



BILLET D'ÉTAT

TUESDAY, 29th JULY, 2014

Volume 1

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BILLET D'ÉTAT

TO
**THE MEMBERS OF THE STATES
OF THE ISLAND OF GUERNSEY**

I hereby give notice that a Meeting of the States of Deliberation will be held at **THE ROYAL COURT HOUSE**, on **TUESDAY**, the **29th JULY, 2014** at **9.30 a.m.**, to consider the items contained in this Billet d'État which have been submitted for debate.

R. J. COLLAS
Bailiff and Presiding Officer

The Royal Court House
Guernsey

20th June 2014

**THE SUPPLEMENTARY BENEFIT (IMPLEMENTATION) (AMENDMENT)
ORDINANCE, 2014**

The States are asked to decide:-

I.- Whether they are of the opinion to approve the draft Ordinance entitled “The Supplementary Benefit (Implementation) (Amendment) Ordinance, 2014”, and to direct that the same shall have effect as an Ordinance of the States.

EXPLANATORY MEMORANDUM

This Ordinance amends the Supplementary Benefit (Implementation) Ordinance, 1971 ("the 1971 Ordinance") in the following material particulars.

Clause 4 substitutes section 5(2) of the 1971 Ordinance with fresh provision which will enable an application for a supplementary benefit to be treated as having been made up to 7 days before its receipt by the Social Security Department, where the Administrator is satisfied that there is good reason for any delay.

Clause 5 amends section 15(1) of the 1971 Ordinance by deleting the limitation that only women appellants may be accompanied by another person at hearings of the tribunal established under the Supplementary Benefit (Guernsey) Law, 1971 ("the 1971 Law").

Clause 6 amends section 23 of the 1971 Ordinance by inserting provision enabling the Administrator to reduce the amount of a supplementary benefit payable, where an applicant refuses or neglects without reasonable cause to comply with certain provisions of the 1971 Ordinance.

Clause 7 amends section 24A of the 1971 Ordinance. In summary, the amendments vary the circumstances in which the Administrator may suspend or reduce the payment of a supplementary benefit to certain applicants. For example, under the amended provisions, applicants who have not attained pensionable age and who are able to undertake full-time remunerative work, but have without good cause failed to act in compliance with work requirements relating to them, may have their benefit suspended or reduced. In addition, powers to suspend or reduce benefit will arise where adult dependents of applicants fail without good cause to act in compliance with work requirements relating to them.

Clause 8 makes several amendments to the First Schedule to the 1971 Ordinance. These include amendments to paragraph 2 of the First Schedule which will, in some circumstances, have the effect of aggregating the requirements and resources of a husband and wife (and persons living together as husband and wife) where one spouse or person is in long-term residential care. Another amendment is made in respect of paragraph 5, such that short-term rates of benefit will apply in respect of persons to whom a benefit has been payable for a continuous period of 6 months or more and who qualify for supplementary benefit because they are acting in accordance with work requirements relating to them. This class of persons will be created when amendments to the 1971 Law made by the Supplementary Benefit (Guernsey) (Amendment) Law, 2014 (submitted to the June meeting of the States) come into effect.

THE ALDERNEY (APPLICATION OF LEGISLATION) (SUPPLEMENTARY BENEFIT) (AMENDMENT) ORDINANCE, 2014

The States are asked to decide:-

II.- Whether they are of the opinion to approve the draft Ordinance entitled “The Alderney (Application of Legislation) (Supplementary Benefit) (Amendment) Ordinance, 2014”, and to direct that the same shall have effect as an Ordinance of the States.

EXPLANATORY MEMORANDUM

This Ordinance is made under the Alderney (Application of Legislation) Law, 1948 and amends the Alderney (Application of Legislation) (Supplementary Benefit) Ordinance 1971. The amendments give effect in Alderney, with suitable modifications, to the amendments made to the Supplementary Benefit (Guernsey) Law, 1971 by the Supplementary Benefit (Guernsey) (Amendment) Law, 2014 (submitted to the June meeting of the States) when that Law comes into effect.

THE HOUSING (CONTROL OF OCCUPATION) (AMENDMENT OF HOUSING REGISTER) ORDINANCE, 2014

The States are asked to decide:-

III.- Whether they are of the opinion to approve the draft Ordinance entitled “The Housing (Control of Occupation) (Amendment of Housing Register) Ordinance, 2014”, and to direct that the same shall have effect as an Ordinance of the States.

EXPLANATORY MEMORANDUM

This Ordinance authorises the Housing Authority to inscribe in Part A of the Housing Register three apartments on the site known as 1 St Julian's Avenue, St Peter Port (the former Randall's Brewery site).

THE INCOME TAX (GUERNSEY) (APPROVAL OF AGREEMENT WITH MONACO) ORDINANCE, 2014

The States are asked to decide:-

IV.- Whether they are of the opinion to approve the draft Ordinance entitled “The Income Tax (Guernsey) (Approval of Agreement with Monaco) Ordinance, 2014”, and to direct that the same shall have effect as an Ordinance of the States.

EXPLANATORY MEMORANDUM

This Ordinance specifies the agreement made between the States of Guernsey and the Government of the Principality of Monaco, signed on the 7th April, 2014 and the 14th April, 2014 on behalf of Guernsey and Monaco respectively, providing for the obtaining and exchanging of information in relation to tax, for the purposes of the Income Tax (Guernsey) Law, 1975.

THE TERRORISM AND CRIME (BAILIWICK OF GUERNSEY) (AMENDMENT) ORDINANCE, 2014

The States are asked to decide:-

V.- Whether they are of the opinion to approve the draft Ordinance entitled “The Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2014”, and to direct that the same shall have effect as an Ordinance of the States.

EXPLANATORY MEMORANDUM

This Ordinance amends the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002 ("the Law of 2002").

Clauses 1 and 2 of the Ordinance insert into the Law of 2002 a revised definition of "terrorism" and a new definition relating to the "purposes of terrorism". The revised and new definitions widen the existing definition of terrorism, in particular, to include the use or threat of action made for the purpose of advancing a racial cause. The definitions will ensure that the key definition of terrorism for the purposes of the Law of 2002 encompasses a wide range of terrorist activity which is consistent with the relevant Financial Action Task Force standard.

Clause 3 amends section 12 of the Law of 2002 by substituting new provision. The new section places revised obligations on certain persons in non-financial services businesses, to make disclosures of information to the persons and in the manner set out in the new section. The disclosure obligations are consistent with those that will arise under amendments made to the Disclosure (Bailiwick of Guernsey) Law, 2007 by the Disclosure (Bailiwick of Guernsey) (Amendment) Ordinance which was approved by the States on 28th May, 2014.

Clause 4 deletes section 13 of the Law of 2002. Section 13 enables any person to disclose any suspicion or belief that any money or other property is terrorist property, or is derived from terrorist property, to a police officer and, where the person is in employment, in accordance with any procedure established by their employer for the making of such disclosures. The provision is no longer required given the amendments made to other provisions of the 2002 Law making it compulsory to make disclosures of information and the Disclosure (Bailiwick of Guernsey) Law, 2007.

Clauses 5 and 6 make amendments to sections 14, 15 and 15A of the Law of 2002. In particular, the amendments place revised obligations on certain persons in financial services businesses, to make disclosures of information to the persons and in the manner set out in the new sections. These disclosure obligations are also consistent with those that will arise under amendments made to the Disclosure (Bailiwick of Guernsey) Law, 2007 by the Disclosure (Bailiwick of Guernsey) (Amendment) Ordinance which was approved by the States on 28th May 2014.

The amendments made to sections 12, 14, 15 and 15A of the Law of 2002, as described above, also extend the disclosure obligations so that they relate not only to knowledge or suspicion about terrorist financing, but also to knowledge or suspicion that certain property is, or is derived from, terrorist property.

Clause 7 amends section 15C of the Law of 2002 in order to broaden the powers of the Home Department to make regulations enabling the obtaining of additional information by persons and bodies, such as Guernsey's Financial Intelligence Service, to whom disclosures are made under the Law.

Clause 8 amends section 40 of the Law of 2002. Section 40 creates offences which may be committed where a person knows or suspects that a police officer is conducting a terrorist investigation or that a disclosure has been or will be made under certain sections of the Law. In those circumstances it is an offence for that person to make disclosures to others about certain matters relating to the investigation or the fact that such disclosures have been made. Various defences and exemptions to the offences apply under section 40 and Clause 8 inserts an additional subsection into section 40 to provide a defence, or exemption, for disclosures made by a lawyer's client to his professional legal adviser for the purpose of seeking legal advice or to any person in contemplation of legal proceedings and for the purposes of those proceedings.

Clause 9 amends the definition of "terrorist financing" that appears in section 79 of the Law of 2002.

The amendments are intended to enhance Bailiwick compliance with anti-money laundering and counter terrorist financing standards as issued by the Financial Action Task Force.

STATUTORY INSTRUMENTS LAID BEFORE THE STATES

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

THE LIMITED LIABILITY PARTNERSHIPS (REGISTRAR) (FEES AND PENALTIES) REGULATIONS, 2014

In pursuance of section 113(4) of the Limited Liability Partnerships (Guernsey) Law, 2013, The Limited Liability Partnerships (Registrar) (Fees and Penalties) Regulations, 2014 made by the Registrar of Limited Liability Partnerships on 12th May, 2014, are laid before the States.

EXPLANATORY NOTE

These regulations, made by the Registrar of LLPs, prescribe fees payable to the Registrar in respect of the performance of his functions under the Limited Liability Partnerships (Guernsey) Law, 2013. These regulations came into force on the 13th May, 2014.

THE CONTROL OF POISONOUS SUBSTANCES (GUERNSEY) REGULATIONS, 2014

In pursuance of section 4(1)(c) of the Poisonous Substances (Guernsey) Law, 1994, the Control of Poisonous Substances (Guernsey) Regulations, 2014, made by the Commerce and Employment Department on 6th May, 2014, are laid before the States.

EXPLANATORY NOTE

These Regulations, made under the Poisonous Substances (Guernsey) Law, 1994, replace the Control of Poisonous Substances Regulations, 1995 with a regulatory regime that reflects modern developments in the UK and the rest of Europe in health and safety requirements for the control of poisonous substances, such as pesticides.

Regulations 1 to 3 specify the purpose of these Regulations and the substances that are to be regulated as poisonous substances by these Regulations. A limited exception is provided for poisonous substances that are imported solely for re-export, as long as these substances meet certain conditions.

Regulations 4 to 7 prohibit the importation, advertising, sale, supply, storage and use of a poisonous substance, unless the substance has been approved by the Commerce and Employment Department ("the Department") and the importation, advertising, sale, supply, storage or (as the case may be) use of the substance is authorised either by the approval or by a specific licence given by the Department.

Regulation 8 prohibits transportation of a poisonous substance unless the substance is approved and the person transporting the substance holds a relevant certificate of competence or is working under the direct personal supervision of someone who holds such a certificate.

Regulation 9 imposes record-keeping duties on professional users and regulation 10 sets out the duty of employers to provide the necessary instruction and guidance to employees required to transport, sell, supply, store or use a poisonous substance.

Regulations 11 to 13 set out the procedures and requirements for applications to be made to the Department and for the giving of approvals and licences by the Department.

Regulation 14 gives Health and Safety inspectors power to seize poisonous substances and equipment, etc. where the inspectors believe that the substances have been imported, advertised, sold, supplied, stored, used or transported in breach of these Regulations. This power can only be exercised if the inspector considers it necessary to protect the health and safety of human beings, animals and plants or safeguard the environment.

Regulation 15 creates offences and sets out penalties for these offences. Officers of a body corporate may, in certain circumstances, be liable for offences committed by the body corporate.

Regulation 16 authorises the Department to recognise competence schemes for the transportation, sale, supply, storage or use of poisonous substances (leading to a certificate of competence for the relevant activity). Regulation 17 requires the Department to maintain a public register of approvals, while regulation 18 authorises the Department to release evaluations and study reports and any information concerning licences to members of the public, on request. Any information or document disclosed under regulation 18 is subject to restrictions on use and publication.

Regulation 19 is the interpretation provision, regulation 20 revokes the Control of Poisonous Substances Regulations, 1995, and regulation 21 gives effect to transitional and savings provisions. Regulations 22 and 23 specify the citation and date of commencement of these Regulations.

These Regulations came into force on the 12th May, 2014.

THE LIMITED LIABILITY PARTNERSHIPS (GUERNSEY) LAW, 2013 (COMMENCEMENT) REGULATIONS, 2014

In pursuance of section 113(4) of the Limited Liability Partnerships (Guernsey) Law, 2013, The Limited Liability Partnerships (Guernsey) Law, 2013 (Commencement) Regulations, 2014 made by the Commerce and Employment Department on 12th May 2014, are laid before the States.

EXPLANATORY NOTE

These Regulations brought the Limited Liability Partnerships (Guernsey) Law, 2013 into force on 13th May, 2014.

THE LIMITED LIABILITY PARTNERSHIPS (FEES) REGULATIONS, 2014

In pursuance of section 113(4) of the Limited Liability Partnerships (Guernsey) Law, 2013, The Limited Liability Partnerships (Fees) Regulations, 2014 made by the Commerce and Employment Department on 12th May, 2014, are laid before the States.

EXPLANATORY NOTE

These regulations, made by the Commerce and Employment Department, prescribe fees payable to the Registrar of LLPs in respect of the performance of his functions under the Limited Liability Partnerships (Guernsey) Law, 2013. These regulations came into force on the 13th May, 2014.

THE LIMITED LIABILITY PARTNERSHIPS (INSPECTION AND COPYING OF DOCUMENTS) (FEES) REGULATIONS, 2014

In pursuance of section 113(4) of the Limited Liability Partnerships (Guernsey) Law, 2013, The Limited Liability Partnerships (Inspection and Copying of Documents) (Fees) Regulations, 2014 made by the Commerce and Employment Department on 12th May, 2014, are laid before the States.

EXPLANATORY NOTE

These regulations prescribe for the purposes of the Limited Liability Partnerships (Guernsey) Law, 2014 the maximum fee payable by a person inspecting an LLP's register of members, and by a person requiring a copy of such a register. These regulations came into force on the 13th May, 2014.

THE CARER'S ALLOWANCE (GUERNSEY) (AMENDMENT) REGULATIONS, 2014

In pursuance of Section 24 of The Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 1984, The Carer's Allowance (Guernsey) (Amendment) Regulations, 2014 made by the Social Security Department on 15th April, 2014, are laid before the States.

EXPLANATORY NOTE

These Regulations amend the Carer's Allowance (Guernsey) Regulations, 1986 (formerly known as the Invalid Care Allowance (Guernsey) Regulations, 1986). The effects of the amendments are to permit carers (over the age of 18), in full-time education at an establishment located within the Bailiwick of Guernsey, to receive carer's allowance, to remove the earnings limit for carer's allowance and to allow payment of carer's allowance for eight weeks following the death of the linked severe disability benefit recipient and four weeks if the linked severe disability benefit recipient moves into permanent care.

These Regulations came into force on the 1st May, 2014.

THE HEALTH SERVICE (BENEFIT) (LIMITED LIST) (PHARMACEUTICAL BENEFIT) (AMENDMENT NO. 3) REGULATIONS, 2014

In pursuance of Section 35 of The Health Service (Benefit) (Guernsey) Law, 1990, The Health Service (Benefit) (Limited List) (Pharmaceutical Benefit) (Amendment No. 3) Regulations, 2014 made by the Social Security Department on 15th April, 2014, are laid before the States.

EXPLANATORY NOTE

These Regulations add to the limited list of drugs and medicines available as pharmaceutical benefit which may be ordered to be supplied by medical prescriptions issued by medical practitioners. These Regulations came into operation on 15th April, 2014.

POLICY COUNCIL

MANAGING THE SIZE AND MAKE UP OF THE ISLAND'S POPULATION – LONG TERM RESIDENCY

1. EXECUTIVE SUMMARY

- 1.1 In June 2013¹ the States agreed a set of Resolutions that provide the high level framework for the development of the new Population Management system. These included Resolutions relating to long term residency in the Island, specifically the length of time and circumstances under which an individual would need to reside in the Island before obtaining certain residency rights. These are fully explained in the body of this report.
- 1.2 The Resolutions agreed at that time sought to reduce the number of different ways in which certain residency rights could be achieved. However, while a much improved level of simplicity and clarity was introduced, the agreed Resolutions also required the majority of those who were born in the Island, and those who were born to Guernsey families, to be resident in the Island for longer periods of time than is required under the current Housing Control Law before acquiring certain residency rights.
- 1.3 Following the June 2013 States debate it became apparent to members of the Policy Council that, while one of the key objectives for the new Population Management system was to be less complex, the consequences of simplifying the provisions in this area were unacceptable to significant numbers of Islanders, many of whom had not been aware of the proposals that had been debated and agreed by the States, despite concerted efforts to engage the public in this issue.
- 1.4 In the light of that public feedback, the Policy Council has worked with States Members to come up with some alternative proposals in this area. These include recommendations to introduce more favourable qualification periods for those in the Island who have strong connections with Guernsey through their birth and/or ancestry.
- 1.5 In considering these proposals, the Policy Council has been mindful that this area perhaps more than any other is one which engages strong emotions which may or may not be able to be supported by objective reasoning or fact. Nonetheless, the Policy Council believes that these new proposals will address the various objectives of the new system in a more balanced and publicly acceptable way. If adopted by the States, they will then form part of the overall package of Resolutions that have so far been agreed as the framework for the new Population Management system and upon which more detailed work will be undertaken.

¹ Billet d'État XI 2013

- 1.6 Finally, in order to fully explain the key issues that need to be taken into account when considering long term residency, and to ensure that the recommendations are considered in context, a number of areas that were explained in the June 2013 States Report are reproduced in the Appendices to this report. However, this States Report does not contain any detail on the other aspects of the new Population Management system on which the States have made Resolutions. However, it is still the Policy Council's firm intention to return to the States later this year with further reports on the many other aspects of the new system that require further development and debate.

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Appendix 2 – Wider Context – June 2013 States Report Extract

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Appendix 5 – Islander status – The “Stamp” in the Passport

Appendix 6 – Agreed Absence Provisions – June 2013 States Report Extract

2 BACKGROUND

- 2.1 In January 2011 the Policy Council published a consultation document² that marked the launch of a 14 week consultation process providing the community with the opportunity to have an input into options for a new Population Management system at a very early stage in the complex development process.
- 2.2 Given the complex and wide ranging issues under discussion, the Policy Council was pleased that more than 350 responses to the consultation were received, including more than 20 from organisations whose responses represented the views of many individuals. Around 800 people also took the opportunity to attend the Policy Council's various public events. The resulting output from the consultation process was published in June 2011 in the Population Policy Group's report *Managing Guernsey's Population – The Public Response to the Consultation Document*³.
- 2.3 In January 2012, the States considered a report from the Policy Council entitled *Guiding Principles for the Development of a Population Management Regime*⁴. This comprehensive report provided the first opportunity in decades for the States to fully debate a potential mechanism for managing, as far as is possible, the size and make-up of the Island's population. That debate was conducted in accordance with Rule 12(4) of the Rules of Procedure which allowed the general principles underlying the policy issues contained in the report to be debated without amendment on the basis that "*if the recommendations are accepted, the Policy Council will return to the States with detailed proposals for debate which can be accepted or rejected together with any amendments*".
- 2.4 Following a lengthy debate, the States agreed the recommendation in the report and resolved "*to approve the replacement of the Housing Control and Right to Work Laws with a Population Management regime, based on a system of Permits for Residence and Employment, which determines and manages the circumstances under which people may reside in Guernsey, for what reasons and for how long*".
- 2.5 In June 2013, the States spent a further three days considering 45 recommendations and 19 amendments covering the core components of a new Population Management system. The resulting Resolutions, which are detailed in full in Appendix 1, provided clear direction from the States allowing more detailed work on the development of the new system to proceed, including the preparation of the consequent legislation, the design of the associated administrative procedures and the development of detailed policies for consideration by the States.

² Managing Guernsey's Population – A Consultation Document – www.gov.gg

³ Available on www.gov.gg

⁴ Billet d'État I 2012

- 2.6 While this States Report covers just one specific, albeit significant, element of the new Population Management system, one or more further reports in the form of detailed proposals will be submitted to the States for approval in due course. These detailed proposals will all be made publicly available before further decisions are made.

3 WIDER CONTEXT

- 3.1 Before going on to explore the issues specifically relating to long term residency in the Island, and before considering alternative proposals in this area, it is important to take into account the wider context within which the new Population Management system has been developed and put forward.
- 3.2 In the June 2013 States Report, the Policy Council pointed out that managing growth in population is a major challenge for many Governments world-wide and Guernsey is not immune from this challenge. If the Island is to continue to succeed as an attractive place in which to live, work and do business, then it is going to have to take pragmatic steps to manage the size and make-up of its population in the future. Of course this cannot be done in isolation and there are some key factors which must be taken into account in developing a new Population Management system. These are detailed in Appendix 2 – Wider Context, and include the demand for housing in the Island; our ageing population; the availability of a skilled and experienced workforce; and other regimes that affect who is entitled to live in Guernsey, for example, our Immigration Rules and previous Housing Control Laws.
- 3.3 As well as taking into account these key factors, the new Population Management system needs to be capable of supporting the wider economic, social and environmental objectives of the States. The new system is designed to react to, and act as an enabler for, some of those wider objectives.
- 3.4 In terms of the specific objectives for the new Population Management system, the States resolved that it should aim to be:
- (a) as effective as possible in enabling the States to manage the size and make-up of the Island's population;
 - (b) legally robust and designed to meet the Island's domestic and international obligations, taking into account that human rights considerations and the immigration regime are of particular significance in managing the size and make-up of the Island's population;
 - (c) capable of fulfilling the strategic policies of the States, especially any strategic population policies of the States, including any which are in place at the time of the inception of the new regime, and sufficiently flexible to adapt to any changes to such policies;

- (d) sufficiently flexible to allow the States to respond wisely, and where necessary quickly, to economic, social and environmental changes, including to demographic challenges, without the need for changes to primary legislation;
- (e) supported by an efficient and flexible administrative process which contributes to making the Island an attractive place to live, work and do business and which is not so complex and bureaucratic as to deter people from using that process;
- (f) capable of providing regular statistics to allow the States to monitor, and understand how the regime is affecting, changes in the size and make-up of the population in order to ensure that the States is in receipt of as much information as possible when developing policies; and
- (g) transparent in its policies, procedures and rules in order that the public understands how and why decisions are made.

3.5 The proposals contained in this report need to be considered in relation to these agreed objectives.

3.6 Finally, it is important to point out that this report does not focus upon, or seek to establish, what the total size of Guernsey's population should be. Its starting point is the current States strategic policy to maintain a population of approximately 61,000. Developing a mechanism which allows the States to have an impact on the size and make-up of the population must take priority because there is little to be gained from having a strategic population policy which cannot be delivered due to the lack of such a mechanism.

3.7 The Resolutions agreed in June 2013, along with the recommendations in this report, are aimed at influencing the size of the Island's population over the medium to long term and are designed to be effective whether the States strategic population policy at any point in the future is for the population to rise, to fall or to remain static.

4 LONG TERM RESIDENCY

4.1 Under the current Housing Control Law, Qualified Resident status is very significant. While people can qualify via different routes, everyone who acquires the status of Qualified Resident is treated the same in respect of the Housing Control Law. It means that:

- The individual concerned can become the householder of any property in Guernsey without the need for a Housing Licence,

- They can leave Guernsey and return at any time in the future, regardless of the length of their absence from the Island,
- They have the automatic right to accommodate their immediate family within their own household, and
- Their spouse and any of their children born in the Island can qualify in the shortest qualification period of 10 years' residence in the Island.

4.2 The vast majority of the Island's population are Qualified Residents, even though they may not be aware of it, and many other Island residents, both past and present, have the potential to become Qualified Residents in the future. This status is granted to people who have been resident in the Island for a significant period of time, but is also dependent on a complex combination of other factors.

4.3 These factors can include which part of the housing market someone has lived in and for how long; whether they were born in the Island; at what age they moved to the Island; and the residential status of their parents. The relationship between the various factors is different for different groups of people, as is the period of residency that somebody needs to complete in order to achieve the status of Qualified Resident.

4.4 **Currently, an individual must have been "ordinarily resident"⁵ for at least 10, 15 or 20 years depending on the route through which they qualify. Indeed, it is clear that it has escaped the public consciousness that, for many decades, nobody has been able to become a Qualified Resident under the Housing Control Law simply because they were born here.**

4.5 It is also possible for a person's qualification route, and qualification timeframe, to change during their period of residence as the result of changes to their personal circumstances which, in some cases, might be beyond their control.

4.6 All of these complexities are reflected in the fact that there are currently 13 different routes to becoming a Qualified Resident and the full details of these are contained in Appendix 3.

The Need for Change

4.7 A constant theme of political and public debate over the years has been that the current system of how a person acquires Qualified Resident status lacks clarity and is too complex. This view was reflected strongly during the public consultation process in 2011 and during the States debates in January 2012 and June 2013.

⁵ As defined by Section 71(3) of the Housing Control Law

- 4.8 Another fundamental concern with the current system is how it relates to our Human Rights legislation. This relationship is summarised below and more detail can be found in Appendix 4 – The Influence of Human Rights.
- 4.9 When considering how to manage changes in the size and make-up of Guernsey’s population, there is one set of rights that is of particular significance: *Article 8 – the right to respect for private and family life, home and correspondence*. This is significant because any system which determines who should be able to come to live in Guernsey and for how long; whether specific conditions should apply to them during their stay; and which allows the States to require some people to move out of Local Market property after a period of residence; has the potential to cause a direct interference with an individual’s private and family life and their home.
- 4.10 This does not mean that Guernsey cannot have in place a system that applies conditions to an individual’s residence and that allows the States to require some people to move out of Local Market property after a specified period of residence. However, in having such a system, evidence must be provided to justify that any interference with an individual’s Article 8 rights is in accordance with Paragraph 2 of Article 8 i.e. that it is “*necessary in a democratic society*” for defined reasons. Any measures that are taken to protect the needs of the community as a whole must be reasonable, proportionate and justifiable in terms of their potential effect on the rights of individuals.
- 4.11 For some people their circumstances will change, and/or their Housing Licence will expire, and this will mean that they can no longer live lawfully in Local Market property. As a result, some people will face the prospect of having to leave Guernsey because they are not yet Qualified Residents and they cannot afford Open Market accommodation. In these circumstances, the individual concerned may approach the Housing Department to request that they are given a Housing Licence which will enable them to remain in the Island in a Local Market property.
- 4.12 The Human Rights Law incorporates into our domestic law a requirement that every law is applied in accordance with human rights principles. Therefore, although the application of the Housing Control Law may lead to the conclusion that an individual must cease to live in Local Market property in Guernsey, the Housing Department must also look at the individual’s situation from the perspective of the Human Rights Law, and ask itself “*Has this individual and their family established their home and/or private and family life in Guernsey to such an extent that to require them to leave Local Market property would be unreasonable and disproportionate?*” before reaching a final decision about whether or not to grant a Housing Licence permitting them to continue to live in Local Market property.

- 4.13 The legal advice which the Housing Department has been given over recent years is that, in a number of cases, the answer to that question is likely to be “yes” much earlier than the current qualifying periods of 10, 15 or 20 years’ residence. If a Housing Licence is not issued – which might be in line with the original intent of the Housing Control Law – the individual might successfully challenge that decision because it is an interference with the Article 8 rights of them and/or their family, and the extent of that interference cannot be justified as being “*necessary in a democratic society for the protection of the rights and freedoms of others*”.
- 4.14 Against this background, the States agreed in June 2013 that the principle of a person acquiring Qualified Resident status (and therefore the maximum freedom from residence controls) after having lived in the Island for a significant period was a sound one. It is for this reason that the States agreed that a similar mechanism for recognising long term residence should be carried through into the new Population Management system. The proposals agreed were designed to ensure that the problems outlined above relating to complexity and potential challenges on Human Rights grounds were minimised.

5 NEW RECOMMENDATIONS FOR PERMANENT RESIDENCE

- 5.1 The States agreed that those with the maximum freedom from residence controls under the new Population Management system would be known as Permanent Residents. The specific recommendation agreed by the States⁶ was:

2(b) To agree that individuals who have lived continuously and lawfully in Local Market property for 14 years will be issued with a Permanent Residence Permit, will acquire the right to continue living in the Island permanently if they so choose and will be defined as Permanent Residents,

and for Open Market residents:

21 To agree that the children of Open Market residents should become Permanent Residents after a period of continuous residence of 14 years. This will be the case as long as they were first resident in the Island before the age of 18 and as a member of the household of their Mother or Father.

- 5.2 At the same time, the States agreed that someone would become an Established Resident after a period of 8 years’ residence. The specific Resolution was:

2(a) To agree that individuals who have lived continuously and lawfully in Local Market property for 8 years will be issued with an Established Residence Permit, will acquire the right to continue living in the Island permanently if they so choose and will be defined as Established Residents.

⁶ Full details of the Resolutions can be found in Appendix 1 – June 2013 Resolutions

- 5.3 There are some fundamental differences between the rights of Permanent Residents and Established Residents that were agreed by the States. Primarily, an Established Resident will not have any automatic right to return to the Island if they decide to move away. However, once an individual becomes a Permanent Resident, if they then decide to move away from the Island, they will have the automatic right to return to live in the Island. This right will be retained regardless of how long they are away from the Island⁷.
- 5.4 The most important feature of the Resolutions agreed by the States in June 2013 is that they were designed to affect all individuals living in Local Market property and children living in Open Market property in exactly the same way. The period after which someone would qualify to become a Permanent Resident under the Resolutions would not be affected by where they were born or the residential status of their parents. It is these issues that have been the subject of much political and public scrutiny both during the June 2013 States debate but particularly so in recent months.

Scrutiny of the Recommendations

- 5.5 During the June 2013 States debate there were a number of amendments that sought to challenge whether, in the future, under the new Population Management system, everybody living in Local Market property and the children of Open Market residents should be treated the same in respect of acquiring the status of Permanent Resident.
- 5.6 Two amendments sought to decrease from 14 years to 10 years the period of residence required to become a Permanent Resident, but only for the children of Qualified or Permanent Residents.
- 5.7 Another amendment sought to increase from 14 years to 20 years the period of residence required to become a Permanent Resident, but only for the children of Open Market Residents.
- 5.8 A further amendment suggested that the automatic right to return to live in the Island should lapse after a specific period of residence away from the Island, but only for those Permanent Residents who had originally come to the Island on a Long Term Employment Permit, and any of their family members who moved to the Island with them as adults.
- 5.9 All of these amendments were unsuccessful but received varying levels of support from States Members during debate. That the amendments received some support is perhaps unsurprising given the nature of the issues being debated and this area, perhaps more than any other, is one which engages strong emotions which may or may not be able to be supported by objective reasoning or fact.

⁷ Resolutions 3, 4 & 5. See Appendix 1 – June 2013 Resolutions

- 5.10 The significant difficulties faced when making these decisions are possibly best illustrated through some of the statements that were heard from States Members during the June 2013 States debate. Some of the most relevant ones are quoted below⁸.

“...and feeling right is probably about as close as you are going to get. There is no science in this. This is what it feels it should be...”

“...it is a subjective decision and there are no absolutes or rights or wrongs.”

“For me, it is all about roots; it is all about the Island; it is all about history...”

“It would be pertinent to look into their eyes, so to speak, and ask them are they any different...”

“The evidence is out there on the street, talking to people, sir. The evidence will not be found on a report.”

“...I think there are two sides to this coin.”

- 5.11 Since the June 2013 debate, and particularly in more recent months, it transpires that, despite concerted efforts to engage the public in this issue, many Island residents who have strong views in this area were not well enough informed about what the States were due to debate in June 2013 and, as such, had not made their views known to States Members before the debate. However, many have since done so and the Policy Council is grateful to them for providing States Members with their feedback in recent months.
- 5.12 It is as a direct result of this that the Policy Council has decided to re-examine all of the public feedback that has been received regarding long term residency, including from the 800+ people who took part in the original public consultation process in 2011. Some of the feedback is outlined later in this report.
- 5.13 Members of the Policy Council’s Population Steering Group also took the opportunity to attend a number of Parish meetings during which this subject was discussed. Again, the feedback received at these meetings has been considered by the Policy Council.
- 5.14 As a consequence of considering the feedback, in February and March this year, the Policy Council held workshops for States Members during which the consequences of the previously agreed Resolutions were fully explored. At these workshops, States Members also considered a variety of alternative proposals, taking the opportunity to discuss and test their own views, and to consider the various consequences for different groups of people if alternative proposals were adopted.

⁸ Hansard (Report of Proceedings) is available on www.gov.gg

- 5.15 As a result of all the above, the Policy Council has decided that the States should be given the opportunity to debate again the issue of how an individual will gain the status of Permanent Resident under the new Population Management system. To that end, the Policy Council is putting forward specific recommendations that provide different routes to obtaining the status of Permanent Resident for different groups of people.
- 5.16 **It is important to remember that these recommendations, along with the previously agreed Resolutions, relate specifically to the new Population Management system and therefore will apply only to people who are born or who first commence residence after the introduction of the new system.**
- 5.17 Consideration of these new recommendations and their application is detailed in the following section of this report.

6 CONSIDERATION OF ALTERNATIVE PROPOSALS

Children Born in Guernsey and Children Born to Guernsey Families

- 6.1 The Resolutions agreed in June 2013 mean that, once the new Population Management system comes into force, children born in Guernsey would need to be resident in Guernsey for a continuous period of 14 years before they could become a Permanent Resident. This would also be the case for children who were born off-Island but to a parent who was born in Guernsey and who is a Qualified Resident or Permanent Resident.
- 6.2 Under the current Housing Control Law, such individuals need to be resident in Guernsey for a period of 10 years, which can be made up of shorter periods of residence over a 20-year period, before they can become a Qualified Resident.
- 6.3 The Policy Council has now considered whether such children should be able to become a Permanent Resident after a period of residence of less than 14 years and whether the required residence period needs to be continuous.
- 6.4 In undertaking this review, the Policy Council has taken into account the varied and often conflicting views reflected in the paragraphs below.
- 6.5 One of the key points that has been raised in the feedback from Island residents is that being born in Guernsey⁹ is of particular significance and, as such, should be positively recognised in the new system. While feedback suggests that the “baseline” of a requirement for 14 years’ residence is acceptable, many people have expressed the view that more favourable qualification periods should be afforded to those who have been born in the Island¹⁰.

⁹ The Policy Council intends to replicate the provision in the current Housing Control Law that allows for children who are born off-Island for medical reasons, or for other reasons beyond the control of the Mother, to be deemed to have been born in Guernsey – detailed in Section 10(2)(m)(i) and (ii) of the Housing Control Law shown in Appendix 3.

¹⁰ The Mother must have been ordinarily resident in Guernsey at the time of the birth.

- 6.6 Many have also expressed the view that the residential status of the parents of a child, whether or not that child is born in Guernsey, is also important and that being born into a “Guernsey family” should also be positively recognised in the new system.
- 6.7 Similarly, a considerable amount of feedback has been received expressing the view that individuals who are born in the Island and who have longstanding Guernsey ancestry should be given the status of Permanent Resident without the need for any period of residence, thereby recognising the strength of their ancestral connections to the Island.
- 6.8 Conversely, others have expressed the view that being able to qualify to become a Permanent Resident should be reserved only for those who have spent a significant amount of time living in the Island themselves, thus personally becoming part of the community.
- 6.9 Similarly, others were concerned that having a requirement for only a short period of qualifying residence, or none at all, would mean that an individual who left the Island at a very young age could return in later life as a Permanent Resident, but with little or no personal understanding of the Island’s culture, and having made little or no contribution to the Island’s economy or community before, in all likelihood, drawing heavily on public services later in their lives.
- 6.10 Some members of the public have also expressed the view that the status of Permanent Resident should be given at birth to those individuals who are defined as having Islander Status under the Immigration Rules, often described as those who have “the stamp” in their passport. Some hold the view that, because such individuals do not have the automatic right to live or work in some European Economic Area Member States, any restrictions imposed on their residency in Guernsey would be unfair.
- 6.11 In considering this particular feedback, the Policy Council asked the Guernsey Border Agency to explain the details of Islander Status under the Immigration Rules and to outline the process through which such status is granted. They were also asked to comment on any administrative complexities associated with affording favourable qualification criteria to individuals based purely on the fact that they hold Islander Status under the Immigration Rules. The advice from the Guernsey Border Agency, Immigration and Nationality Division, is shown in Appendix 5.
- 6.12 The Policy Council has also received a significant amount of feedback expressing the view that offering favourable qualification criteria to particular groups of people will prove divisive, and will continue the negative aspects of the current system that some people find unacceptable and describe as unnecessary discrimination in a modern and progressive society.

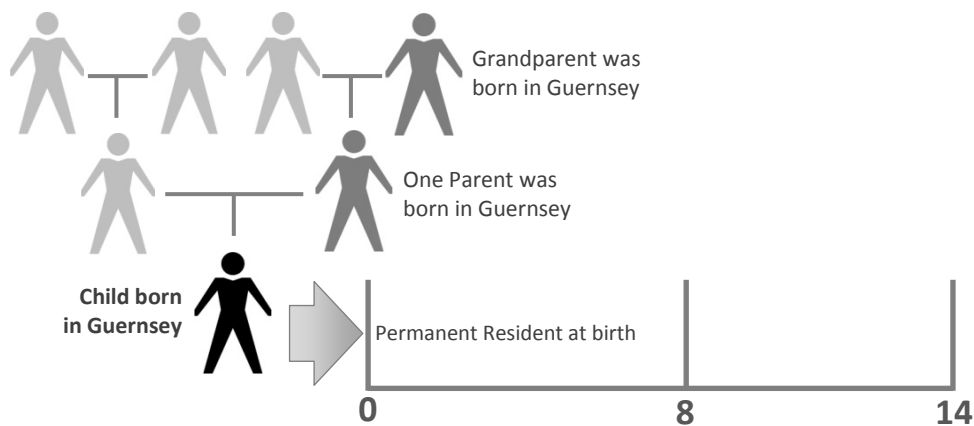
- 6.13 Similarly, many people have expressed a desire for the new system to be as simple as possible and are concerned that adding different qualification routes for different groups of people will lead to a return to the complexity, and lack of understanding that surrounds the current Housing Control Law, and ultimately lead to a lack of trust in the replacement system.
- 6.14 It has also become very clear over recent months that many members of the public did not realise that a period of residence of at least 10 years is required before *anybody* can become a Qualified Resident under the current Housing Control Law and that this has been the case for many years.
- 6.15 Views have ranged from reserving favourable qualification criteria for only those who have been born in Guernsey and who have a long history of Guernsey ancestry, to allowing the same criteria to apply to any child that is born in Guernsey. The opinions supporting either end of such a wide ranging list of options vary dramatically, and – in terms of objective, fact-based policy making – no single opinion is necessarily more valid than another.
- 6.16 Finally, the Policy Council itself is conscious that the period of time during which a child lives in the Island might be a significant proportion of their lifetime and, for many, Guernsey may well be the only place that they really know. Their lifestyle choices, cultural views and influences, lifelong friendships and many aspects of their character might have been largely developed while they have been resident in the Island. As a consequence, there is a view that their sense of “belonging” and commitment to the Island will be reached after a shorter period than, for example, in the case of an adult who spends only 8 or 10 years in the Island, having spent significant parts of their life living elsewhere.
- 6.17 Having considered the many different views expressed on these matters, and given the strength of those views, the Policy Council has concluded that children born in Guernsey and children born to Guernsey families should be afforded favourable qualification criteria and that they should be able to qualify after a period of residence of less than 14 years.
- 6.18 **Firstly, the Policy Council believes that there should be the opportunity for some individuals who are born in Guernsey to qualify at birth, without the need for any period of residence, recognising the significance of their long standing Guernsey ancestry, but that this should apply only to those who are born in Guernsey with two generations of Guernsey-born ancestry, i.e. the child’s Parent¹¹ and one of that parent’s parents¹². Consequently, the Policy Council recommends:**

¹¹ Parent is not always a straightforward term, for example when considering multiple step-relationships, however the term will be defined as the detail of the new legislation is developed.

¹² The Policy Council intends to replicate the provision in the current Housing Control Law that allows for those who were born outside of the Island by virtue of the Occupation to be deemed to have been born in Guernsey – detailed in Section 10(3) of the Housing Control Law shown in Appendix 3.

6.19 Recommendation 1

If a person is born in Guernsey and his or her parent and that parent's parent were born in Guernsey, the person will be defined as a Permanent Resident, will acquire the right to live in Local Market accommodation in the Island permanently if he or she so chooses, and be entitled to hold a Permanent Resident Permit at birth, instead of after 14 years' lawful residence.



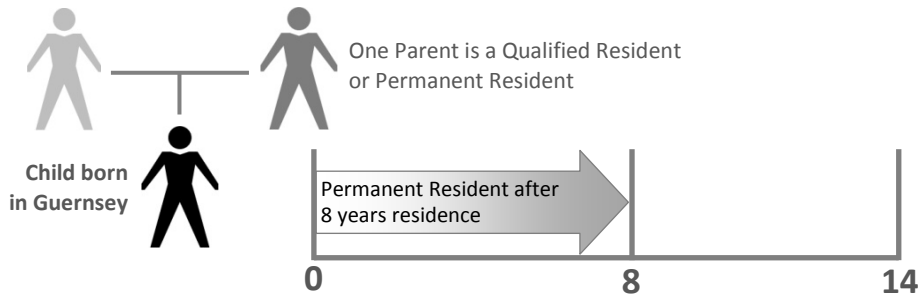
6.20 The Policy Council also believes that some other children born in Guernsey should be afforded more favourable qualification criteria and should be able to qualify to become Permanent Residents after a period of residence of a minimum of 8 years instead of 14 years. However, the Policy Council believes that this should apply only to those children who are born in the Island and whose parents have settled here in Local Market accommodation for a significant number of years. In order to make this distinction, this shorter qualification route should apply to children born in the Island to a parent who is a Qualified Resident or a Permanent Resident at the time the child will qualify.

6.21 The parent does not need to be a Qualified Resident or Permanent Resident at the time of the birth of their child, only at the time their child will qualify. This is important because, if the parent left the Island before completing their own required residence period, a child born after their parent's return to the Island would still be able to benefit from a more favourable qualification period, but only once their parent has re-established links here, by settling long enough to become a Permanent Resident themselves.

6.22 The Policy Council has recommended that the shortened required residence period should be 8 years because this forms a significant first milestone within the new Population Management system. “Collapsing” the second milestone (set at 14 years) to the same point in time as individuals will pass the first milestone will simplify the new system, thereby aiding public understanding. Consequently, the Policy Council recommends:

6.23 **Recommendation 2**

If a person is born in Guernsey and his or her parent is, or becomes, a Qualified or Permanent Resident, the person will be defined as a Permanent Resident, will acquire the right to live in Local Market accommodation in the Island permanently if he or she so chooses, and be entitled to hold a Permanent Resident Permit, after a minimum period of 8 years’ lawful residence, instead of 14 years’ lawful residence.



6.24 The Policy Council also believes that children who are born off-Island, but who are born to Guernsey families should be afforded a more favourable required residence period and should be able to qualify to become Permanent Residents after a period of residence of a minimum of 8 years instead of 14 years. However, the Policy Council believes that this should apply only to those children who are born off-Island to a parent who was born in Guernsey and who is a Qualified Resident or Permanent Resident at the time the child will qualify.

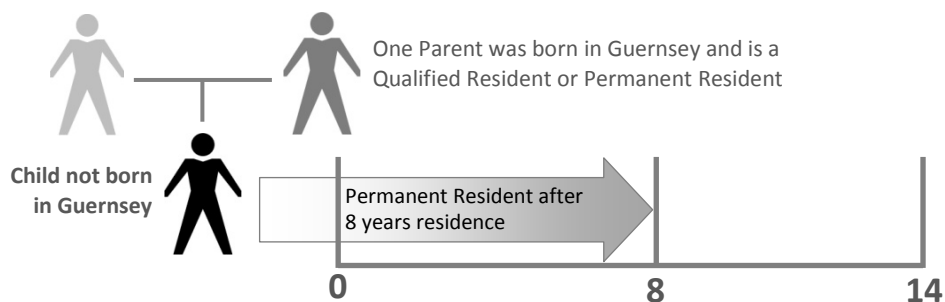
6.25 As described in paragraph 6.21 above, the parent does not need to be a Qualified or Permanent Resident at the time of the birth of their child, only at the time their child will qualify. This is important because, if the parent who was born in Guernsey left the Island before completing their own required residence period, a child born during the parent’s absence from the Island would still be able to benefit from a more favourable qualification period, but only once their parent has

moved back to the Island and has re-established links here, by settling long enough to become a Permanent Resident themselves.

6.26 A shortened residence period of 8 years has been recommended for the same reasons explained in paragraph 6.22 above. Consequently, the Policy Council recommends:

6.27 **Recommendation 3**

If a person is born outside Guernsey and his or her parent was born in Guernsey and is, or becomes, a Qualified or Permanent Resident, the person will be defined as a Permanent Resident, will acquire the right to live in Local Market accommodation in the Island permanently if he or she so chooses, and be entitled to hold a Permanent Resident Permit, after a minimum period of 8 years' lawful residence, instead of 14 years' lawful residence.



Continuous or Aggregate Residence

6.28 Having re-examined the residence period required in order for an individual to acquire the status of Permanent Resident, the Policy Council has also considered whether or not that period of residence needs to be continuous. An alternative approach would be to allow that period of residence, whether it be 8 or 14 years, to be made up of a number of shorter periods of residence, i.e. requiring an individual to be resident in the Island for an *aggregate* period of 8 or 14 years.

6.29 Under the current Housing Control Law, some individuals can complete their required period of residence by combining shorter periods of residence within a specific timeframe. Some groups of people need to complete a period of residence of not less than 10 years in any 20-year period, some not less than 15 years in any

25-year period, and some not less than 20 years in any 30-year period¹³. However, this is only the case for people who were born in Guernsey or who first came to Guernsey as a minor (i.e. before the age of 18) and as a member of the household of their Mother or Father.

- 6.30 The Resolutions agreed by the States in June 2013 (as detailed in paragraphs 5.1 and 5.2) require that an individual must complete their required residence period over one continuous period. No differentiation was made between adults and children.
- 6.31 For the reasons explained in the June 2013 States Report, a *second milestone* has been defined for those living in Local Market property as part of the new Population Management system. This is the point after which the States have agreed it would be reasonable to acknowledge a person's status as a Guernsey "citizen" or a "belonger" because of the contribution and commitment that they will have made having lived in the Island for a significant period. During their time in the Island, such individuals are likely to have made a significant contribution to Guernsey through their work, the taxes that they pay and through their own personal achievements.
- 6.32 Of course, it was very difficult to determine exactly what that time period should be, and arguably it will be different for every individual, but in order to provide certainty, the States agreed that a period of 14 years would be set out in the Law.
- 6.33 **In the case of adults moving to the Island, the Policy Council is still of the view that it is reasonable for the required residence period to be continuous and set at 14 years.**
- 6.34 However, in the case of children who are born in the Island, or who first move to the Island as a minor, the Policy Council has received a considerable amount of feedback regarding the potential negative consequences of the required residence period having to be continuous.
- 6.35 Many have expressed the view that the point at which a child becomes a resident in Guernsey, and the length of their stay, will be entirely dependent on the decisions made by their parents. If their parents decide to move away from the Island after the child has lived here for a period of time, this does not mean that the child feels any less a part of the Guernsey community at that time.
- 6.36 If they, and/or their parents, return to the Island following a short period away – for example to pursue a career development opportunity – many have expressed the view that such children should not be disadvantaged in terms of their ability to complete their required residence period. Concern has been expressed that under the agreed resolutions, such individuals might need to start their required residence period again, regardless of how many years they had spent here previously.

¹³ Full details can be found in Appendix 3 – Current Qualification Routes

- 6.37 In addition, many have expressed the view that requiring the period of residence for children to be continuous will have the unintended consequence of dissuading people from spending short periods of time working elsewhere in the World to develop themselves, and their careers, for fear of jeopardising the future residential status of their children. The benefits to the individuals and to the Island of them gaining international experience cannot be quantified, but are obvious to many.
- 6.38 The States approved new Agreed Absence provisions in June 2013, shown in Appendix 6, which were intended to enable periods of time spent off-Island for certain defined reasons to be considered to be continuous or unbroken residence in Guernsey. The Policy Council believed that these Agreed Absence provisions would account for many of the circumstances which might cause an individual and their family to spend periods of time away from the Island; however, it is clear from the feedback that has been received that more flexibility is needed in order to provide the public with the certainty that they require, particularly in regard to the impact that their absence could have on the potential residency rights of their children.
- 6.39 **Given all the above, the Policy Council believes that in the case of children who are born in the Island or who first move to the Island with their parents as minors, the required residence period in order for them to acquire the status of Permanent Resident need not be continuous, and that this should be the case for all children, whether the required residence period is 8 years or 14 years.**
- 6.40 Having decided that the period of residence need not be continuous, it is important to establish over what time period an individual should be able to complete their period of residence. The Policy Council has received feedback on this issue that ranges from retaining the current 10-year “grace period” (i.e. providing individuals with an additional period of 10 years during which to complete their required residence period of 8 or 14 years), to allowing somebody to complete their required residence period at any point during their lifetime.
- 6.41 When considering the various timescale options, the Policy Council has been aware that consideration must be given to any consequent administrative burden. This could be significant, and would include the retention of records as part of the new Population Management system, as well as the availability of records held elsewhere within the States, that can be used for verification purposes.
- 6.42 The Policy Council believes that allowing somebody to complete their required residence period at any point during their lifetime is too permissive. This could lead to a situation whereby an individual who first moved to the Island as a child might spend part of their required residence period here, and then choose to move away from the Island for the majority of their life, but be able to return well after they have retired to complete their required residence period. They would then

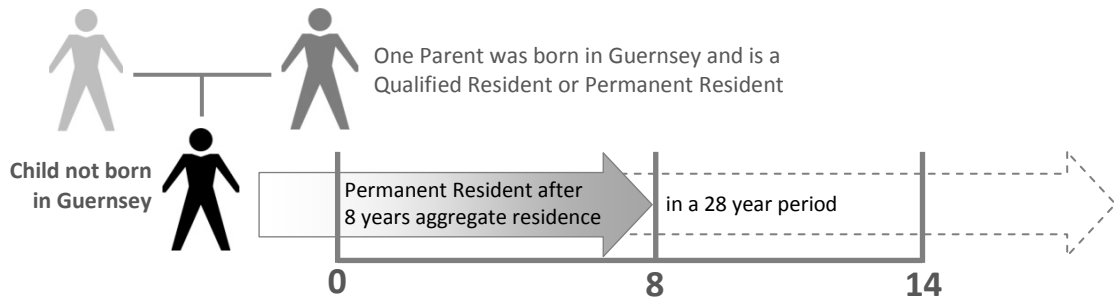
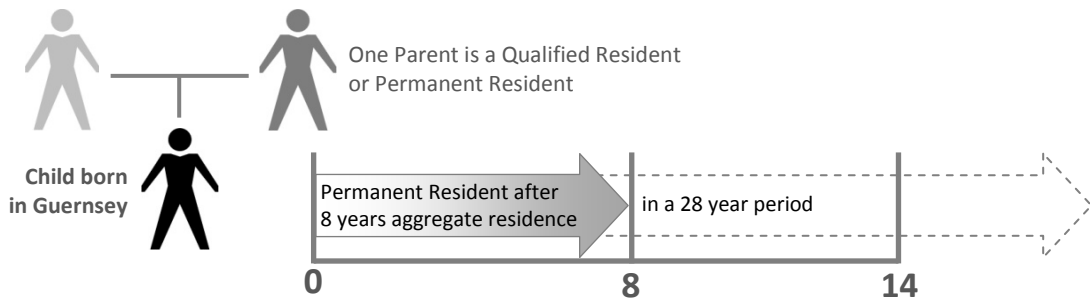
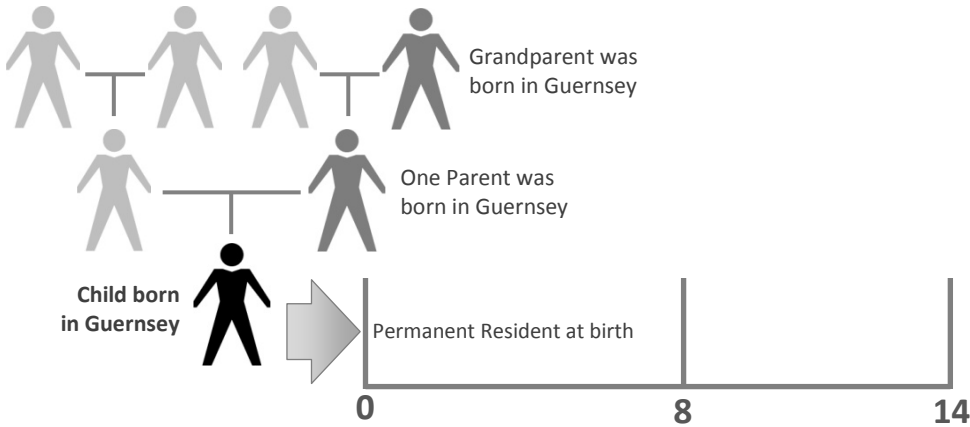
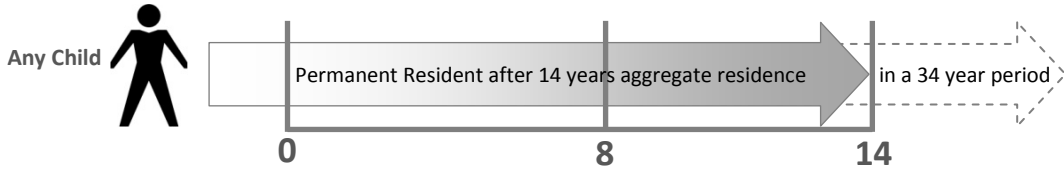
become a Permanent Resident, and have the ability to access Local Market property, having severed their personal connection with the Island over many years and having not contributed to the Island at any point during the period of their life when they were economically active.

- 6.43 However, the Policy Council believes that allowing an individual to complete their required residence period over a relatively short period, for example the current 10-year grace period, is somewhat arbitrary and is almost self-defeating, in that it is too short to provide the flexibility that the public is seeking.
- 6.44 Everybody will make different life choices with regard to their career, starting a family, settling in a particular area etc. at different points in their life and the Policy Council is keen to provide a good level of flexibility for potential Permanent Residents making those choices who have left the Island for a period of time, but who were born in Guernsey or who first came here with their parents as a child.
- 6.45 **The majority of the Policy Council believes that providing such individuals with an additional 20 years during which to complete their qualifying residence period of 8 or 14 years, would provide a good level of flexibility for potential Permanent Residents to make life choices about when and where they wish to settle. This would also ensure that they have the opportunity to make a contribution to the Island through being resident when they are most likely to be economically active and the administrative requirements in terms of verification and record keeping over these time periods would also not be unreasonable. Consequently, the Policy Council recommends:**
- 6.46 **Recommendation 4**

For any person who is born in Guernsey, or is first resident as a minor with his or her parents, the required residence period of 8 years or 14 years need not be continuous, such that shorter periods of residence can be combined so long as, overall, a period of 8 years' residence is achieved in a 28-year period, or 14 years' residence is achieved in a 34-year period.

Summary of Charts

6.47 The charts below summarise the effect of the four recommendations above and show how and when a child will be able to become a Permanent Resident under the new system.



7 NEXT STEPS

Further Development Work

- 7.1 This report is in effect a supplementary report to that which was debated by the States in June 2013. As such, Resolutions that are made as a result of this report will be combined with those that were agreed on 28th June 2013, which are detailed in Appendix 1. The Policy Council will then be able to take account of the decisions made as a result of this debate when developing the further detail of the new Population Management system.
- 7.2 Given the complexity of introducing a completely new system for managing the size and make-up of the Island's population, it is clear that there is still much work to do in order to:
- Develop the detailed proposals,
 - Consult with the public on those detailed proposals,
 - Establish the policies which will govern day-to-day decision making,
 - Obtain various approvals of the States,
 - Draft and approve the necessary legislation, and
 - Establish the administrative arrangements to implement the new system.
- 7.3 **It is important to reiterate that it will still be necessary to bring one or more further reports to the States which will focus on the matters of detail above and these reports will cover all of the elements of the new Population Management system. During the preparation of these further reports, the public and States Members will have the opportunity to consider the detail of other areas of the new Population Management system that are not covered in this report.**

Resources and Legislation

- 7.4 In terms of Civil Service and Law Officer resource, the development and implementation of these specific proposals will have no greater effect than the previous proposals adopted by the States in June 2013.
- 7.5 The reports mentioned above will detail any associated resource implications; and any long term ongoing resource requirements will, as previously agreed by the States, be subject to consideration as part of the States Strategic Plan process, or whichever process for the reprioritisation of funding is in place at that time.

Principles of Good Governance

- 7.6 The contents of this States Report are in accordance with the Principles of Good Governance as outlined in Billet d'État IV 2011, particularly Principles 4, 5 & 6:
- Principle 4, taking informed, transparent decisions and managing risk,
 - Principle 5, developing the capacity and capability of the governing body to be effective, and
 - Principle 6, engaging stakeholders and making accountability real.

Transitional Arrangements

- 7.7 **The Policy Council wants to emphasise that these proposals are not intended to remove, or reduce, any pre-existing rights which an individual has acquired under the existing or previous laws.**
- 7.8 However, at this stage, it is not possible to predict what impact these or any future proposals might have on specific individuals. What is clear is that without the States making firm decisions on the fundamental matters contained in this report, any work undertaken on developing the transitional arrangements could be devalued and, at worst, wasted.
- 7.9 Detailed proposals on the transitional arrangements will be subject to separate debate at a future date.

8 RECOMMENDATIONS

The Policy Council recommends the States to agree that

- 1 If a person is born in Guernsey and his or her parent and that parent's parent were born in Guernsey, the person will be defined as a Permanent Resident, will acquire the right to live in Local Market accommodation in the Island permanently if he or she so chooses, and be entitled to hold a Permanent Resident Permit at birth, instead of after 14 years' lawful residence.
- 2 If a person is born in Guernsey and his or her parent is, or becomes, a Qualified or Permanent Resident, the person will be defined as a Permanent Resident, will acquire the right to live in Local Market accommodation in the Island permanently if he or she so chooses, and be entitled to hold a Permanent Resident Permit, after a minimum period of 8 years' lawful residence, instead of 14 years' lawful residence.

- 3 If a person is born outside Guernsey and his or her parent was born in Guernsey and is, or becomes, a Qualified or Permanent Resident, the person will be defined as a Permanent Resident, will acquire the right to live in Local Market accommodation in the Island permanently if he or she so chooses, and be entitled to hold a Permanent Resident Permit, after a minimum period of 8 years' lawful residence, instead of 14 years' lawful residence.
- 4 For any person who is born in Guernsey, or is first resident as a minor with his or her parents, the required residence period of 8 years or 14 years need not be continuous, such that shorter periods of residence can be combined so long as, overall, a period of 8 years' residence is achieved in a 28-year period, or 14 years' residence is achieved in a 34-year period.
- 5 The Policy Council should return to the States with further detailed recommendations during the development of the new Population Management system.
- 6 The Policy Council should take into account the effect of the above decisions on other areas of the Population Management system as further development work continues and that the relevant changes should be reflected when next reporting back to the States.
- 7 The preparation of such legislation as may be necessary to give effect to their above decisions should commence.

