



# BILLET D'ÉTAT

WEDNESDAY, 25<sup>th</sup> SEPTEMBER, 2019

## VOLUME 2

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XVIII  
2019

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**THE INCOME TAX (GUERNSEY) (AMENDMENT) ORDINANCE, 2019**

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Income Tax (Guernsey) (Amendment) Ordinance, 2019", and to direct that the same shall have effect as an Ordinance of the States.

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

**EXPLANATORY MEMORANDUM**

This Ordinance puts beyond doubt that amendments to Guernsey's double taxation agreements which may be considered as relating to, or which could be considered as consequential or supplementary to, non-double taxation issues, may be declared by resolution of the States as having effect in relation to income tax; and that the Director's powers to require the provision of documents and information should be correspondingly extended.



# **The Income Tax (Guernsey) (Amendment) Ordinance, 2019**

THE STATES, in pursuance of their Resolution of the 14<sup>th</sup> December, 2018<sup>a</sup>, and in exercise of the powers conferred on them by sections 203A and 208C of the Income Tax (Guernsey) Law, 1975<sup>b</sup> and all other powers enabling them in that behalf, hereby order:-

## **Amendment of 1975 Law.**

1. The Income Tax (Guernsey) Law, 1975 is amended as follows.

2. In section 75C(4)<sup>c</sup>, in the definition of “approved international agreement”, after “on behalf of Guernsey)” insert “or specified in a Resolution of the States under section 172”.

3. After section 172(1) insert the following subsection -

“(1AA) The arrangements that may be specified in a Resolution under this section include (without prejudice to subsection (1A) -

(a) arrangements amending, modifying or

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<sup>a</sup> Article XXII of Billet d'État No. XXVII of 2018.

<sup>b</sup> Ordres en Conseil Vol. XXV, p. 124; section 203A was inserted by Order in Council No. XVII of 2005 and section 208C was inserted by Order in Council No. V of 2011; there are other amendments not material to this Ordinance.

<sup>c</sup> Section 75C was inserted by Order in Council No. XVII of 2005; and amended by Ordinance No. XXXI of 2014.

extending –

- (i) double taxation arrangements entered into by or otherwise binding upon Guernsey, or
- (ii) any arrangements of a description set out in paragraph (b) for the time being specified in a Resolution under this section,

including, without limitation, the arrangements effected by the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting done at Paris on the 24<sup>th</sup> November, 2016<sup>d</sup>, and

- (b) other arrangements containing provisions that relate to, or are consequential, incidental, supplementary or ancillary to, such double taxation arrangements or double taxation matters.”.

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<sup>d</sup> The Treaty is set out in Appendix 1 to the report of the Policy & Resources Committee dated the 2<sup>nd</sup> October, 2018 entitled “Revision of Double Taxation Agreements (arising from the effects of the OECD/G20 Base Erosion and Profit Shifting Multilateral Instrument)” (see p. 2018/110 of Billet d’État No. XXVII of 2018).

4. In section 205(2)(b)<sup>e</sup> for the words “set out in the agreement” substitute “specified in or under the agreement, measure or regulations”.

**Citation.**

5. This Ordinance may be cited as the Income Tax (Guernsey) (Amendment) Ordinance, 2019.

**Commencement.**

6. This Ordinance shall come into force on the 1<sup>st</sup> October, 2019.

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<sup>e</sup> Section 205(2)(b) was inserted by Order in Council No. XVII of 2005.

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**THE FINANCIAL SERVICES OMBUDSMAN (BAILIWICK OF GUERNSEY) (AMENDMENT)  
ORDINANCE, 2019**

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Financial Services Ombudsman (Bailiwick of Guernsey) (Amendment) Ordinance, 2019", and to direct that the same shall have effect as an Ordinance of the States.

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

**EXPLANATORY MEMORANDUM**

This Ordinance inserts an exemption into the Financial Services Ombudsman (Bailiwick of Guernsey) Law, 2014 which permits the Office of the Financial Services Ombudsman, for the purpose of explaining the incidence of or descriptions of complaints, to provide statistical summaries of information about complaints. Although the summaries could include the name of the person against whom a complaint is made, they could not describe the substance of the complaint or provide information which would allow the identification of any other person.



# **The Financial Services Ombudsman (Bailiwick of Guernsey) (Amendment) Ordinance, 2019**

THE STATES, in pursuance of their Resolution of the 27<sup>th</sup> November 2013<sup>a</sup> and in the exercise of the powers conferred on them by sections 21(4) and 27 of the Financial Services Ombudsman (Bailiwick of Guernsey) Law, 2014<sup>b</sup>, and all other powers enabling them in that behalf, hereby order:-

## **Amendment of the Law.**

1. Immediately after section 21(3)(a) of the Financial Services Ombudsman (Bailiwick of Guernsey) Law, 2014, insert the following paragraph -

"(aa) without prejudice to the generality of subsection (2)(d), by OFSO or any person acting on its behalf to the public, for the purpose of explaining the incidence of complaints, or of descriptions of complaints, if -

(i) that disclosure is in the form of a statistical summary of information about complaints or descriptions of complaints, and

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<sup>a</sup> Article XII of Billet d'État No. XX of 2013.

<sup>b</sup> Order in Council No. I of 2015; as amended by Ordinance No. XVII of 2015 and No. IX of 2016.

- (ii) the summary is so framed as not to enable the public to ascertain from it -
  - (A) the substance of any particular complaint, or
  - (B) the identity of any person, other than a person named in (or otherwise identifiable from) the summary as a person against whom a complaint has been made;"

**Citation.**

2. This Ordinance may be cited as the Financial Services Ombudsman (Bailiwick of Guernsey) (Amendment) Ordinance, 2019.

**Commencement.**

3. This Ordinance shall come into force on the 1<sup>st</sup> October, 2019.

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**THE OPEN MARKET HOUSING REGISTER (DELETION OF INSCRIPTIONS) ORDINANCE,  
2019**

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Open Market Housing Register (Deletion of Inscriptions) Ordinance, 2019", and to direct that the same shall have effect as an Ordinance of the States.

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

**EXPLANATORY MEMORANDUM**

The Ordinance makes provision in relation to the procedure for applying to the Committee for the Environment & Infrastructure to have a dwelling deleted from the Open Market Housing Register. It provides that when that Committee is satisfied that the applicant is the owner of the dwelling in question, and that the dwelling is inscribed in the Register, it shall delete the inscription, and prescribes the form that needs to be completed.



# **The Open Market Housing Register (Deletion of Inscriptions) Ordinance, 2019**

THE STATES, in pursuance of their Resolutions of the 29<sup>th</sup> July, 2015<sup>a</sup>, and in exercise of the powers conferred on them by sections 7 and 32 of the Open Market Housing Register (Guernsey) Law, 2016<sup>b</sup>, and all other powers enabling them in that behalf, hereby order:-

## **Application for deletion from the Register.**

1. (1) The owner of a dwelling inscribed in the Register who wishes the inscription of that dwelling to be deleted from the Register shall apply to the Committee in the form set out in the Schedule.

(2) On receipt of an application made under and accordance with subsection (1) the Committee may –

- (a) make such inquiries, and
- (b) require the applicant to provide such further information,

relating to the application as the Committee considers necessary or desirable.

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<sup>a</sup> Article VII of Billet d'État No. XIV of 2015.

<sup>b</sup> Order in Council No. VII of 2016.

**Deletion from the Register.**

2. When the Committee is satisfied that –
  - (a) a person who has made an application under and in accordance with section 1 is the owner of the dwelling to which the application relates, and
  - (b) the dwelling is inscribed in the Register,

the Committee shall delete the inscription relating to that dwelling from the Register.

**Citation.**

3. This Ordinance may be cited as the Open Market Housing Register (Deletion of Inscriptions) Ordinance, 2019.



The Office of the  
Committee for the  
Environment & Infrastructure

HR 2

The Open Market Housing Register  
(Guernsey), Law 2016

**APPLICATION FOR DELETION OF A DWELLING FROM THE HOUSING REGISTER**

- 1. Name of Owner(s) of the dwelling .....
- 2. Address of Owner(s) of the dwelling .....  
.....  
..... Postcode.....
- 3. Situation, name and/or number of dwelling to which this application relates if different from above .....  
..... Postcode .....
- 4. Previous name of dwelling if changed by you .....
- 5. Cadastre No.....
- 6. Date of inscription of dwelling in Housing Register.....

Owner's signature .....Date .....

Owner's signature .....Date .....

**If the dwelling is Company-owned the Signatory must be duly authorised and must state his or her capacity.**

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**THE COMMITTEE *FOR* ECONOMIC DEVELOPMENT**

**FINANCIAL SERVICES OMBUDSMAN: NEW FUNDING STRUCTURE**

The States are asked to decide:-

Whether, after consideration of the Policy Letter, entitled “Financial Services Ombudsman: New Funding Structure”, dated 16<sup>th</sup> August, 2019, of the Committee *for* Economic Development, they are of the opinion:-

1. To amend the Financial Services Ombudsman (Bailiwick of Guernsey) Law, 2014 and The Financial Services Ombudsman (Case Fee and Levies (Bailiwick of Guernsey) Order 2015, specifically to provide that the same annual levy can be applied to similar financial services providers in the Bailiwicks of Guernsey and Jersey.
2. To amend Schedule 2 of the Financial Services Ombudsman (Bailiwick of Guernsey) Law, 2014 to allow for the amalgamation of the finances of the Offices of Financial Services Ombudsman in Jersey and Guernsey.

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

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**COMMITTEE FOR ECONOMIC DEVELOPMENT**

FINANCIAL SERVICES OMBUDSMAN: NEW FUNDING STRUCTURE

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

16 August 2019

Dear Sir

**1. Executive Summary**

- 1.1 The Channel Islands Financial Service Ombudsman (“**CIFO**”) is the joint operation of two statutory ombudsman roles, established in the Channel Islands by the Financial Services Ombudsman (Bailiwick of Guernsey) Law, 2014 and the Financial Services Ombudsman (Jersey) Law 2014 (the “**Legislation**”).
- 1.2 CIFO provides an independent dispute resolution service for unresolved complaints involving financial services provided in, or from, Jersey, Guernsey, Alderney and Sark.
- 1.3 Under the current funding structure, income and expenses of the two offices is shared equally between the two islands.
- 1.4 The Legislation and Memorandum of Understanding (the “**MOU**”) between Guernsey and Jersey established, from the outset, that CIFO would need to carry out a review of its funding within a few years of commencing operations, once its caseload was better understood.
- 1.5 CIFO has conducted a major funding review exercise. In letters dated 18<sup>th</sup> July 2018 to the Committee *for* Economic Development in Guernsey and the Minister for Economic Development, Tourism, Sport and Culture in Jersey, CIFO confirmed its desire to adopt a new funding model, reflecting a change to the methodology of calculating the annual levy. CIFO has requested that the political authorities in Guernsey and Jersey consider taking the necessary steps to update the MOU and the Legislation, to give effect to the same.

## 2. CIFO funding structure

- 2.1 The current costs of CIFO are met by the financial services providers falling within its scope, through annual levies and cases fees, in accordance with the relevant legislation in both Guernsey and Jersey.
- 2.2 Case fees are payable by financial services providers in respect of any complaint, in relation to services provided, referred to CIFO, whether or not the same is upheld.
- 2.3 Aligned to international good practice, and to avoid creating any barriers to access for consumers, no fees are payable by complainants who escalate their complaints to CIFO for review.
- 2.4 Pursuant to the MOU, the total amount required from relevant financial services providers, each year, is currently raised equally from each island, with operating costs, for the two offices, also being shared equally. The basis for the current 50:50 income split is set out in the Financial Services Ombudsman (Case Fee and Levies) (Bailiwick of Guernsey) Order 2015<sup>1</sup>. This was recently extended for a further year, to the end of 2019, by:
- the Financial Services Ombudsman (Bailiwick of Guernsey) (Amendment) Ordinance, 2018; and
  - the Financial Services Ombudsman (Case Fee and Levies) (Bailiwick of Guernsey) (Amendment) Order, 2018 (the “**Order**”).
- 2.5 CIFO’s levies are payable by ‘registered providers’, as defined in the Order. Broadly, these are providers that, in relation to their carrying out ‘relevant financial services business’<sup>2</sup>, are required to register with the Guernsey Financial Services Commission (“**GFSC**”), or are licensed or hold a certificate or permit under relevant regulatory laws. To facilitate the issuance of annual levy notices, the GFSC provides CIFO with relevant data on registered providers.
- 2.6 The total amount to be raised by levies is first split equally between the two islands, so that 50% is payable by registered providers in Guernsey and 50% is payable by registered providers in Jersey.

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<sup>1</sup> Article 5.

<sup>2</sup> As defined in section 9 of the Financial Services Ombudsman (Bailiwick of Guernsey) Law, 2014. In Guernsey, sectors of activity include (i) banking, (ii) insurance (including intermediation), (iii) investment (specifically those entities licensed for advising, managing or dealing in connection with a category 2 controlled investment under The Protection of Investors (Bailiwick of Guernsey) Law, 1987) and fund services providers of Class A funds and (iv) money services and credit providers that are required to register with the Guernsey Financial Services Commission under the Registration of Non-Regulated Financial Services Business (Bailiwick of Guernsey) Law, 2008.

- 2.7 Within each island, half of its share (equal to 25% of the total levy income) is shared equally amongst the licensed banks. The other half (also 25% of the total levy) is shared equally among the remaining relevant financial services providers.
- 2.8 Registered providers operating in sectors in which a levy is payable, and which have been sent a levy notice, can apply for a zero-rating if, throughout the year, they could not give rise to an eligible complaint for the following reasons:
- they do not carry on relevant financial services business in, or from, the Bailiwick of Guernsey, or are sufficiently unlikely to do so; or
  - they do not do business with eligible complainants, or are sufficiently unlikely to do so.<sup>3</sup>
- 2.9 Due to the fact that the numbers of licensed banks, and other relevant financial services providers, in both islands are not identical, the outcome of this process is that individual financial services providers providing equivalent services in the two islands do not pay the same levies in both islands.

### **3. Proposal**

- 3.1 In response to CIFO's request, it is proposed to amend the Financial Services Ombudsman (Bailiwick of Guernsey) Law, 2014 (the "**Law**") and The Financial Services Ombudsman (Case Fee and Levies (Bailiwick of Guernsey) Order 2015, specifically to provide that the same annual levy can be applied to similar financial services providers in both Bailiwicks.
- 3.2 It is proposed that the weighting of the total levy between the banking and non-banking sector, whereby the banks pay a higher proportion on account of their greater usage, should continue.
- 3.3 The total amount raised in levies, in each island, would then relate to the number of levy payers in each island, rather than the current 50:50 split.
- 3.4 It is further proposed that Schedule 2 of the Law is amended to allow for the amalgamation of the finances of the Offices of Financial Services Ombudsman ("**OFSOs**") in Jersey and Guernsey. This, in conjunction with relevant amendments to the MOU, would remove the need to create complex provisions in respect of the sharing of costs between the OFSOs and the management of the financial reserves in the Legislation.

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<sup>3</sup> CIFO has also given automatic zero-rating, for the 2019 levy, to certain activities or categories of providers that could not, or are sufficiently unlikely to, generate eligible complaints.

**4. Compliance with Rule 4**

- 4.1 Rule 4 of the Rules of Procedure of the States of Deliberation and their Committees sets out the information which must be included in, or appended to, motions laid before the States.
- 4.2 In accordance with Rule 4(1), the Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications. She has advised that there is no reason in law why the Propositions should not to be put into effect.
- 4.3 In accordance with Rule 4(4) of the Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the propositions above have the unanimous support of the Committee.

Yours faithfully

C Parkinson  
President

A C Dudley-Owen  
Vice-President

J I Mooney  
N Inder  
D de Lisle

President  
Policy & Resources Committee  
Sir Charles Frossard House  
La Charroterie  
St Peter Port  
Guernsey  
GY1 1FH

23<sup>rd</sup> August 2019

Dear Deputy St Pier

**Preferred date for consideration by the States of Deliberation (the “States”)**

In accordance with Rule 4(2) of the Rules of Procedure of the States of Deliberation and their Committees, the Committee *for* Economic Development (the “**Committee**”) requests that the policy letter entitled “Financial Services Ombudsman: New Funding Structure” (the “**Policy Letter**”) be considered at the States’ meeting to be held on 25<sup>th</sup> September 2019.

The current funding structure for the Channel Islands Financial Services Ombudsman (“**CIFO**”) is currently in place until 31<sup>st</sup> December 2019. The Committee requests that the Policy Letter, which proposes a new funding structure for 2020, be considered by the States at the earliest opportunity.

Yours sincerely



**Deputy C Parkinson**

President  
Committee *for* Economic Development

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**THE COMMITTEE FOR ECONOMIC DEVELOPMENT**

**AMENDMENTS TO COMPANIES LAW**

The States are asked to decide: -

Whether, after consideration of the Policy Letter dated 4<sup>th</sup> July, 2019, of the Committee *for* Economic Development, they are of the opinion:-

1. To agree to that the amendments set out in the Policy Letter be made to the Companies (Guernsey) Law, 2008.
2. To direct the preparation of such legislation as may be necessary to give effect to those amendments.

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

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**THE COMMITTEE *FOR* ECONOMIC DEVELOPMENT**

AMENDMENTS TO COMPANIES LAW

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

4<sup>th</sup> July, 2019

Dear Sir,

**1 Executive Summary**

- 1.1 As part of its monitoring and review of the Companies (Guernsey) Law, 2008 (the “**Law**”), the Committee *for* Economic Development (the “**Committee**”) issued a consultation in June 2018, reflecting feedback received from industry.
- 1.2 This Policy Letter recommends a number of amendments to the Law which are intended to address certain issues, which have been identified, and to introduce changes to ensure that the Law continues to best serve the needs of the local business community.

**2. Background**

- 2.1 The Law was introduced in 2008 and the Committee has continued to keep it under review, to ensure that it keeps pace with the needs of local business and to respond to developments in other jurisdictions. As such, numerous amendments have been made to the Law during the 10 years in which it has been in force. Ordinances in 2013, 2014 and 2015<sup>1</sup> implemented Resolutions of the States of Deliberation (the “**States**”) in November 2012<sup>2</sup>, following a major post implementation review of the Law. Further amendments have been made, by regulation, in a number of areas following consideration of discrete

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<sup>1</sup> The Companies (Guernsey) Law, 2008 (Amendment) Ordinance, 2013; Companies (Guernsey) Law, 2008 (Amendment) Ordinance, 2014 and Companies (Guernsey) Law, 2008 (Amendment) Ordinance, 2015.

<sup>2</sup> Billet d’État XXIII of 2012, Article VII

issues.

2.2 As part of its ongoing monitoring and review of the Law, a consultation was issued by the Committee in June 2018, reflecting feedback received from industry. This Policy Letter recommends a number of amendments to the Law as a result of consideration of the consultation feedback.

2.3 The proposed amendments are detailed in paragraph 4 below.

### **3 Consultation**

The Committee has engaged in a consultation process with the Commercial Bar Association, the Guernsey Financial Services Commission and the Registrar of Companies (the “**Registrar**”), as well as inviting responses from members of the public.

### **4 Proposed amendments to the Companies Law**

#### **4.1 Section 25 - Application to change name**

Section 25 of the Law provides that a company may apply to the Registrar to change its name, and any application must be accompanied by a special resolution authorising that change of name. The Committee proposes that this section be amended to include provisions allowing a company to authorise a change of name by other means, (for example a board resolution), if provided for in the company’s articles. The Committee believes that companies would welcome the greater flexibility this would afford.

#### **4.2 Section 52A - Conversion of a cell of a protected cell company into a non-cellular company**

4.2.1 Section 52A was inserted into the Law in September 2015, reflecting demand from local industry. It provides for a cell of a protected cell company to be able to convert into, and incorporate as, a non-cellular company. Section 52A(3) provides that if cell shares have been issued in respect of a cell, the holders of those shares must give the requisite consent to the matters identified in subsections (a) to (f). The mechanism in section 52A(3) was designed to allow cell shareholders to be able to approve a conversion even where, for example, they do not constitute a single class or where cell shares had no voting rights.

4.2.2 By virtue of section 52A(3) of the Law, for the purposes of that subsection the holders of the cell shares are considered to have given consent only if the holders of not less than 75% in number of those shares give their written consent, or consent is given at a meeting on a show of hands by not less than 75% of the holders of those shares who vote in person, or by proxy.

4.2.3 However, there is presently no provision for poll voting under section 52A(3) of the Law and other provisions relating to poll voting on resolutions do not apply, as the requisite consent mechanism is not a shareholder resolution. On a show of hands, each member present has one vote without regard to the number of shares held by him personally or as a proxy holder for a third party. Accordingly, no matter how many proxies a member may hold he will have only one vote on a show of hands. In such a scenario, shareholders holding a small minority stake could potentially block any proposed consent, despite another party holding proxies representing more than 75% of relevant shareholders voting in favour of the consent. As such, the Committee proposes that section 52(A) of the Law be amended to permit a poll of cell shareholders to be held, or demanded, on a proposal to convert a cell into a non-cellular company.

