Cats are frequently seriously injured and too often die because of these collisions, but their owners are oblivious to the fact often until it is too late to help. Current legislation does not require anyone to report an incident involving a domestic cat as, unlike horses and dogs, cats are not recognised as animals for the purpose of the relevant traffic laws. The Committee has resolved to improve on the current situation.

7 Reporting future progress

7.1. The Committee intends to report back to the States of Deliberation with the second periodic review of the Strategy during 2023.

8 Legislation

8.1 There is a variety of legislative requirements associated with various Strategy work streams approved by the States in 2014. Many of these have already been implemented in accordance with the relevant resolutions. Further work in this regard will be prioritised in accordance with established procedures.

9 Engagement

9.1 The Strategy is reliant in part on the enforcement of both existing and any proposed new road traffic legislation and therefore the Committee’s officers work closely with Guernsey Police on day-to-day roads policing issues and priorities. It is proposed that any changes to existing traffic laws and, more specifically, any changes to traffic offences or penalties will be discussed in detail with the Committee *for* Home Affairs.

9.2 The Committee has engaged and will continue to engage with the Development and Planning Authority and the Constables of St Peter Port, the Vale and St Sampson regarding specific measures within the Strategy relating to public realm, traffic management and road safety initiatives impacting the island's Main Centres as defined in the Island Development Plan.

9.3 The Committee's Strategy also closely aligns with several health and social related policies determined by the Committee *for* Health & Social Care and so the Committees will work together on matters of mutual relevance.

9.4 As previously mentioned in paragraph 3.5, the Committee has within its own mandate the responsibility to advise the States on policy matters relating to climate change. Transport is the single biggest source of Guernsey's carbon emissions, and the majority derive from our road transport. A more sustainable transport system that reduces reliance on energy-intensive motorised transport and encourages and enables low energy alternatives will be a critical part of the island's long-term response to climate change.

10 Conclusions

10.1 Transport plays a role in virtually every aspect of our community and the delivery of a sustainable and integrated Strategy is fundamental to social equity. Providing for freedom of movement and access to transport supports integration, thereby helping to deliver the Policy and Resource Plan's principal outcome being 'One Community: inclusive and committed to social justice.' Provision of a safe and efficient transport system provides economic and social benefits and mitigates negative environmental impacts. This supports the principal policy outcomes of the Policy and Resource Plan relating to 'Our Quality of Life' and 'Our Economy' – specifically 'Healthy Community' and 'Strong, Sustainable and Growing Economy'. Improving road safety also accords with another principal policy outcome of being a 'Safe and secure place to live'.

10.2 The Strategy will also have a direct influence on the successful delivery of the States' agreed areas of focus to enhance the seafront and mitigate climate change. It will support the delivery of the Economic Development Strategy, the Disability, Equality and Inclusion Strategy, the Health and Wellbeing Policy under the Partnership of Purpose, and identification of the strategic requirements for meeting Guernsey's energy needs and transport-related infrastructure across the island. The Strategy will also have a direct influence on the delivery of the aims and objectives of the Strategic Land Use Plan and the

Harbour Action Areas and Regeneration Areas which are key designations approved by the States in the Island Development Plan.

10.3 At the heart of the Strategy are the aims to improve road safety, promote alternative forms of transport and improve accessibility through a variety of different but integrated measures. Whilst good progress is being made on these priorities, particularly in relation to the number of journeys being undertaken by public bus services, it is recognised that there is more to be done if meaningful change is to be achieved. Areas where greater focus is required are highlighted in this report.

10.4 In terms of its overall Vision, the Strategy is moving in the right direction, as illustrated by a range of positive indicators listed in Section 1.8 of this Policy Letter and summarised in the closing summary of the First Periodic Review document.

10.5 The Committee also recognises that the Strategy can further support a vibrant economy and provide a safer, less congested, and polluted environment in which to live.

10.6 This policy letter represents the first periodic update of progress towards the objectives of the On-Island Integrated Transport Strategy approved by the States in 2014. It is proposed that a further progress update be provided in 2023.

11 Compliance with Rule 4 of the Rules of Procedure

11.1 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, motions laid before the States.

11.2 In accordance with Rule 4(1), the Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications.

11.3 In accordance with Rule 4(4) 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 Committee.

11.4 In accordance with Rule 4(5), the Propositions relate to the delivery of sustainable and integrated transport policy which is fundamental to social equity, providing for freedom of movement and access to transport for all, whilst safeguarding vulnerable road users. This was approved as part of the Committee's policy plan approved by the States in June 2017 (Billet d'État XII – Appendix 6).

Yours faithfully

B L Brehaut
President

M H Dorey
Vice-President

H L de Sausmarez
S Hansmann Rouxel
S L Langlois

Committee *for the* Environment & Infrastructure

APPENDIX A

INTEGRATED TRANSPORT STRATEGY: FIRST PERIODIC REVIEW

Welcome to the first periodic review of the Integrated Transport Strategy.

This review analyses how effective the Strategy has been since its full introduction in July 2015 in achieving its aims and realising its Vision:

> **"To facilitate safe, convenient, accessible and affordable travel options for all the community, which are time and energy efficient, enhance health and the environment and minimise pollution."**

The Strategy proposes that "progress should be subject to a major review approximately every four years" and new measures or adjustments made in light of the evidence.

This review studies the evidence and progress to date and the accompanying policy letter identifies new work streams and opportunities to further enhance and development the Strategy.

BACKGROUND

In May 2014, the States approved the Integrated Transport Strategy as set out in the resolutions[1] and detailed in the Minority Report[2]. This specified a co-ordinated set of measures that had been designed to work in unison to achieve the Strategy's aims and objectives.

Over the following 14 months, between the approval of the Strategy and the start of its implementation in July 2015, several of the key policy levers underpinning these measures were altered or removed. However, the aims and objectives were not adjusted accordingly.

Potential discrepancies between what the Strategy seeks to achieve and the mechanisms by which it can do so is a relevant consideration in reviewing its overall effectiveness. However, success is not merely determined by numbers and percentages. Many of the benefits of the Strategy establish mechanisms through which greater accessibility and improved road safety are promoted.

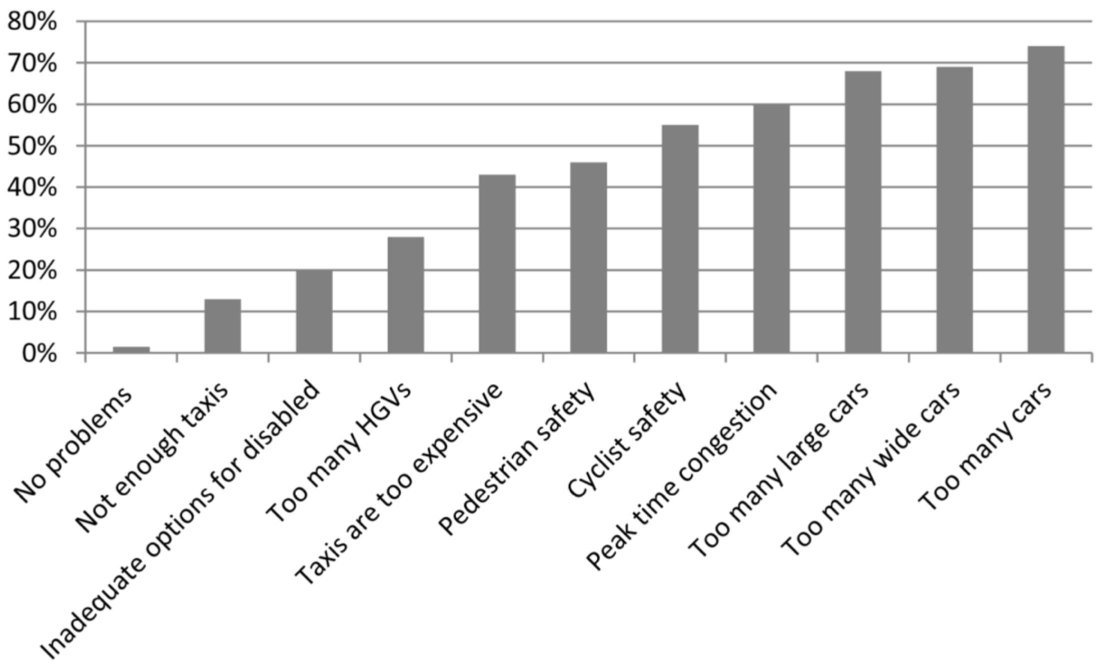
[1] Resolutions Billet D'Etat No IX, 2014
[2] Annexe, Billet D'Etat No IX, 2014

AIMS

The Strategy was developed to address the problems with our current transport system, largely as identified by the community through five sets of consultation.

> *"When asked what was wrong with the current situation in Guernsey, the most numerous responses were that there are too many cars, too many of them are too big or too wide and there is too much congestion in certain areas at certain times."*

Graph 1 - Responses to 2013 public survey identifying the main transport issues



These subjective responses correspond with objective analysis of Guernsey's transport model that shows we are a car-dependent society – in other words, people feel they have little choice other than to use a car.

The Strategy aims to create a more balanced transportation system, where people have a greater range of viable transport options.

Table 1 - Auto Dependency and Balanced Transportation Compared
Factor Automobile Dependency Balanced Transportation

Factor	Automobile Dependency	Balanced Transportation
Motor vehicle ownership	High per capita motor vehicle ownership	Medium per capita motor vehicle ownership
Vehicle use	High per capita motor vehicle use	Medium per capita motor vehicle use
Land use density	Low	Medium
Land use mix	Single-use development patterns	Mixed-use development patterns
Land for transport	Large amount for roads & parking	Medium amount devoted to roads & parking
Road design	Road designs favouring automobile traffic	Road designs balancing modes
Street Scale	Large scale streets & blocks	Small to medium streets & blocks
Traffic speeds	Maximum traffic speeds	Lower traffic speeds
Walking	Mainly in private malls	On public streets
Signage	Large scale, for high speed traffic	Medium scale, for lower-speed traffic
Parking	Generous, free, rigid requirements	Modest, some priced, flexible requirements
Site design	Parking paramount, in front of buildings	Parking sometimes behind buildings

Source: The Costs of Automobile Dependency and the Benefits of Balanced Transportation, Todd Litman, The Victoria Transport Policy Institute, 2002

Car dependency can cause a variety of problems, given that it is typically inefficient in terms of time, space, energy and resources. Personal choice, convenience and mobility are inhibited, transport costs are high and regressive, and public health and the environment are negatively impacted.

One aspect that is poorly understood outside transport policy circles is the economic impact of car use. There is a common misconception that car use generates a net economic benefit, but research has shown that car use in fact generates a net economic loss.[3] [4] On the other hand, forms of

[3] Science for Environment Policy, European Commission, Issue 418, June 2015

active travel such as walking and cycling have a net economic benefit to society. As one study[5] observes,

> *"Critiques of automobile dependency are sometimes accused of being 'anti-automobile', which represents this as an ideological rather than an economic issue. Reducing excessive automobile dependency is no more anti-automobile than healthy diets are anti-food."*

Achieving a more efficient and economically beneficial mobility balance is at the heart of the Strategy, which is "designed to make a significant and worthwhile start on the path to an integrated and sustainable transport system."

The principal aim of the Strategy is to achieve modal shift – in other words, to reduce the number of miles travelled in cars in favour of walking, cycling and bus use. It seeks to do this "principally by making the alternatives significantly easier and more attractive than at present."

The Strategy explains the numerous positive outcomes of effecting this modal shift, including economic benefits to retail centres, safer journeys, improved energy efficiency, reduced pollution, enhanced health, better accessibility and inclusivity and a more attractive public realm.

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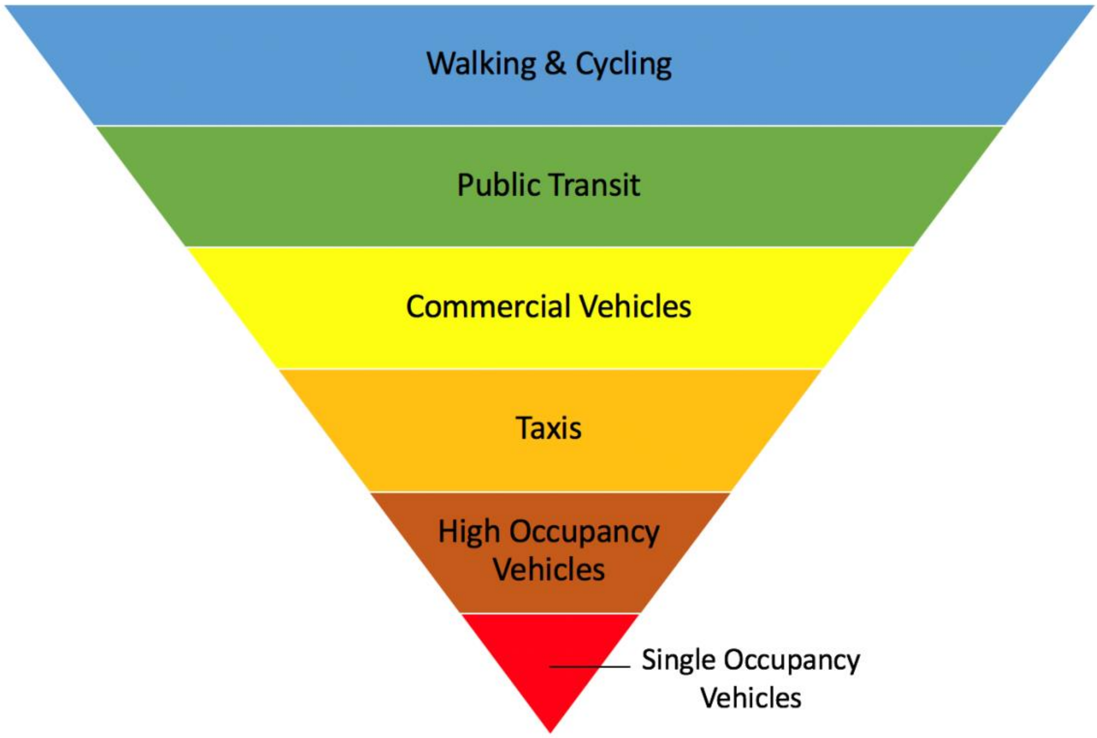
[4] Transport transitions in Copenhagen: Comparing the cost of cars and bicycles. Gössling, S. & Choi, A. S. (2015). Ecological Economics 113: 106–113.

[5] The Costs of Automobile Dependency and the Benefits of Balanced Transportation, Todd Litman, The Victoria Transport Policy Institute, 2002

One of the resolutions agreed by the States was the adoption of the Transport Hierarchy, which sets out a specific order of preference in terms of modes of transport. This hierarchy underpins the Strategy.



Walking and cycling are given equal weight in terms of promotion because both are non-polluting, affordable, energy-efficient forms of active travel that deliver health, economic and environmental benefits.

However, the Strategy recognises that in terms of vulnerability, people travelling by foot are at the very top of the hierarchy, above people riding bikes, who are themselves also vulnerable road users. Risk to these road users derives not from their modes of transport per se, but almost exclusively from motorised transport, especially from larger and heavier vehicles.

The Strategy makes clear that

> *"The strong message from the consultations is that one of the main reasons people do not walk or cycle is because they fear being hit by a motor vehicle. This must be addressed."*

It also stresses that those who choose to drive larger, heavier vehicles have an additional responsibility towards more vulnerable road users, proportionate to the risk they inherently present.

These aims and core principles were endorsed by the States in May 2014 when the Strategy was first adopted and they remain extant. This mandate transferred to the Committee *for the* Environment & Infrastructure in May 2016: in delivering the Strategy the Committee has adhered to these principles whilst working towards the overall aims.

OBJECTIVES

The Strategy identifies a range of objectives to work together to achieve the aims and realise the Vision:

- To reduce the number of car journeys, particularly solo-occupancy trips – reducing peak-hour traffic by an expected 10%;
- To increase the number of journeys made by alternative forms of transport, particularly active travel modes – ideally doubling the numbers of people travelling by foot, bike and bus;
- To achieve a greater proportion of smaller motor vehicles, especially in terms of car widths;
- To achieve a greater proportion of cleaner, low emissions motor vehicles;
- To improve safety for all road users, particularly vulnerable road users;
- To improve transport accessibility for all members of the community, particularly non-drivers and those with disabilities or on low incomes;
- To improve the public realm, particularly in the main centres.

POLICY MECHANISMS

The key policy levers originally agreed by the States in May 2014 to achieve these objectives were:

- Charges for commuter parking through paid long-stay public parking and a tax or levy on corporate parking (with commensurate improvements to free parking for retail and residents) to discourage people to commute by car, generating revenue to help adequately fund the Strategy;
- An improved, free-at-point-of-use (fare-free) bus service complete with fit-for-purpose bus infrastructure to encourage people to make journeys (commuter journeys in particular) by public transport, and to make transport more affordable;
- Significantly increased investment in walking and cycling infrastructure to make active travel safer, easier, more accessible and more affordable to encourage greater take up of these modes;
- A first registration duty based on emissions and vehicle width to actively incentivise cleaner, narrower vehicles (with subsidies for the cleanest and narrowest) and dis-incentivise wide, high emissions vehicles (with a maximum charge of £5,600 for the widest and most polluting), generating the bulk of the revenue to fund the Strategy;
- A policy of preferential parking for small cars and electric cars to make the use of small vehicles and low emissions vehicles more convenient than large vehicles and high emissions vehicles;
- Review speed limits to enhance safety for people using non-motorised modes of transport such as walking and cycling;
- Support the development and implementation of travel plans for schools, businesses and States departments;
- Embed the principles of accessibility and active travel into the Island Development Plan, and take accessibility into consideration across all work streams;
- Renovate specific areas of the public realm in the main centres to make them more attractive, vibrant and accessible to the public.

The policy levers that were subsequently altered by States decisions were:

- Charges for long-stay public commuter parking and a tax or levy on corporate commuter parking were not introduced (meaning the commensurate improvements to short-stay retail parking were also foregone), removing the key disincentive to commute to work by car, whilst also removing a revenue stream for the Strategy;
- Free bus travel was not introduced, removing the key incentive to commute by public transport by negating the competitive advantage of fare-free buses compared with charged-for commuter parking;
- First registration duty was heavily diluted: the width element was removed altogether, whilst the emissions element was charged at a fraction of the intended rate (maximum cost of £690 as opposed to £3,200 as originally intended, removing the subsidy for narrow or electric vehicles and also removing any meaningful disincentive to purchasing wide, high emissions vehicles;
- The funding mechanisms were significantly altered, greatly reducing anticipated investment in active travel infrastructure, ruling out the potential option of constructing a purpose-built bus depot which would have made the operation of the bus service more efficient.

These significant shifts in policy profoundly affected the Strategy's likely capacity to realise the original objectives and fully realise the Vision, but the Vision and objectives remain the measure by which the effectiveness of the Strategy are to be assessed.

MEASURING PROGRESS

Objective:

To reduce the number of car journeys, particularly solo-occupancy trips – reducing peak-hour traffic by an expected 10%

Progress

Fixed traffic studs are counters are positioned at various locations around the island and record vehicle movements on a 24/7 basis. Where data is missing or insufficient for analysis purposes, average figures are used (see figures in below tables highlighted in grey).

The table below analyses peak-hour (08:00 – 09:00) Monday to Friday vehicle movements during the morning commute along the four main arterial routes into Town. It shows a 4.7% reduction since 2014.

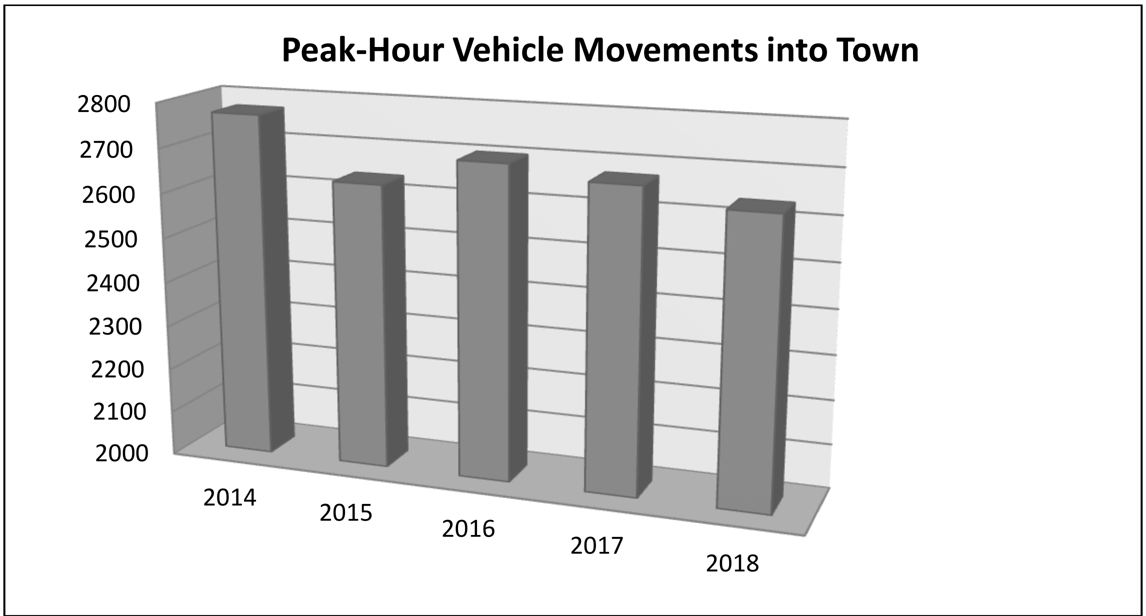
Table 2 – Weekday average movements into Town during the morning commute

'Peak-Hour' Movements into Town (08:00 - 09:00)						
Year	**St George's Esplanade**	**St Julian's Avenue**	**Le Bordage**	**Le Val des Terres**	**Total**	**% change from 2014**
2014	1127	650	481	509	**2767**	
2015	1049	653	449	486	**2637**	**-4.7**
2016	1094	649	479	479	**2701**	**-2.4**
2017	1068	611	469	526	**2674**	**-3.4**
2018	1043	615	468	511	**2637**	**-4.7**
Period Average	1076	636	469	502	2683	

Source: Fixed traffic studs and counters

The reduction in vehicle movements is encouraging and is further illustrated in the graph below.

Graph 2 – Peak-Hour Vehicle Movement Analysis into Town (08:00–09:00 Weekdays)



Source: Fixed traffic studs and counters

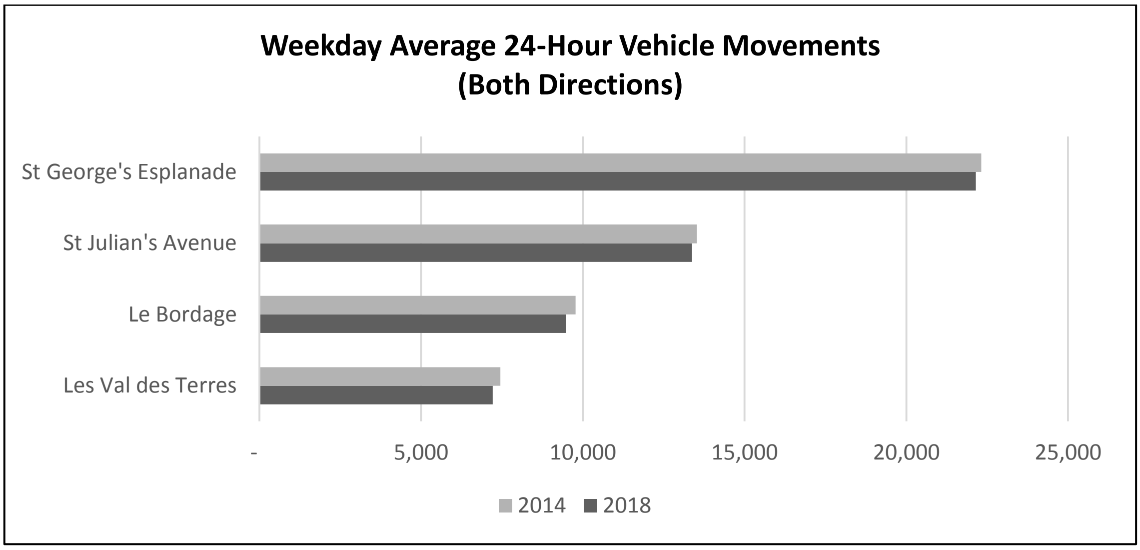
The table below shows average daily weekday counts (in both directions) along the same four arterial routes into and out of Town. The data indicates a slight reduction in combined weekly vehicle movements on these roads totalling 842 movements (down 1.6% since 2014).