J P Le Tocq
Chief Minister

2nd June 2014

A H Langlois
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APPENDIX 1 – JUNE 2013 RESOLUTIONS**IN THE STATES OF THE ISLAND OF GUERNSEY
ON THE 28TH DAY OF JUNE, 2013**

(Adjourned from 26th & 27th June, 2013)

**The States resolved as follows concerning Billet d'État No XI
dated 10th May 2013**

POLICY COUNCIL**MANAGING THE SIZE AND MAKE UP OF THE ISLAND'S POPULATION**

I.- After consideration of the Report dated 29th April, 2013, of the Policy Council:-

Objectives of a New Regime

1. To agree that the new population management regime should aim to be:
 - (a) as effective as possible in enabling the States to manage the size and makeup of the island's population;
 - (b) legally robust and designed to meet the island's domestic and international obligations, taking into account that human rights considerations and the immigration regime are of particular significance in managing the size and makeup of the island's population;
 - (c) capable of fulfilling the strategic policies of the States, especially any strategic population policies of the States, including any which are in place at the time of the inception of the new regime, and sufficiently flexible to adapt to any changes to such policies;
 - (d) sufficiently flexible to allow the States to respond wisely, and where necessary quickly, to economic, social and environmental changes, including to demographic challenges, without the need for changes to primary legislation;
 - (e) supported by an efficient and flexible administrative process which contributes to making the island an attractive place to live, work and do business and which is not so complex and bureaucratic as to deter people from using that process;
 - (f) capable of providing regular statistics to allow the States to monitor, and understand how the regime is affecting, changes in the size and makeup of the population in order to ensure that the States is in receipt of as much information as possible when developing policies; and

- (g) transparent in its policies, procedures and rules in order that the public understands how and why decisions are made.

Long Term Residency

2. To agree that:
- (a) individuals who have lived continuously and lawfully in Local Market property for 8 years will be issued with an Established Residence Permit, will acquire the right to continue living in the Island permanently if they so choose and will be defined as Established Residents.
 - (b) individuals who have lived continuously and lawfully in Local Market property for 14 years will be issued with a Permanent Residence Permit, will acquire the right to continue living in the Island permanently if they so choose and will be defined as Permanent Residents.

Right to Return

3. To agree that once an individual becomes an Established Resident, if he or she then decides to move away from the Island, he or she will not have the automatic right to return to live in the Island at a later point.
4. To agree that once an individual becomes a Permanent Resident, if he or she then decides to move away from the Island, he or she will have the automatic right to return to live in the Island at a later point.
5. That where an individual has acquired the automatic right to return to live in the Island, this right will be retained regardless of the length of time that the individual is away from the Island.

Existing Qualified Residents

6. To agree the requirement that any existing Qualified Resident who:
- (a) is not resident in the Island, but decides to return in the future, will be required to obtain a Permanent Residence Permit.
 - (b) is resident in the Island and is, or wishes to be, employed in the Island, will be required to obtain a Permanent Residence Permit.
 - (c) is resident in the Island and is not, and does not intend to be, in employment will not be required to obtain a Permanent Residence Permit.
7. To agree that in some specific circumstances, to be defined in policies agreed by the States, individuals may spend time off-Island, but still have their residence considered to be continuous residence in the Island.

- 7A. To agree that a local resident and his family being out of the Island with HM Forces would have this time considered as though it was spent in Guernsey.

Employment Permits

8. To agree that:
- (a) Long Term Employment Permits will be issued for a period of 8 years to address persistent and enduring skills shortages where it is unlikely that those skills will be easily sourced, either in the Island or globally, in the foreseeable future or where continuity in the post in the longer term is in the Island's interest.
 - (b) Medium Term Employment Permits will be issued for a period of up to 5 years in circumstances where:
 - a post requires specific skills which are not available in the Island, but where that skills shortage is likely to be able to be met in the foreseeable future; or
 - the skills required are held by Qualified Residents and Residence Permit holders, but the number of people resident in the Island with those skills is insufficient to fill the total number of posts requiring a similar or identical skill set.
 - (c) Short Term Employment Permits will be issued for a period of up to 1 year to fill posts where there is not a need for a high level of skill, but where there is a need for additional manpower over and above that which can be sourced from within the Island.
 - (d) Short Term Employment Permits can be re-issued to the same individual, subject to a maximum aggregate period of 5 years residence.
9. To agree that, except in a case of successive Short Term Employment permits, an individual must take a *recognised break in residence* before that individual will be eligible to obtain an Employment Permit for a subsequent period of residence; that a *recognised break in residence* be defined as an absence from the Island for a period of time which is at least equal to the duration of an individual's last period of residence in the Island; and that in a case of successive Short Term Employment Permits an individual's absence from the island which does not constitute a *recognised break in residence* will be treated as part of that individual's aggregate residence for the purposes of Proposition 8(d).
10. To agree that an Employment Permit must be issued before an individual arrives on the Island to work, or before an individual who is already resident in the Island changes jobs.

11. To agree that the holder of an Employment Permit will be able to apply to change job at any time during the life of his or her Permit, as long as the new post is also identified as one which will attract an Employment Permit.
12. To agree that anyone who has been issued with an Employment Permit may hold more than one job.
13. To agree that there will be provision in the new Law to place a maximum age limit on applicants for Employment Permits, which could be activated by the States in the future if there is an identified and proven need to do so.

Residence Permits – Family Connections

14. To agree that immediate family members will be defined as an individual's:
 - Spouse / Partner
 - Parents and Parents-in-law
 - Children
 - Grandchildren.
15. To agree that Qualified Residents, Permanent Residents and holders of Established Residence Permits will be able to accommodate immediate family members within their household.
16. To agree that holders of Long Term or Medium Term Employment Permits will be able to accommodate immediate family members within their household.
17. To agree that the holder of a Short Term Employment Permit will not be permitted to be accompanied by any family members.
18. To agree that family members will need to continue to live within the household of the individual with whom they have the close relationship during their period of residence under a Temporary Residence Permit and Established Residence Permit.
19. To agree that all adults and children in employment who are permitted to live in Local Market accommodation under the provisions for immediate family members will be required to obtain a Residence Permit.

The Open Market

20. To agree that an Open Market, largely in its current form, should be retained as part of the new population management regime to allow people to come to live in the Island who might not be Qualified or Permanent Residents, might not have strong family connections here and might not possess essential skills or fill manpower shortages.

21. To agree that the children of Open Market residents should become Permanent Residents after a period of continuous residence of 14 years. This will be the case as long as they were first resident in the Island before the age of 18 and as a member of the household of their Mother or Father.
22. To agree that the general policy should remain that, with the exception of those children mentioned in the previous recommendation, any Open Market resident without residential qualifications will not be permitted to live in Local Market property.
23. To agree that adult Open Market residents, and any of their children who are in employment, will be required to hold an Open Market Residence Permit.
24. To agree to redefine Part D of the Open Market Housing Register such that it will incorporate all lodging houses and all Part A properties in use for the multiple occupation of unrelated adults and that such properties will be defined as Houses in Multiple Occupation.
25. To agree:
 - (a) that the number of properties that can be inscribed in the Register in the newly-defined Part D of the Open Market will be capped and that the level of that cap should be decided by the States, having regard to the size and make-up of the Island's population at any given point in time.
 - (b) that from the coming into force of the new regime, the cap will be set at the number of existing Part D Lodging Houses plus the number of Part A properties in established use for the multiple occupation of unrelated adults on the date of publication of this States Report.
 - (c) that, having regard to a particular property's established use, only those Part A properties that are in use for the multiple occupation of unrelated adults on the date of publication of this States Report will be given the option to transfer to the newly-defined Part D of the Open Market Housing Register, subject to meeting acceptable accommodation standards.
 - (d) To agree that any redefined Part D property may, at the owner's request, be returned to Part A for occupation as a family home.
26. To agree that tenants of a Part D House in Multiple Occupation will be able to benefit from the Open Market status of the property and will be free to live in the Island, and to work in any employment, for a maximum period of 5 years' continuous residence in the Island.
27. To agree that an individual must have been away from the Island for a period of time which is at least equal to the duration of his or her last period of residence

in the Island, before that individual will be eligible to obtain an Open Market Residence Permit permitting him or her to live in a redefined Part D property.

28. To agree that employees living and working in Part B and Part C properties will be able to benefit from the Open Market status of the property and will be free to live and work in the property for a maximum period of 5 years “ continuous residence in the Island.
29. To agree that an individual must have been away from the Island for a period of time which is at least equal to the duration of his or her last period of residence in the Island, before that individual will be eligible to obtain an Open Market Residence Permit permitting him or her to live and work in a Part B or Part C property.
30. To agree that genuine tourists and guests will not be required to obtain a Permit to stay in a Part B hotel or guesthouse, as long as their length of stay is for less than 90 days per year.
31. To agree that an individual who wishes to live in a Part C nursing or residential home to benefit from the health and social care services offered will be required to obtain a Permit to do so, unless he or she is a Qualified or Permanent Resident, and such Permits will not be time-limited.

States Controlled Properties

32. To agree that any individual living in States controlled property should be subject to the same requirements as any other member of the community with regards to his or her requirement to obtain the relevant Permit.

Restricting Where an Individual Can Live

33. To agree that Short Term Employment Permit holders will not be permitted to be householders in their own right. This means that they will only be permitted to live in accommodation that is shared with others.
34. To agree that there will be provision in the new Law to place conditions on where the holders of Long Term and Medium Term Permits may live, which could be activated by the States in the future if there is an identified and proven need to do so.

Criminal Convictions

35. To agree that criminal conviction checks will form part of the application process for everyone moving to the Island who is required to obtain a Permit; and that consideration should be given to revoking an employment permit whose holder is convicted of a criminal offence of such a nature, or in such

circumstances, that his continued residence in Guernsey is regarded as contrary to the public interest.

Governance Arrangements and Responsibilities

36. To agree that:
- (a) the States of Deliberation will retain responsibility for setting the objectives of the population management regime and for determining all substantial policies relating thereto;
 - (b) it would be impractical and improper for every matter concerning the management of the new regime, including application for permits, to be put before the States of Deliberation;
 - (c) in order for the population management regime to function effectively, the States of Deliberation will need to delegate certain functions of the regime, including: the development of policies which are of a level of detail so as not to require the approval of the States of Deliberation; the political oversight of the day-to-day administration of the regime; and the monitoring and publication of information concerning the size and makeup of the population;
 - (d) such functions shall need to be delegated by legislation or States Resolution to an existing or new department, committee or other similar body of the States;
 - (e) any decision about the department, committee or other similar body of the States to which is would be most appropriate to delegate such functions should await, and be informed by, at least the first, and if possible the second, report which is to be laid before the States of Deliberation by the States Review Committee and which is to contain proposals for the future of the machinery of government.
37. To agree that under the political oversight of whichever department, committee or other similar body of the States to which the States of Deliberation resolve to delegate population management functions, a Statutory Body will be responsible for making day-to-day administrative decisions in accordance with policy directions from the States, the details of how such arrangements will work to be brought to the States for approval ahead of the new population management regime coming into force.
38. To agree to the establishment of an Advisory Panel to provide independent advice in relation to population management policies to whichever department, committee or other similar body of the States to which the States of Deliberation resolve to delegate population management functions, and further to agree that

the terms of reference and membership of the Advisory Panel shall be determined by the States of Deliberation only.

Legislative and Policy Framework

39. To agree that the new regime will be driven by policies set by the States and that, wherever possible, those policies will be determined by reference to the strategic objectives of the States.
40. To agree that population management policies should be made public to ensure that the system is transparent.
41. To agree that the legislation will provide for an applicant to exercise a formal right of appeal against any decision taken under the Law.
42. To agree that the legislation will provide for both civil and criminal sanctions for proven offences.

Extension of the Housing Control Law

43. To agree to the preparation of an Ordinance to enable the Housing (Control of Occupation) (Guernsey) Laws, 1994 to 2008, to remain in force until 31 December 2018 or until such time as a new population management regime and related legislation is in place, whichever is the sooner.

Further Development Work

44. To note the Policy Council's intention to return to the States with further detailed recommendations during the development of the new population management regime.

Preparation of legislation

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

APPENDIX 2 – WIDER CONTEXT

JUNE 2013 STATES REPORT EXTRACT

- 3.1 Managing growth in population is a major challenge for many Governments world-wide. Guernsey is not immune from this challenge and if it is to continue to succeed as an attractive place in which to live, work and do business, then it is going to have to take pragmatic steps to manage the size and make-up of its population in the future.
- 3.2 Before considering any new proposals, it is important to acknowledge that developing a mechanism that is capable of influencing the size and make-up of the Island's population cannot be done in isolation. While a population management regime cannot provide solutions to every challenge that the Island faces with regard to its population level, there are some key factors which it must take into account and, in some cases, seek to influence. The Policy Council wants to reiterate the importance of some of those key factors which were detailed in the Policy Council's consultation document¹ and these are summarised below.

An Integrated Strategy

- 3.3 Having a regime in place that enables the States to manage changes in the size and make-up of Guernsey's population is only one part of the wider picture of meeting the Island's environmental, social and economic challenges. The States needs to have in place an integrated strategy that ensures that these challenges are being tackled from a number of policy directions.
- 3.4 Getting the right balance between economic gain and the resulting environmental and social impacts is fundamental to the quality of life and standard of living of Islanders and this forms a primary aim of the States Strategic Plan².
- 3.5 The States Strategic Plan 2013 includes a statement of government aims as follows:

The government of Guernsey aims to protect and improve:

- The quality of life of Islanders
- The Island's economic future
- The Island's environment, unique cultural identity and rich heritage

¹ www.gov.gg

² Billet d'État VI 2013 – Policy Council, States Strategic Plan, 2013-2017

It recognises that this requires:

- Maintenance and enhancement of Guernsey's standing in the global community.
- Sustainable economic growth and effective public services without increasing population to the detriment of our environment and way of life.
- Conditions that encourage enterprise and successful business.
- Wise long term management of Island resources including the maintenance of a highly skilled and well educated workforce.
- Efficient transport and communication systems including digital connectivity.
- Good governance and public engagement.
- Co-ordinated and cost effective delivery of public services through cooperative working and transformation change management.
- Improved awareness of the culture and identity of Guernsey both internally (within the Island) and externally.
- All people having opportunities and support where needed, to enable them to reach their full potential.
- Policies which protect the natural environment and its biodiversity by accounting for the wider impacts that human activity has on it.

3.6 These aims are complemented by a statement of General Objectives derived from the corporate Social, Environmental and Fiscal & Economic Policy Plans, which can be found in Appendix A – *States Strategic Plan – General Objectives*.

3.7 It is clear that the effective management of the size and make-up of the Island's population, which is one of the Island's major resources, cannot be considered in isolation from these aims. In addition, the Population Management Plan should be recognised as forming just one part of the "family" of Island Resource Plans as detailed in the States Strategic Plan, which also includes the Energy, Strategic Land Use and Island Infrastructure Plans.

The Island's Housing Stock

- 3.8 Three successive Housing Needs Surveys³, undertaken at 5 years intervals, have found that the supply of housing in the Island is insufficient to meet the housing needs of its residents. This remains the case despite the fact that sufficient planning permissions have been granted to meet the current strategic target of 300 permissions per year⁴. Consequently, it is not possible to completely separate matters concerned with population management from those concerned with ensuring that there is enough housing to meet the needs of the Island's residents.
- 3.9 There exists a tension between the need to satisfy the Island's wider obligations under the immigration regime and the need to meet the housing needs of the Island's residents, and it is inevitable that the supply of – and demand for – housing in the Island will remain a key consideration under the population management regime. This tension can, however, be eased by ring-fencing certain properties such that they can be accessed by people wishing to live in the Island, despite the fact that they might not otherwise be permitted to live here because they do not have close connections with the Island and have not been invited to work here to help support the Island's economy and community.
- 3.10 Therefore, the population management regime will need to retain the concept of a two-tier housing market and this will be achieved by maintaining an Open Market and a Local Market largely similar to those in existence today. People occupying properties on the Open Market will not be subject to the same restrictions applied to those who, under the population management regime, wish to access properties on the Local Market. (Detailed information and proposals relating to the Open Market are set out in Section 13.)

Limited Skills Pool

- 3.11 In common with many other small jurisdictions across the world, a degree of inward migration of people, both for economic and other reasons, is inevitable and, to some extent, necessary in order to maintain the current quality of life enjoyed on the Island.
- 3.12 There are a number of situations where it would be appropriate to allow an individual to move to Guernsey to live for a period of time. One such circumstance is for employment-related reasons, particularly where the Island needs access to skills and experience that are either not available locally, or not available in sufficient quantity to meet the Island's needs

³ www.gov.gg/housingneedssurvey

⁴ Quarterly Housing Monitoring Report – Available from the Environment Department upon request

3.13 The Skills Guernsey initiative has two principal pillars:

- To improve the skills of the working population, in line with the needs of employers in all sectors.
- To increase workforce participation i.e. to enable everyone who is willing and able to find employment.

3.14 The Group's recently published Review of 2012/Plan for 2013⁵ states that the Skills Guernsey mission is: *'To create the infrastructure for and the conditions whereby every individual, whether in work or seeking work, can realise their potential, participate in the community, and contribute to Guernsey's economic success'*.

3.15 While the Skills Guernsey initiative aims to continue to increase the range of skills available in the Island, it is recognised that the success of Guernsey's economy and the quality of its public services owe a lot to the diverse skills and experience of those who have moved to the Island to work. It would be unrealistic to believe that all of these levels of skills, experience and manpower could have been obtained entirely from within the Island's population. If public service and a vibrant economy are to be maintained, then the Island needs to continue to permit people to come to the Island to work in order to fill skills, experience and manpower shortages.

Future Demographic challenges

3.16 The number of people aged 65 years or over is projected to approximately double between 2010 and 2040. Conversely, the population under 65 years of age is projected to decrease over the same time period.

3.17 Dependency ratios are used to indicate the proportion of the population which is likely to be economically dependent. Trends in the dependency ratio are used, for example, to assess the Social Security contribution rates required from the economically active (aged between 16 and 64) in order to support the economically dependent (aged 15 and under and aged 65 and over). The dependency ratio in 2011 was 0.48, which meant that for every 100 people of working age, there were 48 people of non-working age i.e. those under the minimum school leaving age or above pension age.

3.18 Based on the same age groupings, the dependency ratio is projected to increase to 0.76 by 2040, which means that for every 100 people aged between 16 and 64, there is predicted to be 76 people aged 15 and under and aged 65 and over. However, the pension age is set to be increased to 67 by the year 2031. Based on the changed age groupings by 2040, for every 100 people of working age (16 to 66), there is projected to be 70 people of non-working age (15 and under and 67

⁵ www.gov.gg/skillsguernsey

and over). Both forecasts assume that the current life expectancy trends and birth rates continue, and that migration levels are maintained at their current levels⁶.

- 3.19 This ageing of the population will have major economic and social consequences as, in the foreseeable future, we will move towards a population where an increasing proportion of people beyond working age will need to be supported, both physically and financially, by a decreasing number of people who are economically active. This is despite the raising of the pension age.
- 3.20 Any new regime must have the ability to influence the demographic make-up of the population in order to assist the Island to mitigate any potentially negative effects of the demographic changes described above.

Existing Rights to Live in Guernsey

- 3.21 Under the current Housing Control regime there are certain groups of people who, depending on their circumstances, are granted Qualified Resident status after they have been resident in the Island for a significant period of time. It is important to point out here that the majority of people living in Guernsey are already defined as Qualified Residents under the current Housing Control Law.
- 3.22 Anybody who has already gained Qualified Resident status under the current Housing Control regime and has chosen to leave the Island, can return at any point in the future and live in Guernsey indefinitely, free from any existing controls. (There is no proposal to change the automatic right to return for Qualified Residents).
- 3.23 It is also recognised that people might want to live in Guernsey because they have strong family connections with an individual who is already permitted to live here. Preventing some such individuals from being able to live in Guernsey to maintain their family relationships would not reflect Guernsey's desire to behave as a fair society.
- 3.24 For these reasons, there is a constant and unrestricted ebb and flow of Qualified Residents and people with strong family connections with Guernsey who, because they have the right to do so, may at any time choose to leave the Island, or choose to return here to live, for any number of unpredictable and personal reasons.

Immigration Regime

- 3.25 It is important to recognise that the immigration regime operated in Guernsey applies across the Bailiwick and very closely reflects UK provisions. Determining nationality, and associated immigration issues, depends on international law and relations, for which the UK is responsible.

⁶ For more information on population and projections, see www.gov.gg/population

- 3.26 Guernsey's regime comprises the extension of the UK Immigration Act 1971 and a set of detailed Rules based on those made for the UK, but tailored for the Bailiwick. The States have little scope to depart from rules applying consistently throughout the British Islands.
- 3.27 Guernsey is part of the Common Travel Area (the islands of Great Britain, the Channel Islands, the Isle of Man and Ireland). This means that once an individual has lawfully entered the Common Travel Area, wherever they did so, they can then come and go throughout the Common Travel Area, including Guernsey, without the need for them to show their passport/visa again.
- 3.28 Immigration controls are primarily concerned with improving domestic security through strong border protection, targeting those who represent the greatest risk, while welcoming legitimate travellers. These controls were not intended to be, and cannot be used as, a means to manage the size and make-up of the population.
- 3.29 The European Union (EU) law on free movement of persons for the purpose of taking up work or engaging in other economic activity does not apply in Guernsey. The special relationship that Guernsey has with the EU under Protocol 3 to the UK's 1972 Act of Accession⁷ primarily relates to the removal of barriers to free trade in goods, but also contains a principle of non-discrimination on grounds of nationality. This generally means that different treatment cannot be afforded to nationals of other European Economic Area (EEA) Member States coming to, and already in, Guernsey than to British citizens. That principle similarly means that Islanders who travel throughout EEA Member States cannot generally be subjected to discrimination on grounds of nationality, although not all of them are able to exercise the full EU law rights relating to employment, etc.
- 3.30 The Immigration Act, as extended, does not apply to British citizens and only applies to EEA Member State nationals to a limited degree. Any population management regime will need to avoid infringing the immigration-related rights of British citizens and EEA Member State nationals and must not discriminate regarding their ability to exercise those rights.
- 3.31 These rights are not infringed by the current Housing Control regime's controls on housing occupation and employment, primarily because the occupation of some housing in the Island is free from the controls imposed by that regime. If the new population management regime were adversely to affect these rights, it would be inconsistent with the UK Immigration Act as extended to Guernsey and might even be in breach of Protocol 3.
- 3.32 Any attempt to manage the population through nationality-based border controls could not be introduced for the majority of those who might wish to come to the Island (British citizens and EEA Member State nationals) without changes to

⁷ Subsequently extended to include Iceland, Liechtenstein and Norway as the European Economic Area

existing international law. This would be extremely difficult, would require the agreement of all affected parties, and might have undesirable reciprocal consequences.

- 3.33 In developing proposals for a new regime, the need for the extended Immigration Act and the new population management regime to interlink and overlap has been taken into account. The Policy Council believes that it is possible for both regimes to operate side by side in a complementary way without needing to make changes to the extended Immigration Act.

Other Jurisdictions

- 3.34 It has to be remembered that the Island does not sit in isolation from other jurisdictions, some of which Guernsey is in direct competition with in terms of wanting to be an attractive place to live, work and do business.
- 3.35 As part of its initial research, the Population Policy Group reviewed a number of other jurisdictions in order to understand how they tackle the issue of managing changes in the size and make-up of their population and to see if there is a regime already in use elsewhere which could be adopted for use in Guernsey. A summary of the Group's findings is contained in its consultation document⁸.
- 3.36 The Policy Council acknowledges that every jurisdiction is different in terms of what it is trying to achieve from a population management perspective. For example some jurisdictions might be actively seeking to increase population levels, or trying to discourage their skilled young people from emigrating. Having reviewed other regimes, it is clear that there is no single regime that delivers everything that Guernsey needs in terms of managing changes in population levels.
- 3.37 The proposals which are detailed later in this report include some relevant parts of regimes that have already been proven to be effective, either in Guernsey or elsewhere in the world, including work permits, residence permits and Guernsey's current Housing Control regime. However, the Policy Council believes that these proposals offer a completely new regime which is, appropriately, bespoke to Guernsey.

⁸ www.gov.gg

APPENDIX 3 – CURRENT QUALIFICATION ROUTES

Extract from the Housing (Control of Occupation) (Guernsey) Law, 1994, as amended

Section 10 - Qualified residents not to require housing licence

- (1) Subject to the succeeding provisions of this Law, a qualified resident shall not require a housing licence to occupy a dwelling in Guernsey.
- (2) The following persons are qualified residents-
 - (a) a person-
 - (i) who, at any time during the period commencing on the 1st January, 1938 and ending on the 30th June, 1957, was ordinarily resident in Guernsey; and
 - (ii) who, on the 31st July, 1968, was occupying a dwelling in Guernsey;
 - (b) a person who, on the 31st July, 1968, was the spouse or child of a person described in paragraph (a) and who, prior to the 26th March, 1975, had been ordinarily resident in Guernsey for an aggregate of not less than 5 years;
 - (c) a person who was born in Guernsey before the commencement of this Law and who, since his birth, has been continuously ordinarily resident in Guernsey;
 - (d) a person-
 - (i) who was born in Guernsey before the commencement of this Law;
 - (ii) who has been ordinarily resident in Guernsey for an aggregate of not less than 10 years in any 20 year period; and
 - (iii) who is the child of parents at least one of whom was ordinarily resident in Guernsey at the time of the birth of that person;
 - (e) a person-
 - (i) who was born in Guernsey on or after the commencement of this Law;
 - (ii) who has been ordinarily resident in Guernsey for an aggregate of not less than 10 years in any 20 year period; and

- (iii) who is the child of parents at least one of whom is a qualified resident and was ordinarily resident in Guernsey at the time of the birth of that person;
- (f) a person who has been ordinarily resident in Guernsey for an aggregate of not less than 10 years in any 20 year period as the child of a person-
 - (i) described in paragraph (d) or (e); or
 - (ii) deemed to be a person described in paragraph (d) or (e) by virtue of paragraph (m);
- (g) a person-
 - (i) who has been ordinarily resident in Guernsey for a period of not less than 10 consecutive years and who has, throughout that period, cohabited with a qualified resident as his spouse; or
 - (ii) who is the surviving spouse of a qualified resident and who cohabited with him as his spouse for a period of not less than 5 consecutive years immediately prior to his death and who has been ordinarily resident in Guernsey for a period of not less than 10 consecutive years after the date of their marriage;
- (h) a person who has been ordinarily resident in Guernsey for a period of not less than 15 consecutive years and who throughout that period has been in occupation of a dwelling or dwellings-
 - (i) under or by virtue of a licence granted under the Law of 1948, the Law of 1967, the Law of 1969, the Law of 1975, the Law of 1982 or section 3 of this Law; or
 - (ii) under or by virtue of successive such licences, because his employment was, by reason of his qualifications, skill or experience, essential to the community; or
 - (iii) otherwise than under or by virtue of such licences but in circumstances which, in the Authority's opinion stated in a notice served on that person, are such that his period of occupation should be treated as being occupation under or by virtue of such licences;
- (i) a person-
 - (i) who is the child of a person described in paragraph (h);
 - (ii) who first occupied a dwelling in Guernsey as a minor and as a member of the household of a person described in paragraph (h); and

- (iii) who has been ordinarily resident in Guernsey for an aggregate of not less than 15 years in any 25 year period;
 - (j) a person who has been ordinarily resident in Guernsey for a period of not less than 20 consecutive years and who throughout that period has been in occupation of a dwelling or dwellings-
 - (i) under or by virtue of a licence (other than a licence for the occupation of a dwelling which, at the time in question, was a dwelling inscribed in Part B or C of the Housing Register or was a dwelling inscribed in Part D of the Register of which he was the owner) granted under the Law of 1948, the Law of 1967, the Law of 1969, the Law of 1975, the Law of 1982 or section 3 of this Law;
 - (ii) under or by virtue of successive such licences; or
 - (iii) otherwise than under or by virtue of such licences but in circumstances which, in the Authority's opinion stated in a notice served on that person, are such that his period of occupation should be treated as being occupation under or by virtue of such licences;
 - (k) a person, whether or not born in Guernsey, who has been ordinarily resident in Guernsey for an aggregate of not less than 20 years in any 30 year period and who first occupied a dwelling in Guernsey as a minor and as a member of the household of his father or mother;
 - (l) the surviving spouse of a person described in paragraph (d), (e) or (f) who died while serving in the armed forces of the Crown if the surviving spouse was cohabiting with him as his spouse immediately prior to his death and became ordinarily resident in Guernsey within a period of six months immediately following the date of his death;
 - (m) a person-
 - (i) whose birth took place elsewhere than in Guernsey by reason of a need for special medical or surgical care or treatment at or in connection with the birth or for other reasons or in other circumstances beyond the control of his mother;
 - (ii) whose mother was ordinarily resident in Guernsey at the time of his birth; and
 - (iii) who, but for the fact that he was born elsewhere than in Guernsey, would be a person described in paragraph (c), (d) or (e).
- (3) For the purposes of subsection (2), a person born elsewhere than in Guernsey at any time during the period commencing on the 1st June, 1940 and ending on the

31st December, 1947 shall be deemed to satisfy the requirements of subsection (2)(d)(i) and (iii) if at least one of his parents-

- (a) was ordinarily resident in Guernsey at any time during 1940;
- (b) subsequently ceased to be so ordinarily resident; and
- (c) having so ceased to be so ordinarily resident, resumed such ordinary residence before the 31st December, 1947.

APPENDIX 4 – THE INFLUENCE OF HUMAN RIGHTS

JUNE 2013 STATES REPORT EXTRACT

- 4.1 The Policy Council is keen that all of those involved in debating this important issue understand the influence that Guernsey's Human Rights legislation rightly has over how the States can seek to manage the size and make-up of the Island's population. The main points are explained in the paragraphs below.
- 4.2 The European Convention on Human Rights was extended to Guernsey in the 1950's and our own Human Rights Law came into force in 2006. This Law means that we are required to protect the Human Rights of all members of the community and that all of Guernsey's laws must be applied in a way that respects those Human Rights. A summary of the rights which must be protected can be found in Appendix B – *Human Rights*.
- 4.3 When considering how to manage changes in the size and make-up of Guernsey's population, there is one set of rights that is of particular significance: *Article 8 – the right to respect for private and family life, home and correspondence*. This is significant because any regime which determines who should be able to come to live in Guernsey and for how long; whether specific conditions should apply to them during their stay; and which allows the States to require some people to move out of Local Market property after a period of residence; has the potential to cause a direct intrusion into an individual's private and family life and their home.
- 4.4 However, the rights described above are “qualified rights”, which means that rights in these areas can be interfered with in certain, defined circumstances. In full, Article 8 states that:
- (1) *Everyone has the right to respect for his private and family life, his home and correspondence.*
- (2) *There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”*
- 4.5 The European Convention on Human Rights does not stop Guernsey from having a regime that applies conditions to an individual's residence in Guernsey and that allows the States to require some people to move out of Local Market property after a certain period of residence; BUT this interference with an individual's Article 8 Rights can only be justified when it is “*necessary in a*

democratic society” for defined reasons. In respect of Guernsey’s Housing Control regime, the European Court of Human Rights has stated:

“...the Housing Laws and the licensing system in general pursued the legitimate aim of ensuring that accommodation was available in Guernsey for persons with strong connections or associations with the island and of responding to the problem of potential overpopulation, taking account of the overall population density of the island and its economic, agricultural and tourist interests.”¹

- 4.6 It has to be remembered that the Article 8 rights of those individuals who are already resident in the Island also need to be protected. The fact that Guernsey is able to exercise its own domestic regime, which supplements the basic principle of non-discrimination on grounds of nationality applicable to EU citizens, acknowledges that the rights of the existing residents in Guernsey also need to be protected. Being able to have such a regime in place recognises that Guernsey is a small Island and therefore needs to manage the size and make-up of its population. Any measures in place to manage population levels must very carefully balance the impact of population growth on the rights of the whole community against the impact on the individual (and their family) of being asked to move out of Local Market accommodation, a consequence of which might be that they have little option but to uproot themselves and leave the Island.
- 4.7 This means that an individual can be prevented from living in certain properties in Guernsey, but only if that is a proportionate and necessary response to protect the rights and freedoms of other members of the Island’s population.
- 4.8 As mentioned above, the existence of a Law which allows Guernsey to require some people to leave Local Market property after a certain period – and in some cases those individuals might consequently have to leave the Island – does not in itself contravene the European Convention on Human Rights. Such powers have been considered to be appropriate given Guernsey’s particular circumstances.
- 4.9 However, in having such a regime, Guernsey must be able to demonstrate that any interference with an individual’s Article 8 rights is in accordance with Paragraph 2 of Article 8 as detailed above. Any measures that are taken to protect the needs of the community as a whole must be reasonable, proportionate and justifiable in terms of their potential effect on the rights of individuals. The Policy Council believes that the proposals for a new population management regime for Guernsey which are described later in this report meet these criteria.

Challenges to the Housing Control Regime on Human Rights Grounds

- 4.10 As mentioned earlier, a fundamental issue with the current regime, which is intrinsically linked to the system of acquiring Qualified Resident status, is the likelihood of a successful challenge of Human Rights grounds.

¹ *Gillow v the United Kingdom* [1986] 11 EHRR 335

- 4.11 For some people their circumstances will change (e.g. their Housing Licence has expired or a relationship has broken down) and they face the prospect of having to leave Guernsey because they are not yet Qualified Residents and they cannot afford Open Market accommodation. In these circumstances, the individual concerned may approach the Housing Department to request that they are given a Housing Licence which will enable them to remain in the Island in Local Market property.
- 4.12 Although an individual coming to work in Guernsey knows from the outset how long their Housing Licence has been issued for and what conditions have to be met for the Licence to remain valid, Human Rights considerations can still intervene when considering a request for a further licence.
- 4.13 Since the Human Rights (Bailiwick of Guernsey) Law, 2000 came into force in 2006, it has – quite intentionally and properly – become less difficult for people who have been here for six, seven, eight or more years and who wish to remain indefinitely, to assert their rights under, in particular, Article 8 of the Human Rights Convention.
- 4.14 Those rights exist because the longer an individual lives in a particular place, the stronger their ties to that place become. They will have set up a home in the Island, made friends, joined organisations and started to feel settled. Their children will be settled at school, will have made their own friends and Guernsey might be the only place that they really know. It is these everyday and ordinary things that go into the mix that is an individual’s *“home, private and family life”* which must be considered as a result of their Article 8 rights.
- 4.15 In each case, the Housing Department must show that a decision to refuse a Housing Licence is not an unreasonable interference with the Article 8 rights of the individual and their family.
- 4.16 The Human Rights Law incorporates into domestic law a requirement that every law is applied in accordance with Human Rights principles. Therefore, if an individual’s Housing Licence expires or their circumstances change such that they can no longer live lawfully in a particular property in Guernsey, although application of the Housing Control Law might lead to a provisional decision that the individual must cease to live in Local Market property, the Housing Department must look again at the individual’s situation, from the perspective of the Human Rights Law, and ask itself *“Has this individual and their family established their home and/or private and family life in Guernsey to such an extent that to require them to leave Local Market property would be unreasonable and disproportionate?”* before reaching a final decision about whether or not to grant a Housing Licence permitting them to live in Local Market property.

- 4.17 The legal advice which the Housing Department has been given over recent years is that, in a number of cases, after a period of around six, seven or eight years living in Local Market property in Guernsey, the answer to that question is likely to be “*yes, an interference with the family’s Article 8 rights would be unreasonable*”. However, it is important to note that when the Housing Department grants a Licence in these circumstances, this does not mean that the individual becomes a Qualified Resident at that point in time. The further Licence, in most cases, allows the individual to remain living in Local Market property in Guernsey, if they so choose, long enough for them to become a Qualified Resident in the future.
- 4.18 If a Housing Licence is not issued – which might be in line with the original intent of the Housing Control Law – the individual has the right to challenge that decision via a formal appeal on grounds established under either the Housing Control Law and/or the Human Rights Law. As mentioned above, the Housing Department is finding itself in an increasingly difficult position where the Housing Control Law itself might suggest that a decision is lawful, but applying that Law in the light of Human Rights legislation would suggest otherwise.

APPENDIX 5 – ISLANDER STATUS – THE “STAMP” IN THE PASSPORT

GUERNSEY BORDER AGENCY – Immigration and Nationality Division ADVICE NOTE PROVIDED TO THE POLICY COUNCIL – May 2014

What is Islander Status?

Islander Status, or more accurately the status of being a Channel Islander or Manxman, is defined in Article 6 of Protocol 3 to the 1972 United Kingdom Treaty of Accession to the European Community.

Protocol 3 deals with the relationship of The Channel Islands and Isle of Man (the Islands) with the United Kingdom and European Community within the context of that Treaty. For the purposes of this note, the European Community, European Union etc. will be referred to as the European Economic Area (EEA) and a Channel Islander and Manxman will be referred to as an Islander.

Article 2 of Protocol 3 states that rights of Islanders in the United Kingdom (UK) will not be affected by the Protocol but goes on to say that Islanders will not benefit from free movement of persons and services within the rest of the EEA.

Article 6 of Protocol 3 defines an Islander as a person who has British citizenship by virtue of their own, their parents or grandparents birth, adoption, naturalisation or registration in the Islands. Naturalisation and registration are means by which a person who is not a British citizen applies for British citizenship. For the purposes of the British Nationality Act 1981 and of determining British citizenship, the Islands are treated as if they are part of the UK. For the purposes of Protocol 3, however, the UK means what it says – England, Scotland, Wales and Northern Ireland.

Article 6 then goes on to say that if an Islander has a connection with the UK then such a person will not be treated as an Islander for the purposes of the Protocol, in other words will be able to benefit from free movement of persons and services within the EEA even though they are Islanders. A connection with the UK is defined as their own, their parents or grandparents birth, adoption, naturalisation or registration there. In addition, a person shall also not be treated as an Islander if that person has at any time been ordinarily resident in the UK for at least five years.

Who has Islander Status and “the stamp” in their Passport?

Those persons who have Islander Status but who do not benefit from free movement in the EEA and who apply for a British passport have an endorsement, “the stamp”, placed in the passport as follows:

'The holder is not entitled to benefit from EU provisions relating to employment or establishment'

The sole purpose of this endorsement is to identify to authorities in Member States of the EEA (other than the UK) those British citizens who do not benefit from free movement within the EEA and will only appear in British passports issued to British citizens. It has no relevance in the UK or Islands, other than when issuing a British passport, neither has it any relevance in non-EEA countries.

At the passport issuance stage, when it is established that British citizenship has been acquired through any of the Islands, the applicant is asked whether or not he or she has a connection with the UK within the terms of Article 6. This should occur wherever in the world a British passport is issued. In the Islands, there is a section on the application form that deals with this. The passport is issued with or without “the stamp” based on the information provided by the applicant.

Before any consideration is given to using Islander Status as a factor in determining Permanent Residence under the new Population Management system, it is important to be aware that persons born in Guernsey but without any connection to the UK will be or could be British citizens with Islander Status in the following circumstances:

- born in Guernsey to British citizen parent(s) who has / have that citizenship solely by virtue of a connection with one of the other Islands will have Islander Status and will therefore have their passport endorsed with “the stamp”
- born in Guernsey to a foreign national parent(s) with no time limit on their stay and no ancestral connection with the UK
- A person who does not become a British citizen automatically at birth because foreign national parents had a time limit on their stay in Guernsey is entitled to apply for British citizenship if the parent(s) subsequently has / have the time limit removed. If application for British citizenship is made in Guernsey that person will have Islander Status.

In all the cases above, the connection with Guernsey could be tenuous and could result from a comparatively short stay in Guernsey.

In addition, some passport applicants with very strong connections to Guernsey choose not to declare a connection with the UK either as a matter of principle or because they do not know and do not want to do any research. On the other hand, there will be Islanders who definitely have no ancestral connection with the UK but who will cease to be treated as Islanders if they choose to reside in the UK for five years or more.

It should also be noted that Protocol 3 and both the legislation that makes provision for acquiring British nationality and that which controls the entry and stay of foreign nationals applies throughout the Bailiwick, and therefore applies to Alderney and Sark in exactly the same way as it applies in Guernsey.

APPENDIX 6 – AGREED ABSENCE PROVISIONS**JUNE 2013 STATES REPORT EXTRACT****Agreed Absence Provisions**

- 9.76 There will be situations where an individual might spend some time off-Island and the Policy Council proposes that, in some specific circumstances, their residence will be considered to be continuous or unbroken.
- 9.77 Some of those circumstances are listed below; however, this list is not intended to be exhaustive:
- Any period of time spent in full-time education,
 - A “Gap Year” additional to time spent in full-time educations,
 - Time spent in the services of HM Forces,
 - Time spent off-Island for medical reasons,
 - Time spent off-Island for welfare reasons,
 - Periods of time necessary to gain work-related training or experience not available in the Island, and
 - Off-Island work placements and secondments.
- 9.78 It is envisaged that some of these situations will require prior approval in order for the period of absence to be treated as residence in Guernsey.
- 9.79 While the specific details in each of these circumstances have yet to be developed, it is proposed that in some cases – for example for those serving in HM Forces – time spent off-Island which is deemed to be continuous or unbroken residence in Guernsey will also apply to the spouse/partner and children of the individual who is subject to the agreed absence provisions. A large number of consultation respondents, including all of the organisations representing service personnel, suggested that the provisions proposed for those serving in HM Forces should be extended to their spouse/partners and children.

(NB In accordance with its mandate, the Treasury and Resources Department is commenting on the resource implications of this States Report. It is noted that the Policy Council advises that the development and implementation of these alternative proposals will have no greater effect on resources than the proposals adopted by the States in June 2013. Therefore, the Treasury and Resources Department reiterates its comment on the June 2013 States Report:

“It is noted that, in respect of implementing the new regime, the Policy Council will bring one or more further reports to the States which will focus on matters of detail including any resource implications both short-term transitional costs and long-term resource requirements which will be subject to consideration as part of the States Strategic Plan process, or whatever process for the reprioritisation of funding is in place at that time.

Whilst recognising that there may be a requirement for one-off additional funding for any short term transitional costs associated with moving from the existing Housing Control regime, the Department would expect that, where reasonably and practicably possible, the ongoing costs associated with the new population management regime will be met by charges made in accordance with the policy set out in the States Report entitled Fees and Charges (Billet d’État III, 2007) and the recent publication of further guidance on its implementation from the Policy Council.”

As a general point, the work currently being undertaken on the Personal Tax, Benefits and Pensions Review has highlighted the potential impact on the Island’s fiscal and economic position of the States existing policy of no growth in population, as it determines the Island’s demographic make-up which has consequential implications for economic activity, income and expenditure.)

The States are asked to decide:-

VI.- Whether, after consideration of the Report dated 2nd June, 2014, of the Policy Council, they are of the opinion:-

1. To agree that if a person is born in Guernsey and his or her parent and that parent’s parent were born in Guernsey, the person will be defined as a Permanent Resident, will acquire the right to live in Local Market accommodation in the Island permanently if he or she so chooses, and be entitled to hold a Permanent Resident Permit at birth, instead of after 14 years’ lawful residence.

2. To agree that if a person is born in Guernsey and his or her parent is, or becomes, a Qualified or Permanent Resident, the person will be defined as a Permanent Resident, will acquire the right to live in Local Market accommodation in the Island permanently if he or she so chooses, and be entitled to hold a Permanent Resident Permit, after a minimum period of 8 years' lawful residence, instead of 14 years' lawful residence.
3. To agree that if a person is born outside Guernsey and his or her parent was born in Guernsey and is, or becomes, a Qualified or Permanent Resident, the person will be defined as a Permanent Resident, will acquire the right to live in Local Market accommodation in the Island permanently if he or she so chooses, and be entitled to hold a Permanent Resident Permit, after a minimum period of 8 years' lawful residence, instead of 14 years' lawful residence.
4. To agree that for any person who is born in Guernsey, or is first resident as a minor with his or her parents, the required residence period of 8 years or 14 years need not be continuous, such that shorter periods of residence can be combined so long as, overall, a period of 8 years' residence is achieved in a 28-year period, or 14 years' residence is achieved in a 34-year period.
5. To agree the Policy Council should return to the States with further detailed recommendations during the development of the new Population Management system.
6. To agree the Policy Council should take into account the effect of the above decisions on other areas of the Population Management system as further development work continues and that the relevant changes should be reflected when next reporting back to the States.
7. To direct the preparation of such legislation as may be necessary to give effect to the above decisions.

POLICY COUNCIL

THE GUERNSEY FINANCIAL SERVICES COMMISSION: 2013 ANNUAL REPORT

Executive Summary

1. The annual report and accounts of the Guernsey Financial Services Commission are hereby presented to the States.

Report

2. The Financial Services Commission (Bailiwick of Guernsey) Law, 1987, as amended, requires the Commission to prepare an annual report and accounts for submission by the Policy Council to the States.
3. In pursuance of the resolution made on 30th July 2013 (Amendment to Article 6, Billet XV volume 1) directing the Policy Council “to review the funding mechanism for the Guernsey Financial Services Commission”, work is progressing and a report will be presented to the States no later than September of this year.
4. The Policy Council also notes that the Commerce and Employment Department is progressing a workstream relating to the governance of the Commission.

Principles of Good Governance

5. This report is produced in compliance with the principles of good governance. Particularly, ‘performing effectively in clearly defined functions and roles’ via compliance with Policy Council’s legal obligation to submit the annual report and accounts to the States.

Recommendation

The Policy Council recommends the States:

- (1) note the Report and accounts of the Guernsey Financial Services Commission for the year ended 31st December 2013.

J P Le Tocq
Chief Minister

19th May 2014

A H Langlois
Deputy Chief Minister

R Domaille
M H Dorey
P L Gillson

M G O'Hara
R W Sillars
K A Stewart

P A Luxon
F 'B Jones
G A St Pier



Guernsey Financial
Services Commission

ANNUAL REPORT AND FINANCIAL STATEMENTS

For the year ended 31 December 2013



Guernsey Financial Services Commission

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This report, including the financial statements as required by section 18 of the Financial Services Commission (Bailiwick of Guernsey) Law, 1987, as amended (the Commission Law), is made in pursuance of section 6 of the Commission Law to the States Policy Council and submitted by the Chief Minister for consideration by the States of Guernsey.

Note: Throughout this report the Guernsey Financial Services Commission is referred to as "the Commission". The Chairman and other members are referred to collectively as "the Commissioners".

CHAIRMAN'S STATEMENT

Delivering Good Regulation from a Sustainable Cost Base

In my statement last year I set out the direction that the Commission was intending to take and the objectives we had established following discussions with our stakeholders. Although the Commission encountered some turbulence during the year, I am pleased to report that we have made good progress in beginning to deliver those objectives.

One of the Commission's key objectives is to endeavour to exercise good, effective and proportionate supervision and this will remain our focus moving forward. You can read more about how we are delivering this in the Director General's statement together with details on the considerable preparatory work being undertaken in developing and introducing our new risk-based system called PRISM. This will underpin our supervisory approach.

The Commission's focus continues to remain firmly on the future, both in terms of delivering our objectives and also in managing internal and external change and improving relationships with our stakeholders. During my address at the Commission's presentations to industry held in December, I recommitted the Commission to working closely with representatives of Government and the financial services industry. To assist in that process and explain how we will all move forward together to the benefit of the Bailiwick, the Commission notes the publication, earlier this year, by the Commerce and Employment Department, of the Bailiwick's new strategy for the financial services sector.

Further afield, the struggle to restore growth to a large number of the world's economies is beginning to bear fruit and, although some limited gross domestic product growth has returned to most of the Bailiwick's business partner countries, looking forward there needs to be a period of focused effort by the world's large economies to make that growth more sustainable.

I have also commented in the recent past on the burden which the financial services industry faces as a result of regulation, with its inevitable consequence of limiting growth in the developed world's economies. To a large extent the industry has brought this upon itself, in particular within the banking sector, albeit assisted by a lack of effective regulation, resulting in unacceptable risk taking.

The balance between risk and reward was out of kilter for most of the middle of the last decade. The subsequent and inevitable demand by politicians for banks and insurers to carry more risk capital has had the, not inconsiderable, side effect of reducing the capital available and necessary to restore growth. I expect that it will take a while before we see a workable balance between the reduction of risk, reflected in high solvency ratios, and the need to fund growth.

Alongside higher solvency requirements, there has been the introduction of many monitoring instruments with periodic reports to the various regulatory bodies in the UK, USA and the EU. The specific requirements are often very detailed, resulting in considerable extra overheads and opportunities for regulatory arbitrage. The restoration of growth would be assisted by the simplification and consolidation of the many new rules.

Whilst the Bailiwick operates within the purview of these large economic blocs, it is inevitable that we need to stay abreast of, and respond to, the global regulatory developments in these jurisdictions. It is one of the responsibilities of the Commission, working closely with Government and industry, to assess the many new proposals that emanate from the various international and European bodies and identify what steps are required to ensure that the Bailiwick retains its position as a respected and effective member of the international business community while remaining a good place to do business.

In this respect, the position of Guernsey as an international financial centre places an emphasis, in particular, on its Anti-Money Laundering and Countering the Financing of Terrorism (“AML/CFT”) rules and practices. It is recognised by Government, industry and by the Commission that the international standing and reputation of the Bailiwick rely, to a considerable extent, upon the quality of our AML/CFT laws, practices and enforcement. The Commission considers this to be a very important part of its brief.

The considerable effort required to stay abreast of all the legal and regulatory developments falls largely on the Commission’s Directors and staff. I should like to thank them for their dedication and for their significant contribution to the progress we have made during the year. I must also thank my colleague Commissioners for their guidance, support and commitment as their workload continues to increase.

During 2013, the Commission was strengthened by the appointment of Advocate Simon Howitt as a Commissioner, following a thorough selection process conducted by the Policy Council. In addition, the Commission appointed its new Director General, William Mason, who has taken admirably to Island life and all that it encompasses. He has made a considerable effort to connect with both politicians and the business community and his efforts are clearly bearing fruit.

In closing, I believe the Commission is in now a stronger position which will help us to deal effectively with the ever-changing regulatory environment and to respond in a manner which has, at its heart, the best interests of the Bailiwick.

Cees Schrauwers, Chairman



DIRECTOR GENERAL'S STATEMENT

I came to the Bailiwick at the beginning of April 2013 and took over from Nik van Leuven as Director General on 1 July 2013; thus this section of our annual report may have a slight bias towards events in the second half of the year. As I begin this statement I would like to thank Nik for his help and support during our handover. Whilst Nik and I may have some different perspectives on financial services regulation, no one should underestimate how hard he worked each day, both to further the Bailiwick's interests, and to ensure that the Commission had a very high quota of bright and dedicated staff whom I am now privileged to lead.

2013 was a tough year for the Commission's staff in some ways. The Commissioners and I decided that, in order to stabilise the costs of regulation, in 2014 we needed both to impose a pay freeze on all staff and to consult on closing our final salary scheme to new contributions – a measure affecting approximately half of our staff – the others already being part of a money purchase pension scheme. We took the difficult decision to proceed with pension scheme closure in December and we will close the scheme with effect from 1 July 2014. These measures – the benefits of which will only become apparent from the 2014 accounts onwards – whilst not the first measures I would have wished to take, were necessary to control the Commission's cost base, allowing us to fund essential internal modernisation without significantly raising costs for the Bailiwick firms we regulate. The Financial Reporting Standard 17 ("FRS 17") valuation of our segment of the final salary Public Sector Pension Scheme ("PSPS") shows that our net pension scheme liabilities increased by £2.6 million over 2013, resulting in negative net assets, as at 31 December 2013, despite an operating surplus in 2013 of over half a million pounds. This deficit and the resulting negative net assets would make a compelling case for scheme closure, were we not to have decided to close it already. The Commissioners and I are hopeful that the negative net assets position we show this year may be reversed going forwards, as the impact of the FRS 17 liabilities diminishes once the scheme is closed to future accrual.

The major plank of our modernisation effort is the Sentinel programme which the Commission approved in June 2013. This will see the Commission, by the end of 2015, renew the way it

works through the installation of new software and new internal operating approaches. It will also alter the way the Commission gathers standardised information from firms, ensuring that accurate data can be gathered and analysed electronically, reducing the need for a large number of repetitive and error-prone internal procedures whilst allowing our supervisory cadre to focus more of their energies on higher-value activities. This is one facet of risk-based supervision.

Risk-Based Supervision

Risk-based supervision means focusing on the firms which, by virtue of their potential impact – if they failed – pose the greatest risk to the Bailiwick in terms of financial stability, financial crime or consumer protection. Risk-based supervision is far from a panacea but it is designed to allow us to use our necessarily finite resources to focus on the biggest risks. It is also about being a little more forward looking. Supervisors are not auditors – finding out why a firm failed after it has failed may be interesting for academics but a supervisor's task is to try to identify issues others may have missed before they cause a firm to fail. Having identified such issues a supervisor then works to ensure that they are managed effectively. Risk-based supervision, fully implemented, should also mean that supervisors spend relatively more of their time forming judgments on business models and governance effectiveness rather than on systems and controls issues, narrowly defined. We are adopting PRISM as our risk-based supervision methodology. The Commissioners and I believe this will keep Guernsey in touch with international supervisory best practice and increase our effectiveness.

It is a truism that most regulatory triumphs will never be heard about because, being triumphs, they averted crises which would otherwise have been both damaging and newsworthy. Given this necessary dynamic, one has to be sanguine about the bad publicity that our failures (and the failings of financial services firms) will often attract while still working to ensure that we are doing the right thing at the right time as often as reasonably possible. Risk-based supervision is about helping us make sure we

are focusing our efforts on the right things. There will still be firm failures, there will still be consumer mistreatment and there will still be attempts by criminals to misuse the financial system but, statistically speaking, they should be less frequent and less severe than if we were not to have a risk-based system of supervision.

New Teams

At this juncture it is perhaps helpful to make a few remarks about enforcement and its proper place in a modern financial services regulator. On arriving in the Bailiwick I noted that a large number of people I spoke to did not differentiate between supervision and enforcement. Supervision, which is most of the front-line work a regulator does, is about preventing failure through analysing, using good judgment and working with firms to resolve problems before they become crises. Enforcement, on the other hand, is about dealing with the consequences of failure and deterring wrongdoing in the financial services sector to make it safer for decent firms and consumers.

Supervision and enforcement are quite distinct, requiring different skills and competencies. To make this distinction clearer, in mid-2013 we created an enforcement division to ensure that enforcement was appropriately separate from other parts of the Commission and to make it easier for those outside the Commission to recognise that enforcement activity was a relatively small, albeit a very public, part of our activity on behalf of the Bailiwick.

Other reforms we made at the mid-year point included establishing:

- a conduct team to provide more focus to our consumer protection work;
- an innovations unit to give us capacity to do considered cost-benefit analysis work on some of the more novel financial services ideas which we are asked to license; and
- a risk unit to superintend the introduction of risk-based supervision and the wider Sentinel programme, discussed above.

In this process a number of staff changed roles and I would like to thank them for the forbearance they have shown in adapting to the changes. To help support staff as they adapt to changed or much evolved roles within the organisation, we have put in place a programme of training which covers financial analysis, business model and strategy analysis, governance, interviewing skills and risk-based supervision. Whilst this programme was not fully implemented during 2013, I was encouraged by the positive feedback received about the initial courses. The Commissioners and I are committed to providing our staff with high-quality training to help them adapt to the increasing expectations being placed on them and their international colleagues.

International Change

In the wake of the near global collapse of 2008, the international community embarked on a wave of financial regulation renewal to replace the international standards which had been found wanting with ones which should be more effective going forwards. Keeping up with this process has been hard work for both regulator and regulated firm. I am hopeful that, with the main international standards now agreed by the Financial Stability Committee, the Basel Committee, the International Association of Insurance Supervisors, the International Organisation of Securities Commissions and the Financial Action Task Force, we can now focus – working in co-operation with the States of Guernsey – on implementing and embedding the renewed standards in the Bailiwick in a proportionate manner so as to preserve our international reputation and adapt to very changed global expectations in a measured and balanced manner. This will be a task, not just for 2014, but for 2015 and 2016 as well given the weight of material to be digested and the number of our laws which will need to be improved if we are to continue to be a highly respected international financial centre.



Director General's Statement *(continued)*

Arriving in Guernsey from the Eurocentric crisis in the Irish Republic, I was pleasantly surprised to find how successfully the Bailiwick had insulated itself from the crisis. Certainly growth was down and employment in financial services somewhat slack compared with the previous high but it had not had that cathartic experience which the UK, the Irish Republic and a number of other larger economies were forced to endure. Given this reality I have devoted quite a lot of time to explaining why abiding by the new international standards is not an optional extra but absolutely essential for anyone who wishes to continue to make a living in international financial services. I am pleased to say that many working for the States and in industry agree. I believe we are gradually building a new consensus and that the States, Commission and industry can work together to renew our sector laws and regulations over the next two to three years to meet the series of new international standards which all jurisdictions are now under pressure to apply.

My personal perspective on change tends towards conservative with a small "c". I generally neither like change nor welcome the prospect of it unless it can be proved to me that the change will be beneficial. Sadly, the "Great Recession" proved – beyond reasonable doubt – that the previous international system of supervision was badly flawed. Thus, international plans have been made to fix it. Not everyone will like all those plans and I appreciate that the implementation of some of the international changes may require revisions to the business models of many firms, including firms based in the Bailiwick. That said, we are a micro state in a fiercely competitive global market and we need to recognise that the world owes us neither a living nor a veto over reforms agreed by the great powers. We must continue to adapt to these new international regulatory realities if we are to have a good chance of a future as a prosperous international financial centre. Firms

and jurisdictions which resist them are about as likely to succeed as someone seeking to swim from Guernsey to Alderney against the tidal race.

Looking ahead, the European and British political outlook appears hazy at best. The direction the European Union takes after the May 2014 European Parliamentary elections, the results of the referendum the Scottish nationalists have called in September 2014 in an attempt to dissolve the 1707 Act of Union, the lack of clarity with regard to the composition of the House of Commons after the 2015 General Election and whether that, in turn, may result in British withdrawal from the European Union, are all incredibly hard to call with any certainty. The outcome of all or any of these votes may have important implications for the Bailiwick. At the Commission, we will continue to engage internationally and endeavour to ensure that our Bailiwick continues to be seen as a stable, reputable and reliable place in which to transact financial services business by whoever triumphs in each of the votes above. What is certain is that the international outlook is uncertain and that we all need to work tirelessly to ensure the Bailiwick remains one of the best places in the world to do business.

Commission Progress in 2013 and Plans for 2014

In our international work, the Alternative Investment Fund Managers Directive ("AIFMD") Memorandums of Understanding ("MoUs") signed with 27 European Economic Area states were an undoubted highlight of 2013 which should hopefully allow our investment firms to continue to engage positively with clients in the European Union. Further to that, our MoU with the China Securities Regulatory Commission should help to open up new options for Bailiwick firms which wish to undertake investment business within the People's Republic.

Closer to home, we received good feedback on the workshops we held for firms on how to do anti-money laundering better and brought two long-running enforcement cases to satisfactory conclusions. The relatively large operational surplus for 2013 is largely due to the enforcement costs and fines we recovered at the conclusion of those cases. Excluding those recoveries we showed a very small operating surplus.

In terms of externally focused initiatives, in 2014 we intend to make significant progress on Anti-Money Laundering (“AML”) Handbook reform, on revised pension regulations for the Bailiwick to make it easier for pension providers to offer residents in the Bailiwick lower-cost products, as well as working with the States and industry on other law reforms to update and upgrade the legal framework which we oversee for the Bailiwick. We will also, in conjunction with our partners in law enforcement, St. James Chambers (Law Officers of the Crown) and the States, be working with the Moneyval inspectors who will review the Bailiwick’s financial crime controls in autumn 2014.

My colleagues provide further detail on these initiatives and our other important work later in this annual report. I would merely like to conclude my statement by thanking those in the States, industry and the Commission itself who have gone out of their way to make me feel welcome since I arrived a few short months ago. I appreciate that it takes several generations before one can be considered a proper Guernseyman but I’m delighted to have been given the opportunity to serve the Bailiwick as Director General of the Commission.