4.2.4 The Committee also considers it desirable to replicate the effect of certain other provisions of the Law relating to polls on resolutions, as set out in paragraphs a – e below, so that equivalent requirements apply to requisite consent under section 52A(3) including:

- a. that requisite consent would be considered to have been given where consent is given by the holders of cell shares representing not less than 75% of the total voting rights of cell shareholders who, being entitled to do so, vote in person or by proxy (replicating section 178(5) of the Law);
- b. that where requisite consent is given on a poll taken at a meeting, each cell shareholder has one vote in respect of each share and every proxy present who has been duly appointed has the same number of votes that the member would have (replicating section 191(3) of the Law);
- c. that restrictions on signifying requisite consent on polls are void (replicating the effect of section 193 of the Law); and
- d. that votes in respect of multiple shares may be split (replicating section 196 of the Law).

4.2.5 The Committee additionally considers that the Law should be amended to make it clear that there is no requirement that all members sign the memorandum of incorporation of a new cellular company as part of a conversion pursuant to section 52A. This is due to the impracticality of obtaining all shareholders signatures, not least where one or more cell shareholders have not consented to the conversion.

#### 4.3 Section 110 - Court sanction for compromise or arrangement

Section 110 of the Law provides that a majority in number, representing 75% in value, of the members or class of members, or creditors or class of creditors, of a company must agree a compromise or arrangement, in order for an application to be made to the Court to sanction that compromise or

arrangement. The Committee proposes that wording be inserted into this section to clarify that the reference to 75% in value applies to creditors and that in respect of members, the requirement is members representing 75% of voting rights.

4.4 Section 136 - Requirement for an incorporated cell company and each cell to have the same directors

4.4.1 Section 136 of the Law currently requires that each director of an incorporated cell company must also be a director of each of its incorporated cells, and that no person may be a director of an incorporated cell unless he is a director of its incorporated cell company. The Committee is of the view that this restriction does not always allow an incorporated cell company to appoint the most appropriate directors and that removing this restriction would allow experts in a particular field relating to the business of an individual cell to be appointed to the board, without needing to be appointed to the board of the incorporated cell company, or to any other individual cell. As such the Committee recommends that the requirement for an incorporated cell company and each of its incorporated cells to have the same board be removed.

4.4.2 The Committee further proposes amendment of sections 241, 246, 253 and 261 of the Law so that the duty to keep accounting records lies with the incorporated cell and the directors of an incorporated cell are responsible for preparing the accounts of that cell, delivering accounts and reports to members, and appointing, etc., an auditor; rather than those duties and functions falling to the incorporated cell company and/or its directors, as is currently the case.

4.5 Sections 224 and 226 - Notice required of the appointment and termination of the authority of proxies

4.5.1 Section 224(2)(c) and section 226(6)(c) of the Law make void any provision of a company's articles of incorporation requiring notice of the appointment and termination of the authority of proxies to be received by the company earlier than the time at which the poll was demanded, where the poll is taken not more than 48 hours after it was demanded.

4.5.2 When the Companies Law was drafted, these sections replicated sections 327 and 330 of the UK Companies Act 2006 ("**UK Act**"). Sub-sections 327(2)(c) and 330(6)(c) of the UK Act were never brought into force in the UK and were repealed by paragraph 30 of Schedule 6 to the UK Deregulation Act 2015 as the UK Government considered these to be drafting errors. The policy intention is to remove these provisions as they are causing difficulties in respect of company administration.

#### 4.6 Section 260 - Qualification for appointment as an auditor

4.6.1 Section 260 of the Law governs qualification for appointment as an auditor of a Guernsey company. It sets out a requirement, in order to be appointed auditor of a Guernsey company, that partnerships and bodies corporate must be controlled by 'qualified individuals' (defined in section 260(1) of the Law as individuals who are members of one of the specified British or Irish supervisory accountancy bodies, or who are for the time being authorised by the Committee).

4.6.2 'Control' is defined, in section 260(8) of the Law as "entitlement to exercise a majority of the votes cast (a) in the case of a partnership, at any meeting of the partners [or members] or other management body, and (b) in the case of a body corporate, at any meeting of the members or directors or other management body".

4.6.3 The Committee believes that these requirements should be amended so that a partnership and body corporate would be qualified to act as an auditor of any Guernsey company where control rests with any of the following:

- a. qualified individuals;
- b. individuals who hold a qualification to audit accounts under the law of a European Economic Area member state other than the United Kingdom or the Republic of Ireland;
- c. partnerships or bodies corporate which are themselves controlled by qualified individuals;
- d. partnerships or bodies corporate accepted by an 'appropriate body', as defined in section 260(8) of the Law, as being qualified for appointment as auditors of companies incorporated in the United Kingdom or Ireland;
- e. any combination of the above;

as long as each person responsible for the conduct of an audit of a company is a 'qualified individual'.

4.6.4 The Committee also proposes that the power of the Committee to authorise an individual for the time being under section 260(1)(b) of the Law should be extended so that the Committee may also authorise a partnership or body corporate. The Committee further proposes that a power be inserted for the Committee to make regulations prescribing a fee payable to the Committee by any person or body making an application pursuant to section 260(1)(b). The Committee also proposes the inclusion, for the avoidance of doubt, that any authorisations granted under section 260(1)(b) are subject to such terms and conditions as the Committee sees fit.

#### 4.7 Section 283 - Conversion of shares to stock

4.7.1 The Companies (Guernsey) Law, 1994, permitted both conversion of shares into stock and reconversion of that stock into paid-up shares of any denomination. When the Law was enacted, the conversion of shares into stock was prohibited by section 283. However, in the last round of amendments to the Companies Law, industry feedback was that the ability to use stock conversion was useful, particularly in share reorganisations, and respondents to the consultation supported permitting conversion of shares into stock. Section 283 of the Companies Law was therefore amended, with effect from 3<sup>rd</sup> September, 2015, so that conversion of shares to stock was permitted.

4.7.2 This provision has been the subject of some debate and the Committee consequently wished to consult on whether it is appropriate for this provision to remain in the Law, or be repealed. The Committee has received detailed feedback and analysis from respondents and, following careful consideration of those responses, the Committee agrees that the ability to convert shares to stock in the Law is unnecessary and consequently, section 283 should be amended to reflect this.

#### 4.8 Section 306(a) – Shares in lieu of dividends

Section 306(a) currently requires that any offer of shares in lieu of dividends be made to all shareholders of the same class. The Committee understands that this provision causes problems as some jurisdictions restrict the ability to make offers of shares in lieu of dividends. The Committee therefore proposes inserting a qualification in section 306 so that companies may make the offer by other means, such as by notice in La Gazette Officielle, should the jurisdiction in which the shareholder is resident prohibit or restrict the making of an offer of shares in lieu of dividends.

#### 4.9 Sections 312-314 – Terms of purchase by a company of its own shares

Under section 314 of the Law, a company may presently only acquire its own shares in pursuance of a contract authorised in advance by way of a special resolution. This is to prevent one shareholder receiving excessive consideration for the shares, from the company, at the expense of the other shareholders. The Committee understands that such concerns do not arise where the shares are held by an employee share scheme and as such proposes that the Law be amended to provide that a company only need require member approval by way of ordinary resolution to the purchase of the shares, and the minimum and maximum amounts to be paid, but not authorisation of specific terms of each acquisition, if such acquisition is for the purposes of an employee share scheme, and is off market. This would reflect the position in England.

#### 4.10 Section 313 – Compulsory purchase by a company of its own shares

4.10.1 Section 313(3) of the Law requires that a company must obtain the consent of the shareholders whose shares are being acquired, in an acquisition by a company of its own shares. The need for consent in section 313 of the Law represents a departure from provisions that existed previously, in the Companies (Guernsey) Law, 1994, pursuant to which compulsory purchases were permitted without consent, if a company was authorised to do so by virtue of (a) its memorandum and articles, (b) the terms and conditions on which the relevant shares were issued, or (c) the share subscription agreement.

4.10.2 The Committee is advised that this additional express requirement for shareholder consent creates an additional hurdle for the creation of the right to acquire shares but does not increase shareholder protection. As such, the Committee proposes to repeal section 313(3) of the Law.

#### 4.11 Section 314 - Purchase by a company of its own shares ('off market' acquisition)

4.11.1 Section 314 of the Law deals with authority for the 'off market' purchase, by a company, of its own shares. A company may acquire its own shares, other than under a market acquisition under section 315 of the Law, in pursuance of a contract authorised in advance by a special resolution of the company. Subject to a requirement that the authority must state a date on which it is to expire, the authority may also be varied, revoked or renewed by special resolution of the company.

4.11.2 'On market' acquisitions by a company of its own shares are governed by section 315 of the Law and only require authorisation by ordinary resolution, or by the company's memorandum or articles of incorporation.

4.11.3 The Committee proposes that the Companies Law be amended to align the requirement for 'on market' acquisitions with the position for 'off market' acquisitions by enabling authorisation of 'off market' purchases of own shares by ordinary, instead of special, resolution.

#### 4.12 Section 337 - Right of transferee to acquire shares

4.12.1 Part XVIII of the Law deals with takeovers and section 337 of the Law sets out the percentage of shares of a company that would enable a transferee to issue a notice to acquire to dissenting shareholders and the relevant periods of time in which a notice to acquire may be issued.

4.12.2 Section 337 currently provides that the last date on which an offer made under that section can be approved or accepted must have passed before a notice, to acquire, can be given. Consequently, a takeover cannot progress even if the

90% threshold has been reached prior to this date. The Committee proposes that this restriction is removed.

4.12.3 Additionally, section 337(7) of the Law provides that shares purchased during the bid period do not count towards the 90% threshold. The Committee recommends amending this section so that purchases during the bid period do count towards the relevant share threshold, provided that the price paid for shares, so acquired, does not exceed the offer price. This would make the Law more consistent with other jurisdictions, including the UK.

#### 4.13 Section 498A – Retention of copies of records in electronic form

4.13.1 Section 498A was introduced with effect from 3<sup>rd</sup> September 2015 following the move to an electronic register of companies under the Law. Section 498A(1) states that the Registrar may destroy or dispose of original documents received or issued for the purposes of the Law provided that an electronic copy is kept and, if the document was not originally sent electronically, the original hard copy is kept for three years.

4.13.2 The Committee considers it unnecessary for the Registrar to retain hard copy documents alongside an electronic copy and therefore considers it appropriate to amend Section 498A of the Companies Law to remove the requirement for an original hard copy document to be kept for three years.

#### 4.14 Additional information and amendments

4.14.1 Whilst many of the proposed changes outlined above are expressed in precise terms and by reference to specific sections and sub-sections of the Law, the Committee does not intend that the suggested wording, or location of amendments, should to fetter the discretion of the draftsman in identifying the most appropriate way of implementing the desired amendment. In general, it is the substance of the proposals that is important, not the precise wording or the precise mechanism for implementation.

4.14.2 In addition to the specific amendments identified above, there are a number of typographical matters, corrections, clarifications, consequential and minor amendments which will be addressed in the amended Law, which the Committee does not believe will substantively alter the provisions of the Law and which have not been specifically set out in this Policy Letter in the interests of brevity.

## 5 **Resources**

No resourcing issues have been identified, outside of the required drafting of legislation.

**6 Compliance with Rule 4**

In accordance with Rule 4(4) of the Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the propositions above have the unanimous support of the Committee.

Yours faithfully

C Parkinson  
President

Vice-President  
A C Dudley-Owen

J I Mooney  
N Inder  
D de Lisle

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**POLICY & RESOURCES COMMITTEE**

THE MATRIMONIAL CAUSES LAW (GUERNSEY), 1939, AMENDMENT

The States are asked to decide:-

Whether, after consideration of The Matrimonial Causes Law (Guernsey), 1939, Amendment Policy Letter dated 16<sup>th</sup> August 2019 they are of the opinion:-

1. To approve the Projet de Loi entitled 'The Matrimonial Causes (Guernsey) (Amendment) Law, 2019' and to authorise the Bailiff to present a most humble petition to Her Majesty praying for Her Royal Sanction thereto, noting that the two proposals relating to document duty and pension sharing are not included for the reasons set out in section 3 of the Policy Letter - The Matrimonial Causes Law (Guernsey), 1939 Amendment.
2. To direct the Policy & Resources Committee, in consultation with the relevant Committees of the States of Deliberation, to consider the matters relating to pensions noted in section 9.1 of this Policy Letter - The Matrimonial Causes Law (Guernsey), 1939 Amendment, and whether they should be considered for prioritisation during the next term as part of the Future Guernsey Plan.

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

## EXPLANATORY MEMORANDUM

This Law amends The Matrimonial Causes Law (Guernsey), 1939 to extend the powers of the Matrimonial Causes Division of the Royal Court to make orders relating to the division of assets between spouses on divorce, judicial separation or nullity. The amended provisions will increase the flexibility of the Court's powers, (inter alia) enabling the Court to order the transfer of property to children of the marriage, or to other persons for the benefit of such children; to direct that property be held on trust for sale; to require the parties to remain in joint ownership until a future time or event; to grant either of the parties rights of occupation in the matrimonial property; and to secure any such obligation by charge over any real property owned by the parties.

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**POLICY & RESOURCES COMMITTEE**

THE MATRIMONIAL CAUSES LAW (GUERNSEY), 1939, AMENDMENT

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

16<sup>th</sup> August, 2019

Dear Sir

**1. Executive Summary**

- 1.1 This Policy Letter seeks States approval of some changes to the existing law governing how couples divorce, legally separate and annul a marriage, in line with the extant Resolution of 2009<sup>1</sup>.
- 1.2 These changes are separate to the full review of the Law<sup>2</sup> that the Policy & Resources Committee (“the Committee”) is leading, the results of which will be brought to the Assembly in quarter 4 of 2019.
- 1.3 The purpose of the Amendment to the Law (Appendix A) is to extend the powers of the Royal Court to make orders relating to the division of assets between spouses on divorce, judicial separation or nullity, to help to reduce some of the conflict and challenge that occurs during this aspect of the process.
- 1.4 The Committee is of the view that it would be preferable to continue to progress with the changes to the current Law as appended rather than wait to incorporate within the full review of the legislation. By enabling the Court to have greater powers in the division of assets sooner rather than later, would be of greater benefit to those members of the community going through the process of divorce, judicial separation or annulment, in advance of the wider reforms being in place.

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<sup>1</sup> [Billet d'État II of January 2009](#)

<sup>2</sup> [Billet d'État XII of June 2017](#)

1.5 A Policy Letter accompanies this Amendment as it sets out the reasons why certain proposals covered by the extant 2009 Resolution (11) are not included in the Amendment, in line with H M Greffier's Submission of Propositions to the States, Directive No.1<sup>3</sup>.

1.6 It is further proposed that the Committee, in collaboration with other relevant Committees, should give the matters that cannot be included within the Amendment relating to pensions further consideration, including the possible need for primary legislation, as part of its handover report to inform the successor Committees and the Policy & Resource Plan.

## 2. Background

2.1 How married couples can dissolve, separate and annul their marriage is set out in the Matrimonial Causes (Guernsey) Law, 1939, ("the Law"), which established the Matrimonial Causes Division of the Royal Court ("Divorce Court") to consider divorce, judicial separation and other matrimonial causes and issues.

2.2 The Divorce Court's jurisdiction is similar to: the Royal Court's when sitting as an Ordinary Court, ratifying terms of a separation agreement between spouses; and the Magistrate's Court when considering certain domestic matters such as granting of separation orders or making of maintenance orders.

2.3 In January 2009 it was recognised in a letter from H M Procurer that the areas where the majority of conflict and challenge occurred in matrimonial causes work related to:

- the custody of and access to children;
- the division of assets between spouses; and
- the payment of sums or maintenance.

2.4 The letter recognised that the extent of the powers in the Law of the Divorce Court were somewhat restricted in terms of division of assets and in particular, in relation to the local laws and practices relating to real property<sup>4</sup>. These limitations were identified in consultation with the Guernsey judiciary as causing difficulties 'as these limit the way in which the Divorce Court can fairly and appropriately structure the allocation of the assets of the parties to do justice between them in matrimonial proceedings.'

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<sup>3</sup> [Directive No.1 of 2018 - The Submission of Propositions to the States](#)

<sup>4</sup> 'land, and anything growing on, affixed to, or built upon land'

2.5 In England and Wales, the courts have, since the Matrimonial Causes Act 1973<sup>5</sup>, as amended, had greater flexibility to make more types of Orders to ensure fairness.

2.6 The 2009 proposed changes to the Law resolved by the States sought to address some of the issues relating to the division of assets between spouses and the payment of sums or maintenance, noted above, by suggesting Article 46 of the Law be amended to give additional powers to the Divorce Court to make a wider range of Orders. This was 'to ensure that justice is done between the parties in matrimonial proceedings'.

2.7 The Amendment relating to the additional powers for the Divorce Court included the –

(a) power to order the transfer of real or personal property to a wider range of people, to include a child or children of the family, or to another person for the benefit of such child or children;

(b) power to create any trust or settlement of or affecting the real or personal property of the spouses, or to vary any existing trust or settlement of such property held for their respective benefit; and power to vest real or personal property in trust generally, including for the benefit of children of the family and other persons for their benefit; and in any such case on such terms as the Divorce Court may direct;

(c) power to direct a payment, or periodic payments, out of the proceeds of sale of real or personal property;

(d) power to direct that real or personal property, or any interest therein, should be held on trust for sale with power to postpone sale either indefinitely or to a fixed time or the happening of a certain event, or until further order of the Divorce Court;

(e) where real or personal property is held in undivided shares, power to suspend the ability of the co-owners to require a licitation (that is, a process vesting the property in either of them, which is ordinarily available as a matter of customary law) of the property for a fixed time or the happening of a certain event, or until further order of the Divorce Court;

(f) power to create for either of the parties a right of usufruct<sup>6</sup>, or habitation, or a right of possession e.g. a lease, or in reversion, or a right of occupation by way of licence, in any case on such terms and conditions as the Divorce Court may direct;

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<sup>5</sup> [Matrimonial Causes Act 1973](#)

<sup>6</sup> 'A [Civil Law term](#) referring to the right of one individual to use and enjoy the property of another, provided its substance is neither impaired nor altered.'

(g) power to secure by way of fixed charge any obligation pursuant to an order of the Divorce Court over the interest of either or both of the owners of real property, e.g. to secure the payment of monies; and

furthermore, the Divorce Court should have specific power to make such ancillary or incidental orders as may be necessary or expedient to give effect to any orders made.'

2.8 The agreed changes were not applicable to real property in Sark as the application of Article 46 was excluded under the Matrimonial Causes (Amendment Law) 2002. However, provision was made to ensure some fairness between divorcing spouses by giving the power to enable leasehold interest to be created in respect of tenements and freeholds in Sark.

### **3. The draft Projet Amendment**

3.1 The draft Projet appended to this Policy Letter has been written in accordance with the Resolution of the States of 30<sup>th</sup> January, 2009. However, two matters referred to in the 2009 Policy Letter are not addressed and Her Majesty's Procureur has advised as follows:

#### Document duty

3.1.1 The first departure concerns the proposal that where, as part of a Divorce Court order, a charge is imposed over any real property (which would normally have attracted document duty by reference to a percentage of the sum secured), the charge should attract only a nominal duty of £1. The Document Duty (Guernsey) Law, 2017, which repealed and replaced the Document Duty (Guernsey) Law, 1973 and the Document Duty (Guernsey) Ordinance, 2003, now provides that a transaction resulting from any such order is exempt from document duty. Therefore, that proposal, as part of the resolution, is no longer necessary.

#### Pensions

3.1.2 The second departure from the Resolution of 2009 concerns the proposal to enable the States by Ordinance to make provision relating to pensions in divorce proceedings, including pension sharing Orders and attachment Orders concerning the pension scheme of one of the parties. It is acknowledged that this would be a desirable tool for the Divorce Court in making provision for the division of the matrimonial assets. However, two major obstacles prevent the immediate introduction of such arrangements as follows –

- i. In order to introduce enforceable pension sharing arrangements, it is considered that primary pension legislation would need to be enacted. There is presently no pension legislation in the Bailiwick and its enactment would require consultation with industry and considerable resources in order to formulate policy proposals, draft legislation and bring it into effect; and
- ii. Many pension providers for Guernsey residents are based in the United Kingdom. Accordingly, it would be necessary for any Order for pension sharing which was made by the Divorce Court to be enforceable in the courts of the United Kingdom, or for persons divorced in the Bailiwick to be able to make an application for financial relief in the country where the pension provider was located. This would not be possible without an amendment to legislation in that country or at least for some reciprocal arrangements to be agreed. Jersey and the Isle of Man are in the same position; and representations have in recent years been made jointly to contacts in England, Scotland and Northern Ireland. The response has been that there is no clear reason to depart from the well-established principle that the financial affairs of persons divorced in other jurisdictions in the British Isles (i.e. Guernsey, Jersey and the Isle of Man) should be dealt with in those jurisdictions.

#### **4. Wider Matrimonial Causes Reform**

- 4.1 Through the work exploring Union Civile and the resulting Policy Letter on Same Sex Marriage<sup>7</sup>, it became apparent that there were some complex issues surrounding the Law that needed to be addressed in detail at a later date including matters relating to matrimonial causes. The States resolved that these separate policy issues should return to the States in a timely manner.
- 4.2 Following the change of government in May 2016, the reform of the Law was prioritised by the Committee, in the Policy & Resource Plan – Phase Two<sup>8</sup>, in support of achieving the One Community: inclusive and committed to social justice outcome and to address the issues raised through the Union Civile work. The Propositions and supporting Policy Letter setting out the proposals for change to policy in this area will be laid before the States during quarter 4 of 2019.