Table 3 – Weekday Average 24-Hour Vehicle Movements (Both Directions)

Principal Roads	**Weekday Average 2014**	**Weekday Average 2018**	**Difference**	**% change**
St George’s Esplanade	22,319	22,152	-167	-0.7%
St Julian's Avenue	13,524	13,381	-143	-1.1%
Le Bordage	9,775	9,480	-295	-3.0%
Le Val des Terres	7,453	7,216	-237	-3.2%
Total	**53,071**	**52,229**	**-842**	**-1.6%**

Source: Fixed traffic studs and counters

Graph 3 – Weekday 'Peak' Hour Movements



Source: Fixed traffic studs and counters

Baseline data[6] was collected in 2013 as part of the original Strategy in order to identify the method of travel used to commute to Town. A vehicle survey carried out along Les Banques between 07:30 and 09:00 on a weekday identified a total of 1,732 motor vehicles and 56 bicycles. The vehicle count results were as follows:

- 56 were bicycles (3.1%)
- 50 were motorcycles (2.8%)
- 1,446 were cars, taxis or minibuses (80.9%)
- 172 were goods vehicles (9.6%)
- 52 were heavy goods vehicles (2.9%)
- 12 were buses or coaches (0.7%)

A separate survey identified that approximately 85% of cars during the morning commute were driven by a solo-occupant.

A more detailed vehicle and passenger survey undertaken on 17 May 2019 at the same times and location as the 2013 survey counted 2,473 people heading towards Town in a total of 1,810 motor vehicles plus 83 bicycles.

[6] Billet D'Etat No IX, 2014, Appendix F

Of the totals:

- 65 were people walking (2.6% of commuters)
- 83 were people riding bikes (4.4% of vehicles) (3.4% of commuters)
- 144 were people travelling by bus (5.8% of commuters)
- 52 were people riding motorbikes (2.7% of vehicles) (2.1% of commuters)
- 1,400 were people driving cars (74% of vehicles) (56.6% of commuters)[1]
- 347 were people driving commercial vehicles (18.3% of vehicles) (14% of commuters)[1]
- 11 were bus drivers (0.6% of vehicles) (0.5% of commuters)
- 371 were passengers in cars or commercial vehicles (15% of commuters)

[1] Approximately 80% of cars or commercial vehicles were driven by a solo occupant.

Table 4 – Analysis of Vehicle movements by type along Les Banques during the morning commute (07:30–09:00)

Mode of transport	2014 Survey	Overall %	2019 Survey	Overall %	Difference by Mode 2014/19 %
Bikes	56	3	83	4	+48
Motorcycles	50	3	52	3	+4
Cars	1,446	81	1,400	74	-3[1]
Commercials	224	12	347	18	+55[1]
Buses	12	1	11	1	-8
Total	**1,788**	**100**	**1,893**	**100**	
Solo-occupancy vehicles		85		80	

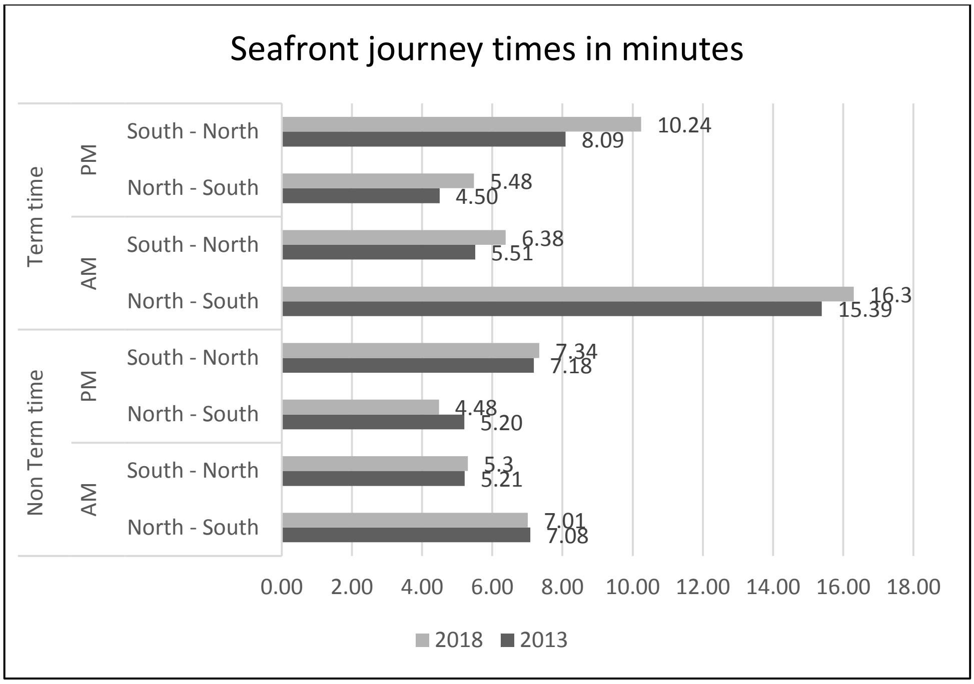
[1]Categorisation of cars and commercials may have varied across the two surveys

Source: Manual surveys

In summary the 2019 survey identified a 48% increase in people riding bikes along Les Banques compared to 2013, a 4% increase in people riding motorbikes and a 5% reduction in solo-occupancy car use.

Journey times along the eastern seafront were also measured as part of the Transport Strategy data collection in 2013 and then compared again in 2018. In broad terms there is no significant change in journey times along that route, although on average journeys in 2018 can take a little longer. What is particularly noticeable is that outside of school term times there are significant reductions in journey times along this route, in common with many other routes, specifically in the morning commute.

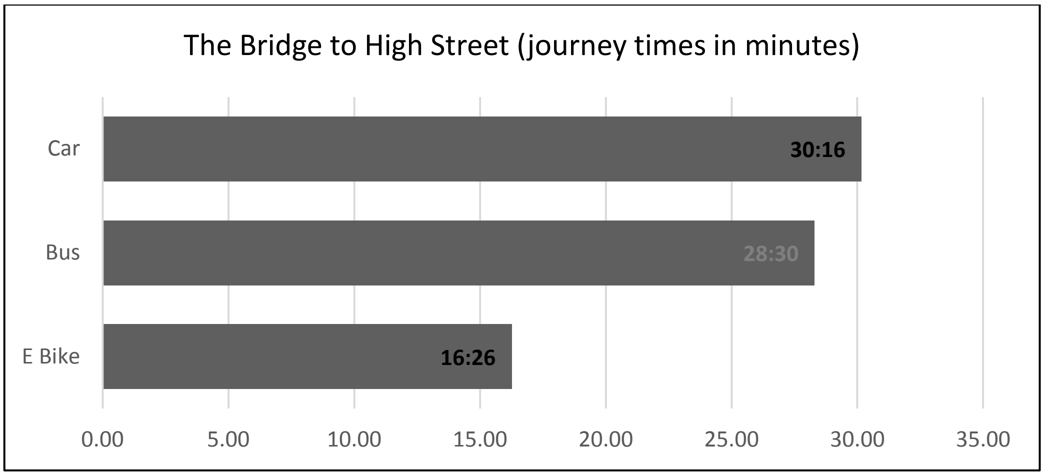
Graph 4 – Seafront Journey Time Driven Surveys



Source: Manual surveys

A comparison between three different modes of transport (a bus, a car and an e-bike) on a typical commuter journey door to door from the Bridge to Town departing at 8am shows that the car commute took the longest (at 30 minutes 16 seconds); the bus journey was around two minutes quicker (at 28 minutes 30 seconds) and the e-bike (at 16 minutes 26 seconds) was nearly twice as quick as the same journey by car.

Graph 5 – Seafront Journey Time Surveys for different modes of transport



Source: Manual surveys

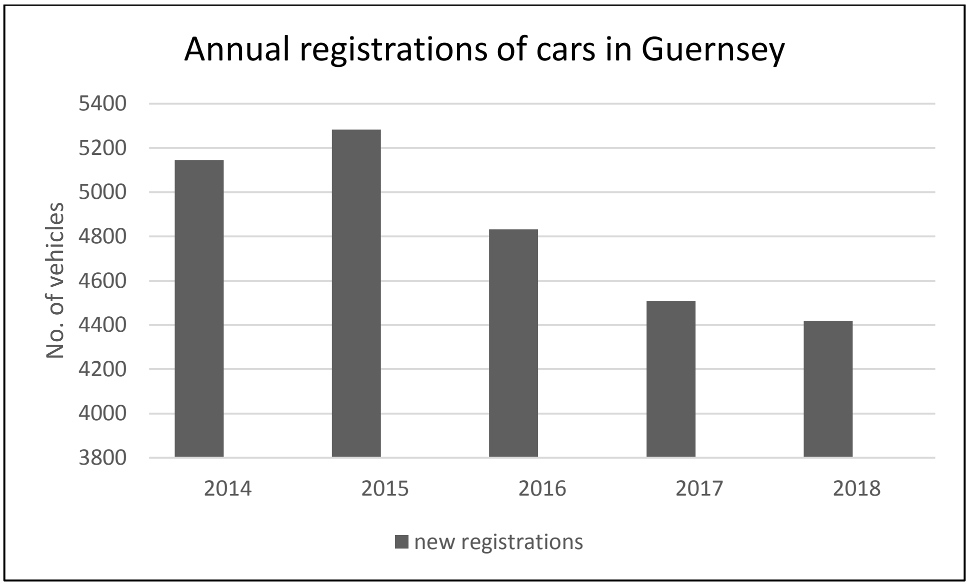
In terms of vehicle numbers, annual motor car registrations (both new and used) continue to fall, with just 3,451 cars being registered in the island in 2018 compared to 4,159 in 2015. In total the number of cars registered per annum since 2014 has dropped by 14.9%.

Table 5 - Annual Car Registrations

Year	New	Used	Total	Annual Variation	%	Cumulative since 2014 %	Cumulative since 2014 - new cars only %
2014	2642	1413	4055				
2015	2766	1393	4159	104	2.6	2.6	4.7
2016	2477	1294	3771	-388	-9.3	-7.0	-6.2
2017	2341	1218	3559	-212	-5.6	-12.2	-11.4
2018	2175	1276	3451	-108	-3.0	-14.9	-17.7

Source: Driver and Vehicle Licensing Database

Graph 6 – Annual registrations of new and used cars in Guernsey



Source: Driver and vehicle licensing database

At the end of November 2019 a total of 1,795 new cars and 1,210 used cars had been registered (3,005 in total) compared to 2,074 and 1,177 (3,251 in total) during the same period in 2018. This represents a further 7.6% drop in annual registrations.

As regards car parking, there are currently some 1,830 commuter long-stay (5hour and 10hour) parking spaces in St Peter Port, the majority located on the North Beach, Salerie, Castle Emplacement, South Esplanade, La Vallette and Odeon Car Park. Short-stay (½hour to 3hour) parking occupies approximately 1,340 spaces, primarily on the Albert and Crown Piers and at the front of the North Beach car park.

Demand for long-stay parking has historically been very high: it is typically between 95% and 100% occupancy on weekdays. Demand on Saturdays is similar, especially in the summer, albeit commuters are replaced to an extent by shoppers and people making use of harbour facilities. Data collated since the Strategy began shows that 10-hour spaces are typically taken by around 08:15 on weekdays, or earlier on North Beach. Anecdotal and observational data suggest that many commuters also park in short-stay spaces (mainly 3 hour) and either move their vehicle, change their parking clock or risk not changing their parking clock during the working day. This demonstrates that demand for free commuter parking is unsurprisingly high – a phenomenon called supply-led demand. In other words, the fact that these spaces are not charged for on a user-pays basis is in itself inducing that high level of demand[7] [8].

There is usually short-stay parking available in Town on weekdays, even on busy cruise ship days. However, there is a clear preference for parking on the piers, with little appetite from shoppers to walk even modest distances. Saturdays are usually the busiest day with shoppers competing with port users for available short-stay parking. Demand in the winter months for short-stay parking is generally lower, with the exception of the run-up to Christmas when changes to short-stay parking arrangements are made to allow extra time for people to shop, albeit at the expense of a lower turnover of parking spaces.

Conclusions

Results to date have shown an encouraging shift away from car journeys (especially solo-occupancy) at peak commute times, given the absence of the main 'push' mechanism (paid long-stay commuter parking) and the main 'pull' mechanism (free bus use) envisaged in the original Strategy objectives.

Key positives include:

1) **A reduction in traffic flows in the morning commute of 4.7% since 2014;**
2) **Weekday average vehicle movements on key arterial routes into and out of Town have also reduced by 1.6% compared to 2014;**
3) **Annual car registrations are down 14.9% since 2014.**

In more general terms, local research[9], confirmed by empirical evidence[10], shows that even though fuel prices have been relatively high in recent

[7] Understanding Transport Demands and Elasticities: How Prices and Other Factors Affect Travel Behavior, Todd Litman, Victoria Transport Policy Institute, February 2017
[8] Europe's Parking U-Turn: From Accommodation to Regulation, Michael Krodansky and Gabrielle Hermann, ITDP, Spring 2011

[9] Billet D'Etat No IX, 2014

years, this is unlikely to be a significant push factor away from car use. Fuel price is (perhaps surprisingly) inelastic and has a proportionately small effect on modal shift, but may account for any small reduction in traffic volumes.

The high long-stay parking space occupancy rates are possibly one of the most effective push factors, as searching for or securing a suitable parking space can be time-consuming and stressful, as can using a short-stay space. These twin issues make commuting by car a little less convenient than some people may be prepared to tolerate. However, this in itself is a self-limiting push factor: average occupancy rates don't tend to drop for any length of time because when a valuable asset such as a long-stay parking space is offered for free, demand will always rise to meet the supply, keeping occupancy rates at (or very near) saturation point.

Journey times could also be a push factor. As stated above, on a typical commuter journey 'door to door' from the Bridge to Town departing at 08:00, an e-bike was substantially quicker than a bus or car journey. If dedicated public service vehicle infrastructure (for buses and taxis) could be provided along the seafront, at least in part, then journey times for these modes of transport could be substantially improved.

Providing short-stay parking of even shorter duration (½hr or 1hour duration as opposed to 2hour or 3hour) close to Town shops might assist retail and act as a deterrent to commuters who might otherwise abuse short-stay parking spaces.

Improving congestion on the school commute could also have significant benefits for reducing journey times into St Peter Port.

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[10] Understanding Transport Demands and Elasticities: How Prices and Other Factors Affect Travel Behavior, Todd Litman, Victoria Transport Policy Institute, February 2017

Notwithstanding this, bus passenger numbers at commuter times are up more than 16% in the last four years, indicating that the steadily increasing popularity of the bus service may be a pull factor, especially when considered in conjunction with the push factors described above. Similarly, improved walking and cycling infrastructure along that main commuter corridor and the rising popularity of e-bikes may be another pull factor.

Without these initiatives, car journeys would almost inevitably have increased in recent years, especially taking into account the increase in working population.

Objective:

To increase the number of journeys made by alternative forms of transport, particularly active travel modes – ideally doubling the numbers of people travelling by foot, bike and bus

Progress

These targets are ambitious but show the level of change required to make a meaningful difference to vehicle journeys recorded, particularly during commuter periods. Baseline data[11] for active travel journeys in 2013 along the east coast commuter route prior to the implementation of the Strategy showed that walking and cycling both had a low modal share – around 3% each. The number of people commuting by solo-occupancy car journey was also very high at 85%.

- ***Bus Use***

The most successful element of the Strategy to date is the significant annual increases that have been experienced in bus passenger journeys. There are comprehensive records of bus passenger numbers stretching back many years, which can be analysed at quite a granular level.

A total of 1,837,787 passenger journeys were recorded on public scheduled bus services during 2018, representing an increase of 50,218 journeys, or a 2.8% increase when compared with the previous year. This was the fifth consecutive annual increase recorded and represented a total annual increase in passenger numbers of 370,457 since 2014. This provides an impressive compound annual growth rate of 6%.

Figures to November 2019 show further significant growth with an additional 100,489 passengers carried to date this year as compared to 2018 representing a 6% increase. In mileage terms, assuming an average

[11] Billet D’Etat No IX, 2014, Appendix F

journey length of 2.5 miles, an overall increase of 470,946 passengers equates to around 1,177,365 fewer car miles per annum.

Bus passenger journeys in the summer months can be heavily influenced by fluctuations in the numbers of journeys undertaken by tourists and, in particular, cruise ship passengers. Since the last dip in passenger numbers in 2013, Q2 & Q3 (April to September) passenger journeys have risen by 41.5% to September 2019. Importantly, it is in the winter months where significant growth has also been witnessed with Q4 & Q1 (October – March) passenger journeys increasing by 37% to March 2019. This is particularly encouraging as passenger journeys in the winter months are largely undertaken by the resident population.

Modest growth has been experienced across most fare types in 2018 as compared with 2017 with the number of fare paying passengers rising by 42,705 (3.2%), student users up by 5,753 (3.1%) and concessions (OAPs) up by 3,944 (1.6%). The Nightowl services operated across three routes on Friday and Saturday evenings continue to be popular with an additional 3,355 passengers using the service in 2018, representing a growth rate of 15%.

The number of Smart Card fare products increased by 72,832 (13%) in 2018, with the corresponding number of people paying by cash reducing by 30,127 (4%). With the recent introduction of contactless technology, it has never been easier to catch the bus.

Annual passenger journeys had previously peaked in 2010 before declining swiftly in 2013 to a level of 1.35 million, then increasing steadily again to the current level of 1.84 million in 2018. Historically, numbers have declined since the heydays of the 1960s and 70s when multiple car ownership was much less prevalent, falling to a low of just 878,111 in 2000. With an estimated 1.95 million passengers expected to be carried on scheduled bus services during 2019 this shows the extent of the turnaround in the contribution of public transport services to the island's daily transport requirements. A monthly breakdown of passenger carryings is detailed in Table 6, with longer-term historical analysis provided in Table 7.

Table 6 – Annual comparison of bus passenger journeys 2014 – 2018

Month	2014	2015	2016	2017	2018	Increase	%
January	83,440	89,692	88,290	100,019	111,572	28,132	33.72
February	78,870	81,962	94,760	102,032	107,027	28,157	35.70
March	97,381	97,303	109,504	125,639	119,782	22,401	23.00
April	104,925	114,465	128,097	139,292	136,911	31,986	30.48
May	136,879	148,609	153,692	164,847	179,514	42,635	31.15
June	150,660	157,860	165,453	184,971	188,129	37,469	24.87
July	172,226	170,188	185,114	192,477	199,929	27,703	16.09
August	176,443	163,826	193,896	203,997	209,130	32,687	18.53
September	155,028	154,946	171,282	178,204	179,675	24,647	15.90
October	115,663	122,697	134,097	145,859	150,695	35,032	30.29
November	95,870	98,907	109,642	126,713	126,906	31,036	32.37
December	99,718	106,346	119,901	123,519	128,290	28,572	28.65
Total Year	**1,467,103**	**1,506,801**	**1,653,728**	**1,787,569**	**1,837,560**	**370,457**	**25.25**

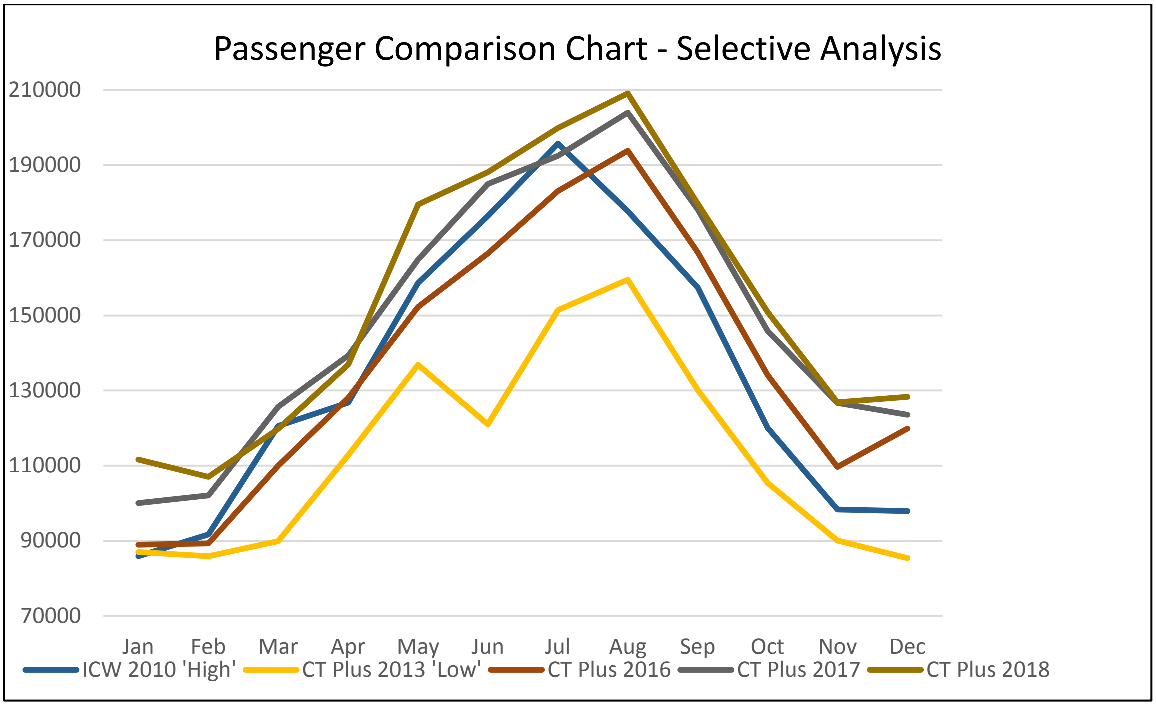
Source: Ticketer

Table 7 – Historical analysis of bus passenger journeys (1996 – 2018)

Year	Passengers	Year	Passengers	Year	Passengers
1996	1,093,212	2004	1,304,049	2012	1,486,205
1997	1,128,101	2005	1,393,693	**2013**	**1,354,993**
1998	1,054,185	2006	1,405,414	2014	1,467,103
1999	941,052	2007	1,438,803	2015	1,506,801
2000	**878,111**	2008	1,531,257	2016	1,653,728
2001	954,908	2009	1,567,565	2017	1,787,569
2002	1,057,627	**2010**	**1,607,017**	**2018**	**1,837,787**
2003	1,201,799	2011	1,563,966	**2019**	***Est 1,950,000***
Period Lows		Period Highs			

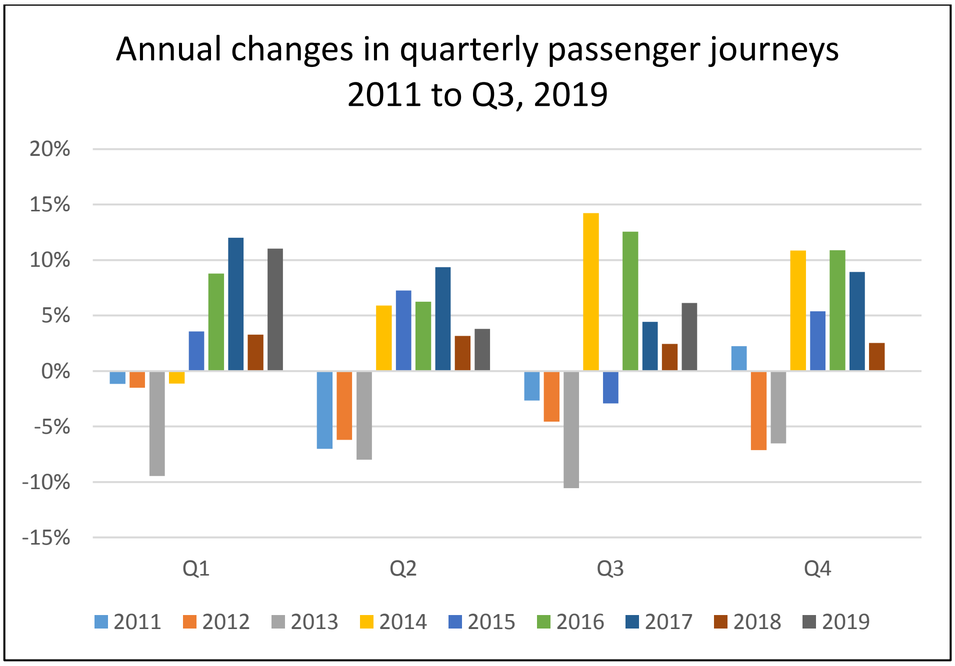
Source: Ticketer

Graph 7 – Compares previous 'high' (2010), 'low' (2013) with the period 2016 to 2018