William Mason, Director General



SUMMARY OF 2013 FINANCIAL STATEMENTS

INCOME AND EXPENDITURE ACCOUNT

For the year ended 31 December 2013

	2013	2012
	£000	£000
Income		
Fees receivable	12,678	12,532
Interest received	94	159
	12,772	12,691
Expenditure		
Salaries, pension costs, staff recruitment and training	9,222	8,768
Commissioners' fees	215	238
Legal and professional fees	631	1,520
Premises and equipment, including depreciation	1,407	1,333
Other operating expenses	637	738
Other finance costs	135	205
Commission's contribution to expenses of GTA University Centre	–	440
	12,247	13,242
Surplus/(deficit) of income less expenditure	525	(551)

BALANCE SHEET

As at 31 December 2013

	2013	2012
	£000	£000
Fixed assets		
Tangible assets	2,942	2,438
Current assets		
Debtors	469	547
Cash at bank and in hand	646	223
Short-term investments	7,474	6,730
	8,589	7,500
Creditors	(2,490)	(1,790)
Net assets before post-retirement liability	9,041	8,148
Post-retirement liability	(9,389)	(6,774)
Net (liabilities)/assets	(348)	1,374
Reserves	(348)	1,374



INVESTMENT SUPERVISION AND POLICY

Supervision

During 2013 the Division's main regulatory activities continued to be undertaken by its functional teams, being (1) desk-based monitoring, covering routine and ad-hoc submissions from regulated firms and collective investment schemes including notifications, pricing errors, rule transgressions and complaints; (2) on-site visits, undertaking visits to licensees to review their compliance with regulatory obligations as well as desk top reviews of information provided by licensees in response to Commission requests for information; and (3) applications for new business, including new licences together with collective investment schemes' authorisations and registrations. The Division was restructured in early 2014 to reflect PRISM impact categories relating to supervised firms and products.

The desk-based monitoring function continued to see considerable activity over the course of 2013 as licensees and collective investment schemes responded to changing global economic conditions. Twenty visits to licensees were conducted during the year, including seven undertaken jointly with other Divisions. The visits undertaken by the Division covered not only the directly licensed firms but 74 administered licensees, 142 regulated collective investment schemes and 13 non-Guernsey schemes. Matters identified during these visits were reported to the licensee's senior management and were considered for possible further action.

Policy

EU-driven initiatives continued to take up a significant amount of resource over the year. This is not surprising considering the importance of Europe as a significant market for Bailiwick investment products and services and this focus is likely to continue. The Alternative Investment Fund Managers Directive ("AIFMD"), which seeks to regulate the alternative investment fund sector, including hedge funds, private equity funds and real estate funds, came into force in July 2013.

In July 2013 the Commission signed co-operation agreements with 27 of the 31 Member States regulatory authorities. These co-operation arrangements are a necessary step in helping to maintain marketing access for Bailiwick funds into those countries. Two sets of rules were made by the Commission. The AIFMD (Marketing) Rules 2013 require notification to the Commission of the marketing of Bailiwick investment funds into EU Member States, whilst the AIFMD Rules 2013, which came into effect on 2 January 2014, provide a form of equivalent rules for those firms who wish to opt in for commercial reasons prior to the implementation of a possible marketing passport for non-EU funds that may occur in 2015 or 2016.

The Markets in Financial Instruments Directive ("MIFID") originated in 2007 as part of the larger scheme to establish a single market in the EU. Its impact on Bailiwick investment business had been limited, but that is due to change as a result of proposals which culminate in MIFID II. The major issue likely to impact Bailiwick (and all relevant non-EU) firms is the requirement to establish a branch operation in the relevant Member State where a firm has retail clients situated and for the branch to be subject to certain provisions of the Directive. A dialogue between the Commission, Government and representatives of local regulated firms has commenced, on similar lines to that used regarding AIFMD, and it is expected that during 2014 consideration will be given towards the Bailiwick's response to the proposals.

Finally, consultation had been undertaken during the first half of 2012 in respect of proposals to replace the Collective Investment Schemes (Class B) Rules 1990 with a renewed version of the rules to reflect more up-to-date practices and experience gained over the past 20 years. Taking account of the progress made with AIFMD-related matters, the revised rules, now called The Authorised Collective Investment Schemes (Class B) Rules, 2013, were implemented and the previous Rules revoked. The new rules came into force on 2 January 2014.

Risk Outlook

Major stock markets saw significant volatility during the course of 2013, albeit their overall performance generally tracked upwards over the year. This led to mixed outcomes regarding listed investment valuations with both gains and losses. In the closed-ended investment fund arena, the private equity sector continued to experience liquidity issues and investor appetites for new offerings generally remained lower than they had been several years ago. Whilst confidence levels relating to investment funds began to improve over 2013, it cannot be said that it was sector-wide; rather it focused on individual firms and their underlying promoter groups and their offerings. Unless there are major changes to the international outlook this is likely to continue during 2014.

As a result of the international perspective, both in terms of global market performance and internationally driven regulatory initiatives, it is to be expected that new business flows will continue to remain well below the much higher levels seen between 2007 and 2009. The Division will continue to assess new business proposals on a basis consistent with that employed over the years and it is for regulated firms and advisers to demonstrate to the Commission that they have undertaken sufficient due diligence when taking on new business.



FIDUCIARY SUPERVISION AND POLICY

Supervision

As a result of the restructuring of the Commission in mid-2013, the Division now operates with two teams with licensee relationships allocated across those two teams. Applications for the registration of non-regulated financial services businesses (“NRFBS”) are shared between the two teams.

Under the structure promoted by EY (formerly “Ernst and Young”) in its Internal Evaluation Review (“IER”) of the Commission, the Commission’s centralised Anti-Money Laundering and Countering the Financing of Terrorism (“AML/CFT”) team now undertakes AML/CFT visits to firms in the sector and reports the findings back to the Division. The good news was that there were several firms where there were no material findings, although some firms fell short of best practice, particularly in relation to governance. In a few cases we recommended the establishment of robust new business or client acceptance committees.

The Division conducted on-site visits to a cluster of pension providers. In general terms this highlighted some shortcomings in administration and some gaps in best practice controls, perhaps indicating the presence of inadequate procedures during the rapid expansion of previous years on the back of the growth of Qualifying Recognised Overseas Pension Schemes (“QROPS”).

In the non-regulated financial services business sector the Division has engaged with a number of enquirers relating to the provision of payment services and innovative financial services offerings.

The Division successfully undertook a sector-wide thematic review on data security. Some best practice recommendations

emerged from this but generally there was a very positive response in that it raised awareness of several technical issues which licensees had not considered before. The electronic delivery of the questionnaires and responses was a first for the Division and the experience from the thematic review enabled us to employ the same delivery system at the due date for reporting the Annual Returns.

The introduction, in 2013, of the Guernsey Foundation Law made way for the use of Guernsey Foundations as a means of holding and transferring assets. We have seen the employment of this new product in several wealth-holding structures but its take-up has been modest. At the end of the first year, 13 Foundations had been registered in the Bailiwick; however, it is early days.

At the Commission’s presentations to industry in December, the Division addressed three main areas under the heading “Managing Risks at the Frontier”:

- an overview of sector developments with a call to become smarter on risk awareness, to articulate risk appetite better and to embed risk assessment with the business developers;
- a review of NRFBSs which led us to call for a more comprehensive risk assessment of the diverse risks associated with the businesses being conducted through these entities in the Bailiwick; and
- our review of pension business which led us to urge providers to improve governance culture, develop proper procedures around suitability of product and adequately resource their business.

Policy

During the year the Division met with fellow fiduciary supervisors in the Quatre Isles Group (comprising Guernsey, Jersey, the Isle of Man and Gibraltar) to share and explore topics of mutual interest and to discuss our input to the revised Statement of Best Practice for Trust and Corporate Service Providers which is being taken forward by the Group of International Finance Centre Supervisors (“GIFCS”). Guernsey chairs the working group on reviewing and refreshing the Statement of Best Practice and it was helpful to receive contributions ahead of the plenary meeting of GIFCS. This took place in November where drafting sessions continued and where we were able to benefit from input from supervisors from the Caribbean jurisdictions. One issue identified in that exercise is that our approach to the calculation of Financial Resources Requirements (“FRR”) is less clear than in our peer

jurisdictions. We have proposed that a technical working group should be set up with the Guernsey Association of Trustees to review the adequacy of this concept in the Bailiwick and this work should commence during 2014.

We are also consulting pension providers and other stakeholders on the adequacy of the Commission’s rules on Retirement Annuity Trust Schemes (“RATS”). This was announced at the Commission’s 2013 presentations to industry. The object of the exercise is to see whether the total cost to Guernsey residents of participating in such schemes could be reduced in order to encourage saving for retirement. An avenue that will be explored is whether Bailiwick residents could be allowed to make self-investment arrangements for their pension scheme and so avoid the burden of investment management fees.

Risk Outlook

During the year we continued to receive enquiries from potential new entrants to the sector.

Looking forward we would anticipate a more settled year as economic activity in the major economies begins to pick up, bringing with it the potential for greater business volumes in the Bailiwick’s fiduciary sector, albeit perhaps with a time lag. What we will see are some changes of controllers of fiduciary

firms – which requires regulatory approval from the Commission – as several transactions which were initiated in 2013 continue to run their course in 2014. Two of those transactions will see the growing presence of private equity firms in the ownership of the sector. That prospective investment is, itself, a positive message suggesting underlying optimism about the sector.



INSURANCE SUPERVISION AND POLICY

Supervision

In July 2013, the Banking and Insurance Divisions were merged into one. One reason for this was that each Division had shrunk as a result of process redesign, centralisation and a continuing fall in bank licences. The new Division has been able to deliver business efficiencies as well to begin the task of sharing approaches to supervision. The new Division continues to deliver subject matter expertise around areas distinct to banking and insurance.

In global terms, 2013 was another relatively tough year for insurers. Interest rates remained low and general insurance premiums tight. The cost of natural catastrophes is heading to be marginally above average. On the other hand, asset prices recovered, the Eurozone was relatively stable and the industry continued to develop new distribution channels. The most significant global trend from the point of view of the Bailiwick insurance industry was a material increase in alternative financing, especially for catastrophe risk.

2013 aggregate figures are provided in arrears and, as such, are unavailable at present; but 2012 gross assets stood at £22.90bn, net worth £9.34bn, and premiums £4.63bn. This represented little change from 2011. However, given that these numbers are significantly influenced by a few large firms, they do not give a good indication of the degree of activity amongst smaller international firms in the Bailiwick. Whereas in 2012, the number of international insurer licences increased in net terms by 50, growth in 2013 was more modest but still increased by 21 from 737 in 2012 to 758 in 2013. There was a tailing-off in the popularity of the NewBuy Scheme, as the UK Government introduced other incentives to UK house building. In addition, there was a rationalisation of a block of effectively dormant cells. Despite

these negative factors, net licence numbers still increased due to an increase in catastrophe cell business and the continuing popularity of the Bailiwick for captive business.

In terms of licence types, the Protected Cell Company ("PCC") cell remained by far the most popular. Traditional company licences remained flat in net terms at 242 compared to 414 PCC cells. However Incorporated Cell Company ("ICC") cell numbers grew from 18 to 26.

As in previous years, in 2013 the domestic Bailiwick market remained stable in terms of licences. In 2013, there were eight licensed domestic insurers dealing with local requirements compared to the same number in 2012, and 20 authorised managers serving the captive market compared to 19 in 2012.

The Division continued, in 2013, to vet carefully all new licence applications, including preliminary meetings with prospective licensees. Formal applications in principle were processed generally within one month.

Over the course of 2013 the Division began a programme of business rationalisation aiming to secure internal efficiencies and this programme continues into 2014.

There were relatively few major supervisory issues affecting insurance firms. Where problems arose and, in so far as there was a common denominator, it was poor corporate governance.

There was only one supervisory college event which the home regulator called by conference call; the Commission participated fully in this call.

Policy

The Commission continued to be engaged in the international insurance arena. The Bailiwick has a seat on the Technical Committee of the International Association of Insurance Supervisors (“IAIS”) and continues to lead on the IAIS update of its captive paper. In October 2013, the Bailiwick was elected to chair the Group of International Insurance Centre Supervisors.

In 2013, after extensive discussion with the industry and a local quantitative impact study, the Commission issued a major

insurance consultation paper in order to ensure that the Bailiwick adheres to new international insurance standards. Broadly this paper differentiates capital requirements by types of issuer, as well as setting out appropriate supervisory standards around corporate governance, disclosure and group supervision. It adapts supervisory practice in order to ensure that supervisory resources are committed at an early stage where an insurance company’s capital is under pressure. This paper will be taken forward in 2014.

Risk Outlook

The current boom in alternative financing will, in due course, tail off and the local industry needs to think of further business diversification. Fronting agents and re-insurance are used extensively in the Bailiwick and there is always the remote risk of a large non-Bailiwick insurer or re-insurer failing; vigilance around

credit ratings is therefore paramount. There is some danger that adverse connotations will arise from the term “captive” as US life insurance firms use the term to describe intra-group extra-state attempts to engage in regulatory and tax arbitrage.



BANKING SUPERVISION AND POLICY

Supervision

The last two years have been mixed for banks in the developed world. Although funding has been accessible and provisioning levels have stabilised, the net interest rate margin has remained low. Regulatory and shareholder pressure has led to improved capital levels but this in turn has limited balance sheet size. Increasingly, banks have been subject to regulatory fines reflecting market misconduct, mistreatment of consumers or Anti-Money Laundering and Countering the Financing of Terrorism (“AML/CFT”) and tax evasion issues. Growth in the developed world has remained limited, although there was some recovery in the UK and USA in the latter part of 2013.

Conditions in the Bailiwick remain correspondingly difficult. In recent years the retail model of up-streaming has been affected by regulatory concerns at both the home and host level and this, together with the impact of UK bank restructuring, has led to shrinkage of the retail sector in the Bailiwick. Expatriate deposits have been increasingly centralised for business reasons in other jurisdictions. The tight net interest margin has held back profits given that this is the largest single source of profit for the Bailiwick banking sector. Global deleverage has also taken its toll in the Bailiwick.

As a result of all the above factors, non-Swiss fiduciary deposits have fallen from £85bn in 2008 to £61bn in 2013, albeit broadly flat from 2012. Low interest rates have, in particular, reduced the attraction of Swiss fiduciary deposits. These have fallen in the Bailiwick from a peak of £71bn at end-2008 to £23bn at end 2013, down £3bn from 2012. Aggregate deposits and other assets stood at a peak of £179bn at end 2008 but fell to £107bn at end 2013, down £7bn from end 2012.

Bank licences have fallen from 48 in 2008 to 31 in 2013, with one small private bank leaving in 2013. Full-time staff numbers in the Bailiwick have fallen from 2,009 to 1,605 over the same period, compared to 1,692 in 2012.

The aggregate pre-tax profit for Bailiwick subsidiaries after provisions remained at much the same level in 2013 as in 2012; that is, 7% return on actual capital or 12% return on regulatory capital. Many subsidiaries have high capital ratios for large exposure reasons.

Individually, each bank has its own story to tell. In 2013, some banks took on staff due either to additional business arriving as a result of group activity or in anticipation of a pick-up in demand for wealth advice. Several banks continue to fulfil an essential supporting role to other group activities in the Channel Islands in the other financial sectors, or more widely across the world.

The minimum regulatory capital requirement in the Bailiwick is a risk asset ratio of 10% – otherwise expressed as an Internal Capital Guidance (ICG) ratio of 125%. All banks operate above this limit.

In 2013, the Division continued its programme of supervisory oversight. Its review of banks’ subsidiary Individual Capital Adequacy Assessment Processes (“ICAAPs”) is on an 18-month cycle such that 10 were completed in 2013. Apart from meetings to deal with particular issues as they arose, there were 12 routine prudential visits in 2013, including branches. The division attended three supervisory college meetings and one through a conference call and there was periodic bilateral contact with home regulators. The Division conducted three on-site credit reviews. There were several meetings with the Association of Guernsey Banks.

In 2013, there was no one overriding supervisory issue. Instead the Commission continued to discuss with banks a range of issues such as up-streaming limits, structural internal changes, operational problems and dividend payments.

Policy

As a response to the global financial crisis, the Bank for International Settlements (“BIS”) has put in train a series of policy changes – known as Basel III. The Division is participating in a common Crown Dependency response to these proposals with sister regulators in Jersey and the Isle of Man. In the Bailiwick this has taken the form of the issuance to local banks of two discussion papers in 2013. The first considers the nature of capital in line with Basel III – though this hardly affects the Bailiwick’s banks as the quality and quantity of capital in Bailiwick banks are already generally high. The second is around the potential treatment of domestically significant international banks. Other discussion papers are likely to follow and all should, in due course, be wrapped up into one consultation paper.

The paper on domestically significant international banks also touches on the issue of resolution. This is at a preliminary stage

of consideration and will depend on how the “Vickers” debate affects the Bailiwick. The Commission is working closely with sister regulators and the Bailiwick’s government to provide advice in this area.

The Division issued one consultative paper in 2013, namely on large exposures. The current large exposure policy dates from 1994 and is in need of revision. It was also necessary to consider the policy in the light of the global financial crisis and the EU’s 2009 large exposures directive, with a 2013 BIS paper also being relevant. The consultative paper marginally hardens policy for third-party and sovereign large exposures and, significantly, augments limits on bank exposures. This follows the failure of many banks during the global financial crisis and is in line with international regulatory policy. The paper also offers new guidance on connected parties. The new large exposure policy will be introduced in 2014.

Risk Outlook

Banks in the Bailiwick continue to face the risk of a local adverse finding connected with AML/CFT and/or tax evasion; the maintenance of high standards in this area is therefore crucial. A newer risk that is emerging is around mis-selling claims by

corporates and wealthy individuals; this points to the need for extra care around the selling process. Finally, banks need to take care around the long-term operational risks potentially associated with short-term cost cutting.



CONDUCT UNIT

In July 2013, a Conduct Unit was created to concentrate on the treatment of predominantly local consumers. The Unit consists mostly of people with experience in the oversight of insurance intermediaries. One person undertook a three-month secondment with the UK Financial Conduct Authority to gain practical experience of its approach to consumer protection.

The Unit's immediate focus has been the second iteration of a series of 12 thematic on-site visits looking at sales practices around long-term insurance policies. As a result of this, most firms have been asked to undertake remedial actions.

Allied to this thematic, the Unit has also taken responsibility for the delivery of the Guernsey Financial Advice Standards ("GFAS"), which was an initiative launched by Government.

In 2013, in a consultative paper, the Unit set out its proposals to raise educational requirements and disclosure standards in the Bailiwick. This will also involve significant rewriting of local rules and regulations. GFAS comes into effect on 1 January 2015.

The Unit has also been active in forging links with other interested bodies, including the new Channel Islands Ombudsman, the Citizens Advice Bureau and Government departments. In 2014, the unit plans to develop a Commission internet page directing the public to key information sites as well as setting out easy-to-understand outlines of consumer regulation. The Unit's agenda will further develop over 2014 as it takes into account stakeholder feedback.

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ENFORCEMENT

General

A dedicated Enforcement Division was created by the Commission in the summer of 2013 with the objective of developing a centre of excellence within the Commission to investigate a range of enforcement matters, particularly those involving significant breaches of regulatory requirements and poor conduct. This marks a change of approach by the Commission to enforcement activity.

The Division commenced its work in earnest at the beginning of September. The Division has a good balance of enforcement and supervisory knowledge.

A review of the policies and procedures for enforcement was commenced during the fourth quarter of 2013 and it is anticipated that this important work will be completed by the end of the second quarter of 2014. Part of this process was to rewrite the

guidance on the decision-making process and then to publish these guidelines, via the Commission's website, on the change to the decision-making process. This has been extended from the previous guidance and the revised document presents, in more depth, the process which the Commission will follow when engaging with a licensee or individual regarding enforcement matters. It also sets out the staged approach that will be taken, either by a Supervision and Policy Division or the Enforcement Division, when matters are dealt with under the legal powers that are available to the Commission.

One major change is that cases that have, until now, been heard by a Decisions Committee (a panel of Commissioners) will in future normally be heard before a senior lawyer who will be appointed as a judicial officer of the Commission. The Commission is establishing a panel of such lawyers to hear future cases.

Cases

The Division has been busy from inception, having also taken on a number of outstanding cases. It is anticipated that these legacy cases will be brought to a conclusion during 2014.

Two of the legacy cases were brought to a conclusion towards the end of 2013, with fines totalling £160,000 being imposed. In one of these cases a prohibition was also placed on an individual. In both cases public statements were published on the website in order to show the findings of the investigation. At the conclusion of enforcement cases found in favour of the Commission, it will be practice for this to occur. However, it has to be highlighted that in both of these cases the relevant parties engaged with the

Commission at the end of the investigation in an effort to bring matters to a conclusion, with relevant discounts being applied due to this fact.

This revised and proportionate approach (towards early settlement) was highlighted at the industry presentations in December and is contained in the new guidance on the decision-making process which is available on the Commission's website. The Commission intends to encourage this approach where it is appropriate to do so, although this will remain at the discretion of the Commission.

Whistleblowing Line

In September 2013, in line with similar actions taken by regulatory bodies in other jurisdictions, the Commission introduced a whistleblowing line as a method for receiving information about regulatory misconduct. Calls to the whistleblowing line are neither electronically recorded nor traced by the Commission and callers can remain anonymous if they choose to do so (Tel: 01481 748094).

Whistleblowing lines have proved successful in other jurisdictions and have assisted in providing information which has led to bad practices being identified and addressed. It is clearly in the

interests of customers, and those firms who are carrying on their business properly within the Bailiwick, that the Commission is able to identify those which are failing to comply with the regulatory requirements.

The line is manned by staff from the Commission's Intelligence Team who review the information supplied and consider if a referral to the Commission's Supervision and Policy Divisions is required. A referral may lead to action by the Enforcement Division.



FINANCIAL CRIME AND AUTHORISATIONS

FINANCIAL CRIME TEAM

General

The Anti-Money Laundering (“AML”) Unit was established in November 2012 as part of the implementation of the recommendations made in the Independent Evaluation Review (“IER”) undertaken in 2011 by EY (formerly “Ernst and Young”).

In July 2013 the team became one of the components of the Financial Crime and Authorisations Division (“FC&A”) and is now known as the Financial Crime Team.

Role

When it was first formed in 2012, the AML Unit’s primary responsibilities were the undertaking of on-site visits in order to verify compliance with the regulatory requirements and effective management of money laundering and terrorist financing risks. The Financial Crime Team was also responsible at that time for industry enquiries and in identifying appropriate and effective means by which to address Anti-Money Laundering and Countering the Financing of Terrorism (“AML/CFT”) non-compliance.

Following the creation of the FC&A division in July 2013, the Financial Crime team’s responsibilities were expanded to include the broader area of financial crime and related policy activities, which were formerly undertaken by the Policy and International Affairs Division. This expansion of duties also encompassed responsibilities for the issuance of Guidance, Notes, Instructions and the management of the two AML/CFT Handbooks as well as

continuing to perform on-site visits covering AML/CFT and the broader subject of financial crime.

The Financial Crime Team conducted a total of 52 visits during 2013 across the various financial and non-financial sectors (e.g. accounting firms, estate agents) of the Bailiwick.

In 2013, the Commission commenced its assessment of how best to implement the 2012 Financial Action Task Force (“FATF”) recommendations. A working group was formed comprised of compliance personnel from various industry sectors to review the existing Handbooks and their provisions, and to identify possible areas of revision in consideration of the 2012 Recommendations. The Commission has begun to take steps to embed the principles underlying those FATF recommendations in its financial crime supervisory activities so as to ensure that these are taken into account in a proactive and effective manner whilst our Handbook is being developed.

AUTHORISATIONS TEAM

General

The Authorisations Unit was established in October 2012 as part of the implementation of the recommendations made in the IER undertaken in 2011 by EY. It is one of the components of the

FC&A division formed in July 2013 to give increased focus to the Commission's AML and authorisations activity.

Role

The role of the authorisations team is to act as a first line of defence against unsuitable firms and individuals being licensed or registered to conduct financial services business in the Bailiwick.

The Authorisations team provides a centralised function for the Commission through the intake and processing of Personal Questionnaires ("PQs") and Personal Declarations ("PDs"). This approach is designed to allow for efficient and cost-effective processing of these forms. The team's activities also include the undertaking of due diligence in relation to the subjects of the PQs and PDs along with other persons, both natural and legal, relating to certain regulatory applications.

The team has also been working in conjunction with the Chief Transformation Officer's team on the development of a portal which will facilitate the online filing of PQs and eliminate the need for paper PQs. This new service should be available in the summer of 2014.

In addition, since May 2013, the Authorisations team has been responsible for the processing of "Fast-Track Funds", comprising applications relating to the authorisation of Qualified Investor Funds, Registered Collective Investment Schemes and Non-Guernsey Schemes. The Authorisations team works collaboratively with the other Supervision and Policy Divisions

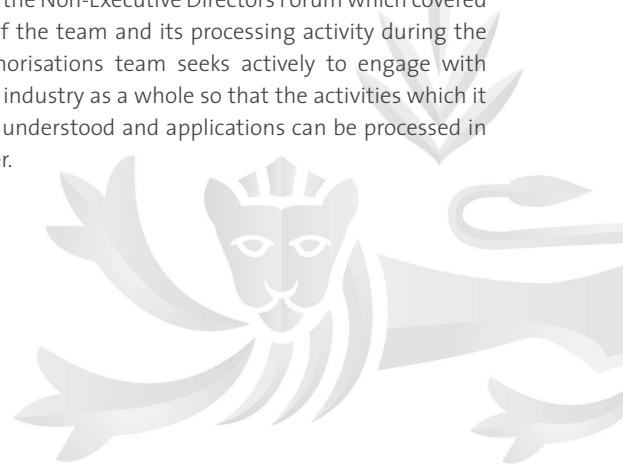
to ensure that all assessments are undertaken in an effective manner.

During 2014 the Authorisations team will be assuming other authorisations functions which will benefit from a centralisation of knowledge and processes.

During the calendar year 2013, the Authorisations team processed the following:

- PQs received in 2013 – 865
- PDs received in 2013 – 2,597
- "Fast-Track Fund" applications since May 2013 – 101

The Authorisations team is represented at meetings with industry by the Head of the FC&A Division or the Assistant Director of the team. In December 2013, the Head of the Division gave a presentation to the Non-Executive Directors Forum which covered the functions of the team and its processing activity during the year. The Authorisations team seeks actively to engage with individuals and industry as a whole so that the activities which it undertakes are understood and applications can be processed in a timely manner.



CHIEF OPERATING OFFICER'S REPORT

Introduction

The Finance and Operations Division ("F&O") is central to the smooth operation of the Commission and its overarching aim is to support the Supervision and Policy Divisions, the Executive Office and the Central Units in the execution of their primary roles.

F&O provides financial and management information, communications and information systems, human resources and facilities management to the Commission. The Division includes the new Data Management Unit, which commenced operation in May 2013 with the aim of delivering economies through the centralisation of common functions in one location.

The Division also works closely with the Project Management teams which are delivering further organisational change under the overarching Sentinel programme and in support of PRISM.

During 2013, the Commission put considerable time and effort into re-analysing and developing its approach to identifying key organisational objectives. Previously, the setting of key objectives had been undertaken at divisional level and it was decided that a more comprehensive, dynamic and flexible method was required to focus the Commission's activities in an efficient, cost-effective and timely manner.

Therefore, with the 2013 key objectives (set in March 2012) having been realised, in September 2013 the Commission introduced a balanced scorecard for the first time. Further details follow.

Financial Information

The financial statements are shown on pages 32 to 43.

The overall surplus for the year 2013 was £525,347, compared to a deficit in 2012 of £550,746. Costs for 2013 were 8% lower than in 2012, or 4% lower excluding the contribution to the GTA University Centre, which ceased on 31 December 2012. This reduction comprised a blend of recurring costs, such as legal costs associated with enforcement, and non-recurring costs, such as the conclusion of the Independent Evaluation Review ("IER").

The 2013 result reflects a significant decrease in net enforcement costs associated with investigative and enforcement activity. This is due firstly to the establishment of the Enforcement Division, which had the effect of bringing costs in-house, and secondly due to the successful recovery of some enforcement costs.

During 2013, the Commission started to implement its Sentinel programme, with the majority of the current and future costs being capital in nature. In 2013, Sentinel activities focused on its IT solution for a structured approach to risk-based supervision (PRISM). It will be adopted across all Supervision and Policy Divisions during 2014. Work was also conducted on the Commission's portal, which should have an initial roll-out to industry in the first half of 2014, although the second phase – full computerisation of all standard Commission returns – is likely to last well into 2015.

Income and expenditure by sector are set out in table 2 on page 55.

Pensions

The Commission's staff are members of one of two Pension Schemes: a Defined Benefit Scheme (which is part of the States of Guernsey's Superannuation Fund and which has been closed

to new entrants since 1 January 2008) and a Defined Contribution Scheme, which the Commission adopted for staff joining from 1 January 2008.

Defined Benefit Pension Scheme under Financial Reporting Standard 17 ("FRS 17")

The basis of preparing FRS 17 is very prescriptive and, whilst many of the assumptions used are the same as, or very similar to, those used in the actuarial valuation, there is a major variance in the key assumption of discount rate which makes a substantial difference in the calculation of liabilities and the resultant net funding position of the scheme.

The deficit at 31 December 2013 reported under FRS 17 is £9,389,067, an increase of £2,614,776, reflecting an inflation assumption that has increased by 0.5% and a discount rate that has decreased by 0.2%, together with an actual investment return that was higher than expected. As this valuation is a point-in-time calculation, it can be expected to vary from year to year, without prejudicing the scheme's long-term ability to provide the accrued benefits, irrespective of the planned closure to future service accrual.

The scheme's actuary carried out a full actuarial valuation of the scheme as at 31 December 2013, though the results are not yet available. The Commission requested the actuary to prepare an estimated funding valuation as at 31 December 2012 which

shows a shortfall of £56,000, a figure considerably lower than that disclosed by the FRS 17 calculation of £9,389,067.

There are extensive disclosures required under FRS 17 which are intended to be an aid in comparing pension costs and liabilities between companies. FRS 17 is prepared for accounting purposes whereas an actuarial valuation is carried out to compare the value of the scheme's assets with a funding target which calculates the value of the benefits that will be paid from the scheme in the future, using information about the scheme at the valuation date.

The deficit in the pension scheme as at 31 December 2013 reflects assumptions based on conditions that existed at that date, including the assumption that the scheme would continue as an active scheme, whereas (and as described overleaf) the Commission is closing the scheme to new accruals with effect from 1 July 2014, marking an end to current service costs relating to the provision of a defined benefit pension. The effect of the closure to future service accrual will be reported in the financial results for 2014.



Closure of the Defined Benefit Pension Scheme

The terms of the States' Public Sector Pension Scheme ("PSPS"), which is a defined benefit pension scheme, have been under review by a working party established by the States of Guernsey, with proposed changes to those terms being discussed with representatives of members of the whole scheme before any changes are effected.

During the second half of 2013, the Commission consulted staff who were members of the PSPS defined benefit scheme with a view to the possible closure of that Scheme to new contributions. This action was prompted by the need to stabilise the Commission's cost base and the requirement to manage the risks inherent in defined benefit schemes, principally the uncertainties surrounding life expectancy. The outcome was a decision taken in December 2013 to close the scheme to future service accrual from 1 July 2014 and to offer those members defined contribution-type alternatives. The Commission's portion of the States' PSPS defined benefit scheme will therefore comprise, from that date, deferred

members and members with pensions in payment, but no active members. The Commission forecasts not only a significant saving in current pension service costs from 1 July 2014, but also a reduction over time in its exposure to the financial volatility associated with the PSPS defined benefit scheme.

The pension scheme deficit will continue to be recognised in the balance sheet in accordance with FRS 17 (and, from 2015, in accordance with FRS 102, which is the Revised Financial Reporting Standard that the Commission plans to adopt from 1 January 2015). The Commission will continue to meet the States of Guernsey's requirements in keeping the PSPS defined benefit scheme funded for the benefit of all Commission members. The States of Guernsey has previously undertaken that, in the final resort, the claims of the Commission's pensioners and employees would be met from the whole Fund and any shortfall in the Fund would then be met by the States of Guernsey from general revenue.

Staff Remuneration

Salary and related costs for the year were £9,356,663 (which is the combined total of £9,221,754, and the pension-related charge of £134,909 disclosed as other finance costs) in the year, compared to the 2012 equivalent of £8,972,850. An analysis of these figures is provided in table 4 on page 55. Pension costs, including other finance costs, increased by £12,000 in 2013.

Analyses of staff by salary band and movements in staff numbers are shown in tables 5 and 6 on page 56.

A breakdown of Commissioners' fees is shown in table 8 on page 57.

Fees

Fee rates for 2013 were generally increased by 2%. For 2014, other than in respect of anomalies, a general increase of 0.3% was applied (0% for the investment sector).

The fees regulations for the banking, fiduciary, insurance and the non-regulated financial service business sectors were revised with effect from 1 January 2014.

A list of the current regulations prescribing fees payable is:

- The Financial Services Commission (Fees) Regulations, 2013;
- The Financial Services Commission (Fees) (Amendment) Regulations, 2013;

- The Protected Cell Companies and Incorporated Cell Companies (Fees for Insurers) Regulations, 2013;
- The Registration of Non-Regulated Financial Services Businesses (Bailiwick of Guernsey) (Fees) Regulations, 2013;
- The Amalgamation and Migration of Companies (Fees Payable to the Guernsey Financial Services Commission) Regulations, 2013;
- The Criminal Justice (Proceeds of Crime) (Legal Professionals, Accountants and Estate Agents) (Bailiwick of Guernsey) (Amendment) (No.3) Regulations 2013.

Copies of the fees regulations and a summary of the fees payable are available on the Commission's website at www.gfsc.gg.

GTA University Centre

The Commission discontinued its financial support of the GTA at the end of 2012 on the basis that the provision of funding for an external training institution was not a core function of a financial services regulator, particularly as that funding could

not be ring-fenced for finance sector training. Those funds have been used towards investment in the Sentinel programme, to offset increased regulation and enforcement expenditure and to ameliorate the need for higher rates of fee increases.

Retained Reserves

As a result of the FRS 17 calculations and increased pension deficit for 2013, described above, the retained reserves are now £(348,163). However, the Commission maintains substantial cash balances to cover its liabilities and unforeseeable expenditure, such as enforcement, so its liquidity risk is low. The Commission maintains a policy of keeping liquid funds in excess of £3 million to enable the efficient and uninterrupted financing of its activities.

Given the decision to close the defined benefit pension scheme to future accrual, savings are anticipated which are expected to return the reserves to a positive figure. Unlike a conventional

company the Commission is not insolvent as a result of having negative reserves as its pension liabilities are underwritten by the States of Guernsey. The Commission will seek to run operating surpluses in the medium term to rebuild its net assets to a positive level, although both enforcement costs and FRS 17 / FRS 102 pension numbers are very volatile from year to year.



Review of Key Objectives - Introduction of a Balanced Scorecard

The essence of a balanced scorecard is that key objectives are identified and articulated at an overall organisational level before being carefully weighted (balanced) to ensure work is appropriately prioritised. The conceptual links between a balanced scorecard and our drive towards risk/impact-based supervision (such as we are implementing using PRISM) are self-evident.

The scorecard is a proven tool to identify, effectively monitor and achieve objectives across the Commission that will enable us to become better at what we do in a holistic and balanced way. The objectives that were established during late 2013 are forward-looking and dynamic, based upon exercising good, effective and proportionate regulation. They are detailed below:

- Execute high-quality supervision and risk-aware authorisation processes;
- Deliver high-quality regulatory policy;
- Deliver targeted, high-value enforcement;
- Maintain and enhance international reputation and influence;
- Manage costs rigorously, delivering best value; and
- Develop staff.

Once high-level organisational objectives are agreed, supporting and specific tasks must then be identified across all of the Supervision and Policy Divisions, Executive Office and the Central Units. In this way, every task, however small, is capable of being linked directly to an organisational objective and hence it can be established how the activity contributes to achieving the Commission's overarching mission, summarised as "Winning for the Bailiwick".

A balanced scorecard is a unique tool for each organisation. The Commission has taken significant steps in introducing this approach as a way to focus activity, in a balanced manner, on high-level priorities. The adoption of the scorecard is beginning to permeate the daily life of all of our staff and we are developing a cultural foundation upon which to build. The overarching purpose remains for every functional area, as well as each individual, to have clearly articulated priorities, objectives and targets which are aligned to the high-level priorities established by the Commission.

Throughout 2014 the approach outlined above will continue to be developed and tailored to suit our organisation and it will be the role of the Chief Operating Officer to drive and monitor this.

Human Resources

2013 was a year of internal reorganisation and restructuring within the Commission. Our staff have shown great resilience and flexibility and are now well placed to continue to develop their skills and experience further. An in-house and external training programme supports and underpins the development of our staff.

Facilities Management

The Commission enhanced its business continuity arrangements and in particular its computer server resilience through lessons learned during the power outage which affected parts of St. Peter

Port in October 2013. It also maintains a dedicated area at a service provider's premises in order to ensure it is able to recover swiftly from adverse incidents.

Communications and Information Systems

Information systems lie at the core of efficient and effective operational performance across the Commission. The IT elements of the PRISM solution for risk-based supervision were successfully launched in autumn 2013. Also launched were enhancements

to the central regulatory database for the development of the Authorisations Unit and for the establishment of the Data Management Unit.

Data Management Unit

The Data Management Unit supports all the Supervision and Policy Divisions, the Executive Office and the Central Units in handling incoming physical mail, annual returns, annual accounts and statistical returns for the banking and insurance, investment and fiduciary sectors.

As the Sentinel programme moves forward, the Data Management Unit will find itself not only more enlaced with daily activity, but also outward facing, as certain online submissions will come

directly to it. It is acquiring more tasks as its capability develops, such as providing anonymised statistics from Bailiwick financial institutions to the International Monetary Fund ("IMF") for its Coordinated Portfolio Investment Survey ("CPIS") annually. Also during the year it has moved the Commission much closer to electronic records retention instead of relying on physical document archives.



INDEPENDENT AUDITOR'S REPORT

Independent Auditor's Report to the Guernsey Financial Services Commission

We have audited the financial statements of the Guernsey Financial Services Commission (the "Commission") for the year ended 31 December 2013 which comprise the Income and Expenditure Account, the Statement of Total Recognised Gains and Losses, the Balance Sheet, the Cash Flow Statement and the related notes. The financial reporting framework that has been applied in their preparation is applicable law and United Kingdom Accounting Standards.

This report is made solely to the Commission, in accordance with our Terms of Engagement as detailed in our letter dated 28 November 2013. Our audit work has been undertaken so that we might state to the Commission those matters we are required to state 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 Commission for our audit work, for this report, or for the opinions we have formed.

Statement of the Commission's Responsibilities

The Commission is required by the Financial Services Commission (Bailiwick of Guernsey) Law, 1987 as amended to prepare financial statements for each financial year which give a true and fair view, in accordance with applicable Guernsey law and United Kingdom Accounting Standards. In preparing these financial statements, the Commission is required to:

- select suitable accounting policies and then apply them consistently;
- 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 financial statements; and

- prepare the financial statements on the going concern basis unless it is inappropriate to presume that the Commission will continue to operate.

The Commission is responsible for keeping proper accounting records which disclose with reasonable accuracy at any time the financial position of the Commission and to enable it to ensure that the financial statements have been prepared in accordance with the Financial Services Commission (Bailiwick of Guernsey) Law, 1987 as amended. It is also responsible for safeguarding the assets of the Commission and hence for taking reasonable steps for the prevention and detection of fraud, error and other irregularities.

Respective Responsibilities of the Commission and Auditor

As explained more fully above, the Commission is responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view. Our responsibility is to audit and express an opinion on the financial statements in accordance with applicable law and International Standards on Auditing (UK and Ireland). Those standards require us to comply with the Financial Reporting Council's ("FRC's") Ethical Standards for Auditors.

Scope of the Audit of the Financial Statements

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are

appropriate to the Commission's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the Commission; and the overall presentation of the financial statements. In addition, we read all the financial and non-financial information in the Annual Report to identify material inconsistencies with the audited financial statements and to identify any information that is apparently materially incorrect based on, or materially inconsistent with, the knowledge acquired by us in the course of performing the audit. If we become aware of any apparent material misstatements or inconsistencies we consider the implications for our report.

Opinion on Financial Statements

In our opinion the financial statements:

- give a true and fair view of the state of the Commission's affairs as at 31 December 2013 and of its surplus for the year then ended;
- are in accordance with United Kingdom Accounting Standards; and
- have been properly prepared in accordance with the Financial Services Commission (Bailiwick of Guernsey) Law, 1987 as amended.

BDO Limited
Chartered Accountants
Guernsey
12 May 2014



FINANCIAL STATEMENTS

INCOME AND EXPENDITURE ACCOUNT

For the year ended 31 December 2013

	Note	2013 £	2012 £
Income	2		
Fees receivable	1(b)	12,517,683	12,532,222
Financial penalties imposed	1(c)	160,000	–
Interest receivable and similar income	1(d)	94,491	159,456
		12,772,174	12,691,678
Expenditure			
Salaries, pension costs, staff recruitment and training		9,221,754	8,767,951
Commissioners' fees		214,583	237,891
Legal and professional fees		631,116	1,519,846
Premises and equipment, including depreciation	1(f), 1(h), 4, 10	1,406,684	1,333,318
Other operating expenses		629,031	729,769
Other finance costs	1(i), 7(b)	134,909	204,899
Auditor's remuneration		8,750	8,750
		12,246,827	12,802,424
Commission's contribution to expenses of GTA University Centre	9	–	440,000
		12,246,827	13,242,424
Surplus/(deficit) for the year		£525,347	£(550,746)

There is no difference between the surplus for the financial year as stated above and its historical cost equivalent.

The notes on pages 36 to 43 form an integral part of these financial statements.

STATEMENT OF TOTAL RECOGNISED GAINS AND LOSSES

For the year ended 31 December 2013

	Note	2013	2012
		£	£
Surplus/(deficit) for the year		525,347	(550,746)
Actuarial (loss)/gain	7(e), (k)	(2,247,755)	1,274,589
Total recognised (loss)/gain for the year		£(1,722,408)	£723,843

The notes on pages 36 to 43 form an integral part of these financial statements.



BALANCE SHEET

As at 31 December 2013

	Note	2013 £	2012 £
Fixed assets			
Tangible assets	4	2,941,650	2,438,323
Current assets			
Debtors	5	468,629	547,259
Short-term investments	1(g), 13	7,474,029	6,730,106
Deposits with States Treasury	13	21,650	21,519
Cash at bank and in hand	13	624,396	201,124
		8,588,704	7,500,008
Creditors – amounts falling due within one year	6a	(2,385,750)	(1,718,945)
Net current assets		6,202,954	5,781,063
Creditors – amounts falling due after one year	6b	(103,700)	(70,850)
Net assets before post-retirement liability		9,040,904	8,148,536
Post-retirement liability	7(a), (k)	(9,389,067)	(6,774,291)
Net (liabilities)/assets		£(348,163)	£1,374,245
Reserves	8	£(348,163)	£1,374,245

The financial statements on pages 32 to 43 were approved by the Commissioners and signed on their behalf on 12 May 2014 by:

C Schrauwers
Chairman

S Farnon
Vice-Chairman

W Mason
Director General

The notes on pages 36 to 43 form an integral part of these financial statements.

CASH FLOW STATEMENT

For the year ended 31 December 2013

Note	2013	2012
	£	£
Reconciliation of surplus/(deficit) of income less expenditure for the year to net cash inflow from operating activities		
Surplus/(deficit)	525,347	(550,746)
Other finance costs	7(b) 134,909	204,899
Current pension service cost	7(c) 682,690	798,833
Contributions made to pension scheme	7(d) (450,578)	(532,031)
Depreciation on tangible fixed assets	4 478,113	404,825
Interest receivable	(94,491)	(159,456)
Decrease/(increase) in debtors	78,630	(47,331)
Increase / (decrease) in creditors	699,655	(617,958)
Net cash inflow/(outflow) from operating activities	£2,054,275	£(498,965)
Return on investments and capital expenditure		
Returns on investments and servicing of finance – interest	94,491	159,456
Capital expenditure	4 (981,440)	(320,172)
Management of liquid resources	1(g), 13 (743,923)	(882,110)
Net cash outflow from investments and capital expenditure	£(1,630,872)	£(1,042,826)
Increase/(decrease) in cash in the year	£423,403	£(1,541,791)
Reconciliation of net cash flow to movements in net funds		
Increase/(decrease) in cash in the year	13 423,403	(1,541,791)
Net funds at 1 January	13 6,952,749	7,612,430
Cash outflow from increase in liquid resources	13 743,923	882,110
Net funds at 31 December	13 £8,120,075	£6,952,749

The notes on pages 36 to 43 form an integral part of these financial statements.

NOTES TO THE FINANCIAL STATEMENTS

For the year ended 31 December 2013

1. Accounting policies

(a) Convention

These financial statements have been prepared in accordance with the historical cost convention and under applicable accounting standards in the United Kingdom. The principal accounting policies which the Commissioners have adopted within that convention are set out below. They have been applied consistently in dealing with items which are considered material to the financial statements of the Commission.

(b) Fees receivable

Fees receivable are accounted for on an accruals basis.

(c) Financial penalties imposed

The Commission imposed financial penalties during the year under Section 11D(1) of the Financial Services Commission (Bailiwick of Guernsey) Law, 1987 as amended.

(d) Interest

Bank and States Treasury deposit interest is accounted for on an accruals basis. Interest income received on a portfolio of certificates of deposit is also included, and accounted for on an accruals basis.

(e) Investigation and litigation

Costs arising from investigation and litigation are accounted for as expenditure is incurred, whether or not it had been billed at the balance sheet date. Such costs recovered from third parties are accounted for in the year in which they are received. No provision is made for expenditure or recoveries which may arise in future years.

(f) Tangible fixed assets and depreciation

Depreciation on tangible fixed assets is calculated to write down their cost to their estimated residual values over the period of their estimated useful economic lives at the following annual rates:

Leasehold improvements	over the shorter of the term of the lease and the estimated useful economic life of the assets
Office equipment and fittings	25% straight-line
Furniture	over the shorter of 10 years and the estimated useful economic life of the assets
Computer equipment:	
Hardware	33 $\frac{1}{3}$ % straight-line
Software	over the shorter of 10 years and the estimated useful economic life of the assets

(g) Short-term investments

Short-term investments, represented by a portfolio of certificates of deposit and managed by an investment manager, are actively traded and thus included as current assets irrespective of the maturity date of individual certificates.

(h) Leases

Rental payments made in relation to office accommodation are treated as operating leases and are charged to the income and expenditure account on a straight-line basis over the lease term.

(i) Pensions

Employees of the Commission who generally joined before 1 January 2008 are eligible to be members of the States of Guernsey Superannuation Fund ("the Fund"), which is a defined benefit pension scheme funded by contributions from both the member and the employer.

A separate Actuarial Account comprising the assets and liabilities of the Fund attributable to the Commission's members ("the scheme") was established with effect from 1 January 2004. Regular valuations are prepared by independent professionally qualified actuaries.

In accordance with Financial Reporting Standard 17 – Retirement Benefits ("FRS 17"), the regular service costs of providing retirement benefits to employees during the year, together with any past service costs, are charged to the income and expenditure account in the year.

A debit is included within other finance costs, representing the interest cost on the scheme's liabilities, less the expected return on the scheme's assets, for the year. A credit is included within other finance income where the expected return on the scheme's assets exceeds the interest cost.

The difference between the market value of assets and the present value of accrued pension liabilities is shown as an asset or liability in the balance sheet.

1. Accounting policies (continued)

(i) Pensions (continued)

Differences between the actual and expected returns on assets during the year are recognised in the statement of total recognised gains and losses in the year together with differences arising from changes in assumptions and experience gains and losses arising on the scheme liabilities.

Employees of the Commission joining since 1 January 2008 are generally eligible to be members of the Island Trust Pension Plan ("the DC Plan") which is a defined contribution pension scheme funded by contributions from both the member and the employer. Employer contributions are charged to the income and expenditure account in the year in which they become payable to the DC Plan.

2. Income

Income is derived wholly from continuing activities.

3. Taxation

The Commission is exempt from the provisions of the Income Tax (Guernsey) Law, 1975 as amended.

4. Tangible assets

	Leasehold improvements	Office equipment, furniture and fittings	Computer hardware	Computer software	Total
	£	£	£	£	£
Cost					
At 1 January 2013	1,272,523	438,711	600,452	1,760,135	4,071,821
Additions	7,849	5,680	67,016	900,895	981,440
Disposals	–	(5,822)	(105,996)	(166,420)	(278,238)
At 31 December 2013	1,280,372	438,569	561,472	2,494,610	4,775,023
Depreciation					
At 1 January 2013	126,494	181,408	475,586	850,010	1,633,498
Charge for the year	55,961	74,736	74,491	272,925	478,113
On disposals	–	(5,822)	(105,996)	(166,420)	(278,238)
At 31 December 2013	182,455	250,322	444,081	956,515	1,833,373
Net book value at 31 December 2012	£1,146,029	£257,303	£124,866	£910,125	£2,438,323
Net book value at 31 December 2013	£1,097,917	£188,247	£117,391	£1,538,095	£2,941,650

5. Debtors

	2013	2012
	£	£
Other debtors	18,903	140,125
Prepayments	449,726	407,134
	£468,629	£547,259

NOTES TO THE FINANCIAL STATEMENTS (continued)

6a. Creditors – amounts falling due within one year

	2013	2012
	£	£
Expense creditors and accruals	1,148,378	846,378
Fees received in advance	1,237,372	872,567
	£2,385,750	£1,718,945

6b. Creditors – amounts falling due after one year

	2013	2012
	£	£
Expense accruals	103,700	70,850
	£103,700	£70,850

7. Superannuation

(i) FRS 17 Disclosure for the Guernsey Financial Services Commission Actuarial Account of the States of Guernsey Superannuation Fund

Employee benefit obligations

This is a defined benefit pension scheme funded by contributions from both the member and the employer which provides retirement benefits based on final pensionable salary. The employer contributions are determined on the basis of independent actuarial advice and are calculated to meet the cost of benefit accrual over the next year of pensionable service.

A separate Actuarial Account comprising the assets and liabilities of the Fund attributable to the Commission's members was established with effect from 1 January 2004 within the Fund following an instruction from the former States Advisory and Finance Committee. The Actuarial Account is used solely for the purpose of determining the contributions payable to the Fund by the Commission and to avoid the possibility of inappropriate subsidisation of one employer by another.

A full actuarial valuation of the scheme was carried out at 31 December 2010 by the scheme's actuary, which resulted in a funding surplus of £1,145,000. An interim actuarial valuation was last calculated at 31 December 2012, resulting in a funding deficit of £56,000. The scheme's actuary is carrying out a full actuarial valuation as at 31 December 2013, though the results are not yet available.

The valuation used for FRS 17 disclosures has been based on a full assessment of the liabilities of the Fund. The present values of the defined benefit obligation, the related current service cost and any past service costs (if applicable) were measured using the projected unit method.

(This scheme will close to future service with effect from 1 July 2014, although the pension scheme deficit will continue to be recognised in the balance sheet in accordance with FRS 17 – see Post-Balance Sheet event, detailed at Note 14).

(a) The amounts recognised in the balance sheet are as follows:

	2013	2012
	£	£
Fair value of scheme assets	17,123,000	15,277,000
Present value of funded obligations	(26,512,067)	(22,051,291)
Net pension liability	£(9,389,067)	£(6,774,291)

The asset and liability values on the FRS 17 basis reflect market conditions at the Commission's year-end date and, as point-in-time calculations, can be expected to vary greatly from year to year, without prejudicing the scheme's long-term ability to provide the required benefits.

7. Superannuation (continued)

(b) The amounts recognised in the income and expenditure account are as follows:

	2013	2012
	£	£
Interest on obligation	1,029,669	982,298
Expected return on scheme assets	(894,760)	(777,399)
Other finance costs	134,909	204,899
Current service cost	682,690	798,833
Expense recognised in income and expenditure account	£817,599	£1,003,732
Actual return on scheme assets	£1,845,929	£1,303,183

(c) Changes in the present value of the defined benefit obligation are as follows:

	2013	2012
	£	£
Opening defined benefit obligation	(22,051,291)	(21,033,140)
Current service cost	(682,690)	(798,833)
Interest on obligation	(1,029,669)	(982,298)
Contributions by members	(234,184)	(255,208)
Actuarial (losses)/gains on obligations	(3,068,403)	748,805
Net benefits paid, including pensions, lump sums, refunds of member contributions and transfer values	554,170	269,383
Closing defined benefit obligation	(£26,512,067)	(£22,051,291)

(d) Changes in the fair value of scheme assets are as follows:

	2013	2012
	£	£
Opening fair value of scheme assets	15,277,000	13,455,961
Expected return on scheme assets	894,760	777,399
Actuarial gains on scheme assets	820,648	525,784
Contributions by employer	450,578	532,031
Contributions by members	234,184	255,208
Net benefits paid, including pensions, lump sums, refunds of member contributions and transfer values	(554,170)	(269,383)
Closing fair value of scheme assets	£17,123,000	£15,277,000

NOTES TO THE FINANCIAL STATEMENTS (continued)

7. Superannuation (continued)

(e) Analysis of amount recognised in statement of total recognised gains and losses ("STRGL")

		2013	2012
		£	£
Opening amount of losses recognised in STRGL		(6,437,719)	(7,712,308)
Actuarial (losses)/gains on obligations for the year	7(c)	(3,068,403)	748,805
Actuarial gains on scheme assets for the year	7(d)	820,648	525,784
Total actuarial (losses)/gains for the year		(2,247,755)	1,274,589
Cumulative amount of losses recognised in STRGL		(£8,685,474)	(£6,437,719)

(f) The employer expects to contribute £388,982 to the scheme in the year ended 31 December 2014. Following the actuarial valuation of the scheme as at 31 December 2010, the actuary calculated that the Commission's contribution rate payable to the scheme, to reflect the future service cost, be decreased to 15.6% of salary from 17.8% (the rate recommended by the actuary after the previous actuarial valuation on 31 December 2007). The contribution rate was decreased to 15.6% with effect from 1 January 2012. However, the current service cost, calculated in accordance with FRS 17 and representing the cost to the Commission of the benefits accrued to active members of the scheme during the financial year ended 31 December 2013, has been reflected in the Commission's income and expenditure account.

(g) The major categories of fund assets as a percentage of the total Fund assets are as follows:

	2013	2012
	%	%
Equities	71	69
Gilts	3	5
Corporate bonds	13	15
Property	9	7
Other assets	4	4

This allocation is at the discretion of the States.

(h) Long-term principal actuarial assumptions at the balance sheet date (expressed as weighted averages where applicable):

	2013	2012
	%	%
Discount rate as at 31 December	4.5	4.7
Expected return on fund assets at 31 December	6.6	5.8
Rate of increase in pensionable salaries	4.5	4.0
Rate of increase in deferred pensions	3.7	3.2
Rate of increase in pensions in payment	3.7	3.2

The FRS 17 standard refers to a discount rate determined as the current rate of return on high-quality corporate bonds (normally taken to be rated as AA) of equivalent currency and term to the Actuarial Account's liabilities.

7. Superannuation (continued)

(i) Mortality assumptions

The mortality assumptions are based on standard mortality tables which allow for future mortality improvements. The assumptions are that members aged 60 will live on average until age 89 if they are male and until 90 if female. For members currently aged 45, the assumptions are that if they attain age 60 they will live on average until age 90 if they are male and until 92 if female.

(j) Description of the basis used to determine return on fund assets

The States adopts a building block approach in determining the expected rate of return on the Fund's assets. The States retains full responsibility for the management of the Fund's assets. Historic markets are studied and assets with high volatility are assumed to generate higher returns consistent with widely accepted capital market principles.

Each different asset class is given a different expected rate of return. The overall rate of return is then derived by aggregating the expected return for each asset class over the actual asset allocation for the fund at the disclosure year end.

(k) Amounts for the current and previous periods are as follows:

	2013	2012	2011	2010	2009
	£	£	£	£	£
Defined benefit obligation	26,512,067	22,051,291	21,033,140	19,356,128	16,837,302
Fair value of scheme assets	17,123,000	15,277,000	13,455,961	14,811,865	12,344,058
Deficit in the scheme	(9,389,067)	(6,774,291)	(7,577,179)	(4,544,263)	(4,493,244)
Actuarial gains/(losses) on scheme assets	820,648	525,784	(1,582,355)	793,060	940,303
Actuarial (losses)/gains on defined benefit obligation	(3,068,403)	748,805	(1,853,787)	(564,879)	(2,793,117)
Actuarial (losses)/gains recognised in STRGL	(2,247,755)	1,274,589	(3,436,142)	228,181	(1,852,814)

The States has confirmed that in the final resort the claims of the Commission's pensioners and employees would be met from the whole Fund and any shortfall in the scheme would then be met by the States from general revenue.

(ii) FRS 17 Disclosure for the Island Trust Pension Plan ("the DC Plan")

The net cost of employer contributions to the DC Plan for the year ended 31 December 2013 was £301,376 (2012: £271,539). Contributions of £4,665 were outstanding as at 31 December 2013 (2012: £2,266). No contributions were prepaid as at 31 December 2013 or 2012. Employer contributions are calculated at 12% of pensionable salary and mandatory employee contributions are at a rate of 5% of pensionable salary.



NOTES TO THE FINANCIAL STATEMENTS (continued)

8. Reconciliation of movements in reserves

		2013	2012
		£	£
Reserves brought forward		1,374,245	650,402
Surplus/ (deficit) of income less expenditure for the year		525,347	(550,746)
Actuarial (loss)/ gain on post-retirement liability	7(e)	(2,247,755)	1,274,589
Reserves carried forward		£(348,163)	£1,374,245

Reserves are stated after deducting the accumulated pension liability of £9,389,067 (2012: £6,774,291) which equates to the post-retirement liability under FRS 17 (see note 7).

9. GTA University Centre

The GTA University Centre (GTA) arranges training for the finance industry and for other industry sectors. The company's staff, excluding those joining since 2007, were employed by the Commission and permanently seconded to the company up to 31 December 2011. The Commission provided a grant of £440,000 in 2012 to the company in order to meet approximately 50% of its budgeted net operating expenditure, with £450,000 in 2012 being provided by the States via the Commerce and Employment Department. 2012 was the final year of the grant provided by the Commission.

10. Lease commitments

The Commission leased office accommodation at Gategny Court throughout the year. The lease for Gategny Court expires on 16 September 2034 and the rental payable in the next year under the terms of the lease amounts to £655,188.

11. Investigation and litigation costs

As a consequence of fulfilling its regulatory responsibilities, from time to time the Commission undertakes investigations and is a party to legal actions, the costs of which may be significant. No provision has been made in the financial statements for any future costs in respect of current investigations or legal actions because the nature, complexity and duration of such actions remain uncertain.

In a few cases, some or all of the Commission's investigation and legal costs may be recoverable, although not necessarily in the same financial year as the expenditure is incurred. In such cases the recovery is recognised when received.

12. Controlling party

In the opinion of the Commissioners there is no controlling party of the Commission, as defined by Financial Reporting Standard No. 8 – Related Party Disclosures, as no party has the ability to direct the financial and operating policies of the Commission with a view to gaining economic benefits from their direction.

13. Analysis of changes in net funds

	At 1 January 2013	Cash flow	At 31 December 2013
	£	£	£
Deposits with States Treasury	21,519	131	21,650
Cash at bank and in hand	201,124	423,272	624,396
Total cash balance	222,643	423,403	646,046
Short-term investments	6,730,106	743,923	7,474,029
Total funds	£6,952,749	£1,167,326	£8,120,075

The certificates of deposit are managed as liquid investments and have maturity dates typically between three months and one year after the balance sheet date.

14. Post-Balance Sheet Event

The FRS 17 disclosures in Note 7 set out the results for the Guernsey Financial Services Commission Actuarial Account of the States of Guernsey Superannuation Fund ("the Actuarial Account") as at 31 December 2013, assuming the benefits provided by the Actuarial Account remain unchanged.

On 21 February 2014, each active member of the Actuarial Account agreed to cease future service accrual with effect from 1 July 2014. This represents an irrevocable commitment from the GFSC and each member and represents a curtailment event in accordance with FRS 17.