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<sup>7</sup> [Billet d'État, XXIII of December 2015](#)

<sup>8</sup> [Billet d'État XII of June 2017](#)

4.3 Given that the attached Projet has progressed to the point of approval by the States, it is seen as being of greater benefit to the community to progress with the Amendment now, to be followed by the more substantial consideration of reforms to the Law.

4.4 It is expected that there will be no further substantive amendments to the matters included in the appended draft legislation through the wider reform.

## **5. Resource implications**

5.1 There are no additional resource implications to progress this Projet.

## **6. Legislative implications**

6.1 Provision made by this Projet will be incorporated into the full reform of the Law once the policy decisions have been considered by the States and the legislation prioritised for drafting.

## **7. Operational implications**

7.1 There will be no operational implications if this Amendment to the law is approved.

## **8. Timeframe**

8.1 The amended legislation could be enacted in the first part of 2020, subject to Her Majesty's Royal Sanction.

## **9. Conclusions and recommendations**

9.1 St James Chambers has advised in relation to the two proposals not contained within the Amendment that:

(a) the reference to document duty at nominal sum is now superfluous given the changes made under the Document Duty (Guernsey) Law, 2017, which replaced the Document Duty (Guernsey) Law, 1973 and the Ordinance of 2003, to which the 2009 proposal relates; and

(b) the pensions proposals are not legally or practically possible at this stage given the substantial policy decisions, cross jurisdiction co-operation and potential need for alteration of other jurisdictions' legislation to progress the proposals on provision of Court Orders relating to pensions in divorce proceedings; and as primary legislation in this area is likely to have much wider implications for all pensions and not just those being shared as part of divorce proceedings; and given that this matter is not seen as a priority for other Crown Dependencies, that it cannot be considered as part of this Amendment.

9.2 The Committee is of the view that the matters noted in 9.1 (b) above merit further consideration as set out in Proposition 2.

9.3 The Committee considers that the remaining proposals should proceed to enactment without further delay and recommends that the States support the Propositions to which this Policy Letter is attached.

#### **10. Compliance with Rule 4**

10.1 Rule 4 of the Rules of Procedure of the States of Deliberation and their Committees sets out the information which must be included in, or appended to, motions laid before the States.

10.2 In accordance with Rule 4(1), the Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications. She has advised that there is no reason in law why the Propositions should not to be put into effect.

10.3 In accordance with Rule 4(4) of the Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the propositions above have the unanimous support of the Committee.

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

Yours faithfully

G A St Pier  
President

L S Trott  
Vice-President

J P Le Tocq  
T J Stephens  
A H Brouard

# PROJET DE LOI

ENTITLED

## **The Matrimonial Causes (Guernsey) (Amendment) Law, 2019**

**THE STATES**, in pursuance of their Resolutions of the 30<sup>th</sup> day of January, 2009<sup>a</sup> and the \*\* day of \*\*\*, 2019<sup>b</sup>, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Bailiwick of Guernsey.

### **Amendment to Law of 1939.**

1. The Matrimonial Causes Law (Guernsey), 1939<sup>c</sup> ("**the Law**") is amended as follows.

2. In Article 46 of the Law -

(a) for paragraph (1), substitute the following paragraph -

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<sup>a</sup> Article XI of Billet d'État No. II of 2009.

<sup>b</sup> Article \*\* of Billet d'État No. \*\* of 2019.

<sup>c</sup> Ordres en Conseil Vol. XI, p. 318; Vol. XII, p. 278; Vol. XVII, p. 249; Vol. XXII, p. 102; Vol. XXIII, p. 489; Vol. XXVII, p. 99; Vol. XXXI, pp. 171 and 278; Vol. XXXII, p. 85; Vol. XXXVI, p. 639; Vol. XXXVII, p. 308; Order in Council Nos. XI and XXXI of 2003; No. XIII of 2011; No. XII of 2015; No. II of 2017; No. I of 2018; Ordinance No. XXXIII of 2003; No. VII of 2010; No. IX of 2016; No. XIII of 2017; Alderney Ordinance No. VIII of 2018.

"(1) Where a decree of divorce or nullity of marriage or a decree or pronouncement of judicial separation has been granted, the Court may, if it thinks fit and subject to Article 57A, as regards any relevant property, make an order of any type described in paragraph (3).", and

(b) immediately after paragraph (2), insert the following paragraphs -

"(3) The orders are -

(a) an order directing that the interests of the parties to the marriage in any relevant property shall vest -

(i) in one party to the marriage,

(ii) in a child of the marriage, or

(iii) in any other person for the benefit of a child of the marriage,

or that such interests shall be vested in one or more of such persons in such proportions as the Court may direct,

(b) an order directing that the interests of the parties to the marriage in any relevant property shall be held on trust for the benefit of such of the parties to, and any children of, the

marriage, and for such purposes, as the Court may direct; and in such a case the Court may order that any such property shall be held on trust for sale with or without the power to postpone the sale -

- (i) for a fixed period,
  - (ii) until the happening of a certain event, or
  - (iii) until further order,
- (c) an order directing that any trust or settlement of any relevant property for the benefit of one party or both parties to the marriage be varied or modified in such manner as the Court may direct,
- (d) an order directing that any relevant property be sold, and that such gross, or periodic, sum of money be paid out of the proceeds of sale of such property to -
- (i) such party to the marriage, or
  - (ii) such child or children of the marriage,  
or
  - (iii) such person for the benefit of such child or children of the marriage, or

(iv) any one or more of the persons included  
in sub-paragraphs (i) to (iii),

as the Court may direct,

(e) an order suspending the right of a party to the  
marriage to demand licitation of any relevant  
property on such terms, and for such period, as  
the Court may direct,

(f) an order creating, extinguishing, or varying a  
usufruit, droit d'habitation, lease, licence, or  
right of occupation for the benefit of such of -

(i) a party to the marriage, and

(ii) a child or children of the marriage,

and on such terms and conditions, as the Court  
may direct.

(4) Where the Court makes an order described in  
paragraph (3), it may order that one party shall -

(a) pay to the other party to the marriage, for his or  
her absolute benefit, such gross or periodic  
sum, or both, or

- (b) secure to the other party for his or her benefit, such gross or periodic sum, or both, for any term not exceeding the life of the party in favour of whom the same is secured,

as the Court may direct.

(5) An order made under this Article -

- (a) may contain such consequential, ancillary, incidental or supplementary provisions as the Court thinks fit, and
- (b) may be varied or modified from time to time in such manner as the Court thinks fit.

(6) Where a party to a marriage has an interest in any relevant property, or in the proceeds of sale thereof, and some other person who is not a party to the marriage also has an interest in that property, or in the proceeds of sale thereof, then, before deciding whether to make an order under this Article in relation to that property, it shall be the duty of the Court to give that other person an opportunity to make representations with respect to the order, and any such representations shall be included among the circumstances to which the court should have regard.

(7) In this Article "**relevant property**" means real and personal property in which each or either of the parties to the marriage has an interest, present, prospective or conditional."

3. In Article 57C(2) of the Law, in the definition of "**a relevant order**",

immediately after subparagraph (a), insert the following subparagraph -

"(aa) payment of a gross, or periodic, sum of money under Article 46,".

4. In Article 67 of the Law -

(a) number the provision as paragraph (1),

(b) insert the following paragraph after paragraph (1) -

"(2) Without prejudice to the generality of paragraph (1), an Ordinance may make provision prescribing the matters of which the Court shall, or may, take into account when exercising its powers under Article 43 and Part VIII of this Law.".

**Interpretation.**

5. In this Law, "**the Law**" means the Matrimonial Causes (Guernsey) Law, 1939.

**Citation.**

6. This Law may be cited as the Matrimonial Causes (Guernsey) (Amendment) Law, 2019.

**Commencement.**

7. This Law shall come into force on such day as the States may by Ordinance appoint; and different days may be appointed for different provisions and for different purposes.

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**COMMITTEE FOR EMPLOYMENT & SOCIAL SECURITY**

**AMENDMENTS TO STATUTORY MINIMUM WAGE ARRANGEMENTS TO COME INTO  
FORCE ON 1<sup>ST</sup> JANUARY 2020**

The States are asked to decide:

Whether, after consideration of the Policy Letter entitled 'Amendments to Statutory Minimum Wage arrangements to come into force on 1<sup>st</sup> January 2020', dated 16<sup>th</sup> August 2019, they are of the opinion:-

1. To approve the Minimum Wage (Prescribed Rates and Qualifications) (Guernsey) (Amendment) Regulations, 2019 (as Appendix 1 to this Policy Letter), which pursuant to sections 1(3) and 3(1) of the Law, prescribe the hourly minimum wage rates set out below with effect from 1<sup>st</sup> January 2020:
  - a. adult minimum wage rate: £8.50 per hour (for workers aged 18 and over), and
  - b. young person's minimum wage rate: £8.05 per hour (for workers aged 16 and 17).

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

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**COMMITTEE FOR EMPLOYMENT & SOCIAL SECURITY**

AMENDMENTS TO STATUTORY MINIMUM WAGE ARRANGEMENTS TO COME INTO  
FORCE ON 1<sup>ST</sup> JANUARY 2020

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

16<sup>th</sup> August 2019

Dear Sir

**1. Executive Summary**

- 1.1. In accordance with the provisions of the Minimum Wage (Guernsey) Law, 2009, (“the Law”) the Committee *for* Employment & Social Security (“the Committee”) is seeking States’ agreement to its proposals to increase the statutory minimum wage rate.
- 1.2. Section 31(3) of the Law provides that Regulations made by the Committee that set the hourly minimum wage rates shall not have effect until approved by a resolution of the States.
- 1.3. In November 2018, the States approved the Committee’s medium term plan for minimum wage rates to be increased in equal annual increments over the course of five years, until the minimum wage rates reach 60% of median earnings by 2023.
- 1.4. Following the medium term direction for minimum wage, and having consulted with representative groups of employers and employees, undertaken in accordance with Section 5 of the Law, and the consideration of the requirements of Section 6 of the Law, the Committee recommends the setting of the following minimum wage rates, to take effect from 1<sup>st</sup> January 2020:
  - Adult minimum wage rate at £8.50 per hour (currently £8.10) for workers aged 18 and over.
  - The young person’s minimum wage rate at £8.05 per hour (currently £7.50) for workers aged 16 and 17.

1.5. The Minimum Wage (Prescribed Rates and Qualifications) (Guernsey) (Amendment) Regulations, 2020 (Appendix 1), have been drafted to give effect to the change in rates.

1.6. The Committee also intends to increase the associated accommodation and food offsets. These offsets set the maximum amount an employer is permitted to deduct from an employee's wage in compensation for providing accommodation and meals. These changes, which do not require States approval, are shown below for information.

- Accommodation & food offset: £114 per week (currently £109).
- Accommodation only offset: £82 per week (currently £78).

## **2. Introduction**

2.1. The October 2007 States' resolution (Billet d'État XXII of 2007, Article 9) to implement a statutory minimum wage, gave backing to the fundamental principle that it is unacceptable for employees and workers to be paid low wages to the point of exploitation.

2.2. The minimum wage rates are not intended to reflect a 'living wage', particularly as different households have different family make-ups and different needs. There are several initiatives adopted by the Committee, such as a wide range of benefits, grants and social housing, which assist those with a low income.

2.3. In 2010, the States approved an Amendment from Deputy Fallaize (Billet d'État XI of 2010, Article 11) which was worded as follows:

"5. To direct the Commerce and Employment Department, whilst having regard to the requirements of the Minimum Wage (Guernsey) Law, 2009, to take fully into account when reviewing minimum wage rates that it is a policy objective of the States of Deliberation that the Young Persons' Minimum Wage Rate and the Adult Minimum Wage Rate should be equalised as soon as possible."

A further Amendment, from Deputy Roffey, was successful in November 2017 (Billet d'État XXIII of 2017, Article 9), which was:

"2. To direct the Committee *for* Employment & Social Security, when they bring proposals to the States for the adult and young persons' minimum wage levels for 2019 to provide clarity on their medium term plan for increasing minimum wage levels".

2.4. The Committee considered both Amendments when determining the minimum wage rates for 2020.

### **3. The medium term plan for increasing minimum wage rates**

3.1. The purpose of the 2017 Roffey Amendment was to provide greater certainty for both employers and employees and to allow them to plan over the medium term. The Committee deemed the medium term to be the next five years for the purpose of implementing the Resolution.

3.2. In preparing its proposals for 2018, the Committee considered a variety of options for minimum wage levels over the medium term and invited the community to offer their views on the matter during consultations. Among the options that were examined, the Committee considered whether minimum wage rates should be linked to median earnings, or whether it would be more appropriate for the minimum wage rate to increase in line with inflation (RPIX).

3.3. On recommendation from the Committee, the States agreed that the minimum wage rates should be linked to median earnings, so that a person working a fulltime (40 hour) week should earn at least 60% of the median earnings figure. This would ensure that the gap between the Island's lowest paid workers and the workforce average could never grow too wide.

3.4. As the jump from 2018 minimum wage (£7.75) to the then median earnings figure (£9.33) was large, a gradual increase to reach this rate over the medium term was considered necessary. It was agreed that the target should be met by increasing the minimum wage rate in equal increments over a five year period.

3.5. 2020 will be the second year of the 5 year programme. Mindful of the direction of the States on this matter, there is still an obligation in Law for consideration of certain factors. The Committee has also consulted with industry, albeit to a lesser degree than customary in light of the medium term plan.

### **4. Factors to be taken into account**

4.1. The Law requires the Committee to consider and take into account a number of factors before making Regulations setting the minimum wage rates. These are set out below:

- the current rate of the minimum wage in the United Kingdom, the Isle of Man and Jersey,
- the current economic and trading conditions prevailing in Guernsey,
- the rate of inflation in Guernsey,
- the rate of unemployment in Guernsey,

- current rates of pay in Guernsey,
- the increase or decrease in rates of pay in Guernsey over the previous twelve months,
- and such other factors as appear to be relevant.

4.2. The Committee recognises the need for employers to attract and retain quality staff. The Committee considers that to do so, Guernsey must, among other things, offer pay rates that are attractive compared with other competitive jurisdictions. The current minimum wage rates for the UK, the Isle of Man and Jersey are listed below:

**Table 1 – Current Minimum Wage Rates – UK, the Isle of Man and Jersey**

<b>Minimum Wage Rates (Hourly)</b>			
	Young Person	Adult	Effective from
Guernsey	<b>£7.50</b> (aged 16-17)	<b>£8.10</b> (aged 18 and over)	1 <sup>st</sup> Jan 2019
United Kingdom	<b>£4.35</b> (aged 16-17) <b>£6.15</b> (aged 18-20)	<b>£7.70</b> (aged 21-24) <b>£8.21</b> (aged 25 and over)	1 <sup>st</sup> Apr 2019
Isle of Man	<b>£6.15</b> (aged over 16 but under 18)	<b>£8.25</b> (aged 18+, except development workers) <b>£7.30</b> (development worker)	1 <sup>st</sup> Oct 2019
Jersey	Year 1: <b>£6.02</b> Year 2: <b>£7.02</b> <sup>1</sup>	<b>£8.02</b> (aged 16 and over)	1 <sup>st</sup> Oct 2019

4.3. It is not possible to draw a straight comparison between Guernsey and the UK as in the UK, the over 25 rate is intended to be a living wage rather than a minimum wage.

4.4. It is worth noting that unemployment in Guernsey has been recorded as the lowest June figure since 2011, as well as the highest number of people on training schemes ever recorded.

Such other factors that appear to the Committee to be relevant

4.5. The following were identified as relevant when considering the statutory minimum wage rates:

- public and political expectations,
- ensuring Guernsey remains competitive with the UK, Jersey and the Isle of Man,

<sup>1</sup> The young person's rates in Jersey are referred to as the Trainee Rates. Those who are on a Social Security training programme can receive those rates for a maximum period of two years.

- the impact on businesses,
- the In-Work Poverty review by the Scrutiny Management Committee,
- the impact of Brexit.

## **5. Duty to consult**

5.1. Section 5 of the Law requires the Committee to:

“...consult such organizations, or associations of organizations, representative of employers and employees in Guernsey, and such other organizations and bodies, as appear to the Department to be appropriate.”

5.2. In 2018, the Committee carried out a large-scale public consultation on minimum wage rates. However, as the Committee does not intend to deviate from the medium term plan, the Committee decided its approach this year would be to engage directly with relevant employers and employees via letter.

5.3. The Committee wrote to the main industry groups which included, but was not limited to, the retail, hospitality, and finance sectors and representatives of unions. From the 18 letters sent, the Committee received 4 responses; 3 from industry bodies and 1 from The States of Guernsey as an employer. On the whole, the feedback was positive, however there were concerns that equalising the young person’s pay rate would create unintended consequences, such as disincentivising employers from taking on young people with little or no experience.

5.4. The Committee reviewed and took into consideration the feedback from engagement with industry, but did not feel that there were any major concerns with the direction approved by the States in 2018.

## **6. Proposed rates for 2020**

### Adult minimum wage rate

6.1. In accordance with the medium term plan, the minimum wage rates are linked to median earnings, so that a person working a fulltime (40 hour) week should earn at least 60% of the median earnings figure.

6.2. Median earnings for the year to Quarter 1 of 2019 was £33,530 per annum. Taking 60% of this figure and dividing it by 52 weeks and then by 40 hours, produces an hourly rate of £9.67. This is the 60% of median earnings figure, adjusted using the latest available median earnings figure, which is the target of the five year medium term plan, to be reached in 2023.

**Table 4 – Minimum wage rates illustrated over the medium term, based on the 60% of median earnings approach**

Adult Rate		
Year	Estimated rates in Oct 2018 report	2020 proposed rate and estimated rates
2019	£8.07	£8.10
<b>2020</b>	<b>£8.39</b>	<b>£8.49</b>
2021	£8.71	£8.88
2022	£9.03	£9.27
2023	£9.35	£9.67

- 6.3. As is usual, the Committee proposes to round the adult minimum wage rate for 2020 upward to £8.50.

Young person’s minimum wage rate

- 6.4. The young person’s rate will also be increased annually in accordance with the medium term plan. Following the resolution to equalise the young person’s rate with the adult minimum rate, the medium term plan for the young person’s rate will require incremental steps to reach the adult minimum rate by 2023. Rates over the next four years are illustrated below:

**Table 5 – Young person’s minimum wage rates illustrated over the medium term, based on the 60% of median earnings approach**

Young Person’s Rate		
Year	Estimated rates in Oct 2018 report	2020 proposed rate and estimated rates
2019	£7.51	£7.50
<b>2020</b>	<b>£7.97</b>	<b>£8.04</b>
2021	£8.43	£8.58
2022	£8.89	£9.12
2023	£9.35	£9.67

- 6.5. The Committee proposes to round the figure upward to £8.05 per hour, which is what has happened in previous years.
- 6.6. An increase in the rate for 16-17 year olds in 2020 to £8.05 per hour will be a further step in narrowing the gap between that and the adult rate. Young people aged 18 are immediately entitled to receive the Adult minimum wage (£8.50).

### Accommodation and food offsets

- 6.7. The rates for accommodation and food offsets are updated proportionately with the adult minimum wage rate. The proposed rates for 2020 are:
- Accommodation & food offset: £114 per week (currently £109)
  - Accommodation only offset: £82 per week (currently £78)

## **7. Conclusions**

- 7.1. Having considered the criteria and relevant factors as set out in the Law, the Committee has concluded that there is a case to increase the statutory minimum wage rate with effect from 1<sup>st</sup> January, 2020, in accordance with the medium term plan.
- 7.2. It is the view of the Committee that the adult minimum wage rate should be increased from the current £8.10 per hour to £8.50 per hour.
- 7.3. The Committee maintains the view that the UK Government's aspiration to move to the "National Living Wage" rate of £9.00 per hour by 2020 needs to be borne in mind when setting the adult rate for 2020. It believes that if Guernsey does not keep pace with the UK rate, this could have implications for the Island's attractiveness to necessary guest workers, and on the Island's reputation.
- 7.4. The Committee supports the aspiration expressed in the 2010 States' Resolution to equalise the young persons' rate and the adult rate and consequently the equalisation has been incorporated into the Committee's medium term plan. The proposed differential between the adult rate and young person' rate in 2020 will be 45 pence.
- 7.5. Increasing the adult minimum wage rate to the proposed level strikes a balance between setting rates that are affordable for responsible employers operating in Guernsey, and reduces the risk of exploitation of workers.

## **8. Compliance with Rule 4 of the Rules of Procedure**

- 8.1. There are no costs to the States arising from the propositions.
- 8.2. The Committee's proposition aligns with its purpose, which is "To foster a compassionate, cohesive and aspirational society in which responsibility is encouraged and individuals and families are supported through a scheme of social protection relating to pensions, other contributory and non-contributory benefits, social housing, employment, re-employment and labour market legislation". The proposition is in line with the themes of the Policy & Resource

Plan, approved by the States in November 2016 (Billet d'État XXVIII of 2016) and updated in June 2019 (Billet d'État IX of 2019), which are to be inclusive and equal, and to foster a mature international identity.

- 8.3. It is confirmed that the attached proposition has the unanimous support of the Committee.