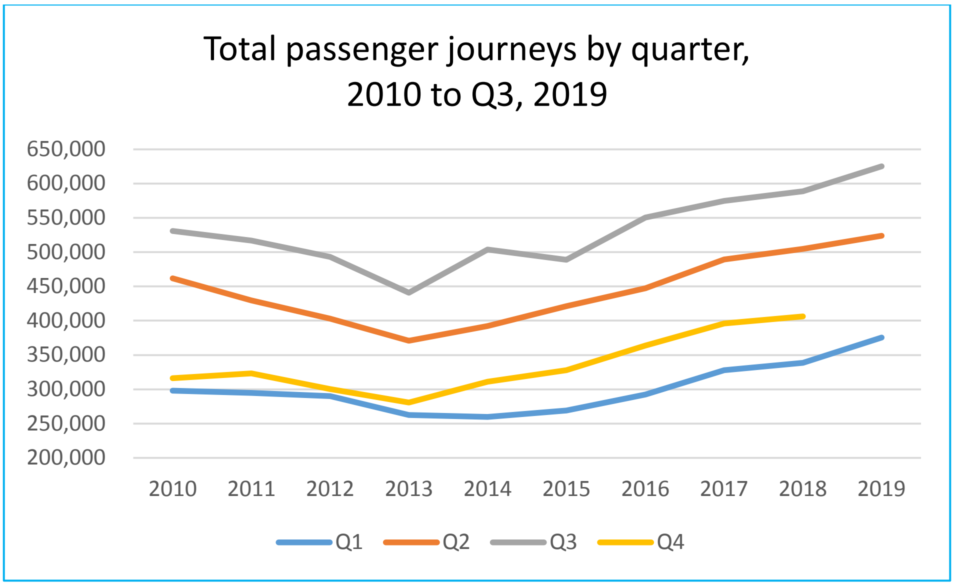
Source: Ticketer

Graph 8 – Annual changes in quarterly bus passenger journeys



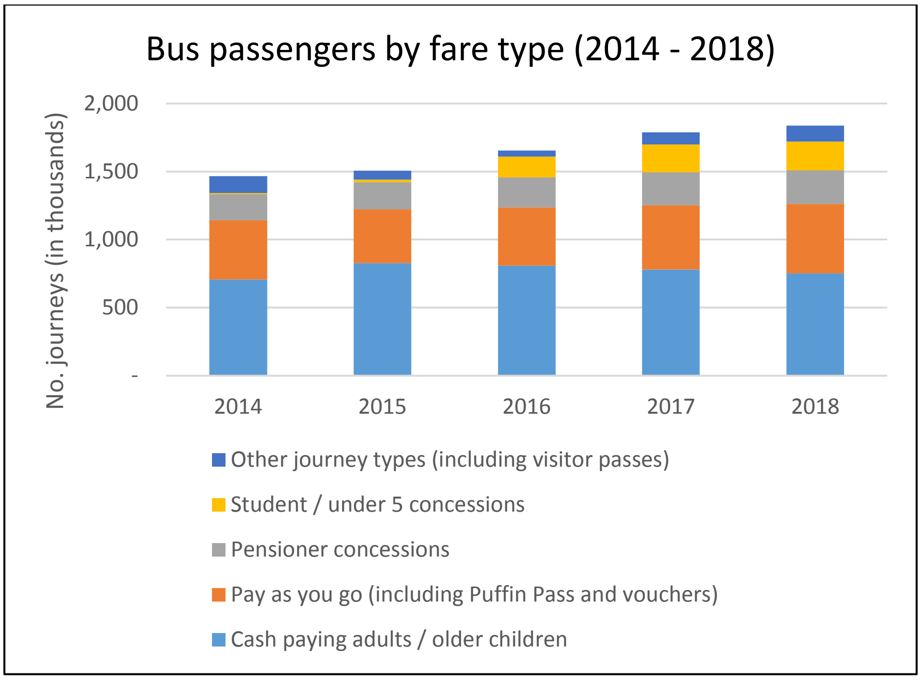
Source: Ticketer

Graph 9 – Total bus passenger journeys by quarter



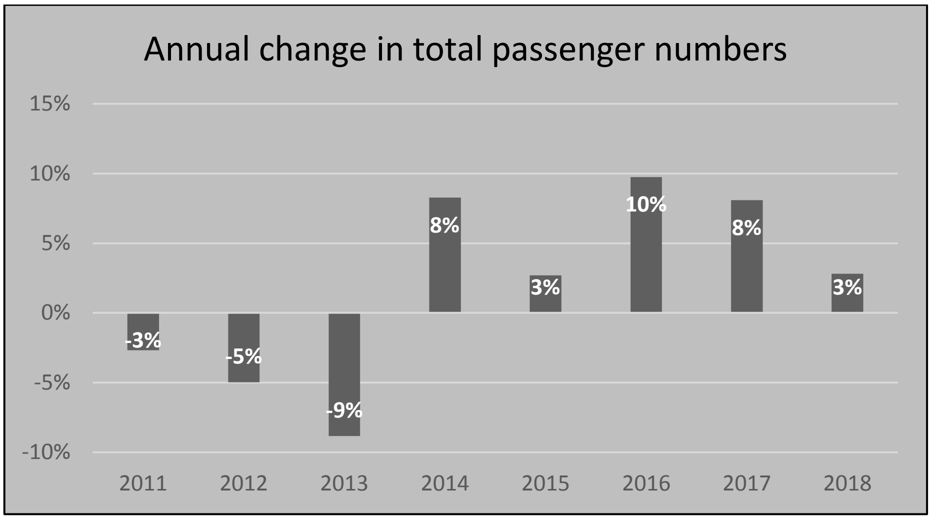
Source: Ticketer

Graph 10 – Total number of bus passenger journeys by fare type



Source: Ticketer

Graph 11 – Annual change in total bus passenger journeys



Source: Ticketer

Table 8 - Total bus passengers by quarter (2014 – Q3, 2019)

	Total passenger journeys			
Year	**Q1**	**Q2**	**Q3**	**Q4**
2014	259,691	392,464	503,697	311,251
2015	268,957	420,934	488,960	327,950
2016	292,554	447,242	550,292	363,640
2017	327,690	489,110	574,678	396,091
2018	338,381	504,564	588,734	**406,067**
2019	**375,673**	**523,730**	**624,847**	

Source: Ticketer

As Table 8 illustrates, the quarterly figures have risen substantially since 2014.

These increases are reflected in average route loadings as set out in Table 9.

Table 9 – Average loadings by bus route (Terminus to Terminus)

Route	Average Loading July'14*	Average Loading July'19**	Route	Average Loading July'14*	Average Loading July'19**
11	19	24	60	N/A	4
12	17	28	71	18	27
21	9	12	81	15	23
31	13	19	91	62	44
32	N/A	14	92	35	33
41	30	32	93	33	28
42	29	31	94	N/A	25
51/52	14	11	95	N/A	24
61	15	17	P2	N/A	8
13	N/A	25			

*week of 28 July – 1 August 2014

**1 July – 31 July 2019

Source: Ticketer

Passenger journeys during the commuter period (06:00–09:30 and 16:00–18:30) in Quarter 1 have also shown a significant increase between 2016 and 2019 with a growth of some 16,950 passengers (16.1% in three years) as evidenced in Table 10 below.

Table 10 – Quarterly commuter bus passengers

Commuter Passenger Analysis - Quarter 1 (Jan-Mar)							
Year	**AM (06:00-**	**PM (16:00-**	**Total**	**Annual Increase**	**Cumulative Increase**	**% increase**	**Cumulative Increase**
2016	50,000	55,331	105,331				
2017	53,964	57,537	111,501	6,170		5.9	
2018	53,831	59,867	113,698	2,197	8,367	2.0	7.9

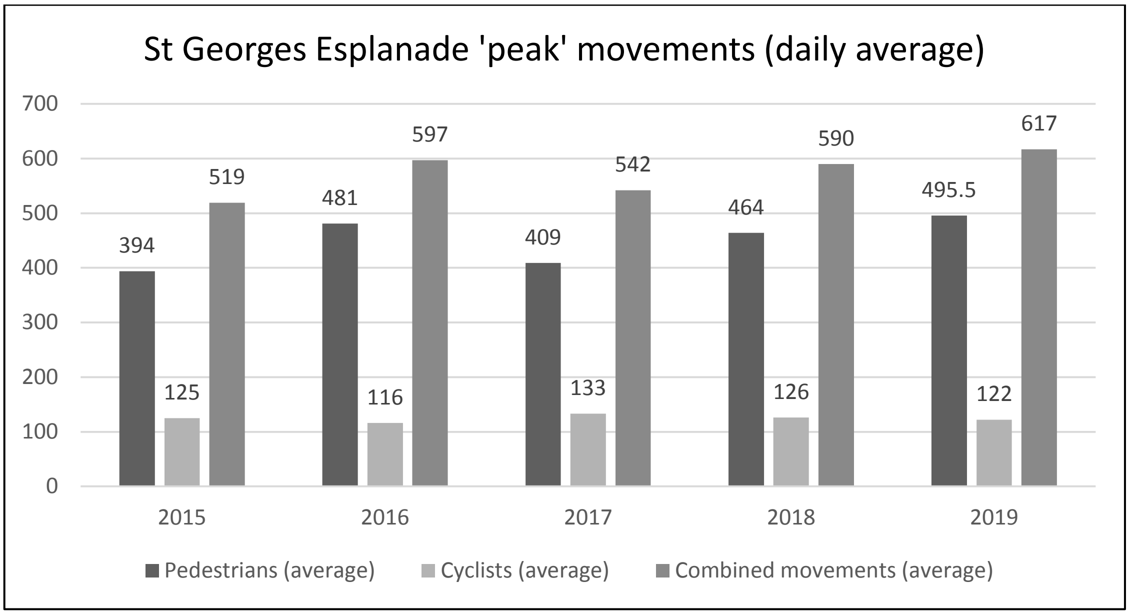
2019	57,366	64,915	122,281	8,583	16,950	7.5	16.1

Source: Ticketer

- **Walking & Cycling**

Baseline data for walking and cycling is limited to St George's Esplanade, Les Banques and the Baubigny cycle contraflow system. Because of this limitation, accurate analysis of progress towards this objective is difficult, but the increase in active travel we can see from like-for-like comparisons of these existing small data sets is encouraging. Beyond these data, we have some very loose proxies.

Graph 12 – Walking and cycling counts during the morning commute (07:30–09:00)



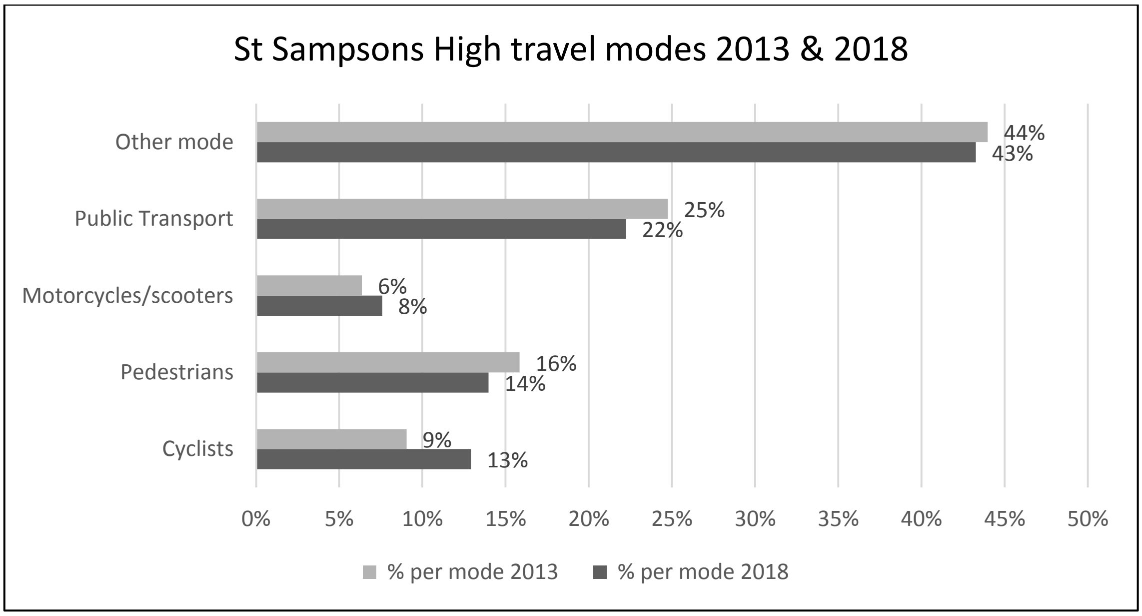
Source: Manual surveys

Counts of people walking along Glategny Esplanade at peak commuter times show that numbers have increased by around 25% when compared to 2015, up from 394 to 495 across the survey period. This increase is largely attributable to more people walking. However, these particular counts include people driving cars who subsequently walk into Town having parked in the Salerie Car Park, so may include an element of 'car sharing' or changes in parking habits.

The number of people cycling appears fairly constant in these limited data, unlike the surveys undertaken in 2013 and 2019 along Les Banques which indicate a potential growth in cycling of up to 48%. This is perhaps more in line with anecdotal evidence from various workplaces which report a marked increase in numbers of people cycling to work over the past five years.

In other areas, modal share for cycles at St Sampson's High School dropped from 23% in 2009 to just 9% in 2013, but had increased to 13% again by 2018. Modal share for walking dropped slightly from 16% in 2013 to 14% in 2018.

Graph 13 – Walking and cycling counts during the morning school commute (07:30–09:00)



Source: Manual surveys

Membership of the Guernsey Bicycle Group, the local organisation for people who ride bikes, was around 1,000 by 2014; by the end of 2018 it was more than 1,830 – an increase of around 80%. Although this is a very loose and highly generalised proxy measurement, it is nonetheless a positive indication that cycling as a mode of transport is growing in popularity in the island.

Bicycle retailers report a general increase in bike sales and a new shop dedicated to e-bikes opened in early 2019. These are both indicators of a growing market.

In April 2018 a total of 387 e-bikes were sold by local retailers as part of an initiative to promote this alternative form of transport in which a 25% discount was offered on all sales. Subsequent surveys of people who purchased an e-bike under this initiative suggested that, on average, each e-bike had been ridden for 683 miles over 12 months. If the average mileage figure is then applied to all of the e-bikes sold under this initiative it would give a total of circa 265,000 miles per annum. Other data collected from these surveys show that 57% of those e-bike journeys mainly replaced car journeys, while 63% of those e-bike owners reported that their e-bike has replaced motor vehicles as their primary mode of transport.

Although we don't have pre-Strategy baseline data to compare, we do have two years' worth of public bicycle stand occupancy data. These show that comparing 2017 with 2018, average bicycle stand occupancy across the 19 public bicycle parking areas increased by 8.9% in the mornings and by 5.9% in the afternoons, although interestingly the afternoon occupancy rates in both years are at least 20% higher than morning occupancy rates.

These factors support the suggestion that more people are travelling by bicycle now than they were at the start of the Strategy.

Conclusions

Bus passenger numbers have increased month on month and year on year since 2014. The States' continued investment in the bus service has paid significant dividends, providing a stable platform on which to develop a reliable, affordable, timely and quality service – all important factors in building passenger confidence. With expected carryings up by nearly 500,000 passenger journeys by the end of 2019 this equates to a potential 1.25 million miles of saved car journeys per annum based on a conservative estimate of each passenger journey averaging 2.5 miles.

Based on Q3, 2019 data, passenger numbers have increased by 24% since 2014, up from 503,697 passengers to 624,847 for the first quarter in just 5 years. Compared to the low of 2013 the increase is 41.7%.

Since 2014, a number of new bus routes have been introduced and frequency increased at peak times on key corridor routes. In addition to the figures quoted above, school bus services (provided by a mix of States and private hire operators) carry an estimated **350,000** students to and from school annually as compared to around 322,000 in 2014. Improving school transport provision is an important element of seeking to address commuter transport congestion.

New bus shelters, free Wi-Fi, a bus real-time information app and the recent introduction of on-bus contactless payments are all helping improve the experience of travelling by public bus.

Feedback from the travelling public and the Bus Users Group confirms that the new fleet has been well received as the new vehicles are considered smarter, narrower, more comfortable and convenient than the ageing fleet they replaced. These improvements all contribute to the quality of the service, which is one of the most important pull factors.

Key positives include:

- **Bus passenger numbers have increased by 32% since 2014 with solid growth in both the commuter peak and the shoulder months;**
- **At the current rate of growth, annual passenger journeys on scheduled bus services should exceed 2.0 million in 2020 (up over 500,000 since 2014);**
- **These 500,000 additional bus journeys may have reduced car journey miles by an estimated 1.25 million per annum on Guernsey roads.**

Although the comparisons for walking and cycling are based on relatively small data sets, the apparent upward trend in active travel commuting is positive given the modest improvements that have so far been made to walking and cycling infrastructure.

The policy of allowing people to ride cycles (carefully) through roads closed to motor traffic has been very well received by the bike-riding community, as has the shared-use path uphill only on Le Val des Terres. Soft measures like these may have helped support the apparent increase in cycling by making travelling by bike feel safer and more convenient.

It is probable that the rising popularity of e-bikes has contributed to the apparent increase in cycling uptake.
The Strategy's 2018 e-bike initiative was very successful in meeting its objectives. 387 new e-bikes were bought by local residents through the scheme and results across a wide range of transport, health and wellbeing outcomes have been very positive and sustained. Over 60% of participants surveyed reported that their e-bike has replaced motor vehicles as their primary mode of transport and 55% have found using an e-bike more convenient than driving. Since the initiative, demand for e-bikes is reported to have gone from strength to strength, with the island's first dedicated e-bike retail outlet opening early in 2019 to meet this sustained increase in demand. This significant degree of modal shift underscores the further potential of e-bikes in achieving the Strategy's Vision.

Another Strategy initiative that has made cycling a more viable transport choice has been the linking up of Ruettes Tranquilles to form a network of routes, promoted through clearer signage, a map and an app. This network makes it easier to avoid main roads and makes cycling more accessible to visitors and to locals, especially those looking for bike-friendly commuter routes. At the end of August 2019, the app had been downloaded 2,561 times.

An on-going programme of cycling infrastructure enhancement has seen the introduction of various other improvements, such as safer crossings, additional cycles stand locations and covered cycle shelters.

Similarly, an ongoing programme of infrastructure enhancement for people travelling on foot (including those in wheelchairs and on scooters etc) has already improved the experience in many areas. Wider footpaths, more and better designed crossings and improved lighting all contribute to greater convenience and safety for people on foot, while the Ruettes

Tranquilles network again has helped people find more pleasant walking routes away from the main roads.

Key positives include:

- **Surveys of people who purchased an e-bike under the subsidy scheme in 2018 indicate a potential combined annual saving on car miles of up to 265,000 miles;**
- **Surveys along the seafront indicate a rise in both cycling and walking during the morning commute.**

Objective:

To achieve a greater proportion of smaller motor vehicles, especially in terms of car widths

Progress

Small cars are popular in Guernsey as they bring many benefits, including fuel efficiency, low emissions, and ease of manoeuvrability on our constrained road network.

However, beyond these inherent benefits, there are only two policy-related incentives to buy a small vehicle: the low (or zero rated) first registration duty and preferential parking. The relative advantage of paying a low first registration duty under the current system (with its maximum charge of £690 for the highest emissions vehicles) is significantly less than it would be in the UK, or indeed than it would have been under the duty originally agreed by the States in 2014, where the maximum charge would have been £5,600 for the largest and highest emissions vehicles.

In order to be classed as a small car in Guernsey, cars need to be less than 3.7m long. There is no width restriction but small cars are usually narrower than 1.7m and are certainly amongst the narrowest in circulation.

Registrations of new small cars in 2018 made up approximately 15% of the overall car market. This is a similar percentage to recent years and reflects the popularity of this sector of the car market in Guernsey. Overall, the number of small car models currently in production now make up approximately 9% of the car database in Guernsey. This compares favourably to the UK where the figure is just below 4%. However, the fact that the annual percentage has remained stable in recent years indicates that policy measures have not been a major influence in consumer habits.

Conclusions

Small car parking occupancy rates show high demand – although this is in line with most free public parking in Town, so it simply confirms that there are high enough numbers of small cars in circulation to regularly saturate the 139 small car spaces available.

Preferential parking for small vehicles is a soft incentive that is unlikely to have had much (if any) influence over vehicle purchasing habits. It may, though, have had some bearing on the specific vehicle chosen for specific journeys to Town in households where choice exists. Accordingly, any increase in proportion of small and/or narrow vehicles will be due to incidental factors rather than policy levers.

Incidental pull factors include the relative convenience of smaller cars on our narrow roads and lanes, and the fact that smaller cars tend to be lighter, which tend to burn less fuel and therefore cost less to run than a bigger vehicle.

Key positives include:

- **Small cars continue to be popular in Guernsey and make up approximately 15% of annual new car registrations;**
- **Approximately 9% of total cars registered in Guernsey are now small cars, compared to just 4% in the UK.**

Objective:

To achieve a greater proportion of cleaner, low emissions motor vehicles

Progress

Since moving away from motor tax in 2008, there has not been any mechanism by which to collate accurate figures for vehicles in circulation on the island's roads. However, by analysing annual registrations and de-registrations since motor tax was abolished, the total figure of 84,327 motor vehicles officially registered as at the end of 2018 can be reduced to an estimated 61,300 vehicles in active use in the following categories:

Cars – 45,400;
Commercial vehicles – 8,200;
Motorcycles – 7,700.

The Strategy's first registration duty[12] is based on CO_2 emissions but, unlike the UK and many other jurisdictions, there is no active incentive (i.e. subsidy) for zero emissions vehicles. The quantum of the charge for high emissions vehicles is typically a very small proportion of the total cost of the vehicle. Accordingly, despite a continuing reduction in annual vehicle registrations and environmental improvements and fuel efficiencies being made in combustion engine design, revenue from first registration duty has remained fairly constant and for 2019 has already exceeded the sums raised in both 2017 and 2018.

Income from first registration duty since its introduction on 1st May 2015:

2016 - £634,070 (from 01/05/16);
2017 - £1,193,780;
2018 - £1,162,255;
2019 - £1,180,120 (up to 16/12/19)

[12] See Appendix 13

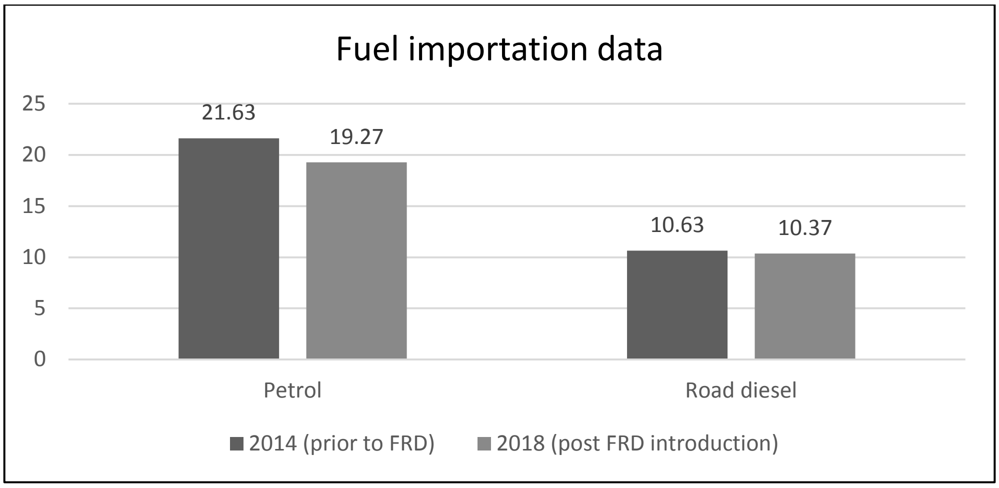
Looking more closely at first registration duty income it is clear that the current rates are having no impact on the number of higher emissions vehicles being registered in Guernsey. For example, the number of diesel vehicles registered in the highest emissions bracket (over 141 g/km) between 1 January and 19 December 2019 is 7.7% higher than it was at the same point last year (392 vehicles versus 364 in 2018). The position is the same for petrol cars registered in the highest emissions bracket (over 166 g/km) where the number has risen by 12.4% in the same period (371 vehicles versus 330 in 2018). This contrasts with the overall position where the total number of cars being registered annually continues to fall.

These high emissions vehicles are likely to be larger models such as Sport Utility Vehicles (SUVs), which typically consume around a quarter more energy than a medium-sized car. This reflects a growing trend of rising SUV sales internationally, which threatens to cancel out the emissions reductions from improved fuel efficiency in smaller cars and increasing EV numbers. In fact, according to the International Energy Agency[13], SUVs have been the second-biggest cause of the rise of global CO2 emissions over the last decade, behind only the power sector and ahead of heavy industry, heavy goods vehicles and aviation.

Fossil fuel consumption for road transport is falling gradually, in line with trends in other jurisdictions, as newer, more fuel-efficient passenger cars replace older models. There is a direct correlation between fuel consumption and carbon emissions, so this gradual decrease is evidence that the island’s fleet as a whole is generating fewer emissions.

[13] Growing Preference for SUVs Challenges Emissions Reductions in Passenger Car Market, Laura Cozzi & Apostolos Petropoulos, International Energy Agency, October 2019.