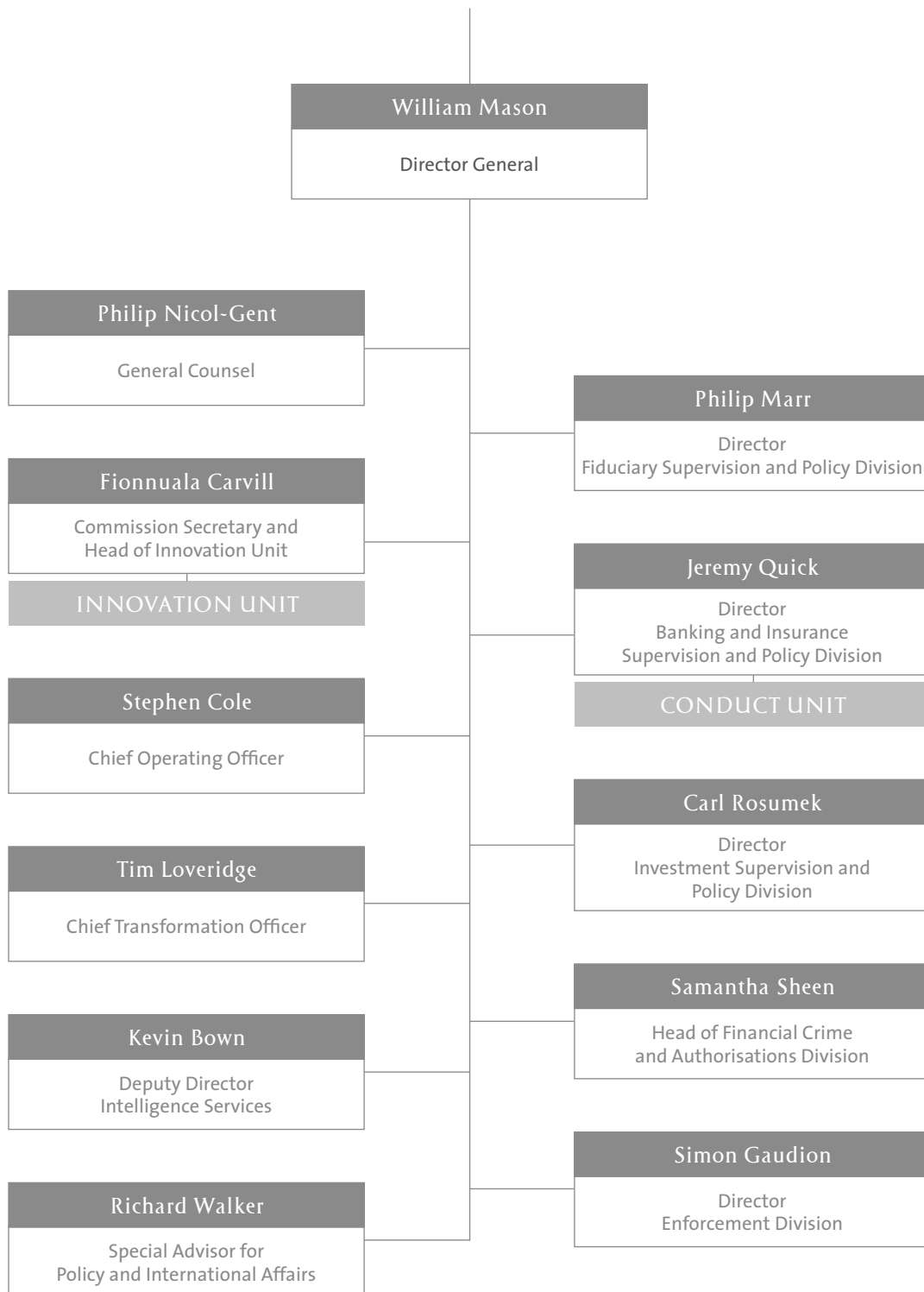
Furthermore, each member has been given a number of options with respect to their accrued benefits within the Actuarial Account. Depending upon the option selected by each member, this may represent a settlement event in accordance with FRS 17.

The impact of the curtailment and settlement events will be reflected in the FRS 17 disclosures produced for the year ended 31 December 2014.



SENIOR OFFICERS OF THE COMMISSION

COMMISSIONERS



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COMMISSIONERS

Drs. Cees Schrauwens **Chairman of the Commission**

Drs. Schrauwens is a Dutch citizen and has more than 35 years' financial services experience. He has served as Managing Director of Aviva International, CGU Insurance and Commercial Union, covering both the general insurance and life sectors. He was instrumental in the mergers with General Accident and Norwich Union which resulted in the creation of Aviva plc. Following the mergers he was appointed Managing Director of Aviva International, gaining valuable experience in dealing with regulators across the globe, including North America. Prior to this, he was a Partner with Coopers & Lybrand in charge of insurance consultancy. In the past he has served as Chairman of Drive Assist Holdings Limited, senior non-executive director of Brit Insurance Holdings Plc and Brit Syndicates Limited, non-executive director of Canopus Holdings UK Limited and Canopus Managing Agents Limited and as a director of Munich Re (UK) Plc. He was appointed as a Commissioner in 2008 and Chairman in 2012 and is the senior non-executive director of Record Plc since November 2007. In May 2012 he was appointed as an Independent Director at Scottish Widows Group. He was educated at the Vrije Universiteit Amsterdam and the Nautical College Den Helder. He lives with his wife near London.

Susie Farnon FCA **Vice-Chairman of the Commission**

Susie Farnon was appointed as a Commissioner in February 2006. She was a Banking and Finance Partner with KPMG Channel Islands from 1990 until 2001. She has served as President of the Guernsey Society of Chartered and Certified Accountants and as a member of the Guernsey Audit Commission and the Guernsey Public Accounts Committee. She is also director of a number of private and listed companies.

The Lord Flight MA (Cantab) MBA FRSA **Commissioner**

Howard Flight was appointed as a Commissioner in 2005. He was the Conservative Member of Parliament for Arundel and South Downs from 1997 to 2005, during which time he was Shadow Economic Secretary, Paymaster General and Chief Secretary to the Treasury. From 1999 to 2004 he had Shadow Treasury responsibilities for the Finance Acts, the financial services industry, financial regulations and pensions. He has worked for over 40 years in the financial services industry, starting his career at Rothschilds. In the second half of the 1970s he worked for HSBC's merchant bank in Hong Kong and India. In 1979 he joined Guinness Mahon and established what became Guinness Flight Global Asset Management, of which he was joint Managing Director until it was acquired by Investec in 1998. He formed, and is Chairman of, Flight & Partners, which is the manager of the Flight & Partners Recovery Fund, and is currently a director of Investec Asset Management Limited, Metrobank plc, Aurora Investment Trust plc and a number of other companies and investment funds.

Alex Rodger MCIBS **Commissioner**

Alex Rodger was appointed as a Commissioner in February 2008. He spent over 40 years with the Royal Bank of Scotland ("RBS") Group. Prior to moving to Guernsey in 1989 as Island Director, he occupied senior posts in relationship management and credit control in London and New York. He was executive director of RBS International from its formation in 1996 and was appointed Managing Director of RBS International Securities Services Group in April 2002. Later that year his responsibilities were increased to that of Managing Director of RBS International Corporate Banking Division with responsibility for corporate banking operations in each of Jersey, Guernsey, the Isle of Man and Gibraltar. He was also Chairman of RBS International Employees Pension Trust. Alex Rodger is the non-executive Chairman of advocates Collas Crill.

**Richard Hobbs MCIPD
Commissioner**

Richard Hobbs was appointed as a Commissioner in January 2012. His first career was in the UK Civil Service where he concentrated on a variety of consumer protection and European issues. Latterly, he was a director of the Department of Trade and Industry's Insurance Division where he was responsible for overall supervision of the Lloyd's insurance market during its reconstruction in the mid-1990s. He has been Head of Life and Pensions at the Association of British Insurers, and for the past decade has been a consultant advising a wide range of clients in financial services on regulatory, risk and governance issues. He is also chairman of Faber Global Limited, a wholesale insurance broker, and a non-executive director of Barbican Managing Agency Limited, a Lloyd's managing agent.

**Bob Moore
Commissioner**

Bob Moore was appointed as a Commissioner in February 2012. He has spent over 30 years in the financial services industry in Guernsey and internationally. From 1979 to 1997, he held positions in international banking and international private banking with the Lloyds Bank/Lloyds TSB Group in South America, the USA, the UK and Luxembourg. These included responsibility for Lloyds' international private banking operations in New York and in Luxembourg. From 1997 to 2011, he was jurisdictional Managing Director with responsibility for the Butterfield Group's operations in Guernsey, including banking, investment management, custody and fiduciary services. In June 2011, he was appointed to the position of Executive Vice President and Head of Group Trust for the Butterfield Group. He has also been a director of a number of other Guernsey banks and investment funds.

**Simon Howitt
Commissioner**

Advocate Howitt was appointed as a Commissioner in June 2013. He has 25 years' experience as an advocate and is currently a partner at Babbé. He is a member of the Council of the Chamber of Commerce and served as its President between 2001 and 2003. Advocate Howitt has served on a number of States Committees including being a non-States member of the Legislation Select Committee since 2004, the share transfer duty working party and the Inheritance Law Review Committee.



STATISTICAL DATA - UNAUDITED DATA

Investment Supervision and Policy

Figure 1. Net asset values of schemes under management at the year end

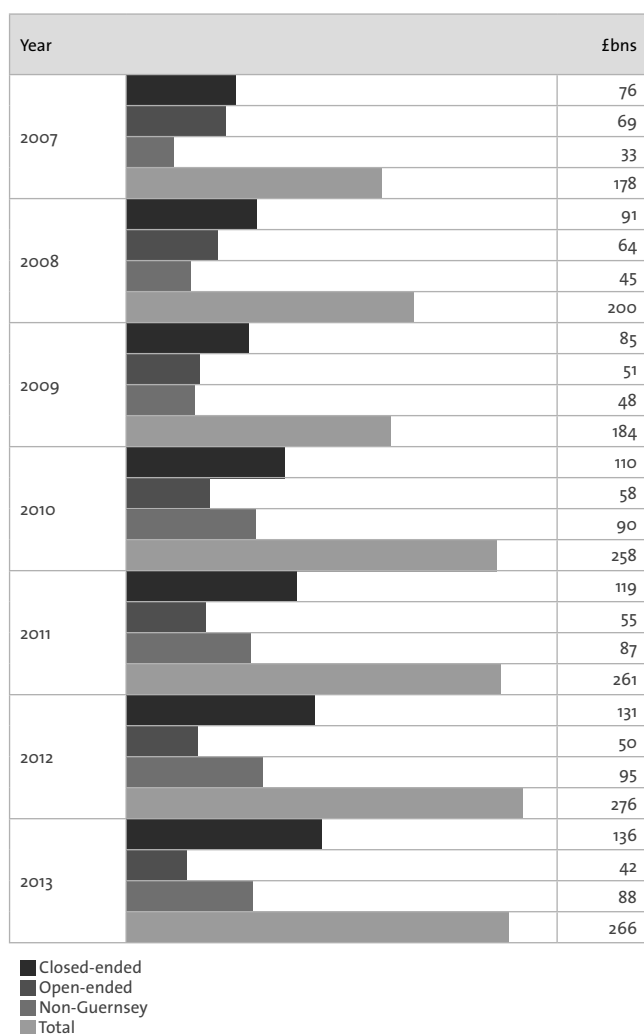


Figure 2. Total number of investment funds at the year end

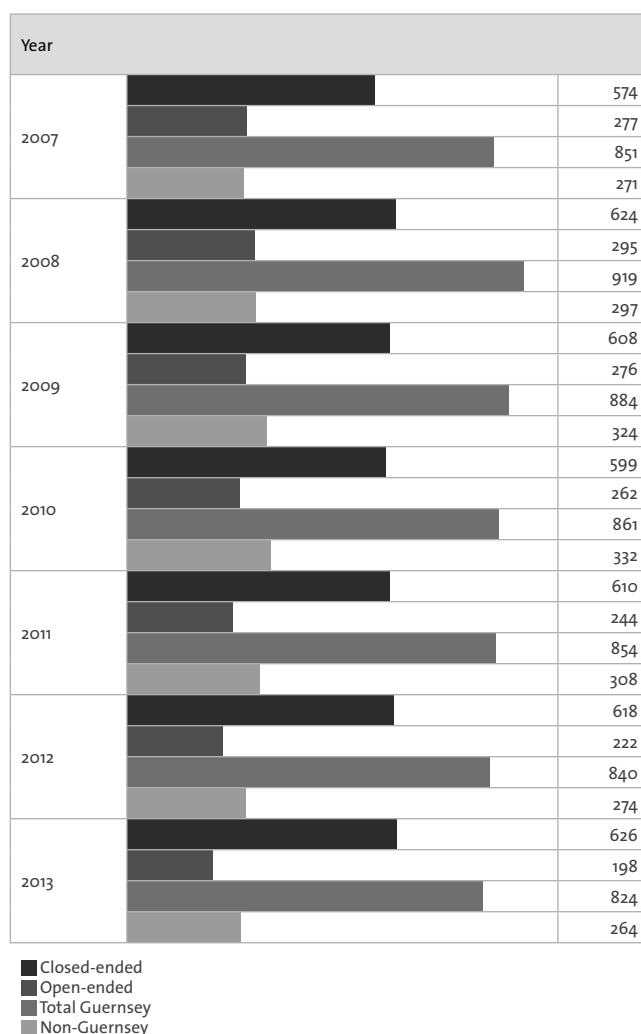


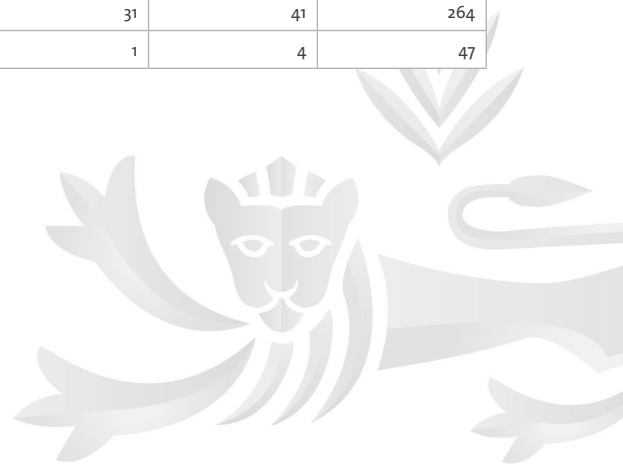
Figure 3. Total number of licensees at the year end

Year	Investment licensees
2007	636
2008	680
2009	661
2010	652
2011	654
2012	644
2013	635

■ Investment licensees

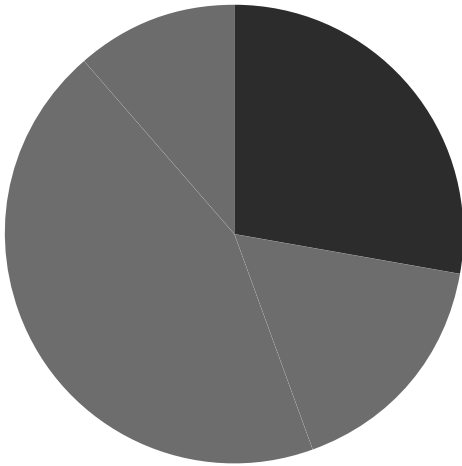
Table 1. Movements within period

Type	Total as at 31 December 2012	Approved in year	Lost in year	Total as at 31 December 2013
Total of open-ended schemes	222	16	40	198
of which Authorised	214	10	38	186
of which Registered	8	6	2	12
of which Qualifying Investor Funds	43	6	8	41
Total of closed-ended schemes	618	56	48	626
of which Authorised	463	17	34	446
of which Registered	155	39	14	180
of which QIF's	141	15	6	150
Total of licensees	644	52	61	635
Total of non-Guernsey schemes	274	31	41	264
of which QIF's	50	1	4	47



Fiduciary Supervision and Policy

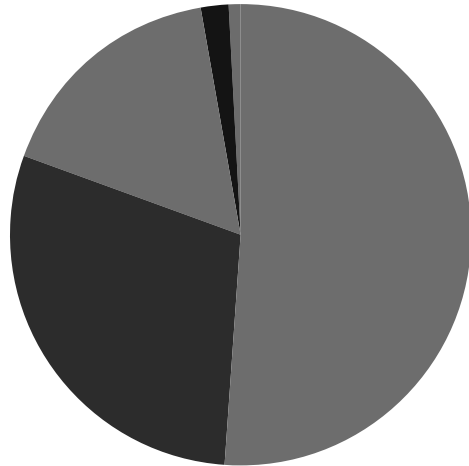
Figure 4. Ownership of lead licensees at 30 June 2013*



	2013	2012
■ International financial group	42	41
■ Lawyers and accountants	25	26
■ Privately owned - local	66	66
■ Privately owned - overseas	17	18

*Based on 150 persons holding a full fiduciary licence as at 30 June 2013.

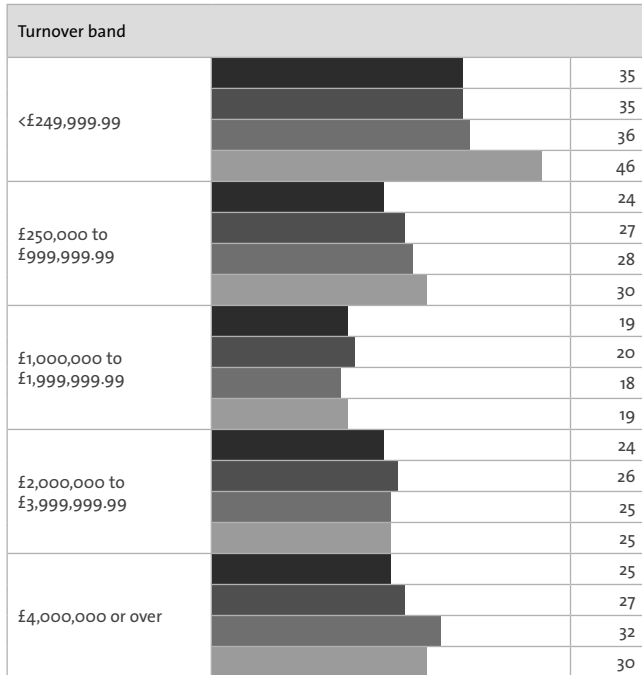
Figure 5. Number of licensees per number of total staff carrying out regulated fiduciary activities*



	2013	2012
■ Up to 10 staff	77	74
■ 11-25 staff	44	44
■ 26-50 staff	25	24
■ 51-75 staff	3	7
■ 76-100 staff	1	2

*Based on 150 persons holding a full fiduciary licence as at 30 June 2013.

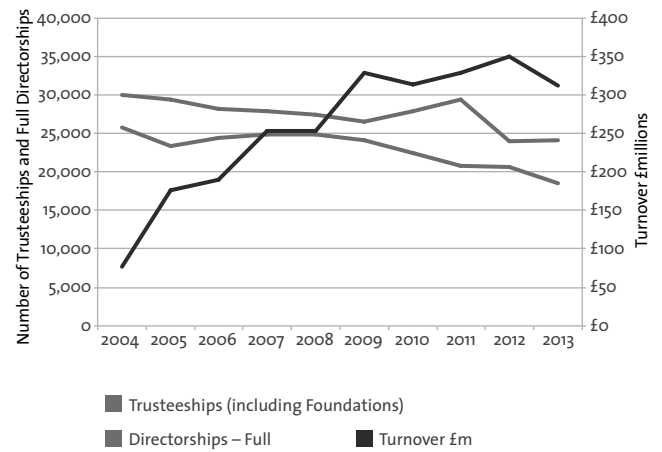
Figure 6. Number of licensees in each turnover band based on fiduciary turnover for accounting periods falling in the year ended 30 June 2013*



*Based on licensees that have submitted audited financial statements. Financial statements may not have fallen due for recently licensed companies.

■ 2010
 ■ 2011
 ■ 2012
 ■ 2013

Figure 7. Number of Director and trustee appointments for full fiduciaries at the year end; aggregate turnover of full fiduciary licensees*

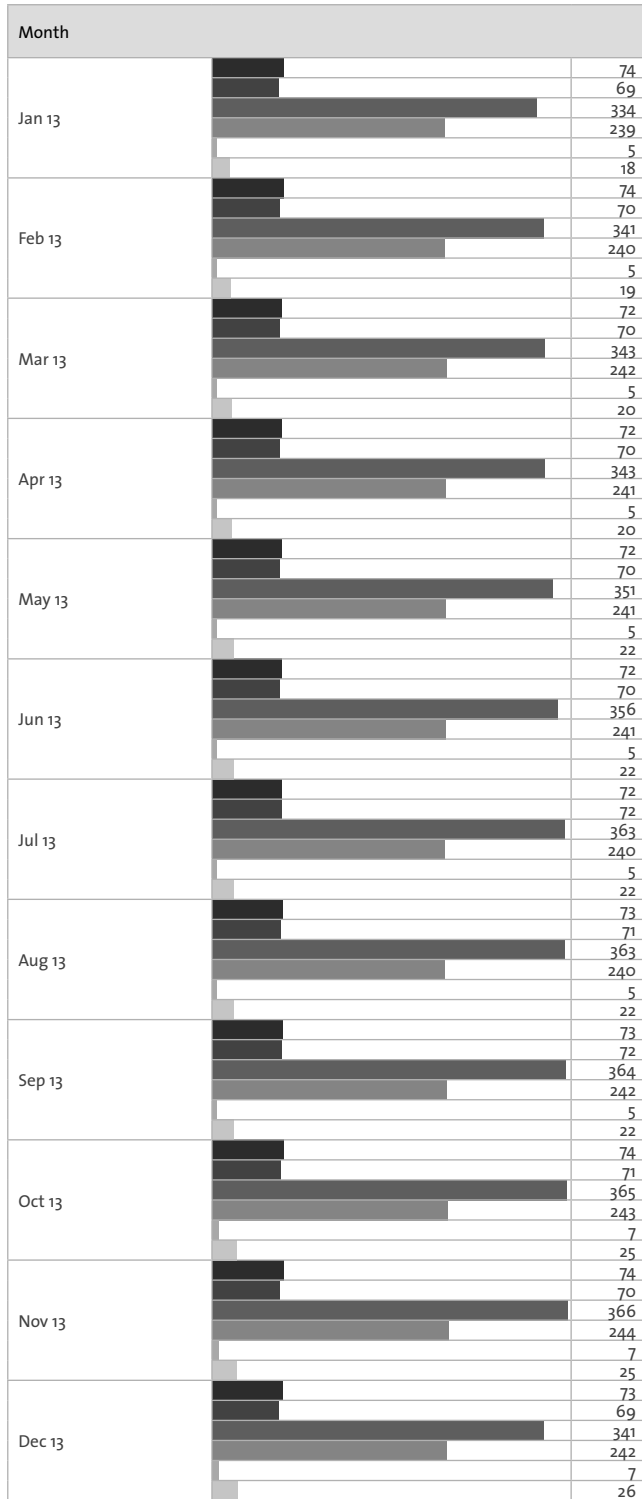


*Please note turnover records aggregate annual chargeable fees. It does not represent assets under trusteeship.



Insurance Supervision and Policy

Figure 8. December 2013: Last 12 months: total number of licences by type of licence



Life Cells
 PCCs
 PCC Cells
 Companies
 ICCs
 ICC Cells

Figure 9. International insurers – net worth

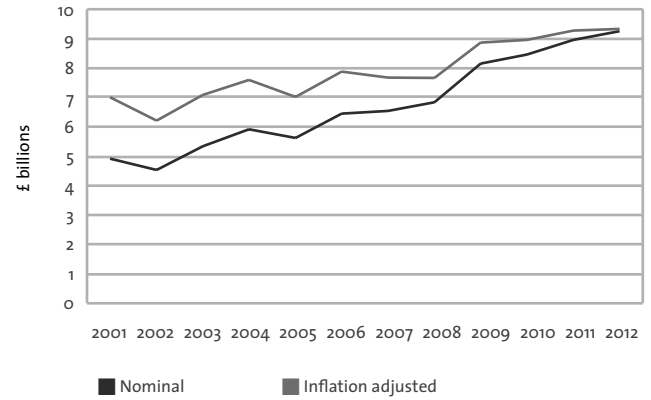


Figure 10. International insurers – gross assets

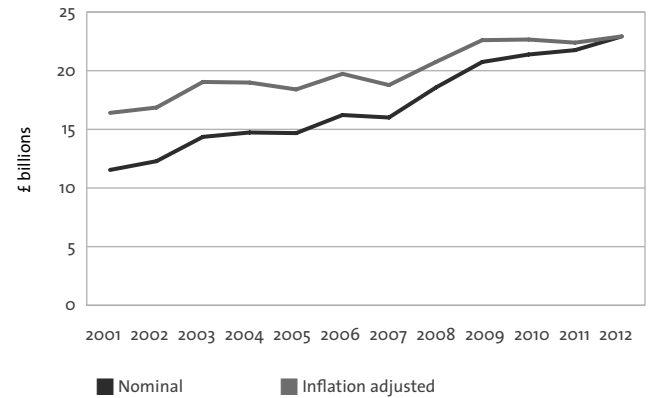
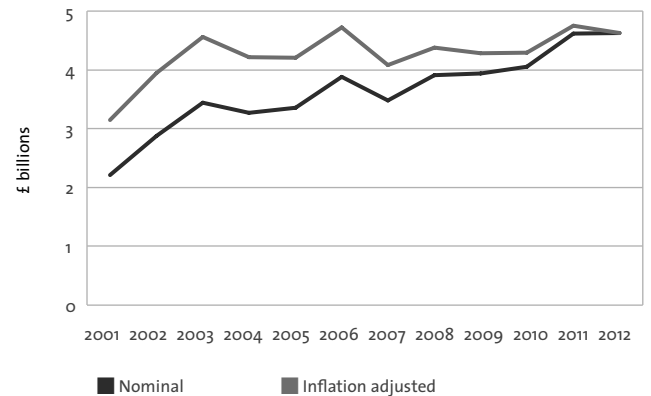


Figure 11. International insurers – gross premium



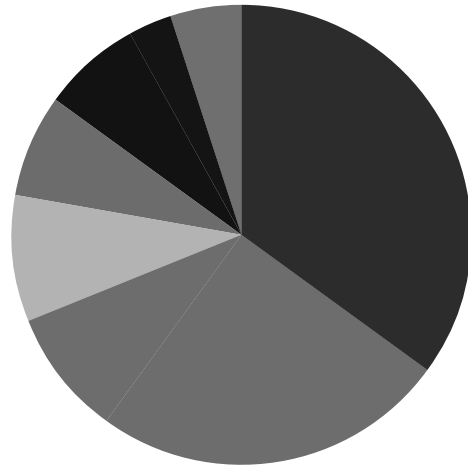
Banking Supervision and Policy

Figure 12. Bank liabilities at the year end

Year	Value
2005	32,194
2006	55,288
2007	36,397
2008	64,187
2009	49,283
2010	82,617
2011	71,851
2012	107,266
2013	41,784
	94,028
	37,414
	96,714
	37,665
	95,921
	26,555
	87,493
	23,054
	84,091

Swiss fiduciary deposits
 Other liabilities

Figure 13. Geographical analysis of assets as at 31 December 2013

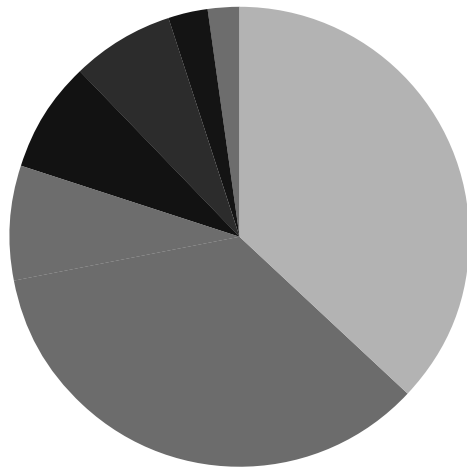


United Kingdom	35
United States	25
Other European Union	9
Switzerland	9
Guernsey	7
Jersey	7
Caribbean	3
Ireland	0
Other	5



Banking Supervision and Policy *(continued)*

Figure 14. **Geographical analysis of deposits as at 31 December 2013**



Switzerland	37
Guernsey	35
United States	8
Jersey	8
United Kingdom	7
Caribbean	3
Ireland	0
Other European Union	2

Finance and Operations

Table 2. Income and expenditure by sector

	Banking		Fiduciary		Insurance		Investment		Non-regulated financial services businesses and prescribed businesses		Total	
	2013	2012	2013	2012	2013	2012	2013	2012	2013	2012	2013	2012
Number of regulated and registered entities	31	32	191	185	825	804	1,723	1,758	157	162	2,927	2,941
	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000
Fee income	1,674	1,714	2,496	2,397	3,031	3,041	5,290	5,216	187	164	12,678	12,532
Interest income	12	24	19	29	22	37	41	70	0	0	94	160
Costs, including enforcement cost/recovery	(1,934)	(1,954)	(2,432)	(2,328)	(2,741)	(2,877)	(4,775)	(5,364)	(365)	(280)	(12,247)	(12,803)
Surplus/(deficit)	(248)	(216)	83	98	312	201	556	(78)	(178)	(116)	525	(111)
Contribution of costs to GTA University Centre											-	(440)
Surplus/(deficit), net of GTA contribution											525	(551)

Table 3. Expenses by functional area

	2013
	£'000
Enforcement	819
Authorisations and Data Management Unit	726
Risk and Transformation	722
Supervisory and Policy divisions (incl. anti-money laundering)	6,363
Other operational	1,294
Overheads, incl. premises, IT expenses and depreciation	2,323
Total	12,247

N.B. Comparative data not available for 2012 as a number of these are newly established areas.

Table 4. Salaries and related costs

	2013	2012
	£'000	£'000
Salaries	6,980	6,584
Consultants/ secondees	91	170
Pension costs	1,192	1,110
Social insurance, permanent health and medical insurance	701	637
Recruitment and training	258	267
Total	9,222	8,768



Finance and Operations *(continued)*

Table 5. Number of staff by salary band

Annual salary	2013	2012
£0 - £39,999 p.a.	36	36
£40,000 - £79,999 p.a.	52	52
£80,000 - £119,999 p.a.	10	10
£120,000 p.a. and above	9	9
Total number of staff	107	107
Full-time equivalent	102.1	102.7
Comprising:		
Full-time staff	91	89
Part-time staff	16	18
	107	107
Vacancies at year end	2	2

Table 6. Movement in number of staff

	2013
Employed at start of year	107
Recruited into new positions	3
Positions removed	(3)
Existing vacancies filled	0
Employed at end of year	107

Table 7. Legal and professional fees

	2013	2012
	£'000	£'000
Legal fees – enforcement	165	542
Legal fees – advisory	129	56
Professional fees	208	168
Consultancy fees – Independent Evaluation Review and implementation of recommendations	35	563
Consultancy fees – Sentinel programme	63	168
Internal audit	31	23
	631	1,520

Table 8. Commissioners' fees

		2013	2012
		£	£
Peter Harwood	Retired as Chairman 31 January 2012	–	2,917
Cees Schrauwers		61,000	59,000
Susie Farnon		25,000	38,000
David Mallett	Retired as Deputy Chairman 31 January 2012	–	6,500
Alex Rodger		25,000	25,000
The Lord Flight		32,500	30,000
Richard Hobbs		38,000	42,500
Robert Moore		25,000	22,756
Paul Meader	Appointed 1 February 2012, resigned 28 February 2012	–	1,923
Simon Howitt	Appointed 3 June 2013	18,083	–

N.B. The Policy Council, in anticipation of the increasing input required from Commissioners, wrote to the Chairman of the Commission in January 2012 varying the fee arrangement for Commissioners. The arrangement allowed for per diem remuneration of £1,000 for Commissioners for work above the normal time commitment expected from them.



APPENDIX

Functions, Structure and Corporate Governance and other Control Systems of the Commission

Functions of the Commission

The Financial Services Commission (Bailiwick of Guernsey) Law, 1987 as amended (the Commission Law) established the Commission with both general and statutory functions. The general functions include the taking of “such steps as the Commission considers necessary or expedient for the effective supervision of finance business in the Bailiwick”. The statutory functions include those prescribed under or arising pursuant to the following regulatory laws:

- the Banking Supervision (Bailiwick of Guernsey) Law, 1994 as amended;
- the Protection of Investors (Bailiwick of Guernsey) Law, 1987 as amended;
- the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law, 2000 as amended;
- the Insurance Business (Bailiwick of Guernsey) Law, 2002 as amended;
- the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002 as amended.

Relationship with the States

The States Policy Council is responsible for international financial matters and for establishing the policy framework for financial regulation, including the Government’s relationship with the Commission. The Commission Law states that the Commission shall issue its audited financial statements and the two reports, referred to later in this appendix, annually to the Policy Council. The Policy Council is also responsible for the administration of the Control of Borrowing Ordinances. Individual officials of the Commission act for the Policy Council in matters requiring consent under the Ordinances.

The Commission remains committed to maintaining regular, constructive dialogue with the States. During 2013 the Commission continued to engage with the Policy Council, principally through the Fiscal and Economic Policy Group (“FEPC”), with meetings held in order to facilitate an open exchange of views on matters of importance to the States and the Commission. This is one of the key mechanisms through which the Commission is held to account by the States. The Commission also engages with the Commerce and Employment Department in relation to financial services legislation. The Department is an important stakeholder and the Commission values its relationship with the Department’s political board. A presentation on the Commission’s 2012 annual report was held for States Members in July. Outside of these formal meetings and presentations, the Commissioners and Director General maintain regular contact with Ministers.

The Commissioners

The activities of the Commission's executive are overseen by the members of the Commission (Commissioners). The Commission Law provides that the Commission shall consist of a minimum of five members and a maximum of seven members elected by the States from persons nominated by the Policy Council and appearing to it to be persons having knowledge, qualifications or experience appropriate to the development and supervision of finance business in the Bailiwick. The Chairman is appointed for a period of one year from amongst the Commissioners and is elected by the States following nomination by the Policy Council. The Vice-Chairman is appointed for a period of one year by the Commissioners. Each member is appointed as a Commissioner for a period not exceeding three years. A member whose term of office has come to an end is eligible for re-election. The Chairman and Vice-Chairman are also eligible for re-election to their positions. A member of the Commission must retire on reaching the age of 72 years.

The Commission currently has seven Commissioners: Drs. Cees Schrauwens, Susie Farnon, The Lord Flight, Alex Rodger, Richard Hobbs, Bob Moore and Simon Howitt. A brief résumé for each Commissioner is provided on pages 46 and 47 of this report. All of the Commissioners are non-executive – four reside in Guernsey, with the remainder living in the UK.

There were 17 meetings of the Commissioners in 2013, with Simon Howitt being eligible to attend 12 of these, his appointment being from June 2013. The attendance was as follows: Cees Schrauwens 16, Susie Farnon 16, Howard Flight 16, Alex Rodger 17, Richard Hobbs 17, Bob Moore 16 and Simon Howitt 12. Prior to each meeting, Commissioners are provided, save in exceptional circumstances, with a full information pack to support the meeting's agenda.

An induction programme is in place for new Commissioners. The Commissioners periodically consider their roles, responsibilities and accountabilities.

The Commission Law also makes provision for the appointment of such officers and servants as are necessary for carrying out the Commission's functions and for the most senior officer to have the title of Director General.

Delegation of functions to executive staff

The Commissioners have delegated certain of their statutory functions to the executive staff of the Commission. These statutory functions are exercised by the executives both jointly and individually. All statutory functions of the Commission may be delegated to the executives except:

- the power of the Commissioners to delegate functions;
- the Commissioners' duty to make an annual report on the Commission's activities during the previous year to the Policy Council;
- any statutory functions which:
 - (i) require the Commissioners to consider representations concerning a decision which they propose to take; or
 - (ii) empower the Commission to cancel, revoke, suspend or withdraw a licence, consent, registration, permission or authorisation (except where the cancellation, revocation, suspension or withdrawal is done with the consent of the person who is, or who is acting on behalf of, the holder of the licence, consent, registration, permission or authorisation); or
 - (iii) empower the Commission to petition for the winding-up of a body corporate.



Functions, Structure and Corporate Governance and other Control Systems of the Commission *(continued)*

Annual report and financial statements

The Commission must, as soon as possible in each year, make a report to the Policy Council on its activities during the preceding year. The Chief Minister shall, as soon as possible, submit that report for consideration by the States.

The Commission Law also provides that the Commission shall:

- (a) keep proper accounts and proper records in relation to those accounts; and
- (b) prepare in respect of each year a statement of accounts giving a true and fair view of the state of affairs of the Commission;

and that the accounts of the Commission shall be:

- (a) audited by auditors appointed by the States; and
- (b) laid before the States.

The Commission includes a copy of its audited financial statements in the annual report to the Policy Council, referred to above.

Report on internal control and corporate governance

Under the Commission Law, the Commission must also review in each year, by the appointment of appropriately qualified and independent professional persons or otherwise:

- (a) the adequacy and application of the Commission's systems of internal control;
- (b) the selection and application of the Commission's accounting policies and accounting procedures;
- (c) the effective, efficient and economical management of the Commission's assets and resources; and
- (d) the Commission's compliance with such generally accepted principles of good corporate governance as it is reasonable to regard as being applicable to the Commission.

The Commissioners are required to satisfy themselves in connection with the conclusions of each review and provide the Policy Council with a separate annual report on the matters covered by it.

The Commissioners are responsible for overseeing the Commission's corporate governance regime and for monitoring the effectiveness of management's systems of internal control. These systems are subject to regular review by management and address the risks to which the Commission is exposed. The Commission has an ongoing process for identifying, evaluating and managing operational risks (including regulatory and financial risks). Although not required to comply with the UK Corporate Governance Code, the Commission has regard to the guidance contained therein and complies wherever valid to do so.

In accordance with the Commission Law, the Commissioners have reviewed the Commission's approach to risk management policies and processes. The annual report required by the law on internal control and corporate governance has been provided by the Commission to the Policy Council.

Audit and Risk Committee

In 2013 the Commission's Audit and Risk Committee, which comprised Alex Rodger and Richard Hobbs and was chaired by Susie Farnon, covered oversight of the management of risk, reviewed corporate governance and the systems of internal control and reported routinely to meetings of the Commissioners as a whole. Meetings were usually attended by the Director General, the Chief Operations Officer and the Commission Secretary (who is the Committee's secretary). The Committee met five times in 2013.

The attendance of the individual members at these meetings was as follows: Susie Farnon 5, Alex Rodger 4, Richard Hobbs 5. From February 2014, the Committee has become an Audit Committee rather than an Audit and Risk Committee, although it will continue to have oversight for non-regulatory risk. This change has been executed to comply with evolving thinking on audit and risk governance which suggests that audit and risk committees should not be combined. Regulatory risk will be reviewed routinely by the Commissioners as a whole as risk-based supervision, as covered in the Director General's Statement, is implemented Commission-wide.

Remuneration Committee

The Remuneration Committee, which comprised Bob Moore and Richard Hobbs and was chaired by Alex Rodger, is mandated to advise and assist the Commission in fulfilling appropriate governance in respect of remuneration policies, practices and structure. Meetings were attended by the Director General, the Chief Operating Officer and the Assistant Director of Human Resources. The Committee met twice in 2013 with all members attending both meetings.

Review systems

The Commission has retained specialist internal and external expertise to monitor the Commission's non-regulatory internal audit standards to ensure that the Commission is up to date with current expectations. During 2013, the Commission appointed an external party to undertake audits of the enforcement and anti-money laundering and countering the financing of terrorism activities of the Commission. The newly formed Enforcement Division and the Financial Crime and Authorisations Division have, respectively, taken forward the outcomes of those audits. In 2013, the corporate governance standards of the Commission were reviewed by the Audit and Risk Committee and by the Commission's officers. The Commission is satisfied that it meets expectations in connection with internal audit and corporate governance. The International Monetary Fund ("IMF") undertook an evaluation of the Bailiwick against international regulatory and supervisory standards in 2010 under its Financial Stability Assessment Programme. The Commission and the other authorities in Guernsey were found by the IMF to have a high level of compliance with these standards.



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

The States are asked to decide:-

VII.- Whether, after consideration of the Report dated 19th May, 2014, of the Policy Council, they are of the opinion to note the Report and accounts of the Guernsey Financial Services Commission for the year ended 31st December 2013.

TREASURY AND RESOURCES DEPARTMENT**STATES CAPITAL INVESTMENT PORTFOLIO**

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

3rd June 2014

Dear Sir

EXECUTIVE SUMMARY

1. This Report is the first routine update by the Treasury and Resources Department on the progress and development of the States Capital Investment Portfolio following States approval in September 2013 that such a portfolio is established to oversee the collection of major capital projects and programmes¹ being pursued over the current four year investment period.
2. This Report concentrates on the process for the development of capital projects and programmes; the development of the portfolio; costs and funding, and does not give any detail or updates on the individual projects. All projects and programmes will need to come forward to the States with detailed proposals for approval at the appropriate stage of development.
3. Since September 2013, all Departments sponsoring pipeline projects have undertaken significant additional work to develop their business cases and the Treasury and Resources Department wishes to acknowledge the substantial progress that has been made in the scope, options development and comparison, and costings of all projects. The timeframes have been pressurised since some programmes and projects are more mature than others and almost ready to seek a decision of the States to proceed. Indeed, the Public Services Department is intending that its report on Belle Greve Phase IV (proposed outfalls replacement) be submitted to the July States meeting. The Treasury and Resources Department did not want to delay any projects. However, the Department considered it vital to get all initiatives to a common minimum stage in their project development in order to attain more robust cost estimates before the States commit with certainty to any one project.

¹ The States Capital Investment Portfolio is a collection of programmes (such as the Strategic Asset Management Plan) and individual projects. Throughout this Report, where the word 'project' is used, it is also applicable to programmes.

4. The Treasury and Resources Department has also undertaken significant work in supporting the projects, organising project assurance reviews and developing the structure, purpose and benefits of taking a portfolio approach to the States capital investment projects and programmes.
5. The Treasury and Resources Department acknowledges that there has been some criticism of the process and the timeframes which have been required. Although the Department is committed to a standard framework for the development of projects, it also wishes to ensure that any processes adopted across the States are proportionate and suitable, whilst always having regard to the multi-million pound nature of capital projects. Therefore the Department intends to seek feedback from those involved in the development of business cases, including recommendations for improvement in order to agree the optimum process for all parties.
6. Based on the assurance reviews the Treasury and Resources Department considers that **all** pipeline projects represent robust strategic options, have identified benefits, have reasonable cost estimates and should progress to the next stage of project and business case development. It considers that these projects are the right projects to be included in the portfolio subject to the recommendations arising from the project assurance reviews being addressed.
7. The 19 projects which make up the portfolio now all have robust cost estimates which include all likely project costs. The thorough review of all project costs, through cost robustness reviews, along with further development work and the need to allocate funding to emergency and urgent projects that have arisen over the winter, largely as a result of storm damage, has seen the total value of the portfolio increase from an estimated £245million in September to £275million today.
8. The Treasury and Resources Department has also considered in further detail the amount of funding which is realistically available over the period. The Department has attempted to balance the evidenced need to invest in maintaining and developing the Island's infrastructure with the current restrained fiscal position and is therefore estimating that a total of £218million should be made available to fund the portfolio rather than the original objective of £225million.
9. In Section 7 of this Report, the options for closing the gap between the demand and funding are examined and the Department's preferred approach - which would require an alternative funding model for one project, a slight delay in another, and a requirement for all other projects to look in detail at the costs of their proposed projects with a view to driving better value from the portfolio - is set out. The Treasury and Resources Department considers that managing the collection of projects as a portfolio will also reduce the overall costs through improved procurement and resource management which will additionally contribute to closing the funding gap.

10. However, it is important to note that it may still be necessary to defer some projects, or reduce scope, should it not prove possible to deliver against the funding requirements.
11. The process undertaken to date has ensured that all projects have undertaken a standard minimum amount of work in developing a good quality business case. However, this has demonstrated that the resources available across the States to scope and develop these multi million pound projects are spread too thin and staff are often expected to undertake this work on top of an already busy day job. In addition, the project assurance reviews have concluded that the projects often do not have access to sufficient experienced and qualified specialist internal resource which leads to an over reliance on external advisers. The Treasury and Resources Department considers that this resource gap needs to be addressed if well-developed projects with clearly identified and deliverable benefits are to be progressed over this period and makes initial recommendations to this effect in Section 7 of the Report.
12. The Treasury and Resources Department is of the opinion that it is vital that the States embrace a more thorough approach to the **development** rather than the **delivery** of projects within the portfolio in order to ensure that informed decisions can be taken on the best use of scarce resources and that value for money can be demonstrated in all investment decisions. The Department recognises the significant progress that has been made over recent years in the development of more effectively managed projects that generally deliver on time and on budget. However, there is now a requirement for the States to take the next step and place a much heavier focus on the identification and delivery of project benefits and ensure they contribute to the delivery of the States' objectives.

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- 3 The Business Case Development, Assurance and Approval Processes
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- A Project Summaries
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SECTION 1: BACKGROUND

13. In September 2013 the States considered and approved the Treasury and Resources Department's report on Capital Prioritisation (Billet d'État XIX 2013) for the period 2014 to 2017. That report prioritised a total of 20 projects as pipeline projects for the Capital Portfolio as shown in Table 1 below:

Table 1 – Approved Pipeline Projects

Project	Department
Replacement Fisheries Protection Vessel	Commerce and Employment
Replacement and upgrade of Sterile Services facilities and equipment	Health and Social Services
Replacement Radiology Equipment	Health and Social Services
Replacement Island-wide Public Safety CCTV Security Systems	Home
Alderney Airport Rehabilitation	Public Services
Belle Greve Wastewater Outfall	Public Services
Recapitalisation of Cabernet Limited	Treasury and Resources
Replacement Cremator and Emissions Equipment and Associated Building Works	Treasury and Resources
Replacement Corporate ICT Data Centre Infrastructure	Treasury and Resources
Replacement Income Tax Electronic Document and Records Management System	Treasury and Resources
College of Further Education Site Rationalisation	Education
Replacement Contributions System	Social Security and Treasury and Resources
Strategic Improvement of Coastal Defences	Environment
Deep Water Berth Investigations	Public Services
Rebuilding of La Mare de Carteret Schools	Education
Strategic Asset Management Plan – Phase 1	Policy Council and Treasury and Resources
Strategic Asset Management Plan – Centralisation of HSSD Community Services onto one site	Policy Council and Treasury and Resources
Replacement Bus Fleet	Environment
Strategic Asset Management Plan – Rationalisation of Property	Home
Re-profiling of PEH Wards and Departments	Health and Social Services

14. The Report indicated that the next steps would be:
- i. Reviewing and, where appropriate, revising existing processes (such as the Gateway Review process) and issuing guidance on the next steps to be undertaken in developing the pipeline capital projects;

- ii. Working closely with Departments in order to review and refine the specification and scope of projects within the pipeline in order to obtain more certainty as to their alignment with States strategic policy objectives, viability of favoured options, likelihood of successful completion, cost and timing;
 - iii. Setting out the anticipated funding profile for the 2014 – 2017 appropriations to the Capital Reserve in the 2014 Budget Report;
 - iv. Developing a timetable for the portfolio based on the optimum delivery model taking into account the availability of funding and the impact on the local construction industry;
 - v. Submitting a States Report to<
 - request approval of the Capital Reserve funded States Capital Investment Portfolio (revised if necessary due to the availability of funding) along with a timetable for its delivery;
 - set out in detail the recommended framework for the planning and delivery of capital projects through the States Capital Investment Portfolio;
 - consider the governance and financial approval arrangements for projects not funded from the Capital Reserve (Category D projects).
15. Since September 2013, significant further work has been undertaken on all pipeline projects by the sponsoring Departments. However, the Treasury and Resources Department wishes to stress that this Report is not concerned with the individual projects and programmes that make up the portfolio. Rather, it deals with the framework within which they are expected to operate. Notwithstanding that, and by way of reminder, a summary of all projects has been provided at Appendix A.
16. The Treasury and Resources Department has undertaken substantial work on developing the requirements of the portfolio and its processes, which enables this Report to deal with the items in i. to v. above and set out the next steps for the portfolio.

SECTION 2: PORTFOLIO STRATEGY

17. This section examines what the Treasury and Resources Department means by ‘portfolio’ and what it is designed to achieve over the period and into the future.
18. The States portfolio is the collection of capital investment projects across the whole of the States as an organisation. The initial prioritisation exercise scored the projects against the ‘strategic case’ or their fit with the States’ aims and objectives. Therefore, investment in this collection of projects should deliver against the States-wide objectives and the more detailed Departmental objectives

that flow from these. The portfolio approach will provide the information that enables the States to exercise informed judgement to ensure that the projects within the portfolio represent the optimum allocation of limited resources by ensuring:

- i. More effective delivery of projects;
- ii. That they are being prioritised and undertaken in terms of their contribution to the strategic objectives of the States of Guernsey;
- iii. More efficient resource management;
- iv. That they are being regularly assessed to ensure that funding and other resources are allocated appropriately, based on accurate management information;
- v. Improved coordination of existing functions and processes;
- vi. Enhanced realisation of project benefits;
- vii. Maximisation of the greatest return, in terms of strategic contribution from the investment made.

19. By taking a States-wide view and having a greater focus on the identification and delivery of benefits, more informed investment decisions will be enabled on:

- Which projects are worthy of investment;
- Whether or not to continue to invest in projects at key decision points in their development; and
- How to get the most from the investment.

20. The Treasury and Resources Department believes that the structured project management approach developed across the States over recent years has paid dividends. The States has moved from a position of cost over-runs and delivery delays in major projects to more recent examples of well-run and managed projects which generally deliver on time and on budget. However, as set out in Section 3, the Department is also of the opinion that there is scope for further significant improvement in the *development*, rather than the *delivery*, of projects. This should ensure that the States are able to make decisions based on robust evidence as to the benefits of each project and have increased confidence in their value for money in light of stated objectives. For the avoidance of doubt, the Department does not seek to delay the development and delivery of projects or extend the period over which an initiative comes to fruition. Instead it wishes to ensure that appropriate consideration is given to the reasons for a project, its scope and benefits and its deliverability before work commences. Such additional planning will ensure that the best projects are delivered and can in fact accelerate the overall project timetable by avoiding issues during the procurement or delivery phases.

21. **The Department considers that the Project Board should continue to be the governance structure within which all portfolio projects are managed. Indeed, other than support and advice from suitably qualified and experienced officers from the Department, the Treasury and Resources Department does not consider it appropriate that it is directly involved in the management of individual projects in future through political representation on Project Boards.**
22. Instead, the Department considers that its role is to:
 - i. Consider how much funding is available overall for capital investment and to recommend this to the States for approval;
 - ii. Make recommendations to the States on the prioritisation of the initiatives submitted by Departments. This is done based on the project's potential contribution towards delivery of the objectives as defined in the States Strategic Plan. The outcome of the prioritisation exercise is a ranked list of those projects which should deliver the best value to the States and deliver the most significant benefits;
 - iii. Operate staged release of funding linked to project assurance reviews (which are detailed in paragraphs 41 to 48 of this Report). This will help ensure that the allocation of funding remains aligned to the portfolio and will minimise risks by breaking the development of the projects into manageable steps to avoid wasted expenditure and over commitment to a project based on insufficient information;
 - iv. Regularly review portfolio progress with a focus on cost, risk and benefits;
 - v. Ensure the effective and consistent use of the business case, the benefits of which are set out in Section 3 of this Report;
 - vi. Review the continued viability and organisational value of projects through regular reporting;
 - vii. Ensure the ongoing development of the project assurance processes, incorporating lessons learnt, is established;
 - viii. Identify and ensure the delivery of portfolio level benefits. (By this, the Department means the benefits which can be derived from looking across all projects and seeking synergies; through improved co-ordinated procurement; and through the development and sharing of skills across the States that will contribute to successful project and portfolio delivery.)
23. **The Treasury and Resources Department intends to provide oversight of the projects within the portfolio on behalf of the States, and report back regularly on progress. It will also ensure there is appropriate challenge to the identification and selection of options, the definition and plans for the realisation of benefits, the compilation and estimation of costs and the realism of the timelines. The Department will also provide experienced and suitably qualified officers to work within the projects in order to support specific areas of business case development, such as financial, benefits, procurement and legal.**

SECTION 3: THE BUSINESS CASE DEVELOPMENT, ASSURANCE AND APPROVAL PROCESSES

24. In recent years, the Treasury and Resources Department has introduced numerous controls and requirements in an attempt to ensure that projects are developed and delivered effectively. The Department acknowledges that there is significant technical terminology used around project management and has attempted to minimise use of such terms. However, as an aid to States Members, a glossary of terms has been provided in Appendix B.
25. These controls include the requirement for structured project management, including the governance of a Senior Responsible Owner (SRO) and a Project Board, who deliver projects on behalf of Department Boards.
26. A requirement for business cases, based on the five case model, to be developed to support new service developments and any other significant expenditure has also been introduced. The States' Rules for Finance and Resource Management state: *“Departments must produce business cases to support new service developments, significant expenditure and significant purchases. Business cases must be produced according to the requirements and using the template issued by the Treasury and Resources Department as a Directive.”*
27. In addition, the Department has introduced the best practice process of ‘assurance’ or ‘gateway reviews’, which examine a project at critical stages in its development to provide assurance that it continues to have merit and can progress successfully to the next stage. There are currently three gateway reviews covering project development from initial option appraisal through to tender return.
28. In recent years, the success of projects has been judged largely by the extent to which they have been delivered on time and on budget; and not necessarily by whether the options chosen were the best solutions or whether the perceived benefits had been either accurately identified or delivered successfully. The Treasury and Resources Department is of the view that the focus on remaining within budget may have led to the unintended consequence of larger budgets being proposed and approved than are strictly required with significant layers of contingencies added to tendered pricing. This has also meant that the States has not consistently been able to demonstrate value for money in the development and delivery of capital investment projects.
29. The Treasury and Resources Department is not seeking to micro-manage projects but instead is endeavouring to ensure that project and programme management is operating efficiently.
30. In recommending the process for States Capital Investment Portfolio projects and programmes, the Department is building on the existing tools but seeking to address some of the weaknesses in the current system. The Department wishes to develop the value of the business case and link this more explicitly with project assurance reviews.

Business Case Development

31. Business cases are a key building block in the move to evidence-based decision making for the allocation of resources: projects and programmes will only achieve their objectives and deliver the benefits if they have been realistically planned and developed with risks taken into account. Business cases confirm the validity and viability of a proposal by assessing the strength of its ‘five cases’, namely the strategic, economic, commercial, financial and management cases:
- The ‘strategic case’ demonstrates that the project is supported by a clearly defined ‘case for change’ which fits with the stated objectives of the States and Departments;
 - The ‘economic case’ tests that the investment represents best public value by ensuring that all possible options are considered thoroughly;
 - The ‘commercial case’ ensures that the proposed approach is realistic, can be procured and is commercially viable;
 - The ‘financial case’ ensures that the proposed expenditure is affordable – not only the initial capital investment but also the *whole life* costs of the scheme; and
 - The ‘management case’ ensures that the plans for project delivery are achievable.
32. Development of the business case should not be seen as a bureaucratic exercise simply in order to gain approval, since ensuring that all five cases are suitably considered and satisfied contributes significantly to demonstration of best value for the project. With the right training and used in the right way, business case development has been proved to have numerous benefits and can lead to the development of more successful projects with better outcomes.
33. Some of the benefits of business case development can be seen as:
- The need to ensure that benefits are optimised in a business case will result in the best value options being pursued. This should ensure that scarce resources are allocated more efficiently and that the benefits derived for the States are maximised;
 - A requirement for the project to demonstrate it fits with the aims and objectives of the States and Departments. The extent to which the proposal supports or delivers a particular strategic objective is a key question to be answered in the production of a business case;
 - A requirement to base investment and expenditure decisions on thorough and auditable evidence, rather than subjective assessments;
 - A requirement that all relevant elements of an investment decision are appropriately considered, via the five case model, before resources are allocated to it;

- The need to routinely complete impact assessments to consider the wider repercussions of the proposal. The impact on the economy, existing and new policy, society, and the environment will be considered as and when appropriate;
 - A need to demonstrate the value of proposals (in a competitive environment with regard to the allocation of resources) will encourage a culture of continuous improvement and innovation;
 - The clear linkage of inputs (resources) to the proposed outputs they are intended to deliver. This affords immediate transparency of the relative efficiency of the proposal, facilitating better informed decisions about how resources are allocated;
 - The demonstration of the administration and stewardship of public funds to the expected levels of propriety;
 - A framework for the delivery, management and then performance monitoring of the project; and
 - The provision of a baseline against which subsequent project performance can be measured.
34. The business case is developed over time and summarises the results of all the research and analysis needed to support decision making in an auditable and transparent way for Project and Department Boards and the Treasury and Resources Department.
35. **The Treasury and Resources Department considers that the development of all portfolio projects should be linked to the development of a robust business case, which must be proportionate to the likely costs and benefits. A small, straightforward, low risk project should be able to progress swiftly through the development phases and deliver benefits rapidly. However, large, complex projects with significant risk and significant interdependencies should be carefully considered and subject to all of the rigour and resultant benefits of the business case development cycle.**
36. The ‘full business case’ becomes the key document for the proposal. It summarises the objectives, the key features of implementation management and arrangements for post-implementation evaluation. However, a business case develops iteratively over time, in three distinct stages with more detail being provided at each stage.
37. The first phase of business case development (the ‘strategic outline case’) confirms the strategic context of the proposal, makes a robust case for change and provides an early indication of the proposed way forward (although not yet the ‘preferred option’), having identified and undertaken analysis on a wide range of available options, together with indicative costs.

38. The next phase of development (the 'outline business case') adds more detail and sets out the likely solution, demonstrates its affordability and details the supporting procurement strategy and the management arrangements for the successful delivery of the project. At this stage, a preferred option is identified which should demonstrably optimise value for money.
39. The final phase is the completion of the 'full business case', which builds on the previous cases and records the findings of the subsequent procurement activities. This takes place within the procurement phase of the project, following detailed negotiations with potential providers/suppliers, prior to the formal signing of contracts and the procurement of goods and services.
40. This final completed business case will recommend the affordable solution which continues to optimise value for money and detail the arrangements for the successful delivery of required goods and implementation of services from the recommended supplier/s.

Project Assurance Reviews

41. Project assurance reviews provide for 'gated progress' through the development of the project and its business case, and will be in two parts.
42. The gateway reviews, which are already in place, are short, focused reviews that occur at the key decision points. The reviews are conducted on behalf of the SRO by an experienced panel, independent of the project team. This panel may consist of external specialists and/or officers from across States' Departments.
43. A review is a snap-shot of the project at a particular time and the recommendations are based on interviews undertaken with key stakeholders and the evidence presented to the panel. The review is intended to be supportive and forward looking and will take future plans into account, and make recommendations accordingly.
44. In addition to this, the Treasury and Resources Department's intention is that the review will also comprise of an element examining in detail the cost robustness and/or value for money of the project, depending on the stage of development, and its affordability as part of the overall portfolio. (Such reviews are common practice in other jurisdictions but are often undertaken as a separate exercise to the gateway review. The Treasury and Resources Department wishes to combine the two elements of the review in order to provide the most efficient process which has the least impact on project development.)
45. The combined outputs will give the Treasury and Resources Department a basis on which to either approve any funding required to progress the project to the next stage; or make a recommendation to the States on funding the project.