Yours faithfully

M K Le Clerc  
President

S L Langlois  
Vice-President

M J Fallaize  
J A B Gollop  
E A Yerby

M J Brown  
Non-States Member

A R Le Lièvre  
Non-States Member

**GUERNSEY STATUTORY INSTRUMENT**

**2019 No. 85**

**The Minimum Wage (Prescribed Rates and Qualifications)  
(Guernsey) (Amendment) Regulations, 2019**

<i>Made</i>	<i>15th August, 2019</i>
<i>Coming into operation</i>	<i>1st January, 2020</i>
<i>Laid before the States</i>	<i>, 2019</i>

**THE COMMITTEE FOR EMPLOYMENT & SOCIAL SECURITY**, in exercise of the powers conferred on it by sections 1(3), 3(1) and 31 of the Minimum Wage (Guernsey) Law, 2009<sup>a</sup>, and all other powers enabling it in that behalf, hereby makes the following Regulations:-

**Substitution of schedule to principal Regulations.**

1. The principal Regulations are amended by substituting, for the Schedule to those regulations, the schedule contained in the Schedule to these Regulations.

**Interpretation.**

2. In these Regulations, "**the principal Regulations**" means the Minimum Wage (Prescribed Rates and Qualifications) (Guernsey) Regulations, 2012<sup>b</sup>.

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<sup>a</sup> Order in Council No. I of 2010; as amended by Order in Council No. XIII of 2010; and Ordinance No. IX of 2016.

<sup>b</sup> G.S.I. No. 40 of 2012; as amended by G.S.I. No. 15; G.S.I. No. 49 of 2014; G.S.I. No. 40 of 2015; G.S.I. No. 42 of 2016; G.S.I. No. 89 of 2017; and G.S.I. No. 60 of 2018.

**Transitional and savings provisions.**

3. (1) These regulations do not have effect in relation to any worker and his work until the first day of the first pay reference period of the worker in respect of that work.

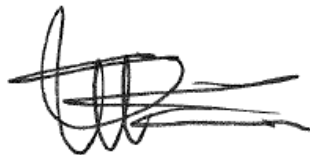
(2) For the avoidance of doubt, before the first day of the first pay reference period of the worker in respect of that work, the principal Regulations have effect in relation to that worker and that work as if these Regulations had not been made.

(3) In this regulation, "**the first pay reference period**", in relation to a worker and his work, means the first pay reference period of the worker, in respect of that work, beginning on or after the date specified in regulation 4 for these Regulations to come into force.

**Citation and commencement.**

4. These Regulations may be cited as the Minimum Wage (Prescribed Rates and Qualifications) (Guernsey) (Amendment) Regulations, 2019, and come into force on the 1st January, 2020.

Dated this 15th day of August, 2019

A handwritten signature in black ink, appearing to be 'S. L. Langlois', with a stylized flourish extending to the right.

S. L. LANGLOIS

Vice-President of the Committee for Employment & Social Security

For and on behalf of the Committee

SCHEDULE

SCHEDULE TO BE SUBSTITUTED FOR THE SCHEDULE TO THE PRINCIPAL  
REGULATIONS

"SCHEDULE  
MINIMUM WAGE RATES

Regulations 1(1) and 2(1)

Adult Minimum Wage Rate

£8.50 per hour.

Young Person's Minimum Wage Rate

£8.05 per hour."

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations replace the minimum wage rates for adults and young persons with the new rates of £8.50 per hour and £8.05 per hour, respectively, for the purposes of the Minimum Wage (Guernsey) Law, 2009 ("the Law").

Under section 31(3) of the Law, these Regulations do not have effect until approved by a Resolution of the States. If so approved, these Regulations will come into force on the 1st January, 2020. The new rates will then take effect on and from the first day of the first pay reference period of each worker in respect of any particular work.

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**STATES' TRADING SUPERVISORY BOARD**

**REVIEW OF A POTENTIAL GUERNSEY AIRPORT RUNWAY EXTENSION**

The States are asked to decide: -

Whether, after consideration of the policy letter entitled 'Review of a Potential Guernsey Airport Runway Extension' of the States' Trading Supervisory Board dated 6<sup>th</sup> August 2019, they are of the opinion:-

1. To approve that no further work is carried out to assess the option to extend the airport useable runway within the current airport boundary by reducing the Runway End Safety Area, at the eastern end of the runway, in accordance with the Director of Civil Aviation's formal advice.
2. To rescind Resolutions 1 and 2 of the States, following a Requete 2019/65 at Article XV, of 26<sup>th</sup> October 2018 in relation to investigating a potential solution to extend the operational length of the runway and providing the States with estimates for commissioning all the requirements

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

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**STATES' TRADING SUPERVISORY BOARD**

REVIEW OF A POTENTIAL GUERNSEY AIRPORT RUNWAY EXTENSION

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

6<sup>th</sup> August, 2019

Dear Sir

**1 Executive Summary**

1.1 In accordance with its mandate, the States' Trading Supervisory Board (STSB) has been directed by the States to report back on the outcomes, following an investigation into the potential to extend the runway within existing airport boundaries. Specifically, the STSB was directed by the States Assembly to investigate the feasibility of re-designating a section of paved runway surface, currently classified as part of the Runway End Safety Area (RESA), to instead form part of the 'declared distance' of usable runway for both aircraft take-offs and landings.

1.2 This direction followed a Requête and the subsequent Resolutions agreed by the States, on the 26<sup>th</sup> October 2018. The STSB has duly commissioned a review to investigate the feasibility of this option and carried out a risk assessment. Having completed the review, the STSB has also consulted with the Director of Civil Aviation (DCA), as also directed.

1.3 The DCA is the regulator for the Guernsey Airport Aerodrome. As such, he has considered the proposal and the subsequent review and has written to the General Manager, Ports, with his conclusions as the regulator in this matter (see Appendix 1). He confirms in that letter that he could not support the current proposals and that he:

“... should not be sanctioning any erosion in available safety margins for purely commercial reasons...”

- 1.4 The States are being asked to decide whether, after consideration of this policy letter they are of the opinion that: firstly, no further work is carried out to assess the option to extend the airport useable runway within the current airport boundary by reducing the Runway End Safety Area, at the eastern end of the runway, in accordance with the Director of Civil Aviation’s formal advice; and, secondly, to rescind Resolution 2 of the States on Article XV of Billet d'État No. XXIII of 26th October 2018<sup>1</sup>.

## 2 Introduction

- 2.1 This Policy Letter fulfils the Resolutions of a Requête<sup>2</sup> approved by the States Assembly in October 2018. The Resolutions directed the STSB to investigate a potential solution to extending the operational length of the Guernsey Airport Runway and to report back to the States Assembly on the feasibility of doing so.
- 2.2 The Resolutions required an investigation into whether it would be feasible to re-designate a section of paved surface, currently classified as part of the Runway End Safety Area (RESA), to instead form part of the ‘declared distance’ of useable runway for both take-off and landing. The end result of this re-designation would effectively extend the runway declared distance by approximately 108m, through a reduction in the length of the RESA from its current length of 198m to 90m at the eastern end.
- 2.3 The rationale identified within the Requête, was to test whether there would be political appetite to pursue this option, utilising existing airport infrastructure, for:

*“..maximum operational benefit in the pursuit of lower air fares and improving air links..”*

The declared landing distance available (LDA) for Guernsey Airport’s runway is currently 1,463 metres. This does present some operational limitations on the operation of larger aircraft. For example, an Airbus A320 typically operated by airlines such as EasyJet and British Airways would require a runway length closer to 1,570m in order to operate with commercially viable payloads. As such, the operators of this aircraft type could not operate into Guernsey Airport without incurring payload restrictions.

- 2.4 Specifically, the resolutions of the Requête directed that the STSB firstly consult with the DCA to determine if:

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<sup>1</sup> Resolution 2 required that, if there is evidence to suggest that is possible, that STSB return to the States with the details needed to commission the runway extension.

<sup>2</sup> Requete, 2019/65, 27<sup>th</sup> June 2018 and Resolutions on Article XV of Billet d'État No. XXIII, 26<sup>th</sup> October 2018

(a) A 90 metres “undershoot” RESA is acceptable for landing on runway 27

(b) A 90 metres “overrun” RESA is acceptable on runway 09

AND

(c) To identify any safety enhancements, including Engineered Material Arresting Systems (EMAS), which would be required to enable the commissioning of 107 metres of the starter strip/paved RESA or to mitigate the reduction in the length of the RESA from 197 metres to 90 metres.

Secondly, following that consultation, if the evidence suggested that the commissioning of the 107 metres was feasible, the resolutions directed the STSB to return to the States giving indicative costs estimates for commissioning all the requirements.

2.5 Resolution 1(c) included the identification of safety enhancements, including the use of EMAS, to investigate whether this would enable the reduction of the RESA and thereby the extension of the declared distance of useable runway. This is further examined in sections 4 and 5.

2.6 Arresting systems such as EMAS have been used fairly extensively in the US and occasionally in Europe, to improve RESA safety, often **as a mitigation measure**, particularly where there is limited potential for a sufficient length of land-based RESA to stop aircraft in the event of a runway excursion. An EMAS solution has in some cases, effectively resulted in the reduction in the length of the overall land used to accommodate a traditional RESA design.

### **3 Current Situation**

3.1 Under the International Civil Aviation Organisation (ICAO) Aerodrome Reference Code, Guernsey Airport’s runway is classified as a 3C runway. The recommended length of a RESA for this Category of runway is currently 240m, with an additional ‘Runway Strip’ of 60m. The mandated minimum RESA is 90m.

3.2 Currently the RESA at the Eastern end of the runway (‘09’) is 198m, whilst the Western end of the runway (‘27’) is 240m. The 198m RESA at the Eastern end was increased from 90m as part of the Guernsey Airport Pavements Project and a safety case was produced and approved by the UK Civil Aviation Authority (CAA) as part of the design approvals for this project. The safety case laid out reasoning why the improved RESA could not achieve a full 240m recommended length. Figure 1 below, describes the current aerodrome layout at the eastern end of the runway, which has been the subject of a review in order to fulfil the requirements of the first elements of the Requête.

- 3.3 From a regulatory perspective, an Aviation Permit is issued to the Aerodrome Accountable Manager by the DCA. The DCA uses the CAA to provide specialist advice on matters of aerodrome standards and licensing, with that regulator undertaking audits, on behalf of the DCA, in accordance with current aviation regulatory standards.

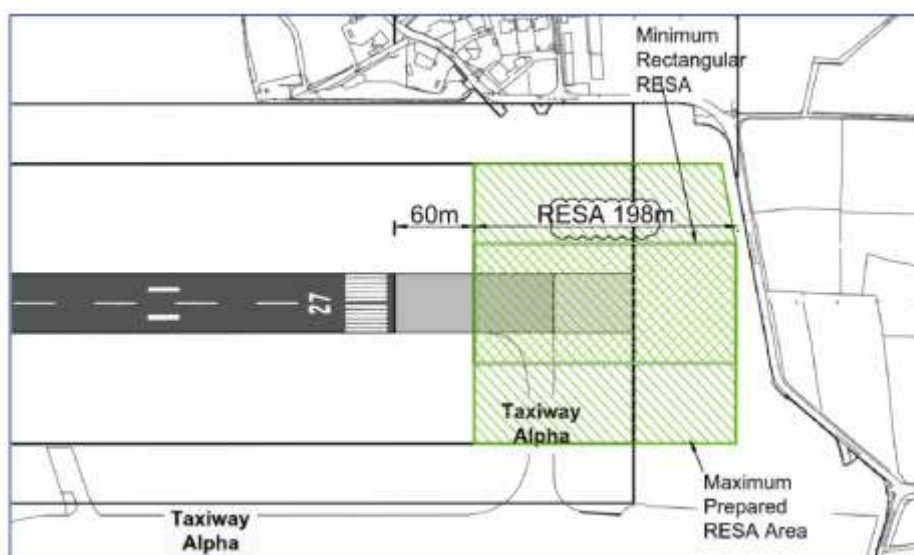


Figure 1 Eastern End of the Guernsey Airport Runway '27'.

#### 4 External RESA Risk Assessment Report

- 4.1 In February 2019, Guernsey Airport instructed Jacobs UK Ltd to undertake an assessment to understand the risks associated with reducing the length of the eastern RESA. The report is attached as Appendix 1, RESA Risk Assessment Report, May 2019.
- 4.2 The main purpose of the risk assessment report (“the Report”) was to consider and evaluate the potential risks of several options to increase the declared distance of the runway, by (a) reducing the length of the RESA to the minimum mandated length of 90m, or (b) through the introduction of EMAS technology to reduce the physical area of land of RESA whilst achieving an improvement on the 90m reduced RESA length. This assessment included consideration of the likelihood and severity of a runway undershoot or overrun event that would result from the proposed changes. At the same time, the Report evaluated the risks of the current RESA length at the Eastern end of 198m.
- 4.3 Jacobs reviewed the historical records of the type and frequency of aircraft movements and the overrun incidents at Guernsey Airport to establish the

baseline level of risk of recurrence periods for overruns against a benchmark for a hypothetical UK average airport. Slight adjustments were applied to account for slightly higher risks for local weather circumstances, due to the frequency of crosswinds, wind shear and fog in Guernsey. The assessment also included an estimate of the impact of the operation of larger aircraft<sup>3</sup> on the extended runway with a reduced RESA. The assessment was applied to the following options:

- **Option 1** proposed reducing the RESA to 90m, which Jacobs determined would increase the runway declared distance by 108m, thereby increasing the overall length of the runway to 1,571m. This option was the least preferred option, due to the probability of an uncontained overrun being greater than that on the existing 198m RESA and therefore not acceptable in terms of safety guidelines.
- **Option 2** proposed using an EMAS installation, creating a 120m length EMAS bed RESA, such technology stated as being an equivalent to a 240m traditional RESA. This option is potentially the best solution and offers the best risk assessment in safety terms. However, with the retention of the required 60 m strip end, this only provides an additional length of declared distance of 78m. This provides a total useable runway length of only 1,541m rather than the desired 1,570m extension. As such, this marginal increase in runway length was unlikely to satisfy the rationale for the extension.
- **Option 3** proposed a hybrid option *should* the States of Guernsey be willing to relax its position on industry advice. This would mean relying on the ICAO Annex 14 requirements for Aerodromes (which do not currently specifically reference EMAS). As Guernsey Airport is audited against European Union Aviation Safety Agency (EASA) standards, then this option may be more feasible as opposed to the continued adoption of the UK CAA's CAP 168 standard. This would potentially make it possible to consider the scope of a less than full length EMAS. This option was assessed on the basis of a 90m EMAS bed RESA, with declared distances increasing by 108m (as per Option 1 providing a 1,571m useable runway length). The risk profile for this option was only marginally better than Option 1.

4.4 The risk assessment conclusions show that only Option 2 is assessed as 'green' as an overall acceptable risk in comparison with the benchmark position, while Options 1 and 3 are assessed as 'amber' for an uncontained overrun risk. Effectively an 'amber' risk is less safe than the status quo.

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<sup>3</sup> including but not limited to the Airbus A220, A320ceo, A320 neo series and Boeing 737

- 4.5 With regard to the current provision of a 198m RESA at the eastern end, the Report suggested that the only additional mitigation open to further improve safety would be to consider an EMAS installation in addition. Whilst the eastern end is not currently the full recommended length of 240m, it concluded that the 198m RESA was an acceptable provision. This is further supported by the evidence for compliance that was provided at the time of the runway design approvals from the CAA in 2011.

## 5 External Regulatory and Policy Context

- 5.1 The Guernsey Airport Aerodrome is regulated by the DCA who has been appointed for both the Bailiwicks of Guernsey and Jersey. The DCA utilises the CAA to carry out audits of the airport, against EASA aerodrome requirements. The CAA and EASA regulations in turn adopt ICAO international standards and operating guidelines for Aerodromes.

- 5.2 ICAO and EASA regulations allow a reduction in the recommended RESA length where an arresting system is installed. The view taken by the UK CAA regarding the provision of EMAS in RESAs is described in CAP 168<sup>4</sup> which states that:

*"..Engineering Material Arresting Systems (EMAS) may be installed at UK licensed aerodromes as an alternative where a 240m RESA cannot be achieved.."*

The CAA stated Policy on EMAS is:

*"...to permit the installation of EMAS at UK licensed aerodromes as an alternative where a 240m RESA cannot be achieved.."*

- 5.3 EMAS technology is intended as a mitigation measure to improve safety. Whilst the US Federal Aviation Authority (FAA) has used EMAS to increase declared runway distances in the US, the CAA regulations identify that EMAS should only be used to provide an equivalent level of safety for those runways not having a full RESA, in other words as a **mitigating method** in lieu of a non-standard RESA.
- 5.4 The DCA is ultimately responsible for aviation safety matters and has written to the General Manager Ports with his conclusions following the Jacobs Review (see Appendix 2). Having consulted with industry experts, the DCA (in his role as regulator) has concluded that there is no case to allow this project and that he:

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<sup>4</sup> CAP 168, page 99, section 3.75 'Arresting Systems'

“...should not be sanctioning any erosion in available safety margins for purely commercial reasons..”

## **6 Consultation**

- 6.1 The DCA has been consulted on the initial and subsequent drafting of the Jacobs report. The DCA has also consulted with industry regulators and provided his views initially in May 2019. These were subsequently provided in a formal letter of response to the General Manager Ports, States of Guernsey, which is provided in Appendix 2, 8th July 2019.
- 6.2 On the 13<sup>th</sup> March 2019, a Hazard Identification Workshop was held with key stakeholders including airlines, private aircraft owners, business jet operators and airport users in Guernsey. The Workshop was arranged by Jacobs as part of its initial data gathering exercise.

## **7 Conclusions**

- 7.1 Jacobs was commissioned to undertake a RESA Risk Assessment Review and report on several potential options that would see an increase in the declared landing distance of the airport runway. Each solution involved a reduction in the length of the Runway End Safety Area. It concluded that option 2, to utilise an EMAS bed RESA of 120m (instead of a 240m traditional RESA) was the best solution. This was rated as a ‘green’ risk in terms of an uncontained overrun incident risk. However, this option only provided a useable runway length of 1,541m which would not allow the economic benefits dependent on larger aircraft and payloads landing at Guernsey Airport. The economic benefits would be further weakened when taking into account the cost of installing and maintaining EMAS.
- 7.2 The General Manager, Ports (as the Accountable Manager for Guernsey Airport) endorses the view of the DCA. The DCA did not support the findings of the report, as he did not believe he should sanction any erosion in available safety margins for purely commercial reasons. He states in his letter dated 8<sup>th</sup> July 2019 that:
- “... as I am responsible for air safety, unless the ICAO Recommended requirements are met or unless there is very good reason, supported by a compelling safety argument, that they cannot be met; I don’t think there is any case to allow this project...”
- 7.3 Given the above, it is proposed that Resolution 2 of the Requête, that STSB return to the States with the details needed to commission the runway extension, is rescinded.

## **8 Compliance with Rule 4**

- 8.1 In accordance with Rule 4(1), the Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications. She has advised that there is no reason in law why the Propositions should not be put into effect.
- 8.2 In accordance with Rule 4(4) of the Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the propositions above have the unanimous support of the STSB.
- 8.3 In accordance with Rule 4 (5), the Propositions relate to the duties of the STSB to ensure the efficient management, operation and maintenance of any States' unincorporated trading concerns and commercial interests which the States have resolved to include in the mandate of the Board, which includes Guernsey Airport.
- 8.4 The preparation and agreement of the propositions and content of the Policy Letter has involved consultation with the Director of Civil Aviation.

Yours faithfully

P T R Ferbrache  
President, STSB

J C S F Smithies  
Vice-President, STSB

J Kuttelwascher  
Member, STSB

S J Falla, MBE  
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Colin Le Ray  
General Manager Ports  
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Control Tower Building La Villiaze  
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Guernsey  
GY8 0DS

8<sup>th</sup> July 2019

Dear Colin

#### REVIEW OF POTENTIAL GUERNSEY AIRPORT RUNWAY EXTENSION

Further to my earlier letter of the 19<sup>th</sup> May 2019, I am writing to formally advise you, as the Director of Civil Aviation and as such, responsible for air safety matters in the Bailiwick of Guernsey. Thank you very much for your efforts so far in undertaking a review of the potential to extend the declared distance of useable runway at Guernsey Airport Runway, by reducing the designated safety area (i.e. the Runway End Safety Area (RESA) at the eastern end.

I have carefully reviewed the RESA Risk Assessment Report from Jacobs and taken expert advice on the proposal from the Air Safety Support International (ASSI) UK Safety Adviser for the Overseas Territories. My response to the proposal is below:

- The Development proposal does not offer any safety gain whatsoever. It concentrates purely on commercial objectives to operate with higher payloads/larger aircraft within the existing airport boundaries.
- As the regulator, I should not be sanctioning any erosion in available safety margins for purely commercial reasons.
- The project is counter to the Department for Transport's policy for the UK (all elements including the Crown Dependencies) which must comply with the International Civil Aviation Organisations (ICAOs) Standard and Recommended Practices (SARPS) and Appendix 14, with regard to the maintenance of a RESA. It is also counter to the European Aviation Safety Agency EASA's Guidance Material for Aerodromes Design<sup>1</sup>.