Graph 14 – Fuel import analysis for petrol and road diesel

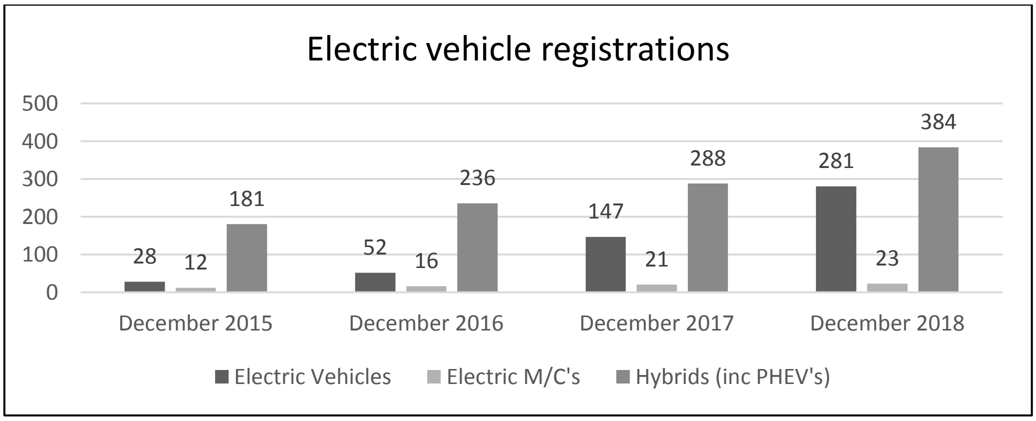


Source: Guernsey Facts & Figures Booklet

Baseline greenhouse gas emissions data shows emissions from transport-related fuel consumption in Kilotonnes of CO2 equivalent as 117.6 in 2013, 117.3 in 2014, 115.5 in 2015 and 114.1 in 2016: a downward trend that mirrors increasing fuel efficiency and the transition to electric vehicles (EVs).

Registrations of EVs in Guernsey continue to grow, and whilst they still represent less than 1% of the estimated total number of car and light vans currently in circulation on Guernsey's roads, electric vehicles are now accounting for around 3.7% of new registrations annually. EVs and alternative fuel vehicles together account for around 7% of the total number of annual registrations.

Graph 15 – Electric/Hybrid vehicle registrations

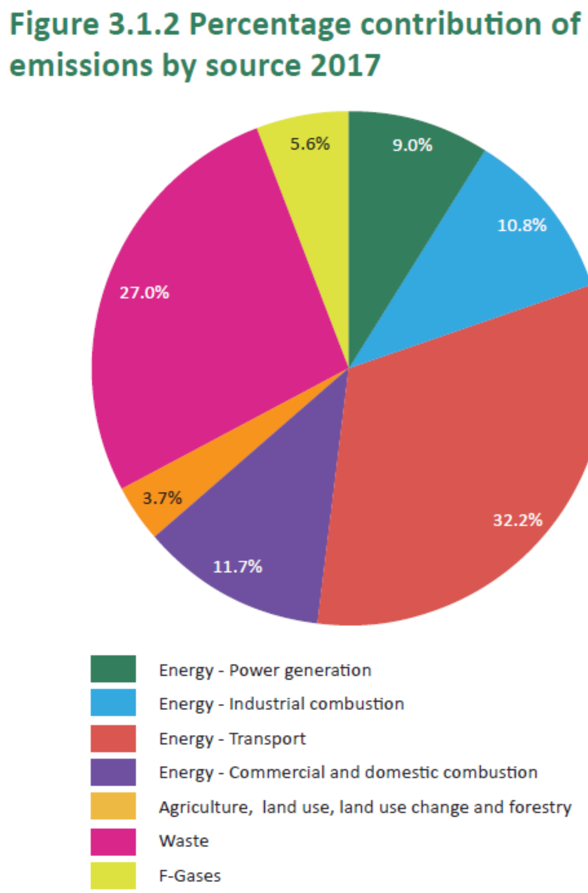


Source: Driver and Vehicle Licensing database

The number of EVs has continued to rise in 2019, with a total of 384 vehicles registered by 30 September, an increase of more than 100 vehicles compared with the start of the year. The overall number of hybrid cars registered has also increased by a similar amount in 2019, up 89 to 473 at 30 September. The number of electric motorcycles has more than doubled from 22 to 46 in the last nine months, with the introduction of a number of new models to the market this year.

Notwithstanding this, in global terms progress towards this objective is slow. The most recent greenhouse gas emissions data available show that transport is responsible for the biggest proportion of Guernsey's emissions – over a third of the total. In 2017, transport contributed 32.2% of the total greenhouse gas emissions, as illustrated in Graph 16.

Graph 16 – Greenhouse gas emissions data



Source: States of Guernsey Facts & Figures 2019

In terms of licensed public transport operations, there has been a notable switch to alternative fuelled vehicles in the taxi industry, with some 34 hybrid vehicles now in regular use in a fleet of 125 taxis. This equates to approximately 850,000 miles per annum driven by hybrid taxis.

The Committee has recently replaced 33 of its Euro 3 diesel buses with 34 new Euro 6 Ultra-low emission StreetVibe buses (ULEBs). This has resulted in reductions in emissions of the most harmful pollutants, Nitric Oxide and Particulate Matter, by as much as 98% and 90% respectively. For comparison, 50 of the new Euro 6 buses emit the same levels of Nitric Oxide between them as just one Euro 3 bus. The following table provides a comparison between the emissions of a Euro 3 Dennis Dart and our new Euro 6 StreetVibes.

Table 11 – Comparison of emissions data for public buses

Emissions	Euro III (g/KWh)	Euro VI (g/KWh)	% change
Nitrogen Oxide (NOx)	5.0	0.01	-98%
Particulates (PM)	0.1	0.01	-90%
Carbon Monoxide (CO)	2.1	1.5	-29%
Hydrocarbons (HC)	0.66	0.13	-80%

Source: Official EU emissions data

Cgon units (now called Atmosclear) have been fitted to the remaining eight Euro 3 diesel buses in order to reduce emissions further. Initial indications show a reduction in both fuel consumption and emissions on these vehicles. Overall emissions of the bus fleet are now a small fraction of what they were just three years ago.

Conclusions

Although there is nominally a policy mechanism to encourage a switch towards lower emissions vehicles through the first registration duty, which is based on CO2 emissions, the duty is set at a rate that is unlikely to influence consumer behaviour.

Guernsey's duty is also a one-off cost, typically considered part of the purchase cost for people buying a new vehicle. The top band for the most polluting vehicles is just £690. The UK equivalent (in common with many other jurisdictions) is not a one-off cost: vehicle excise duty is payable in each of the first six years after registration.

The top band for the most polluting vehicles in the UK is £2,000 in the first year, then either £140 or £450 (depending on the value of the vehicle) per year for the next five years. The total duty over six years is therefore between £2,700 and £4,250 for very high emissions vehicles. The higher one-off cost on top of annually recurring charges are more likely to influence consumer choice than a lower one-off charge.

It is unsurprising, then, that there has been no significant change in purchasing habits towards lower emissions vehicles since first registration duty was introduced in 2016. Indeed, the notable increase of vehicles in the highest emissions bracket is evidence that the first registration duty is not at all effective in that respect.

The rise in numbers of electric and hybrid vehicles in the last three years has been steep, but it started at a very low base: EVs are still only a tiny fraction of the island's vehicle numbers overall.

EVs have a growing share of the market internationally, driven by government subsidies and investment into research and development by manufacturers. EV market share in Guernsey is well behind that of other jurisdictions[14]: it is less than half that of the UK, where EVs represent 1.86% of the market, and many orders of magnitude smaller than Norway, where EVs have a 39.2% market share.

As there is no subsidy for electric vehicles in Guernsey, the move towards them is likely to be influenced by a number of external factors. As the EV market matures there is a greater range of choice and availability, including in the second-hand market (in which EVs are much closer to cost parity with internal combustion engine vehicles).

[14] December – EV Registrations, Society of Motor Manufacturers and Traders, May 2018

Environmental considerations influence the purchasing decisions of some Guernsey consumers, as do running costs. Because the only taxes levied on vehicles in Guernsey are first registration duty (which is zero-rated for EVs)

and fuel duty, because electricity is a far cheaper form of fuel than petrol or diesel (largely because it is not taxed) and because EVs typically require less maintenance, it costs significantly less to run an EV compared with an ICEV.

These pull factors help to explain the rise in EV numbers locally, while the absence of a subsidy helps to explain why that rise hasn't been greater. External market forces seem to be driving the majority of progress towards meeting this Strategy objective.

Key positives include:

- **A 14-fold increase in the number of electric cars and a 4-fold increase in the number of electric motorcycles;**
- **Over 25% of the local taxi fleet is now hybrid;**
- **A significant reduction in annual emissions from the States owned public bus fleet.**

Objective:

To improve safety for all road users, particularly vulnerable road users

Progress

Road safety can be measured in two ways: by the objective facts relating to data such as collisions and injuries, driven speeds etc, and by people's perception of safety. Both are valid and relevant. There is often a mismatch between the two.

The objective data show us that Guernsey is a safe place to travel, with few deaths and serious injuries resulting from road harm, both in absolute and relative terms. Notwithstanding this fact, it is important to acknowledge that every death or serious injury has a significant impact on these individuals and their loved ones. Not all road traffic collisions are reported to Guernsey Police, so injury data (especially for minor injuries) are likely to be inaccurate. A UK report[15] concluded that "injuries sustained on Britain's roads may be around five times more common than police injury statistics suggest."

Three of the top roads for reported collisions in Guernsey are St Julian's Avenue, South Esplanade and Collings Road. Collisions are more likely in areas where there are high volumes of motorised and non-motorised transport modes mixed.

Collision data recorded in Guernsey between 2014 and 2018 as compared with the UK and Jersey is shown in Tables 12 to 16.

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[15] Road Injuries in the National Travel Survey: Under-Reporting and Inequalities in Injury Risk, Dr Rachel Aldred, 2018.

Tables 12-16 – Collision reports involving injury

Table 12 - Recorded Collision Data for 2014						
Jurisdiction	Deaths	Per 100,000	Serious injury	Per 100,000	Slight injury	Per 100,000
UK	1,775	3	22,807	35	169,895	264
Jersey	1	1	50	50	326	323
Guernsey	0	0	11	18	145	233

Table 13 - Recorded Collision Data for 2015						
Jurisdiction	Deaths	Per 100,000	Serious injury	Per 100,000	Slight injury	Per 100,000
UK	1,732	3	22,137	34	162,340	247
Jersey	0	0	66	65	257	255
Guernsey	1	1	10	16	88	141

Table 14 - Recorded Collision Data for 2016						
Jurisdiction	Deaths	Per 100,000	Serious injury	Per 100,000	Slight injury	Per 100,000
UK	1,792	3	24,101	37	155,491	237
Jersey	2	2	69	66	244	234
Guernsey	0	0	9	15	133	214

Table 15 - Recorded Collision Data for 2017						
Jurisdiction	Deaths	Per 100,000	Serious injury	Per 100,000	Slight injury	Per 100,000
UK	1,793	3	24,831	38	146,162	221
Jersey	1	1	55	52	221	209
Guernsey	2	3	18	29	101	163

Table 16 - Recorded Collision Data for 2018						
Jurisdiction	Deaths	Per 100,000	Serious injury	Per 100,000	Slight injury	Per 100,000
UK	1,782	3	25,484	38	134,894	203
Jersey	N/A[1]		N/A[1]		N/A[1]	
Guernsey	0	0	7	11	119	190

[1]Data unavailable at the time of going to print

Source: Department for Transport – Reported road casualties in GB: 2014-2018 Annual Reports & Guernsey and Jersey Police Accident statistics

Subjective data shows that people can feel vulnerable walking or cycling in Guernsey and that the size, width, volume and perceived speed of vehicles are a concern to many.

If the rise in high emissions vehicles identified through first registration duty equates to a greater number of SUVs on Guernsey's roads, this will have implications with respect to this objective. SUVs have a disproportionately negative impact on road safety compared with other personal motor vehicles. A range of factors including their height, weight, shape, rigidity and headlight line combine to make SUVs significantly riskier to all road users, including their own occupants, people in passenger cars with good safety standards, and especially people who are not inside a vehicle. Once SUVs establish a foothold in a market, sales tend to increase sharply. Economist Michelle White describes this phenomenon as an "arms race"[16]: as more SUVs appear on the roads, people in passenger cars feel increasingly vulnerable and are more likely to switch to an SUV, strengthening the feedback loop.

First registration duty data suggest this pattern could exist in Guernsey. It seems probable that we have both a relatively high percentage of small cars and, conversely, a growing proportion of large vehicles.

'Vulnerable road users' is the broad term given to people using non-motorised forms of transport – so people who are walking, riding a bike, travelling in a wheelchair or mobility scooter or being pushed in a buggy, for instance. The most fundamental form of vulnerability is that of the human body to withstand force: people using non-motorised forms of transport are therefore put at much greater risk by people using faster moving, heavier vehicles. The heavier the vehicle and the faster it is travelling, the greater the responsibility of the person in control of it for other road users' safety.

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[16] The "Arms Race" on American Roads: The Effect of Sport Utility Vehicles and Pickup Trucks on Traffic Safety, Michelle White, University of California, San Diego, 2004.

Some groups of road users are inherently more vulnerable than others. People over the age of 65 are significantly more susceptible to injury than other age groups in the event of a collision[17] (both inside and outside a vehicle), for example, and primary school-aged children cannot accurately judge the speed of vehicles travelling over 20mph[18] so are at greater risk than adults in that respect. People with visual or hearing impairments, as well as people with limited mobility, are also at greater risk of being involved in a collision.

Traffic volumes are another key risk factor: vehicular traffic presents a risk to all road users, so reducing the number of motorised vehicles (which pose the highest risk) improves road safety for everyone. Even regardless of traffic volumes, though, increasing numbers of people walking and cycling also has a positive impact because of a phenomenon known as the safety-in-numbers effect[19]. In other words, the more people that walk or ride a bike, the safer each will be, even where traffic volumes don't drop. However, the combination of reduced traffic volumes and increased active travel is optimal: a modal shift from motorised vehicles to non-motorised forms of transport makes travelling less risky for everyone.

The safe system approach is based on the principle that death or serious injury on our roads is never acceptable: it takes a holistic view of the transport system (i.e. interactions between road users, roads and roadsides, vehicles and vehicle speeds) to minimise the likelihood of anyone getting hurt on our roads and to minimise the severity of any collisions that do occur. The safe system approach is proven to be a very effective form of road safety management, which is why both the World Health Organisation[20] and the Organisation for Economic Cooperation and Development[21] (among others) recommend that all countries implement

[17] Road Traffic Injuries in the Elderly, W Y Yee, P A Cameron, M J Bailey, Emergency Medicine Journal, Volume 23, Issue 1, April 2006

[18] Reduced Sensitivity to Visual Looming Inflates the Risk Posed by Speeding Vehicles When Children Try to Cross the Road, John P Wann, Damian R Poulter, Catherine Purcell, Psychological Science, Volume 22, Issue 4, April 2011

[19] Safety-in-numbers: A Systematic Review and Meta-Analysis of Evidence, Rune Elvik, Torkel Bjørnskau, Safety Science, Volume 92, February 2017

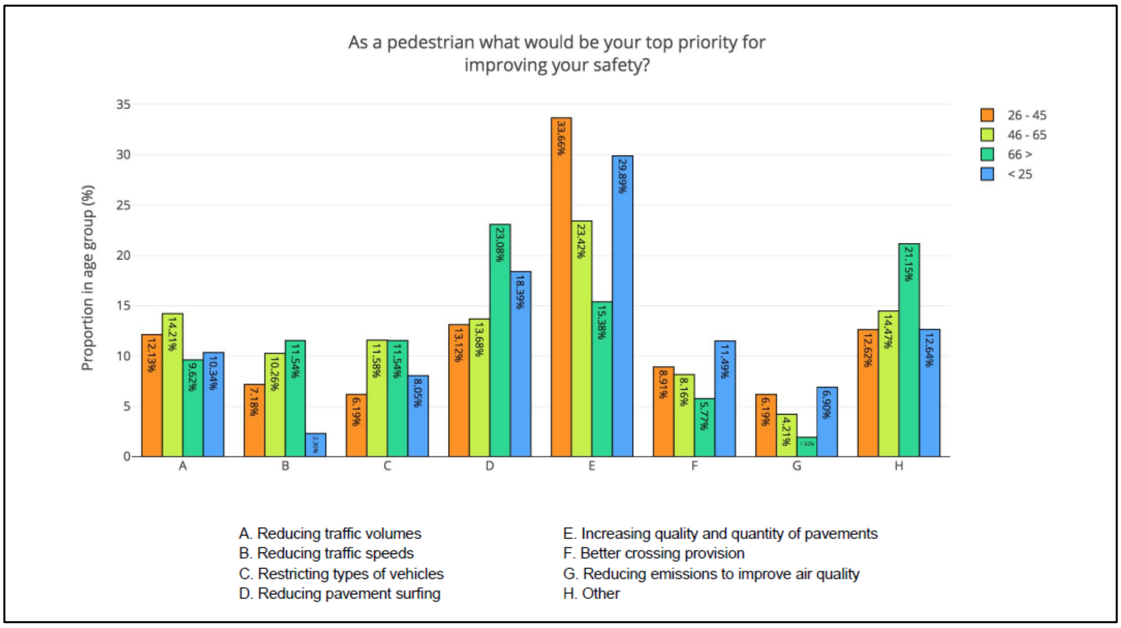
[20] Global Plan for the Decade of Action for Road Safety 2011-2020, United Nations Road Safety Collaboration, March 2010

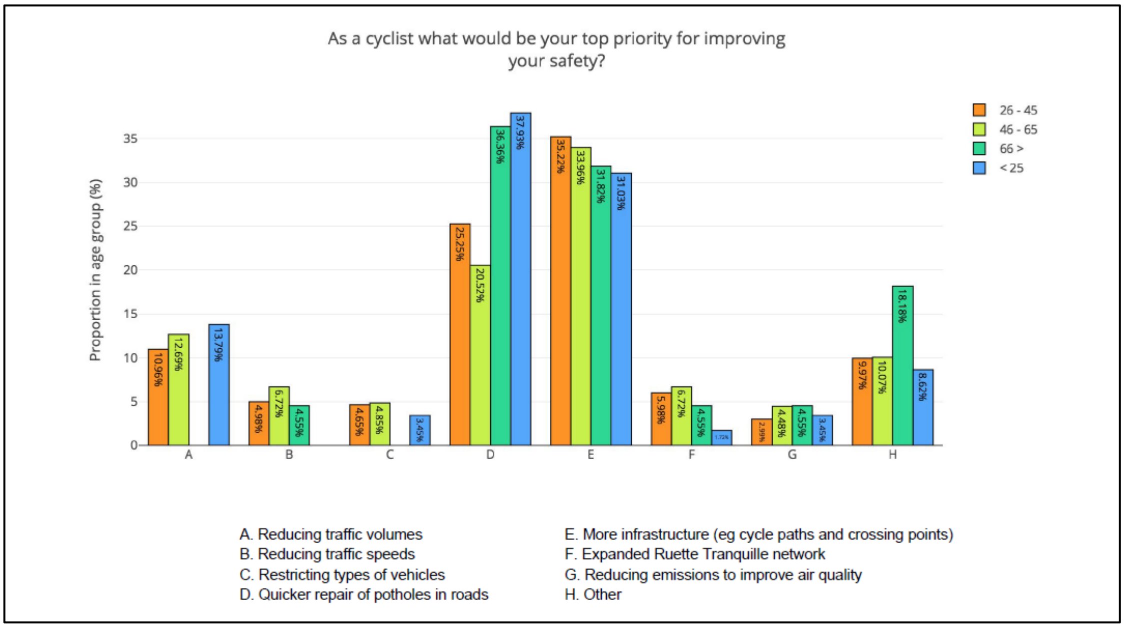
[21] Towards Zero: Ambitious Road Safety Targets and the Safe System Approach, Joint Transport Research Centre for the OECD and the International Transport Forum, January 2008

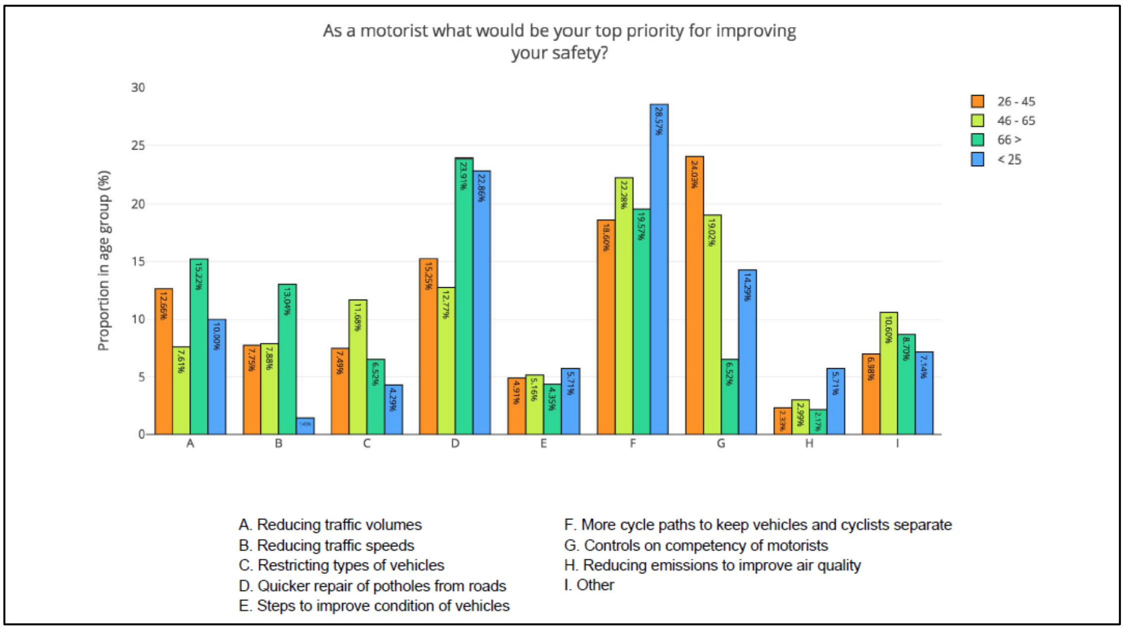
it. The safe system approach also aligns with broader social, economic and environmental goals, such as more vibrant and accessible town centres, increases in physical activity and reductions in congestion and pollution.

The safe system approach recommends that speed limits should be ‘self-explaining’ (or ‘self-enforcing’ as it’s sometimes known) as far as possible. Studies show that zones are usually the most effective and reliable way to reduce speed in small areas, especially where the road geometry is adjusted, for example making traffic lanes narrower and less straight, introducing physical calming measures such as speed cushions, and using visual cues such as different textiles and clear signage.

Graphs 17-19: Apptivism survey – headline results







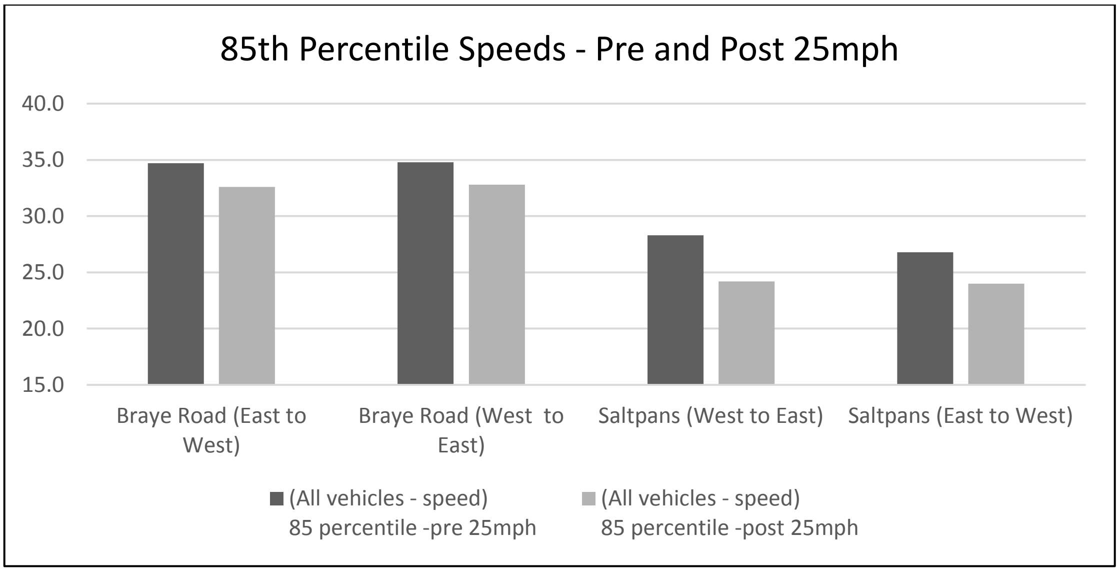
The universal priority across all three categories of road user in terms of safety was improved infrastructure, primarily in relation to the creation of more dedicated space for walking and cycling, but also in respect of highway maintenance. People who walk or drive also prioritised driver education/competency in their top three responses. Volumes of traffic and traffic speed were also identified.

A number of infrastructure projects relating to the provision of new pavements and improving existing shared facilities have been initiated. Measures have also been taken to address driver speeds. Phase 1 of the speed limit review better aligned busy community hubs with lower speed limits, following the principles of the safe system approach. Four new 25mph zones were created around local centres and a school, while the boundaries of five existing 25mph zones were adjusted to reflect development.