46. It is important to note that the reviews are not in place to slow down or stop projects. The Treasury and Resources Department makes no apology for recommending a robust process leading to the right investment decisions being taken which will deliver value for money.
47. The reviews should enable both the project sponsoring Departments and the Treasury and Resources Department to make better decisions around project development and recommendations to the States as to the use of resources.
48. **The Department intends to monitor implementation of the key recommendations from the reviews to ensure that projects continue to have the best chance of success and will also ensure that any lessons learnt from the 'post implementation reviews' are collated and taken into account in future projects by updating directives and guidance, as necessary.**

Approvals and Authorisations

49. The Treasury and Resources Department has delegated authority to approve expenditure on progressing to capital vote request stage those projects that have been categorised as pipeline projects funded from the Capital Reserve. The Department intends to operate staged release of funding for each phase based on the projects' and programmes' continued viability and ability to provide the assurances that they have successfully addressed the essential recommendations from project assurance review reports.
50. The Treasury and Resources Department also has delegated authority to approve capital votes for straightforward replacement and indicated in the last States Report the projects to which this could apply. However, assurance was given during the last debate that no projects would be approved by the Department ahead of gaining suitable further approvals from the States.
51. Therefore, all projects will require formal States approval at an appropriate stage. The Department recommends that detailed project proposals are brought to the States by the relevant Department following the development of the outline business case and the corresponding project assurance review. **This ensures that the States considers projects with a firm preferred option, designed to deliver on a clear scope, whose risks are known and mitigated, and benefits defined.** There will also be a good understanding of the likely costs although these will not yet have been market tested. This compares with the historic process of seeking States approval once the proposed approach has been tendered and the full business case is complete.
52. In making this recommendation, the Department considers that seeking States approval earlier in the process will reduce the risk of projects being rejected or changed following detailed development. It should also ensure better value for money through avoiding the delays which have historically been incurred between getting the best contract cost and signing the contract.

53. Further, the Department considers that it is more appropriate for the States to review and approve the detailed proposals *ahead* of the effort and expense associated with the tendering process. That should ensure that abortive costs are avoided and that the States still have an unfettered opportunity to influence the project scope or direction.
54. When these Reports are considered by the States, the projects will request specific delegated authority for the Treasury and Resources Department to approve the final capital vote following detailed tendering, provided that the costs remain within agreed tolerances. These tolerances will be developed by the Treasury and Resources Department and agreed with the project sponsoring Department on a case by case basis, before being recommended to the States for approval.
55. The Treasury and Resources Department will then evaluate the full business case following the project assurance review. If the contract does not represent value for money and/or is above the agreed tolerances for the project, the Department will work with the relevant Department/project team in an attempt to rectify this or come back to the States with amended proposals, as necessary. It is important to note that the scope will not be permitted to change materially following States approval. If, exceptionally, it is not possible to deliver the agreed scope within the agreed budget, then further recommendations will need to be brought back to the States either to change the scope or to increase the budget.
56. This section has laid out the project and business case development, review and approval process proposed by the Treasury and Resources Department and Appendix C summarises this process diagrammatically. **It is recommended that the process contained within paragraphs 31 – 56 is adopted by the States as the standard project development and approval process. The Treasury and Resources Department will then amend Rules and Directives accordingly.**

SECTION 4: PROGRESS SINCE OCTOBER 2013

57. In September 2013, projects were categorised as Category A, B, C or D projects based on their capital prioritisation bids. The categories were as follows:
- Category A – ‘must do’ projects recommended to progress to the next stage, funded from General Revenue by way of the Capital Reserve;
 - Category B (scoring a minimum of 75% in the multi criteria analysis of all bids) - other projects recommended to progress to the next stage, funded from General Revenue by way of the Capital Reserve, listed by score;
 - Category C (scoring less than 75%) – projects funded from General Revenue not recommended to progress at this stage, listed by score;
 - Category D – projects not funded from General Revenue (i.e. through a trading entity or loan arrangement).

58. All 19 projects in categories A and B were approved as pipeline projects. In addition, the States resolved to add one project from Category C – *Re-profiling of PEH wards and departments* – to the pipeline. The Health and Social Services Department subsequently decided to merge this project with the Category A Project – Replacement and upgrade of Sterile Services facilities and equipment to create the ‘HSSD Development Plan Phase 7’ project. Therefore, a total of 19 projects have been developed following the States’ decision last September. The summary of these projects provided in the September States Report has been reproduced at Appendix A as a reminder.
59. In October 2013, all Departments/project teams were requested to develop a strategic outline case which built on the bids submitted in early 2013 - the first phase of business case development - and more robust cost estimates for their projects. Guidance was issued and distributed stressing the importance of robust, realistic and appropriately benchmarked capital costs.
60. Following development of the strategic outline case, all projects were subject to a project assurance review of the business case and the costings. The review teams sought to make a judgement as to whether the project was affordable, deliverable and in line with other organisational objectives. The teams were asked to focus on the identification of project benefits and ensure that they were outlined in sufficient and consistent detail to enable their contribution to the organisation to be assessed and compared with the potential investment. Finally, the reviews aimed to assess the initial cost robustness represented at this stage. In forming these judgements, review teams considered the balance of risks associated with the project.
61. In this instance, and in recognition of the request for more thorough business cases than those previously developed, the review process was an iterative one and the review teams worked with the project and programme teams in order to ensure satisfactory proposals were developed and submitted. Further, the Treasury and Resources Department opted to supplement local teams of reviewers with experienced external reviewers who could support the development process and provide ‘on the job’ training for States reviewers. The cost of these reviews was, on average, £2,000 per project and these costs will be charged to each project budget in due course.
62. Following an initial review, the review panel submitted its first draft report to the project SRO, who is accountable for delivering the project and the benefits outlined in the business case on behalf of the sponsoring Department.
63. In order to maximise the benefits of the review process, all SROs were given the opportunity to consider the review panel’s comments before submitting their final case for consideration by their Department political board and for submission to the Treasury and Resources Department.

64. The Treasury and Resources Department wishes to acknowledge the significant and time constrained work that has been undertaken by all of the project teams over the period to ensure that good quality cases were produced, all of which were recommended by the reviewers to progress to the next phase. This was particularly challenging, given the different stages of development of the various projects, but vital in order to ensure there was sufficient information for the Treasury and Resources Department to make informed and evidence based recommendations to the States regarding the shape of the final portfolio.
65. The Treasury and Resources Department also reviewed the outline cost of the projects in order to ensure: that costs were benchmarked as far as possible against similar projects; that all potential project costs had been considered; there was an appropriate use of contingencies and optimism bias; and that future costs had not been included at this stage.
66. **Based on the assurance reviews the Treasury and Resources Department considers that all pipeline projects represent robust strategic options, have identified benefits, have reasonable cost estimates and should progress to the next stage of project and business case development. It considers that these projects are the right projects to be included in the portfolio subject to the recommendations arising from the project assurance reviews being addressed.**
67. However, the next stage of the projects' and programmes' business case development will be crucial to ensure that they are able to demonstrate that they represent value for money for the States and taxpayers.

Emergency and Urgent Projects

68. As set out in the September 2013 Capital Prioritisation States Report, the funding projections for the Capital Reserve include *“a small allowance for any unanticipated projects (emergency or strategic opportunities) to ensure that there is flexibility within the portfolio to deal with any matters which are currently not planned.”*
69. In addition to the pipeline projects previously approved by the States, there have been a number of other projects which have requested funding from the Capital Reserve since September, which have been deemed as emergencies or urgent projects by their sponsoring Departments. The majority of these projects have emerged as a result of the numerous storms over the winter period. The portfolio approach is designed to be scaleable and can be adapted to include such projects. **However, it should be noted that, although the Department is recommending a further allowance be retained to cover future emergency projects, this is limited and any significant emergency projects could necessitate reprioritisation and removal or delay of existing projects.** The projects are listed below with further detail provided in Appendix A:

70. ***Environment Department – Storm Damage Repairs***

The storms and heavy rainfall that hit the Island in early 2014 resulted in significant damage to the Island's coastal defences, parks, trees and general landscape. Accordingly, the Environment Department has made an application for emergency/urgent funding of £2million to deal with various repairs and other urgent works.

The Treasury and Resources Department has advised the Environment Department that further work on the multitude of projects should be done in order to assess the works required, taking into account value for money and recognising that straightforward reinstatement may not necessarily be the best way forward. The Environment Department has also been requested to detail any inter-relationship or potential for integration with the Coastal Defences pipeline project in order to be able to advise, for each project, the cost, relative priority, desired timing and impact of any delay.

It is likely that the majority of the works identified by the Environment Department will be small projects, and thus can be funded through routine capital allocations and the Budget Reserve. Only projects meeting the defined Capital Reserve criteria² would need funding from that source.

71. ***Treasury and Resources Department - Sir Charles Frossard House Roof***

It had been anticipated that the roof on Sir Charles Frossard House would require replacement in approximately three to five years and, as such, the project was planned for submission as part of the next round of capital prioritisation for work commencing from 2018. However, following the winter storms and significant rainfall, numerous small leaks have occurred in the roof which have resulted in water ponding above suspended ceilings before giving way with water and ceiling tiles falling to the desks below. This presents a clear and unacceptable risk to health and safety and therefore repairs are urgently required.

Having examined all options, it appears that replacing the roof covering immediately along with re-designing the valley flows, which have been the cause of water ingress in specific severe wind and rainy conditions, will represent the best overall value for money for the States.

Given the risks to both staff and visitors to the building and to equipment, and the need to undertake work ahead of next winter, the Treasury and Resources Department considered that this project was an emergency (as defined in the 2006 Capital Prioritisation States Report (Billet d'État XVII 2006)), and sought endorsement from the Policy Council ahead of approving progression of the project.

² The Capital Reserve criteria are that replacement projects with a value over £500,000 and new investment projects with a value over £250,000 are eligible for funding from the Reserve. All projects below these amounts should be funded through Departments' routine capital allocations and/or the Budget Reserve.

72. *Treasury and Resources Department - Longue Hougue Rock Armour*

The Longue Hougue rock armour is critical to protect the Waste Infrastructure site and suffered significant damage during the winter storms. The Treasury and Resources Department has authorised expenditure from its routine capital allocation to cover immediate emergency repairs.

It appears that a significant investment will be required in order to fully restore the level of protection offered by the rock armour to its original state, and avoid catastrophic failure of the bund and loss of material from the reclamation site, which could incur costs both from damage to waste and other facilities, and from increased operational costs while waste has to be diverted elsewhere.

Investigations are currently underway to investigate the damage in more detail and provide options for repair, including phased repair.

73. *Home Department – Prison Fencing*

The Home Department made an application to fund an upgrade to the fencing at the Guernsey Prison in December 2013. The Home Department considered the work to be urgent in order to comply with specifications for a Category B Prison instead of its current Category C Prison status³.

The Treasury and Resources Department understands that formal Category B Prison categorisation has significant financial benefits by enabling the Prison to hold prisoners locally, rather than sending them to facilities in the UK.

74. **Following consideration by the Treasury and Resources Department of the detailed circumstances surrounding each of the above projects, it is recommending that they be admitted to the portfolio with an allowance of £4million to cover likely costs. Furthermore, the Department is recommending that it is given delegated authority to approve capital votes for these projects subject to completion of appropriate business cases and assurance reviews.**

75. *Health and Social Services Department – Re-profiling of wards and departments at the Princess Elizabeth Hospital*

An application has also been made by the Health and Social Services Department to purchase a modular ward in order to facilitate the short term reconfiguration of wards at the Princess Elizabeth Hospital in advance of the larger re-profiling project. This was as a result of the need to deal with an unacceptable risk of a catastrophic failure of the ward infrastructure, and a need to relocate the Pathology Department as a matter of priority in light of space and health and safety concerns. This is not a new project and will not constitute additional overall expenditure. Rather, the request is that a phased approach is taken to the delivery of the re-profiling project.

³ Not to be confused with Category B and C pipeline projects.

Following consideration of the bid, and detailed discussion with the Health and Social Services Department, the Treasury and Resources Department agreed that, subject to successful business case progression, including gateway reviews, it would support the development of the project in this way. Further, it agreed that it would recommend in this Report that it be given delegated authority **to approve a capital vote of up to £1.65million, charged to the Capital Reserve, to fund the relocation of the Pathology Department and the purchase, installation and commissioning of a temporary (modular) ward as Phase 7a of the Health and Social Services Department's Site Development Plan – Phase 7 (Reprofiling).**

This will allow the main re-profiling project to progress while addressing the immediate issues and risks, and should not add to the overall expected cost of the project.

76. ***Health and Social Services Department – Electronic Health and Social Care Record (EHSCR)***

The EHSCR project was approved by the States in 2006 with funding provided through a combination of the Capital Reserve, the Restructuring and Reorganisation Fund and the Health and Social Services Department's routine capital allocation. Detailed implementation work began in 2007 with the expectation that all elements would be delivered and benefits attained by the end of 2015.

The Treasury and Resources Department has been notified by the Health and Social Services Department that two key modules of the solution remain outstanding and that, although funding remains to deliver the technical solution (that is to purchase the software), additional resources (specifically people) will be required above and beyond the amount originally budgeted if an effective implementation is to be achieved delivering the numerous benefits. The Health and Social Services Department has compiled a detailed resource request which sets out the justification and costing of the requirements to complete the project which requires additional funding of £600,000.

Having considered the options, the Treasury and Resources Department recommends that this project be admitted into the portfolio and that, before any further funding is agreed, a detailed project assurance review be undertaken in order to take stock of the current position and make recommendations for the successful completion of the project according to the original scope within the timeframes remaining.

77. Given the challenges faced by the Treasury and Resources Department in considering whether these projects should be deemed as emergencies and/or urgent, and the current lack of clarity of definition of emergencies, Section 8 of this Report contains an updated, more detailed definition of emergency and urgent expenditure, and proposes a process for dealing with these in future.

78. **In summary, the Treasury and Resources Department considers that the following should all progress to the next phase and form the States Capital Investment Portfolio projects:**
- i. **the pipeline projects approved by the States in September 2013 and set out in Table 1;**
 - ii. **the emergency and urgent projects listed above in paragraphs 70 to 74;**
 - iii. **the purchase of a modular ward to facilitate short term reconfiguration of wards at the PEH; and**
 - iv. **the completion of the Health and Social Services Department’s EHSCR project.**
79. ***Environment Department – Bus Depot***

Following debate of the Transport Strategy, the States resolved in May 2014 ‘to agree to the construction of a bus depot, and to direct the Treasury and Resources Department to classify the bus depot as a pipeline project for Capital Reserve funding, as detailed in paragraph 82 of that Minority Report’.

The Minority Report identified a source of funding for the Bus Depot that would see the appropriations to the Capital Reserve each year increase as a result of the overall impact of the financial elements of the Transport Strategy.

The Treasury and Resources Department has not yet had the opportunity to look in detail at the financial implications and what they would mean for the appropriations to the Capital Reserve and therefore the funding of this project.

Nonetheless, the Department recommends that the Bus Depot project be developed as a pipeline project, with a strategic outline case developed in the first instance. Once this has been prepared, and a review of the costs and funding undertaken, the Department intends to report back to the States with recommendations for the treatment of this project.

SECTION 5: PORTFOLIO DEVELOPMENT

Lessons Learnt and Key Themes from the Reviews

80. It is intended that the portfolio approach to capital investment will be evolved over time and that any new requirements will be incremental and build on the lessons learnt in developing the pipeline projects. In doing so, the Treasury and Resources Department wishes to ensure that only steps that are really needed are put in place to deliver the benefits.
81. Following this initial stage of business case development the Department intends to seek comprehensive feedback from all project teams to ensure that valuable lessons learnt are captured and the process developed and improved for the future.

82. The Treasury and Resources Department requested that the lead reviewers prepare a report which outlines the common themes which have emerged from the reviews, in order to deal with any lessons learnt from the process. This has identified a number of gaps in the support provided to projects and programmes to develop their business cases that will need to be addressed and developed in order to maximise the chances of successfully delivering the portfolio of projects.
83. The identified themes from the reviews were:
- i. Considerable further work will be required at the next phase of business case development to ensure that benefits and risks arising from the project are identified and defined; whole life costs are evaluated; best value option is selected; and value for money is optimised;
 - ii. Training in cost-benefit analysis, risk analysis and whole life costing is required;
 - iii. There is a need for early engagement between the Treasury and Resources Department and the projects to ensure that expectations for the next phase of business case development are clearly understood and delays therefore avoided;
 - iv. There is a need to establish expertise across the States that can support the projects;
 - v. There is a need to ensure that the next phase of business case development is properly resourced and managed, but without the current over-reliance on external advisers;
 - vi. There is a need to establish an effective value management process to ensure that maximum value is achieved as efficiently as possible from project objectives.
84. Based on the feedback from the initial reviews and its own experience to date, the Treasury and Resources Department is intending to develop key areas of portfolio management in order: (i) to minimise the risks to delivering portfolio benefits which have been identified; and (ii) to maximise value for money to the States. The paragraphs which follow set out the areas of work which the Department intends to focus on.

Risk Management

85. There is a need to ensure a consistent and effective approach to managing the portfolio's exposure to risk at a project and States-wide level. The Department intends to work with project teams to implement agreed standards across the portfolio to align with the States' risk management approach, including a clear escalation process for key risks.

86. The Department also intends to regularly review risk across the portfolio to understand any threat to benefits, time slippage, over exposure to suppliers and importantly any negative impact on 'business as usual' operational performance.
87. Management of inter-project or States-wide dependencies is a key benefit of portfolio management and a structured approach to risk should facilitate the identification of dependencies which might not be obvious at a project level.

Financial Management

88. The Department has identified that there is a need to:
 - Develop consistent financial guidance to support projects in developing their business cases and to ensure that all the financial benefits are identified and evaluated consistently;
 - Ensure that there are appropriate financial skills available to all projects;
 - Ensure that financial benefits realisation is aligned to the States' budgeting processes;
 - Set clear rules for compiling expenditure forecasts to avoid the tendency for projects to under- or over-estimate costs and project duration, and over-estimate benefits;
 - Set clear rules for reporting changes in forecast expenditure against budget and for approving additional funding requests;
 - Ensure that appropriate financial plans are included in all business cases to include the required capital and operating expenditure to complete the projects and the ongoing financial impact on the States post completion.
89. The overall portfolio financial plan which has been developed to allow an overview of portfolio costs will be maintained to show the profiled capital and operating expenditure budgets and will highlight the impact on operating expenditure in future years and the scale and timing of cashable savings.
90. **The Department will report to the States on expenditure against plan as part of its planned routine - at least annual - States Capital Investment Portfolio Reports, and this will enable decisions to be made on any potential to fund new initiatives within the capital investment period.**
91. The ability to manage contingency across the portfolio is a key advantage of the approach. The Department intends to retain a proportion of contingency at portfolio level rather than being included in the individual project budgets, in much the same way as the General Revenue Budget Reserve has been developed in recent years in order to manage budget contingency in an efficient manner across the States. This will also help in identifying possible funding for new projects during the period, if required.

Resource Management

92. There are limited resources available across the States and there is a need to manage the demand and to make more informed decisions concerning the initiation and scheduling of projects to match the resources available.
93. There is currently a lack of understanding of the overall demand for resources, including the staff needed to deliver current and future projects, and an expectation that officers will manage large complex projects on top of their day job. Consequently, there is a risk that too many projects will not deliver their intended benefits because of the lack of availability of in-house capacity and expertise.
94. The Treasury and Resources Department has identified a requirement to improve the understanding of the resource demands which will be placed on Departmental teams through the development and implementation of these projects and programmes, so as to ensure that key staff are not spread too thinly, or are unable to continue to deliver day-to-day operations. The Treasury and Resources Department intends to work with Departments to address this issue by ensuring that, as far as is reasonably practical, all project resource requirements are identified in advance to allow proper planning to be carried out.
95. From the work undertaken to date, it is clear that the States places significant reliance on external consultants to design, develop and implement projects. This approach can have significant advantages if external expertise is used appropriately alongside knowledgeable internal officers. However, if not tightly managed, it can lead to inappropriate scope being defined and project design not fitting local requirements. The Department has identified a need for internal resources to help ensure that consultants are effectively managed to deliver successful projects by ensuring the right scope is defined, clear roles are prescribed for advisers, their services are well procured and, importantly, that performance is routinely monitored.
96. **Where a shortage in resources across projects is identified, the Treasury and Resources Department intends to co-ordinate and support the procurement of any external agencies, including consultants, in order to maximise value for money. Again, this is a benefit of the portfolio approach, since the Department will have much greater visibility of the resource requirements of all projects and programmes, and therefore be able to spot overlaps or similar requirements.**

Benefits Management

97. It is clear from the reviews that historically there has been insufficient States-wide focus on the benefits of investing in a project and the requirement to identify and deliver such benefits. Along with losing potential benefits, this also means that

there is insufficient understanding and appreciation of benefits management and this needs to be enhanced.

98. **In consultation with Departments, the Treasury and Resources Department intends to develop an agreed States-wide benefits management framework which will enable Departments to categorise, quantify, evaluate and validate benefits when developing their business cases.**
99. The guidelines will ensure a consistent approach to benefits identification and categorisation rules to assist Departments in producing business cases. This will enable benefit realisation to be tracked throughout the project and post implementation to ensure that the benefits agreed by the States on project approval are actually being delivered.

Programme and Project Management

100. The Treasury and Resources Department has developed guidance and templates for programmes and projects, but there is further work needed to develop fit for purpose standards and processes as projects develop their business cases. This will be completed in liaison with the relevant internal teams such as States Property Services, Procurement and Finance.
101. In order to deliver the portfolio there is a need to develop the delivery and support capability and capacity States-wide. Staff development is essential if the States are to deliver the benefits proposed by the projects in the portfolio.
102. As previously stated, the States is also heavily reliant on external advisers and there is a lack of in-house expertise. The Treasury and Resources Department will work closely with projects and programmes to establish the resource demand and the best options for addressing this demand in order to ensure that supply and demand are matched in the most cost effective manner.
103. The lack of resource to develop business cases has also been identified as a key constraint. There is an over reliance on staff who are continuing to do their day to day roles as well as putting together in some cases complex business cases to “*change the organisation*” whilst continuing to “*run the organisation*”.

Business Case Development

104. In developing business cases, a significant amount of work has been invested across the Departments sponsoring pipeline projects. However, the reviews have clearly and consistently identified the need for more specialist support to business case development, in particular on project finances and benefits, which, as set out in paragraphs 107 to 117, the Treasury and Resources Department intends to address.

105. **It is vital that all those responsible for compiling business cases are equipped with the skills necessary to do so effectively. All project teams also need an understanding of the value of this level of project development and planning. The Treasury and Resources Department therefore intends to ensure that appropriate training is, in future, available to all those involved in business case development as well as providing in-house ‘experts’ to advise and support project teams. In designing the training, the Department intends to seek feedback from all those involved to date in the development of business cases in order to ensure that their needs are met.**

Delivering the Portfolio

106. In summarising the findings above, four clear themes emerge which require addressing:

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| <ul style="list-style-type: none"> i. There is a quantifiable need to develop the delivery and support capability and capacity States-wide. Staff development is essential if the States is to maximise the benefits identified by the projects in the States Capital Investment Portfolio. ii. There is a need to develop further fit-for-purpose standards and processes. iii. The States is heavily reliant on external advisers to develop projects. iv. There is a lack of in-house resource to develop business cases and an over reliance on staff who are continuing to do their day-to-day roles as well as putting together complex business cases. |
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107. In order to deliver an effective series of projects and programmes within the portfolio, the Treasury and Resources Department therefore considers that additional specialist resource should be made available to the projects in order to support the development of the business case and that the most efficient way of doing so is to provide resource that can be called upon States-wide.
108. Accordingly, in considering the weaknesses identified above, the Department recommends that additional capacity in the fields of finance and benefits, procurement and legal resource, needs to be made available to the project teams through the appointment of suitably skilled and experienced individuals. In addition, there is a requirement for a small new team within Treasury and Resources with responsibility for developing and issuing guidance, administering the project assurance reviews, monitoring project progress, considering requests for further funding, reviewing business cases and reporting to the Treasury and Resources Department. It is also vital that the States provides training and development for the officers expected to develop the project business cases, and to deliver the projects and their benefits. In addition, further training will be required for those involved in project reviews.

109. The additional officers outlined above would work with the project teams and be responsible for:
- i. Establishing a structure for selecting the right programmes and projects;
 - ii. Assessing whether new projects and programmes can be accommodated within existing capability, capacity and affordability;
 - iii. Allocating the right resources to the projects and programmes;
 - iv. Ensuring appropriate scrutiny and challenge to ensure value for money is achieved;
 - v. Identifying and managing inter-project dependencies;
 - vi. Identifying threats and opportunities and evaluating risk across the portfolio;
 - vii. Monitoring progress against key objectives;
 - viii. Monitoring delivery of projects and programmes;
 - ix. Ensuring that there is active management of the portfolio to optimise value for money, realise benefits and capture lessons learnt;
 - x. Ensuring that value for money savings and efficiencies are identified and reported;
 - xi. Ensuring that consideration is given to the ability of the States to deliver the portfolio with the least disruption to existing services;
 - xii. Providing specialist support in relation to finance, benefits, procurement and legal matters direct to project teams which should ensure consistency across the States and begin to address the overall reliance on external consultants;
 - xiii. Coordinating and participating in project assurance reviews;
 - xiv. Coordinating, procuring and/or delivering training to project teams;
 - xv. Managing limited resources at a collective level to ensure that where there is shortage, resources are assigned to the appropriate project and to take effective action is taken to increase supply of resources as appropriate;
 - xvi. Providing the financial skills to ensure consistent financial guidance for business case preparation and to enable the identification and realisation of financial benefits.
110. As explained below, the Treasury and Resources Department considers that such an investment would deliver substantial benefits which should significantly outweigh the costs by reducing some of the direct project costs.
111. **The Department has already identified that portfolio spend on consultants is likely to be over £20million. A greater focus on in-house expertise has the potential to reduce this cost significantly.**

112. There are numerous different consultants being used across the portfolio, many of whom add value to the development of projects by injecting specialist knowledge that is simply not available in-house. However, there is an over-reliance on consultants to complete project roles which would be undertaken by internal staff were there sufficient capacity. The lack of such capacity results in advisers being appointed to, for example, define procurement specifications and lead procurement activity. Consultants are also asked to compile project costs which, without internal challenge, may lead to over-inflated requirements being defined and costed.
113. Therefore, through negating the need for external support in some instances; and looking to put framework agreements in place for such support ensuring that best overall value for the States is achieved, a portfolio saving of 5% of the expected £20million cost of external consultants is considered realistic and achievable and would save some £1million of project costs.
114. In addition, more robust challenge of financial assumptions and arrangements should lead to capital benefits through closer linking of specification to cost, an understanding of what is 'needed' rather than what is 'wanted', and their cost differentials.
115. Further significant scope for financial benefit exists in a focus on the ongoing revenue implications of the portfolio projects. The development of new buildings and purchase of new equipment should be expected to deliver operational efficiencies and improvements capable of driving cost savings. However, recent large developments, for example the new clinical block, have resulted in increased operational costs which will simply not be affordable in the future. A more robust approach to the whole life costs and focus on future operational efficiency therefore has the scope of reducing not only capital expenditure but revenue expenditure as well.
116. Increased specialist procurement and legal support should enable savings to be made on the goods and services being procured in the portfolio. At present, procurement advice is often given by external consultants and only overseen by the Corporate Procurement team where resources allow. Further dedicated procurement support would directly reduce the cost of employing consultants and enable a States-wide view to ensure that project synergies are captured and appropriate best value contracts put in place. A saving of only 1% would deliver over £2million of savings to the portfolio. Were an overall saving of 5% to be achieved, then the States could benefit to the tune of £11million.
117. **The Treasury and Resources Department therefore recommends that the States approve expenditure on portfolio resource which will work collaboratively with the support functions across the States, and with and for each project team. The Department believes that such expenditure should be capped at 0.4% of the portfolio value per annum although initial costings indicate that the actual figure required will be somewhat lower than this cap. A detailed budget would be included annually in the Budget Report for approval.**

118. **In order to continue portfolio development for the remainder of 2014, the Department recommends that the States delegate authority for the Treasury and Resources Department to approve that up to £250,000 be charged to the Capital Reserve to provide finance, benefits and procurement resource to projects, administrative support to the portfolio and further training to project teams.**

Portfolio Governance

119. The Treasury and Resources Department will act as the Portfolio Board on behalf of the States and will make its recommendations to the States based on the investment appraisals of the business cases and the project assurance reviews.
120. The Treasury and Resources Department will also ensure that:
- i. The portfolio is balanced and has an appropriate spread of projects in terms of coverage of strategic objectives, impact across the organisation, overall risk, return on investment, available resources and timing;
 - ii. Resources are allocated appropriately;
 - iii. Collaborative working across the organisation is promoted;
 - iv. Portfolio-level reviews are undertaken to assess progress and confirm that the portfolio is on course to deliver the planned benefits and outcomes;
 - v. All projects and programmes in the portfolio comply with agreed delivery standards;
 - vi. Expenditure against budget is monitored and effective action is taken to address any potential or actual overspends.
121. The States will approve the projects to be included in the portfolio and will approve further funding of projects at key points in the development of the business case, or delegate authority to the Treasury and Resources Department to do so, as outlined in Section 3 of this Report.
122. **It is proposed that all the projects and programmes in the portfolio will submit a States Report following delivery of the outline business case and successful completion of project assurance reviews. This will seek approval to proceed to full business case and to delegate authority for opening a capital vote to the Treasury and Resources Department, subject to costs remaining within defined tolerances.**
123. The Treasury and Resources Department will have accountability and responsibility for delivering the portfolio level benefits only; that is the type of benefits outlined in paragraphs 109 to 116. Responsibility for the delivery of benefits related to each project will remain with the project sponsoring Departments through each Senior Responsible Owner.

SECTION 6: FUNDING

124. The Treasury and Resources Department's Capital Prioritisation Report (Billet D'État XIX 2013) estimated that a total of £225million would be required in order to deliver the capital portfolio having allowed for all Category A and B projects, inflation, small variations in budgeted costs and portfolio management expenses.

125. It was anticipated that a total of £155million was likely to be available in the Capital Reserve, given:

- The forecast expenditure on existing projects;
- The current level of annual appropriations to the Capital Reserve;
- Assumptions on investment return;
- Assumptions on the sale of surplus properties.

126. At that time, the Department said:

“Whilst the 2014-2017 States Capital Investment Portfolio can be largely funded by an increased appropriation to the Capital Reserve from the Contingency Reserve – Tax Strategy, this is not sustainable in the long-term. This is only possible in the short term while there is a balance remaining in the Contingency Reserve – Tax Strategy and because of the unallocated balance on the Capital Reserve. In order to fund future capital requirements at this level, further measures to increase income or reduce expenditure would be required in order to eliminate the structural deficit.

One option to fund the current gap would be through borrowing. It may seem attractive to fund the £70m gap through a loan repayable over 20 years which would cost approximately £5m per annum. However, it is not recommended that the States considers this next four-year period in isolation but rather that a long term view must be taken when considering capital investment. Over the long term, the cost of funding capital investment through annual appropriations or through the servicing and repayment of loans is more or less the same.

In addition to the need to take a long term view on capital funding, the Treasury and Resources Department does not consider that funding the capital portfolio can be considered in isolation but should form part of the overall States budget deliberations. The States financial position is presently in deficit and experiencing a high level of uncertainty, particularly in respect of expenditure, with current and future cost pressures in several areas including those resulting from economic conditions and demographic change.”

127. Following consideration of the 2014 Budget Report (Billet d'État XXI 2013), the States resolved that the appropriation to the Capital Reserve for 2014 be £35.35million, which represented an increase of £10million. At that time, the Department stated that *“it is the intention of the Treasury and Resources*

Department that at least this level of appropriation is maintained throughout the period of this States Capital Investment Portfolio. The Treasury and Resources Department acknowledges that this level of funding would not be sufficient to fund a £225million portfolio. However, the Department will be undertaking further work with Departments to review and refine the specification and scope of projects in order to obtain, inter alia, greater cost certainty. The Department also wishes to explore further options for the sustainable future funding of States' capital investment alongside the Personal Tax, Benefits and Pensions Review."

128. The updated projection for the Capital Reserve over this investment period (2014 – 2017) is therefore:

	£'000	£'000
Balance at 1 January 2015 (having allowed for completion of projects in previous programme)		80,000
General Revenue appropriations:		
2015	36,000	
2016	37,100	
2017	38,200	
		111,300
Other income (incl. property sales and investment return)		12,000
Total estimated funding up to 31 December 2017		203,300

129. The question of funding capital expenditure has been considered by the Treasury and Resources and Social Security Departments as part of the Personal Tax, Pensions and Benefits Review (PTR), during which the following principles have been agreed by the Members of those Departments that:
- i. Borrowing should only be considered for capital projects which have a defined and discrete revenue stream and only if it can be demonstrated that this revenue stream would be sufficient to repay any borrowing secured against it within the projected lifespan of the asset; and
 - ii. If borrowing for any given project is deemed appropriate, both borrowing from a financial institution and the issue of bonds or other alternative mechanisms (such as the issue of government bonds) be considered.
130. Therefore, in respect of projects to be funded from the Capital Reserve, the Department does not consider that any borrowing alternatives should be explored, given that they largely relate to social infrastructure funded through general taxation rather than assets which have associated income streams. However, the Department has explored further the possibility of borrowing to fund Category D projects and those undertaken by associated bodies such as the States-owned companies and the Guernsey Housing Association. Further detail is laid out in Section 8.

131. In undertaking modelling for the PTR, the Departments have assumed that one of the material long term cost pressures for the States will be the need to sustainably fund investment in island infrastructure and this will be taken into account in making proposals on the future design of the tax system.
132. Notwithstanding the above, there is a requirement to fund the current portfolio to ensure that essential infrastructure can be maintained and services delivered in fit for purpose and appropriate environments. Therefore, the Department will be making further recommendations regarding options for increasing the balance of the Reserve in the 2015 Budget Report, if it is affordable to do so.
133. One option which the Department wishes to explore is the future treatment of the Contingency Reserve. The Contingency Reserve was built up at a time when surpluses were common and significant, which was a prudent and commendable approach. The existence of significant reserves has enabled a planned, phased and proportionate approach to be taken to the implementation of the corporate tax strategy and management of the resulting deficit. However, the perception of the Reserve as a 'rainy day fund' has led to proposals to use the reserves to fund initiatives and projects. The Treasury and Resources Department is of the view that the status of the Reserve will need to change to one whose capital is preserved for future generations, whilst permitting investment returns over and above those required to maintain its real value be used to provide a contribution to General Revenue. The Department intends making recommendations in this respect as part of the 2015 Budget Report.
134. Consideration of the Contingency Reserve as the States' 'rainy day fund' has necessitated an investment approach which is short term in nature, since there may be a requirement to call on the Reserve at relatively short notice. A 'capital preservation reserve' would require a revised investment strategy that would target long term investment returns – over and above those required to maintain the real value of the fund – that could help finance future capital investment.
135. Should the excess investment return from the Contingency Reserve be appropriated to the Capital Reserve, and assuming that the target return is achieved, a further circa £15million would be available over the period, taking the total funding to approximately £218million.
136. The Treasury and Resources Department therefore considers that it would be prudent to revise the portfolio amount to £218million at this stage pending, of course, approval by the States of any recommendations referred to in paragraph 133.

SECTION 7: THE PROPOSED PORTFOLIO AND COSTS

137. Having undertaken the work outlined in Section 4 of this Report, when all contingencies and allowances for inflation are taken into account, the 19 Projects previously approved by the States as pipeline projects now have overall estimated costs totalling £264million. This is an increase over the amounts submitted as part of the original Capital Prioritisation bids of some £20million after allowing for the increase resulting from the inclusion of the project to re-profile PEH wards and departments. This increase has come about through a combination of some projects' costs decreasing and others increasing. The Treasury and Resources Department has not sought in this Report to reconcile all of these movements, since it is of the opinion that the cost estimates are now more realistic and complete and therefore such reconciliation would add little value.
138. In addition, there is now a requirement for a further £4million to progress Emergency and Urgent projects (as outlined in Section 4). Further, the Department considers it prudent to make provision at this stage for the staff costs set out in paragraphs 117 to 118 and that a further small allowance for future emergency and urgent projects should also be made.
139. Therefore, there is a total cost to the current portfolio of some £275million against potential funding of only £218million. As previously stated, the Treasury and Resources Department is of the opinion that considerable project savings can be made through better management of the portfolio as a whole and more appropriate and skilled in-house resourcing in some cases. However, the Department does not believe that it is possible to bridge the funding gap of £57million without making some more fundamental portfolio changes.

	£'000	£'000
Total estimated cost of pipeline projects	264,000	
Allowance for emergencies and staff	11,000	
Total portfolio costs		275,000
Total funding available		218,000
Funding gap		57,000

140. The Department believes that the options for closing this gap are as follows:
- i. Review the original prioritisation and remove the lowest scoring projects;
 - ii. Re-run the prioritisation exercise based on current information and then make recommendations for the removal of lowest scoring projects;
 - iii. Use the outputs from the assurance reviews to recommend a different approach to certain projects;
 - iv. Seek to extend the portfolio period in order to gain further funding;
 - v. Seek to increase funding available.

141. These options are explored in more detail below:

Review the original prioritisation and remove the lowest scoring projects

142. The Category B projects in the September 2013 Capital Prioritisation report were listed in ranked order. The lowest scoring Category B project was the Strategic Asset Management Plan project to rationalise property used by the Home Department. In addition, the States resolved to include a lower scoring project – the re-profiling of PEH wards and departments – as a pipeline project.
143. Considering the original scoring, these two projects would need to be removed in order to balance the portfolio. However, the Treasury and Resources Department does not believe this would be appropriate because the original prioritisation has been surpassed by the significant additional work undertaken by Departments which may now impact on the original scores. In addition, removal of the Home Department project would diminish the integrity of the SAMP programme; and a political decision was taken to include the HSSD project and the Department therefore considers it unacceptable to recommend removal of this project. Therefore, the Department does not consider that this option should be pursued.

Re-run the prioritisation exercise based on current information and then make recommendations for the removal of lowest scoring projects

144. It would be possible to perform a further, more fully informed prioritisation exercise based on the strategic outline cases submitted by all projects along with the assurance review reports. However, the Treasury and Resources Department does not favour this option since it would necessitate delay while the additional work was undertaken.

Use the outputs from the assurance reviews to recommend a different approach to certain projects

145. Through reviewing the strategic outline cases and the project assurance reviews, the Treasury and Resources Department has identified a different approach that could be taken to two of the projects currently in the pipeline in order to bring down the portfolio costs overall:

Public Services Department – Belle Greve Wastewater Centre – Outfalls Replacement

146. This is the project to be undertaken by Guernsey Water to construct two replacement marine outfalls to serve the Belle Greve Wastewater Centre.
147. The funding of this particular project has always been anticipated and budgeted to be through the Capital Reserve in the same way as the first four of the five redevelopment phases have been, even though from 2012 the operational

responsibility for wastewater services was transferred from General Revenue to Guernsey Water.

148. Since Guernsey Water operates as a trading unit, it is entirely funded through clean and waste water charges. Therefore, the provision of funding for this project from the Capital Reserve could be said to represent a subsidy to the users of Guernsey Water from general taxation.
149. The Treasury and Resources Department has therefore proposed to the Public Services Department that the option of progressing this project through Guernsey Water without recourse to General Revenue funding should be considered. This would necessitate financing by way of borrowing which the Treasury and Resources Department considers is a suitable form of funding for this long term investment in water infrastructure (given its secure income stream capable of repaying such borrowing). However, the Department also recognises that this would have a direct impact on water bills.
150. Understandably, this option is not attractive to the Public Services Department due to the requirement for Guernsey Water to take on significantly higher debt than currently anticipated in its forward capital plan, which will inevitably lead to increased water/wastewater charges. However, the Treasury and Resources Department believes that further work should be undertaken by the two Departments to explore the impact of this option on, inter alia, Guernsey Water's future capital investment plans and future water and waste water charges. The Public Services Department is proposing to submit to the July States meeting a Report seeking approval for this project. The Treasury and Resources Department supports the project and sees no reason to delay its progression pending a subsequent decision on the preferred methodology for its funding.

Education Department – College of Further Education

151. The Education Department submitted a bid for the rationalisation of the College of Further Education onto two sites (Delancey and Les Ozouets) as a first phase of work, with the ultimate aim of achieving a one site campus at Les Ozouets.
152. The project assurance review highlighted that, although a single phased approach to achieving one site would have a considerable capital cost, it may represent better value for money overall for the States than a two phased approach. The Treasury and Resources Department therefore considers that this should be examined in more detail before any substantial investment is made in College infrastructure.
153. The programme outlined for this project indicates an extended master planning phase to reflect the changing personnel at the College and the advantages of using experienced education project staff who will be available as the La Mare de Carteret Schools project nears completion.

154. The Treasury and Resources Department has discussed with the Education Department the proposal that the project be withdrawn from this capital investment cycle, so that detailed master planning can be completed and further detailed work undertaken to examine the options for achieving a one site campus which represent best value for the States.
155. The Education Department is not able to support this request at this stage. However, the Treasury and Resources Department intends to work closely with that Department over the next few months to develop this idea further and attempt to seek a solution which is beneficial to the Education Department and the States overall.

Seek to extend the portfolio period in order to gain further funding

156. One option that should be considered is whether the portfolio period (2014 – 2017) should simply be extended from four years to six in order that sufficient funding can be made available for the projects which have been prioritised.
157. Superficially, this option appears attractive. However, the Department does not consider that it would be a prudent course of action for several reasons. Firstly, Departments were asked to submit bids for projects which they would plan to commence before the end of 2017. Had the initial request been for projects likely to commence before the end of 2019, then it is likely that additional projects would have been submitted which have not now been considered and which may have had a higher priority.
158. Secondly, the prioritisation which was undertaken in 2013 saw a total of 12 projects not prioritised (although the Environment Department's Bus Depot has since been added as a pipeline project). In its September 2013 Report, the Department said *'although it is not recommended that the Category C projects are progressed during the period covered by this capital prioritisation process, it is recognised that the requirement for these projects to be undertaken will likely remain and that funding for them will be requested as part of the next capital prioritisation process at which time their relative priority may change.'* Therefore, any extension of the timeframe would simply delay investment in other projects, therefore accumulating problems for the future.
159. Finally, from the demand for capital investment which has become apparent in the last two rounds of capital prioritisation, it is clear that there is insufficient funding currently being made available. Therefore, any extension to the portfolio timeframes is merely likely to store up further problems for the future.
160. **For these reasons, the Treasury and Resources Department does not believe that the portfolio period should be extended.**

Seek to increase the available funding

161. **In compiling this Report, the Department has considered the funding available for investment in capital projects which was outlined in Section 6 and concluded that a total of £218million is reasonable and affordable. Given the States' position that borrowing to fund capital expenditure without an income stream should not be permitted, and the current deficit in public finances, the Department does not consider that any significant further funding is realistically available.**
162. **Following analysis of the options, the Department is recommending that it work with the Public Services and Education Departments over the coming months to explore in more depth the possibility of treating the Belle Greve Outfall and College of Further Education projects differently in order to deliver a balanced, manageable and affordable portfolio. The Treasury and Resources will report back on conclusions as part of its 2015 Budget Report in October, including the full impact of any proposals for water charges.**
163. **In the meantime, the Department recommends that all projects should continue to progress as planned although no final decisions should be taken to commit to any portfolio projects ahead of the detailed proposals to balance the overall funding, with the exception of the Belle Greve Wastewater Centre Outfalls Replacement project. The Department recommends that approval for this project proceeds prior to a final decision being made (through the 2015 Budget Report) in respect of the most appropriate funding mechanism.**

Other Projects

164. Should agreement be reached with the Public Services and Education Departments, then the total portfolio value could fall to £235million. That would still leave a potential funding gap of £17m over the portfolio period.
165. As outlined in paragraphs 113 to 116 above, the Department is confident that project savings can be identified and delivered by more effective project development, portfolio level procurement and greater reliance on internal as opposed to expensive external support.
166. In addition, in compiling the portfolio costs, the Department has taken a prudent 'worst case' approach by costing the currently indicated 'preferred option' from all projects even if this option is the most expensive option in each case. In progressing the projects, all Departments are requested to consider in detail the outcomes and benefits expected and seek the best value solution to delivering these. In addition, the Treasury and Resources Department intends to work with all project teams and challenge assumptions, options and costs to ensure that the overall best value solutions for the States are achieved that will allow the most projects and their associated benefits to be delivered over the period.

167. **However, it is important to note that it may still be necessary to defer some projects, or reduce scope, should it not prove possible to deliver against the funding requirements.**
168. **The Treasury and Resources Department therefore recommends that all projects listed in Table 2 be further progressed.** That will mean that the Department will be able to commit additional staged funding, based on project need, in line with its existing delegated authority to approve expenditure on progressing pipeline projects to capital vote request stage:

Table 2 – States Capital Investment Portfolio Projects

Project	Department
Replacement Fisheries Protection Vessel	Commerce and Employment
PEH Re-Profiling & Replacement and Upgrade of Sterile Services Facilities and Equipment (including modular ward)	Health and Social Services
Replacement Radiology Equipment	Health and Social Services
Replacement Island-wide Public Safety CCTV Security Systems	Home
Alderney Airport Rehabilitation	Public Services
Belle Greve Wastewater Outfall	Public Services
Recapitalisation of Cabernet Limited	Treasury and Resources
Replacement Cremator and Emissions Equipment and Associated Building Works	Treasury and Resources
Replacement Corporate ICT Data Centre Infrastructure	Treasury and Resources
Replacement Income Tax Electronic Document and Records Management System	Treasury and Resources
College of Further Education	Education
Replacement Contributions System	Social Security and Treasury and Resources
Strategic Improvement of Coastal Defences	Environment
Deep Water Berth Investigations	Public Services
Rebuilding of La Mare de Carteret Schools	Education
Strategic Asset Management Plan – Phase 1	Policy Council and Treasury and Resources
Strategic Asset Management Plan – Centralisation of HSSD Community Services onto one site	Policy Council and Treasury and Resources
Replacement Bus Fleet	Environment
Strategic Asset Management Plan – Rationalisation of Property	Home
Storm Damage Repairs	Environment
Sir Charles Frossard House Roof	Treasury and Resources
Longue Hougue Rock Armour	Treasury and Resources
Replacement of Guernsey Prison Fencing	Home
Electronic Health and Social Care Record	Health and Social Services

SECTION 8: OTHER MATTERS

Category D Projects

169. In its September 2013 Report, the Treasury and Resources Department included a summary of projects which were being planned by States entities, but where funding was not from the Capital Reserve. These included projects by the Housing Department from the Corporate Housing Programme Fund; Guernsey Water; Guernsey Harbours and Airport to be funded from the Ports Holding Account; and the Public Services Department's Waste Strategy, funded through the Waste Strategy Fund. The Report stated that *"in respect of projects classified as Category D, it is intended, whilst fully recognising the commercial environment in which these entities operate (including, in some cases, having unlimited delegated authority to open capital votes), that in order to give appropriate assurance as to their governance and value for money, these projects should follow the same Gateway process and be admitted into the States Capital Investment Portfolio at the appropriate time."*
170. The Department indicated that it intended to consider the governance and financial approval arrangements for projects not funded from the Capital Reserve (Category D projects) and make recommendations for their treatment within the portfolio in this Report.
171. In order to ensure the most efficient overall balance of the portfolio, maximise chances of success and ensure that value for money can be demonstrated in the expenditure of all public monies, the Department remains of the opinion that all such projects and programmes should be treated in the same way as other portfolio projects in their business case development and project assurance processes and that the Department, as Portfolio Board, should have sufficient visibility of these projects to understand impacts on the portfolio including timing, resource constraints and construction industry impact.
172. Officers from the Treasury and Resources Department have worked with officers from the Housing and Public Services Departments to ensure that any existing processes are aligned or that portfolio processes are adopted. Further work is now required to agree the level and frequency of information sharing on project progress for inclusion in portfolio planning and reporting.
173. However, in considering the governance and financial approval arrangements for these entities and projects, it has become apparent that there are significant inconsistencies across the entities in question in regard to existing approval processes, specifically with respect to the trading operations of the Public Services Department. **The Treasury and Resources Department is of the opinion that there should be clearly understood and documented governance and approvals processes in place for all such entities including delegated authority from the States where necessary. The Department intends to initiate, in collaboration with other interested Departments, a review of the overall governance arrangements for internal trading entities to ensure consistency and suitable ongoing States oversight of these operations.**

Emergencies and Urgent Expenditure

174. As set out in paragraphs 68 to 74, the Treasury and Resources Department has had to consider the addition of emergency, urgent and unplanned projects into the portfolio. The Department believes that having the flexibility to introduce new projects is one of the benefits of taking a portfolio approach rather than simply allocating funding to a series of projects. However, it should be noted that, ultimately, there is only one Capital Reserve, which has limited funding available, and should further projects need to be added over the remaining portfolio period, there will undoubtedly be a need to delay or remove other projects. All Departments must therefore take a planned approach to capital investment projects, wherever possible, to ensure that a stable portfolio can be constructed delivering the best overall benefits.
175. Equally, the Department recognises that emergencies can and will continue to emerge as will unplanned opportunities. Therefore, a fair and transparent approach is required for the definition and treatment of emergency, urgent and unplanned projects.
176. In October 2006 (Billet d'État, XVII), the States considered the first Capital Prioritisation States Report which included:

“Emergency Capital Expenditure

Although the main purpose of this Report on capital prioritisation is to provide States Departments with more certainty in their capital planning, it needs to be recognised that in the real world the unexpected happens.

At present, the Treasury and Resources Department has delegated authority to approve capital expenditure of up to £250,000 provided that the relevant Department has sufficient funds available. In theory, should there be an emergency (such as major building repair works, coastal defence work, roadworks, landfall etc.) that required expenditure above £250,000 a States Report would be necessary before any work could be carried out. Even with an emergency Billet this would take time. Clearly, in an emergency such a delay would be unacceptable.

*Therefore, at the suggestion of the Policy Council, the Department is seeking delegated authority such that **in the event of an emergency**, it would be able to authorise the necessary expenditure without delay.*

It is therefore recommended that the Treasury and Resources Department be given delegated authority to approve a capital vote, and to transfer an appropriate sum from Reserves, in the event of an emergency requiring capital expenditure.

The Treasury and Resources Department would be required to report back to the States on any amounts so authorised under its delegated authority as soon as is practicable. In most cases this would be within either the annual Budget or Interim Financial Reports.”

177. The Report did not provide a definition of an Emergency project but gave examples such as major building repair works, coastal defence work, roadworks, landfill etc. The Rules for Financial and Resource Management - Emergency Expenditure (last updated in 2009) provide some clarification of Emergency expenditure:

“Emergency expenditure

The requirements of the Rules may be suspended temporarily only when circumstances arise which pose an immediate threat or risk to persons, property or would cause serious disruption to essential States or Island services, and these circumstances necessitate the immediate expenditure of funds, those funds should be spent to avoid or mitigate the emergency.

The Treasury and Resources Department has delegated authority to authorise a capital or revenue budget, and to transfer into it an appropriate sum from Reserves, in the event of an emergency. The Treasury and Resources Department is required to report back to the States on any amounts so authorised under its delegated authority as soon as is practicable.”

178. The Department therefore recommends that an **emergency project** be classified as a project which is established to deal with a situation or response to an event which **poses an immediate threat or unacceptably increased risk to persons and/or property or would cause serious disruption to essential States or Island services. An emergency project will necessitate the immediate expenditure of funds, and those funds should be spent to avoid, stabilise or mitigate that emergency.**
179. It is understood that emergencies will, by nature, need immediate action and the standard assurance processes will need to be adapted to avoid causing undue delay. There may be little time to ensure that the “best” solution is found and teams may need to act quickly to respond to the emergency. Wherever possible, immediate temporary solutions should be sought, thus allowing time for all practicable options to be explored before agreeing the long term permanent solution, subject to acting reasonably in the prevailing conditions. The Treasury and Resources Department considers it appropriate that it continues to have delegated authority to deal with emergency expenditure without financial limit, and that it be required to report back to the States through the Budget Report and the annual States Capital Investment Portfolio report.
180. Once the emergency reinstatement has taken place, the States might be left with an ‘urgent’ project which requires prompt action. Since the process recommended for the portfolio projects is scaleable and should be deployed in proportion to the value and risks associated with any particular project, the Treasury and Resources Department considers that urgent projects should follow the same processes as any other project. This is essential in continuing to ensure that the most appropriate solutions are found which deliver the best value overall for the States, while taking into account the risks of any undue delay.

181. The Department considers that it should retain certain delegated authority to deal with urgent projects in order to ensure that projects are progressed expeditiously and not unduly delayed by the need to seek formal States approval. Therefore, the Department is recommending that it be given delegated authority to authorise expenditure on an urgent project to a maximum value of £2million, subject to funding being available within the allowance for emergency/urgent projects made within the Capital Reserve. The Department will then be required to report back to the States through the Budget Report and the annual States Capital Investment Portfolio report. Should funding not be available within the Capital Reserve without impacting on other approved projects, a States Report will be required to recommend the solution.
182. Finally, it is also possible that new unanticipated strategic opportunity projects will emerge following approval of the Portfolio. An 'Unanticipated/Unplanned Strategic Opportunity Project' can be classified as a project which would have been eligible for consideration for inclusion in the portfolio but, due to the unanticipated/unplanned nature of the opportunity which has arisen, was not put forward at the start of the process. The opportunity which has been presented in relation to the replacement of the fence at the Guernsey Prison is an example of such a project.
183. The Treasury and Resources Department proposes that controls need to be placed around the admission of such projects to ensure that this is not seen as an opportunity to bypass the normal approvals process. In these situations the test should be on the events which triggered the request. It is important that funding from this source will only be considered in extreme cases, where the alternative of delay would incur disproportionate costs, or subject the States to unacceptable risk, when there is little doubt that the project has merit, is required and would benefit the States as a priority project when measured against the strategic review criteria.
184. It is proposed that the Treasury and Resources Department be given authority to accept any such opportunities as pipeline projects and that they then be developed in the same way as any other project. The Department will then, at the appropriate time, make recommendations to the States regarding the inclusion of the project, including funding implications and any consequential impact on other portfolio projects.
185. The funding required for any emergency, urgent or unplanned projects will need to be managed within that available overall for the portfolio. It is possible that not all projects will be affordable within the Capital Reserve over the period and therefore the Treasury and Resources Department would need to make a recommendation to the States in order to address the shortfall in available funds.
186. **It is therefore recommended that the principles regarding Emergency, Urgent and Unplanned projects contained in this section are approved by the States and the Treasury and Resources Department directed to update the Rules for Financial and Resource Management accordingly.**

Consolidating Debt and Funding Category D Projects

187. As outlined in Section 6 of this Report, the Treasury and Resources Department does **not** consider it would be appropriate generally to seek to fund the pipeline projects through borrowing, since they largely relate to social infrastructure funded through general taxation, rather than assets which have associated income streams. However, the Department does recommend that consideration is given to the means of financing projects currently categorised as Category D and those undertaken by associated bodies such as the States-owned companies and the Guernsey Housing Association (GHA).
188. There is a widely held belief that Guernsey currently has no debt. However, although no direct borrowing has been undertaken by the States in the recent past, there are significant liabilities listed in the States Accounts through the borrowing arrangements of related bodies such as Aurigny and the GHA being guaranteed, thus creating a contingent liability.
189. The 2013 Accounts show the amounts currently guaranteed as Aurigny £23million, GHA £80.5million, Alderney Housing Association £5million and Guernsey Electricity Limited £20million. These are in addition to an internal loan to JamesCo750 Limited for the purchase of two fuel tankships of £13.8million and an 'overdraft facility' to Aurigny of some £3million. The States have also approved that: up to £29.5million be made available to fund the capital costs in relation to the Waste Strategy; the underwriting of the Ladies' College debt of £4million; £21million for a loan to Aurigny in respect of the purchase of the jet; and finally, approval is pending relating to Guernsey Electricity's Jersey-Guernsey cable, totalling a further £45million.
190. Therefore, without taking account of any future requirements for Guernsey Water or the Harbours, there is existing or imminent debt (some of which is currently internal) of some £245million which ultimately the States of Guernsey could be required to settle.
191. Presently, all of the agreements in relation to the various companies and their borrowings have been negotiated separately, by each entity, with rates improved somewhat by the existence of a States' guarantee. The Treasury and Resources Department does not believe that this is the most cost effective method of providing finance to the entities in question and is currently exploring whether consolidating all of this debt, which all has an income stream to support its repayment, would be more cost effective holistically for Guernsey, provide for more transparency, and ensure that best value was being derived from the States' credit standing.
192. The Treasury and Resources Department intends to consult further with the Housing Department, the Public Services Department and the entities for which it acts as shareholder over the coming months, over the practicality and cost effectiveness of such an approach. The Department will also continue to explore

the options for providing such financing, including the legal arrangements and protection required before reporting back with detailed proposals as part of the 2015 Budget Report.

Principles of Good Governance

193. In preparing this Report, the Department has been mindful of the States Resolution to adopt the six core principles of good governance as defined by the UK Independent Commission on Good Governance in Public Services (Billet d'État IV of 2011). The Department believes that the contents of this Report are in accordance with those principles, particularly principles 1, 4, 5 and 6 regarding focusing on the organisation's purpose and on outcomes for citizens and service users; taking informed, transparent decisions and managing risk; developing the capacity and capability of the governing body to be effective; and making accountability real.

SECTION 9: CONCLUSIONS AND NEXT STEPS

194. This Report has set out a summary of the work undertaken by project sponsoring Departments and the Treasury and Resources Department since September 2013. This work has focussed on:

- Developing project business cases and costings;
- Undertaking project assurance reviews to ensure the projects are on track;
- Collating all costs and available funding and examining the best way forward for the portfolio of States projects;
- Developing the proposed processes and governance for the portfolio to ensure it has the best chance of delivering even better value to the States than the previous approach.

195. Based on the assurance reviews the Treasury and Resources Department considers that **all** pipeline projects represent robust strategic options, have identified benefits, have reasonable cost estimates and should progress to the next stage of project and business case development. It considers that these projects are the right projects to be included in the portfolio, subject to the recommendations arising from the project assurance reviews being addressed.

196. However, there will be insufficient funding over the four year period to undertake all of the portfolio projects and therefore the States will, at the appropriate time, need to take a decision as to the final shape of the portfolio. The Treasury and Resources Department will bring recommendations to the States as part of its 2015 Budget Report, on the final list of projects able to be funded in this period.

197. In the meantime, the Department considers that projects should be able to proceed with the development of outline business cases and in order that appropriate project assurance reviews can be undertaken as and when each project is ready. This further development phase will enable those projects which are sufficiently advanced to be in a position to return to the States for project approval, once the portfolio has been finalised.
198. The Department recognises that there will be a cost to further project development, but that this is justified given that the States have already prioritised these projects and programmes for investment. The Department will use its existing delegated authority to provide funding, as appropriate and following the submission of a detailed request by the projects. Any further expenditure on project scoping, option development, and costing should not be abortive even if a decision is later taken to defer the project.
199. The Treasury and Resources Department has recommended a standard process for all portfolio projects. It is important to note that this process is designed to be scaleable with higher risk, more expensive and complex projects requiring significantly more planning and development work than the smaller, more routine projects. This process is designed to ensure that decision making is sound and transparent and always based on robust evidence. This will ensure that Departments are able to propose the best solutions; the Treasury and Resources Department can make funding proposals based on consistent information across the portfolio; and the States are able to make investment decisions with a States-wide view and with confidence that value for money is being achieved.
200. There has been criticism of the process employed; specifically that it is slowing down the approval and progression of capital projects. The Treasury and Resources Department makes no apology for recommending a robust process leading to the right investment decision being taken which will deliver value for money. However, the Department does acknowledge that 2014 has, to date, been a year of planning rather than delivering projects.
201. The Department therefore intends to review the capital prioritisation process with a view to generating the continual development of pipeline projects. This should avoid future rushes as all pipeline projects are required to deliver proposals within short time frames. The Department also intends to examine the possibility of having overlapping portfolio periods to ensure that there are fewer 'fallow' periods in future. For instance, the planning period for the next investment round would need to commence in early 2016 if projects are to be ready for final development and delivery from 2018. The options will all be reviewed, considering the timing of elections, and proposals brought back to the States for consideration as part of the next States Capital Investment Portfolio report during 2015.