---

<sup>1</sup> CS-ADR-DSN, Issue 4, 8th December 2017

- The Guernsey Airport Runway has a Code 3 designation and therefore should be meeting a 240m RESA (Recommended Practice), a 90m RESA is a **minimum** requirement.
- The Civil Aviation Authority's (CAA's) Policy on Engineered Materials Arresting Systems (EMAS) is to permit the installation of EMAS at UK licensed aerodromes as an alternative where a 240m RESA **cannot be achieved**. Guidance is also provided on this matter in the CAA's Licensing of Aerodromes CAP 168, Chapter 3 'Arresting Systems'.
- The proposed mitigation of EMAS is not used in the spirit for which it was intended. The Federal Aviation Administration have pioneered the guidance on EMAS, and it clearly states that the main purpose of EMAS is to mitigate against overruns only when it is not practicable to achieve the full standard RESA. It then gives the following reasons where it is not practicable, none of which are valid reasons for the use of EMAS here in Guernsey:
  - Lack of available land;
  - Obstacles such as bodies of water, highways, railroads, and populated areas;
  - Severe drop-off terrain.

As I am responsible for air safety, unless the ICAO recommended requirements are met or unless there is a very good reason, supported by a compelling safety argument, that they cannot be met; I don't think there is any case to allow this project.

Yours Faithfully,



Dominic Lazarus  
Director of Civil Aviation



# Guernsey Airport RESA Risk Assessment

States of Guernsey

## RESA Risk Assessment Report

B2357100-001 | 1.2

May 2019



Source: Google Earth Pro

## Guernsey Airport RESA Risk Assessment

Project No: B2357100  
 Document Title: RESA Risk Assessment Report  
 Document No.: B2357100-001  
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 Date: May 2019  
 Client Name: States of Guernsey  
 Project Manager: Alejandro Puebla Neira  
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### Document history and status

Revision	Date	Description	By	Review	Approved
1.0	April 2019	Draft Issue – For Client Comment	RV	BV	AP
1.1	May 2019	Final Issue	RV	BV	AP
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## Glossary

Abbreviation	Definition
AIP	Aeronautical Information Publication
ASDA	Accelerate and Stop Distance Available
CAA	Civil Aviation Authority
EASA	European Aviation Safety Agency
EMAS	Engineered Material Arresting System
ICAO	International Civil Aviation Organization
ILS	Instrument Landing System
LDA	Landing Distance Available
LDR	Landing Distance Required
MTOW	Maximum Take-off Weight
NATS	National Air Traffic Services
RESA	Runway End Safety Area
ROAD	Runway Overrun Accident Database
RVR	Runway Visual Range
TORR	Take-Off Run Required
TORA	Take-Off Run Available

## 1. Introduction

Jacobs was instructed by Guernsey Airport in February 2019 to undertake an assessment to understand the risk associated with the eastern Runway End Safety Area (RESA) provision at Guernsey Airport, in the context of possible changes in runway declared distances. The study evaluates the risks associated with a reduction in the current eastern RESA back to the minimum mandated requirement, and the subsequent likelihood and severity of a runway undershoot or overrun event, noting that the proposed changes will result in:

- A 90 metres 'undershoot' RESA for landings on Runway 27
- A 90 metres 'overrun' RESA on Runway 09

The scope of the risk assessment includes consideration of the impact of the introduction of larger aircraft including, but not limited to, the Airbus A220, A320ceo, A320neo series and Boeing 737 series aircraft particularly in relation to the proposed changes to the eastern RESA as described above.

Furthermore, the work is to review and recommend any further safety improvements, including Engineered Material Arresting Systems (EMAS), which should be considered to mitigate the proposed reduction in the eastern end RESA and introduction of larger aircraft operations at Guernsey Airport.

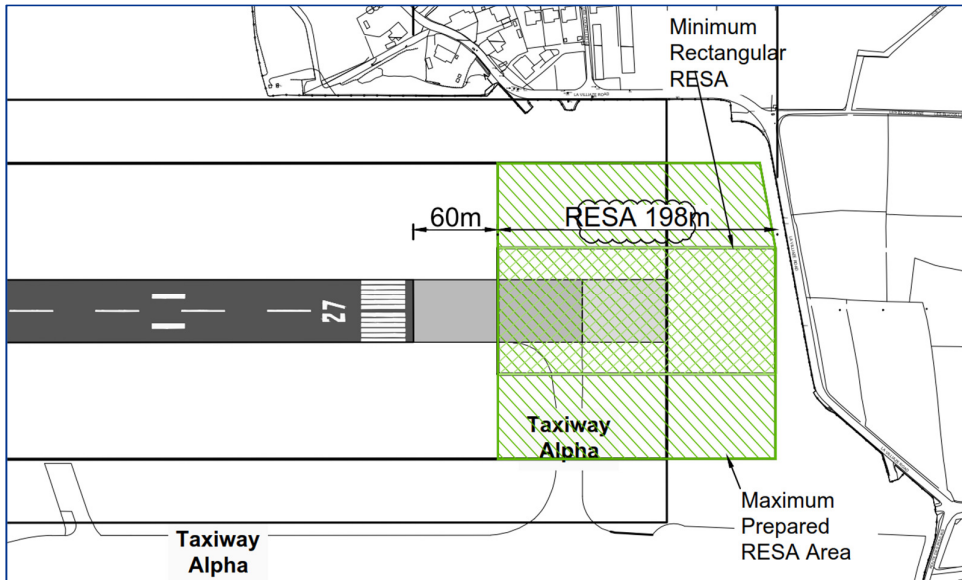
After this introduction, Section 2 of this report summarises the data collected for the risk assessment, which includes the notes from a workshop attended by airport staff and stakeholders in March 2019. Section 3 describes the overrun risk assessment whilst Section 4 deals with the risk assessment for undershoots. The conclusions of the report are brought together in Section 5.

The data sources used for the quantitative statistical analysis variously utilise the words crash, incident and accident with little or no consistency of application. In this report, these are all taken as referencing an event that would have been captured by the relevant source database as an overrun or undershoot, without intending to highlight the difference in severity that they respectively represent.

## 2. Data Collection

### 2.1 Aerodrome Layout

This risk assessment study considers the eastern RESA provision of Guernsey Airport shown below in Figure 2.1. The full aerodrome layout is shown in Figure 2.2.



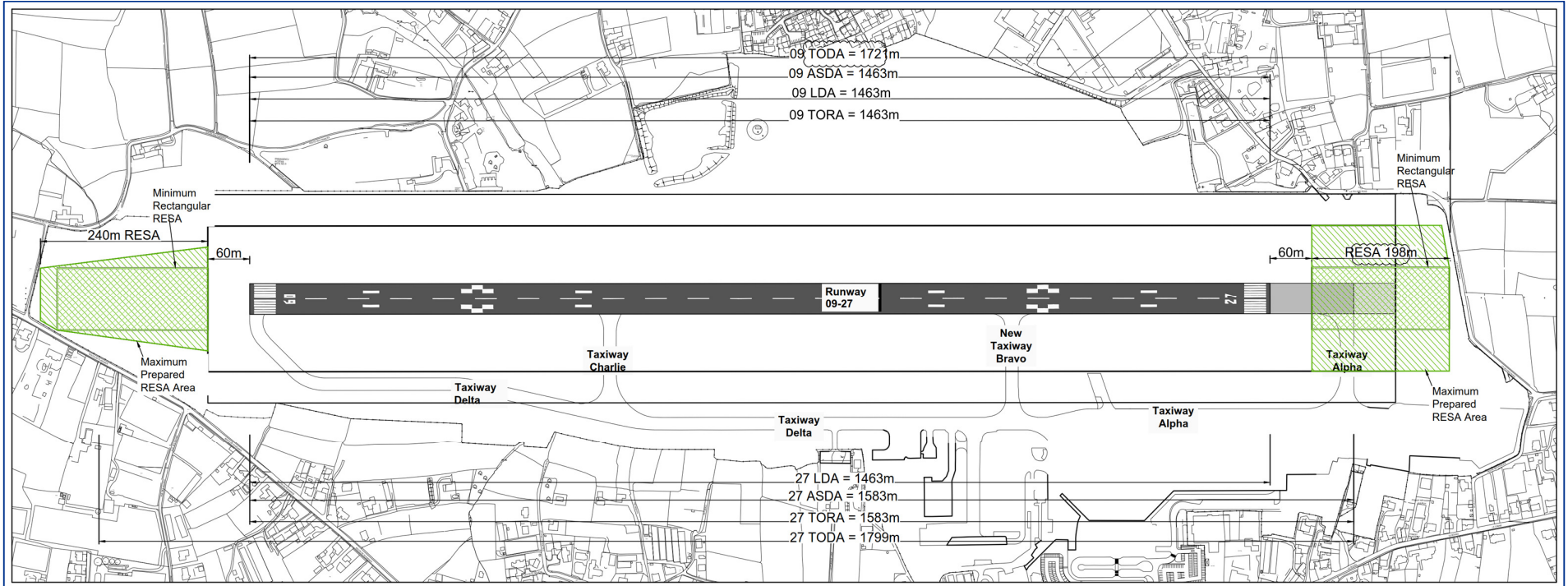
Drawing provided by Guernsey Airport

**Figure 2.1: Existing Eastern RESA Area**

The existing declared distances as provided in the UK AIP are shown in Table 2-1.

**Table 2-1: Extract from UK AIP showing Existing Declared Distances**

EGJB AD 2.13 DECLARED DISTANCES					
Runway Designator	TORA	TODA	ASDA	LDA	Remarks
1	2	3	4	5	6
09	1,463 m	1,721 m	1,463 m	1,463 m	
27	1,583 m	1,799 m	1,583 m	1,463 m	
09	955 m	1,213 m	955 m		Take-off from Taxiway C intersection
27	1,102 m	1,318 m	1,102 m		Take-off from Taxiway B intersection



Drawing provided by Guernsey Airport

Figure 2.2: Guernsey Airport Aerodrome Layout

Guernsey Airport wish to consider a reduction in the eastern RESA back to the minimum required length provision of 90m as this would allow an increase in the declared distances to the eastern edge of the end of the full-strength paved runway. This would be applied to those declared distances which are currently at 1463m: namely Runway 09 TORA, ASDA and LDA and Runway 27 LDA. Close inspection of the available layout data, checked by use of measurements in Google Earth Pro, confirms that the existing RESA ends at the ILS aerial foundations, and being 198m long, the change in declared distances to leave the mandatory minimum RESA length of 90m would be limited to an increase of 108m.

The topography of the runway is shown in Figure 2.3 as an extract from the Type A chart. The slight up gradient for take-off and landing on Runway 09 towards the eastern RESA is marginally beneficial in assisting in deceleration of a landing or an aborted take-off. The overall runway gradient is 1:153 or 0.65%. The disbenefit of the gradient on take-off performance would have to be taken into account in the take-off performance calculation by airlines and hence is not of concern to the risk of overrun. The longitudinally flat portion at the eastern end of the runway means that no allowance needs to be made for the effect of longitudinal gradient on the deceleration of an overrun into the RESA.

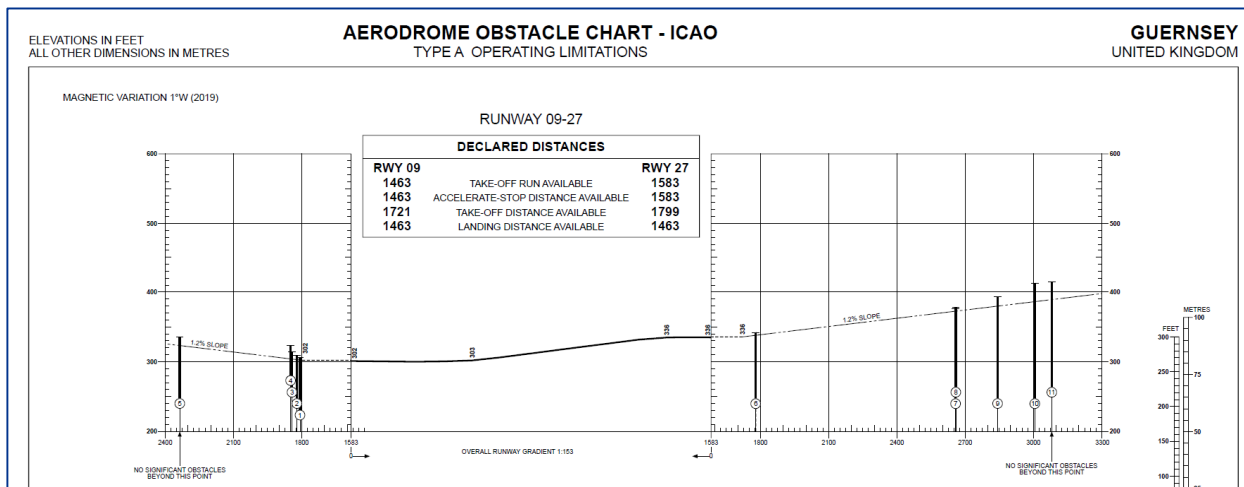
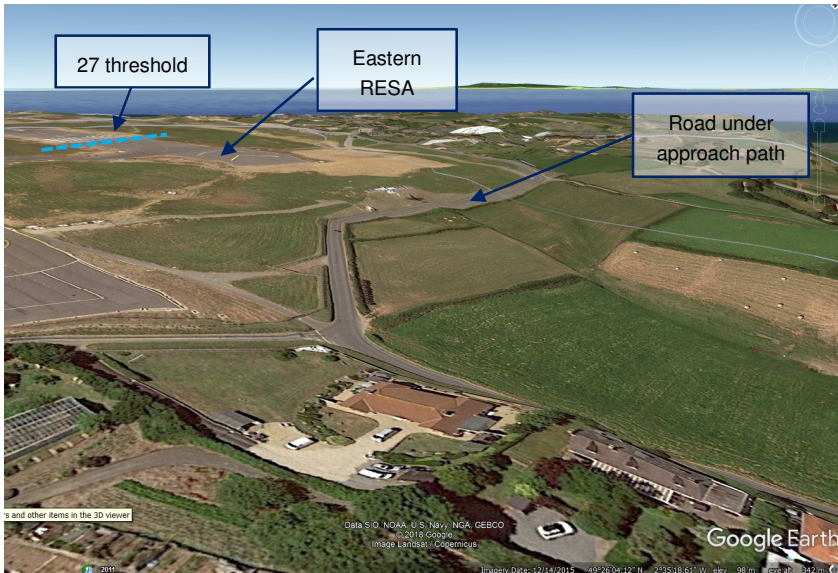


Figure 2.3: Extract from Type A Chart for Guernsey Airport

The topography to the east of the airport has been reviewed both by reference to ground level information available in Google Earth Pro and by visual inspection during a site visit by Jacobs on 12<sup>th</sup> and 13<sup>th</sup> March 2019. There is an earthworks slope after the aerodrome boundary down to a public road which is some 4m below the level of the eastern RESA. To the east, the ground level then continues down into a valley, the centreline of which is roughly on the extended runway centreline. A 3D view of the area with vertical scale exaggerated by a factor of 3 is shown in Figure 2.4.



Vertical scale exaggerated by factor 3

Source: Google Earth Pro

**Figure 2.4: 3D View of Ground Beyond the East End of the Runway**

## 2.2 Special Features at Guernsey Airport

Guernsey Airport provided a written summary of any special features of aircraft operations at the airport that might impact the risk assessment. The written response is attached as Appendix A.

The key feature is that given the exposed nature of the island, the exposed location of the airport and the geographical position, there is a high propensity to low RVR conditions and windier conditions but relatively little impact of snow and ice. It is also noted that the runway is wider than the requirement for the current traffic and that there is a good standard of implementation of nav aids, landing aids and aerodrome lighting. Friction levels on the grooved runway surface are good.

## 2.3 Air Traffic Movements

Detailed records of air traffic movements have been provided for the years of 2017 and 2018. As there has been a trend of declining volume of air traffic at Guernsey over the last five years (as reported through the CAA website) the risk assessment uses the most current data of 2018. The consideration of the impact of larger aircraft is assessed as an additional 5 daily rotations, which is 10 movements per day or 3,650 per year. The analysis of the air traffic movements is discussed further in Section 3.4.2.

## 2.4 Overrun History

The overrun history for the runway at Guernsey is of interest as it can support or challenge the results of the quantitative assessment of overrun risk.

Information on runway overruns has been provided for the period since 1999 by Guernsey Airport and has been extended by Jacobs review of published AAIB reports since 1960 and the Aviation Safety Network database. The asphalt surfaced runway 09/27 is understood to have been commissioned in 1960 and prior to that date the airport operated off grass runways. Therefore, any overrun incidents prior to 1960 have not been included.

From the available data there have been just three overrun incidents recorded in the 59-year period from 1960 to 2019. These are:

1. 7<sup>th</sup> Dec 1997. An F27 landed on Rwy 27 in strong crosswinds. Due to the need for differential braking the aircraft deceleration was impaired and the aircraft overshot the runway end. Directional stability had not been maintained and the aircraft veered off to the left, that is to the south, shortly before the end of the runway. The crash location at the end of the incident was within a 90m minimum RESA length but is treated as an uncontained overrun since it is located outside the width of the RESA at approximately 95m from runway centreline.
2. 8<sup>th</sup> March 2006. An HS748 landing on Rwy 27 overran by 145m. This location is contained within a 90m RESA plus 60m runway strip end.
3. 17<sup>th</sup> May 2006. Dornier 328 Jet landing on Rwy 09 overran by 25m. This location is contained within the runway strip end and hence within a zero RESA provision.

These historical records are assessed as follows. Within the 59-year period since the runway was commissioned there have been only two overruns which went beyond the runway strip end into a RESA area. They were both on runway 27, there having been none into the RESA on runway 09. It is also noted that all three incidents were landing overruns, there having been no overruns from aborted take-offs. This suggests a recurrence period of 1 every 30 years for an overrun past the runway strip end. Of these overrun incidents, only one was uncontained within the RESA width, suggesting a 1 in 60-year recurrence period.

These recurrence periods are of the same order of magnitude as calculated by Jacobs as benchmarks for a hypothetical UK average airport. That benchmark calculation suggested 1 in 13 years for an overrun beyond a runway strip end, and 1 in 71 years for an overrun that is not contained by a full 90m length RESA. This supports the view that the overrun history at Guernsey does not suggest that the airport is significantly more or less likely to experience overruns than at the benchmark average airport. It is concluded that the overrun history does not, in itself, suggest a need to increase nor to decrease overall overrun crash rates used in the quantitative modelling.

However, input from pilots at the workshop session held on 13<sup>th</sup> March 2019 included their view that, although not “High Risk”, the frequency of crosswinds, wind shear and fog made operations at Guernsey a slightly higher risk than at airports that do not suffer similar weather.

## 2.5 Hazard Identification Workshop 13<sup>th</sup> March 2019

A Hazard Identification workshop was held at Guernsey Airport on 13<sup>th</sup> March 2019. It was well attended by a wide group of stakeholders. In addition to general discussion about the methodology being used for the risk assessment, and agreement that an uncontained overrun to the east would be considered “Catastrophic” in aviation terms as likely to be involving hull loss and multiple loss of life, a discussion of issues that may contribute towards an overrun situation was held in a structured way by using the Flight Safety Foundations check list. Comments that arose during that discussion, together with an attendance list of the stakeholders is attached as Appendix B.

A key point arising from the discussion was that, although not “High Risk”, the frequency of crosswinds, wind shear and fog informed a consensus view that operations at Guernsey should be considered to be at a slightly higher risk than at airports that do not suffer similar weather. The overrun history does not in itself support the view that the overrun risk is higher at Guernsey, and there are several positive safety indicators in the provision of a wider runway than required, with a grooved surface with good friction and CAT I precision approach infrastructure with a good standard of AGL provision, including enhanced runway centreline lighting (lights spaced at 15 metres instead of the standard 30 metres) and alternating light colour change as the runway end is approached. However, in response to the views held at the workshop the landing overrun risk assessment described in this report has used risk factors increased by a nominal 1.10 factor.

## 2.6 Previous RESA Reports at Guernsey Airport

Two documents have been provided related to consideration of the RESA provision as part of the runway reconfiguration and overlay project completed in 2014. One report is from Mott MacDonald and considered a range of RESA options for the development. The other document is the CAP791 submission for the 2014 runway development demonstrating compliance with the regulatory requirements.

The Mott MacDonald report of January 2011 considered a range of options and reviewed each for regulatory compliance. Although risk statistics were discussed at a high level the report does state that statistical analysis of the risks involved was not part of the scope of the report. The report may have assisted in defining the preferred option that was subsequently commissioned in 2014, but does not provide a quantitative statement on the risk of uncontained overruns.

The CAP791 compliance matrix does discuss RESA risk issues for the runway layout as now commissioned. In particular it provides the following statements.

*A RESA Risk Assessment would be conducted in the event of any operational changes. For clarity the following are key factors for current operational conditions:*

*Prior to these works being carried out the existing RESA available is 83m for aircraft approaching rwy27 and 78m for 09 end.*

*Current and expected aircraft types do not require more than 1200m of runway for takeoff or landing.*

*New runway pavement length is 1583m.*

*Only 1463m of that is to be declared as LDA for both 27 and 09.*

*Aircraft approaching 27 or departing 09 will be provided with 197m of RESA of which 60m x 45m is runway quality surfacing and 60m x 45m is hard paved blast pad of equivalent standard. Additionally the 60m runway strip has runway quality surfacing of width 45m.*

*Aircraft departing 27 do not require utilising this RESA at this end and therefore the runway quality surface is available as a full width starter extension.*

*RESA at west end is 240m*

*09 is the less dominant used runway*

*The gradient of the runway is uphill from 09 to 27. The effects of this raise will assist in braking aircraft.*

*The runway surface and blast pad will be grooved Marshall Asphalt across the entire length, including the starter extension area to ensure the friction levels remain consistent over the whole surface.*

*The aerodrome will keep the ILS system currently CAT 1 compliant.*

*An annual review of the air traffic movements will be conducted to determine if any significant changes to aircraft types have occurred since the previous review to ensure the 197m is still acceptable.*

*In January 2011, an independent review of the CURRENT design chosen, and an EMAS (FAA compliant specification 2. 180m RESA with EMAS) provided RESA shows that EMAS would be in the region of £6m more, and only provide 120m of undershoot RESA albeit with EMAS in place.*

In evaluating the nature of how RESA risk was considered at that time, it would appear that the eastern RESA was accepted as tolerable at 198m due to the above qualitative considerations. In contrast, the subject of this report by Jacobs is to provide a quantitative assessment of the risk of uncontained overruns.