Initial results of speed surveys undertaken during peak hours before and after the changes were implemented show that average speeds (the sum of each vehicle speed divided by the total number of vehicles observed) have reduced by as much as 3.6mph, and 85th percentile speeds (the speed at or below which 85% of all vehicles are observed to travel) have reduced by as much as 4.3mph.

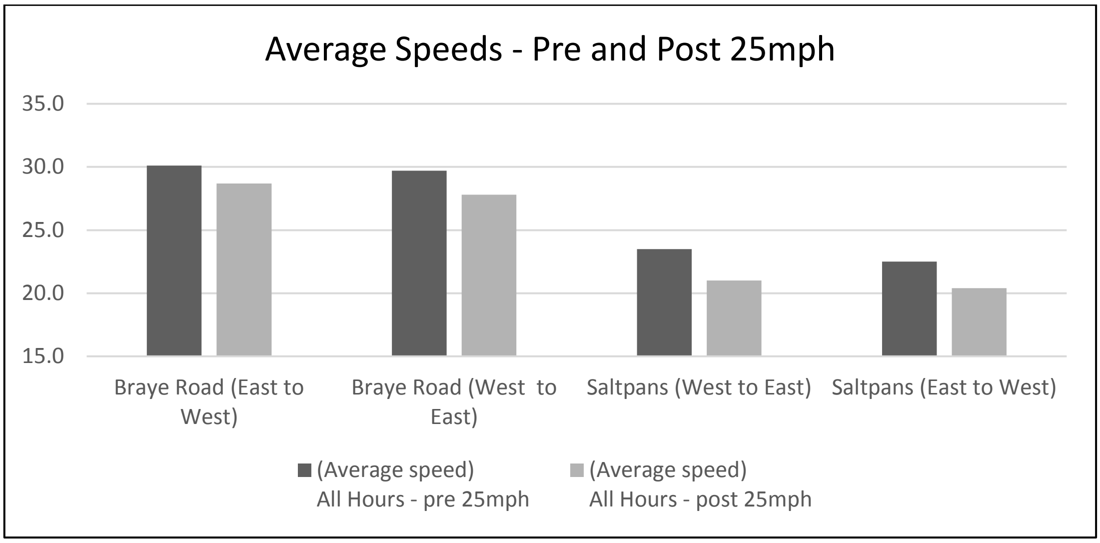
In Braye Road, for example, average speeds during peak hours have reduced from 29.5mph to 27.8mph in a westbound direction, and from 28.3mph to 26.3mph in an eastbound direction. In Saltpans, average speeds during peak hours have reduced from 23.1mph to 20.0mph in a westbound direction and from 24.4mph to 20.8mph in an eastbound direction.

Graph 20 - Analysis of 85th Percentile traffic speeds in Braye Road and Saltpans



Source: Traffic counters

Graph 21 - Analysis of Average traffic speeds in Braye Road and Saltpans



Source: Traffic counters

These decreases in speed are encouraging, particularly considering that no traffic calming measures have been introduced at this time. For each 1mph decrease there is an approximate 4 to 5% reduction in the likelihood of serious injury or death being caused in the event of an accident with a vulnerable road user.

Historical data show that there is a statistically significant increase in walking and cycling associated with similar speed limit decreases in equivalent local areas in the UK[22]. It is reasonable to expect to see a similar effect in Guernsey.

Most of the current 25mph limits in Guernsey are part of zones (as opposed to limits for individual roads) and the use of roundels at key entry points helps to emphasise the parameters of the zone. Other measures have been used sparingly to date. One example is at the Longfrie where data showed that average speeds into the St Pierre du Bois 25mph zone from the west along La Route du Longfrie were excessive, even after the introduction of a filter at the junction at the crossroads (which was introduced primarily for traffic flow reasons but did have a measurable traffic calming effect). A raised table has now been built at the junction,

[22] 20mph Research Study: Process & Impact Evaluation Headline Report, Atkins, AECOM and Professor Mike Maher (UCL), November 2018

both to slow traffic speed going into the St Pierre du Bois 25mph zone and to help vehicles turning onto La Route du Longfrie.

A watching brief is being kept on the other 25mph zones so that appropriate measures can be trialled and/or implemented if speed limits are not proving to be sufficiently self-explaining.

Bikeability training has been rolled out to all States primary schools and is proving popular. Programmes delivered in conjunction with the emergency services educate those in secondary school on the dangers of speeding and other forms of dangerous driving. Other ongoing programmes of walking and cycling infrastructure enhancements are improving safety for vulnerable road users. However, a network is only as strong as its weakest link, so the cohesion of walking and cycling routes is an important factor.

Conclusions

There are still many key roads in Guernsey (even within some local centres) that do not have adequate – or any – footpaths, or adequate safe crossing points. Footpaths have been widened and new crossings introduced in a number of locations, including features such as dropped kerbs and blister paving to assist people with disabilities. However, many footpaths are still too narrow for people to pass each other without stepping into the carriageway and there are still many key walking routes that are interrupted by a lack of safe crossing points. Some proposed crossings (such as on Rue Poudreuse) have not been progressed as planned as they require the permission of private landowners, which has been withheld.

There are currently only two sections of separated cycling infrastructure in Guernsey, one in Baubigny and the other being the principal cycle route along the eastern seaboard. Some improvements have been made to the eastern seaboard cycle path: access and egress to/from Bulwer Avenue in the north has been made safer, as has the junction with Salerie car park. Further improvements are planned to signs and lines, access to Victoria Avenue and in relation to the various bus laybys that intersect the cycle route along the eastern seaboard at given points. Improving access to and from the path at the Weighbridge/North Beach was identified as a priority in an independent report in 2015, but progress has been frustratingly slow. The creation of a separate bus/taxi lane along part of the seafront would help to circumvent the safety issues presented by bus laybys cutting into the cycle path.

The provision of separated footpaths and cycle paths is far safer than mixing people travelling on foot or by bike with motorised transport, and the few areas that exist in the island are well used. However, notwithstanding the modest improvements in recent years, Guernsey's separated cycling infrastructure is not high quality compared with provision in other places.

Separated infrastructure in combination with one-way systems will need to be introduced if meaningful changes are going to be made.

Working alongside the Committee *for* Education, Sport & Culture, Travel Plans are being introduced at the two proposed new school sites and work is ongoing on the introduction of Travel Plans at other schools.

Key positives include:

- **Bikeability training is now being delivered across all States primary schools;**
- **A reduction in average and 85th percentile speeds has been achieved in areas where there is potential for greater conflict between motor vehicles and vulnerable road users;**
- **New pavements and other safety improvements have been introduced in a variety of locations.**

Objective:

To improve transport accessibility for all members of the community, particularly non-drivers and those with disabilities or on low incomes

Progress

Being able to access transport and then reach an intended destination is fundamental to a functioning society. It can be precluded by poor road infrastructure or poor provision of appropriate options. In line with the aims of the Strategy, specific consideration is now given to including improved facilities for vulnerable road users, including people with mobility or other disabilities that might impact their ability to get from A to B, when designing planned road resurfacing projects. Most usually this involves the inclusion of dropped kerbs and tactile paving at road junctions but can also include the provision of new or widened pavements, improved bus waiting facilities and either controlled or uncontrolled (informal) crossing points to assist people walking to cross the road in a safer environment. Recent examples where accessibility standards have been improved include works undertaken at L'Erée, Les Gravées, Ruettes Brayes and South Esplanade.

In recent years the number, location and design of disability parking spaces in public areas have been improved with emphasis on ensuring sufficient availability, proximity to amenities and ease of access to/egress from vehicles.

Priority is also being given to improving accessibility to, from and within community areas, as the value of providing improved accessibility is only as good as the weakest link. More recent achievements in this regard include improvements in Market Street, Le Truchot, at the bottom of Cornet Street and at the Town Church. Church Square, the High Street and Le Pollet have been identified as priorities for accessibility improvements.

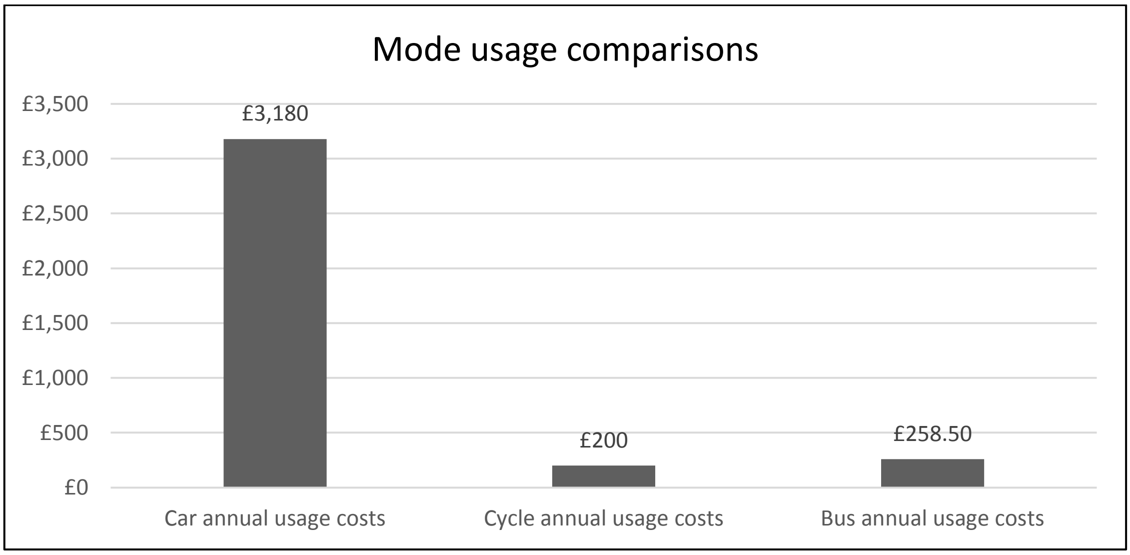
In terms of public transport, all of our buses have been wheelchair accessible since 2003 and, more recently, with the introduction of a new fleet of buses we have introduced a passenger announcement system which provides both visual and audio prompts as to where and when to alight the vehicle. Disability awareness training has been undertaken by all scheduled bus service drivers and has also been offered to taxi drivers. In 2018, a new “Access Card” was introduced on all scheduled bus services. The cards can be shown to bus drivers to help them identify the person’s disability or condition so they can be offered additional support if required. Approximately 500 cards have been issued to people with a wide range of disabilities or health-related issues.

Four new wheelchair-accessible taxi plates have been issued in a new accessibility category and the Committee *for the* Environment and Infrastructure can also license an additional four accessible taxi plates if demand outstrips the service provision.

The importance of public transport as a social service should not be underestimated. In this regard it needs to be accessible and affordable, have good network coverage and be timely and reliable.

Financial accessibility to transport is another key consideration.

Graph 22 - Affordability – cost of transport – per mode



These figures are based on:

- Bus fares previously charged at 55p per Puffin Pass x 470 journeys per annum = £258.50 per year.

- Cycle ownership being the purchase cost divided by 10 (years of ownership) + estimated annual maintenance @ £50 per annum Therefore: £1,500/10=£150+£50 = £200 per year.

- Car ownership being the purchase cost (say £17,000 or £1,700 per annum over 10 years), Fuel Use (6,000 miles per annum based on 40mpg = 150 gallons/682.5 litres @£1.35 = £920) plus insurance @£260 and servicing/maintenance @£300 = £3,180 per year.

This analysis shows that for someone earning approximately £30,000 per annum, car ownership would account for 10% of their salary.

However, comparisons with the UK and Jersey show that the cost of running a car in Guernsey is relatively cheap, primarily because of the absence of consumption taxes.

Table 17 – Estimated cost of running a car in Guernsey. Jersey and the UK

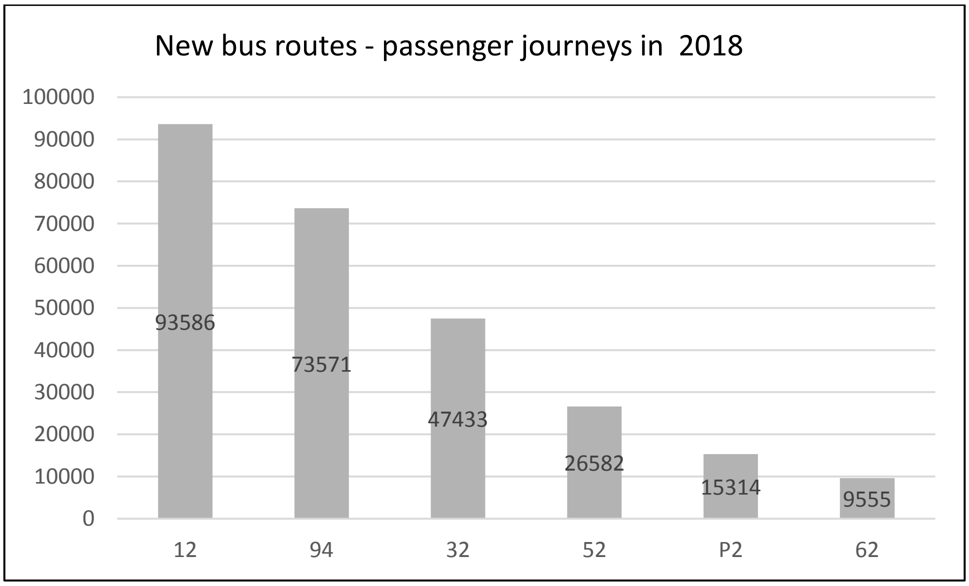
	Guernsey £	**Jersey £**	**UK £**
Annual:			
Fuel Duty	438	313	377
Vehicle Tax	-	-	140
Consumption tax on fuel and insurance	-	34	182
Parking and roadworthiness test	-	125	102
TOTAL ANNUAL COSTS	**438**	**472**	**801**
One off costs:			
First registration	150	268	220
Consumption tax on purchase	-	801	3,204
TOTAL ONE OFF COSTS	**150**	**1,069**	**3,424**

Source: Policy & Resources Committee – Taxation of Motoring Policy Letter

Over a five-year period, the average annual costs would be £468 in Guernsey, £686 in Jersey and £1,486 in the UK.

The Scheduled bus service network offers a comprehensive island-wide service with a minimum frequency of 30mins at peak times on all routes. With approaching 2 million passenger journeys on the network every year, the service has become an important and integral part of society and none more so than for non-drivers, those on low incomes or those with disabilities. New scheduled bus routes introduced since 2014 include Routes P2, 12, 32, 52, 60 and 94. In 2018 these routes facilitated a total of just under 127,000 passenger journeys.

Graph 23 – Passenger journeys on new bus routes during 2018



Source: Ticketer

Fares have been maintained at an affordable level, with the flat rate for a single journey capped at £1 and cheaper multi-buy fares available with a Puffin Pass. Fare-free concessions for children, students and over 65s ensure there is no financial barrier to bus use for those groups. By comparison with Jersey and the UK, the Guernsey scheduled and school services are more affordable and financially more accessible for people on low incomes.

School buses also have an important role to play: they currently complete some 350,000 student transfers per year, using a mix of States owned and private hire vehicles. Since 2014, new school bus services have been introduced at Castel, Grammar, St Martin and Les Beaucamps schools.

Conclusions

Significant incremental improvements are being made to our road infrastructure to improve accessibility but this is a long-term objective and will take time to complete.

Using the public bus service represents a viable and cost effective alternative to car ownership and, for some, is the only form of transport that they can afford. Using a taxi at times when buses aren't available or to reach bespoke destinations is a viable option for many. Both forms of public transport have seen further improvements in accessibility provisions for people with a physical disability.

Key positives include:

- **An affordable, timely and fully accessible public bus service;**
- **Provision of wheelchair accessible taxis;**
- **Completion of a review of disabled parking provision and updating of parking space design;**
- **Continued improvements to road infrastructure to support accessibility.**

Objective:

To improve the public realm, particularly in the main centres

Progress

Public realm enhancements in Market Street were completed in May 2019 and have transformed the area into a vibrant and attractive place to be. Similar proposals for the North Plantation are at an advanced stage of planning.

In each area, vehicle movements are restricted, the road resurfaced and the surrounding aesthetics improved to make it more welcoming to people to move around on foot and to spend time there – for example by facilitating al fresco dining or socialising.

Some high footfall areas of old flagstone pavement in Town become so smooth over time that they are slippery in wet weather. Several of these areas of paving such as the Pier Steps and St James Street have been regenerated to restore their grip and make them safer to walk on.

The first two major public realm projects have taken a long time to get through the concept, design and planning phases, largely because of the different stakeholders involved. However, the results in Market Street show the benefits that can be achieved.

Conclusions

Market Street is an excellent example of how a previous tarmacadam road can be transformed into something far more practical from an accessibility perspective and aesthetically pleasing on the eye.

More subtle changes being implemented at South Esplanade and La Vallette have had similar results and the next project will see a more ambitious resurfacing scheme being undertaken at North Plantation.

Further schemes of this nature will increase the potential for the businesses in the locality to grow their revenue from improved customer dwell time, as well as enhancing the general look, feel and ambience of Town. Other more ambitious areas for enhancement include the High Street, Church Square and the Lower Pollet.

Key positives include:

Noticeable improvements in the visual appearance of parts of Town providing improved opportunities for businesses to attract customers.

CLOSING SUMMARY

Despite the absence of several key policy mechanisms (for example, paid long-stay parking, a free bus service and a first registration duty based on width as well as emissions), there has been some notable progress towards the Strategy's objectives.

There has been a modest reduction in the number of car journeys, including solo-occupancy trips, reducing peak hour traffic by around 5% against a loose target of 10%.

There has been a significant increase in the number of journeys made by alternative forms of transport. In terms of active travel, small data sets and broader proxies suggest an increase in people walking – possibly by about 25% – and in people riding bikes – possibly by about 50%. These increases would not meet the original idealised target of doubling active travel numbers, but nonetheless represent a positive improvement since the introduction of the Strategy. Bus use has been very strong with significant growth, increasing year on year since 2013, now totalling nearly 42% above that baseline.

While the overall proportion of smaller cars on the vehicle register continues to increase, as per the Strategy's objective, the annual percentage of small car registrations has remained at or around 15% for the last five years. There is neither any mechanism to specifically encourage nor any data set to easily quantify the change in proportion of narrow vehicles, but it is unlikely that there will have been any significant change in this respect either.

There has been some notable growth in the uptake of cleaner, low emissions motor vehicles, with EV registrations rising around 14-fold from a very low base at the start of the Strategy. In total numbers, however, they still represent less than 1% of vehicles in circulation on Guernsey's roads. There has been no significant swing towards lower emissions ICE vehicles; in fact, conversely, there has been a marked increase of vehicles registered in the highest emissions bracket – an 8% increase in the highest emissions diesels and a 12% increase in the equivalent petrol vehicles in the last year alone. These factors combined expose the ineffectiveness of the current first registration duty in achieving this objective.

Road safety is difficult to quantify, but it does appear there has been a general, modest improvement in terms of the statistics recorded by the Police as well as speed data in zones where limits have been reduced. Without a comparable baseline, progress in terms of the subjective data can’t be measured, but they do highlight clear areas of focus. Incremental measures have been introduced to improve safety for vulnerable road users in particular.

Transport accessibility has also been improved: measures aimed at making travel options accessible for people with disabilities have been prioritised, as have measures to make alternative forms of transport easier, safer and more convenient. In terms of financial accessibility, active travel and bus use remain affordable options, even for those on low incomes.

The public realm in St Peter Port has been enhanced in several ways, big and small, and plans for further enhancements are in various stages of development.

In summary, there has been some good progress made towards several of the main objectives, especially given the discrepancies between what the Strategy seeks to achieve and the mechanisms by which it can do so. Overall, it has been partially effective in achieving its aims and realising its Vision.

This First Periodic Review can provide a new baseline for future periodic reviews and inform means of improving the effectiveness of the On-Island Integrated Transport Strategy in the interim.

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THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

REQUÊTE

TOWARDS A MORE EFFECTIVE STRUCTURE OF GOVERNMENT

The States are asked to decide:-

Whether, after consideration of the Requête dated 11th December, 2019, they are of the opinion:-

1. To agree that, in order to improve the effective working of Guernsey's structure of government, this States and its immediate successor should consider:

   a. Whether the dominance of resources over policy within the Policy & Resources Committee should be addressed, either by the creation of a separate Treasury Committee, or the establishment of a Chancellor role within the Policy & Resources Committee, or by another solution;

   (paragraphs 4.2.3 to 4.2.15)

   b. Whether to make further structural changes in order to improve the effectiveness of channels of communication between the Policy & Resources Committee and other States' Committees, either by the creation of a political Strategic Forum, or by another solution;

   (paragraphs 4.2.16 to 4.2.26)

   c. Whether further changes are required to the current political arrangements for oversight of the civil service and/or the role of the States as Employer;

   (paragraphs 4.2.27 to 4.2.31)

   d. Whether the restriction on non-States Members of the Policy & Resources Committee should be lifted;

   (paragraphs 4.2.32 to 4.2.37)

   e. Whether the lack of dedicated political scrutiny of States' finances and fiscal strategy should be addressed, through the creation of a separate Public Accounts Committee or otherwise;

   (paragraphs 4.3.1 to 4.3.8)

   f. Whether the current dispersed political responsibility for air and sea connectivity should be addressed, by the creation of a single Committee responsible for air and sea links and tourism (with consequential changes to the mandates of other States' Committees), or by another solution;

   (paragraphs 4.4.3 to 4.4.17)

g. Whether a visible political commitment to addressing climate change should be reflected in the name of the Committee *for* Environment & Infrastructure;

(paragraphs 4.4.18 to 4.4.20)

h. Whether the constitution of the States' Trading Supervisory Board in terms of political membership, and the current lack of clarity about what it means to be a 'policy-taking' committee, should be addressed;

(paragraphs 4.4.21 to 4.4.26)

i. Whether the question of Committee size should be revisited;

(paragraphs 4.5.2 to 4.5.4)

j. Whether the question of Committee Members being elected together with, and/or resigning alongside, their Committee President should be explored;

(paragraphs 4.5.5 to 4.5.12)

k. Whether a lack of subject matter expertise within the policy-making function of the public sector should be addressed;

(paragraphs 4.6.2 to 4.6.11)

l. Whether there may be possible alternative models for the relationship between the States and the Law Officers' Chambers, which might improve its effectiveness;

(paragraphs 4.6.12 to 4.6.16)

m. Whether there may be opportunities to better integrate States Members' Corporate Parenting responsibilities within their Committee and States' work;

(paragraphs 4.6.17 to 4.6.22)

n. Whether to reintroduce the title of 'Minister' in place of 'President'; and

(paragraphs 4.7.1 to 4.7.3)

o. Whether to develop alternative titles, or clarify the use of existing titles, in respect of the States and its Committees;

(paragraph 4.7.4)

p. Whether to establish a Citizens' Assembly in a form appropriate to Guernsey;

(paragraphs 4.8.1 to 4.8.6)

q. Whether to develop a Parish Charter or similar, which might allow for devolution of certain responsibilities to the Douzaines, on condition of meeting minimum standards for democratic accountability and transparency at parish level.

(paragraphs 4.8.7 to 4.8.11)

2. To direct the Policy & Resources Committee to bring a policy letter to the States for consideration no later than the end of February, 2021, which shall include:

a. A copy of this Requête, together with a proposition inviting Members to agree that the issues set out in Proposition 1 [as amended, as the case may be] and Section 4 of this Requête should be addressed; and
b. Propositions enabling the election of Members to the States' Investigation & Advisory Committee required by Propositions 3 – 8 below.

3. To resolve that a States' Investigation & Advisory Committee shall be established no later than March, 2021, to consider the areas where the current structure of government falls short of the aims first set out in the 2014 States Review Committee report (effective leadership, sound coordination of policies and resources, proportionate checks and balances, flexibility to adapt) and the changes that could be made in order to improve it; and to agree that the Committee must consider, as a minimum, the issues set out in this Requête (as amended, if need be) and the solutions proposed alongside them, and determine what changes, if any, it wishes to recommend to the States.

4. To resolve that the membership of the States' Investigation & Advisory Committee shall comprise 6 States Members including:
    a. At least one Member, elected by the States, who has already served a minimum of two complete terms of government; and
    b. At least two further Members, elected by the States, who have already served a minimum of one complete term of government; and
    c. Three further Members, elected by the States.

5. To resolve that the Chair of the Committee shall be the President or a Member of the Policy & Resources Committee and shall be elected by the States on the nomination of the Policy & Resources Committee.

6. To agree that the Policy & Resources Committee may make nominations for the remaining five seats on the Committee, which may also have nominations from the floor of the States; and that, in preparing its nominations, the Policy & Resources Committee must seek to ensure a balance of members who have had current or past experience of Scrutiny roles, of roles on Principal Committees, and of roles on other States' Committees.

7. To direct the Policy & Resources Committee to make arrangements to provide a budget (estimated at a maximum of £150,000 for one year) and administrative support of the States' Investigation & Advisory Committee from March 2021 to February 2022.

8. To direct the States' Investigation & Advisory Committee to present its recommendations to the States for debate no later than the end of February, 2022.