202. In advance of the next Report, the Department will:

- i. Examine and develop the monitoring and reporting framework for the portfolio, to ensure that the Treasury and Resources Department has sufficient portfolio level information to allow it to monitor development and delivery and operate staged release of funding. Such a framework will also ensure that the States receive relevant and consistent information on the projects within their portfolio. Consideration will also need to be given to the level of reporting or information provided to key stakeholders, including the local construction industry.
- ii. Although the Department recognises the importance of replacing end of life assets, it is also mindful of the need for investment for the future as a benefit to the Island and its economy. Accordingly, the Department is considering a system for categorising capital investment in the future to ensure that there is an appropriate balance between true investment and replacement or maintenance projects; and across project sectors such as construction, engineering and IT. The current portfolio is very heavily weighted towards replacement projects. This categorisation framework will also need to encompass the revisiting of the definitions and criteria surrounding use of the Capital Reserve and routine capital allocations.
- iii. Initiate, as set out in Section 8 and in collaboration with other interested Departments, a review of the overall governance arrangements for internal trading entities to ensure consistency and suitable ongoing States oversight of these operations.
- iv. Undertake a thorough audit of the project management requirements of all projects within the portfolio, having regard to the specialisms and expertise necessary for each particular initiative, in order to inform any requirements for framework contracts for buying in project management and/or developing further internal resource that can be shared between projects as appropriate.

SECTION 10: RECOMMENDATIONS

203. The States are asked to:

- i. Approve that the process contained within paragraphs 31 to 56 of this Report is adopted by the States as the Project Development and Approval Process and direct the Treasury and Resources Department to amend the Rules for Financial and Resource Management accordingly;
- ii. Approve the projects listed in Table 2 as the Capital Investment Portfolio, subject to costs being brought within available funding;

- iii. Delegate authority to the Treasury and Resources Department to open capital votes in relation to the Environment Department's Storm Damage Repairs projects, the Treasury and Resources Department's - Sir Charles Frossard House Roof and Longue Hougue Rock Armour projects and the Home Department's Prison Fencing project, all charged to the Capital Reserve;
- iv. Delegate authority to the Treasury and Resources Department to approve a capital vote of up to £1.65million, charged to the Capital Reserve to fund the relocation of the Pathology Department to Sherwill Ward and the purchase, installation and commissioning of a temporary (modular) ward and the relocation of Giffard Ward thereto as Phase 7a of the Health and Social Services Department's Site Development Plan – Phase 7;
- v. Delegate authority to the Treasury and Resources Department to increase the capital vote in respect of the Health and Social Services Department's Electronic Health and Social Care Record project by a maximum of £650,000, charged to the Capital Reserve;
- vi. Note the intention of the Treasury and Resources Department to report back on the costs and funding of the Environment Department's Bus Depot project as part of the next States Capital Investment Portfolio Report;
- vii. Approve in principle expenditure on portfolio resource as set out in Paragraphs 106 to 116 of this Report, such expenditure to be capped at 0.4% of the portfolio value per annum charged to the Capital Reserve; and direct the Treasury and Resources Department to recommend a detailed budget and associated benefits annually as part of its Budget Report;
- viii. Delegate authority to the Treasury and Resources Department to approve expenditure of £250,000 in 2014, to be charged to the Capital Reserve, to provide financial, benefits and procurement resource to projects, administrative support to the portfolio and further training to project teams;
- ix. Note the intention of the Treasury and Resources Department to work with the Education and Public Services Departments to explore in more depth the possibility of treating the funding of the Belle Greve Outfall and College of Further Education projects differently in order to deliver a balanced, manageable and affordable portfolio and direct the Treasury and Resources Department to report back with conclusions as part of its 2015 Budget Report;
- x. Approve the principles regarding Emergency, Urgent and Unplanned projects contained in paragraphs 174 to 186 of this Report and direct the Treasury and Resources Department to update the Rules for Financial and Resource Management accordingly;

- xi. Delegate authority for the Treasury and Resources Department to approve expenditure on any Urgent Project to a maximum value of £2million, charged to the Capital Reserve.

Yours faithfully

G A St Pier
Minister

J Kuttelwascher
Deputy Minister

A H Adam
Member

R A Perrot
Member

A Spruce
Member

J Hollis
Non States Member

APPENDIX A – PROJECT SUMMARIES

A: PROJECTS APPROVED BY THE STATES IN SEPTEMBER 2013

Please note that the project summaries from the September report have been re-produced and not updated.

1. Commerce and Employment: Replacement Fisheries Protection Vessel

The Commerce and Employment Sea Fisheries Section is responsible for operating and maintaining the Fisheries Protection Vessel Leopardess. As the vessel approaches the end of her 20 year working life, she is an expensive asset to maintain and the risk of significant equipment failure due to age with the associated substantial replace and repair costs increases annually.

It is anticipated a new vessel with a replacement rigid inflatable boat will give the States of Guernsey the most cost effective strategy offering long terms savings over the lifespan of the replacement vessel, manageable maintenance costs and service reliability.

2. HSSD: Sterile Services Department (SSD) & Theatres, HSSD: PEH Re-Profiling of Existing Wards and Departments. Now called HSSD Development Plan Phase 7

This programme incorporates two bids which have been made under the 2014-2017 States' Capital Prioritisation Programme: the 'reprofiling of the PEH', and the upgrade of Sterile Services and Theatres. There are some urgent changes required within Sterile Services which need to be made imminently, but combining these projects will allow more effective planning and use of space overall. The combined bid is for a Site Development Programme, which will incorporate a number of prioritised projects. At least four of these are planned to be completed within this capital prioritisation cycle; while additional projects have been identified that will gain a higher priority later on. The Strategic Outline Case recommends the immediate progression of Projects 1 and 2 and an overall health planning exercise to support the programme, to Outline Business Case stage. The remaining projects will come forward as and when they are ready.

3. HSSD: Replacement Radiology Equipment

Straight forward replacement of medical imaging equipment (CT scanner, MRI Scanner and Nuclear Medicine camera).

4. Home: Island Wide Public Safety CCTV & Security Systems Replacement

The key strategic objective of the CCTV and Security Systems upgrade and replacement proposal is to bring the Island Wide Public safety CCTV systems up

to date with CCTV technology and reduce the risks of this important tool failing to deliver the service required. It is intended that this project would replace existing analogue cameras and recorders with the latest digital HD/IP (High Definition/Internet Protocol) cameras and network video recording (NVR's) solutions.

The scope of this proposal will address the needs of the Guernsey Harbour Authority, Airport Authority, Guernsey Police, Guernsey Border Agency, Prison Service, Courts and Culture & Leisure. The proposal will also explore the feasibility of utilising dedicated wireless network links which will remove reliance on a third party network provider as well as reduce ongoing revenue of line rental. This approach has been successfully achieved in towns and cities in other jurisdictions.

The project objective is over a four year period starting in 2014, replacing all existing camera equipment with HD/IP cameras. This includes replacing storage and recorder technology and will be delivered in accordance with the CCTV Strategy.

5. PSD: Alderney Airport – Runway Rehabilitation

Following recent CAA audit reports, an engineering inspection was undertaken on the three runways at Alderney Airport. This identified a number of solutions and scopes of work that would realise improvements in the vertical undulations and an existing propensity for waterlogging on the two grass runways. In addition, the report identified issues with spalling of edges on the asphalt runway and proposals to deal with this have been identified. PSD has approved two packages of work which are being costed by Mott Macdonald. The work would realise the installation of improved groundwater drainage on up to two grass runways, with re-grading and re-seeding of those runways and a second package of work to relay the edges and improve drainage on the existing asphalt runway.

6. PSD: Belle Greve Wastewater Outfalls

Guernsey is totally reliant on the Belle Greve Wastewater Centre (BG Centre) for screening, grit removal, storm storage and disposal of virtually all of its liquid (sewage) waste from the Island (this will increase to 100% once the Fort George outfall is intercepted and diverted into the BG Centre catchment).

As part of the assessment of the proposals that concluded the approval of this scope and rejection of the full sewage treatment option, it was deemed essential that adequate treatment and dispersal of flows via a long sea outfall (LSO) was critical to the success of this strategy. Studies subsequently undertaken on the condition of the existing outfalls (the LSO and the complimentary Short Sea Outfall (SSO), which is used during extreme storm conditions), has concluded that refurbishment of the LSO is now unfeasible due to its location in a permanently submerged tunnel. Additionally, a study on the dispersion characteristics of the LSO recommended that the discharge point needed to be

extended approximately 350 metres further off shore (to prevent discharges being potentially washed back onto shore during all tidal conditions).

Hence a new LSO is now required, however refurbishment of the SSO, which forms part of the overall operational disposal capability under all weather and tide conditions, is still capable of being refurbished and is included within the scope of this project.

7. T&R: Cabernet Ltd – Recapitalisation

Recapitalise Cabernet Ltd (holding company of Aurigny Air Services Ltd and Anglo- Normandy Aero-Engineering Ltd) for its accumulated losses as at 31 December 2012 and its anticipated losses for 2013 – 2015. The company currently has a borrowing facility of £10m which is guaranteed by the States of Guernsey – it is estimated that the limit of this facility will be reached during 2013. There is no realistic prospect of the company returning profits in the coming years which would be sufficient to repay this borrowing facility and any extension to it. [Note: The borrowing limit relates to cash flow. The accumulated losses are higher due to non-cash write-downs and significant accruals/forward sales].

This proposal is based on the assumption that there will be changes to the existing operations and aircraft mix of Aurigny Air Services. The Department has recently established a number of Shareholder Objectives for the airline which will:

- Where necessary, result in the introduction of a system of transparent “revenue subsidy” financial support for the agreed lifeline routes that Aurigny is required to operate by the Department;
- Require the Group to ensure it breaks-even after the provision of any agreed route support.

Those routes that are not deemed by the Department to be “lifeline” will have to be operated on a commercial basis and, in the event that they cannot make a positive contribution to the Group’s financial results and overheads, will have to be withdrawn. Subject to the approval of the States, the Department anticipates that any route support would be paid as a revenue subsidy, thereby eliminating the need for further capital injections after 2015.

It should be acknowledged that Aurigny Air Services currently anticipates a need to invest in replacement aircraft for both its regional services to the UK and its inter-island operations. These requirements are subject to a re-assessment of the existing operations and aircraft mix arising from the introduction of the Shareholder Objectives. The capital requirements for these replacements do not feature in this proposal. It is anticipated that any such aircraft will be funded by borrowing arrangements, with guarantees provided as necessary by the States of Guernsey.

8. T&R: Cremator and Emissions Equipment Replacement and Associated Building Works

The reasons for the requirement for this project are:

- By 2017 the current cremator (which was installed in 2002) will be reaching the end of its design life;
- The existing cremator is obsolete and sourcing spares is becoming problematic;
- Demand for cremation continues to increase year on year;
- The existing cremator is restrictive in the size of coffins that it can accept. A larger cremator is therefore now required;
- Reliability and continuity of service is critical;
- Environmental emission standards, which evolve over time, must continue to be met [DEFRA Process Guidance Note 5/2 (12) and amendments];
- There is a need to manage and reduce energy use;
- The Foulon is the only cemetery on-island that is available for multi-faith burials/ceremonies.

9. T&R: ICT Corporate Data Centre Infrastructure

The purpose of this proposal is to refresh and build upon the corporate infrastructure that is currently housed in Sir Charles Frossard House and on the Social Security site, Edward T Wheadon House. The proposal is to refresh the hardware that is already in operation and will come to end of life over the next four years as well as to provide room for the growth in States owned systems and, in particular, data requirements. This proposal covers the servers, operating software, storage and core switches. It builds upon the infrastructure purchased over the past 18 months to replace both SAP and other aging equipment.

10. T&R: Income Tax Electronic Document and Records Management System Replacement

The aim of the proposal is the essential replacement and upgrade of the core electronic document management system used by the Income Tax Office as a means to assess and collect tax revenues for the States and interface with the public. It is now 10 years since the system was conceived and support for one of the components of this system, Metastorm, is only guaranteed until the end of 2014. There are serious concerns that the current system may not be compatible with necessary future technical upgrades to the hardware and operating software platform on which it runs. These technical upgrades need to proceed in order that the underlying infrastructure is secure, supportable and maintainable.

It is proposed that the replacement/upgrade is achieved by taking advantage of knowledge of newer and more up to date technology used elsewhere within the

States. The replacement system will provide a fully integrated, flexible, secure and robust system to meet future business needs and achieve long term savings and efficiencies for government.

The Income Tax Office also introduced an automatic assessing facility in 2012, as part of a move to reduce workloads through automation. Taxpayers are being encouraged to file their returns online, by eforms being assessed in priority to paper returns, so that the benefits of this system can be fully felt. It is therefore essential that eforms are uploaded without delay, to enable the 10 working day turnaround of either assessing or informing taxpayers that their return is to be processed manually, to be met.

11. Education: College of Further Education Site Rationalisation

The aims of the proposal are:

- To further develop the College of Further Education Les Ozouets Campus in order for the College to move from three sites to two (in accordance with the long-term aim to move to one site), and thereby improve the efficiency of the College's operational delivery, in line with the financial transformation programme;
- To improve facilities for students of all ages at the College of Further Education and, in particular, to increase the ability of the College and the Island to offer vocational courses for 14-16 and improved facilities for apprenticeships that meet health and safety standards;
- To release land of strategic importance by vacating one of the College of Further Education's sites;
- To further move towards one tertiary institution in line with the Education Department's vision.

12. SSD and T&R: Income Tax and Social Security Contributions Systems Replacement

In 2009 the Treasury & Resources and Social Security Departments made a bid (part funded by Social Security fund) for the replacement of the existing Income Tax and Social Security Contributions systems, and their combination into a single new solution based on more current technology. This was in line with Priority 4 of the Government Business Plan ("Distribute wealth wisely in the community") which highlighted the strategy of the Treasury and Resources and Social Security Departments working more closely together to "Consider how savings might be achieved by merging and consolidating the collection, payment and treasury systems which, at times, overlap."

This project was approved as part of the Capital Programme but has not yet been progressed and hence has been re-submitted for the 2014 - 2017 Capital Prioritisation process.

13. Environment: Strategic Improvement of Coastal Defences

Guernsey's island status and geography including its location and development of population and associated infrastructure near and around coastal margins has meant coastal defences have always been a fundamental consideration. With climate change come predicted increases in storm surge frequency as a result of rising sea levels and the need to ensure that the island's sea defences meet increasingly onerous conditions on what are, in many cases, defences that were built 150 years or more ago. Many of the defences are a heterogeneous mix of fortifications, walls and other structures which have been added to over many decades and which were built to the standard of the time.

For these reasons flood risk from the sea is now regarded as the number one risk on the strategic risk register. Following the publication of the Haskoning report in March 2007 on Guernsey's Coastal Defence Strategy a series of flood studies were done in 2011 which identified the need to strengthen, upgrade and enhance a number of key defences. The Flood Studies Report, published in 2012, identifies options for each key defence with a priority and broad time scale.

14. PSD: Deep Water Berth Investigations

To meet a principal objective of the Ports Master Plan, this proposal is to assure the long term secure delivery of hydrocarbon fuels to the Island through provision of an 'always afloat' berth. Whilst the shortcomings and risks associated with current delivery arrangements are understood, and reluctantly accepted, the most effective solution that will be both appropriate to the Island context and represent value for money, is not yet clear. The proposal will cover the site selection, berthing options and storage requirements.

The scope of the work required is still at a very preliminary stage and therefore the capital costs required could alter very significantly (reduction or increase). The expenditure is for further development work to be undertaken to narrow down the options and provide a robust and high confident scope proposal and associated costs.

15. Education: Rebuilding of La Mare de Carteret schools

Until the completion of this project, the cohort of school pupils who attend La Mare de Carteret Schools will continue to be seriously disadvantaged against their peers.

- The educational facilities and condition of the buildings in which they are educated are poor and are no longer of equal standard with the other schools maintained by the Education Department;
- The schools are not able to provide the "equality of educational opportunity" which is a fundamental tenet of the Education Department's vision;

- The facilities are hindering the educational outcomes offered to these pupils;
- Non-completion of the project will be contrary to the vision of the Education Board that “all learners should expect to spend their formative years in buildings with resources that enhance their learning experience, provide and encourage excellence in teaching and provide a safe and secure learning environment for all”;
- The condition of the buildings is affecting the reputation of the schools;
- Non-completion will be contrary to the instruction of the States in 2002 and to the expectation of successive Assemblies that the Education Development Plan Programme 1 (EDP1) will be delivered in accordance with the 2002 instruction.

The concept for this penultimate project in the EDP1 Programme is to use the site in accordance with the States Strategic Plan and the Strategic Land Use Plan to promote the development of local centres by providing community facilities and sports facilities with spectator access alongside educational facilities.

The brief, at its current feasibility stage, is to provide the following:

- High School and Primary school facilities with possible nursery, sports, autistic spectrum and community centre facilities for families and the older generation.

16. Strategic Asset Management Plan: Phase I

The Financial Transformation Programme includes the Strategic Asset Management Plan (SAMP) project. The imperative for a strategic approach to the States’ property assets was driven by the need to reduce ongoing costs and generate capital receipts, by consolidating the stock of property. The SAM review has been concluded and is in two parts: the first phase aims to garner resources over the next two years to deliver some big wins, as quickly as possible – the subject of this proposal. The second phase is to deliver a range of other projects, with linkages to the first phase. Those second-phase projects with capital implications are the subject of a number of Capital Prioritisation bids from departments.

17. Strategic Asset Management Plan: Centralisation of Community Services onto One Site (KE VII & Perruque House Sites)

The proposal is to relocate existing Children’s and Community services currently located in Lukis House, Swissville and the adult Community Service Teams at the Castel Hospital to the KEVII and Perruque House sites (which are adjacent to each other). This will require either major refurbishment work or new build on the KEVII and Perruque sites to change the building infrastructure from a hospital and Children’s Care Home to a social services/office facility. It is proposed that savings accruing due to vacating properties (Swissville and Lukis House) form part of the HSSD’s savings target.

This proposal not only fits with the departmental objectives it also furthers the States aim as set out in the draft Strategic Asset Management Plan (SAMP).

The overriding objective of the SAMP is ‘the efficient and cost effective use of property to best enable and deliver services and government functions in accordance with the States Strategic Objectives’. Key principles to achieve this are to put corporate service delivery ahead of what maybe more narrow departmental aims and to deliver common services from common locations. This proposal will help achieve the SAMP objectives by delivering services that are shaped to suit residents from better locations. It will also enable the rationalisation of property so that leases can be terminated and States owned property can be sold or re-used, again in furtherance of strategic objectives.

The SAMP and this proposal are also consistent with the guidance to the Environment Department set out in this Strategic Land Use Plan.

18. Environment: Bus replacement Phase I

An effective and efficient public bus service which delivers the policies and directions of the States requires certainty over continuity and reliability of service. Such certainty is dependent on provision of a reliable fleet that meets the needs of the required routes and service frequency. The current fleet is between nine and 11 years old and major components are now failing on a regular basis. Engines are now two developments behind the latest European standards (CAT 5), the buses are considered too large for many of the routes that should be serviced including older peoples housing developments recently constructed, and are becoming substantially more expensive to service year on year (an increase in revenue costs of over 100% in the last five years).

It is acceptable industry practice to manage the age of the fleet rather than simply renew the whole fleet. This is achieved by part renewal, part refurbishment and part maintenance on a rolling basis.

This project seeks to provide an effective fleet and enable continuation and development of a public bus service through ensuring the essential key infrastructure is in place.

19. Strategic Asset Management Plan / Home: Property Rationalisation

The Home Department is currently located over a large number of sites, most of which are rented from the private sector at a total cost of over £500K per annum. The Department is seeking to remove this rental liability and to co-locate as many of its Services as possible (mainly Law Enforcement and Blue Light) at one States owned site. This will also result in significant operational efficiencies in the provision of support services and reduced running costs. The only Home Department Service considered to be out of project scope is the Guernsey Prison as to relocate this facility would be cost prohibitive and publicly unacceptable. Although not part of the Home Department, the Ambulance Service works very closely with the other Home Department Emergency Services and has indicated a

desire to consider co-locating with them if feasible.

Aims/Project Objectives:

- Reduce the rental paid by the Home Department to the private sector;
- Maximise the use of States owned property;
- Increase efficiencies by sharing support services;
- Co-locate services that have a commonality;
- Achieve a saving of at least £900k per annum;
- Achieve a solution that has flexibility to incorporate future changes in working methods

B: EMERGENCY AND URGENT PROJECTS

1. Storm damage repairs

Following the storms and heavy rainfall that hit the Island this year, the Environment Department with the assistance of States Property Services engineers, assessed the extent of the damage to the Island's coastal defences, parks, and trees and general landscape.

The main works included in this proposal are, Vazon, Fermain and L'Ancrese and also further coastal works including Longstore, Admiral Park, Perelle, Bulwer Avenue, Herm, Salarie and Saints.

2. Sir Charles Frossard House Roof

Sir Charles Frossard House was built in 1993 using materials and building techniques that were appropriate for the chosen design and budget at the time.

At the time of construction it was anticipated that the roof tiles would last for approximately 25yrs, meaning that the roof would need replacing close to 2018. A condition survey carried out in 2009 identified some initial failings in the roof coverings and, as expected, forecast the replacement of the roof coverings around 2018 or slightly beyond, which was when it would have been proposed for inclusions in the capital programme.

In recent years slipping slates and localised areas of storm water penetration have occurred in various parts of the roof structure. During the severe weather of the winter of 2013/2014 multiple areas of the roof and ceiling were affected by storm water ingress with resultant unexpected ceiling collapses in two parts of the building. Fortunately, to date, no injury has yet occurred to personnel in the building at the time.

The design of the roof, which has very restricted and limited access from within the building, means that precise points of water entry are difficult to identify, despite regular inspections of the roof space. The need to carry out disproportionately expensive patch repairs (due to the need for high level scaffolding each time a repair is required) is increasing, as is the risk of ceiling collapse within the wings of the building.

Consequently there is an urgent need carry out the planned re-covering now in order to ensure the safe use of the building by those using the building in the areas immediately below the sections of pitched roof. In the event that the re-covering is not carried out there will be, not only an on-going risk and disruption to visitors and members of staff working in the building but also a risk of further deterioration to the building fabric and structure with multiple areas of water ingress inevitable during poor weather.

3. Longue Hougue Rock Armour

The rock armour is critical to protect the reclaimed land at Longue Hougue part of which is shortly to be used as a site for Guernsey's new Waste Infrastructure. Catastrophic failure of the bund and loss of material from the reclamation could incur costs both from direct damage to the waste facilities and also from increased operation costs whilst the facilities are repaired.

The purpose of the investment in rock armour repairs is to re-establish the status quo conditions. To leave the damaged rock armour will leave the bund open to further, accelerating damage in storms which do not need to be as severe as those which caused the original damage.

The preferred option at this stage is to reinstate the rock armour to provide the original standard of protection. This will require skills and resources not available in-house. Consultants will need to be appointed to investigate the failure mechanism, develop options for repair, prepare tender documents for the selected option, assist with tender evaluation and then supervise the works.

The programme for getting any significant works carried out before the end of 2014 is very tight and may be impractical if the weather conditions are not favourable. One of the first parts of the investigation will therefore be to see if there is an option for carrying out works in phases on only on the most damaged areas as a priority. This will depend on the scope of the recommended option.

4. Prison Fencing

Guernsey Prison is currently designed as a category C establishment. Category C prisons normally have a single perimeter although increasingly some have double perimeters. The UK National Offender Management Service (NOM's) specification for Prisons holding Category B prisoners and serving a remand function requires a double perimeter with a sterile area in between the two fences.

An ongoing review of prison facilities and building has identified various issues with the current arrangements which mean the establishment does not fit the

National Prison standard specification for housing category B prisoners. Therefore, this urgent project is required to upgrade the current arrangements.

C: ADDITIONAL PIPELINE PROJECT

Environment: Bus Depot

An effective and efficient public bus service which delivers the policies and directions of the States requires certainty over continuity and reliability of service. Such certainty is dependent on provision of garaging, servicing, fuelling, cleaning and maintenance facilities. Fleet and driver scheduling including changing facilities, rest periods, training, cash handling etc. is only effectively managed alongside the vehicle servicing and maintenance facilities. Any separation of these functions leads to inefficiency and escalating revenue costs. An operator unable to control their own servicing, garaging, fuelling etc. will price in the additional risk and inefficiencies. Running empty buses from one service facility to another is extremely wasteful of assets as well as staff and revenue costs.

In the absence of a States controlled facility the current operator is engaged with three separate leases and outsources maintenance and engineering works. Lease periods are short and not aligned and hence long term certainty does not exist.

Any desire to enhance the fleet (smaller buses, electric buses, school buses) is currently prohibited due to the constraints imposed by the present inadequate and fragmented essential support facilities.

This proposal not only fits with departmental objectives, it also furthers the States' aims as set out in the Strategic Asset Management Plan (SAMP).

The overriding objective of SAMP is "the efficient and cost-effective use of property to best enable and deliver services and Government functions in accordance with States' strategic objectives". Key principles to achieve this are to put corporate service delivery ahead of what may be more narrow departmental aims and to deliver common services from common locations. This proposal will help achieve the SAMP objective by delivering services that are shaped to suit residents, from better locations. It will also enable the rationalisation of property so that leases can be terminated again in furtherance of strategic objectives.

APPENDIX B: GLOSSARY OF TERMS

Affordability	An assessment of whether projects can be paid for in terms of available funding, cashflows, resource costs and ongoing revenue implications.
Appraisal	The process of defining objectives, examining options and weighing up the costs benefits, risks and uncertainties of those options before a decision is made.
Assurance	<p>Assurance is an independent assessment of whether the required elements to deliver projects successfully, such as good project management practices and appropriate funding and skills, are in place and operating effectively.</p> <p>This assessment will be reported to stakeholders.</p> <p>Assurance opinion is accompanied by recommendations which, if implemented, can help reduce project failure, promote successful conditions and increase the chance of delivering the required outcome cost-effectively.</p> <p>Assurance can take a number of different forms. It can be ‘internal’ or ‘external’, where another body is responsible for the review.</p> <p>It can be ‘planned’, where it is scheduled at the outset of a project to meet a specific requirement during its life cycle, or ‘consequential’, where it is triggered by an event during a project, such as concerns about a project’s performance against its plan.</p> <p>It can be ‘point-in-time’, in the form of a discrete review over a short period, or ‘continuous’, where the assurance is ongoing and reviewers are embedded alongside the project team.</p>
Assessment(s)	Either an appraisal or an evaluation (or both).
Benefit	The measurable improvement resulting from a project/programme.

<p>Business case</p>	<p>A justification for a programme, project or development which typically contains costs, benefits, risks and timescales and against which continuing viability will be tested.</p> <p>The Business Case is developed over time and summarises the results of all the research and analysis needed to support decision making in a auditable and transparent way.</p> <p>The Full Business Case (FBC) becomes the key document for the proposal. It summarises the objectives, the key features of implementation management and arrangements for post implementation evaluation.</p> <p>Business cases can cover a wide range of types and levels of spending and will be developed to reflect the type of proposal being considered.</p> <p>The effort Departments expend on developing the proposal should be proportionate to the likely costs and benefits.</p>
<p>Change management</p>	<p>The process, tools and techniques to manage the people-side of change, or project delivery, to achieve the required outcome.</p>
<p>Commercial Case</p> <p><i>(one of the cases in the five case model)</i></p>	<p>The Commercial Case is concerned with issues of commercial feasibility and sets out to answer the question “can the proposed solution be effectively delivered through a workable commercial deal or deals?”</p> <p>The first question, therefore, is what procurement does the proposal require; is it crucial to delivery; and what is the procurement strategy?</p> <p>The procurement strategy should be clearly set out in the Commercial Case and the ownership of any assets should be clearly defined and key contractual issues identified and explained, together with the proposed solution. The allocation of risk must be clearly explained and the business case should include a risk table showing risk allocation and the steps which are being taken to mitigate risk.</p> <p>Any personnel implications also need to be fully explained.</p> <p>The Commercial Case should show key contractual milestones and delivery dates and should clearly set out the agreed accounting treatment.</p>
<p>Contingency</p>	<p>An allowance of cash or resources added to the project budget to cover unforeseen circumstances, which is often put together based on project risk.</p>
<p>Cost Benefit</p>	<p>Analysis which quantifies in monetary terms as many of the costs and benefits of a proposal as feasible, including items for which</p>

Analysis	the market does not provide a satisfactory measure of economic value.
Economic Case <i>(one of the cases in the five case model)</i>	<p>The Economic Case is the essential core of the business case and should be prepared collaboratively with the Treasury and Resources Department.</p> <p>This section of the business case assesses the economic costs and benefits of the proposal to Guernsey as a whole, and spans the entire period covered by the proposal.</p> <p>In all business cases the Economic Case must include a sufficiently wide consideration of alternative options for achieving the desired objective.</p> <p>The options analysis starts from a long list of all potential alternatives including a do nothing option or if doing nothing is not possible a do minimum option.</p>
Evaluation	The retrospective analysis of a project, programme, or policy to assess how successful or otherwise it has been, and what lessons can be learnt for the future. The terms ‘post-project evaluation’ or ‘post implementation review’ are often used.
Full Business Case (FBC)	<p>This is the final stage in the business case development cycle and builds on the Outline Business Case (OBC). The FBC is finalised following procurement, puts in place delivery plans and provides the final detailed costing of the scheme.</p> <p>It is at this stage that the final investment decision is made and funds released to deliver the project.</p>
The Financial Case <i>(one of the cases in the five case model)</i>	<p>The Financial Case is concerned with issues of affordability, and sources of budget funding. It covers the lifespan of the scheme and all relevant costs.</p> <p>The focus in this section of the case is on capital and resource requirements of developing and delivering the project. It also identifies the ongoing revenue costs and savings throughout the life of the asset.</p> <p>Issues in addition to the proposal’s affordability are:</p> <ul style="list-style-type: none"> • does the financial case identify and fill any funding gaps; • does it contain provision for dealing with the financing of any time or cost overruns; and • does it fully explain and estimate any contingent liabilities that may result from the proposal?

<p>Five-Case Model for Business Case Structure</p>	<p>This is the best practice tool for business case development which breaks the case into five different aspects (cases) which are interconnected but distinct. The business case enables key decision makers and other stakeholders to evaluate whether proposals:</p> <ol style="list-style-type: none"> 1. are supported by a robust Case for Change – the Strategic Case; 2. optimise Value for Money – the Economic Case; 3. are commercially viable – the Commercial Case; 4. are financially affordable – the Financial Case; and, 5. can be delivered successfully – the Management Case.
<p>Gated Review process</p>	<p>A Gated Review process is put in place to reduce project risk as rapidly as possible as a basis for deciding whether to continue investing in the programme/project or not. It examines programmes and projects at key decision points in their lifecycle. It looks ahead to provide assurance that they can progress successfully to the next stage.</p>
<p>Implementation</p>	<p>The activities required during the period after project development and the decision to invest in order to put in place a policy, or complete a programme or project, at which point ‘normal’ service is achieved.</p>
<p>The Management Case</p> <p><i>(one of the cases in the five case model)</i></p>	<p>The Management Case is concerned with the deliverability of the proposal and is sometimes referred to as programme management or project management case.</p> <p>The Management Case must clearly set out management responsibilities, governance and reporting arrangements.</p> <p>The Senior Responsible Owner (SRO) should be identified. The Management Case should include a delivery plan with clear milestones which relate to but are at a more detailed level than contractual milestones. The management plan applies to any programme or projects required by the proposal. Programme and project plans must include business assurance arrangements.</p> <p>Where significant change management is involved, a change management and stakeholder management plan should be included.</p> <p>The Management Case should also set out clearly the Project Assurance Reviews arrangements, and should contain a benefit realisation plan and benefit register.</p>

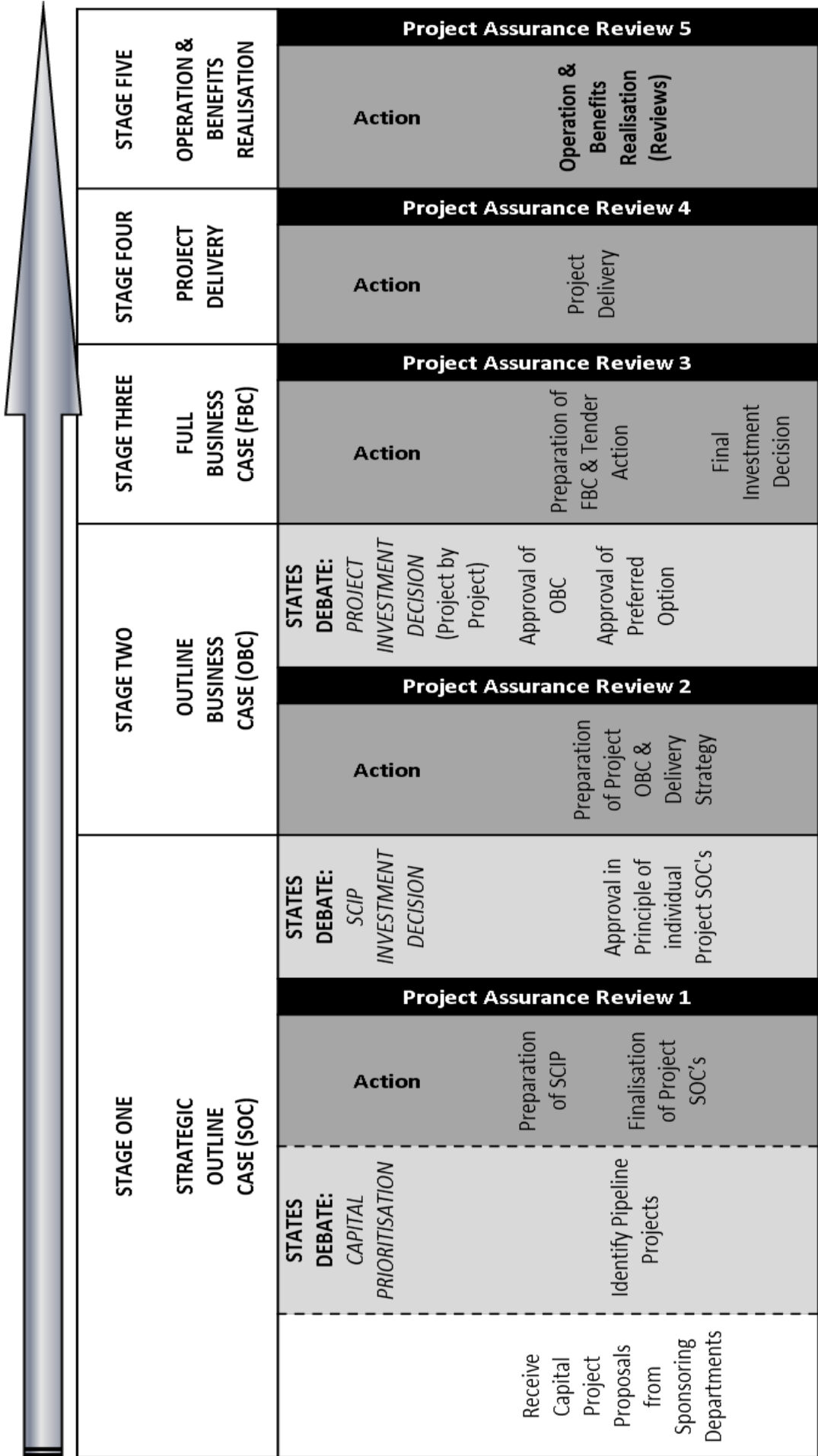
Multi Criteria Analysis	<p>The method used by the States for assessing the impact of making a choice, simplifying the decision into its constituent elements and as a basis on which to score and rank competing projects.</p> <p>The model used is based on the Five-Case Model and scores proposals in each of the areas with greatest emphasis placed on the proposal's fit with the States' strategic objectives.</p>
Optimism bias	<p>There is a proven tendency for those involved in project development to be over-optimistic about key project parameters, including capital costs, operating costs, works duration and benefits delivery. Therefore, at early stages of project development (before cost certainty is achieved), an optimism bias is often used to correct for this. It takes the form of a project contingency.</p>
Option appraisal	<p>The appraisal of various options identified against specific project objectives in order to systematically select the most suitable option which is best placed to deliver against those objectives.</p>
Outcome	<p>The result of change affecting real-world behaviour and/or circumstances.</p>
Outline Business Case (OBC)	<p>This part of the business case development process undertakes detailed work on the long list of options identified as part of the Strategic Outline Case (SOC). Thorough option appraisal is undertaken in order to identify the preferred option which offers optimal value for money.</p> <p>The OBC also develops the Commercial Case and plans the procurement approach.</p>
Portfolio	<p>All the programmes and stand-alone projects being undertaken across the States.</p>

Portfolio Board	<p>The Treasury and Resources Department will take on this role and will:</p> <ul style="list-style-type: none"> • Make recommendations to the States based on the investment appraisals of the business cases and the project assurance reviews. • Define the portfolio to ensure: <ul style="list-style-type: none"> ○ that the programmes and projects to be undertaken have a robust business case; ○ that new programmes and projects are recommended for inclusion in the pipeline or others for removal as necessary; ○ the effective allocation of limited funding; ○ value for money from the portfolio as a whole; ○ focus on benefits realisation and return on investment; ○ the co-ordinated management of portfolio level risks; ○ that there is a systematic and consistent approach to project management; and ○ that adequate resources are in place to deliver the project. • Manage the portfolio on behalf of the States to: <ul style="list-style-type: none"> ○ define control limits for projects, monitor against these, and work with projects to take necessary corrective action if required in respect of: <ul style="list-style-type: none"> – Time – variance against milestones; – Cost – variance against planned budget; – Quality – difference to the quality target; – Scope – variance agreed against what will be delivered; – Risk – limits on identified risks as a percentage of the overall budgets; – Benefits – variance against level of benefits identified in the business case. ○ ensure information received from Project Assurance Reviews is actioned appropriately; ○ release funds to projects after appropriate Project Assurance Reviews and/or States decisions.
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Project Board	The Project Board is accountable to the sponsoring Department for the success of the project, and has the authority to direct the project within the remit set out by States.
Project	A temporary structure that is created for the purpose of delivering one or more business outputs according to a specified Business Case.
Project Assurance Reviews (PAR)	<p>A flexible assurance review used to meet the specific assurance needs of the States Capital Investment Portfolio which will comprise a traditional Gateway Review element plus a cost robustness review/value for money review/or business case review as required.</p> <p>This combined approach is being recommended in order to increase project efficiency by cutting down on the number of reviews required and the resulting resource implications.</p>
Project Management	The planning, delegating, monitoring and control of all aspects of the project, and the motivation of those involved, to achieve the project objectives within the expected performance targets for time, cost, quality, scope, benefits and risks.
Proposal	An idea for a policy, programme or project that is under appraisal.
Programme	<p>A temporary structure created to coordinate, direct and oversee the implementation of a set of related projects and activities in order to deliver outcomes and benefits related to the States' strategic objectives.</p> <p>A programme is likely to have a life that spans several years.</p>
Programme or Project Risk	An uncertain event or activity which, if it occurs, would have an impact on the ability to deliver the project or programme.
Risk management	The systematic approach to the task of identifying and assessing risks, and then planning and implementing responses including mitigating measures.
Risk register / log	A useful tool to identify, quantify, value and then monitor the extent of risk and uncertainty relating to a proposal.
Senior Responsible Owner (SRO)	The individual with overall responsibility for ensuring that a project or programme meets its objectives and delivers the projected benefits.

Staged release of funding	Releasing funding to projects based on business case development and project assurance reviews in order to progress to the next stage. This approach helps ensure that funding allocations remain aligned to objectives and benefits and minimises risks.
Strategic Case <i>(one of the cases in the five case model)</i>	<p>Sets out the rationale for the proposal and makes the case for change at a strategic level. It should set out the background to the proposal and explain the objective that is to be achieved. The strategic policy context and the fit with the wider States policy objectives and the Department’s plan must also be satisfactorily explained, as should any interaction with or dependency on any other States programmes.</p> <p>The objectives should be clearly set out so that achievement can be monitored in order that the proposal can later be assessed for value for money.</p> <p>As well as the main benefits, the associated risks, constraints and dependencies of the proposal should also be considered at a high level and how they are to be managed should be outlined. Lessons learned from previous experience in this area should be briefly set out.</p>
Strategic Outline Business Case (SOC)	The purpose of the SOC is to confirm the strategic context of the proposal; to make a robust case for change; and to provide stakeholders with an early indication of the proposed way forward (but not yet the preferred option), having identified and undertaken SWOT analysis (Strengths, Weaknesses, Opportunities, and Threats) on a wide range of available options, together with indicative costs.
Value for money	<p>Good value for money is the optimal use of resources to achieve the intended outcomes. ‘Optimal’ means ‘the most desirable possible given restrictions or constraints’.</p> <p>Value for money is not about achieving the lowest initial price</p>
Weighting and Scoring	A technique that involves assigning weights to criteria, and then scoring options in terms of how well they perform against those weighted criteria. Weighted scores are then summed, and can then be used to rank options.

APPENDIX C: Project Progress from Capital Bid to Delivery and Benefits Realisation (Stages 1-5)



(NB The Policy Council has commented as follows:

This States Report is one of the most important strategic documents to be considered during the life of this Assembly.

It is generally acknowledged that, in common with many other Island States, there is backlog of investment in important infrastructure and other capital projects. On the other hand, historically the States has had a chequered history in the manner in which it has prioritised and approved capital projects, and managed them thereafter.

The establishment of a States Capital Investment Portfolio thus represents a major step in the continuation of a necessary process of change in the manner in which capital projects are planned, approved, managed, monitored and implemented. Adding to its importance is that the Portfolio is coming forward at a time when the States is focused on eliminating its structural deficit, putting ever greater focus on the justification for, and the scrutiny of, major expenditure.

Against this background, it is therefore not surprising that the greater bulk of this States Report addresses issues about a robust process for developing and approving capital projects. Equally unsurprising is that the institution of a new process has created stresses and strains across the States, and exposed skill deficits and deficiencies in resourcing, which the Report acknowledges and seeks to address.

Undoubtedly these stresses and strains have been felt more acutely because of the extremely tight timeframes imposed by the States' desire to progress such a wide and diverse range of projects as soon as possible. It is therefore to departments' credit that, notwithstanding the difficulties highlighted, Treasury and Resources is able to report that, following rigorous assessment, all of the 'pipeline' projects agreed by the States in September 2013 (19 in total, including two subsequently combined), *'represent robust strategic options, have identified benefits, have reasonable cost estimates and should progress to the next stage of project and business case development.'*

That said, it is important that Treasury and Resources now leads an important period of reflection and review, and demonstrates a willingness to receive and take on board feedback from those who have been responsible for preparing business cases and undergoing gateway reviews, as it is only through learning together that the new process of project assurance can be properly embedded as a transformational change. In particular, the Policy Council considers that the key issue is the adoption of a process *'proportionate to the likely costs and benefits'* and which befits a jurisdiction, and a Capital Portfolio, of Guernsey's size.

The other key issue is how the Portfolio is to be funded. In this respect, the Policy Council notes that meeting the significant funding shortfall to finance the entirety of the Portfolio remains a work in progress, the outcome of which will be reported to the States as part of the Budget Report later this year. The Policy Council awaits the final proposals with interest, but notes with approval the options under consideration, the stance taken on borrowing, the plans for the consolidation of underwritten debt, and the intent to review the operation of the Contingency Reserve.

The Policy Council considers the Report complies with the principles of good governance.)

The States are asked to decide:-

VIII.- Whether, after consideration of the Report dated 3rd June, 2014, of the Treasury and Resources Department, they are of the opinion:-

1. To approve that the process contained within paragraphs 31 to 56 of that Report is adopted by the States as the Project Development and Approval Process and direct the Treasury and Resources Department to amend the Rules for Financial and Resource Management accordingly.
2. To approve the projects listed in Paragraph 168 Table 2 of that Report as the Capital Investment Portfolio, subject to costs being brought within available funding.
3. To delegate authority to the Treasury and Resources Department to open capital votes in relation to the Environment Department's Storm Damage Repairs projects, the Treasury and Resources Department's - Sir Charles Frossard House Roof and Longue Hougue Rock Armour projects and the Home Department's Prison Fencing project, all charged to the Capital Reserve.
4. To delegate authority to the Treasury and Resources Department to approve a capital vote of up to £1.65million, charged to the Capital Reserve to fund the relocation of the Pathology Department to Sherwill Ward and the purchase, installation and commissioning of a temporary (modular) ward and the relocation of Giffard Ward thereto as Phase 7a of the Health and Social Services Department's Site Development Plan – Phase 7.
5. To delegate authority to the Treasury and Resources Department to increase the capital vote in respect of the Health and Social Services Department's Electronic Health and Social Care Record project by a maximum of £650,000, charged to the Capital Reserve.
6. To note the intention of the Treasury and Resources Department to report back on the costs and funding of the Environment Department's Bus Depot project as part of the next States Capital Investment Portfolio Report.

7. To approve in principle expenditure on portfolio resource as set out in Paragraphs 106 to 116 of that Report, such expenditure to be capped at 0.4% of the portfolio value per annum charged to the Capital Reserve; and direct the Treasury and Resources Department to recommend a detailed budget and associated benefits annually as part of its Budget Report.
8. To delegate authority to the Treasury and Resources Department to approve expenditure of £250,000 in 2014, to be charged to the Capital Reserve, to provide financial, benefits and procurement resource to projects, administrative support to the portfolio and further training to project teams.
9. To note the intention of the Treasury and Resources Department to work with the Education and Public Services Departments to explore in more depth the possibility of treating the funding of the Belle Greve Outfall and College of Further Education projects differently in order to deliver a balanced, manageable and affordable portfolio and direct the Treasury and Resources Department to report back with conclusions as part of its 2015 Budget Report.
10. To approve the principles regarding Emergency, Urgent and Unplanned projects contained in paragraphs 174 to 186 of that Report and direct the Treasury and Resources Department to update the Rules for Financial and Resource Management accordingly.
11. To delegate authority for the Treasury and Resources Department to approve expenditure on any Urgent Project to a maximum value of £2 Million, charged to the Capital Reserve.

ENVIRONMENT DEPARTMENT
WASTE DISPOSAL (MANAGEMENT) PLAN

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

20th May 2014

Dear Sir

1. EXECUTIVE SUMMARY

- 1.1 Under the Environmental Pollution (Guernsey) Law, 2004 the Environment Department must prepare, following recommendations made to it by the Waste Disposal Authority, a Waste Disposal Plan for consideration by the States. In doing so the Department must consider the recommendations put to it by the Waste Disposal Authority (currently the Public Services Department) and can only reject those recommendations if it has **adequate reasons** to do so. It is the Waste Disposal Authority (WDA) that has the responsibility under the Law of identifying and hence recommending to the Environment Department the Best Practical Environmental Options (BPEO), for dealing with the island's waste, on which the Waste Disposal Plan is based but it is the Environment Department's function to advise the States on Waste Policy including in relation to its statutory duty to prepare the draft Waste Disposal (management) Plan for approval by the States.
- 1.2 In light of the fact that the States had directed the Public Services Department to report to the States on a waste strategy (the strategy contains most if not all of the elements that are required in a Waste Disposal Plan) the Environment Department was content for the process to be led by the Public Services Department and was content for the Public Services Department to draft a Waste Disposal Plan (as per the 2012 report, Billet d'Etat IV 2012 - see Appendix 9). However, in accordance with advice from the Law Officers and in recognition of the duty imposed on the Environment Department under the Environmental Pollution Law, it is clear that the Waste Disposal Plan must be presented to the States by the Environment Department and the Department must, in doing so, turn its mind to the recommendations made by the WDA and satisfy itself as to the Best Practical Environmental Option (BPEO) put forward by the Public Services Department in those recommendations. In carrying out this duty the Department needs to assess and, to a degree, critically evaluate the processes and outcomes involved in arriving at the BPEO as recommended by the WDA.

- 1.3 The Environment Department has received the WDA's recommendations in the form of the two States reports submitted by the Public Services Department to the States: Billet d'Etat IV 2012 and Billet d'Etat II 2014.
- 1.4 The Waste Disposal Authority has the duties under the Environmental Pollution Law to monitor the creation of waste in Guernsey, to keep under review the systems for the collection, transportation, sorting and recycling of waste and identify the BPEO for the disposal of waste following consultation with specified bodies. The Environment Department has the subsequent duty of considering such recommended BPEO and it has, therefore, utilised all the information and data provided to it by the WDA. The Department has examined how that data was used in the various stages and processes leading up to the recommendation of the BPEO. The Department has identified several areas of concern both in respect of the methodology adopted by the WDA to arrive at its recommendations and in the risks and assumptions on which the long term success and sustainability of those recommendations rely. These concerns are set out in this report.
- 1.5 The Department has approached and examined the data with a fresh pair of eyes and in some areas applied a slightly different methodology to assess the data. Whilst the Department has some concerns over the end result, the approach it has adopted has provided a conclusion which is not significantly at odds with the BPEO recommended by the WDA. The Department has concluded that, from the information provided to it and in light of the previous States decisions, its concerns do not constitute adequate reasons on which to reject the WDA recommendations and in particular the BPEO recommended. On that basis the draft Waste Management Plan has been prepared for States consideration based on the WDA recommendations as previously approved by the States and is attached at Appendix 1.

2. INTRODUCTION

- 2.1 The Waste Disposal Plan is a statutory plan the preparation of which is required by virtue of the Environmental Pollution (Guernsey) Law 2004 – "The Law". Under the Law as currently drafted "disposal" is not defined. The Law refers mainly to disposal of waste which reflects the fact that the main method of management of residual waste, at the time the Law was drafted, was by final disposal on island. However, there is also reference in the Law to the sorting, recycling and reuse or reclamation of waste as well as final disposal. In practical terms in order to identify options for final disposal of waste it is necessary to look at waste management in general. This approach was followed in the current 2007 Waste Disposal Plan which contains details relating to recycling and re-use of waste and waste management in general. States resolutions 10 and 16 in relation to Billet d'Etat II 2014 also direct amendments to the Environmental Pollution (Guernsey) Law 2004 to clarify, that parts of the Law are not limited to final disposal of waste but include waste recovery and other waste management activities. Assuming the amendments are approved by the States they will

provide for this Waste Disposal Plan to continue to have effect as the Waste Management Plan.

- 2.2 Section 30 of The Law sets out the functions of the Waste Disposal Authority (WDA); **the Public Services Department is designated as the WDA by an Ordinance under the Law.** In section 30(1) these functions are set out as:
- a) To make arrangements for and ensure the operation of Guernsey's public waste management system;
 - b) To monitor the creation of waste in Guernsey;
 - c) To keep under review the systems for collection, transportation, sorting and recycling of waste;
 - d) To identify the Best Practical Environmental Options for the disposal of waste;**
 - e) To comply with the current Waste Disposal Plan;
 - f) To carry out such other functions as may be created, assigned or transferred for or to it by this law [The Law] or any other enactment.

The emphasis has been applied to bullet point "d" above as this function has specific bearing on the drafting of the Waste Disposal Plan by the Environment Department.

- 2.3 Section 31 of the law requires the WDA, after consulting various prescribed bodies, to make recommendations to the Environment Department in connection with the preparation by that Department, for the consideration of the States, of a draft **Waste Disposal Plan.**
- 2.4 In 2014 the recommendations of the WDA to the Environment Department were simultaneously presented to the Department and to the States in the form of a strategy report Billet d'Etat II 2014. This report further developed the recommendations of the WDA as presented to the States in Billet d'Etat IV 2012. As a result of these reports and the States resolutions the Best Practical Environmental Option for the disposal of waste (which encompasses the management of waste) has been identified by the WDA and approved by the States. Whilst the Environment Department is not obligated under the relevant legislation to adopt the WDA proposed (and States approved) Best Practical Environmental Option when drafting the Waste Disposal Plan, it would need to identify adequate for not doing so.
- 2.5 The BPEO is not defined in the Law and so will take its normal meaning. However, in the context of the Law, it is clear this refers to the best practical environmental option looking at pollutants into all environmental media as the terms "environment" and "pollutant" are widely defined. Consequently, the WDA adopted a process broadly based on the Northern Ireland BPEO process, adapted to local circumstances where necessary. The accepted UK interpretation of BPEO is "*The option that provides the most benefits or the least damage to the environment, as a whole, at acceptable cost, in the long term as well as in the short term*" (see p.430 of Billet D'Etat IV of 2012).

3. **BEST PRACTICAL ENVIRONMENTAL OPTION – AS IDENTIFIED BY THE WDA**

3.1 The BPEO was put forward by the WDA in its 2012 report (paragraph 17.6) known as Option B and consisted of:

- a. 70% recycling by 2025 (i.e. 70% of commercial waste and 70% of household waste)
- b. Waste Prevention and Minimisation
- c. MRF for commercial waste –for sorting and separation of waste for recycling
- d. Kerbside collections for Dry recyclables and food waste
- e. Bring banks
- f. In vessel composting (IVC) of food waste collected separately by kerbside collections generating a compost for land spreading
- g. Green waste processing at Mont Cuet via windrows to create a soil conditioner
- h. Transfer Station for residual waste from household black bags and commercial waste not suitable for recycling
- i. Off island Energy from Waste treatment through incineration.
- j. Landfill of special/hazardous waste only.
- k. Legislative measures to support the high recycling objective

This BPEO identified by the WDA was subject to the caveat that a contract, for the export of waste, of suitable length and acceptable price could be obtained.

3.2 In its 2014 report the WDA elaborated further on its identified BPEO as follows:

1. MRF for co-mingled dry recyclables collected via kerbside collections from households and small businesses and recovery of recyclable materials from mixed commercial waste
2. Civic Amenity site
3. Kerbside collection vehicles (if required)
4. Repair and Reuse centre
5. IVC to also process commercial sector food waste
6. Residual waste target of circa 28,000 tonnes per annum decreasing to circa 18,000 tonnes per annum by 2025 for export to EfW
7. On island incinerators for some hazardous waste (animal carcass and clinical waste incinerator)
8. Export of residual waste to Jersey or Europe
9. A strategy cost over 20 years in the order of £10,000,000 to £13,000,000 per annum
10. A charging policy consisting of standing charge and pay as you throw elements.
11. Legislative requirements relating to presentation of recyclates and other waste for collection (fixed penalty notices) limited to households and small business premises using kerbside collection services with compliance encouraged by civil fixed penalty notices.

- 3.3 It is this recommended waste management approach that the Environment Department is now legally required to consider when drafting a Waste Disposal Plan.

Note Option B as presented by the WDA equates to Scenario 9/19 in the WDA's scenario analysis as set out below.

- 3.4 The approach the Department has adopted in considering this recommended BPEO along with the Department's findings is set out in this report.

4. THE BIGGER PICTURE

- 4.1 Before examining, in any depth, the assessments that led to the recommended BPEO it is, perhaps, beneficial to consider the bigger picture in terms of waste management as the Waste Management Plan must look at all waste and not just the putrescible fraction of household and commercial waste which goes to landfill and which has been the main focus of the Public Services Department's waste strategy as approved by the States.

- 4.2 Based on 2012 data, Guernsey generates circa 305,000 tonnes of waste per annum. Each year approximately 82 % of that waste will remain on island. The destination of waste under the proposed waste plan is shown in Appendix 3 of the attached draft plan under the headings "output management".

- 4.3 The greatest proportion of the waste remaining on island - circa 210,000 tonnes/yr - should be inert and be available for use in land reclamation projects. The current Longue Hougue reclamation has about 10 years remaining life after which a new reclamation/infill project will be required if this disposal method is to continue.

- 4.4 Of the waste that remains on island approximately 2000 tonnes/yr is categorised as hazardous or special waste and will be contained in an engineered cell at Mont Cuet. The ongoing longer term viability of this disposal route and the long term durability of the engineered cell are areas of concern for the Department.

- 4.5 Approximately 6,500 tonnes per year of waste derived material (excluding existing slurry waste circa 20,000 tonnes) will be spread on land after treatment. The majority of this material (about two thirds) results from the windrow composting of green waste with the remaining third being composted food waste. The ongoing long term viability of this process and the long term capacity of the island's soils to take up these additional outputs, particularly in respect of food waste, without adverse impacts to the land and water resources is unknown and remains an area of concern for the Department. This remains the case notwithstanding PSD's reassurance that this waste derived material would meet quality standards and would be applied to the land in line with nutrient management plans. If such mitigation measures are successful then the Department's concerns in this respect can be set aside. If the mitigation measures are not successful then an alternative disposal route for food waste will be required. The Department is, therefore, placing considerable reliance on the quality monitoring requirements that will need to be attached to the sites licence.

- 4.6 In respect of the 18% of waste exported approximately half will be exported to an incinerator facility which provides heat/energy recovery (with the remaining being exported as recyclates). The Department understands that to comply with European Union legislation the waste exported for heat/energy recovery must meet the specification to be classified as Refuse Derived Fuel and not mixed municipal waste. Further the maximum consent that is likely to be granted by any European Union competent authority for shipments of waste from Guernsey is 3 years. The Department considers this to be a major element of the strategy and continues to have concerns that the strategy and hence the Waste Plan can have no certainty beyond the 3 year period. This remains the case notwithstanding PSD's reassurance that certain European jurisdictions have indicated a willingness to receive Guernsey's waste and an expectation that consents will be renewed after the initial 2/3 year period. If such consent renewals materialise then the Department's concerns in this respect can be set aside. Otherwise an alternative incineration route not regulated by European legislation or other disposal route will be required for this waste.

5. THE SNIFFER MODEL

- 5.1 In order to establish what is the BPEO it is desirable that a structured process is adopted. This then should afford transparency and enable others to test the evaluations, assumptions and conclusions. There is no prescribed system but SNIFFER (The Scottish and Northern Ireland Forum for Environmental Research) has developed a guidance document. That document has been further developed by Northern Ireland leading to that jurisdiction's "BPEO – Decision Makers Guide". It is this Northern Ireland document that the WDA has adopted as its guidance in developing the BPEO.
- 5.2 Applying the SNIFFER approach requires consultation and engagement with stakeholders and recommends the use of workshops. It also requires careful consideration to be given to the local relevance when considering the application of decision criteria to the various options.
- 5.3 The WDA adopted the "BPEO – Decision Makers Guide" model to formulate its recommended BPEO.

6. OBJECTIVES OF A WASTE DISPOSAL STRATEGY

- 6.1 Through its workshops and consultations the WDA developed the following 3 objectives as a basis on which to formulate its waste management strategy.
- a) To endorse and implement the principles of the Waste Hierarchy, which focuses on waste minimization.
 - b) To consider all waste streams, identify and adopt the most appropriate methods to manage them in accordance with the Waste Hierarchy.
 - c) To develop an environmentally, economically, and socially sustainable waste strategy that is practicable and adaptable to meet Guernsey's needs currently and in the foreseeable future.

COMMENTARY (section 6)

The Environment Department endorses the above objectives with one reservation. Whilst it is quite appropriate that strategies should be “adaptable” (third bullet point), the application of adaptability needs great care. Any waste treatment plant or system will come at not insignificant cost and hence the intention would be that over a short to medium time frame that system or infrastructure will be used as introduced without adaptation. Adaptation during its initial life would incur cost and wasted resources.

Beyond the short to medium time frame then the system (pretty much all systems) could be adapted to meet the changing characteristics and tonnages of the waste. Some systems will cost less to adapt than others. The question then turns on the cost of the adaptation and the timescale for that adaptation rather than the adaptability per se.

7. COMPLIANCE WITH WASTE HIERARCHY

- 7.1 The BPEO, identified by the WDA, is intended to follow the Waste Hierarchy. It is clear, however, that the most pressing demand on the island is the depleting landfill space and the need to find an alternative. The BPEO put forward by the WDA concentrates on diverting the waste currently landfilled and places an emphasis on reuse, recycling and recovery. Price, education, and promotion are put forward as means by which waste minimisation will be achieved. Waste minimisation through legislative Producer Responsibility incentives and penalties were excluded from the BPEO in the expectation that business will voluntarily take steps to minimise waste.

COMMENTARY (section 7)

The Environment Department endorses the application of the Waste Hierarchy. Whilst it is true that some treatment methods for the final residual waste lend themselves better to higher recycling than others it should not be assumed that any of the potential treatment options act as an obstacle to minimisation, reuse and recycling. The Department is concerned, that most of the tools available to attempt to reduce waste at source rather than deal with the waste generated have, at least during the initial stages of the strategy, been rejected by the WDA and it will be necessary for the WDA to carefully monitor the uptake and impact of voluntary agreements.