## 2.7 Eastern RESA Options for Quantitative Risk Assessment

As a base case, the probability of an uncontained overrun beyond the limits of the current eastern RESA provision has been analysed. A further three options, labelled as Options 1, 2 and 3 have then been similarly analysed. All are shown as a comparison against benchmarks for a hypothetical average UK airport produced using the same analysis methodology. As an EASA certified airport, Guernsey Airport is certified in accordance with the requirements and procedures set out in EU 139/2014. The certification basis as an acceptable means of compliance (AMC) is compliance with the Certification Specification as issued by EASA. For aerodrome design that is CS-ADR-DSN Issue 4.0. The States of Guernsey DCA utilise the UK CAA to carry out audits of the airport. Although these audits are made against the EASA requirements, the view taken by the UK CAA regarding the provision of EMAS in RESA's is indicated in UK CAP 168. Accordingly, all three documents, ICAO Annex 14, EASA CS-ADR-DSN and UK CAP 168 have been referred to in the discussion of the three options below.

### 2.7.1 Option 1

Option 1 is the provision of a minimum 90m length eastern RESA, retaining the same 210m width of RESA quality land as currently provided. Since this arrangement allows a 108m increase in declared distances, this arrangement is also analysed with a future traffic scenario of an additional 5 rotations per day, being 5 landings and 5 departures of larger aircraft such as the Airbus A220, A320ceo, A320neo series and Boeing 737 series aircraft. A comparison with the benchmarks will inform decision making on the acceptability of these scenarios. However, it is clear that the probability of an uncontained overrun will be greater than with the existing longer RESA. Therefore, the likely improvement in containing overruns by the provision of an Engineered Material Arresting System (EMAS) is considered in Options 2 and 3.

### 2.7.2 Option 2

Both ICAO Annex 14 and EASA Certification Specification CS-ADR-DSN Issue 4.0 allow a reduction in the recommended RESA length where an arresting system is installed based on the design specification of the system. The UK CAA in CAP 168 further indicates their view on this matter by stating that where declared distances are to be increased by the provision of EMAS, then a full length EMAS is required to be equivalent to a full 240m of conventional grass RESA plus 60m strip end, all designed in accordance with the FAA performance specification and guideline material. Option 2 is therefore the provision of a full length EMAS to the FAA guidelines.

The FAA guidelines are given in AC 15/5220-22B where a number of charts for planning purposes are provided. In all cases, the full EMAS bed that is equivalent to a conventional full RESA is contained within a 600 foot minimum length which, to metric dimensions, can be taken as equivalent to 180m. The most appropriate chart for the range of possible future aircraft named in the scope document for this report is that for the B737-400. For this case an EMAS bed of 400 feet length (120m) is the full design requirement to contain an overrun exiting the runway at 70 Knots. That is located after a stand-off length of 200 feet (60m) which will conveniently match a 60m strip end and a 120m RESA with EMAS bed for the central runway width portion. Thus Option 2, requiring a 120m RESA length can only deliver an increase in declared distances of 78m.

Since the 120m of EMAS is considered by the FAA guidelines to be equivalent to a full RESA of 240m length, it is straightforward in the Jacobs methodology to assess the probability of an uncontained overrun for this case.

### 2.7.3 Option 3

It is recognised that a key driver for this project has been the provision of increased declared distances, and it may be that the 78m increase provided by Option 2 is not enough for commercially viable operations by the named larger aircraft. Notwithstanding the view expressed by the UK CAA in CAP 168 regarding the need for a full length EMAS if declared distances are to be increased, it is recognised that the regulatory position in Guernsey is different to that within the UK, whereby it is understood that the overriding legal requirement is to follow ICAO Annex 14 requirements. The UK CAA is used as a competent authority to advise and, in the course of this advice, carries out audits which nowadays are to EASA standards and not to the UK CAP 168. Therefore, there may be some scope to consider the provision of less than a full length EMAS RESA if the risk assessment results are tolerable and acceptable for Guernsey Airport.

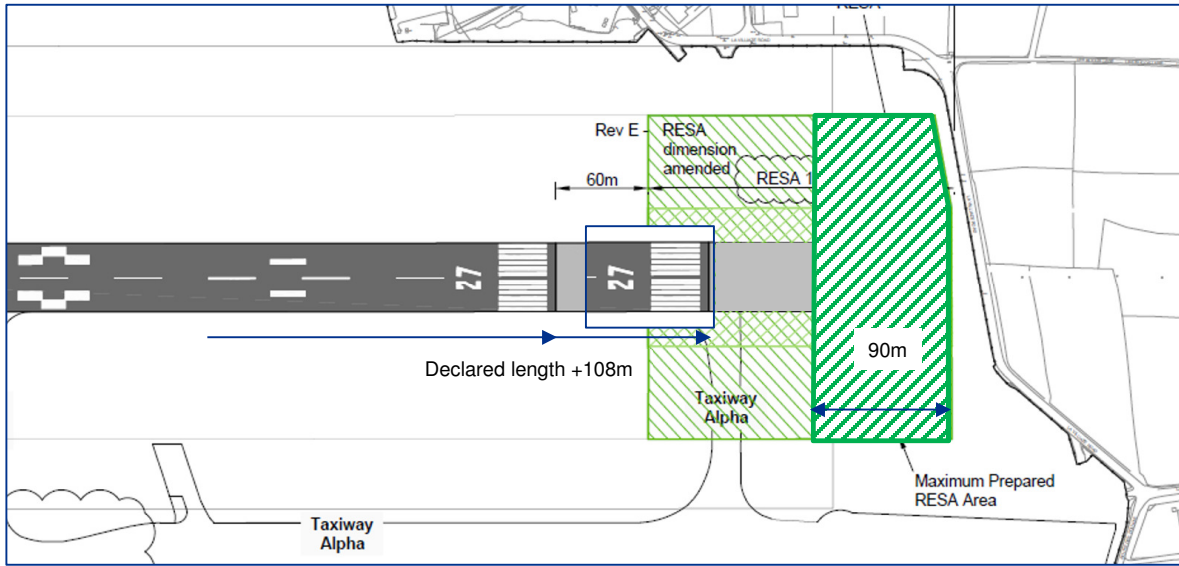
Accordingly, Option 3 is, like for Option 1, the implementation of a 90m RESA with declared distances increasing by 108m, but in this case with an EMAS bed for the 90m length of the RESA, as usual at runway width. The direct equivalence of Option 2 to a 240m RESA length has allowed a calculation of the average deceleration rates as an aircraft passes through the full length of the overrun area. These deceleration rates applied to the 90m EMAS RESA of Option 3, allow a calculation of the equivalent length of grass RESA provided by the 90m EMAS bed. Allowing for the fact that an aircraft must be brought to a halt before its nose moves past the end of the RESA, the calculation shows that the 90m EMAS length is equivalent to 160m of conventional grass RESA.

In all EMAS cases it must be noted that it is the FAA planning guidelines that are being used, and that the FAA require that a final design is done by the EMAS manufacturer of the chosen EMAS system for the selected design aircraft. Consequently, there could be some change in the eventual implementation, but the options selected are considered reasonably representative for planning purposes.

To summarise, the options selected for risk assessment analysis are:

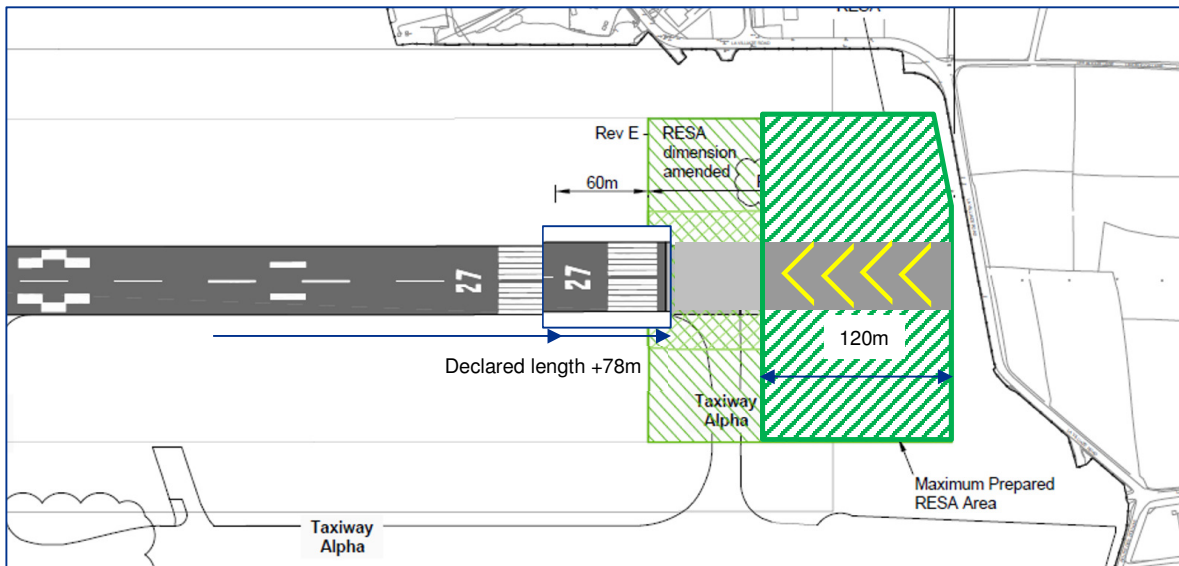
- **Base Case** RESA and traffic as existing situation.
- **Option 1** Reduce RESA to 90m. Analysed for 2018 traffic
  - **Option 1+** As for Option 1 but with additional 5 rotations, 10 movements per day of larger aircraft (typical of the A320-family) now able to use the 108m longer declared distances.
- **Option 2** Augment the reduced RESA with a fully compliant length of EMAS. To be compliant, this requires a 120m length of EMAS bed with a stand-off of 60m from the runway end. This means that only 78m of increased declared distance is possible. Analysed for 2018 traffic.
  - **Option 2+** As for Option 2 but with additional flights as in Option 1+
- **Option 3** Augment the reduced 90m RESA with a 90m length of EMAS. This would be non-compliant with the UK CAA approach to installation of EMAS when done in order to increase declared distances, but is provided here to see what the result would be when compatible with a 108m increase in declared distances. Analysed for 2018 traffic.
  - **Option 3+** As for Option 3 but with additional flights as in Option 1+

Sketches of the option layouts are shown overleaf in Figure 2.5, Figure 2.6 and Figure 2.7.



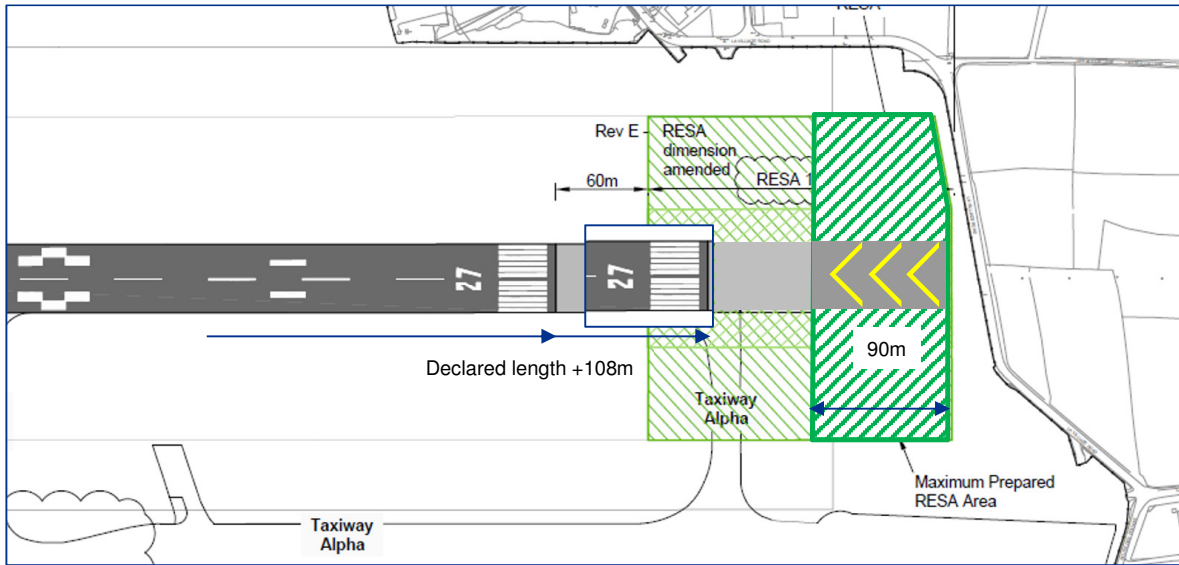
*Do not scale from sketch*

**Figure 2.5: Option 1 - 90m RESA**



*Do not scale from sketch*

**Figure 2.6: Option 2 - Fully Compliant EMAS bed**



*Do not scale from sketch*

Figure 2.7: Option 3 - 90m EMAS bed

### 3. Overrun RESA Risk Assessment

This section of the report examines the risk associated with overrun RESA provision at Guernsey Airport.

#### 3.1 Methodology

In order to determine the probability of an uncontained overrun for various RESA dimensions the following steps have been followed:

- Determine a baseline of accident probabilities (crash rates) based on incidents occurring at similar airports (Section 3.2). A variety of sources including the ROAD<sup>1</sup> database of overrun incidents (held by Loughborough University), and data from the CAA<sup>2</sup> have been used to determine the baseline probabilities and probability density function
- Generate a hypothetical average UK airport against which the risk levels at Guernsey Airport have been compared (Section 3.3)
- Correction of the average crash rates to reflect Guernsey Airport's characteristics (Section 3.4)
- Application of the probability density function around the area covered by the RESA. Different RESA layouts have been analysed against the current and future aircraft mix and aircraft movements (Section 3.5)
- Express the likelihood of an event occurring both as an individual risk and as an incident of 1 in a number of years for a given level of traffic (Section 3.5).

#### 3.2 Accident Probabilities - Baseline

The baseline overrun rates described in this section are used firstly to calculate probabilities for an average UK airport, in Section 3.3, and then for Guernsey Airport in Section 3.4.

##### 3.2.1 Average crash rates in UK (ROAD, CAA and NATS databases)

###### 3.2.1.1 Aircraft above 5700 kg MTOW

According to the CAA (1998) over the 21-year period (1976-1996) the overrun rate to civilian registered fixed wing aircraft over 5700 kg was 1.69 landing overruns per million landings and 0.403 take-off overruns per million take-offs. These are average rates over the whole of the UK.

###### 3.2.1.2 Aircraft below 5700 kg MTOW

In their Public Safety Zone calculations, NATS uses a crash rate for piston engine aircraft of 3.3 crashes per million aircraft movements (NATS, 1997). This compares to a crash rate of 3 per million movements calculated for aircraft below 5700 kg MTOW by Slater (1993). It is noted that these are for all crashes, not just overruns.

Calculations from the Loughborough Overrun Database (Kirkland, 2001) suggest overrun rates for UK jet and turboprop non-air transport flights of 2.5 landing overruns per million landings and 0.7 take-off overruns per million take-offs. These figures total to 1.6 per million movements and are thus supported by being a comparable order of magnitude with the NATS figures but, as expected, is less as being only for overrun crashes, and will therefore be used in this study.

<sup>1</sup> The Runway Overrun Accident Database (ROAD) was developed by Loughborough University, UK © all rights reserved.

<sup>2</sup> Risks from Aeroplanes Overrunning Aerodrome Runways, CAA, October 1998

### 3.3 Accident Probabilities – Hypothetical Average UK Airport

The number of aircraft movements used to determine the average yearly movements at a UK airport has been computed using data supplied by all relevant UK reporting airports. Average yearly aircraft movements are 46,831 for the year 2017. This data has been used to calculate average UK incident rates per year.

Annual movement figures and incident rates for the hypothetical airport are shown in Table 3-1 and Table 3-2.

It has been assumed that there is one runway (two operational directions) for which the landing, take-off and accelerate stop distances are equal and are used equally by aircraft. It has also been assumed that half of the movements are of aircraft greater than 5700 kg MTOW and half less than 5700 kg. The ratio of runway length to that required by a particular operation is also average and therefore the average UK incident rates given by the CAA in 'Risks from Aeroplanes Overrunning Aerodrome Runways' can be assumed.

Table 3-1: Hypothetical Average UK Airport movements

	2017
Aircraft Movements	46,831

Table 3-2: Hypothetical Average UK Airport Incident Rates

		Accidents per million take-offs or landings	Movements (rounded values)	Incidents per year
Overrun area 1	Takeoff overrun > 5700 kg	0.403	5854	0.002
	Takeoff overrun < 5700 kg	0.700	5854	0.004
	Landing overrun > 5700 kg	1.691	5854	0.010
	Landing overrun < 5700 kg	2.500	5854	0.015
		<b>Sub-total</b>	<b>23,416</b>	<b>0.031</b>
Overrun area 2	Takeoff overrun > 5700 kg	0.403	5854	0.002
	Takeoff overrun < 5700 kg	0.700	5854	0.004
	Landing overrun > 5700 kg	1.691	5854	0.010
	Landing overrun < 5700 kg	2.500	5854	0.015
		<b>Sub-total</b>	<b>23,416</b>	<b>0.031</b>
		<b>TOTAL</b>	<b>46,831</b>	<b>0.062</b>

Table 3-3: Occurrence Period for Average UK Airport

	Occurrence Period in Years
90 x 90 RESA	71
150 x 240 RESA	210

By applying this incident rate to the probability density function modelled from the ROAD data and considering the current traffic, the probability of an incident occurring outside of a 90m x 90m RESA is 0.014 per year or one incident in 71 years. The probability of an incident occurring outside of a 240m x 150m RESA is 0.005 per year or one incident in 210 years. A pictorial representation of these benchmarks is shown in the graphic in Figure 3.1 together with a RAG traffic light colour range.

Figure 3.1 also shows Jacobs' proposed use of a benchmark risk to an individual movement of  $10^{-7}$ . This is based on the same value as used in the ICAO CRM (Collision Risk Model). Given the order of magnitude nature of reporting risk probabilities and the inherent lack of precision in the assumptions required to enable the analysis, it is considered inappropriate to suggest that RAG changes from red to green at the single value of  $1 \times 10^{-7}$ . Consequently, an Amber zone is shown between  $1 \times 10^{-7}$  and  $2 \times 10^{-7}$ .

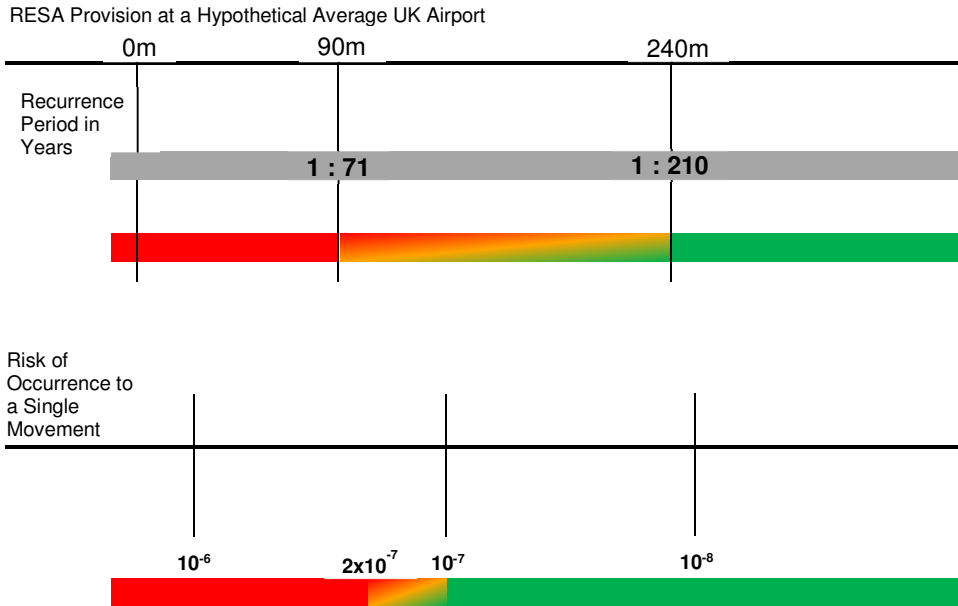


Figure 3.1: RESA Provision and Related Risk of Occurrence – Current Traffic

### 3.4 Guernsey Airport Overrun - Analysis

#### 3.4.1 Current and Future Traffic

Guernsey Airport has provided data showing an annual total of aircraft movements of 38,323 and 36,533 in the years 2017 and 2018 respectively. Checking aviation statistics on the UK CAA website it can be seen that there has been a gradual decline in ATM's at Guernsey Airport over the last 5 years. The Base Case analysis will be carried out on the most recent, 2018 data.