The above Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

<u>THE STATES OF DELIBERATION</u>
<u>of the</u>
<u>ISLAND OF GUERNSEY</u>

REQUETE

TOWARDS A MORE EFFECTIVE STRUCTURE OF GOVERNMENT

THE HUMBLE PETITION of the undersigned Members of the States of Deliberation SHEWETH THAT:

1 EXECUTIVE SUMMARY

1.1 During this term of government (2016 to 2020), the States has operated with a new structure – still based on Guernsey's traditional Committee system of government, but with fewer Committees, a separate senior Committee, a new way of managing trading assets and a new form of scrutiny management.

1.2 This structure was designed during the previous (2012 to 2016) States' term, through the work of the States' Review Committee. The proposals for the new structure were debated three times (in stages) during 2014 and 2015, and won ringing endorsement from the States each time. The new structure was intended to – and generally did – correct or improve on many of the weaknesses in Guernsey's former structure of government; providing for effective leadership and coordination, appropriate checks and balances, and a greater degree of flexibility to adapt to changing circumstances.

1.3 In practice – inevitably – the new structure has had weaknesses of its own. Some of these were anticipated in last term's debates, and Members at the time knew they would eventually need to be addressed. Others have only emerged through experience. The authors of this Requete believe the most significant weaknesses relate to:

- Some of the functions of the Policy & Resources Committee
- The working relationship between P&R and other States' Committees
- Oversight of the Civil Service
- Weak arrangements for financial scrutiny
- The lack of a single Committee responsible for air and sea connectivity
- Practical difficulties with the concept of 'policy-taking' Committees
- Committee size and cohesion, and
- The availability and quality of resources for policy & legislative development.

1.4 Other States Members may differ, or have concerns of their own to add to the list.

1.5 We should not expect anything to work perfectly first time. But we have a choice. We can leave the structure as it is, until its flaws build to frustrations, and there is another wholesale review of Guernsey's structure of government. This has already happened twice in twenty years (in 2004 and 2014) and we do not believe such large-scale change is good for the island's offer of political and economic stability.

1.6 Alternatively, we can take what we, as States Members, have learnt this term and use it to improve the structure of government and address the issues we have found most problematic. This will allow the structure of government to evolve gradually, in response to the needs of the times – blending flexibility with stability.

1.7 This Requete sets out the areas which, its authors believe, most need to be addressed. It also outlines potential solutions. By creating the opportunity for a debate on this subject, the Requete effectively allows all States Members to share their "lessons learnt" from this term of government, and to add them to the list for consideration (via amendments, if appropriate).

1.8 However, we do not think this States should force its preferences on its successors, without first giving the incoming (2020 to 2024) States Members the opportunity to consider whether such changes are needed and right. Further, based on our own experience, we think it is better, from a governance perspective, to avoid big changes to the structure of government at the same time as an Election.

1.9 This Requete therefore proposes that a States' Investigation and Advisory Committee be set up within the first year after the next Election. The terms of reference for that Committee will be the issues identified in this Requete (including by amendment) and any others that the new States may wish to include.

1.10 The membership of the Committee is intended to include a mix of experienced and new members, with different roles within government. The Committee will be directed to consider options for improving each of the issues identified, and to bring back proposals for change no later than early 2022, so that (wherever applicable) changes can be implemented mid-term rather than during an Election period. Once the Committee has reported back, it will have completed its task and can be dissolved.

1.11 The authors of this Requete believe it is a mature way of responding to some of the challenges of the current structure of government that have come to be felt during this term. The Requete and its surrounding debate will allow States Members to share "lessons learnt" from this term, and pass on what we have learned to our successors. However, it will be for the next States – who will soon be responsible for getting the best out of this structure of government – to finally determine what changes they want to make, and to implement those changes during their term.

2 BACKGROUND

2.1 In July 2014[1], July 2015[2] and November 2015[3], States Members considered a series of three policy letters from the States' Review Committee on "The Organisation of States' Affairs".

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[1] Billet d'Etat XIV of 2014: https://www.gov.gg/CHttpHandler.ashx?id=87869&p=0
[2] Billet d'Etat XII of 2015: https://www.gov.gg/CHttpHandler.ashx?id=98400&p=0
[3] Billet d'Etat XXI of 2015: https://www.gov.gg/CHttpHandler.ashx?id=98291&p=0

2.2 Those proposals created the structure of government which has been in place for the first time during this political term (2016 to 2020). The previous States gave the proposals extensive and thoughtful scrutiny, weighing up their strengths in principle along with the more complicated question of how they were likely to work in practice. Although a few minor changes were made by amendment, the proposals were approved by States Members overall as a "logical and coherent package" for the future shape of government.

2.3 The aim of the reforms was to create a States which could more consistently "provide for effective leadership, sound co-ordination of policies and resources, and proportionate checks and balances" as well as a structure which would be "sufficiently flexible to adapt if and when circumstances change."

2.4 Early on in the process, the States rejected executive government as unsuited to Guernsey. The preferred alternative was an improved Committee system. The flagship changes made as a result of the proposals include:

- The creation of a single senior Committee combining treasury and policy coordination functions (Policy & Resources), replacing the Policy Council (at which the heads of all Committees were represented) and the Treasury & Resources Department;
- The amalgamation of 10 policy-making Departments into 6 policy-making Principal Committees;
- The creation of a stand-alone States' Trading Supervisory Board, to provide a combination of political and commercial oversight of the incorporated and unincorporated trading bodies funded and/or run by the States;
- The amalgamation of 3 specialised scrutiny committees (Scrutiny, Public Accounts and Legislation Select) into 1 Scrutiny Management Committee; and
- The creation of two decision-making bodies (the Development & Planning Authority and the Transport Licensing Authority) separate from the Committees whose policy regimes they are responsible for implementing.

2.5 The States' Review Committee received considerable (and well-deserved) credit for the quality of its work. The authors of this Requete echo that praise, and believe that the three policy letters (together with the Hansard records of their debates) offer an unparalleled insight into the structure of government in Guernsey, as well as its practical challenges – providing a helpful reference text, even now, for people considering entering the States next term.

2.6 The proposals in this Requete seek to build on the strength of the work already done.

3 THE CASE FOR CHANGE

3.1 In his opening speech on the States Review Committee's proposals, in November 2015, Deputy Le Tocq said: "*There will, of course, be the need to further improve and* *to amend, to tweak, our government as we move forward. I encourage the States to accept that it is an evolutionary process and as a result there will be further changes. That is part and parcel of our system, and it is good and healthy that we should do so*."

3.2 This States has taken the new structure of government for an extended test drive. Some aspects have worked well; others have left much to be desired. Some of the weaknesses of current arrangements were predicted by the States Review Committee, or in debate, but Members at the time were prepared to try them out in practice before making adjustments. Other challenges would only become apparent with time.

3.3 The authors of this Requete believe that States Members should have the opportunity to share their views on how the system is working, and to propose practical improvements, before the end of this term. This debate aims to do that – creating a forum in which Members can share their insights from nearly four years' experience of the new system, and pass that learning on to the new States.

3.4 **However, this Requete is not a demand for instant change.** We think the new States should have the opportunity to get used to the current system; to form their own views on what works and what does not. We want to find a way to pool the wisdom of experience with the insight of fresh eyes. So we are proposing that this work is handed over to a time-limited Investigation & Advisory Committee in the next States, who will consider it and make recommendations for change no later than mid-way through the term.

3.5 In other words, we consider that this Requete (as amended, if need be) and the Hansard of its debate should stand as a "Lessons Learnt" report from this States' term. We invite our successors to bring their own perspectives and analysis to it, and to decide how, if at all, they want to change the structure of government they're working in.

3.6 Pausing to reflect on what works, and to reform what does not, is a mature approach to government which is uniquely possible within Guernsey's non-partisan, consensus-led system. It allows for true evolution, rather than periods of stasis broken up by major review and change. The authors of this Requete believe that this debate is an opportunity to demonstrate the "*flexibility*" in action which was at the heart of the States Review Committee's proposals, and to leave the government of the island better than we found it, to the benefit of our successors and, above all, of the community.

3.7 The next section of this Requete sets out the issues which, we consider, have been particularly challenging this term. It outlines possible solutions, for consideration by the new States. These are the issues which we think should be addressed as a priority, by no later than midway through the next States' term. They are referred to in Proposition 1, and we encourage States Members to amend that proposition, should they wish to alter or add to the list.

3.8 The final section sets out how this will be handed over to the new States, and what the role and membership of the States' Investigation & Advisory Committee will be. Propositions 2 to 8 provide direction for the new States to establish this Committee, and give the new Committee clarity about its responsibilities.

4 OUR CURRENT STRUCTURE: AREAS FOR IMPROVEMENT

4.1 This section sets out the issues which the authors of this Requete have identified as areas of concern during this States' term, and an indication of the kind of solutions which we feel would be effective in addressing them.

4.2 POLICY AND RESOURCES

4.2.1 One of the biggest changes in the new structure of government was the creation of Policy & Resources as a standalone senior Committee, rather than a council of representatives from the principal policy-making Committees.

4.2.2 This provides for a natural tension between P&R, as the Committee responsible for coordinating work and allocating resources to it, and the other Committees of the States, which are responsible for conceiving and delivering that work. To some degree, this is deliberate and inevitable. However, we believe that there are teething problems which, if addressed, could result in greater mutual understanding and better working relationships between P&R and the other Committees of the States.

4.2.3 **Dominance of Resources over Policy**

4.2.4 Most of us would agree that the Policy question ("what must we do for our Island?") and the Resources question ("how will we pay for it?") – or, if you like, the questions of "can we afford to do it" versus "can we afford *not* to do it?" – should have equal weight in politicians' minds, and should both be taken into account when deciding on a course of action. We would also recognise that there is a degree of conflict between these two questions which cannot always be resolved.

4.2.5 In creating Policy & Resources as a single Committee, the States Review Committee aimed to achieve the best possible coordination between policy priorities and the availability and allocation of resources.

4.2.6 However, most States Members with experience of working on a Principal Committee would agree that, in practice, the Resource function of P&R has tended to be dominant over the Policy function, with resource availability dictating the priority that can be given to any policy, rather than the other way round. To put it in frank terms, we all know that the annual Budget is really the important debate, not the P&R Plan. Little that happens in the P&R Plan has the power to force a Budget allocation, whereas much that happens in the Budget has the power to accelerate or constrain the development of a policy response to the Island's priority needs.

4.2.7 We think a number of elements could be responsible for this situation. Some of them are procedural rather than structural: for example, the endless internal business case development and approval processes, which are required before P&R will consider releasing funding for various initiatives, have a tendency to strangle policy development with process. These tensions are amplified because, inevitably, centralised decisions about resource allocation are made at a significant distance from the realities of 'front line' service provision. Initiatives such as the Scrutiny Management Committee's current review of the Capital Allocation Process may help to address that byzantine bureaucracy – it is not an issue which, we think, this Requete alone can resolve.

4.2.8 The biggest structural gap, in our opinion, is the loss of a "Chancellor" role at political level. In the previous structure, this role was filled by the Treasury & Resources Minister. P&R was conceived as a Committee to replace both the Policy Council and the Treasury & Resources Department: combining policy leadership and fiscal strategy in a single body. In doing so, the President of Policy & Resources became, in effect, both the Chancellor and the Prime Minister. For as long as this continues, we think the current dominance of Resources over Policy will be inevitable.

4.2.9 **Two possible solutions merit further consideration. One involves a partial return to the old structure, by spinning out a separate Treasury Committee from the Policy & Resources Committee.** Overall responsibility for coordinating policy with resources would still sit with the senior Committee, but day-to-day responsibility and political accountability for fiscal strategy and financial management would be the responsibility of a separate Committee, just as day-to-day responsibility and political accountability for every other aspect of policy-making and service delivery sits with one of the six Principal Committees.

4.2.10 A separate Treasury Committee could, for example, take on governance of States' investments and of the Bond. It could concern itself in depth with essential reviews of fiscal policy, such as Guernsey's approach to corporation tax. It could safely be populated by States Members with particular financial or economic knowledge, without requiring the balance of insight into other policy areas that P&R members should have.

4.2.11 However, while it is clear how some responsibilities might be allocated, it is more challenging to resolve others – especially, considering what role should be played by P&R, and what role by the Treasury Committee, in finalising the States' Budget, or in making in-year decisions to allocate additional resources to meet policy needs. The difficulty of drawing the dividing line in the right place when it comes to these essential functions might ultimately militate against the creation of a separate Treasury Committee altogether.

4.2.12 **The other option involves the creation of a designated Chancellor role within the Policy & Resources Committee itself.** This would clearly separate the role of President (who is responsible for bringing together policy *and* resources) from the role of the Chancellor (who is responsible for resources alone). It would also give a clear political counterpart to the officer-level role of Treasurer.

4.2.13 Currently the Policy & Resources Committee is entitled to designate one of its members as Lead Member for External Affairs. It is also required to designate a Lead Member for Corporate Services. These roles are appointed from within the membership of P&R, rather than by direct election from the States. If this option is preferred, we think there are strong arguments for the role of Chancellor being directly elected by the States.

4.2.14 One of the strongest arguments is that this would improve the chances of a person with the right skills being elected to the role, because States Members could compete for that specific role, rather than simply for a seat on P&R (which, as a collective, requires a broad range of different skills and insights). The flip side of that argument is also relevant: if the Chancellor's seat is filled by a States Member with a strong background in fiscal and financial policy, the three remaining seats on P&R can be filled by Members with different and complementary backgrounds, better reflecting P&R's responsibility for coordinating the work of government across the full breadth of its mandate.

4.2.15 Determining how the role of Chancellor would work, and the limits of its authority (given that ultimate political accountability would continue to sit with the Policy & Resources Committee as a whole, and generally through its President), is not necessarily a more straightforward task than working out how a separate Treasury Committee would operate. However, it is worthy of further consideration as an option that would perhaps better position the Committee's senior member to be able to mediate between matters of policy and of resourcing, rather than being seen (as at present) as principally, if not solely, the gatekeeper of the public purse.

4.2.16 **Liaison with Principal Committees**

4.2.17 During the debate on the first report of the States' Review Committee, Deputy Michelle Le Clerc said: *"In the absence of a Policy Council and the automatic attendance at regular meetings of the Ministers of all the Departments, I think it is important that … there is a process in place for conflict resolution and a specific platform for regular dialogue between Ministers and the Chief Executive and the Policy & Resources Committee, because I am just concerned that these proposals will alienate the Ministers from the Policy & Resources Committee."*

4.2.18 The report itself (in paragraph 7.2.4) said that the Policy & Resources Committee *"may also wish to establish a more formal arrangement along the lines of a consultative forum for the President and Members of P&R and the presidents of Principal Committees to work towards cooperation and to discuss forward planning and other matters of common interest."*

4.2.19 This mechanism was not put in place from the beginning of the States' term. Following an amendment to the 2019 Policy & Resources Plan, quarterly summits between States' Committees and P&R have been established to give oversight to some areas of shared interest, particularly in terms of "corporate services" such as IT, HR, Finance and so on.

4.2.20 While the weaknesses of the former Policy Council structure were set out at length in the debates surrounding the States Review Committee reports, and widely accepted by States Members, it is clear that there is also a significant deficit in the new structure, which is caused by the absence of any regular, formally-established forum in which representatives of all States Committees can come face-to-face to discuss issues of importance to them all.

4.2.21 "Oversight Boards" have been established between P&R and individual Committees. These allow for some regular cross-Committee communication, but the general perception is that these reflect the same dominance of resource over policy as discussed above. Nor do they allow for several Committees to discuss and share perspectives on issues of mutual concern. There is also a sense that it is very difficult for Committees to have the *political* conversations they need to have with their counterparts on P&R at an early enough stage, in respect of many issues, because any item that gets onto a P&R agenda has first to go through a long filter of internal processes and officer review. This is more like "having one's homework marked" than a mature process of sharing problems and solving them cooperatively.

4.2.22 One way to address the weakness in the current structure, caused by the absence of effective channels of cross-Committee communication, might be a kind of hybrid model that draws on the strengths of both systems, in which **a monthly Strategic Forum is established, for the heads of all States' Committees and the members of P&R to discuss matters of mutual concern.**

4.2.23 It would be important to establish from the outset that these are to be political forums with limited officer attendance. They should be no more "owned" by P&R than by any other Committee – this could be demonstrated, for example, by administrative support being provided by each of the Committee Secretaries on a rota basis.

4.2.24 In order to avoid recreating the disadvantages of the old Policy Council, we think that such a forum would likely need to be set up as a consultative, rather than a decision-making, body. However, in order for it to have any value, the States would have to establish it with a clear mandate and rules about what matters need to be referred to it for consideration, and would need to consider what 'teeth' such a body might have in order to avoid becoming merely decorative. It is natural to suggest that a meeting between heads of Committees should have a strategic outlook, focusing on matters such as:

- **The Plan for Government:** Obstacles to and opportunities for the delivery of the States' policy priorities as set out in the P&R Plan (or its successor);

- **Organisational Change:** An overview of cross-States transformation plans and structural changes, such as those introduced this term, which may have a profound impact on Committee responsibilities; and
- **International Reputation:** An understanding of Guernsey's evolving place in the world, and work by each Committee which may affect the island's standing.

4.2.25 In this term, it has been possible to criticise P&R for overlooking domestic responsibilities because they have been pre-occupied by the pressures of the external agenda. (Many States Members would cite the initial hands-off approach to the civil service restructure as an example of this.) For that reason, the cross-Committee summits on Corporate Services were established during 2019, and provide a starting point for improving communications among Committees; and it may well make sense to integrate this approach to performance monitoring and oversight into the Strategic Forum in due course.

4.2.26 However, while there may have been issues on the domestic front, all of us would recognise and credit the importance of the work P&R has put in, on behalf of the States, to defend the Bailiwick's interests in response to Brexit during this term. In a post-Brexit world, Guernsey will face different international challenges: ones which, as we have already seen this term, will touch on the mandates of many different Committees. As a successor to the Brexit Transition Group, we think there will be a continued need (through the suggested Strategic Forum or otherwise) for cross-Committee engagement in and planning on international affairs. As such, it is vital that there are cross-Committee communication structures in place that can support this.

4.2.27 **Oversight of the Civil Service**

4.2.28 We have given "civil service reform" as an example of where P&R may not have given the matter the close attention it deserved, at an early enough stage in the process. However, it may be the case that P&R is simply not the right body to be (on its own) responsible for the oversight of the civil service, or the broader role of "the States as Employer".

4.2.29 In fact, in July 2015, the States resolved that P&R should, "*following examination of the issues, lay recommendations before the States to reform the political arrangements in connection with the States' role as an employer*." **The current approach to oversight of the civil service, including the States' employment responsibilities, was only ever intended to be an interim solution.**

4.2.30 Principal Committees have been profoundly affected by changes in the senior structure of the civil service, which were first announced without any prior consultation with them. Similarly, Committees with service delivery responsibilities are highly dependent on P&R's success (or otherwise) in negotiations with staff, when it comes to pay, terms and conditions. However, the current structure does not easily provide for Committees to be sighted on, or involved in, any decisions relating to this critical area of responsibility.

4.2.31 It may be that the issues in this area are adequately addressed by the creation of the Governance Framework in respect of the relationship between the civil service and the States of Deliberation. This work is currently in progress. We would encourage the next States to take that into account, together with the issues raised here, and to consider **whether any change is needed to the body responsible for overseeing the civil service.** Again, this may be an area where the Strategic Forum, suggested above, could play a role: not so much in respect of individual employment decisions, but certainly in respect of significant changes to the structure of the organisation.

4.2.32 **<u>Non-States Members</u>**

4.2.33 The constitution of P&R does not allow for the Committee to appoint non-States Members. The most likely explanation of this is that it would 'feel wrong' for there to be non-elected Members on the most senior Committee, putting them in a position of some authority or influence over elected Members on other States' Committees.

4.2.34 However, there is little strength to this argument when it is noted that non-States Members do not have a vote (except on the States' Trading Supervisory Board).

4.2.35 By contrast, the judicious appointment of non-States Members to P&R could be of significant value to its political Members in respect of the elements of its mandate where, by definition, they would benefit from impartial, expert advice that is independent of the public sector.

4.2.36 For example, in the second States Review Committee report (para 6.4.21) it was established that *"in the case of very senior officers, it is expected that the President of the Policy & Resource Committee would have a role to play [in respect of performance management]."* Although this principle has been challenged during this States' term, it was emphatically endorsed during the June 2019 P&R Plan debate, and has gone on to form the basis of the Governance Framework initiative referred to above. For as long as P&R continues to be responsible for the role of the States as Employer, it should go without saying that they would benefit from **independent advice on HR and performance management**, given that the civil servants on whom they rely are inherently conflicted in this regard.

4.2.37 A suitably-experienced, legally-qualified non-States Member could be invaluable in assisting P&R to engage with its legal and law-making responsibilities; while the advice of a qualified economist with an understanding of public policy could be a substantial asset in helping P&R to develop suitable fiscal and economic strategies for Guernsey. It is not a given that P&R, any more so than any other States' Committee, will naturally have the skills that enable it to discharge every part of its mandate well from the outset. We consider that the Investigation & Advisory Committee **should look again at whether P&R should be permitted to appoint (up to two) non-States Members** at its discretion.

4.3 **SCRUTINY**

4.3.1 The States Review Committee's proposals led to the consolidation of parliamentary Scrutiny from 3 Committees (Scrutiny, Public Accounts and Legislation Select) into one (Scrutiny Management). It led to a major reduction in the number of States Members with permanent seats on Scrutiny committees – which previously could have up to 9 members – creating a structure with 3 permanent States Members, and others co-opted onto specific Panels.

4.3.2 **Weak Financial Scrutiny**

4.3.3 On the whole, the restructuring of Scrutiny has addressed the weaknesses of the previous structure, although it is disappointing that the need for additional powers to call witnesses and evidence – which was recognised during the last States term – has taken so long to be put into practice. The one area where the new structure has not delivered the level of scrutiny that the States and the public rightly expect, is in respect of financial scrutiny.

4.3.4 The States Review Committee made the surprising argument that *"unlike the scrutiny of policy, the scrutiny of finances and expenditure is not necessarily a political task; indeed, it may well benefit from being seen as a largely apolitical task."* The authors of this Requete disagree strongly: scrutiny of government finances is essentially and unavoidably a political task (and duty).

4.3.5 It is all the more important to have robust parliamentary financial scrutiny when, as discussed above, the Treasury function is among the most powerful in the States.

4.3.6 While wishing to preserve the major changes that have been made to the structure and delivery of Scrutiny, we recommend that **the next States should consider re-establishing a separate Public Accounts Committee.** The Public Accounts Committee could be established on the same model as the Scrutiny Management Committee: three States Members, two non-States Members, and the ability to convene expert Panels with co-opted Members. It should be straightforward to separate out the financial scrutiny responsibilities which were merged into the mandate of the Scrutiny Management Committee.

4.3.7 The creation of a separate Public Accounts Committee would increase the number of States Members with permanent Scrutiny roles to 6. Given that there are at least 54 political seats on other States' Committees – that is, those that should be subject to scrutiny – it is hardly a disproportionate increase. If the same model is adopted for Public Accounts as for the Scrutiny Management Committee, the President would be excluded from membership of other Committees, but the other political members could also hold other seats. This would therefore not have a substantial impact on the number of States Members able and willing to serve on other Committees.

4.3.8 As discussed above, in relation to P&R, it is helpful to recognise that specific skill-sets and knowledge are useful when it comes to setting fiscal and financial policy, or applying fiscal or financial scrutiny. A separate Public Accounts Committee would allow the States to elect Members with suitable experience to oversee financial scrutiny, while maintaining a broad set of skills and experience on the Scrutiny Management Committee, which has a mandate for scrutiny as broad as the government's mandate for delivery.

4.4 **COMMITTEE RESPONSIBILITIES**

4.4.1 This part of the Requete deals with a small number of areas where the current allocation of responsibilities between Committees is not achieving a good result for Guernsey, and where we believe structural changes could lead to a meaningful improvement.

4.4.2 **<u>Connectivity</u>**

4.4.3 This States, although not for want of trying, has had a poor track record of addressing the Bailiwick's need for regular, affordable transport links (for ordinary travel, for business and personal reasons, as well as for medical travel) between the islands of the Bailiwick themselves, and between the Bailiwick, Jersey and the UK.

4.4.4 In bigger jurisdictions, citizens can be connected by road and rail to all their basic needs: to ensure a secure food supply; to access economic opportunities; to maintain family connections; and to access even the most specialist levels of medical care when required. In those circumstances, connections by air and sea may be seen as a luxury, not requiring government oversight or intervention.

4.4.5 In Guernsey and Alderney, the situation is different. Without effective air and/or sea links, we cannot currently be self-sufficient in terms of food or fuel; our economic opportunities are constrained; our separation from family and friends not living locally is profound; and our access to specialist healthcare is limited to what can be provided on-island. At the same time, our approach to air and sea links needs to be as consistent as possible with our policy on climate action. For these reasons, connectivity by air and sea needs to be a central responsibility of Bailiwick government.