8. THE SELECTION OF THE WASTE TREATMENT SCENARIOS.

- 8.1 12 options were identified by the WDA for the residual waste treatment. All treatment options (excluding the baseline-current landfill option) sought to alter the physical and/or chemical composition of the waste (or waste fractions) resulting in an end product that either had a potential market place (e.g. compost or refuse derived fuel or energy etc.) or resulted in a product that was easier and cleaner to handle in subsequent disposal stages (e.g. biostabilised waste or ash

etc.). Each treatment option was considered as part of a package of measures involving collection and recycling.

- 8.2 Plasma arc gasification and windrow composting were not taken forward in any of the scenario evaluations.

COMMENTARY (section 8)

The Environment Department endorses the selection of the residual waste treatment scenarios for evaluation.

The scenarios adopted were broad ranging encompassing a range of technologies including relatively new technologies alongside more established technologies. Provided evaluation criteria gives sufficient weight to the existence or otherwise of an evidence base demonstrating a plant's robustness and ability to deal with the waste stream that would be presented to it (in the Guernsey context) it is appropriate to include new technologies.

9. ANALYSING /COMPARING THE TREATMENT SCENARIOS

- 9.1 In order to evaluate the various treatment scenarios the WDA engaged consultants ERM to score the scenarios against the chosen criteria. ERM had been a key author of the Northern Ireland BPEO guidance document based on the SNIFFER guidance. The criteria selected and the evaluation results are addressed in greater detail in the sections that follow.
- 9.2 Comparing the numbers that result from the evaluations in such a way that they can be readily interpreted by the lay reader typically presents a problem. The WDA and its consultants adopted the "Normalised Score and Ranking approach". This approach takes the best score and gives it a value of 1 and the worst score is given a value of 0. All other scores are given a decimal number as a ratio of their score relative to the best score. The results are then simply ranked in order.

COMMENTARY (section 9)

Normalisation and Ranking is a perfectly valid approach and is used in the SNIFFER model but unless read very carefully normalised scores can easily lead to misinterpretation. This is amply demonstrated when looking at the results of the human toxicity impacts in the WRATE analysis (shown below). Using a normalisation approach the impacts would be ranked 1 to 12. For most readers this would suggest that the scenario ranking 1 is far superior to the scenario ranking 12. However, in reality the scores of the 12 scenarios when evaluated against this health criterion are virtually identical (within 1.5% of each other) and under any reasonable assessment would be treated as equal.

The Environment Department has, therefore, avoided this potentially misleading normalisation and ranking approach and has instead expressed the results as "Percentage Difference". This is a perfectly valid statistical

approach and it is an approach used by the WDA consultants in several areas before the subsequent normalisation and ranking. It does not in any way change the actual scores but it enables a far clearer understanding of the relative merits of each scenario. The scores set out in the tables below simply take the analysis carried out by the WDA and its consultants and expresses those findings as Percentage Difference.

10. DECISION CRITERIA

- 10.1 In accordance with the SNIFFER guidance the WDA held workshops to identify the criteria that would be used to evaluate the various integrated waste management options. This resulted in the following list of evaluation criteria:

Air, land and aquatic environment
 Global climate change
 Natural environment
 Human environment
 Transport
 Sustainable waste management
 Water resources
 Cost and financial affordability
 Making producers responsible
 Securing public acceptability and commitment
 Practical deliverability
 Technical feasibility

COMMENTARY (section 10)

The Environment Department endorses this list of criteria against which the potential scenarios were evaluated. The list is broad and includes all normal areas of concern. The Natural Environment criteria should provide the potential to examine biodiversity and ecosystem impacts; Transport should enable consideration of local congestion and noise; Air, Land and Water enables the issues of localised air pollution and impacts to the water table including nitrate loading and land take and land competition to be addressed. The broad headings of the criteria enable careful consideration to be given to the local relevance when considering the application of decision criteria to the various options, as recommended by the SNIFFER model.

11. LIFE CYCLE ANALYSIS –WRATE

- 11.1 The 12 scenarios selected by the WDA for evaluation were analysed by the consultants ERM using the WRATE model to identify their life cycle impacts. The model is a UK model and looks at global impacts drawing from databases based on 40 treatment processes. It is reported to be the most sophisticated life cycle analysis model available to compare waste technologies. The WDA did

not carry forward all of the outputs from the WRATE analysis but selected those outputs it considered most relevant to the Decision Criteria listed above.

COMMENTARY (section 11)

The Environment Department endorses the application of Life Cycle Analysis and, in the apparent absence of a better tool, the application of the WRATE model to the selected scenarios but considers great care is needed when considering the relative importance of the results in the Guernsey context.

However, the relevance of WRATE as applied to BPEO evaluation in Guernsey might be questioned. The SNIFFER model recommends that careful consideration should be given to localised issues/concerns. For example, the decision criteria that resulted from the workshops and public engagement included the criteria Air Land and Aquatic Environment. However, this decision criterion was in practice assessed through the “freshwater eco toxicity” evaluation which has far more relevance to river basin areas and “acidification” of air by Sulphur Dioxide whereas perhaps ground water Nitrates and noise, dust and PM 10 particulates might be more relevant to Guernsey. There appears to have been little or no attempt to consider the actual air and water pollution levels in the area and how these might be affected by any of the treatment scenarios which is one of the approaches recommended by SNIFFER. Conversely the Human toxicity element of the WRATE analysis was not taken forward by the WDA.

11.2 The WRATE model looked at impacts on:

a) Carbon Footprint (Global warming potential); Column A below.

The consultants commented that the overall difference between the best and worst performing scenarios was a relatively small proportion of the overall benefit.

b) Abiotic (non living) resource depletion; Column B below.

The consultants commented that the overall difference between the best and worst performing scenarios was a relatively small proportion of the overall benefit.

c) Eutrophication (excessive nutrients in water); Column C below.

The consultants commented that there were significant differences between the scenarios due to sensitivity to certain factors for instance the contribution of landfill impacts.

d) Acidification (sulphur compounds leading to air and water acidification); Column D below.

The consultants commented that the overall difference between the best and worst performing scenarios was a relatively small proportion of the overall benefit.

e) Freshwater Aquatic Toxicity; Column E below

The consultants commented that the overall difference between the best and worst performing scenarios was a relatively small proportion of the overall benefit.

f) Human Toxicity. Column F below

The consultants commented that the overall difference between the best and worst performing scenarios was a very small proportion of the overall benefit.

11.3 The results of these analyses are set out in the table below and demonstrated as percentage difference scores. Scenario 9 is closely aligned to the WDA recommended BPEO.

	WRATE ANALYSIS Option/Scenario	% divergence from best score						
		A, Carbon Footprint	B, Abiotic resources	C, Eutrophic -ation	D, Acidific- ation	E Fresh water toxicity	F Human Toxicity	G Sum
1	46% recycling of MSW, 41% recycling of C&I Landfill (BASELINE)	30.8	26.2	47.2	20.3	13.5	1.4	139.4
2	50% recycling of MSW, 56% recycling C&I Autoclave with production of cellulose fibre sent to UK for gasification	0	1.9	13.9	18.9	4.5	0.3	39.5
2a	50% recycling of MSW, 56% recycling C&I Autoclave with Bio ethanol production	4.4	7.8	No score	9.5	No score	0.8	N/A
3	50% recycling of MSW, 56% recycling C&I Gasification with on island energy production	10.3	5.8	3.7	4	10	1.2	35
3a	50% recycling of MSW, 56% recycling C&I Pyrolysis with on island energy production	5.1	3.9	9.3	2.7	4.5	0.5	26
4	50% recycling of MSW, 56% recycling C&I On island EFW, bottom ash used on island, fly ash exported	5.9	2.9	8.3	2.7	4.5	0.5	24.8
5	50% recycling of MSW, 56% recycling C&I Off island EFW, bottom ash returned to the island, fly ash remains off island	5.9	2.9	8.3	2.7	4.5	0.5	24.8
6	50% recycling of MSW, 56% recycling C&I MBT with AD producing RDF for off island incineration	8.8	2.9	26.8	3.4	0	0	41.9
7	50% recycling of MSW, 56% recycling C&I MBT with IVC producing low value compost on island and RDF exported for incineration	11.7	15.5	14.8	10.8	6	0.5	59.3
8	57% recycling MSW, 60% recycling C&I Waste Park (Note 1)	2.9	1	7.4	0.7	2	0.2	14.2
9	62% recycling MSW, 67% recycling C&I Off island EFW, bottom ash returned to the island, fly ash remains off island plus AD of food waste	1.5	0	0	0	5.6	0.5	7.6
10	62% recycling MSW, 67% recycling C&IMBT with IVC producing low value compost on island and RDF exported for incineration plus AD of food waste	4.4	7.8	5.6	7.4	6.5	0.5	32.2

(Note 1) Scenario 8 comprises - Medium recycling plus food waste collection. 'Dirty' MRF, Anaerobic Digester for food waste and small EfW plant on-island.

COMMENTARY (WRATE analysis)

The outputs from the WRATE analysis show that in Life Cycle Analysis terms there is very little differentiation between the scenarios. All except the current system of landfill provide acceptable solutions in life cycle terms. Options 8 and 9 score better overall than the other scenarios but, with the occasional exception, the results of each analysis across all the scenarios (save for the baseline scenario) are within 10% of each other.

The Environment Department is of the view that Lifecycle Analysis provides little persuasive evidence which would point to one scenario being preferable over the others and considers that the WRATE Lifecycle Analysis results are not persuasive in determining the BPEO for Guernsey.

Such a viewpoint was, to a degree, shared by the Consultants who stated “*No single Scenario stands out as a clear favourite on the basis of this life cycle analysis*”.

Life cycle analysis allows all scenarios, except the current practice of untreated landfill, to be taken forward.

In ranking the scenarios according to WRATE analysis from 1 to 12 there is a real risk that scenarios which are in reality very closely comparable will, by the casual observer, appear much further apart.

Furthermore by combining the normalised scores for all the criteria before setting rank, significant skew can occur.

12. ADDITIONAL CRITERIA APPRAISAL

- 12.1 In order to address all the factors identified as important by the working groups additional criteria were identified by the WDA against which the scenarios were evaluated. The additional criteria were:
- a) Transport [Column A Below] - This criterion is intended to focus on the amenity issues associated with transporting waste (risk of accidents, congestion, and impact on communities) and therefore only considers 'on land' transport; this includes both Guernsey based and mainland based on land transport.
 - b) Sustainable Waste Management [Column B Below] – ERM compared the scenarios based on the amount of waste recycled and composted, the amount of waste used to generate electricity, the amount of waste diverted from landfill (no electricity generation) and the amount of waste land filled.

- c) Practical Deliverability (including bankability [Column C Below] and end product liability [Column D Below]) – ERM considered the reliability of delivery of each option based on existence or otherwise of proven operating plants; and the risks associated with the sale or disposal of the end products produced through the different waste management processes.
- d) Technical Feasibility (including **flexibility** in relation to changes to composition (see under (1)) and tonnage (see under (2)) [Column E Below]; **But see commentary below.**
- e) Flexibility Tonnage [Column E] (as per paragraph d above)
- f) Water consumption. [Column F Below]. This criteria examined water consumption of the residual treatment method but included subsequent thermal treatment of RDF i.e. included water usage that would take place off island.

COMMENTARY (section 12)

The Department generally endorses the evaluation against these criteria but with strong reservations.

The Transport assessment was based only on miles driven. As such no weighting or consideration was given to local issues/constraints. Under this analysis a thousand miles driven on European motorways is considered to have the same impact as a thousand miles driven along the Bridge or around Pointes Lane.

The sustainability analysis considered, inter alia, the value of the electricity generated by each of the waste treatment solutions. However, where the energy was generated appears not to have been taken into account. As a consequence the local issues of Guernsey's energy requirements and the value of locally produced energy from waste was not considered.

The practical deliverability assessment included the risks around the market place for the end products from the various waste processes. The disposal of compost and composted food waste was considered a high risk within the evaluation. The Department remains concerned over the potential consequences of disposing of composted food waste to land.

The evaluation called "Technical feasibility" was actually limited to an evaluation of "Technical **flexibility**". The Department has concerns that **feasibility** is a much wider issue than **flexibility** and considers that narrowing the evaluation in this way whilst still referring to feasibility may have been misleading.

This concern is partially mitigated by the fact that the Practical Deliverability evaluation took into account whether plants were proven in other jurisdictions and this "proven" status is a very important element of technical feasibility.

12.2 The results of these analyses are set out in the table below and demonstrated as percentage difference scores. Again scenario 9 is closely aligned to the WDA recommended BPEO.

Additional Criteria		% Divergence from best score					
	Scenario	A Transport	B Sustainable Management	C Practically Deliverable	D End Products	E Flexibility 1 2	F Water use
1	46% recycling of MSW, 41% recycling of C&I ; Landfill (BASELINE)	0	83.5	0	0	1 1	n/a
2	50% recycling of MSW, 56% recycling C&I; Autoclave with production of cellulose fibre sent to UK for gasification	17.5	17.8	40	198	8 6	529
2a	50% recycling of MSW, 56% recycling C&I; Autoclave with Bio ethanol production	12	55.7	80	16.9	12 6	628
3	50% recycling of MSW, 56% recycling C&I; Gasification with on island energy production	16.6	8.3	60	67.3	10 6	501
3a	50% recycling of MSW, 56% recycling C&I; Pyrolysis with on island energy production	17.4	9.3	80	69.5	10 6	0
4	50% recycling of MSW, 56% recycling C&I; On island EFW , bottom ash used on island, fly ash exported	11.9	9.8	0	70.2	2 9	240
5	50% recycling of MSW, 56% recycling C&I; Off island EFW, bottom ash returned to the island, fly ash remains off island	10.4	9.8	0	70.2	5 3	240
6	50% recycling of MSW, 56% recycling C&I; MBT with AD producing RDF for off island incineration	11.4	49.8	40	39.6	8 3	366
7	50% recycling of MSW, 56% recycling C&I; MBT with IVC producing low value compost on island and RDF exported for incineration	12.1	31	0	89	6 3	104
8	57% recycling MSW , 60% recycling C&I; Waste Park	17.1	4	0	64.7	2 9	196
9	62% recycling MSW , 67% recycling C&I; Off island EFW, bottom ash returned to the island, fly ash remains off island plus AD of food waste	24.6	0	0	64	2 9	145
10	62% recycling MSW , 67% recycling C&I ; MBT with IVC producing low value compost on island and RDF exported for incineration plus AD of food waste	25.1	11.8	0	73.3	6 3	51

COMMENTARY (additional criteria analysis)

Transport, (Column A), setting aside the concerns stated above, provides little differentiation between the scenarios and is not a determining criterion. It is the transport effort in capturing the recyclates that results in lower scores for scenarios 9 and 10.

If diversion from landfill (Column B) is the key driver, and due to the limited availability of landfill on island this is a reasonable position to take, then those options that divert most waste become the clear favourites. This includes options 3, 3a, 4, 5, 8, 9 and 10.

One of the most important criteria must be the reliability (bankability) of the technology. This category (column C) is at the heart of risk and hence delivering a reliable, useable system. Options 1,4,5,7,8,9,10 (and possibly 6) can be included on this basis. However, other key risk considerations are pertinent to some scenarios and are covered later in this report.

The end product liability (Column D) looks at the ability to sell or the difficulty in getting rid of the end product. In some cases (scenario 2) the uncertain nature of the product results in a bad score. The Department has some concerns that the risks of getting rid of composted food waste onto Guernsey's restricted land base may have been given insufficient weight.

Flexibility - the ability to take different waste streams and non homogenous waste (Column E First figure) is a key element impacting on the reliable performance of the technology and hence is again a key risk consideration. The Consultants simply ranked the scenarios based on professional experience/judgement. Scenarios 1, 4, 8 and 9 can be included on this basis and possibly 5, 7 and 10.

The consultants also looked at the ability to take different waste tonnages (Column E, Second figure). Scenarios 1, 5, 6, 7 and 10 can be taken forward on this basis and possibly 2, 2a, 3 and 3a.

Water usage (column F) shows a marked difference (800%) between best and worst performers (landfill was considered not to use any water). However, to put this into context the worst performer only uses an amount of water equivalent to 0.4% of Guernsey's annual total water consumption and it is questionable how important this criteria is in scenario evaluation.

13. Summary of Evaluation

- 13.1 The results of all the evaluations described above can be summarised using a simple RAG chart where G green is a "Pass to next level", A amber is "potentially acceptable" and R Red is "unacceptable". This involves a qualitative judgement which, of course, can be challenged. However, the Environment Department has tended towards inclusion rather than exclusion at each level.

This ensures that a broad range of potential options is taken forward rather than narrowing the field too early on in the comparative assessments.

NOTE Once discounted by a Red score subsequent evaluations for that scenario are not relevant but for completeness a score in lower case is used to show how on that evaluation alone the scenario would have scored.

Evaluation	Scenario											
	1	2	2a	3	3a	4	5	6	7	8	9	10
	Base line landfill	Autoclave with fibre export to gasification	Autoclave with Bio-ethanol	On island gasification	On island Pyrolysis	On island EfW	Off island EfW	MBT with AD and export of RDF to EfW	MBT with IVC and export of RDF to EfW	Waste Park	Off island EfW with AD of Food Waste	MBT with IVC and export of RDF to EfW and AD of food waste
WRATE	R	G	G	G	G	G	G	G	G	G	G	G
Transport	g	G	G	G	G	G	G	G	G	G	G	G
Sustainability	r	A	R	G	G	G	G	A	A	G	G	G
Bankability	g	a	r	R	R	G	G	a	g	G	G	G
End product liability	g	r	g	a	a	A	A	g	a	A	A	A
Flexibility	g	r	r	r	r	a	g	a	g	a	a	g
Water use	g	a	a	a	g	a	a	a	a	a	a	g

- 13.2 It can be clearly seen that no single scenario readily passes all the evaluations. However, scenarios 4,5,8,9 and 10 score well especially against the more critical evaluations of sustainability and bankability with options 5 and 10 having the benefit of flexibility. (Scenario 9 closely aligns to the WDA BPEO)

14. FURTHER CRITERIA APPRAISAL

- 14.1 In order to address all the factors, identified by the working groups as important criteria against which scenarios should be evaluated, the WDA carried out 3 further criteria analyses namely: Cost/Affordability; Making Producers Responsible; and Securing Public Acceptability.
- 14.2 Cost was based on indicative costs from the consultant's model. Public Acceptability was based on extrapolating responses to a market research survey carried out by Island Analysis. This survey asked related questions about waste but did not specifically ask about the public acceptability of the various scenarios. Making Producers responsible was based on a qualitative score resulting from assumptions based on the requirement for additional legislation.

COMMENTARY (section 14)

The Department does not endorse application of the criteria “Making producers responsible”. That is not to say that the Department does not consider this to be an important factor but it is not one which the Department considers has a significant bearing on the type of treatment plant selected. Whether or not producers are made responsible and how that is achieved is a political issue and has no bearing on the treatment technology used for the residual waste. The two concepts are fully independent of each other and to score treatment technologies against this criteria is considered inappropriate. It is true that the higher recycling targets are likely to require more legislative measures including statutory enforcement powers but as the States has set very high recycling targets and applied these across all scenarios these impacts are common to any scenario chosen and cannot be a persuasive factor in determining one treatment technology over another.

In respect of cost, the cost of the WDA preferred scenario has been debated by Government (in 2012 and in more detail in 2014) and found to be “acceptable”. As such the Environment Department considers that this element of the WDA proposed BPEO i.e. “*Best option...at acceptable cost...*” can be taken as a given and does not require further analysis by the Environment Department. The Environment Department agrees it was quite appropriate for the WDA to take into account cost in arriving at its BPEO.

Evaluating public acceptability required the extrapolation of the non technology specific waste survey questions carried out by Island Analysis to apply scores to specific technologies. The survey revealed strong support from the respondents for recycling and a willingness (which should not be confused with a preference) to separate food waste. There was also majority support in favour of all technologies being considered including newer technologies and majority support in respect of dealing with Guernsey’s waste on island.

To extrapolate these generalised survey responses into scores against specific technologies involved significant application of judgement and assumptions and as a result the Department has reservations over the validity and robustness of the approach.

Nevertheless, the results demonstrated that the only factor having significant impact on public acceptability was cost. With this factor excluded (for the reasons set out above) then all results involving export were the same and all results involving import were the same. Hence, as for the WRATE analysis and the transport considerations the public acceptability analysis provides little persuasive evidence to favour one scenario over another.

All of the scenarios (except base line) therefore, meet the public acceptability criterion based on these survey results.

15. CONSTRAINTS

- 15.1 The WDA identified a number of constraints that would be used to inform the selection of the identified waste management scenarios. The WDA defined a constraint as “an overriding factor that must be met by the options such as a specific cost ceiling or a legal requirement”. These constraints were: Space; Cost; Regulatory; and Timescale.
- 15.2 The application of these constraints led to the removal of the baseline option (continuing the current practice) as well as removal of two scenarios that were based on autoclaving with bioethanol production due to the large volume of rejects that would go to landfill.

COMMENTARY (section 15)

The Environment Department does not endorse these constraints or their method of application.

The Department does endorse constraints based on regulatory compliance and on space. Clearly any scenario that cannot comply with relevant legal requirements should not be considered. Neither should any scenario that requires more space than is feasibly available be considered. However, most facilities can be engineered to meet reasonably constrained footprints. Cost, at the time of the exercise had not been capped by Government and should be treated as a qualitative appraisal rather than a constraint, indeed the WDA used cost as a qualitative assessment before then using it as a constraint. Timescale is equally a qualitative assessment unless delivery of any of the scenarios was anticipated to take longer than the remaining life of the landfill (at that stage circa 10 years) and hence again should not be seen as a constraint.

In addition the Environment Department would expect any approved constraints to be applied at an early stage thus removing non conforming scenarios before any qualitative or quantitative analysis of the remaining scenarios rather than the reverse as adopted by the WDA. The SNIFFER guidance indicated constraints should be applied early on in the process.

It seems to be perverse to subject scenarios, that simply cannot be adopted because they fail a yes/no constraint, to a full evaluation and ranking.

More importantly, a constraint should simply remove a scenario from the list with the order of other scenarios remaining the same but it would appear that the application of constraints by the WDA resulted in some scenarios swapping their ranking position. The Department is, therefore concerned, that the constraints were actually used as an evaluation rather than elimination tool thus wrongly affecting the ranking order of the scenarios.

16. APPLICATION OF WEIGHTINGS

- 16.1 The scenarios and the raw scores achieved from the criteria evaluations described in the pages above were subjected, by the WDA, to further evaluation using weightings set by the consultee workshops. In essence, each normalised score was multiplied by the weighting and the resultant scores then added to give final scores and hence the ranked order

The criteria and weightings used were:

Assessment criteria	Weighting
Sustainable Waste Management	9
Cost and financing/affordability	7.7
Practical deliverability	6.8
Air land and aquatic environment	5.8
Making producers responsible	5.6
Technical feasibility (Flexibility)	5.5
Human environment	4.3
Securing public acceptability and commitment	4.1
Natural environment	3.8
Water resources	3.1
Global climate change	2.3
Transport	1.3

COMMENTARY (section 16)

Whilst appreciating that the rankings came from the various workshops and whilst appreciating that the SNIFFER guidance considers workshop input an important element in arriving at weightings, the Environment Department does not generally support these weightings either on environmental policy grounds or on simple logical analysis.

For example, if a scenario cannot practically be delivered it would be irrelevant how sustainable that scenario is or what cost it carries. As such “practical deliverability” would be expected to carry higher weightings than, for example, “cost”. Indeed practical deliverability in that sense could be treated as a constraint.

Similarly, and taking into account SNIFFER’S emphasis on considering local issues, the impacts to Guernsey’s Natural Environment might be expected to be at least as important if not more so than the impacts to Air, Land and Aquatic (global) environment especially as the life cycle analysis carried out by WRATE produced very little differentiation between the various scenarios.

With a States Strategic Plan and Environmental Policy that puts Environmental Policy equal not subservient to Financial Policy it cannot be acceptable for “cost” to carry a higher weighting than “Air, land and aquatic environment or Natural environment”.

As such the Department considers these weighting factors inappropriate and potentially a distortion of what could otherwise be valid results.

Furthermore, the Department has already expressed its concern over the normalisation approach used to create the comparative scores and ranking. Multiplying these normalised scores by weightings, especially if those weightings are open to challenge, simply exaggerates the concerns already expressed.

17. RE-EVALUATION USING HIGH RECYCLING.

17.1 The WDA noted that the results of all the evaluations carried out demonstrated that, in general, those scenarios that had the higher recycling targets – scenarios 8, 9 and 10 – performed better than the others. The WDA, therefore, asked for all scenarios to be recalculated against all the criteria using a high recycling target across the board. The results of this analysis were that all scenarios performed better (the higher the recycling the better the performance) but importantly the pattern did not change. i.e. the higher recycling targets benefited all scenarios more or less equally. As such the application of the higher recycling targets did not, of itself, assist in selecting a preferred option but did demonstrate a fair treatment of all scenarios which may otherwise have been open to challenge.

17.2 The relationship between the numbers assigned to the various scenarios before and after the application of high recycling can be summarised as:

Initial scenario number	Description	Scenario number when Including Max recycling
1	46% recycling of MSW, 41% recycling of C&I ; Landfill (BASELINE)	(see 21 below)
2	50% recycling of MSW, 56% recycling C&I; Autoclave with production of cellulose fibre sent to UK for gasification	12
2a	50% recycling of MSW, 56% recycling C&I; Autoclave with Bio ethanol production	12a
3	50% recycling of MSW, 56% recycling C&I; Gasification with on island energy production	13
3a	50% recycling of MSW, 56% recycling C&I; Pyrolysis with on island energy production	13a
4	50% recycling of MSW, 56% recycling C&I; On island EFW , bottom ash used on island, fly ash exported	14
5	50% recycling of MSW, 56% recycling C&I; Off island EFW, bottom ash returned to the island, fly ash remains off island	(see 19 below)
6	50% recycling of MSW, 56% recycling C&I; MBT with AD producing RDF for off island incineration	16
7	50% recycling of MSW, 56% recycling C&I; MBT with IVC producing low value compost on island and RDF exported for incineration	17
8	57% recycling MSW , 60% recycling C&I; Waste Park	18

9	62% recycling MSW , 67% recycling C&I; Off island EFW, bottom ash returned to the island, fly ash remains off island plus AD of food waste	19
10	62% recycling MSW , 67% recycling C&I ; MBT with IVC producing low value compost on island and RDF exported for incineration plus AD of food waste	20
	MBT, stabilisation, and landfill, kerbside	21

Scenario 19 (scenario 9 with high recycling) is the WDA BPEO (option B)

COMMENTARY (section 17)

The Environment Department endorses this like for like comparison. It is perhaps not surprising that the pattern of results did not materially change. All scenarios were already being assessed against a reasonably ambitious recycling standard but it would have been wrong not to examine scenarios on a like for like basis applying the 70% (overall) recycling target set by the States. In that the pattern of performance across all scenarios remained broadly the same, simply showing higher overall performance across the piste, the application of high recycling does not change the selection of residual treatment scenarios.

18. APPLICATION OF IVC IN PLACE OF AD

- 18.1 The WDA asked the consultants to compare IVC (in vessel Composting) of food waste against AD (anaerobic digestion) of food waste with the potential of swapping AD in scenarios 19 and 20 (but apparently not 16) to IVC.
- 18.2 The consultant's analysis showed that there was no significant difference in the scores resulting from replacing AD with IVC.

COMMENTARY (section 18)

The appropriateness of any such change in scenarios after initial scoring must always be questionable especially as the re-evaluation was only carried out in respect of the WRATE analysis. Equally of concern, DEFRA state in their policy guidance that in respect of food waste Anaerobic digestion is the Best Environmental Option currently available. In that the WRATE analysis ignores Guernsey specific implications and is a DEFRA (Environment Agency) tool it seems contradictory that DEFRA considers AD to be BPEO whilst the WDA considers IVC and AD to be interchangeable.

In terms of BPEO, the AD system scores higher than IVC because of the gas capture and use i.e. the system is better at reducing carbon emissions. However, when the costs are taken into account the WDA's consultant SLR commented that "food waste treatment does not represent particularly good value for money for carbon reduction". If One, therefore, sets aside the carbon

reduction benefits of AD over IVC the concern over the WDAs decision to swap from AD to IVC is somewhat mitigated.

However, the BPEO comparison between AD and IVC is much less important when compared with the more general concern of spreading composted food waste on land in Guernsey and the risks of Nitrate overload of the island's ground waters.

The WDA's consultants SLR (when considering the IVC/AD comparison) indicated that care should be exercised in determining the current loading of land with Nitrates (slurry etc.). The WDA was unable to present this current loading data to the Department and hence the Environment department has consulted with the Commerce and Employment Department.

The advice received is that circa 20,000 tonnes of slurry is currently spread on land selected by farmers as being both suitable and convenient. If the slurry was evenly spread over all available land, loadings would be in the order of half the maximum permitted Nitrate loading. However, as, in reality, the slurry is not evenly spread over all available land the loadings may be approaching the maximum permitted.

The WDA advises that it was due to concerns raised with it over the risks of digestate from AD of food waste contaminating ground water that the comparison with IVC was carried out. Without drying, AD digestate is wet and gives quick run off of excess nutrients to the land and water table. Matured compost from IVC or dried digestate from AD reduces this risk.

19. APPLICATION OF CUT OFFS FOLLOWED BY RE RANKING

- 19.1 Having applied the weightings to the extended list of 21 scenarios, the WDA applied a cut off value below which scenarios would be discounted. The intention was to generate a more manageable list. Having deleted the scenarios below the cut off point the WDA then evaluated the remaining scenarios against each other resulting in a change in ranking position for some scenarios. Having completed this exercise the WDA considered there were still too many scenarios to consider and hence applied a second (higher) cut off value below which scenarios were discounted. Again the remaining scenarios were reassessed against each other resulting in a change in ranking position for some scenarios. The output of these two rounds was the final ranking list.

COMMENTARY (section 19)

The Environment Department does not endorse this process. Whilst it is perfectly acceptable to apply a cut off point and discount any scenario falling below that cut off this should not result in a re-ranking of the other scenarios. If they have been correctly scored (with or without weightings) in the first instance there should be no need to re-rank against each other. The SNIFFER guidance does allow for comparison across scenarios at this stage of the process but the intention is to take the highest ranking scenarios, examine those specific criteria for which the higher ranking scenarios may not have scored so well, compare these with other scenarios which scored better on those specific criteria and assess whether or not incorporating elements from the lower ranking scenarios into the higher ranking scenario could further strengthen those highest ranking scenarios creating a better BPEO package. This was not, however the process adopted. Rather the scenarios without modification were simply rescored against each other.

The Department considers it would have been far more robust to simply carry forward the top 3,4 or 5 scenarios. This re-ranking, especially when considered in light of the concerns already expressed in respect of the application of normalised scores and weightings and the re-ordering after the application of constraints further reduces the transparency of the process and further introduces potential skew.

However, the WDA recommend scenario (scenario 9/19) ranked in the top 3 prior to the application of weightings, constraints and cut offs and hence despite the concerns expressed was a valid option to take forward.

20. CONCLUSION

- 20.1 In light of the above comments and concerns expressed relating to the further analysis, the constraint application and the re-ranking steps applied by the WDA, the Environment Department considers that the scenario evaluation as previously set out (and reproduced below) should form the basis for BPEO selection.

Evaluation	Scenario											
	1	2	2a	3	3a	4	5	6	7	8	9	10
	Base line landfill	Autoclave with fibre export to gasification	Autoclave with Bio-ethanol	On island gasification	On island Pyrolysis	On island EfW	Off island EfW	MBT with AD and export of RDF to EfW	MBT with IVC and export of RDF to EfW	Waste Park	Off island EfW with AD of Food Waste	MBT with IVC and export of RDF to EfW and AD of food waste
WRATE	R	G	G	G	G	G	G	G	G	G	G	G
Transport	g	G	G	G	G	G	G	G	G	G	G	G
Sustainability	r	A	R	G	G	G	G	A	A	G	G	G
Bankability	g	a	r	R	R	G	G	a	g	G	G	G
End product liability	g	r	g	a	a	A	A	g	a	A	A	A
Flexibility	g	r	r	r	r	a	g	a	g	a	a	g
Water use	g	a	a	a	g	a	a	a	a	a	a	g

- 20.2 As a result the Best Practical Environmental Options would comprise: Minimisation followed by high recycling including kerbside, with either on or off island incineration with or without AD (or potentially IVC) of food waste, windrow composting for green waste and potentially supplied through a waste park.
- 20.3 These BPEOs allow for, but do not limit the treatment package to, the preferred scenario 9/19 Option B (BPEO) recommended by the WDA and approved by the States. As a consequence the Environment Department has concluded that its comments and concerns set out above do not amount to “adequate reasons” for rejecting the recommended BPEO (option B).

21. SCENARIO 9/19 (OPTION B) ASSOCIATED RISKS

- 21.1 The preferred scenario 9/19 (option B) identified by the WDA has been presented in debate as an acceptable means of driving forward high recycling and as a means of dealing with the residual waste without creating the unacceptable risk of constructing on island facilities which may prove to be too large once the 70% recycling targets have achieved their objective of significantly reducing the amount of residual waste for treatment. It addresses a related concern that a large facility will need to be “fed” thus damaging the drive to recycle. Scenario B (19) is primarily aimed at delivering the facilities to achieve the 70% recycling target and then exporting the residual waste remaining. There is a possibility that at some stage in the future, once the residual waste stream has been reduced as far as is reasonably practical, a smaller technology solution could potentially be brought on island to deal with

the remaining residual waste stream locally thus avoiding export in the longer term although this would be subject to prior approval by the States of a revised WDP.

In terms of managing over capacity risks this is, in the Environment Department's opinion, a reasonable stance to take. However, the scenario introduces other significant risks that require to be documented.

- 21.2 Processing waste at overseas facilities (export) is subject not only to contractual agreements but also to regulatory consents issued by the competent authority in the receiving jurisdiction. The maximum certainty attached to those consents and agreements in European Union countries is (at present) 3 years. As such scenario B risks investing millions of pounds capital in a system that could potentially only have a 3 year life. It is, of course, possible to then strip out the facility and use it as a large building but if this is assumed to be part of the potential strategy then the "flexibility ratings" in the evaluations above must present different scores as must the "cost" and "sustainability" evaluations.
- 21.3 The requirement for export also necessitates the storage of baled waste pending shipment. The Department considers that the risks associated with storing baled waste, including smells, visual impacts and vermin may present problems in locating an acceptable site although such matters would have to be considered on the basis of the full evidence then available in the context of any future planning permission.
- 21.4 Scenario B assumes that existing privately owned facilities will continue to process waste that cannot be handled in the clean MRF i.e. all skip waste and contaminated waste, and will generate a clean product that meets the Waste Acceptance Criteria for the Transfer Station. This presents two risks. Firstly that such private facilities will be able and willing throughout the life of the strategy to meet such criteria and secondly that the few private sites that exist will be willing and able to take such waste from all hauliers in order to process it to the WAC standards. Should the private sites not engage in this process or choose to close or limit the waste they process then the only available disposal route for such waste will be on island landfill.
- 21.5 Such a risk could be avoided by a States run dirty MRF or by long term binding contracts (including financial bonds that would survive the demise of the company) with the private suppliers. It appears neither risk avoidance approach has been put in place as part of the WDA proposals. This is largely due to the WDA's stated intention not to interfere with the private business of the existing operators.
- 21.6 The Department accepts that every scenario carries its own risks but a structured risk analysis of each scenario would have allowed for an informed assessment of those risks.
- 21.7 Nevertheless, these risks have largely been open to and discussed by the States (even if not qualitatively or quantitatively evaluated) and have been set aside as

being of insufficient consequence to warrant a review of the preferred strategy. The Environment Department has taken into consideration, in putting forward the WDP for approval by the States, the fact that the risk acceptability profile has been taken into account by the States in its recent debates on the waste strategy. However, the Department asks that as part of the tender evaluation process an evaluation of these risks is undertaken.

22. CURRENT AND FUTURE WASTE ARISING

- 22.1 The WDA calculations are based on zero growth in waste and a recycling target of 70%. These waste growth/recycling targets have been accepted by the States. It must be recognised that a zero waste growth projection has been adopted with little evidence base. This runs counter to the States approved Environmental Policy Plan that calls for evidence based decisions. It should be recognised that population is currently growing at circa 340 people per year. The target for housing construction is currently 350 units per year and GDP is forecast to continue to grow moderately.
- 22.2 The above are all factors which historically have been aligned with waste growth and whilst there are global desires to decouple economic growth from waste production, efforts continue to be targeted at recycling the waste created rather than stopping its generation. As such a zero waste growth target is more a desire or hope than a factual based projection.
- 22.3 Recycling targets of 70% are extremely ambitious. There are few if any reference jurisdictions that could be regarded as comparable to Guernsey which currently achieve these rates of recycling across household and commercial waste. Again, therefore, the target is based less on factual evidence and more on an aspiration.
- 22.4 The Environment Department has taken into account that these recycling targets have been approved by the States and that ambitious recycling targets would form part of any of the possible BPEOs. However, it must be recognised that targets that are not supported by sound evidence present additional risks to the strategy.

23. WASTE FLOWS

- 23.1 In order to document the WMP, the Environment Department is required, under the Law, to identify the tonnages of waste and the waste flows (through the various proposed waste facilities) in order to confirm the nature and capacity of the facilities required. The Department has based its analysis on original data provided by the WDA and supplemented by the Department's own knowledge.
- 23.2 The current waste tonnages, the method by which the waste is currently managed and how that changes under the proposed BPEO is set out in Appendix 2 and Appendix 3 of the Draft WMP attached to this report.

23.3 In analysing the data provided to it the Department identified the following categories of waste for which the proposed management route are, in its opinion, uncertain. These waste groups have been discussed with the WDA:

- Contaminated Soil – 100 tonnes in 2012
The WDA has assumed that contaminated soil will be remediated in situ, if untreatable on site small quantities of such waste could be utilised as ‘cover’ material at the Special Waste Cell at Mont Cuet.
- Commercial MRF ‘cover’ material - 7,000 tonnes in 2012
The WDA has advised that this material will only be accepted at Mont Cuet if there were a requirement for ‘cover’ material at the Specially Controlled Waste Cell. The WDA has assumed that if this material is not required, it would be sorted to a standard that could meet the Waste Acceptance Criteria at the Waste Transfer Station or Inert Waste Disposal site.
- Site Preparation Materials (Hard core and tarmac) - 12,500 tonnes
The WDA advises that a proportion of this material will continue to be required at Mont Cuet and Longue Hougue. The WDA has stated that the remaining material will be used for other engineering/building projects or will meet the Waste Acceptance Criteria at the Inert Disposal site.
- ‘Fragmentiser’ Waste (from Scrap Metal Processing) – 1,200 tonnes
A proportion of this material is currently exported for recovery. The remaining material is disposed of at Mont Cuet or used as ‘cover’ material. The WDA has assumed that all this material can be exported for recovery.
- Waste Wood – 7,650 tonnes
The tonnages for waste wood are estimated based on historical data provided by commercial operators. At the time of writing, the licence for the main operation which handles waste wood (by burning) was suspended by the Director of Environmental Health and Pollution Regulation. A proportion of this material (estimated to be in the order of 1,000 tonnes) is shredded and blended with ‘cover’ material used at Mont Cuet. This cover material is unlikely to be required under the proposed BPEO. From discussions with the industry, the WDA assumes that the remaining waste wood is being burnt in small quantities across the island. Waste wood could be accepted at the transfer station and exported.
- Alderney Waste – 800 tonnes
Alderney currently sends its residual waste to Guernsey for disposal. However, following discussions with Alderney, the WDA has assumed that Alderney will find an alternative disposal route for its waste. However, until such alternative is delivered the WDP must provide for any Alderney Waste accepted in Guernsey for disposal or treatment.

23.4 The Environment Department has concern over the assumptions detailed above as, if these assumptions are misplaced alternative disposal routes must be found

for the relevant waste type and tonnage. There is a risk that there are no guaranteed re-use, recycling options for these waste streams and hence the amount exported or landfilled on island may have to increase.

- 23.5 The Waste Disposal Authority has also advised the Environment Department that there are waste types currently in the waste stream, such as gypsum that will not be accepted at the Waste Transfer Station, as they would impact on the Waste Acceptance Criteria for the exported waste. The WDA has advised that it will work with the commercial sector to identify alternative disposal or recycling routes for these waste types.
- 23.6 Contrary to the above, while every effort should be made to preserve the life of Mont Cuet, the Environment Department has, within the draft Waste Disposal Plan, identified the need to provide the ability to accept 'problematic' wastes that arise on an ad hoc basis and that can only be disposed of on-island.

24. CONCLUSION ON METHODOLOGY TO IDENTIFY BPEO

- 24.1 The Department has considered all the information and data provided to it in the recommendations of the WDA. The Department has examined how that data was used in the various stages and processes leading up to the recommendation of the BPEO. Whilst the Department has some ongoing concerns as listed in this report, the approach it has adopted has provided a conclusion, as set out at paragraph 20 of this report, which is not significantly at odds with the BPEO recommended by the WDA as on the basis of the analysis undertaken by the Environment Department the Best Practical Environmental Options would be as described in paragraph 20 which include but are not limited to the BPEO recommended by the WDA i.e. Option B.
- 24.2 The Department has concluded therefore, from the information provided to it and taking into account the previous decisions of the States, that its concerns set out in this report do not constitute adequate reasons on which to reject the WDA recommendations and in particular the BPEO recommended. On that basis the draft Waste Management Plan has been prepared for States consideration based on the WDA recommendations and in particular the BPEO recommended by the WDA as previously approved by the States and is attached at Appendix 1.

25. RECOMMENDATION

The Department recommends the States to approve the attached draft Waste Disposal Plan in accordance with section 31(3) of the Environmental Pollution (Guernsey) Law, 2004.

Yours faithfully

R Domaille A Spruce B Paint Y Burford B L Brehaut
Minister

States of Guernsey **Waste Disposal Plan**

Approved by the States on *[insert date]*



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1. PURPOSE OF WASTE DISPOSAL PLAN

To identify the solid and liquid wastes generated by the Community for which provision for disposal needs to be made for the period of 20 years from [*insert date approved by the States*], the disposal methods to be used for that waste and related matters, in accordance with section 31 of The Environmental Pollution (Guernsey) Law, 2004 (the Law) (see Appendix 1).

In identifying waste for disposal and methods for such disposal the Plan also identifies the wider management of waste including recycling and reuse.

2. CONTEXT

2.1 Waste Types

For the purpose of this Waste Disposal Plan (WDP), the waste produced and requiring disposal by Guernsey has been broken down into the following categories:

- Solid Waste
 - Household Waste
 - Commercial Waste (includes Inert waste)
 - Specially Controlled Wastes (e.g. asbestos, batteries, florescent tubes and oils - mineral and vegetable).
- Liquid Waste (e.g. Waste Water)

2.2 Background

2.2.1 Solid Waste

The States has approved the Waste Disposal Authority (WDA) recommendations for the Best Practical Environmental Option (BPEO), as set out in Billet d'État IV 2012 and Billet d'État II 2014.

These recommendations have been considered by the Environment Department in preparing this Plan in accordance with Section 31 of the Law. The Department concluded that the Best Practical Environmental Options for Guernsey would be described as : Minimisation followed by high recycling including kerbside, with either on or off island incineration with or without Anaerobic Digestion (or potentially) In Vessel Composting) of food waste, potentially supplied through a waste park for the reasons set out in paragraph [*] of Billet D'État No. [*] of 2014. [*To be inserted once details known*]

As the Environment Department concluded these Best Practical Environmental Options would include the scenario 9/19 Option B recommended by the WDA and approved by the States¹, it decided that there were not adequate reasons for the Department to reject the WDA recommendations despite the comments and concerns raised by it in Billet D'État No. [*] of 2014. [**To be inserted once details known*]

This WDP, therefore, as well as identifying the existing waste disposal and management methods used on the island also sets out the future methods proposed to be used in accordance with that WDA recommended BPEO. However, those methods are subject to the various actions and approvals referred to in the resolutions approved by the States on 12th February, 2014 pursuant to Billet d'État No II of 2014.

The BPEO was put forward by the WDA in its 2012 report (paragraph 17.6) known as Option B and consisted of:

- a. 70% recycling by 2025 (i.e. 70% of commercial waste and 70% of household waste)
- b. Waste Prevention and Minimisation
- c. MRF for commercial waste –for sorting and separation of waste for recycling
- d. Kerbside collections for Dry recyclables and food waste
- e. Bring banks
- f. In vessel composting (IVC) of food waste collected separately by kerbside collections generating a compost for land spreading
- g. Green waste processing at Mont Cuét via windrows to create a soil conditioner
- h. Transfer Station for residual waste from household black bags and commercial waste not suitable for recycling
- i. Off island Energy from Waste treatment through incineration.
- j. Landfill of special/hazardous waste only.
- k. Legislative measures to support the high recycling objective

This BPEO identified by the WDA was subject to the caveat that a contract, for the export of waste, of suitable length and acceptable price could be obtained.

¹ Billet D'État IV of 2012 and Billet D'État II of 2014.

In its 2014 report the WDA elaborated further on its identified BPEO as follows:

1. MRF for co-mingled dry recyclables collected via kerbside collections from households and small businesses and recovery of recyclable materials from mixed commercial waste
2. Civic Amenity site
3. Kerbside collection vehicles (if required)
4. Repair and Reuse centre
5. IVC to also process commercial sector food waste
6. Residual waste target of circa 28,000 tonnes per annum decreasing to circa 18,000 tonnes per annum by 2025 for export to EfW
7. On island incinerators for some hazardous waste (animal carcass and clinical waste incinerator)
8. Export of residual waste to Jersey or Europe
9. A strategy cost over 20 years in the order of £10,000,000 to £13,000,000 per annum
10. A charging policy consisting of standing charge and pay as you throw elements.
11. Legislative requirements relating to presentation of recyclates and other waste for collection limited to households and small business premises using kerbside collection services with compliance encouraged by civil fixed penalty notices.

Under the Law as currently drafted "disposal" is not defined. The Law refers mainly to disposal of waste which reflects the fact that the main method of management of residual waste, at the time the Law was drafted, was by final disposal on island.

However, there is also reference in the Law to the sorting, recycling and reuse or reclamation of waste as well as final disposal. In practical terms in order to identify disposal options it is necessary to look at waste management in general. This approach was followed in the current 2007 Waste Disposal Plan which contains details relating to recycling and reuse of waste and waste management in general.

States resolutions 10 and 16 in relation to Billet d'État II 2014 also direct amendments to the Environmental Pollution (Guernsey) Law, 2004 to clarify that parts of the Law are not limited to final disposal of waste but include waste recovery and other waste management activities.

Assuming the amendments are approved by the States they will provide for this Waste Disposal Plan to continue to have effect as the Waste Management Plan in the future.

2.2.2 Liquid Waste

In February 2012, the States considered a report by the Public Services Department (Billet d'État III 2012). The scientific evidence presented within the report identified that current discharges are having a minimal impact on the environment. However, it identified that improvements are required to achieve dilution standards at the sea surface around the point of final effluent discharge.

The States resolved to proceed with the design of a replacement long sea outfall using the Intertek METOC model with the works to incorporate the installation of five diffusers near the discharge end of the Phase IV replacement long sea outfall in order to achieve initial dilution standards.

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3. THE PLAN

3.1 Description and quantities of waste for disposal

Under section 31(3)(a) of the Law, the draft Waste Disposal Plan is required to identify *the descriptions and quantities of waste for the disposal of which provision needs to be made during such period as may be specified*. The period specified in this Plan is 20 years starting from [insert date approved by the States]

3.1.1 Solid Waste

The descriptions and quantities of waste (excluding Liquid Waste) currently requiring provision for disposal or other waste management are shown below.

Summary of 2012 Waste Arisings Data (tonnes)

Waste Category	Household	Commercial	Total
Inert Waste		174,704	174,704
Inert Recycling		56,322	56,322
Inert Sub-Total		231,026	231,026
Residual Waste	13,910	27,538	41,448
Recycling	12,218	20,724	32,942
Sub-Total	26,128	48,262	74,390
Total Waste	26,128	279,288	305,416

A more detailed breakdown of such descriptions and quantities of waste is provided in Appendix 2.

Notwithstanding government policies on net inward migration, increasing the housing stock by 300 houses per annum and growing the islands GDP, the WDA and the States has adopted zero waste growth in the BPEO evaluations. The Plan reflects this approach in setting out the quantities of waste for disposal.

3.1.2 Liquid Waste

Wastewater is water which contains foul effluent from toilets, sinks, baths and showers.

The average flow rate of wastewater requiring primary treatment at the Belle Grave pumping station is 15,200 m³ per day based on a population of 65,000² people. The maximum flow rate is 34,500 m³ per day.

² Population figure includes allowance for visitors, migrant workers and trade effluent flows.

It is assumed that as the Island's population increases so will the flow rates of wastewater.

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3.2 Methods to be employed for the disposal of waste

Under section 31(3)(b) of the 2004 Law, the draft Waste Disposal Plan is required to identify the methods to be employed for the disposal of waste identified in section 3.1 above. Facilities for recovery as well as for final disposal have been identified as explained above.

3.2.1 Solid Waste – Existing Facilities

The table below details existing key infrastructure in Guernsey for the management of solid waste. These sites are operated, where appropriate, under licences issued by the Director of Environmental Health and Pollution Regulation (the Director):

DESCRIPTION	LOCATION (WDA SITES ONLY)	OPERATOR	EXISTING TONNES PER ANNUM
Materials Recovery Facilities (Commercial)	Fontaine Vinery	WDA & Private	Inputs unknown for Private Facility
Materials Recovery Facilities (Dry Recyclables)	Fontaine Vinery	WDA & Private	c. 12,000
Windrow Composting	Mont Cuet	WDA	c. 11,000
Carcass Incinerator		Commerce & Employment Department	c. 400
Healthcare Waste Incinerator		Health & Social Services Department	c. 650
Inert Landfill	Longue Hougue	WDA	c. 175,000
Inert Recycling		Private	c. 37,000
Residual Landfill	Mont Cuet	WDA	c. 53,000 ³
Specially Controlled Waste – On Island Disposal	Mont Cuet	WDA	c. 1,700
Specially Controlled Waste – Exported for Recovery		WDA, Private	c. 1,400
Specially Controlled Waste – Exported for Disposal		Commerce & Employment Department, Private	Up to a maximum of 84 (as specified within the Duly Reasoned Request ⁴)

³ Includes Site Preparation Materials

⁴ A Duly Reasoned Request is required under Article 11 of the Basel Convention and Article 41 of Regulation (ED) No. 1013/2006 in order for Guernsey to export specially controlled wastes to the UK for disposal.

In addition to the above, there are a number of smaller operations that manage waste material prior to being recycled or reused.

3.2.2 Solid Waste – Existing Supporting Facilities

In addition to the above facilities, the WDA also manages a Kerbside Recycling Scheme and provides Bring Banks for the collection of dry recyclables.

3.2.3 Solid Waste - Future Facilities

Based on current fill rates (published within the WDA Waste Management Quarterly Reports), it is recognised that the residual landfill site at Mont Cuét will cease to be a viable option beyond 2022. Mont Cuét is also the last site licensed under the Law for the on-island disposal of specially controlled wastes.

The Solid Waste Strategy approved by the States (Billet d'État IV 2012) focuses on ensuring that waste is dealt with at the highest level possible in the Waste Hierarchy. This is to be achieved by minimising waste, increasing recycling and exporting residual waste for recovery.

To support this strategy, the following facilities are required:

DESCRIPTION	LOCATION (WDA SITES ONLY)	OPERATOR	EXPECTED TONNES PER ANNUM
Materials Recovery Facilities (Commercial)		Private	Inputs unknown
Materials Recovery Facilities (Dry Recyclables)	Longue Hougue or another site	WDA & Private	c. 14,000
In-Vessel Composting Facility	Longue Hougue	WDA	6,000 - 13,000 ⁵
Windrow Composting Facility	Mont Cuét	WDA	2,000 – 9,000 ³
Animal Carcass Incinerator		Commerce & Employment Department	c. 400
Healthcare Waste Incinerator		Health & Social Services Department	c. 650
Waste Transfer Station	Longue Hougue	WDA	c. 28,000

⁵ In-Vessel Composting requirements will be dependent on capture rates for food waste and the mix of food waste and green waste. The percentage mix is dependent on the technology and hence the range of tonnes given.

'Baled RDF' Storage Site (prior to export)	TBA	WDA	c. 28,000
Residual Landfill	Mont Cuet	WDA	Unknown
Inert Landfill	Longue Hougue	WDA	c. 175,000 ⁶
Inert Recycling		Private	c. 56,000 ⁷
Specially Controlled Waste – On Island Disposal	Mont Cuet	WDA	c. 1,700
Specially Controlled Waste – Exported for Recovery	North Side Oil Yard	WDA, Private	c. 1,400
Specially Controlled Waste – Exported for Disposal		WDA, Commerce & Employment Department, Private	Up to a maximum of 84 (as specified within the Duly Reasoned Request)

3.2.4 Associated Facilities and Processes

In addition to the above facilities, the WDA recommended BPEO is reliant on Kerbside Recycling (for dry recyclables and food waste), the Bring Banks, a Household Waste Recycling Centre and a Repair and Reuse Centre.

3.2.5 Solid Waste – Waste Flow and WDA Assumptions

Appendix 3 shows the waste flow based on the 2012 waste arisings data detailed in Appendix 2. This Waste Flow includes a number of assumptions made by the Waste Disposal Authority (WDA):

- Contaminated Soil – 100 tonnes in 2012
The WDA has assumed that contaminated soil will be remediated in situ, if untreatable on site small quantities of such waste could be utilised as 'cover' material at the Special Waste Cell at Mont Cuet.
- Commercial MRF 'cover' material - 7,000 tonnes in 2012
The WDA has advised that this material will only be accepted at Mont Cuet if there were a requirement for 'cover' material at the Specially Controlled Waste Cell. The WDA has assumed that if this material is not required, it would be sorted to a standard that could meet the Waste Acceptance Criteria at the Waste Transfer Station or Inert Waste Disposal site.

⁶ The quantity of inert waste received for land reclamation fluctuates considerably.

⁷ Includes material previous used for Site Preparation at the residual landfill site.

- Site Preparation Materials (Hard core and tarmac) - 12,500 tonnes
 The WDA advises that a proportion of this material will continue to be required at Mont Cuët and Longue Hougue. The WDA has stated that the remaining material will be used for other engineering/building projects or will meet the Waste Acceptance Criteria at the Inert Disposal site.
- 'Fragmentiser' Waste (from Scrap Metal Processing) – 1,200 tonnes
 A proportion of this material is currently exported for recovery. The remaining material is disposed of at Mont Cuët or used as 'cover' material. The WDA has assumed that all this material can be exported for recovery.
- Waste Wood – 7,650 tonnes
 The tonnages for waste wood are estimated based on historical data provided by commercial operators. At the time of writing, the only licenced operation which burns waste wood (up to 1,000 tonnes per annum) has been suspended by the Director of Environmental Health and Pollution Regulation. A proportion of the remaining material (estimated to be in the order of 1,000 tonnes) is shredded and blended with 'cover' material used at Mont Cuët. This cover material is unlikely to be required under the proposed BPEO. From discussions with the industry, the WDA assumes that all the remaining waste wood is being burnt in small quantities across the island. It is possible that the amount of wood being disposed of in this way exceeds the 7,650 tonnes estimated figure. Waste wood could be accepted at the transfer station and exported.
- Alderney Waste – 800 tonnes
 Alderney currently sends its residual waste to Guernsey for disposal. However, following discussions with Alderney, the WDA has assumed that Alderney will find an alternative disposal route for its waste. However, until such alternative is delivered the WDP must provide for any Alderney Waste accepted in Guernsey for disposal or treatment.
- Waste Derived Material - 6,500 tonnes
 Approximately 6,500 tonnes per year of waste derived material (excluding existing slurry waste circa 20,000 tonnes) will be spread on land after treatment. The majority of this material results from the processing of green waste with the remainder being processed food waste. The ongoing long term viability of this process and the long term capacity of the island's soils to take up these additional outputs, particularly in respect of food waste, without adverse impacts to the land and water resources is

unknown. The WDA has assumed that this waste derived material will meet quality standards and would be applied to the land in line with nutrient management plans.

3.2.6 Liquid Waste

There are currently 66 pumping stations that transport wastewater to the centralised treatment facility at Belle Greve Wastewater Centre. At the Waste Water Centre, mechanical screens remove grit and non-biodegradable material larger than 6mm in any two dimensions.

The resulting wastewater is then discharged through a long sea outfall pipe which extends into the waters of the Little Russel.

At its meeting held on 8th February 2012, and following consideration of the Public Services Department report entitled 'Liquid Waste Strategy' (Billet d'État III 2012), the States resolved:

1. To proceed with the design of a replacement long sea outfall using the Intertek METOC model to incorporate:
 - i. The optimum length and location of pipe to achieve the greatest environmental benefit:
 - ii. The installation of five diffusers in order to achieve dilution standards at the sea surface around the point of final effluent discharge.
2. To review the "less sensitive area" status of the Little Russel every four years.

Subject to the discharges and supporting infrastructure meeting the standards set by the Director, Waste Water will continue to be treated and discharged to sea during the life of this Plan.

3.3 Estimated Financial Costs

Under section 31(3)(c) of the Law, the draft Waste Disposal Plan is required to identify the estimated financial costs of such disposal by the methods identified in 3.2.

The costs detailed below are in relation to waste disposal and other waste management operations provided, managed, arranged or funded by or on behalf of the Waste Disposal Authority. All private facilities will have a gate fee set to cover operating costs of that facility.

3.3.1 Solid Waste – Existing Operating Costs

It currently costs in the order of 3.8 Million per annum to operate the States owned key infrastructure for the management and disposal of solid waste (including recycling activities).

3.3.2 Solid Waste – Future Operating Costs

As outlined in Billet d'État II 2014 (paragraph 22.22) the WDA estimate future operating costs of waste disposal and other waste management facilities to be between £10 to £13 million per annum based on a 20 year strategy.

3.3.3 Liquid Waste – Existing and Future Operating Costs

It currently costs in the order of £5 million per annum to run wastewater services.

It is anticipated that costs will remain at this level in real terms during the life of the Plan.

3.4 Recovery of the financial costs

Under section 31(3)(d) of the 2004 Law, the draft Waste Disposal Plan is required to identify arrangements for recovery of the estimated costs identified in 3.3.

3.4.1 Solid Waste – Existing Cost Recovery Policies

Costs at public waste disposal and other waste management sites managed by the Waste Disposal Authority are recovered by way of gate fees⁸ applied at the receiving facilities, and are based on the tonnage and type of waste being deposited or otherwise managed. The gate fees have been set by the WDA to encourage segregation of inert material and the segregation of materials for recycling. Contamination rates are applied at Mont Cuet for loads containing material that could have been segregated.

The income received from the gate fees at Mont Cuet and Longue Hougue covers the running costs of the two sites, along with the cost of running WDA managed recycling and segregation facilities.

It is noted that a proportion of the gate fees were used to cover the costs of previous waste strategy investigations and are currently being used by the WDA in developing the recommended BPEO.

3.4.2 Solid Waste – Future Cost Recovery Policies

As outlined in Billet d'État II 2014 (paragraph 31.16), the following charges are proposed for domestic waste:

- The Douzaines will make a direct charge to household for the costs of collections and transfer of waste, recyclables and food waste to licensed facilities based on a fixed charge per household, calculated by whatever method is set out in the relevant legislation. This is on the basis that the collection service represents a fixed cost regardless of how much waste is placed out by each household.
- The WDA will directly charge households to cover the costs of processing the materials after collection and to pay costs of all other public waste management services and initiatives provided, arranged or funded by the WDA i.e. the States and made available to households. This charge will comprise:

⁸ In respect of household waste this is paid from the refuse rate levied by the Parishes.