Of the 36,533 aircraft movements in 2018, over 99% have been identified by their aircraft type and allocated into four fixed wing categories plus helicopters as described below. The remaining few unknown types were then allocated by proportion to each of the five categories.

Future traffic has been assessed on the basis of an additional 5 daily rotations of a small commercial airliner, typical of the A320 family, giving an additional 3,650 annual movements.

**Table 3-4: Traffic Data and Runway Utilisation at Guernsey Airport**

Year	Movements Considered	Runway Split % 27 : 09
2018	36,533	53% : 47%
2018 (excluding helicopters)	35,539	
Future additional traffic	+3,650	

The prevailing winds coming from the south west mean that Runway 27 is the dominant runway in use, however, there is not a significant difference in usage between Runways 27 and 09.

It is understood that using Runway 09 with a small tailwind component, to facilitate departures into Jersey and Europe when the wind strength and direction do not dictate the use of Runway 27, is actively discouraged due to the impact this practice has been shown to have on controller and pilot workload. Therefore, the similar runway usage between 27 and 09 is assumed to be reflective of the wind conditions that occur at Guernsey Airport.

#### 3.4.2 Aircraft Types Analysed

The aircraft types operating at Guernsey Airport were separated into three main categories based on the take-off run required (TORR) and excess runway length available:

- Large Commercial and Large Business Aircraft - TORR more than 1,000m (maximum of 46% excess take-off run available on full length)
- Small Commercial, Other Business and Large Light Aircraft - TORR between 500m and 1,000m
- Small Light Aircraft - TORR 500m or less (91% excess take-off run available from Taxiway C intersection)

Helicopter movements were excluded.

For the purpose of modelling the risk, aircraft in the middle category were further disaggregated on the basis of MTOW (more or less than 5,700 kg) to identify the following four categories utilised in the analysis:

- Group 1: Large Commercial and Large Business Aircraft (more than 5,700 kg)
- Group 2: Small Commercial and Medium Business Aircraft (more than 5,700 kg)
- Group 3: Small Business & Large Light Aircraft (less than 5,700 kg)
- Group 4: Small Light Aircraft (less than 5,700 kg).

Average crash rates suggested by CAA, 2000 and Kirkland, 2001 (see references in Section 6) were applied to each of these four categories. These crash rates were then revised by applying factors that consider the landing and take-off percentage of runway length usage.

### 3.4.3 Revised crash rates for overrun applied at Guernsey Airport

The possibility of a reduction in the likelihood of crashes has been considered for take-off and landing operations. Suitable reduction factors to be applied to the crash rates mentioned in Section 3.2 were analysed based on the runway length utilisation (TORR vs. TORA) using data from the ROAD, which shows a significant reduction in probability of an overrun incident when the excess runway length available is more than 80% of the length required.

**Table 3-5: Declared Distances at Guernsey Airport**

Declared Distance (m)	Runway 09	Runway 27
TORA	1,463	1,583
LDA	1,463	1,463

#### Take-Off

The take-off overrun probability is expressed as a function of the excess distance available between the required take-off run (TORR) and the end of the available take-off run. Where aircraft have significantly more runway available than required, then the risk of overrun may be reduced, as these aircraft do not contribute significantly to the crash risk. It was determined that reduction parameters would apply for those aircraft for which excess take-off run available corresponds to an excess distance of at least 80%.

It is understood that all aircraft are permitted the full runway length if desired, but that an intersection departure is facilitated if requested by the pilot. Since an intersection departure is a possibility for both Group 3 aircraft (Small Business Aircraft and Large Light Aircraft) and Group 4 aircraft (Small Light Aircraft), these aircraft have been assessed based on an intersection departure from Taxiway Charlie, although it is accepted that, in practice, the business aircraft within Group 3 would typically use the full length.

For the purposes of this assessment, the aircraft in Group 3 would not, therefore, have a significant excess of runway available, and therefore a risk reduction factor has not been applied to this group for take-off overrun risk, giving a more conservative estimate of the risk.

Group 4 aircraft departing from Taxiway Charlie would still have a significant excess of runway available and, therefore, a risk reduction factor has been applied to Group 4.

**Table 3-6: Take-Off Overrun Risk Reduction Factors – Runway 09**

A/C Group	Definition	Average TORR + Standard Deviation (m)	Take-off Run Excess (m)	Take-off Run Excess as % of TORR	Risk Reduction Factor
Group 1	Large Commercial and Large Business Aircraft	1,754	-291	-17%	1.00
Group 2	Small Commercial and Medium Business Aircraft	1,055	408	39%	1.00
Group 3	Small Business Aircraft and Large Light Aircraft	832	123	15%	1.00
Group 4	Small Light Aircraft	450	505	112%	0.05

**Note:** The negative take-off run excess for Group 1 reflects that these types may be performance limited for take-off at Guernsey

#### Landing

Likewise, risk reduction factors have been considered for landing overruns as a function of the excess distance available between the required landing run and the end of the available landing run. It was determined that reduction factors would apply for those aircraft for which excess distance available corresponds to an excess distance of at least 80%.

Table 3-7: Landing Overrun Risk Reduction Factors – Runway 09

A/C Group	Definition	Average LDR + Standard Deviation (m)	Landing Distance Excess (m)	Landing Distance Excess as % of LDR	Risk Reduction Factor
Group 1	Large Commercial and Large Business Aircraft	1,636	-172	-11%	1.00
Group 2	Small Commercial and Medium Business Aircraft	977	486	50%	1.00
Group 3	Small Business Aircraft and Large Light Aircraft	762	701	92%	0.1
Group 4	Small Light Aircraft	502	961	192%	0.05

Note: The negative landing distance excess for Group 1 reflects that these types may be performance limited for landing at Guernsey

### Combined Overrun Crash Rates

Table 3-8 and Table 3-9 display the take-off and landing overrun probabilities obtained by applying the reduced crash rates to the traffic present at Guernsey Airport (current and with additional flights). In the Hazard Identification workshop, it was identified that Guernsey Airport's characteristics make landing a higher risk than at other airports in the UK. Therefore, the crash risk for landing has been assessed with a 1.1 multiplier to reflect the higher risk.

Table 3-8: Crash Rates for the Overrun Analysis – Current Traffic

A/C Group	Annual Movements	Application of Crash Rates							
		Runway 27 movements		Runway 09 movements		Runway 27 Overrun		Runway 09 Overrun	
		Take-off	Landing	Take-off	Landing	Take-off	Landing	Take-off	Landing
1 LCBA	18,232	4,831	4,831	4,284	4,284	1.95E-03	8.99E-03	1.73E-03	7.97E-03
2 MCBA	5,919	1,569	1,569	1,391	1,391	6.32E-04	2.92E-03	5.61E-04	2.59E-03
3 SBA	4,052	1,074	1,074	952	952	7.52E-04	2.95E-04	6.67E-04	2.62E-04
4 Light Aircraft	7,336	1,944	1,944	1,724	1,724	6.80E-05	2.67E-04	6.03E-05	2.37E-04
<b>Total</b>	<b>35,539</b>	<b>9,418</b>	<b>9,418</b>	<b>8,352</b>	<b>8,352</b>	<b>3.40E-03</b>	<b>1.25E-02</b>	<b>3.01E-03</b>	<b>1.11E-02</b>

Table 3-9: Crash Rates for the Overrun Analysis – Future Traffic

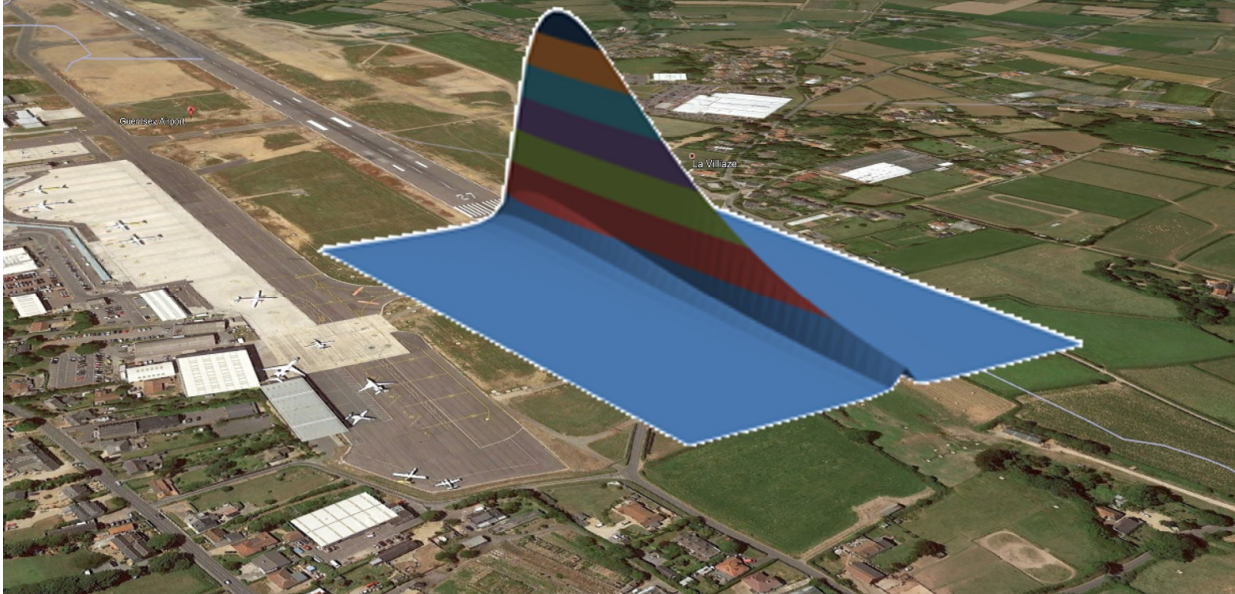
A/C Group	Annual Movements	Application of Crash Rates							
		Runway 27 movements		Runway 09 movements		Runway 27 Overrun		Runway 09 Overrun	
		Take-off	Landing	Take-off	Landing	Take-off	Landing	Take-off	Landing
1 LCBA	18,232	4,831	4,831	4,284	4,284	1.95E-03	8.99E-03	1.73E-03	7.97E-03
2 MCBA	5,919	1,569	1,569	1,391	1,391	6.32E-04	2.92E-03	5.61E-04	2.59E-03
3 SBA	4,052	1,074	1,074	952	952	7.52E-04	2.95E-04	6.67E-04	2.62E-04
4 Light Aircraft	7,336	1,944	1,944	1,724	1,724	6.80E-05	2.67E-04	6.03E-05	2.37E-04
5 A320-type	3,650	967	967	858	858	6.63E-04	2.56E-03	5.88E-04	2.27E-03
<b>Total</b>	<b>39,189</b>	<b>10,385</b>	<b>10,385</b>	<b>9,209</b>	<b>9,209</b>	<b>4.06E-03</b>	<b>1.50E-02</b>	<b>3.60E-03</b>	<b>1.33E-02</b>

The probability density function modelled from the ROAD data allows an airport specific spatial distribution of overrun locations to be developed. By applying the above crash rates to the probability density function, the likelihood of incidents occurring outside the provided RESA has been calculated.

### 3.5 Guernsey Airport Overrun Results

#### 3.5.1 Spatial Distribution of Accident Probability

As an example of the nature of the spatial distribution, Figure 3.2 shows the Base Case superimposed as a 3D image on a Google Earth image of the runway end. The 3D image of probability covers a length of 400m and a width of 300m. Note how the probability is highest on the extended centreline of the runway and close to the threshold.



Source: Google Earth + Jacobs Analysis

**Figure 3.2: Overrun location probability contours for existing Base Case overlaid on east end of runway**

#### 3.5.2 Review of Results

The following tables and graphs illustrate the output of the overrun analysis: they contain the likelihood of an overrun incident outside of the provided RESA. The results are shown in a RAG setting. Red would mean that the result clearly has a more frequent occurrence than the benchmark for a 90m RESA, whilst Green similarly means that the result clearly has a less frequent occurrence than the benchmark for a 240m RESA.

An Amber result means that, for a recurrence period, it is better than the benchmark figure for a 90m RESA but not as good as that for a 240m RESA. The benchmark for the risk to an individual movement is  $1 \times 10^{-7}$  but is given an amber zone between that and  $2 \times 10^{-7}$ . Note that the individual risk is given as an average for the aircraft fleet. It is a weighted average taking into account both the numbers of movements and the crash risk factors applied to each group of aircraft types.

Some aircraft movements will be at a higher individual risk and some at a lower risk. An individual movement will in fact experience a different risk profile depending on the specific aircraft, its weight and performance and the weather conditions at the time of the movement.

The results are discussed in Section 5 of the report.

Table 3-10: Runway 09 Uncontained Overrun Risk

Option		Existing traffic		+ Future traffic	
		Recurrence Period (years)	Incidents per Movement	Recurrence Period (years)	Incidents per Movement
Base	Existing situation with 198m RESA	365	7.72E-08	N/A	N/A
Option 1	Reduce RESA to 90m allowing declared distances to increase by 108m	163	1.73E-07	135	1.89E-07
Option 2	Full EMAS bed in a 120m RESA. Equivalent to a 240m RESA but declared distances increased by only 78m	373	7.55E-08	310	8.22E-08
Option 3	Reduced EMAS length of 90m in a 90m RESA. Declared distances increased by 108m	239	1.18E-07	199	1.28E-07

RESA Provision at a Hypothetical Average UK Airport

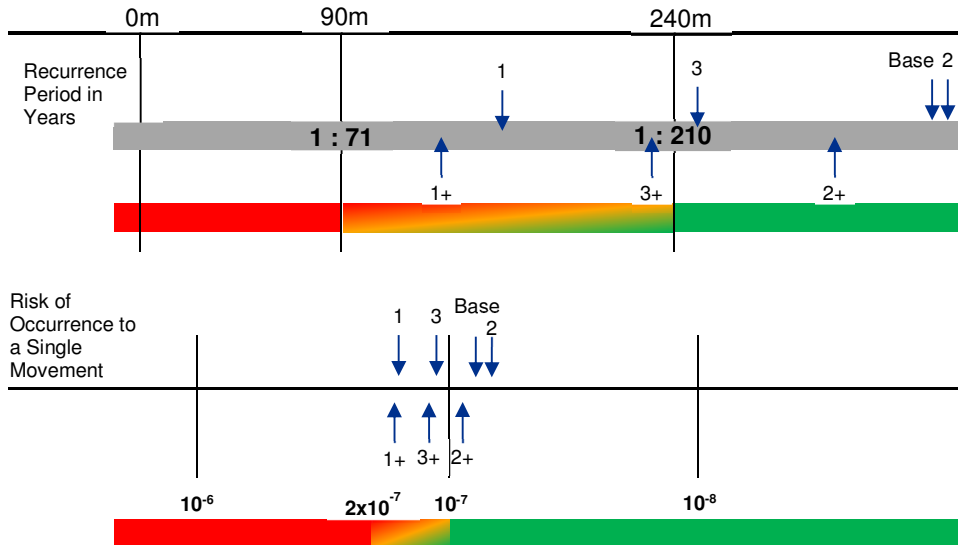


Figure 3.3: Runway 09 Uncontained Overrun Results

## 4. Undershoot RESA Risk Assessment

A runway undershoot differs significantly from a runway overrun. When an overrun occurs, it can be reasonably expected that it is obvious to the Accident and Incident Investigators and the incident will be so labelled in any reports. Consequently, the databases available of runway overrun accidents and incidents will be quite accurate in providing a full record of incidents and accidents that must be considered to be part of the statistical record of overruns.

In the case of undershoots, since these accidents are from flight on arrival, great care must be exercised in considering which of these accidents are to be deemed undershoots and would be relevant to a RESA assessment. The data sets of arrival accidents which are available to allow analysis of accidents from arriving aircraft whilst still in flight show a great spread of data, including accidents at several kilometres downwind of the aerodrome and at several kilometres to the side of the runway centrelines.

An example of such a data set is shown below in Figure 4.1. This is based on an FAA study of arrival accidents for GA aircraft and includes accident locations at over 7Km before the landing threshold and up to 4km to the side of the runway centreline.

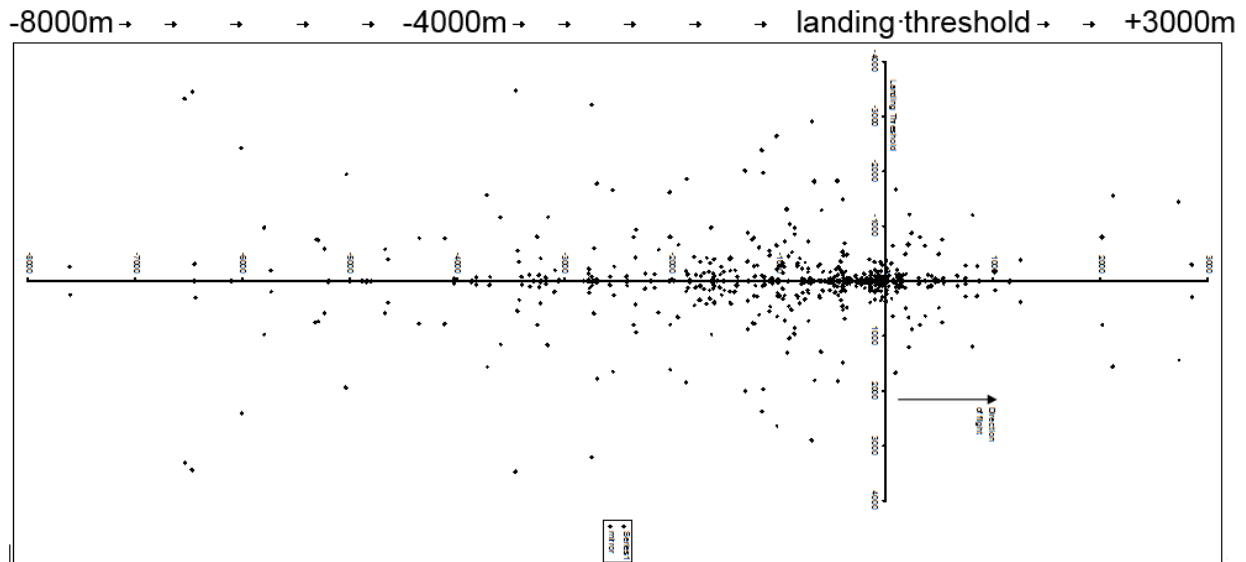
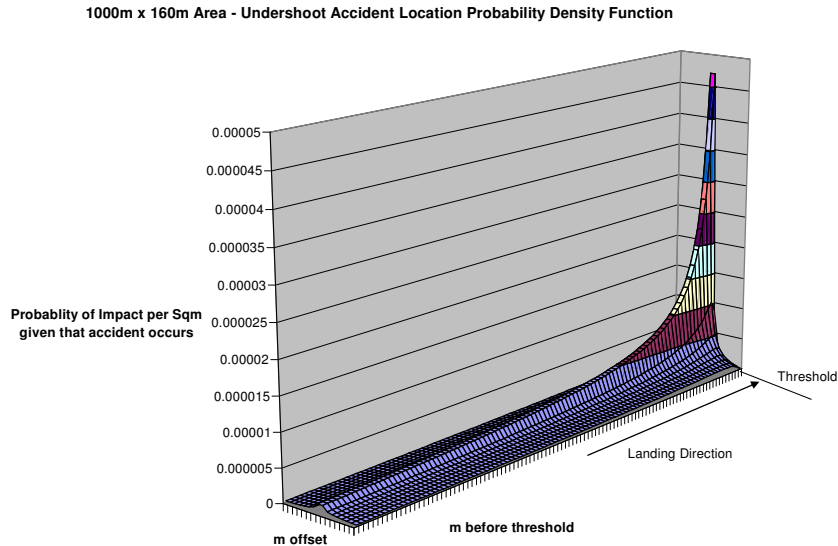


Figure 4.1: GA Arrival Accidents from FAA study

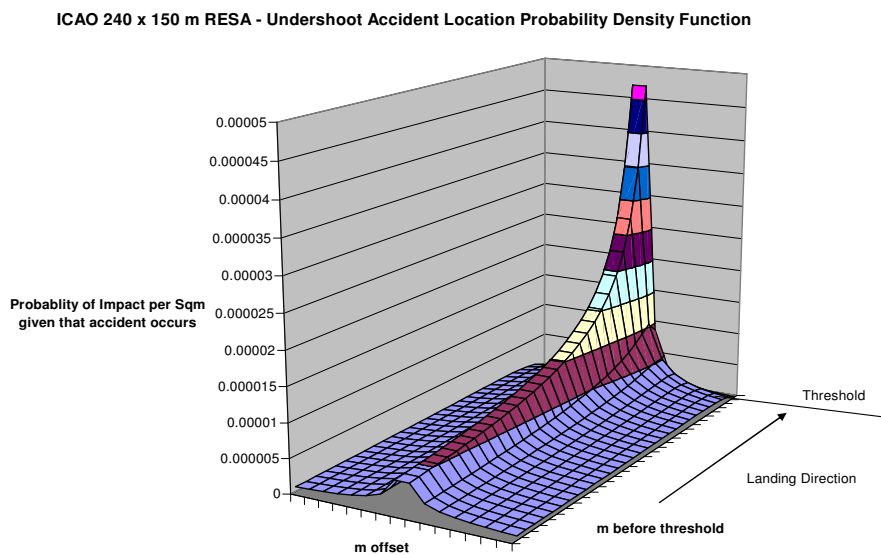
Another example is provided by the probability density function developed by NATS, 1997 in their study of public safety zones. This is shown graphically in Figure 4.2 for the 1000m before the landing threshold.