4.4.6 This has been recognised in the 2020 Budget, in which P&R has committed to developing "a coordinated and coherent government framework for the consideration of all aspects of air route operation and support." But, however good that framework might be, its cohesion will continue to be undermined while (up to) seven separate Committees of the States are responsible for air route connectivity, in particular.

4.4.7 At the moment, the States' Trading Supervisory Board (STSB) is responsible for Aurigny, in the States' role as Shareholder, and is also responsible for the island's harbours and airports. The Committee *for the* Environment & Infrastructure is mandated to advise the States on infrastructure, including the Island's ports, and on climate change. The Committee *for* Economic Development is responsible for connectivity as an economic enabler – in that role, it has subsidised various air routes to and from Guernsey by other airlines, as well as organising Public Service Obligation tenders for 'lifeline' routes. The Transport Licensing Authority (TLA) is responsible for issuing licences on protected routes – although, since the introduction of a 'quasi Open Skies' policy in 2018, most routes do not require a licence. The Committees *for* Health & Social Care (HSC) and Employment & Social Security (ESS) have an involvement in funding medical travel and emergency evacuations (medevac). P&R has also involved itself in various important decisions relating to the island's air and sea links.

4.4.8 We believe the current structure of government profoundly undermines Guernsey's chances of successfully securing good connectivity by air and sea in a manner which meets the island's needs for security of essential supplies; access to economic opportunities; maintenance of connections with friends and family; and access to essential healthcare. It does not provide the opportunity for focused consideration of the social, economic and climate drivers that ought to shape a consistent and functional approach to air and sea links.

4.4.9 **We are strongly of the view that there should be a single, policy-making Committee with primary responsibility for the Bailiwick's air and sea connectivity.** This would require bringing together as many of the functions of the seven Committees, outlined above, as it is appropriate and feasible to do. We recognise that there may be some necessary separations (for example, between the role of the States as Shareholder and the route licensing function) but that a much greater consolidation of responsibilities could be achieved, to the benefit of the Islands, than exists at present.

4.4.10 We have given some thought to how this could be achieved, and would recommend that this is done in three parts:

4.4.11 **1: Establish a new Principal Committee *for* Air & Sea Links,** bringing together the relevant responsibilities from the mandates of the Committee *for* Economic Development, STSB, E&I, HSC, ESS and P&R (and reflecting the recommendation of the ongoing review as to whether or not the TLA should continue in its current form). It would arguably also make sense to include "Tourism" in the mandate of this Committee, although it could equally sit well alongside the reconfigured responsibilities for "Culture" and "Sport" outlined below.

4.4.12 This has a significant impact on the mandate of the Committee *for* Economic Development, and what is left is a much smaller Principal Committee (in terms of both budget and policy-making scope) than any of the others. Last term's States Review Committee strongly recommended that the Principal Committees should all be of similar size and scope, and we agree. We propose that this is addressed by reconfiguring responsibilities between the Committee *for* Education, Sport & Culture (ESC) and what remains of the Committee *for* Economic Development, as follows:

4.4.13 **2: Reconfigure the Committee *for* Economic Development as the Committee *for* Business, Sport, Culture & Digital,** bringing across the "sport and culture" elements from ESC's mandate. For those interested in the history, the case for including sport and culture with education was made in section 5.5 of the July 2015 States Review Committee report. At section 5.5.20, the authors admitted that this arrangement was more subjective than many of the Committee mandates, recognising that "*responsibilities for sport and/or culture could be allocated other than in the way proposed*."[4]

4.4.14 States Members throughout this term have questioned whether the culture and sports aspects of ESC's mandate have been given the attention they deserve, in light of the scale of work required on education itself. The authors of this Requete consider that ESC have demonstrated real commitment to these areas of their mandate, despite the weight of their work on education. However, combining them with the scaled-back responsibilities of the Committee *for* Economic Development should only benefit their visibility and priority within the States' policy-making portfolio.

4.4.15 **3: Re-style the Committee *for* Education, Sport & Culture as the Committee *for* Education & Skills.** ESC already has a responsibility for skills development through education at all ages, and an important focus on lifelong learning. As sports and culture are transferred to Economic Development, we think that any remaining parts of the skills portfolio should be returned to ESC. Renaming the Committee simply gives a more public profile to this important area of its work.

4.4.16 The creation of a seventh Principal Committee would be perhaps the biggest change to the structure of government emerging from this Requete, but we consider it one of the most important. We think it is likely to be the only way to improve, on a lasting basis, the Bailiwick's policy approach to air and sea links, and to translate that into the provision of a core set of regular and affordable transport links within the Bailiwick, and between the Bailiwick and Jersey and the UK.

4.4.17 We also believe that the consequential changes to the Committee *for* Economic Development (or the future Committee *for* Business, Sport, Culture & Digital) and the Committee *for* Education, Sport & Culture (or the future Committee *for* Education & Skills) are not simply useful to balance the books in terms of Committees' size and scope, but will enhance both Committees' ability to deliver high-quality policy and services in line with their mandates.

4.4.18 **<u>Environment and Climate Change</u>**

4.4.19 By contrast with the previous discussion, this is a simple matter. Climate change will be one of the defining issues of our era. The way that Guernsey responds to the risks arising from climate change, as well as the factors that threaten to make it worse, will shape the economic future of the island and the lives and livelihoods of current and future generations of islanders.

[4] Deputy Gollop, at the time, brought an amendment which would have created a *Committee for Tourism, Retail, Sport & Culture* (SRC debate, July 2015). The case was not made because the amendment did not address the knock-on impact for other Committees. We believe the proposals set out here do so.

4.4.20 We recommend that the States formally recognise the significance and primacy of this issue by restyling the Committee *for the* Environment & Infrastructure as **the Committee *for* Climate Resilience, Environment & Infrastructure.**

4.4.21 **The States' Trading Supervisory Board**

4.4.22 The second report of the States Review Committee established the mandates of the Principal Committees in general terms, together with the creation of various other political bodies, including the States' Trading Supervisory Board (STSB). At the time, Deputy Al Brouard and Deputy Dave Jones brought an amendment, recommending that STSB as we know it should instead be the "Committee *for* Trading Supervision", with five States Members and two non-States Members.

4.4.23 At the time, Deputy Brouard argued that the States should not put "*1,200 staff, half a billion of assets and of major concern to the daily concerns of islanders … in a peer group with the Transport Licensing Department and the IDC*."

4.4.24 The idea behind the creation of STSB was that it should be a 'policy-taking' body, receiving direction from the policy-making Committees of E&I and Economic Development, in particular. It was to be a body responsible for operational oversight of organisations that were within States' ownership but did not require (or would not benefit from) direct political direction or intervention.

4.4.25 In practice, this is not how it has worked. STSB has (rightly) had a direct line to the States in respect of matters that fall within its mandate. Although it has collaborated with Economic Development and E&I on the delivery of various policies, the dividing line between Committee responsibilities has not always been clear or (as illustrated above, in the case of air links) necessarily beneficial to islanders.

4.4.26 We consider that **the argument for establishing STSB as a full Committee of the States (as set out in the Brouard/Jones amendment), together with any consequential changes to mandates or working practices that would be required** should be revisited in the next States.

4.4.27 **The Authorities: DPA and TLA**

4.4.28 The States agreed to review the role and constitution of the Transport Licensing Authority (TLA) in 2018 (during the debate on Open Skies). In 2019 (during the debate on the Island Development Plan Requete), the States also agreed to review the constitution and quasi-judicial nature of the Development & Planning Authority (DPA).

4.4.29 Both Authorities were created at arm's length from a policy-making Committee (E&I in the case of the DPA; Economic Development in the case of the TLA), in order to make 'quasi-judicial' – that is, inherently *non-political* – decisions on matters that are prescribed by policies of those Committees. Both Authorities are populated by five

States Members. The fact that the States has already accepted the need to review the role of both Authorities indicates that this element of the new structure of government is not working as effectively as might have been hoped.

4.4.30 This Requete does not seek to duplicate the work that is already being done in respect of both Authorities. We reference it here simply for completeness.

4.5 **COMMITTEE MEMBERSHIP**

4.5.1 **<u>Size</u>**

4.5.2 The question of Committee size was explored during the States Review Committee's first and second reports, and considered again in 2018 during a debate on updates to the Rules of Procedure.

4.5.3 Nevertheless, the authors of this Requete consider that **the arguments in favour of three-person States' Committees should be revisited**. We do not consider that the Policy & Resources Committee could be reduced to three members, particularly given the issues addressed above. However, we think that all other Committees could work equally effectively with 3 members, and that this would improve efficiency without detriment to the quality of policy-making.

4.5.4 Given that this Requete could lead to the creation of up to three new States' Committees (in the order mentioned: a Treasury Committee, a Public Accounts Committee, and a Committee *for* Air & Sea Links & Tourism), we think it is all the more important to consider whether three-person Committees would be a better way of enabling the States to discharge the full breadth of its mandate.

4.5.5 **<u>Appointments and Resignations</u>**

4.5.6 We also think that the question of how Members are appointed to, and resign from, Committees bears further consideration.

4.5.7 In particular, we invite the States to consider **whether a President and her chosen Committee should be elected together**. The most straightforward way to achieve this would be by electing a President and up to four Committee members (depending on Committee size) as a single slate. This would require Presidential candidates to have gained a firm commitment from States Members willing to serve on their Committee at an earlier stage than at present, which may be difficult. However, in a Committee system of government, the credibility of a Committee depends not just on its President but on all those who serve with her – accordingly, this approach could provide a healthy dose of transparency at the time when the States is making its initial choice.

4.5.8 There is no reason why slates should be mutually exclusive: a States Member who is willing to serve on a Committee under one President might equally be prepared to serve under another – because of subject matter expertise or a deep interest in the

Committee's mandate – and the Rules should allow candidates to put themselves forward on more than one President's slate.

4.5.9 An alternative would be for the President to *declare* her slate at the time of her own candidacy, but for Committee members to be elected separately, in potentially-contested elections, as at present. This would have the same benefit of transparency as above, but would lack any of its other benefits.

4.5.10 Specifically, those who criticise the Committee structure often do so because it is more slow-moving and indecisive than they imagine Ministerial government would be. To the extent that this is true, we could help to close the gap between the two systems by allowing Presidents to operate with a hand-picked team from the outset. This would also enhance the perception that the whole team, not just the President, is accountable for the Committee's performance or failure to perform.

4.5.11 There are also possible hybrid forms of this option, where (depending on the Committee's size) the President could stand with a partial slate and one or more empty seats, which could be filled by a contested election from the floor of the States. We leave it to the discretion of the Investigation & Advisory Committee to decide whether they wish to consider any of these.

4.5.12 If the concept of a 'Committee slate' is introduced, then the concept raised and rejected in the 2018 debate on the Rules of Procedure – that is, that **a President's resignation should trigger the resignation of the whole Committee** – should also be revisited. If all Committee members are elected together with their President, the argument that they are bound to resign with her is much stronger.

4.6 POLICY AND LEGISLATIVE DEVELOPMENT

4.6.1 Three issues need briefly to be addressed under this heading: the availability and quality of resources for policy development; the same for legislative development; and States Members' preparedness for the unique responsibility of Corporate Parenthood.

4.6.2 <u>Policy Development – Availability and Quality of Resources</u>

4.6.3 The States Review Committee recognised that policy development resources are limited across the States. It argued (in para 6.4.14 of its second report) that *"maintaining [policy, research and communications] resources in a 'centre of excellence' and deploying them to committees when necessary may well be the only credible and affordable way of ensuring there is adequate capacity across the States."*

4.6.4 For context, it needs to be understood that States Members (unlike politicians almost everywhere else) have no independent access to research or support in policy development. In developing policy for the Island, we can only rely on whatever knowledge and understanding we ourselves happen to have, together with the advice provided to us by the civil service. This means there is already one important knowledge gap when it comes to policy development.

4.6.5 The centralisation of policy development resources means that policy officers across the States are "generalists", available to be deployed on whatever policy area is a priority for the States at the time. However, this substantially underestimates the importance of subject matter expertise in informing policy development and establishing possible future options. For example, an officer working on the General Election needs to be fully conversant with the context of local politics, alongside the international conventions relating to the operation of democracy which apply in Guernsey. An officer considering land use policy needs to understand the eternally complex world of development and planning, from its legal dimensions to its physical realities.

4.6.6 It is not enough that a policy officer knows how to read evidence intelligently, and how to adapt to a new task. Without subject matter expertise, an officer working on health policy – for example – may not even know where to find credible evidence about what works in health, let alone begin to make sense of it. A generalist may not be aware of the various ways climate change may impact different areas of policy and may not realise the serious impact it can have on healthcare systems and therefore won't factor it in. Knowing who to ask is one thing, but knowing whether to ask it in the first place is the fundamental problem.

4.6.7 This mattered less before the 2019 restructure of the senior civil service. Generalist policy officers working to a Chief Secretary who had extensive subject matter knowledge of the areas within the Committee's mandate could rely on the guidance of (and Committees could themselves rely on the quality control provided by) a more experienced and knowledgeable senior officer.

4.6.8 However, the restructure has stripped out the role of Chief Secretary, replacing them with Strategic Leads whose mandates are so broad ("People", "Place" and "Supporting Government") that the idea they can develop meaningful subject matter knowledge of all the matters within their remit is wishful thinking at best. They have also been isolated from operational delivery, further weakening their chances of getting to know how policy works in practice.

4.6.9 The upshot of the 2019 restructure is that there is now likely to be no subject matter expertise at political level, no subject matter expertise at the level of senior leadership, and no subject matter expertise at policy officer level. If this is allowed to continue for long, it will precipitate a crisis in the quality of local policy-making that will seriously damage our ability to be effective as a government.

4.6.10 As politicians, we are lay people who rely to a great extent on knowledgeable, professional advice from the officers who serve our Committees. It is essential that those officers are able to build up in-depth knowledge of the matters within the mandate of the Committee, and the wider field of expertise in those areas, in order to develop workable, affordable and appropriate solutions to the challenges the

Island faces. If that is no longer to sit with Chief Secretaries, it must at least be allowed to sit with policy officers, who can build up a strong base of subject matter knowledge from which to advise their political Committees.

4.6.11 We recommend that the next States looks at ways to ensure the right balance between centralisation and the level of subject specialism necessary to ensure that Committees are able to discharge their mandates well. In the absence of broader structural changes, we think it will be necessary at least to **establish a permanent core of policy officers with relevant subject matter expertise within each Committee**, in order to facilitate sensible policy development. As part of this, we think it would be appropriate to clarify the type of professional experience and/or higher qualifications which are needed by policy officers to each Committee, and/or the forms of on-the-job training or CPD that would help to develop generalists into subject matter experts.

4.6.12 **<u>Legislative Prioritisation and Drafting</u>**

4.6.13 At present, the Law Officers' Chambers provide a diverse range of legal services to the States, including legal and constitutional advice on policy development and other Committee business; drafting the Island's laws; advice on employment law; prosecution of crime; civil litigation; and coronial services, among others. They advise the States as a whole, the public sector, political Committees, and individual States Members as parliamentarians.

4.6.14 The Law Officers are Crown appointees and are not answerable directly to any Committee of the States. They seek to provide an impartial service to all States' Committees. In terms of budget-setting and other logistical matters, their link to the States is through the Policy & Resources Committee, which also leads the process of prioritising the drafting of legislation in accordance with the Resolutions of the States.

4.6.15 This relationship is, inevitably, not without its difficulties. The pace of legislative drafting has been a recurrent frustration throughout this term; but while the States asks for more from the Law Officers' Chambers, it also requires them to deliver within the budget limitations it sets. This is, perhaps, the biggest structural issue: while P&R are the conduit for bringing the Law Officers' budget to the States, they necessarily apply the same amount of scrutiny and challenge to it as they do to the budget of any States' Committee; however, unlike other States' Committees, the Law Officers do not have a voice in the States to make their own case.

4.6.16 **It is worth taking this opportunity to consider whether there are alternative models for, or other opportunities to strengthen, the working relationship between the States and the Law Officers' Chambers** (including those used in Jersey and in the UK) which might address some of the tensions in the current structure, and allow for better mutual understanding and more efficient working between the States and its legal advisers. We understand that some work was done earlier this term to develop a Memorandum of Understanding, which should be the starting point for these considerations.

4.6.17 **Corporate Parenting**

4.6.18 On election, all States Members become "Corporate Parents". This means that we have collective responsibility for the children who are in the care of the States (as, in the words of the Children (Guernsey & Alderney) Law, 2008, any "*child in the care of the States is entitled to be provided with, and may expect to be subject to, insofar as is practicable, similar levels of care, protection, guidance and control as would be expected to be provided or exercised in respect of a child by reasonable parents*").

4.6.19 In practice, States Members have no direct involvement in the lives of children in care; nor should we expect to. However, in formulating policy and overseeing the delivery of services, we have a duty to ensure that the right kinds of support and opportunity are in place to give every child in care the same security, encouragement and chance at a good life that we would give to our own children.

4.6.20 Corporate Parenting is a common concept in the UK, where local councillors have access to training and support to help them discharge the role as effectively as possible.

4.6.21 Just as parenthood is central to the daily lives of those of us who are parents, so Corporate Parenthood should be central to our sense of ourselves and our responsibilities as States Members. This is not just about being trained on the responsibilities of the role, but finding ways to integrate it at the heart of everything we do – from regularly giving it space on Committee agendas; to developing policy that we know will improve the lives of children in (and young adults leaving) care; to finding ways to make sure that the voices of children and young people with experience of States' care are heard in our policy-making.

4.6.22 **We recommend that the next States explore ways to integrate the role of Corporate Parenting in the day-to-day work of States Members, learning from approaches among local authorities in the UK,** whether through induction or ongoing training; regular inclusion in Committee agendas; or such other ways as they see fit. We believe this is an area that would benefit from some guidance and standardisation of approach across Committees, in order to ensure it is given the priority it deserves.

4.7 **TITLES**

4.7.1 The last matter to be raised is, comparatively, a minor one. The States Review Committee reintroduced the title of "President" for the politician chairing each States' Committee. It's a title with a long heritage in Guernsey politics, but – as a number of States Members raised at the time – not one that has much currency outside Guernsey.

4.7.2 The main argument in favour of the title of "President" was that the alternative, "Minister", gave the false impression that Guernsey had an executive, rather than Committee-based, system of government. This argument was probably more keenly felt at the time, because the very first choice the States had to make last term, in respect of the States Review Committee's reports, was whether it wished to retain an improved Committee-based form of government or to move to an executive system.

4.7.3 In practice, the title of President has proven to be unhelpful outside Guernsey. The President of P&R has been able to use the titles Chief Minister or Prumier internationally, and has chosen to make use of a more accessible title whenever needed. Other Presidents have not had this flexibility. **We recommend that the next States consider the reintroduction of the title of 'Minister' in place of 'President'** for the heads of each Committee.

4.7.4 We consider that it may also be helpful to establish some protocol for the use of the term "States of Guernsey", which is used for everything from the parliament to the public sector; and/or to give consideration to establishing a wider range of terms, commonly understood within and outside Guernsey, to clarify the functions of the States – for example, reinforcing Guernsey's Committee-based system of government by a minor tweak to Principal Committee titles (which could become the "Government Committee *for*…") or introducing "Guernsey Parliament" as an alternative permissible term for the States of Deliberation.

4.8 **COMMUNITY AND PARISH DEMOCRACY**

4.8.1 **Citizens' Assemblies**

4.8.2 A constant criticism of the States of Guernsey is that it does not listen to the public. Whether valid or not, it is clear that there is no mechanism at present whereby the views of a large cross-section of the community can be heard in any meaningful way on a particular subject. Some excellent work has been done on specific areas that target a group of interested parties, such as in the development of Joint Strategic Needs Assessments by Public Health. However, it could be said there is a democratic deficit in terms of key issues that are of interest to the wider population, and to which the wider population could usefully contribute their knowledge and judgment. One such area this term may be air and sea links, for example – which has stimulated considerable public debate, but with no meaningful opportunity for those who are interested in doing so to contribute towards finding solutions.

4.8.3 In 2016, the Irish Government established the concept of a Citizens' Assembly to consider a limited but diverse range of topics from fixed-term parliaments to climate change. Constituted in law, the Citizens' Assembly is a body comprises a Chairperson and 99 citizens, randomly selected to be broadly representative of the Irish electorate, established to consider some of the most important issues facing Ireland's future. It would be worthwhile considering whether, in Guernsey, a similar kind of Citizens' Assembly could be established towards the beginning of each States' term, perhaps with the Policy & Resource Plan process used to identify a few critical topics which will form the basis of its agenda throughout that term.

4.8.4 A Citizens' Assembly needs to be big enough to fairly represent the views of society. Although Guernsey is much smaller than Ireland, a proportionate reduction in the size of the Citizens' Assembly means that it would fail to fulfil this role. Likewise, involving a real cross-section of society (achieved by some form of sortition – randomised selection from various representative groups – if not complete randomisation) would continue to be important. Beyond that, it would be helpful to consider how the model of a Citizens' Assembly could be adapted for Guernsey's political system, and if or how it could be resourced.

4.8.5 Without wishing to pre-judge the outcomes of discussions between Guernsey and Alderney about the future relationship between the two Islands, it is possible that a Citizens' Assembly which includes a decent level of representation from Alderney might be one tool that helps to bring the communities of the two Islands closer together in a spirit of dialogue and mutual collaboration.

4.8.6 **We recommend that the concept of a Citizens' Assembly, in whatever form is appropriate to the Bailiwick, is considered by the next States.**

4.8.7 **Douzaines**

4.8.8 It might also be appropriate to consider whether there are routes, either through a Citizens' Assembly or by other means, to engage better with the Douzaines in the next term of government; given that, unless a conscious effort is made to the contrary, the introduction of Island-Wide Voting is almost certain to diminish the role of the parishes in local democracy.

4.8.9 One option might include a review of their respective roles and responsibilities by both Committees and Douzaines, to consider whether any of these would be better delivered at parish, rather than at island, level, or vice versa. However, the democratic character of the Douzaines varies from parish to parish, with differing levels of awareness of parish elections, and differing levels of engagement in parish activities.

4.8.10 In order to keep faith with its own responsibility to the electorate, the States would need to consider setting minimum standards in respect of the democratic character of the Douzaines, before proposing the transfer of any roles or services. Such standards might include, for example, minimum levels of voter turnout in parish elections; the development of a code of conduct and complaints process; requirements to demonstrate that parishioners can easily access information about Douzaine business in hard copy and online; and so on.

4.8.11 The role of the parishes following island-wide voting is a matter which clearly links to questions about the structure of government. However, it could almost be the subject of a whole review in its own right. As a first step, **we recommend that the**

concept of a Parish Charter, which could allow for the devolution of certain responsibilities to the parishes which meet a clear set of democratic standards (that promote parish-level accountability and transparency), should be explored.

5 STATES' INVESTIGATION AND ADVISORY COMMITTEE – REMIT AND MEMBERSHIP

5.1 Having set out what we believe are the lessons to be learned from the current structure of the States – and outlined some ways in which we think that structure could be further improved – the final part of this Requete sets out the mechanism by which we think those changes should be made.

5.2 As explained above, we think it would be better if any significant changes to the structure of government were made mid-term, so that an experienced States can oversee their implementation and ensure that they bed in properly. This is preferable to making changes at the same time as an Election, after which a brand-new States has to try and get the best out of the system it has been landed with.

5.3 This approach will also allow the new States to add its own perspective and experience to those of the current States, and to ensure that it agrees that any changes made are appropriate and will be effective.

5.4 We are therefore proposing that a **States' Investigation & Advisory Committee be set up in March 2021** (nine months into the next States' term). Investigation & Advisory Committees are governed by Rule 53 of the States' Rules of Procedure. They are Committees which are set up with a defined purpose, and dissolved once that purpose has been achieved.

5.5 In this case, the remit of the States' Investigation & Advisory Committee will be **to consider the areas where the current structure of government falls short of the aims first set out in the 2014 States Review Committee report (to provide for effective leadership, sound coordination of policies and resources, proportionate checks and balances, and sufficient flexibility to adapt as circumstances change) and the changes that could be made in order to improve it**. The Investigation & Advisory Committee must consider, as a minimum, the issues set out in this Requete (as amended, if need be) and the solutions proposed alongside them; and determine which, if any, of the changes outlined here it wishes to recommend to the States.

5.6 The propositions in the prayer of this Requete provide for the next Policy & Resources Committee to bring forward proposals for the appointment of the Investigation & Advisory Committee in due course, and to enable the next States to consider and amend its terms of reference at the same time.

5.7 Without knowing who will be in the next States, we can't be too prescriptive about the membership of the Committee. However, we think it will be important for the States' Investigation & Advisory Committee to contain members with diverse experiences of government, and a blend of newer and older States Members.

5.8 We therefore propose that the Committee should be made up of **6 States Members:**

- **At least 1 Member who has had experience of at least two terms of government; and**
- **At least 2 additional Members who have had experience of at least one term of government.**

5.9 In addition, the Chair should be the President or a Member of P&R. We would encourage the next States to ensure that the membership of the Investigation & Advisory Committee includes a balance of members with (current or past) experience of Principal Committees; experience of other States' Committees; and experience of Scrutiny roles.