- A Charge per bag (black bags and recyclables bags)
- An annual fixed charge per household.

As outlined in Billet d'État II 2014 (paragraph 32.2), commercial waste delivered to sites provided, operated, or funded by or on behalf of the Waste Disposal Authority will be charged a gate fee at a per tonne per load rate to cover the cost of providing the service. Gate fees at the different facilities will be set at differential rates to encourage businesses to deal with their waste through methods such as re-use and recycling which are higher up the Waste Hierarchy than recovery and disposal.

As outlined in Billet d'État II 2014 (paragraphs 32.5), small businesses producing waste of a similar nature or composition and of a similar or lower volume to that produced by households will have the opportunity to opt into parochial household collection services for black bag waste, recyclables and food waste and a duty placed on the Douzaines to make arrangements to provide such collections for such businesses.

3.4.3 Liquid Waste – Cost Recovery Policies

Costs are recovered on a user pays principle through water and waste water charges based on the Tax on Real Property (TRP) value of a property (for properties not on a water meter) or by the volume of water consumed (for properties on a water meter).

3.5 Public waste disposal and management sites

Under section 31(3)(e) of the 2004 Law, the draft Waste Disposal Plan is required to identify the sites under the management of the Waste Disposal Authority where such disposal is to take place (“public waste disposal sites”).

Section 32(1) of the 2004 Law states that it is the duty of the Waste Disposal Authority to make reasonable provision for the reception and disposal of all normal household and commercial waste at one or more public waste disposal sites.

As detailed in the 2014 States Report, the Solid Waste Strategy recommended by the WDA has identified a number of strategically important waste management facilities. It was agreed that the duty in section 32(1) of the Environmental Pollution (Guernsey) law, 2004, would be amended to require the WDA to make arrangements for recovery, as well as disposal, of waste so that it is clear that the WDA has duties in relation to not just end disposal of waste but also recycling and re-use of waste and other waste management. This will also provide a more flexible duty on the WDA so that it may provide waste facilities itself or via arrangements with the private sector. The sites listed below, therefore, include waste management facilities which may be provided, operated or funded by the WDA as well as managed by it.

3.6 Solid Waste – Existing Public Waste Disposal and Management Sites

The following are existing WDA Public Waste Disposal and Management sites that are managed by the WDA or via arrangements with the private sector:

Household Waste Recycling Facility (Longue Hougue)

A temporary Household Waste Recycling facility is provided at Longue Hougue where the public can deposit potentially recyclable or reusable household waste.

Green Waste Processing Site (Mont Cuet)

Green waste processing, involving the creation of Windrows, is currently undertaken at Mont Cuet.

Inert Waste Disposal Site (Longue Hougue)

Longue Hougue is a marine reclamation site. Only inert waste is accepted at this site as the material has direct contact with the marine environment.

Materials Recovery Facility (MRF) (Fontaine Vinery)

A facility is provided at Fontaine Vinery for the segregation of co-mingled dry recyclates collected from Bring Banks and for the segregation of co-mingled commercial waste delivered directly to the facility.

Residual Landfill Site (Mont Cuët)

Mont Cuët is the only site on Guernsey in respect of which a licence is held under the Law (licensed site) for the disposal of mixed household and commercial residual waste.

Specially Controlled Waste Disposal Site (Mont Cuët)

Mont Cuët is a licensed site for the disposal of specially controlled wastes.

Specially controlled waste can currently be accepted at Mont Cuët due to the quantity of residual waste that is currently landfilled and which helps dilute and breakdown the specially controlled waste.

Waste Oil Storage Site (North Side Oil Yard)

Waste mineral and vegetable oil will continue to be stored at the North Side Oil Yard prior to reuse on-island (e.g. as a biodiesel) or being exported for recovery.

3.7 Solid Waste – Future Public Waste Disposal and Management Sites

The following are WDA Public Waste Disposal and Management sites that will be managed by the WDA or via arrangements with the private sector under the recommended BPEO:

Baled RDF Storage Site

Baled RDF that has been processed at the Waste Transfer Station will be bulked up at a storage site prior to export.

Household Waste Recycling Centre (Longue Hougue)

The temporary Household Waste Recycling facility will be upgraded to a Household Waste Recycling Centre.

Repair and Reuse Centre (Longue Hougue or other site)

In addition to the Household Waste Recycling Centre, a Repair and Reuse Centre may be set up.

Green Waste Processing (Mont Cuet)

Green waste processing, involving the creation of Windrows, will continue to be undertaken at Mont Cuet.

Inert Waste Disposal Site (Longue Hougue)

Inert waste will continue to be accepted for land reclamation at Longue Hougue.

However, it is also noted that the existing reclamation site at Longue Hougue has a finite life. The Site is surveyed by the WDA biannually and, based on information from the January 2014 survey, it is estimated that Longue Hougue has a further 8 years' life (based on filling rates from 2009-2014).

In-Vessel Composting Facility (Longue Hougue)

Household and commercial food waste collected will be processed at the WDA In-Vessel Composting Facility to be located at Longue Hougue.

Materials Recovery Facility (MRF) (Longue Hougue or another site)

A facility is to be procured by the WDA for the segregation of co-mingled dry recyclates collected from Bring Banks and kerbside collections from households and small businesses that opt into the kerbside scheme. The location may be at Longue Hougue or privately funded at an alternative site.

Residual Landfill Site (Mont Cuet)

Although it is proposed that residual household and commercial waste, excluding specially controlled wastes, should be exported to an energy from waste facility, there may be times when exceptional circumstances or waste types result in the need to dispose of residual wastes on-island.

As the last licensed landfill site, provision must be maintained for such ad hoc wastes requiring disposal at Mont Cuet during the life of the approved Strategy.

Specially Controlled Waste Disposal Site (Mont Cuët)

With no residual waste to act as a buffer, the current practice of disposal for Specially Controlled Waste will cease when the export of residual waste commences.

At this time, Specially Controlled Wastes requiring disposal on-island will be landfilled in a specially engineered cell at Mont Cuët.

Waste Oil Storage Site (North Side)

Waste mineral and vegetable oil will continue to be stored at the North Side Oil Yard prior to reuse on-island (e.g. as a biodiesel) or being exported for recovery.

Waste Transfer Station (Longue Hougue)

Residual household and commercial waste, excluding specially controlled wastes exported under the UK Duly Reasoned Request, will be exported after processing at the WDA Waste Transfer Station to be located at Longue Hougue.

4. POLICY IN RELATION TO STRATEGICALLY IMPORTANT STATES/WDA FACILITIES

Policy to be taken into account by the Director in making waste management licensing decisions in relation to private waste operations which may compete with the IVC or Transfer Station.

Section 33(2)(b) of the Law requires the Director to take into account this Waste Disposal Plan when considering an application for a licence under the Law permitting the disposal of waste on land otherwise than at a public waste disposal site, or for any variation of the conditions of such a licence. Section 35(1) of the Law also requires the Director to attach to any licence permitting waste management operations all such conditions as appear to the Director to be necessary or expedient to ensure.....the sustainable management of waste in the longer term.

States resolution 9 concerning Billet d'État II of 2014 provides that the controls on licensing of private waste disposal sites under the Law be extended to other private facilities which may compete with the island's key waste infrastructure as set out in the States report. This applies to the States/WDA provided, operated or funded IVC and Waste Transfer Station (WDA IVC or WDA Transfer Station respectively).

Subject to the prior approval and coming into force of any necessary legislative amendments, this Plan sets out the States policy the Director should take into account, in addition to the matters set out in the Law, when making a decision under the Law –

- 4.1 in relation to the licensing of waste management operations other than those which are provided, operated or funded by or on behalf of the WDA , and
- 4.2 the imposing of conditions on licences for the carrying out of waste management operations,

in relation to operations which may compete with the States/WDA IVC or Waste Transfer Station.

The States policy is to impinge as little as possible on private waste operations whilst recognising that it is essential and in the public interest that the States/WDA IVC and the States/WDA Waste Transfer Station can remain available and economically viable in the long term to manage the waste identified in relation to those facilities in this Plan.

In a small jurisdiction, given limited economies of scale and the relatively small quantities of waste to be managed, it may be in the public interest to restrict diversion of waste from the WDA IVC and/or States/WDA Waste Transfer Station to private facilities given the cost of building public waste management facilities.

5. PLAN MONITORING AND REVISION

As detailed under section 31(3)(e) of the 2004 Law, the Environment Department shall from time to time, following recommendations made to it by the Waste Disposal Authority, lay before the States a draft Waste Disposal Plan for consideration.

It is noted that the maximum consent that can be granted by any European Union competent authority in relation to shipments of waste exported from Guernsey is 3 years. The Waste Disposal Authority will be responsible for ensuring these consents are obtained. Should the WDA not be able to secure the necessary consents, it will recommend to the Environment Department any changes which may be required to the Plan in order to meet any Waste Acceptance Criteria of the receiving facility or other requirements. Alternatively, the WDA will propose an alternative method for managing residual household and commercial waste following the procedure under the Law.

It is also noted that the existing reclamation site at Longue Hougue has a finite life. The Site is surveyed by the WDA biannually and, based on information from the January 2014 survey, it is estimated that Longue Hougue has a further 8 years' life (based on filling rates from 2009-2014).

APPENDIX 1

Extract from 'The Environmental Pollution (Guernsey) Law, 2004'

31. (1) The Waste Disposal Authority shall from time to time make recommendations to the [Environment Department] in connection with the preparation by the [Department] for consideration by the States of draft Waste Disposal Plans.

(2) In performing its duties under subsection (1) the Waste Disposal Authority shall consult –

- (a) the [Environment Department],
- (b) the [Public Services Department],
- (c) the States [Commerce and Employment Department],
- (d) the Douzaine of each of the Parishes of Guernsey,
- (e) the [Health and Social Services Department],
- (f) the Director, and
- (g) such other bodies or persons as it thinks fit.

(3) The Environment Department shall from time to time, following recommendations made to it by the Waste Disposal Authority, lay before the States a draft Waste Disposal Plan identifying –

- (a) the descriptions and quantities of waste for the disposal of which provision needs to be made during such period as may be specified,
- (b) the methods to be employed for its disposal,
- (c) the estimated financial costs of such disposal,
- (d) arrangements for the recovery of those costs, and
- (e) the sites under the management of the Waste Disposal Authority where, subject to subsection (4), such disposal is to take place ("**public waste disposal sites**"),

and when such a draft Plan has been approved, with or without modification, by the States it shall become the current "**Waste Disposal Plan**" for the purposes of this Law.

APPENDIX 2

The following information is based on 2012 waste arisings data provided by the Waste Disposal Authority.

HOUSEHOLD

<i>Residual Waste</i>		13,910
– ‘Black bag’ waste	12,784	
– CA Site / Bulk Refuse	1,128	
<i>Recycling</i>		12,218
– ‘Dry’ recyclables	6,839	
– ‘Green’ waste	4,095	
– CA Site / Bulk Refuse	1,284	
TOTAL HOUSEHOLD		<u>26,128</u>

COMMERCIAL

<i>Inert Waste</i>		174,704
– Inert Builders Waste	174,584	
– Contaminated Soil	120	
<i>Inert Recycling</i>		56,322
– Inert Recycling	36,661	
– Site Preparation Materials		
o Commercial MRF Output	7,183	
o Hard-core/Tarmac	12,478	
<i>Residual Waste</i>		27,538
– Compacted	6,544	
– Residual Commercial	10,114	
– Fragmentiser Waste (disposal)	228	
– Fragmentiser Waste (cover material)	779	
– Special Wastes (on-island disposal)	1,683	
– Waste Wood	7,650	
– Healthcare Waste	643	
– Abattoir Waste	416	
<i>Recycling</i>		20,724
– ‘Dry’ recyclables	5,079	
– ‘Green’ waste	6,995	
– Recyclables (metal, pallets, WEEE)	7,240	
– Specially Controlled Waste (off-island recovery)	1,196	
– Fragmentiser Waste (recovery)	212	
TOTAL COMMERCIAL		<u>279,288</u>

TOTAL WASTE ARISING **305,416**

The waste categories detailed above are currently processed as follows:

DISPOSAL AT MONT CUET⁹	TONNES
'Black bag' waste	12,784
CA Site / Bulk Refuse	1,128
Contaminated Soil	120
Commercial MRF Output (used for site preparation)	7,183
Hard-core/Tarmac (used for site preparation)	12,478
Compacted (Commercial)	6,544
Residual Commercial	10,114
Fragmentiser Waste (disposal)	228
Fragmentiser Waste (cover material)	779
Special Wastes (on-island disposal) – Includes asbestos (519t) ¹⁰	1,683
TOTAL	53,041

LAND RECLAMATION AT LONGUE HOUGUE	TONNES
Inert Builders Waste	174,584
TOTAL	174,584

RECYCLED/RECOVERED WASTE	TONNES
'Dry' recyclables (Household)	6,839
'Green' waste (Household)	4,095
CA Site / Bulk Refuse	1,284
Inert Recycling	36,661
'Dry' recyclables (Commercial)	5,079
'Green' waste (Commercial)	6,995
Recyclables (metal, pallets, WEEE)	7,240
Specially Controlled Waste (off-island recovery)	1,196
Fragmentiser Waste (recovery)	212
TOTAL	69,601

ON-ISLAND TREATMENT	TONNES
Waste Wood	7,650
Healthcare Waste	643
Abattoir Waste	416
TOTAL	8,709

⁹ Includes site preparation materials

¹⁰ Asbestos not included in the WDA figures

APPENDIX 3

Waste Flow for Recommended BPEO

WASTE CATEGORY	1. Pre-Treatment & Processing						2. On-Island Treatment						Output Management					
	Materials Recoveries (Only Optional)	Material Recoveries Facility (Dry Recyclables)	In-Vessel Composting (Food and Green Waste)	Windrow Composting (Green Waste only)	Carcass Incinerator	PH Incinerator (Healthcare Waste)	On-Island Disposal (Various locations)	Waste Transfer Station (Direct Inputs)	Reclamation Site	Inert Recycling	Mont Cuét Special Waste Cell	Material	Mont Cuét - Site Preparation Materials	Export or On-Island Recycling	Exported for Recovery	Composting Outputs to land	Exported to an Energy from Waste Facility for Recovery	Waste Reduction (through treatment)
Inert Waste	174584																	
Contaminated Soil	120																	
Inert Recycling	36661																	
Commercial MRF - Cover	7183										7183							
Site Prep - Hardcore/Armac	12478											12478						
Household - Black Bag	12784																	
CA Site & Bulk Refuse - Waste	1128	1128	1691					9881										
Household - Dry Recyclables	6839	6839																
Household - Green Waste	4095		2227	1868														
CA Site & Bulk Refuse - Recyclables	1284												1284					
C&I - Compacted	6544		536					6008										
C&I - Residual (Post MRF facilities)	10114	10114																
Frag Waste - Disposal	228																	
Frag Waste - Cover	779													228				
Frag Waste - on-Island disposal	779													779				
Special Wastes - on-Island disposal	1683																	
C&I - Dry Recyclables	5079	5079																
C&I - Green Waste	6995		6995															
C&I - Other Recycling	7240																	
C&I - Waste Oil, Fuel and Car Batteries	1196																	
Frag Waste - Exported for Recovery	212													1196				
Waste Wood	7650																	
Abattoir Waste	643				416													
Healthcare Waste	416																	
TOTALS	305935	11242	4454	8863	416	643	7650	15889	174584	36661	1803	12478	8524	2415	0	0	0	0

Waste Flow for Recommended BPEO (continued)

WASTE CATEGORY	1. Pre-Treatment & Processing						2. On-Island Treatment						Output Management					
	Materials Recoveries Facility Mixed Waste (Only Optional)	Materials Recoveries Facility (Dry Recyclables)	In-Vessel Composting (Food and Green Waste)	Windrow Composting (Green Waste only)	Carcass Incinerator	PEH Incinerator (Healthcare Waste)	On-Island Disposal (Various locations)	Waste Transfer Station (Direct Inputs)	Reclamation Site	Inert Recycling	Mont Cuet Special Waste Cell	Mont Cuet - Cover Material	Mont Cuet - Site Preparation Materials	Export or On-Island Recycling	Exported for Recovery	Composting Outputs to land	Exported to an Energy from Waste Facility for Recovery	Waste Reduction (through treatment)
1. Following Pre-Treatment & Processing																		
Materials Recoveries Facility Mixed Waste (Only Optional)	11242						10578				126			474				
Material Recoveries Facility (Dry Recyclables)	13130						657						12473					
In-Vessel Composting (Food and Green Waste)	4454														2227			2227
Windrow Composting (Green Waste only)	8863														4432			4432
TOTALS	305935	n/a	n/a	n/a	416	643	7650	27124	1803	7309	12478	12478	21421	2415	6659	0	6659	
2. Following On-Island Treatment																		
Carcass Incinerator	416																	402
PEH Incinerator (Healthcare Waste)	643																	546
On-Island Disposal (Various locations)	7650																	7650
Waste Transfer Station	27124																	
TOTALS	305935	n/a	n/a	n/a	n/a	n/a	n/a	n/a	1914	7309	12478	12478	22235	2415	6659	26310	15256	
Additional Waste Streams																		
Alderney Waste sent to Guernsey																		804
TOTALS	306739	n/a	n/a	n/a	n/a	n/a	n/a	n/a	1914	7309	12478	12478	22235	2415	6659	27114	15256	

APPENDIX 4

Description of Facilities and Processes

Baled RDF Storage Site

Storage of baled RDF produced from residual household and commercial waste prior to export.

Bring Banks

Bring banks and receptacles provided for the collection of recyclables/recyclates.

Civic Amenity Site (CA Site)

A civic amenity site (CA site) or household waste recycling centre (HWRC) is a facility where the public can deposit household waste and recyclables. Civic amenity sites are run by the local Government in a given area. Collection points for recyclable waste such as green waste, metals, glass and other waste types are available.

In-Vessel Composting (IVC)

The aerobic composting of food waste in an enclosed environment in order to control the composting process, reduce odour emissions, and maintain quality of output. Some green waste would be added to food waste to add fibrous structural material.

Kerbside Recycling

A service provided to collect recyclables put out in a prescribed manner and collected from the kerbside.

Materials Recovery Facility (MRF)

A Materials Recovery Facility houses operations that process incoming waste so that it may be recycled and/or directed to an appropriate treatment facility. Separation is achieved by a combination of manual and automated sorting.

Refuse Derived Fuel

Residual waste that has been processed in preparation for transport to an energy recovery facility under European Waste Catalogue code 19 12 10: combustible waste (refuse derived fuel).

Repair and Reuse Centre

Facilitates the transaction and redistribution of unwanted, yet perfectly usable, materials and equipment from one entity to another.

Specially Controlled Waste Disposal Cell

A Specially Controlled Waste Disposal Cell is an engineered cell to accept specific waste types which are classified as hazardous, or may create a hazardous substance when mixed with other wastes.

Waste Transfer Station

The Waste Transfer Station will accept residual waste from both household and commercial sources. It will then be prepared for export to an off-Island waste treatment facility.

Windrow Composting

Windrowing is the production of compost by piling organic matter in long rows (windrows), which are turned regularly to improve porosity and oxygen content once the required temperature is achieved (typically 65°C). This method is currently used to process both household and commercial green waste, producing a soil conditioner which can be applied to the land. It is not suitable for food waste.

DRAFT

(NB The Treasury and Resources Department notes there are no resource implications directly arising from this States Report as it is recommending adoption of a Waste Disposal Plan based on the Public Services Department's January 2014 States Report entitled "Implementation of the Solid Waste Strategy". However, the Treasury and Resources Department notes that there are a number of risks associated with delivery of the Strategy which could have significant resource implications should they crystallise.)

(NB The Policy Council supports the Report and considers it complies with the principles of good governance.)

The States are asked to decide:-

IX.- Whether, after consideration of the Report dated 20th May, 2014, of the Environment Department, they are of the opinion:-

1. To approve the draft Waste Disposal Plan, as attached to the Report, in accordance with section 31(3) of the Environmental Pollution (Guernsey) Law, 2004.
2. To direct the preparation of such legislation as may be necessary to give effect to the above decision.

TREASURY AND RESOURCES DEPARTMENT**GUERNSEY ELECTRICITY – GUERNSEY-JERSEY CABLE PROJECT**

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

12th May 2014

Dear Sir

1. Executive Summary

- 1.1 Guernsey's current Energy Resource Plan envisages a gradual decarbonisation of the Island's electricity generation, where electricity supplies are diversified between local carbon and renewables and where a sustainable and secure energy supply is provided. The Energy Resource Plan includes provision to improve the resilience of our imports by investing, through Guernsey Electricity (GEL), in a second cable to either Jersey or France. It calls for steps to be taken to: ensure the safety and affordability of our energy supplies; develop opportunities to use low carbon energy sources; and, encourage the decarbonisation of our energy supplies.
- 1.2 The irreparable failure of the N1 cable between Jersey and France in 2012 has reduced the overall imported supplies of electricity available to both Guernsey and Jersey. Guernsey is presently only able to import just over 30% of its power (down from 80%), requiring around 70% to be generated on-island. Given the considerably higher costs of on-island generation, electricity tariffs had to increase in 2012. Local generators now have to be run for three times as many hours than was the case before 2012, with a corresponding increase in carbon dioxide emissions and noise pollution, as well as additional wear, tear and maintenance requirements for the generators themselves.
- 1.3 GEL is investing in two cable projects, N1 and N3, between Jersey and France that will, in turn, increase the amount of electricity that can be imported from Jersey to Guernsey, such that the Island will be able to import enough to meet between 80% and 95% of current electricity demand. However, Guernsey remains reliant on its single cable, GJ1, to Jersey for such imports. As such, GEL has been continuing to evaluate the possibility of an additional cable to Jersey and/or a direct cable to France, although the timescale for delivering the latter is estimated as being up to 10 years.

- 1.4 The existing GJ1 cable failed in 2012, but was repaired. However, regular testing of this cable since then has recently highlighted that the cable is exhibiting the same signs that preceded the 2012 failure and that there is now a heightened risk of it failing again. Thus far, it has not been possible to determine accurately when such a failure might occur. The loss of the cable would prevent the Island from realising the benefit of GEL's investment in the N1 and N3 cable projects and would leave it completely reliant on its ageing fleet of local generators. There would be significant financial and environmental implications for the Island in the event of a prolonged period of on-island generation as our sole source of electricity.
- 1.5 GEL is continuing to assess options for repairing the GJ1 cable. However, given the need to protect the Island's security of supply, it is seeking to progress an additional cable connection as soon as possible. Having appraised its investment options, it is recommending that a second cable between Guernsey and Jersey should be installed as a matter of high priority at an estimated cost of £45m. Whilst there are a number of risks to the ambitious timetable, GEL has advised that there is a possibility that this cable could be commissioned and operational by the end of 2015. This cable can be delivered without, in itself, requiring any changes to existing electricity tariffs. It is proposed that GEL should be permitted to borrow, either from commercial sources (with guarantees from the States) or from the States itself to fund its investment in the new cable to Jersey.
- 1.6 Even assuming this additional cable is installed, there will remain a strong case for a direct cable to France to accommodate future projected load growth and to provide further resilience to the Island's supplies in the medium term. GEL will continue to develop the business case for this project and anticipates that this will be ready for consideration in 2015/16.
- 1.7 Given the lead-in times involved, installation of the new cable to Jersey in 2015 means that an order needs to be placed this August. Regrettably, this means that the Department will have to publish the proposals set out in this report before the States has had an opportunity to consider at their June meeting the States Report on a future electricity supply strategy for the Island. However, given the concerns that exist about the reliability of the existing cable and the significant financial and environmental costs to the Island that would arise in the event of its failure, the Department believed it was important for the States to consider these proposals at the earliest opportunity. In doing so, it has satisfied itself that these proposals are consistent with the recommendations set out in the aforementioned report on a future electricity supply strategy.
- 1.8 The cable projects set out in this report do provide a potential opportunity to improve the Island's data connectivity infrastructure by taking advantage of the fibre-optic capacity that can be provided therein. The report sets out proposals that would enable GEL to support the Island's strategic framework for economic development by enabling it to make these fibres available to licensed telecommunications operators.

2. Background

- 2.1 GEL currently relies on a mixture of on-island generated electricity and imported electricity to meet demand. Historically, this combination has ensured that the company can satisfy four of its core business objectives, these being to:
- meet increasing electricity demand from the Island;
 - provide electricity supplies to customers at affordable prices;
 - ensure the security and resilience of electricity supplies; and
 - minimise the carbon emissions from and the environmental impact of its activities.
- 2.2 On-island generation is provided by a mixture of diesel generators and gas turbines, the oldest of which was installed in 1979, with the most recent being commissioned in 2013. Appendix 1 lists the existing generators and their commissioning dates.
- 2.3 Imports are delivered through a grid of cables owned and operated by the Channel Islands Electricity Grid (CIEG), a joint venture between GEL and Jersey Electricity (JEC). The first cable, N1 (formerly known as EdF1), from Jersey to France was installed in 1986 and was fully owned by JEC. A second cable, N2 (formerly known as EdF2), between Jersey and France was installed in 2000. A third cable between Guernsey and Jersey, GJ1, was also installed in 2000, enabling Guernsey to start importing power. N2 and GJ1 are jointly owned by JEC and GEL. Figure 1 below illustrates both the existing and future cable options that are the subject of consideration in this report.

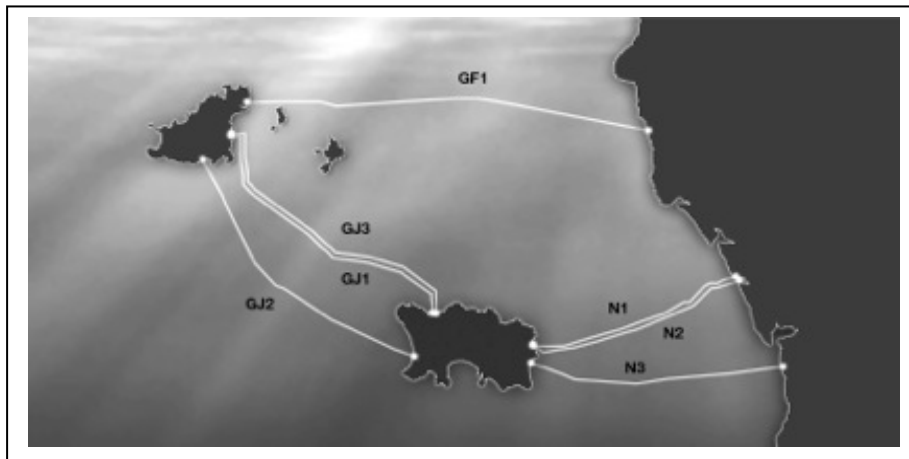


Figure 1- Existing and Planned Cable Route Options

- 2.4 Under the CIEG agreements, both GEL and JEC have entitlement capacities in the supplies available from France. If either company is not using its entitlement, arrangements are in place to allow the other to use the surplus capacity, thus enabling both companies to maximise the use of imported power. GEL's contractual minimum entitlement is 16MW. However, as a result of the above arrangement, GEL has been able to import much greater quantities than this historically. Indeed, before the cable failures in 2012, GEL was importing around 80% of the Island's total annual electricity requirements.

- 2.5 Imported power has two clear advantages to Guernsey. Firstly, it is significantly cheaper than the cost of electricity generated on-island. At current rates, it is some 35% cheaper per megawatt hour to import electricity than to generate it using GEL's most efficient plant. Secondly, it is a low carbon source of supply. 70% of the electricity sourced from France comes from nuclear generation and 30% comes from hydro-electric power.
- 2.6 GEL supplies power on the basis of delivering a least cost supply to consumers. So, in order of priority, it will seek to maximise the use of imports before using electricity generated on-island. For this reason, since supplies have been available for importation from France, its strategy has generally been to maximise the use of imported power.
- 2.7 In 2012, the N1 (EdF1) cable from Jersey to France suffered an irreparable failure that reduced the overall import supplies from France available to both Guernsey and Jersey. In addition, the GJ1 cable from Jersey to Guernsey failed and, following a subsequent failure at the cable termination point at Barkers Quarry, was not restored to service for 6 months.
- 2.8 The consequences of the above have been significant. Whilst GJ1 was out of service, all of Guernsey's electricity was generated on-island using local generating plant at the Vale power station, which operated successfully under the N-2 security policy¹. The successful repair of the power and integral fibre cables in the summer of 2012 was completed using a pre-agreed plan which included a 14 week offshore operation. Since it was restored to service, the restrictions on what can be imported to both Islands as a result of the failure of N1 between Jersey and France have meant that imports to Guernsey have fallen to the contractual minimum of 16MW. As a result, Guernsey is presently only able to import just over 30% of its power, requiring around 70% to be generated on-island at much higher cost. The long term effect of this reduced importation capacity was a 9% increase in electricity tariffs in October, 2012.
- 2.9 The requirement to generate more of our electricity on-island has had significant environmental impacts. Carbon dioxide emissions have increased significantly from 49,614 tonnes² in the 2011/12 financial year (before the cable failures) to 158,603 tonnes during GEL's last financial year (2013/14).
- 2.10 In addition, the power station's neighbours have been the subject of well publicised noise and vibration pollution. Initially, this was raised during the initial commissioning of the new diesel generator, 2D, which operated very briefly during testing above its specified noise levels and was not brought into service until these issues had been resolved by the manufacturer. As such, the ongoing noise and pollution issues are a highly regrettable consequence of the

¹ An "N-2" security criterion requires that the supplier should maintain sufficient generation plant and importation facilities such that the Island maximum demand can still be met with the two largest sources of electricity simultaneously unavailable.

² Source: Guernsey Electricity

older fleet of generators across the power station running for much greater periods than has been the case for many years. Indeed, during the 2013/14 financial year, the generators were run for just over 24,000³ hours. This compares to a figure of just over 7,000 hours in the 2011/12 financial year. Self-evidently, the Island is also now substantively reliant on GEL's ageing fleet of diesel generators for much of its electricity supply.

3. Strategic Context – Energy Resource Plan

3.1 GEL's mixed strategy for the provision of the Island's electricity is consistent with the provisions of the Island's Energy Resource Plan approved by the States in 2012⁴. The Plan was approved in January before the cable failures later that year. This plan is based on an energy vision for 2020 whereby:

- There will be a gradual decarbonisation of Guernsey's electricity generation;
- There will be a diversification of electricity generation between local diesel/gas turbine generation and renewables;
- We will continue to provide a sustainable and secure energy supply for Guernsey; and
- There will be greater transparency in energy decision-making to all stakeholders.

3.2 In support of the above, the three main objectives of the Plan are as follows:

- To maintain the safety and security of affordable and sustainable energy supplies;
- To use energy wisely, efficiently and not waste it; and
- To reduce environmental impacts of our energy consumption as part of our contribution to international initiatives as part of the global community.

3.3 The Plan set out a number of specific actions that would be taken to deliver these objectives, including inter alia:

- Investing, through GEL, to improve the resilience of our imports of electricity from the Continent by ensuring a second cable of greater capacity than the existing cable from Guernsey to either Jersey or France is completed by the end of the decade;
- Taking appropriate steps to ensure the safety of our energy supplies and the resilience to short term disruptions to our supply chains;
- Developing opportunities for the use of low carbon or carbon neutral energy sources and encouraging the diversification of low carbon and renewable energy supplies on a wider large scale;
- Reducing the carbon dioxide emissions of each unit of grid supplied electricity; and
- Seeking to encourage the decarbonisation of our energy supplies.

³ Source: Guernsey Electricity

⁴ Resolution 1 of Article IX of Billet d'Etat III of 2012

- 3.4 The plan noted that, purely from the perspective of meeting local electricity demand, a long term strategy on the mix of local generation and supply through a cable network needed to be developed, possibly involving a new direct cable link to France or an additional cable to Jersey. This strategy would also need to take into account the possibility of exporting electricity through the CIEG network of any surplus renewable energy that might in future be generated in the Bailiwick. From a telecoms perspective, it also highlighted the opportunities to lay dark fibre⁵ at the same time as electricity cables, given the cost savings that could be achieved compared to laying fibre optic cables separately.
- 3.5 Prior to the failure of the cables in 2012 and in accordance with the above, GEL's strategy was based on maintaining an operational position that balanced import capacity against on-island generation to optimise a least cost position. Its strategic plans revolved around securing an increased contractual import capacity of 40MW via the single Jersey to Guernsey cable, GJ1. This was to be delivered by jointly investing with JEC in a new cable, N3, between Jersey and France. A second Jersey to Guernsey cable, GJ2, was planned for approximately 2020. In parallel, GEL continued to explore thoroughly the option of a direct cable connection to Normandy.
- 3.6 Based on the import capacity anticipated above, the previous strategic plan also showed the on-island generation fleet being supplemented by two additional diesel generators before the end of the decade. The basis for these investments was for load growth and on-island asset replacement. The first of these diesel generators, 2D, was commissioned in 2013.

4. Strategic Context – Future Electricity Supply Strategy

- 4.1 At its meeting in June, 2014, the States will be asked to consider a joint report from the Policy Council, the Treasury and Resources Department and the Commerce and Employment Department on a future electricity supply strategy for the Island. The purpose of the report is to ensure that the States has an appropriate policy in place to guide Guernsey Electricity in making investment decisions which are appropriate for the Island's aspirations.
- 4.2 The report seeks to establish what balance the States would like to achieve between three fundamental and, sometimes, conflicting objectives that need to be considered when determining how to meet demand for electricity. These objectives are: economic; security and reliability; and, environmental performance.

⁵ A **dark fibre** is an unused optical fibre, available for use in fibre-optic communication. The term was originally used when referring to the potential network capacity of telecommunication infrastructure, but now also refers to the increasingly common practice of leasing fibre optic cables from a service provider or, generally, to the fibre installations not owned or controlled by traditional carriers.

4.3 Within the context of the above, the report considers the pros and cons of different options for meeting Guernsey's electricity demand, these being:

- the “all-import” option, whereby GEL would be guided towards investing in cables to allow all of the Island's electricity to be imported. In summary, the report concludes that, whilst technically feasible, this would leave the Island in a vulnerable position at the end of a long supply chain from the European grid, which is facing its own uncertainties;
- the “all local” option whereby GEL would be guided to invest in local on-island generation facilities only. In summary, the report concludes that this option would be associated with both higher costs and a negative environmental impact; or
- the “mixed” option, whereby GEL would continue to maintain an ability to both import and generate electricity. The report concludes that this option would spread the risks of supply between local and imported supplies. The maintenance of local generation would also provide flexibility to respond more quickly to changes in demand.

4.4 Taking into account the provisions of the Energy Resource Plan, the report recommends, inter alia, that:

- The States maintains its policy of requiring there to be local generation, but with the expectation that there will be enhancements to the Island's cable connections to other jurisdictions which will allow local generation to take a secondary role to imports in the normal provision of electricity;
- The States should maintain its existing “N-2” security criterion, but that in future, this should only be applied to the provision of local on-island generation plant;
- In terms of on-island generation facilities, future generation plant having an operating cost of no more than 80% of the average selling price of electricity must be fitted to provide for at least 80% of the Island's maximum demand. This “80/80” criterion would ensure that a base of low operating cost plant continued to be installed locally; and
- The States maintains its policy whereby the cost of providing electricity infrastructure should continue to be funded entirely by electricity users.

4.5 The Department is conscious that this report, which includes recommendations relating to the installation of a new cable between Guernsey and Jersey, will have been published before the States has debated the above report on a future electricity supply strategy for the Island at its meeting in June. However, it is conscious that a small window of opportunity exists to install a new cable to Jersey in the summer of 2015. This relies on an order for the cable being placed in August of this year, as the lead-in time for the delivery of the cable is up to 12 months. As physical installation of the cable must be undertaken during the summer months when the prevailing weather and sea conditions are likely to be more favourable, a delay in considering this report until September of this year would essentially delay the installation of the cable until the summer of 2016.

4.6 Given the concerns that exist about the reliability of the existing GJ1 cable and the significant costs to the community that will arise should it fail again that are set out later in this report, the Department believed it was important for the States to consider these proposals at the earliest possible opportunity. In doing so, it is satisfied that the proposals are consistent with the recommendations of the aforementioned report on a future electricity supply strategy for the Island.

5. Guernsey Electricity – Recent Strategic Planning Developments

5.1 Following the failure of the cables in 2012, GEL and JEC, acting and working through the CIEG, entered into an agreement to develop improved cable connectivity between France and Jersey. By increasing the total amount that can be imported to Jersey, this initiative will enable more to be imported from Jersey to Guernsey through the existing GJ1 cable.

5.2 This agreement and initiative is made up of two core elements:

- Progressing together the new N3 cable (see section 3.5 above) between Jersey and France. It is anticipated that this 100MW cable will be commissioned towards the end of 2014. GEL will be entitled to 24MW of the cable's capacity for onward importation to Guernsey through GJ1. The total cost of the project is £70m, of which GEL's contribution is £17m (based on the proportion of its entitlement to capacity); and,
- Progressing together a new 70MW cable, N1, to be laid along the route of the failed EdF1 cable between Jersey and France. This project will be delivered in two phases, initially providing GEL with 15MW in 2016 and a further 5MW in 2017. GEL's contribution to the cost of this project, again related to its entitlement to capacity, will be £13m. Work on this cable has not yet commenced and is subject to planning permission in France.

Assuming the N1 project comes to fruition, GEL's share of imports from France would increase as follows:

- | | |
|--|------|
| • Current minimum contractual entitlement: | 16MW |
| • N3 entitlement: | 24MW |
| • N1 entitlement: | 20MW |

Its total revised entitlement would therefore be 60MW, which GEL anticipates would be sufficient to meet 90% to 95% of the Island's current electricity demand. In the event that the N1 project does not proceed, then GEL's entitlement capacity in N3 will be reduced to 10MW (with a subsequent proportionate reduction in its share of the capital costs). This would reduce the total import volume to approximately 80% of supply.

5.3 These initiatives mean GEL is committed to capital expenditure of approximately £30m, which is being financed on a debt basis following the States resolution during the 2013 Budget debate in December that enables the company to borrow to finance its capital expenditure. Given the significant reduction in production costs that will be achieved through increased

importation, GEL anticipates that the combined financial benefit of the N3 and N1 projects will be such that the financed debt will be repaid by 2020 at current tariff levels. The proposals will also significantly reduce the periods of operation of the on-island generators, together with the associated carbon dioxide emissions and noise and vibration pollution.

6. Security of Supply

6.1 Future Reliability of GJ1

- 6.1.1 Recognising that the investments in N3 and N1 set out above do not mitigate the risks of loss of supplies caused by faults with the GJ1 cable, the agreement between GEL and JEC last year also included provision for the active progression of plans for a second cable between Guernsey and Jersey in order to improve the Island's security of supply. Guernsey Electricity has also continued to evaluate the possibility of a direct cable from Guernsey to France, although the timescale for delivering this is estimated as being anywhere up to 10 years.
- 6.1.2 Subsequently, there has been a fundamental change in the position relating to the existing GJ1 cable. It is important to understand that the previous failure of this cable in 2012 was preceded by the failure of the 24 fibre optic cores within the power cable. When the cable was repaired, 23 of the 24 fibres were repaired. GEL's monitoring of the cable since then has recently shown that 16 of the 24 fibres in a different location within the cable have now failed again. Essentially, the cable is exhibiting the same "behaviour" that preceded the 2012 failure. GEL has been carrying out extensive tests and analysis to determine whether a precautionary repair is required and to establish the likelihood of further similar problems elsewhere within the cable.
- 6.1.3 GEL is investigating options for making a further pre-emptive repair to the cable, but ideally, this would need to be carried out during better weather in the summer months. It is also investigating the possibility of further similar issues occurring within the cable in other locations. However, the worst case scenario is that the cable fails during the winter months, when inclement weather would make a reactive repair much more difficult, lengthy and costly to undertake. The cost of repairing GJ1 again is estimated as being between £7m and £15m, depending on whether the repair is planned or reactive and on when it takes place. GEL does have an established power cable maintenance agreement with its suppliers that includes provision for repairs, but even with this in place, the time taken to initiate repairs can be subject to a number of variables, most notably the availability of the repair vessels and their location elsewhere in the world. The industry standard is that cables will generally take six months to repair.
- 6.1.4 The indications, therefore, are that there is now a heightened risk that the cable will fail again and that the anticipated investment in a further cable is now essential at an early opportunity. The alternative is to accept the risk of

extensive on-island generation at higher costs to consumers, as well as significantly higher carbon emissions and ongoing disturbance over an extended period to those living within the vicinity of the power station. It also assumes that the more elderly on-island generators would continue to be able to operate reliably and continuously over this period. The loss of GJ1 would effectively prevent use of the 60MW of capacity that is to be delivered through the N3 and N1 projects set out above and would place continued reliance on the Island's elderly fleet of generators at the power station.

6.1.5 Clearly, neither the Board of Directors of GEL nor the Treasury and Resources Department believe this is a satisfactory or acceptable position in respect of the Island's security of electricity supply. Industry experts have reviewed the test data on GJ1, but the timing of the potential failure of the power cable cannot be accurately determined. There would be significant implications for the Island's economy if tariffs had to be increased to cover the additional costs of a prolonged period of on-island generation. GEL is concerned that there is an immediate need to protect the affordability of the electricity supply to the Island and is therefore seeking to progress the next cable connection as soon as practicable.

6.2 Investment Options

6.2.1 Against the above background, GEL has carried out an appraisal of its investment options. In broad terms, these are as follows:

- Install a further cable from Guernsey to Jersey. Two options have been considered. The first, GJ2, would follow a different route to the existing cable, linking the Islands between St Ouens Bay in Jersey and the south coast of Guernsey. The second, GJ3, would follow the same route as the existing cable, albeit separated by up to one kilometre (the cables would run closer together as they approached the shore where they would have the same landing points). GJ3 can be delivered more quickly and for £15m less than GJ2. However, from a resilience perspective, it has the disadvantage of following the same route as GJ1, meaning that there is a greater risk that both cables could be affected by a single incident of third party damage (such as an anchor being dragged along the seabed). However, in the case of GJ2, there would be significant limits for up to 5 years on the amount of electricity that could be imported through it as a result of the need to upgrade the associated onshore infrastructure in Guernsey and Jersey;
- Install a cable (or cables) from Guernsey to France (GF1), acknowledging that this could take up to 10 years to deliver;
- Install additional on-island generation plant and facilities; or
- A combination of some or all of the above options.

GEL has completed a full appraisal of these options and the results are set out in its business case, which has been considered fully by the Department.

- 6.2.2 The investment appraisal undertaken as part of the business case process concludes that the option with the lowest whole life cost would be to install a cable, GF1, directly from Guernsey to France. Within the context of the Energy Resource Plan and the proposed electricity supply strategy, in the long-term it provides much improved resilience to the electricity supply system and will substantively eliminate carbon emissions associated with the Island's electricity supply.
- 6.2.3 However, this option would take between six to ten years to deliver and does not take sufficient account of the renewed risk that the Island faces of a failure of the existing GJ1 cable and the impact this could have. Whilst GEL does have enough on-island capacity to generate sufficient electricity to meet the Island's needs, this would be at a significantly higher financial and environmental cost and would depend on an ageing fleet of diesel engines. In the event of a cable failure, GEL estimates that its production costs would increase by around £1m per month on average (varying by season throughout the year) during the period it would take to either repair or replace the cable (anywhere between 6 and 24 months).
- 6.2.4 The provision of a resilient electricity supply that can deliver affordable prices is clearly essential to maintain the attractiveness of the Island as a place to live and carry out business. In considering the Guernsey to France option, consideration must be given to the options for mitigating the risks arising from the failure of GJ1 whilst the direct connection to France is being investigated, planned and commissioned. Accordingly, subject to the caveats set out in section 6.2.13 below, the business case recommends that a second cable between Guernsey and Jersey, GJ3, should be installed as a matter of high priority at an estimated cost of £45m, whilst also continuing to work towards a direct connection to France. This will mitigate the risk of any price shocks arising from the failure of the single cable. GEL has advised that the GJ3 project can be delivered without, in itself, requiring any changes to existing tariffs. Whilst this is welcome, it should be acknowledged that it had originally intended to consider recommending a reduction in tariffs once the N3 and N1 cables came to fruition. However, the need to fund the early investment in a new cable to Jersey means this would not now be possible.
- 6.2.5 Whilst there are a number of risks to the timetable (see section 6.2.9 to 6.2.12), GEL has advised that there is a possibility that this cable could be commissioned and operational by the end of 2015. The investment appraisal demonstrates that the whole life cost in Net Present Value⁶ (NPV) terms of this project is some £12m higher than just installing a cable to France. This reflects the fact that the primary purpose of the GJ3 cable would be to enhance the security and resilience of GEL's existing entitled import capacity, rather than adding significant additional capacity. However, GJ3 would be a higher rated cable

⁶ The net present value (NPV) of a project is the value obtained by discounting all of its cash outflows and inflows at a chosen rate of return or 'cost of capital' and taking the net total (ie inflows minus outflows)

than the existing GJ1 cable and, as such, would facilitate some future load growth.

- 6.2.6 Installing both GJ3 and a direct cable to France would be £28m higher than simply installing a cable to France. This would increase customers' electricity bills, on average, by £37 per annum (in NPV terms) for the next 25 years, equivalent to a one-off permanent increase in today's tariffs of 2% in 2015/16. This represents the cost of the investment but, of course, tariffs can also change by virtue of movements in the wholesale energy markets.
- 6.2.7 GEL's business case explores a number of scenarios for future demand for electricity, noting that under all of the scenarios modelled, there is an increase of at least 130% in maximum demand levels forecasted by 2050. Therefore, even after the proposed installation of GJ3, there will remain a strong case for a direct cable to France to provide increased capacity and further resilience to the Island's supplies in the medium term. GEL is therefore proposing to continue investigating and planning a direct connection to France and anticipates being in a position to provide an outline business case for the GF1 project in 2015/16.
- 6.2.8 GEL has indicated that the business case for GF1 will take into account potential changes in the regional energy market, including the opportunities that the planned link between France, Alderney and Britain may provide if this materialises within the next decade. Plans for a direct link to France will also need to consider anticipated growth in local demand for electricity, alongside the implementation of local renewables. However, GEL is clear that none of these factors alter the need for early security in terms of the provision of a second connection to Jersey.
- 6.2.9 As indicated above, there are a number of project risks to the timetable for delivering GJ3 by the end of 2015. The timetable relies on many project stages proceeding without significant interruption. The timescale is extremely challenging and places almost every major aspect of the project on the critical path. Preliminary discussions with cable suppliers have been positive in terms of their ability to manufacture and install the cable by the dates required by GEL. Nevertheless, suppliers are bidding for work elsewhere and available manufacturing windows may well be consumed by other clients as time proceeds. GEL is aware of surplus ready-manufactured submarine cable of suitable length and specification within the market which could be utilised for this project, but this too could be purchased by other clients. Therefore, the ability for GEL to procure and install submarine cable by mid-2015 remains the primary project risk.
- 6.2.10 Currently, the project scope includes the ability to switch either or both the existing GJ1 and the new GJ3 cables in and out of service as required. This necessitates the development of 90kV switching stations at both ends of the interconnection, these being Greve de Lecq in Jersey and Havelet Bay in

Guernsey. In order to achieve this, GEL will need to progress land acquisition, planning and building permissions without significant delay.

- 6.2.11 There are several ‘softer’ aspects of the project which risk impacting on the project programme. These include, inter alia: permits and environmental statements; planning permissions; and, authorisations to excavate highways. Without the appropriate permissions being in place to allow the cable to be installed and connected, GEL would not be willing to place high value contracts which sit on the critical path for project success.
- 6.2.12 In general terms, GEL is confident that it can manage and mitigate the risks involved, albeit that this may impact on the timescales and scope of the project.
- 6.2.13 However, in the event that the option to install GJ3 in 2015 is not achievable, GEL will re-evaluate its installation in 2016 against the other alternative cable route options available. GEL is also continuing to keep these other options under evaluation if the results of its ongoing testing demonstrate conclusively that the condition of GJ1 is better than expected and is such that it could remain in service for an extended period of 2 to 5 years. The examination of alternative routes would also occur if the necessary planning and other permissions could not be obtained.

6.3 Funding

- 6.3.1 In 2012, following consideration of the Department’s Budget Report for 2013, the States resolved⁷ to authorise Guernsey Electricity to borrow, either from the States General Investment Pool or third parties, to finance capital expenditure and to authorise the Treasury and Resources Department to facilitate, if necessary by providing guarantees, any third party borrowings.
- 6.3.2 In making this decision, the States noted that GEL was entering a period of significant investment in its power capacity to enhance the security of the Island’s electricity supplies, including both on-island plant and additional cables. It was also acknowledged that GEL needed to make such investments as its on-island generators start reaching the end of their useful working lives.
- 6.3.3 Prior to this decision, GEL had been operating under an assumed policy of “saving to spend” for financing such investments. It was noted that GEL had reached the point that “saving to spend” would have necessitated very substantial increases in tariffs and delaying some elements of its essential capital investment programme. At that time, the States also noted that borrowing was more equitable than expecting today’s customers to meet the cost of assets with working lives of between 25 and 40 years. Funding such assets through borrowing enables the cost to be shared by those consumers benefitting from them over the period during which they are in service.

⁷ Resolution 14 of Billet d’Etat XXVI of 2012

- 6.3.4 The Department has subsequently agreed to guarantee GEL's borrowing for its investments in the N3 and N1 cables. It is proposed that GEL will borrow, either commercially (with guarantees from the States) or from the States, to fund its investment in a new cable to Jersey.
- 6.3.5 The recommendations in this report therefore seek, inter alia, the States' authority to facilitate this borrowing by providing guarantees or by providing a loan directly to the Company. The Department acknowledges that no limits are included within this proposed authority. This is because the risks set out in section 6.2 of this report may impact on the final costs and timescale of the project. However, in the interim and in the interests of good governance, the Department will be working with GEL to develop criteria for defining an appropriate level of debt for the Company relative to its assets and turnover. The Department has previously flagged its intention to undertake a review of the funding and governance arrangements for all borrowing by public or quasi-public bodies⁸. It intends to report back to the States on this matter in due course, including recommendations for the borrowing/debt arrangements and limits for the States' owned trading companies.
- 6.4 GJ1 – Life Expectancy
- 6.4.1 The economic life expectancy of the GJ1 cable should be 25 years, so from an asset planning perspective, it should be coming to the end of its life in 2025 (although in practical terms, cables can be expected to remain operational for around 40 years). However, the unexpected failure of GJ1 occurred after 12 years of operation in 2012. The subsequent repair was the subject of an insured claim and this was met in full (minus the deductibles). However, if any future failure is identified as being of a similar nature to the 2012 event, GEL has advised it is unlikely to be insured.
- 6.4.2 Forensic examinations undertaken as part of the insurance claim identified a previously unknown fault as being responsible for the failure. This is now subject to ongoing legal discussions with the cable manufacturer.
- 6.4.3 In itself, the repair of the cable in 2012 was a successful event and, other things remaining equal, should have increased the life of the cable and enabled low carbon and affordable electricity to continue being imported. The possibility of undertaking further repairs has not been ruled out and a cost-benefit analysis of both pre-emptive repairs in the summer and post-failure repairs possibly in the winter are understood by the CIEG. Further tests continue to be conducted to provide data and evidence to inform a future decision on the proposed repair strategy. The CIEG has a pre-arranged and agreed repair plan prepared should such a decision be confirmed.

⁸ Article 11 of Billet d'Etat X of 2014

7. Fibre Telecommunications Infrastructure - Opportunities

- 7.1 In section 3.4 above, it was noted that the Energy Resource Plan highlighted the opportunities to lay fibre optic cables at the same time as electricity cables, given the cost savings that could be achieved compared to laying fibres in isolation. GEL and the Department have therefore consulted with the Commerce and Employment Department on opportunities that might exist in this respect.
- 7.2 A total of eight sub-sea fibre optic cables currently link the Channel Islands to the UK and France. The more recent of these were in a large part stimulated by the emergence and rapid growth of the e-Gambling sector in the Bailiwick in the mid-2000s. In addition, the financial services sector is highly dependent on reliable and resilient data connectivity. This is also increasingly the case for sectors with high growth potential, such as the creative and ICT (or digital) sectors, including secure data storage and cloud computing providers.
- 7.3 The Strategic Framework for Guernsey's Economic Development, published jointly by the Policy Council and the Commerce and Employment Department in February 2014, highlights the need to ensure that the infrastructure is in place to develop a competitive digital/ICT provision on the Island. Resilient and affordable connectivity is a key economic enabler for local businesses and will become increasingly important in the future. It also increases opportunities for individuals to launch innovative start-ups as efforts are made to evolve and diversify Guernsey's economy. Moreover, it makes it more likely that off-Island data-intensive businesses will choose to locate their organisations in Guernsey.
- 7.4 The Commerce and Employment Department believes that the GJ3 project presents a significant potential opportunity for the States of Guernsey, acting through GEL, to improve the Island's data connectivity infrastructure. The cable will, by default, be commissioned with a minimum basic number of fibres, some of which (approximately 20%) will be used by GEL for telemetry purposes. The balance could be used to improve connectivity in accordance with the strategic objectives set out above or, if an economic/commercial case could be made, could be supplemented by specifying that additional fibres should be incorporated within the cable above and beyond the default position.
- 7.5 In terms of onward connections from Jersey, it should be noted that GEL will have rights to 50% of their fibre optic capacity in the N3 and N1 cables between Jersey and France.
- 7.6 The Commerce and Employment Department has suggested that any unused dark fibre infrastructure could be made available either to existing telecommunications operators looking to increase their existing resilience, as well as to any other operators wishing to introduce new services in Guernsey. For the avoidance of doubt, it is not suggested that GEL should become a licensed telecommunications operator itself; rather, it would act as a "carrier-neutral" dark fibre infrastructure provider and would provide access to such fibres on commercial terms to established telecoms operators. GEL would

consult with the Commerce and Employment Department to establish a fair and equitable means of releasing any such capacity to the market place that supported the objectives of the Strategic Framework for Guernsey's Economic Development, whilst providing a commercial return to the Company.

- 7.7 The Commerce and Employment Department believes that the Island as a whole would benefit from increased fibre telecommunications capacity and resilience. Businesses and consumers would potentially benefit from more competition, resulting in increased choice and a downwards pressure on prices, wherever the market can accommodate this. Importantly, there will be further opportunities to improve the Island's fibre connectivity and resilience if and when a new electricity cable direct from Guernsey to France is installed.
- 7.8 It should be noted that under the provisions of the States Trading Companies (Bailiwick of Guernsey) Ordinance, 2001, the States is able to give guidance of a general nature on the policies they wish the Department to pursue in exercising its functions as shareholder. The Ordinance places a statutory duty on the Department to have regard to any such guidance. Guidance previously issued by the States⁹ upon the recommendation of the former Advisory and Finance Committee includes a provision that:
- “Guernsey Electricity Limited shall not be permitted to apply for any licence for the provision of telecommunications services under the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001.”*
- 7.9 Initial advice has been sought from the Law Officers concerning how GEL's involvement could be structured to achieve the proper marketing of, and granting of access to, the fibres whilst at the same time ensuring that it does not lose focus on its core activities and that any risk to its assets is minimised. They have recommended that GEL should establish a wholly owned subsidiary to undertake these activities, with the shares being held by GEL. The shareholder objectives set by the Department for GEL would need to be amended to provide the necessary direction for the Company in respect of this subsidiary and to ensure that the States strategic objectives are secured, whilst leaving operational and commercial responsibility and risk for marketing and providing access to the cables with GEL.
- 7.10 The Department is continuing to work with the Law Officers, Guernsey Electricity and the Commerce and Employment Department about the best means of structuring arrangements for this initiative from a legal, corporate and operational perspective. It believes that any regulatory or competition concerns can be satisfactorily dealt with as part of this process and consultation will be undertaken with CICRA to ensure that any potential issues can be resolved. However, if it is determined as this process evolves that a telecommunications licence would be required, then a consequential amendment would be required to the guidance set out in paragraph 7.8 above. The Commerce and Employment

⁹ Resolution 5 of Article 7 of Billet d'Etat XXIV of 2001

Department would then need to report back to the States with recommendations on any such changes.

7.11 Guernsey Electricity's current position on the matter can be summarised as follows:

- It acknowledges the potential opportunity to utilise the fibres for the benefit of its customers by obtaining a return for the use of those assets;
- It is aware of a number of risks associated with the initiative which will need to be fully assessed before its Board can confirm the commercial viability of the project;
- Options for the inclusion of fibres within the new cable will be progressed as part of the tender process. The cable will be supplied with a minimum "default" fibre capacity, much of which would be available for commercial activities, but an examination of the incremental cost of installing additional fibres within the cable will be undertaken as part of the tender process; and
- It is examining how connections between fibre assets into and out of Jersey can be achieved and what options there are for onward connections to France.

The position will become clearer as research on the associated technical, operational, commercial and legal issues continues. However, the GEL Board believes that this should not inhibit the ordering of the new cable with telecoms transmission capability, albeit that the actual number of fibres to be included will need to be determined later this year.

8. Resources and Principles of Good Governance

8.1 There are no additional financial or staff resource implications for the States associated with the proposals and recommendations set out in this Report.

8.2 In preparing this Report, the Department has been mindful of the States Resolution to adopt the six core principles of good governance defined by the UK Independent Commission on Good Governance in Public Services (Billet d'Etat IV of 2011). The Department believes that the proposals in this Report comply with those principles.

9. Recommendations

9.1 The Department therefore recommends the States to:

- a) Authorise the Treasury and Resources Department to facilitate borrowing by Guernsey Electricity Limited to finance the installation of an additional cable between Guernsey and Jersey by providing guarantees from the States of Guernsey for borrowing from third parties or by offering the Company a loan from the States;

- b) Approve the proposal for Guernsey Electricity to act as a “carrier-neutral” dark fibre infrastructure provider as set out in section 7 of this Report, subject to the Company’s ongoing investigations of the commercial, operational, legal and technical viability of the initiative; and
- c) Direct the Treasury and Resources Department and the Commerce and Employment Department to investigate the need for any amendments to the guidance issued by the States to the Treasury and Resources Department under the provisions of the States Trading Companies (Bailiwick of Guernsey) Ordinance, 2001, to enable Guernsey Electricity to act as a “carrier-neutral” dark fibre infrastructure provider and to report back to the States with recommendations for any such amendments if necessary.

Yours faithfully

G A St Pier
Minister

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

APPENDIX 1**GUERNSEY ELECTRICITY – GENERATION SUMMARY**

SOURCE	COMMISSIONING DATE	RATING (MW)
Generator 1C	1979	12.2
Generator 2C	1980	12.2
Generator 3C	1982	12.2
Generator 4C	1987	13.8
Generator 1D	1993	14.5
Generator 2D	2013	17
Generator GT2	1996	19.5
Generator GT3	1997	19.5
Generator GT4	2003	11
Guernsey/Jersey Cable	2000	16 (contractual minimum)
TOTAL		147.9

(NB The Policy Council supports the Report and considers that the proposal complies with the Principles of Good Governance.)

The States are asked to decide:-

X.- Whether, after consideration of the Report dated 12th May, 2014, of the Treasury and Resources Department, they are of the opinion:-

1. To authorise the Treasury and Resources Department to facilitate borrowing by Guernsey Electricity Limited to finance the installation of an additional cable between Guernsey and Jersey by providing guarantees from the States of Guernsey for borrowing from third parties or by offering the Company a loan from the States.
2. To approve the proposal for Guernsey Electricity to act as a “carrier-neutral” dark fibre infrastructure provider as set out in section 7 of that Report, subject to the Company’s ongoing investigations of the commercial, operational, legal and technical viability of the initiative.
3. To direct the Treasury and Resources Department and the Commerce and Employment Department to investigate the need for any amendments to the guidance issued by the States to the Treasury and Resources Department under the provisions of the States Trading Companies (Bailiwick of Guernsey) Ordinance, 2001, to enable Guernsey Electricity to act as a “carrier-neutral” dark fibre infrastructure provider and to report back to the States with recommendations for any such amendments if necessary.