5.10 We have recommended that the new Committee be set up nine months into the new term. This is in order to allow new States Members time to get accustomed to their roles, and to develop their own views on what works and what does not. The Committee will then need to **report back to the States no later than February 2022**, in order that any changes it has recommended can be implemented before the 2022 summer recess (which marks the mid-point of the term).

5.11 If some of the proposals in this Requete are followed through, there may be a need for additional elections and restructuring of political and staff-level responsibilities. We strongly recommend that the States seek to complete this before the summer of 2022, so that the changes have the time to bed in effectively over the following recess period, and become established during the last two years of the States' term.

5.12 Although this may cause some disruption, we think an experienced States, in the middle of its political term, will be much better positioned to manage this, and to smooth out any difficulties, than if the changes were imposed on a brand-new States at the very start of their term. This approach also allows for careful forward-planning and political consultation, which will help to ensure any changes are managed inclusively and transparently, to a greater extent than some of the major changes, affecting the delivery of government, which were made in the middle of this term.

6 RESOURCES

6.1 At this stage, the only resource implication arising from this Requete is the need for a limited staff resource (estimated as one policy officer and one administrative support officer) to support the work of the States' Investigation & Advisory Committee for a period of one year from March 2021 to February 2022, up to and including the drafting of a policy letter. We are advised that the cost of these two roles could be up to £134,000 for the year, with non-pay costs of up to £20,000. However, we understand that if these roles are filled by secondment (which appears reasonable given that the work will benefit from existing familiarity with the States), supported by backfill as necessary, these costs could be reduced.

6.2 If the States approves this Requete, it will be for the Policy & Resources Committee to make provision for the necessary funding in its 2021 States Budget. No funding is expected to be required during this budget cycle.

6.3 In respect of the longer term financial picture, it is likely that some of the changes arising from this Requete will have cost implications of their own. In staffing terms, these are likely to be relatively limited, as the civil service changes this term mean that staffing infrastructure is shared between Committees and (for better or worse) will be minimally affected by the creation of one or more new Committees. In political terms, it may be necessary to fit new roles into the existing pay structure for a period, until the next independent review of pay, which could create a short-term cost pressure. However, the approach set out in this Requete will allow costs to be identified and planned for well in advance by the next States.

6.4 Equally, some of the changes arising from this Requete, such as the more streamlined management of air and sea links, or even a more dedicated focus on financial scrutiny, could result in considerable savings and benefits to the island. It is difficult to quantify any such costs or savings at this time, as these will all rely on the final recommendations made by the States' Investigation & Advisory Committee in due course.

7 RULE 4 INFORMATION

7.1 In accordance with Rule 4(1), this Requete has been submitted to Her Majesty's Procureur for her advice on any legal or constitutional implications.

7.2 In accordance with Rule 4(3), the financial implications of this Requete are set out at section 6 above.

7.3 In accordance with Rule 4(4), all seven Requerants agree that the issues outlined in this Requete are significant and require further consideration by this and the next States. We differ among ourselves in some of the solutions we prefer, but all agree that the creation of a States' Investigation & Advisory Committee to assess and recommend the way forward is the best way to proceed.

7.4 In accordance with Rule 4(5), the proposals in this Requete seek to improve the effective working of government, which is the foundation on which all the States' work is built. The authors of this Requete are presenting these proposals as the framework for a debate about possible improvements to our existing structure of government. For this reason, while we have not carried out extensive consultation prior to publication of the Requete, we are inviting Members to engage with it fully, and will be offering an open meeting in January to States Members who wish to discuss it further and consider possible amendments ahead of debate.

8 CONCLUSIONS

8.1 This Requete has outlined some challenges with the current system of government, which its authors believe can and should be addressed. The Requete debate offers us, as a States, the chance to bring together our "lessons learnt" from this term, and to pass them on to the next States, in the hope our successors will use them to do better than we have done.

8.2 The authors of this Requete consider that the changes mapped out during the 2012 to 2016 States' term, and implemented this term, have done much to improve the working of Guernsey's Committee-based structure of government, and have no wish to see them lost because of a few areas where they are imperfect. The proposals, and the process, set out in this Requete allow for gradual evolutionary change in the States' structure, keeping the best of what we already have, and tackling the areas where it still has room to improve.

8.3 Rather than forcing changes on the next States which they may consider unnecessary or unhelpful, and which we ourselves have not had the time to try and test, this Requete proposes an approach in which this States pulls together its accumulated wisdom from this term, giving the next States both the information (through this Requete) and the mechanism (through the States' Investigation & Advisory Committee) to turn them into practice.

THESE PREMISES CONSIDERED, YOUR PETITIONERS humbly pray that the States may be pleased to:

1. Agree that, in order to improve the effective working of Guernsey's structure of government, this States and its immediate successor should consider:

    a. Whether the dominance of resources over policy within the Policy & Resources Committee should be addressed, either by the creation of a separate Treasury Committee, or the establishment of a Chancellor role within the Policy & Resources Committee, or by another solution;
    (paragraphs 4.2.3 to 4.2.15)

    b. Whether to make further structural changes in order to improve the effectiveness of channels of communication between the Policy & Resources Committee and other States' Committees, either by the creation of a political Strategic Forum, or by another solution;
    (paragraphs 4.2.16 to 4.2.26)

    c. Whether further changes are required to the current political arrangements for oversight of the civil service and/or the role of the States as Employer;
    (paragraphs 4.2.27 to 4.2.31)

    d. Whether the restriction on non-States Members of the Policy & Resources Committee should be lifted;
    (paragraphs 4.2.32 to 4.2.37)

    e. Whether the lack of dedicated political scrutiny of States' finances and fiscal strategy should be addressed, through the creation of a separate Public Accounts Committee or otherwise;
    (paragraphs 4.3.1 to 4.3.8)

    f. Whether the current dispersed political responsibility for air and sea connectivity should be addressed, by the creation of a single Committee responsible for air and sea links and tourism (with consequential changes to the mandates of other States' Committees), or by another solution;
    (paragraphs 4.4.3 to 4.4.17)

    g. Whether a visible political commitment to addressing climate change should be reflected in the name of the Committee *for* Environment & Infrastructure;
    (paragraphs 4.4.18 to 4.4.20)

    h. Whether the constitution of the States' Trading Supervisory Board in terms of political membership, and the current lack of clarity about what it means to be a 'policy-taking' committee, should be addressed;
    (paragraphs 4.4.21 to 4.4.26)

    i. Whether the question of Committee size should be revisited;

(paragraphs 4.5.2 to 4.5.4)

j. Whether the question of Committee Members being elected together with, and/or resigning alongside, their Committee President should be explored;

(paragraphs 4.5.5 to 4.5.12)

k. Whether a lack of subject matter expertise within the policy-making function of the public sector should be addressed;

(paragraphs 4.6.2 to 4.6.11)

l. Whether there may be possible alternative models for the relationship between the States and the Law Officers' Chambers, which might improve its effectiveness;

(paragraphs 4.6.12 to 4.6.16)

m. Whether there may be opportunities to better integrate States Members' Corporate Parenting responsibilities within their Committee and States' work;

(paragraphs 4.6.17 to 4.6.22)

n. Whether to reintroduce the title of 'Minister' in place of 'President'; and

(paragraphs 4.7.1 to 4.7.3)

o. Whether to develop alternative titles, or clarify the use of existing titles, in respect of the States and its Committees;

(paragraph 4.7.4)

p. Whether to establish a Citizens' Assembly in a form appropriate to Guernsey;

(paragraphs 4.8.1 to 4.8.6)

q. Whether to develop a Parish Charter or similar, which might allow for devolution of certain responsibilities to the Douzaines, on condition of meeting minimum standards for democratic accountability and transparency at parish level.

(paragraphs 4.8.7 to 4.8.11)

2. Direct the Policy & Resources Committee to bring a policy letter to the States for consideration no later than the end of February, 2021, which shall include:
    a. A copy of this Requete, together with a proposition inviting Members to agree that the issues set out in Proposition 1 [as amended, as the case may be] and Section 4 of this Requete should be addressed; and
    b. Propositions enabling the election of Members to the States' Investigation & Advisory Committee required by Propositions 3 – 8 below.

3. Resolve that a States' Investigation & Advisory Committee shall be established no later than March, 2021, to consider the areas where the current structure of government falls short of the aims first set out in the 2014 States Review Committee report (effective leadership, sound coordination of policies and resources,

proportionate checks and balances, flexibility to adapt) and the changes that could be made in order to improve it; and to agree that the Committee must consider, as a minimum, the issues set out in this Requete (as amended, if need be) and the solutions proposed alongside them, and determine what changes, if any, it wishes to recommend to the States.

4. Resolve that the membership of the States' Investigation & Advisory Committee shall comprise 6 States Members including:
    a. At least one Member, elected by the States, who has already served a minimum of two complete terms of government; and
    b. At least two further Members, elected by the States, who have already served a minimum of one complete term of government; and
    c. Three further Members, elected by the States.

5. Resolve that the Chair of the Committee shall be the President or a Member of the Policy & Resources Committee and shall be elected by the States on the nomination of the Policy & Resources Committee.

6. Agree that the Policy & Resources Committee may make nominations for the remaining five seats on the Committee, which may also have nominations from the floor of the States; and that, in preparing its nominations, the Policy & Resources Committee must seek to ensure a balance of members who have had current or past experience of Scrutiny roles, of roles on Principal Committees, and of roles on other States' Committees.

7. Direct the Policy & Resources Committee to make arrangements to provide a budget (estimated at a maximum of £150,000 for one year) and administrative support of the States' Investigation & Advisory Committee from March 2021 to February 2022.

8. Direct the States' Investigation & Advisory Committee to present its recommendations to the States for debate no later than the end of February, 2022.

AND YOUR PETITIONERS WILL EVER PRAY

GUERNSEY
This day of December, 2019.

____
Deputy H J R Soulsby

Deputy J A B Gollop

Deputy M K Le Clerc

Deputy R G Prow

Deputy H L de Sausmarez

Deputy N R Inder

Deputy E A McSwiggan

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *FOR* ECONOMIC DEVELOPMENT

PUBLIC TRUSTEE ANNUAL REPORT AND AUDITED ACCOUNTS FOR THE YEAR ENDED 31 DECEMBER 2018

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

11 December 2019

Dear Sir

The Public Trustee (Bailiwick of Guernsey) Law, 2002 provides, in section 6(1) that the Committee for Economic Development is required to submit the report and accounts to the States of Guernsey on the exercise of the Public Trustee's functions for the preceding year.

I am pleased to enclose a copy of the reports and audited accounts for the year 2018.

I should be grateful if you would arrange to publish this submission as an Appendix to the next available Billet.

Yours faithfully

Deputy Charles Parkinson
President

REPORT OF THE PUBLIC TRUSTEE

TO THE COMMITTEE *for* ECONOMIC DEVELOPMENT

YEAR ENDED 31 DECEMBER 2018

Introduction

1. Under Section 6(1)(a) of The Public Trustee (Bailiwick of Guernsey) Law, 2002 (the 'Law'), the Public Trustee is required in each calendar year to submit to the Committee *for* Economic Development (the 'Committee') a report on the exercise of her or his functions in the preceding year together with audited accounts of the Office of the Public Trustee (Appendix 1).

Office of the Public Trustee

2. The former Public Trustee gave notice to relinquish office in November 2017 and the current Public Trustee was appointed on 16 May 2018.

3. Pursuant to Section 1(5) of the Law the appointment of the current Public Trustee gave effect to the change of trustee.

4. The change of incumbency spanned the opening period of the year and the current Public Trustee is submitting this report in respect of the whole year.

Reporting and Oversight

5. During the year a working group was established charged with the oversight and good governance of the Office of the Public Trustee (OPT), and it is confirmed that all material or significant matters that affect the OPT have been reported to that working group by regular reporting and meetings.

6. The PT has also addressed the Committee with summaries of matters relating to the IXG Schemes (as further set out in the previous annual report), particularly in relation to funding.

Activity of the Office of the Public Trustee

7. Matters relating to the IXG Schemes occupy the vast majority of the limited time resources available to the OPT. Various details concerning the IXG Schemes are in the public domain, whether by reason of related Royal Court proceedings or otherwise. Pending conclusion of the investigation and other steps being undertaken pursuant to the orders

of the Court and for reasons previously stated, the Public Trustee intends to continue to refrain from detailed commentary. However, the Public Trustee issued proceedings in the Royal Court against the former trustees and certain associated companies and a named individual in relation to a particular asset of the IXG Schemes.

8. The OPT continues to provide trusteeships as reported in prior years and there are no significant current developments known to the Public Trustee.

Appointments

9. No new appointments have been undertaken during the year 2018. The OPT has received enquiries as to potential new cases, one or two of which remain under review.

10. There have been no retirements during the year 2018.

Accounts and Auditors' Report

11. The accounts of the Office of the Public Trustee for the year ended 31 December 2018 together with the Auditor's report thereon accompany this report (Appendix 2).

Other Matters

12. The Public Trustee is aware that the Committee is required to submit this report and the audited accounts and auditors' report to the States pursuant to Section 6(2) of the Law (Appendix 1) and may at the same time submit their own report to the States. The Public Trustee remains at the disposal of the Committee in respect of anything it may require for this purpose.

Luis Gonzalez

Public Trustee

Appendix 1 – Section 6 of the Law

Annual reports.

6. (1) The Public Trustee shall, as soon as practicable in each calendar year, submit to the Committee –

(a) a report on the exercise of his functions in the preceding year, and

(b) the audited accounts of the Office of the Public Trustee together with the auditors' report thereon.

(2) The Committee –

(a) shall submit –

(i) the Public Trustee's report made under subsection (1)(a), and

(ii) the audited accounts and auditors' report thereon referred to in subsection (1)(b),

to the States, and

(b) may at the same time submit their own report to the States –

(i) covering the period of the Public Trustee's report,

(ii) covering the matters described in subsection (1)(a), and

(iii) containing the Committee's comments (if any) on the audited accounts and auditors' report thereon referred to in subsection (1)(b).

Appendix 2 – Accounts and Auditor's Report

[Please see attached]

OFFICE OF THE PUBLIC TRUSTEE

STATEMENT OF ACCOUNT

31ST DECEMBER. 2018

LINCE SALISBURY

Chartered Accountants

Avenue House,

St. Julian's Avenue.

St. Peter Port,

GUERNSEY

OFFICE OF THE PUBLIC TRUSTEE

Office holder

The position of Public Trustee ("PT") throughout the period, at the year end and subsequent to the year end was held by:

Mr L. Gonzalez (appointed 16 May 2018)
Mrs C. Rowe (resigned effective 16 May 2018)

Statement of responsibilities for the preparation of financial statements

In accordance with The Public Trustee (Bailiwick of Guernsey) Law, 2002 the PT is responsible for the preparation of a statement of account for each financial year which gives a true and fair view of the state of affairs of The Office of the Public Trustee. To ensure a true and fair view is reported the PT has continued to:

* apply suitable accounting policies on a consistent basis;
* make judgements and estimates that are reasonable and prudent;
* state whether applicable accounting standards have been followed subject to any material departures disclosed and explained in the accounts; and
* prepare the statement of account on a going concern basis, unless it is inappropriate to do so.

The PT acknowledges responsibility for keeping proper accounting records which disclose with reasonable accuracy the financial position of The Office of the Public Trustee.

It is the responsibility of The Office of the Public Trustee to identify and install a system of internal controls, including financial controls, which is adequate for its own purposes. Thus The Office of the Public Trustee is responsible for safeguarding the assets in its care and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

The PT reports that so far as the PT is aware there is no relevant audit information of which the auditors are unaware and that the PT has taken all steps to make himself aware of such audit information and to establish that the auditors are aware of that information.

INDEPENDENT AUDITOR'S REPORT TO THE OFFICE OF THE PUBLIC TRUSTEE

We have audited the financial statements of The Office of Public Trustee for the year ended 31st December, 2018 on pages 4 to 7 which comprise the Statement of Income, the Statement of Financial Position and notes to the financial statements, including a summary of significant accounting policies. The financial reporting framework that has been applied in their preparation is applicable law and United Kingdom Accounting Standards, including Financial Reporting Standard 102 The Financial Reporting Standard applicable in the UK and Republic of Ireland (United Kingdom Generally Accepted Accounting Practice).

In our opinion the financial statements:
- give a true and fair view of the state of The Office's affairs as at 31st December, 2018 and of its result for the year then ended;
- have been prepared in accordance with United Kingdom Generally Accepted Accounting Practice; and
- the financial statements have been properly prepared in accordance with The Public Trustee (Bailiwick of Guernsey) Law, 2002.

Basis for opinion

We conducted our audit in accordance with International Standards on Auditing (UK) (ISAs (UK)) and applicable law. Our responsibilities under those standards are further described in the Auditor's responsibilities for the audit of financial statements section of our report. We are independent of the office in accordance with the ethical requirements that are relevant to our audit of the financial statements, including the Financial Reporting Council's Ethical Standard, and we have fulfilled our other ethical responsibilities in accordance with these requirements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

Conclusions relating to going concern

We have nothing to report in respect of the following matters in relation to which the ISAs (UK) require us to report to you where:

- the Public Trustees' use of the going concern basis of accounting in the preparation of the financial statements is not appropriate; or
- the Public Trustee has not disclosed in the financial statements any identified material uncertainties that may cast significant doubt about the office's ability to continue to adopt the going concern basis of accounting for a period of at least twelve months from the date when the financial statements are authorised for issue.

Other information

The Public Trustee is responsible for the other information. The other information comprises page 1. Our opinion on the financial statements does not cover the other information and, except to the extent otherwise explicitly stated in our report, we do not express any form of assurance conclusion thereon. In connection with our audit of the financial statements, our responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or our knowledge obtained in the audit or otherwise appears to be materially misstated. If we identify such material inconsistencies or apparent material misstatements, we are required to determine whether there is a material misstatement in the financial statements or a material misstatement of the other information. If, based on the work we have performed, we conclude that there is a material misstatement of this other information, we are required to report that fact.

We have nothing to report in this regard.

INDEPENDENT AUDITOR'S REPORT TO THE OFFICE OF THE PUBLIC TRUSTEE

Matters on which we are required to report by exception

In the light of the knowledge and understanding of the office and its environment obtained in the course of the audit, we have not identified material misstatements in the information contained in page 1.

We have nothing to report in respect of the following matters in relation to which The Public Trustee (Bailiwick of Guernsey) Law, 2002 requires us to report to you if, in our opinion:

- adequate accounting records have not been kept; or
- the financial statements are not in agreement with the accounting records; or
- we have not received all the information and explanations we require for our audit.

Responsibilities of the Public Trustee

As explained more fully in the Public Trustee's responsibilities statement set out on page 1, the Public Trustee is responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view, and for such internal control as the Public Trustee determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Public Trustee is responsible for assessing the ability of the office of the Public Trustee to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless the Public Trustee either seeks to liquidate the Office or to cease operations, or has no realistic alternative but to do so (which in the absence of statutory commission or information under S.1(1) of the Public Trustee (Bailiwick of Guernsey) Law 2002 may not occur).

Auditor's responsibilities for the audit of the financial statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISAs (UK) will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

A further description of our responsibilities for the audit of the financial statements is located on the Financial Reporting Council's website. This description forms part of our auditor's report.

Use of our report

This report is made solely to the Office of the Public Trustee as a body, in accordance with Section 6 of The Public Trustee (Bailiwick of Guernsey) Law, 2002. Our audit work has been undertaken so that we might state to the Public Trustee those matters we are required to state to them in an auditor's report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the Public Trustee for our audit work, for this report, or for the opinions we have formed.

12th November 2019

Lince Salisbury Limited.

Avenue House,
St. Julian's Avenue,
St. Peter Port,
GUERNSEY

LINCE SALISBURY LIMITED
CHARTERED ACCOUNTANTS

OFFICE OF THE PUBLIC TRUSTEE

STATEMENT OF INCOME

FOR THE YEAR ENDED 31st DECEMBER, 2018

	Note	2018 £	2018 £	2017 £	2017 £
Income					
Grant from States of Guernsey	1(b), 3		(10,411)		17,286
Trustee fees	1(c)		708,652		826,724
			698,241		844,010
Expenditure	1(d)				
Audit fees		4,250		3,250	
Bank charges		26		60	
Office administration		3,844		6,366	
Public Trustee fees		48,458		93,930	
Movement in provision for doubtful debts		0		11,763	
Trust and company administration fees		655,817		717,762	
			(712,395)		(833,131)
Operating (deficit)/surplus before tax			(14,154)		10,879
Tax	2		-		-
(Deficit)/Surplus for the year			£(14,154)		£10,879

OFFICE OF THE PUBLIC TRUSTEE

STATEMENT OF FINANCIAL POSITION AT 31st DECEMBER, 2018

	Note	2018	2017
		£	£
Current assets			
Debtors		1,877,944	1,192,650
Bank		22,691	18,856
		1,900,635	1,211,506
Current liabilities			
Potential liability - grants	3	1,759,213	1,144,654
Accruals	3	10,464	7,790
Creditors	3	118,731	32,681
		1,888,408	1,185,125
Net assets		£12,227	£26,381
Funded by:			
The Public Trustee Fund	2, 4	£12,227	£26,381

The statement of account was approved on 12 November 2019.

L. Gonzalez
Public Trustee

OFFICE OF THE PUBLIC TRUSTEE
NOTES TO THE FINANCIAL STATEMENTS
YEAR ENDED 31ST DECEMBER, 2018

1. ACCOUNTING POLICIES

(a) Basis of Preparation

The financial statements have been prepared in accordance with United Kingdom Generally Accepted Accounting Practice including FRS 102 The Financial Reporting Standard applicable in the United Kingdom and Republic of Ireland ('FRS102') Section 1A for small entities issued by the Financial Reporting Council in September, 2015 and with The Public Trustee (Bailiwick of Guernsey) Law, 2002.

(b) Grants

Grants from the States of Guernsey Committee for Economic Development are included on a received basis. Grants have been recognised as revenue items where they are not expected to become repayable. Where grants have been received and a corresponding amount is considered recoverable in respect of the underlying transfers to which they relate the potential liability has been recognised.

(c) Trustee Fees

Fees are recognised when services are delivered by or on behalf of or to the Office of Public Trustee in its capacity as trustee. Included in Trustee Fees are fees raised for services provided by third party administrators or other parties including professional advisors appointed by the Public Trustee to perform administrative duties or provide these services.

(d) Other income and expenditure

Other income and expenditure is included on an accruals basis.

(e) Financial Instruments

Bank balances are repayable on demand.

The Office of Public Trustee only enters into basic financial instruments that result in the recognition of financial assets and liabilities such as accounts receivable and creditors, and loans from or to banks and related parties. Debt instruments that are payable or receivable within one year (typically loans, accounts receivable and creditors) or that bear a commercial rate of interest and are payable or receivable after more than one year are measured, initially and subsequently, at the undiscounted amount of the cash or other consideration expected to be paid.

2. TAXATION

The Public Trustee fund was established for the purposes of:

a) Paying fees or remuneration to the Public Trustee and his officers and servants; and
b) meeting all other costs, fees, expenditure and liabilities properly incurred.

The fund and income thereof is not subject to Income Tax.

3. CREDITORS AND ACCRUALS

	2018	2017
	£	£
Creditors		
Trade creditors	£ 118,731	£ 32,681
Accruals		
Audit fee	7,450	3,200
Public Trustee	-	4,585
Other accruals	3,014	5
	£ 10,464	£ 7,790

OFFICE OF THE PUBLIC TRUSTEE
NOTES TO THE FINANCIAL STATEMENTS
YEAR ENDED 31ST DECEMBER. 2018

3. CREDITORS AND ACCRUALS (continued)

	2018	2017
	£	£
Potential Liabilities - Grants		
Grants from States of Guernsey	£ 1,759,213	£ 1,144,654

Grants (or loans) from the Committee for Economic Development of the States of Guernsey are made in accordance with section 8 of The Public Trustee (Bailiwick of Guernsey) Law, 2002. Any amounts paid to cover expenditure and liabilities that are subsequently recouped from trust structures within the responsibility of the Public Trustee become repayable. The potential liability due represents the debts the Public Trustee expects to be recoverable from those structures. Disclosing this amount separately on the balance sheet reflects the understanding of the contingent nature of the corresponding debtor.

4. THE PUBLIC TRUSTEE FUND

	2018	2017
	£	£
Balance brought forward	26,381	15,502
Surplus for year	(14,154)	10,879
Balance carried forward	£12,227	£26,381

5. GENERAL INFORMATION

The Office of Public Trustee is an unincorporated entity established under The Public Trustee (Bailiwick of Guernsey) Law, 2002. Its address is Raymond Falla House, Longue Rue, St Martin, Guernsey, GY1 6AF.

6. NUMBER OF EMPLOYEES

The Office of the Public Trustee was created by The Public Trustee (Bailiwick of Guernsey) Law, 2002. The holder of that office is known as the Public Trustee. During the year there were no employees (2017: nil).