**Figure 4.2: Illustration of Arrival accident from flight probability over a 1000m by 160m area before the threshold**

Both of these data sets illustrate that an appreciable number of the arrival accidents occur well downwind of the aerodrome. These are before the aircraft is over the land area and infrastructure that the airport operator can reasonably be expected to control and improve by the provision of RESA areas.

Nevertheless, integration of the probability density functions provided by NATS indicates that the highest accident probability locations are contained within the ICAO RESA. The shape of the accident location probability density function is shown in Figure 4.3.



**Figure 4.3: Accident Probability within ICAO RESA**

Consequently, the method used is based on a presumption that if the aerodrome infrastructure provided full ICAO recommended RESA dimensions of at least 240m long by 150m wide, then the infrastructure is deemed to have provided industry standard and appropriate protection for runway undershoots.

It is recognised that additional protection both to and from the undershoot incident is provided by obstacle limitation and development limitation by aerodrome safeguarding surfaces and by the application of a Public Safety Zone. However, this report is concerned solely with the risk assessment of the provision of RESAs.

An undershoot accident of relevance is thus defined as one that could have been ameliorated by better provision of RESAs if these are less than the ICAO recommended 240m by 150m RESA. It is thus assessed as the risk of such an accident occurring within the ICAO RESA of 240m by 150m but outside of the actual provided RESA if smaller. No benefit is obtained from the EMAS for an undershoot as all that is considered is whether an aircraft reaches the physical extent of the RESA.

A calculation of the portion of crash rates from arriving flight located between the provided RESA and the full ICAO RESA (240m L x 150m W) has been carried out using the probability density function.

## 4.1 Methodology

The method used is as follows:

- Calculate the crash risk of an airport vicinity arriving accident per million movements, using average First World crash rates (NATS, 1997) for various aircraft categories. In the Hazard Identification workshop, it was considered that Guernsey Airport's characteristics make landing a slightly higher risk than at other comparable airports. Therefore, the crash risk has been assessed with a 1.1 multiplier to reflect the higher risk
- Apply these to the spectrum of aircraft types using Guernsey Airport and, using estimates of annual movements by each category, calculate a weighted crash rate
- From NATS, 52% of these crashes are landing crashes from arrival flight excluding landing overruns, and after application of runway utilisation, the crash rate for each undershoot can be calculated
- The pre-threshold crash location probability density function is integrated, both for the full 240m by 150m ICAO RESA and for the actual shape of the undershoot RESA provided. The difference multiplied by the crash rate for each undershoot provides the individual risk that an undershoot incident will occur within a RESA area that should perhaps have been provided but outside of that which has been provided
- This is then taken as the key risk parameter which measures the risks related to the non-provision of sufficient RESA and can be expressed both as an individual risk and as an incident of 1 in a number of years for a given level of traffic.

## 4.2 Guernsey Airport Undershoot - Analysis

### 4.2.1 Current and Future Traffic

The utilisation of the two runways for landing operations is as in Table 4-1.

Table 4-1: Traffic Data and Runway Usage at Guernsey Airport

Year	Movements Considered	Runway Split % 27 : 09
2018	36,533	53% : 47%
2018 (excluding helicopters)	35,539	
Future additional traffic	+3,650	

#### 4.2.2 Aircraft Types Analysed

For the undershoot analysis the aircraft types operating at Guernsey Airport were separated into ten categories as outlined in the document 'Third Party Risk Near Airports and Public Safety Zones Policy'<sup>3</sup>:

- Class I Jets
- Class II – IV Jets
- Eastern Jets
- Executive Jets
- Turboprops T1
- Turboprops T2
- Turboprops (unclassified)
- Piston-Engine
- Other non-commercial
- Miscellaneous

#### 4.2.3 Crash rates for undershoot applied at Guernsey Airport

The weighted crash rates proposed indicate an overall rate of 1.228 per million movements for the current traffic at Guernsey Airport as shown in Table 4-2.

Table 4-2: Calculation of Crash Rate for Undershoot – Current Traffic

Aircraft class	Crash rate per million movements of aircraft class	Annual movements	Proportion of movements	Weighted crash rate per million movements
Class I jets	1.114	0	0.00%	0
Class II-IV jets	0.148	2,545	7.16%	0.012
Eastern jets	0.930	0	0.00%	0
Executive jets	2.230	2,362	6.65%	0.163
Turboprops T1	0.270	19,431	54.68%	0.162
Turboprops T2	0.733	79	0.22%	0.002
Turboprops (unclassified)	0.733	2,042	5.75%	0.046
Piston-engine	3.000	8,852	24.91%	0.822
Other non-commercial	3.000	0	0.00%	0
Miscellaneous	3.000	228	0.64%	0.021
	<i>TOTAL</i>	<i>35,539</i>	<i>100.00%</i>	<i>1.228</i>

The proportion of the crash rate from arriving flights is then applied (NATS, 1997) shown below in Table 4-3.

Table 4-3. Crash Rates from Arriving Flight on each Runway – Current Traffic

Runway	Utilisation (%)	Proportion of crashes that are from arriving flight* (%)	Crash rate per million used in analysis
09	47	52	0.3002
27	53	52	0.3385

\*Note: excluding landing overruns.

<sup>3</sup> Third Party Risk Near Airports and Public Safety Zones Policy, A. W. EVANS, P. B. FOOT, S. M. MASON, I. G. PARKER, K. SLATER, June 1997

In the future scenario, the additional flights of modern A320-family equivalent aircraft change the mix of aircraft operating at Guernsey Airport and reduce the resulting crash rate to 1.129 per million movements as shown in Table 4-4 with the resulting arrival crash rate shown in Table 4-5.

However, it must be noted that it is assumed that the relocation of the Runway 27 glidepath antenna necessary for Options 1,2 and 3, will continue to provide the same quality of signal to support CAT 1 precision approaches and the use of the same crash rates with respect to undershoot risk. There have been previous reports of some significant perturbations, possibly due to the difficult ground plane topography on the approach that can give rise to unstable approaches. A formal assessment of this effect should be sought from the navaid providers during the next design stage if an option involving a relocated 27 landing threshold becomes the preferred option.

**Table 4-4: Calculation of Crash Rate for Undershoot – Future Traffic**

Aircraft class	Crash rate per million movements of aircraft class	Annual movements	Proportion of movements	Weighted crash rate per million movements
Class I jets	1.114	0	0.00%	0
Class II-IV jets	0.148	6,195	15.81%	0.026
Eastern jets	0.930	0	0.00%	0
Executive jets	2.230	2,362	6.03%	0.148
Turboprops T1	0.270	19,431	49.58%	0.147
Turboprops T2	0.733	79	0.20%	0.002
Turboprops (unclassified)	0.733	2,042	5.21%	0.042
Piston-engine	3.000	8,852	22.59%	0.745
Other non-commercial	3.000	0	0.00%	0
Miscellaneous	3.000	228	0.58%	0.019
	<i>TOTAL</i>	<i>39,189</i>	<i>100.00%</i>	<i>1.129</i>

**Table 4-5: Crash Rates from Arriving Flight on each Runway – Future Traffic**

Runway	Utilisation (%)	Proportion of crashes that are from arriving flight*	Crash rate per million used in analysis
09	47	52%	0.2759
27	53	52%	0.3112

\*Note: excluding landing overruns

The results in Table 4-6 provide the likelihood that an undershoot incident is located outside of the existing or option RESA but inside the area defined by the ICAO standard RESA of 240m x 150m.

**Table 4-6: Runway 27 Undershoot Risk Results**

Option	Existing traffic		+ Future traffic	
	Recurrence Period (years)	Incidents per Movement	Recurrence Period (years)	Incidents per Movement
Base	7,938	3.54E-09	N/A	N/A
Option 1	1,762	1.60E-08	1,738	1.47E-08
Option 2	2,332	1.21E-08	2,301	1.11E-08
Option 3	1,762	1.60E-08	1,738	1.47E-08

## 5. Conclusions

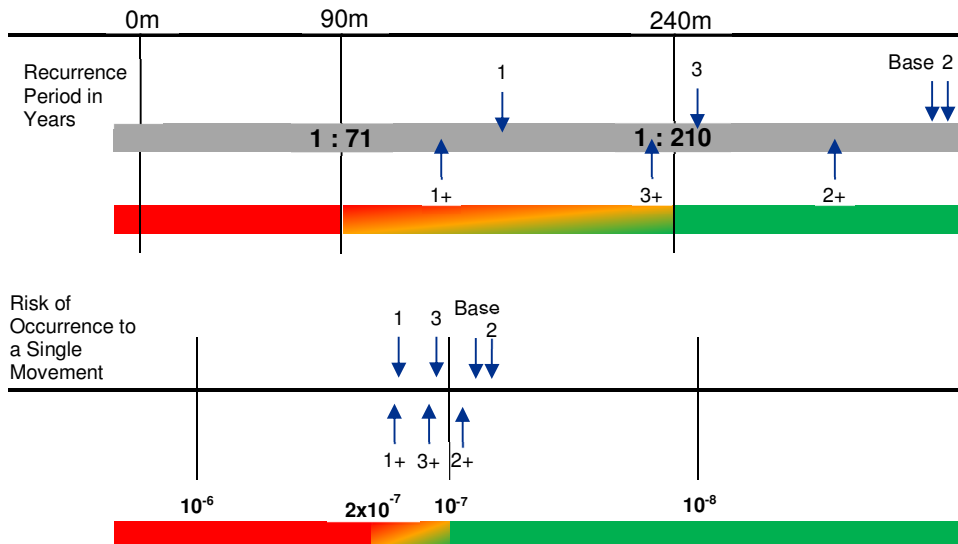
In view of the current provision of a wider runway than the minimum required, good friction on a recently overlaid and grooved runway surface, CAT 1 precision approach and a good standard of AGL lighting including alternating light colours towards the runway ends, the only realistic additional mitigation to improve the RESA provision is consideration of EMAS installations.

It is noted that the probability of an undershoot location that would have been within a 240m by 150m RESA but is outside of the provided RESA is very low for all cases. The probability is an order of magnitude smaller than for landing or aborted take-off overruns. Tolerability and acceptability of the RESA provision are therefore dominated by the results for overruns. The overrun analysis results given in Section 3 are repeated here for ease of reference.

### Runway 09 Uncontained Overrun Risk

Option		Existing traffic		+ Future traffic	
		Recurrence Period (years)	Incidents per Movement	Recurrence Period (years)	Incidents per Movement
Base	Existing situation with 198m RESA	365	7.72E-08	N/A	N/A
Option 1	Reduce RESA to 90m allowing declared distances to increase by 108m	163	1.73E-07	135	1.89E-07
Option 2	Full EMAS bed in a 120m RESA. Equivalent to a 240m RESA but declared distances increased by only 78m	373	7.55E-08	310	8.22E-08
Option 3	Reduced EMAS length of 90m in a 90m RESA. Declared distances increased by 108m	239	1.18E-07	199	1.28E-07

RESA Provision at a Hypothetical Average UK Airport



The risk of an uncontained overrun for the Base Case which analysed the existing situation is within both of the Jacobs benchmarks. This result is mutually supportive of and with the qualitative arguments put forward in the CAP 791 compliance matrix for the 2014 runway development for acceptance of the 198m RESA provision.

For Options 1, 2 and 3, the probability of an uncontained overrun is marginally greater with the future larger aircraft traffic than with existing 2018 air traffic, but within the constraints of the accuracy of the statistical analysis the

change is not significant enough to justify different decisions on the implementation of a changed RESA / Runway configuration on that ground alone.

Option 2, a full 120m length EMAS RESA, whether with the existing traffic or with the forecast additional larger aircraft, is also within both the Jacobs benchmarks. This is not surprising as it is planned by the FAA guidelines to be equivalent to a full 240m RESA. It shows slightly lower probabilities of an uncontained overrun than for the Base Case because the EMAS bed protects out to a 240m length equivalent for the width of the runway, which more than compensates for the loss of the width of the RESA over the reduced RESA length. It must be noted that Option 2 would only allow a 78m increase in declared distance but has the advantage that it complies with the stance taken by the UK CAA where declared distances are to be increased.

Option 1, which would be the simplest to implement, has results which all fall within an Amber zone in the RAG marking comparison with benchmarks. The recurrence period of both Option 1 and Option 1+ are both roughly half way between the recurrence benchmarks for a 90m and a 240m RESA, but the risk to a single movement is, although Amber, close to the judgemental two-fold increase in the  $1 \times 10^{-7}$  benchmark which is taken from ICAO Collision Risk Modelling.

The benchmark of  $1 \times 10^{-7}$  is the most appropriate target benchmark for risk to an individual movement. When analysing an existing situation, it is considered inappropriate, bearing in mind the order of magnitude nature of risk assessment, the limited statistics available and the need for some judgement in the analysis, to require major capital expenditure to remedy a failure to hit a benchmark by what would be a small amount on a log scale order of magnitude basis. That is why a judgemental amber zone of up to twice the benchmark has been used. However, when assessing the tolerability and acceptability of new works, greater preference should be given to being closer to the target benchmark of  $1 \times 10^{-7}$ . As noted in Section 3, the quoted result of the risk to an individual movement is an average for the aircraft fleet. Some movements, by nature of the aircraft type, performance and weather conditions will be carried out at a higher level of probability of overrun.

Consequently, from all of the above consideration, on the grounds of the probability of uncontained overrun alone, Option 1 would be the least preferred option.

Option 3 has been analysed to see what could be done if using EMAS to the best effect within a 90m RESA, thus maintaining the potential for a 108m increase in declared distance. Although 3 of the 4 results for Option 3 and Option 3+ are in Amber zones, they are very close to the benchmarks, and again, bearing in mind the limitations on accuracy of risk assessment that is generally reported in orders of magnitude, should be considered as comparable to the benchmark. It must be noted that such an EMAS installation with the purpose of increasing declared distances is contrary to the stance taken by UK CAA on such a proposal as stated in CAP 168, however, the regulatory position in Guernsey is not obliged to follow a UK CAA stance.

The final decision will necessarily be made by those in authority responsible for safety at the airport, and in agreement with the regulator. However, the Jacobs recommendations summarising the discussion above is that:

- a. The Base Case of the current 198m RESA being an acceptable provision is supported as appropriate by this quantitative assessment. In so doing the work carried out both supports and is supported by the qualitative arguments put forward in the CAP 791 Compliance Matrix for the 2014 runway development.
- b. Option 1, a 90m RESA with no EMAS provision would be the least preferred option on the grounds of probability of uncontained overrun alone.
- c. Option 2, a 120m EMS RESA can be recommended and would be compliant with the stance taken by the UK CAA when declared distances are to be increased. However, the increase in declared distance is limited under this option to 78m which might not provide the desired improvement in aircraft performance.
- d. Option 3, a 90m EMAS length in a 90m RESA would be at a lower cost than the 120m EMAS of Option 2 and would provide the desired 108m increase in declared distances. The risk assessment shows the probabilities of uncontained overruns are very close to the benchmarks and, taking into account the limits of the accuracy of the analysis, is comparable to the benchmark. However, this option is not compliant with the view taken by the UK CAA where declared distances are to be increased. It would normally only be used to improve the RESA provision at an existing land constrained location with no increase in declared distances, and it would then be compliant with the FAA guidelines for a non-standard RESA.

## **6. References**

Kirkland, I., 2001. The risk assessment of aircraft runway overrun accidents and incidents.

CAA, 1998. Risks from Aeroplanes Overrunning Aerodrome Runways

NATS, 1997. Third Party Risk near airports and public safety zone policy.

Slater 1993. A method for estimating the risk posed to UK sites by civil aircraft accidents. CS Report 8345, Civil Aviation Authority, London, UK.

CAA, 2000. Aviation Safety Review 1990-1998.

EU 139/2014

ICAO Annex 14 Volume 1 Aerodrome Design and Operations 8<sup>th</sup> Edition July 2018

EASA CS-ADR-DSN Issue 4.0 Certification Specifications and Guidance Material for Aerodromes Design

UK CAP 168. Licensing of Aerodromes

## Appendix A. Guernsey Airport Specific Operational Issues

*The following response was received from Guernsey Airport following a request for identification of any special features associated with the Guernsey Airport Operation which need to be considered in connection with any proposals to reduce RESA length.*

### Difficult weather conditions

- Generally given the exposed nature of the island and our geographical position we do have a high propensity to RVR conditions, windier conditions and relatively little impact of snow and ice, exposed location and therefore propensity to wind.
- Guernsey Airport operates a 'back to black' policy for snow and ice conditions so there is no increase of runway excursion created by the rare snow and ice conditions.
- Cross wind limits are set by airline operators, in accordance with the aircraft manufacturer's operations manuals and they ultimately will make a decision as to whether they can operate at Guernsey Airport in accordance with the published information in our AIP. The cross wind limits set by the aircraft manufacturer and/or airline operator are designed to minimise the risk of a runway excursion.
- RVR limits for approach are also set by airline operators. The worst case scenario would be a combination of - cross winds, wet runway and into RVR's (all just on airline operators limits).
- Thunderstorms may produce difficulties with downdraughts and wind shear.

### Provision and use of visual or instrument approaches

- Guernsey Airport deploys CAT1 ILS at both ends in operation with standard 200'/550m minima applied. LPV 200 to be shortly introduced, which will have very similar criteria to the ILS CAT 1 minima.
- The introduction of EVS 2 on the recently ordered Aurigny ATR 72-600 fleet is also worthwhile noting and also some of the airlines considering operating in Guernsey also having capability to carry out lower than CAT 1 operations (similar arrangements are undertaken in Jersey as part of a specific safety case signed off by the DCA). This includes the E195 which can be fitted with a HUD option (I understand G-NSEY has been fitted with the wiring to enable this modification to be fitted if required).
- Lower Than Standard (LTS) CAT 1 operations do require that the ILS operate within CATII or even CATIII course structure requirements, depending on the target RVR. This would require additional protection of the Loc and GP sensitive areas – which has not yet been deployed.

### ILS precision approach categories

- CAT1 and LPV200 approaches available, historically we have had issues with perturbations on 27 approach ILS signal due terrain. Perturbations are likely to worsen at the 27 end when or if the threshold is moved further east, as the GP will be moving closer to the valley and therefore will be more exposed to the effect of the rising ground on the far side of the valley giving rise to bends. The 27GP will have to be re-commissioned with this in mind, noting that it already has a coverage weakness 8deg right - due to the tuning deemed necessary to control the perturbations.
- There is some scope for tuning our M-array but like all multi-antenna systems what you gain in one area you can lose in another. It follows the law of diminishing returns.
- Coverage of the 27 Loc will also have to be confirmed in modelling as the Loc antenna array is below the horizontal plane of the runway and the actual glideslope will have moved 100m+ further to the east as part of these proposals and so more terrain screening of the bottom coverage of the Loc beam comes into play.
- Current Air Pilot entries refer to weakness in low level coverage of the 27 GP, with the words "Pilots must not descend on RWY 27 GP until fully established on RWY 27 LOC".
- The weakness in low level coverage is a result of the adjustments necessary on the M-Array to reduce the perturbations. This situation is likely to worsen when we move the GP further east.

### Any ICAO/EASA non-compliance with runway friction levels

- None, runway friction readings provided. Runway levels compliant to ICAO standard, grooved marshall, LED runway edge lights. Under the current issue of CS-ADR-DSN — Aerodromes Design, Guernsey Airport's aerodrome reference code is 3C.

- Code 3 runways which handle aircraft with an Outer Main Gear Wheel Span (OMGWS) of 6 m up to but not including 9 m are required to have a minimum width of 30 metres. We selected a 45 metre runway as part of the specification for the pavements project.
- By comparison, other similar sized airports have a compromise in runway width (e.g. Southampton is 37m, Southend is 36m) but still are able to handle A320 and Boeing 737 series aircraft without issue.

### Lighting

- We selected LED runway edge lights (spaced at 60 metres) and enhanced runway centreline lights spaced at 15 metres instead of the mandatory 30 metre spacing to enhance guidance.
- Our approach lighting is as follows:
  - Runway 27 – Code centre-line with five cross bars. Single approach centre-line light omitted from the system at 270 metres from the Runway 27 threshold. 895 metres length in total with high light intensity.
  - Runway 09 - Code centre-line with five cross bars. Single approach centre-line lights omitted from the system at 570 and 540 metres from the Runway 09 threshold. 803 metres length in total with high light intensity.
- **Any terrain constraints on approach or take-off procedures** – Forest Road Water tower on 27 approach (as per CAP232); there may be other obstructions which become more prominent as a result of the threshold moving east and this will be subject to a wider study by our appointed CAP 232/1732 surveyor in due course and if there is a case to be considered.
- **Runway excursion history:** The runway excursion history at Guernsey since 1999 (for commercial aircraft over 5,700kg MTOW) is:
  1. 8 Aug 1999, Aurigny Shorts SD360: During landing roll on Rwy 09 aircraft veered sharply to the right, departed runway & struck PAPIs. Nose & landing gear damaged. No injury to 40 POB (excursion onto CGA, not overrun or undershoot RESA)
  2. 21 Apr 2001, Aurigny Saab 340: During landing roll on Rwy 09 aircraft veered to the left, departed runway. No damage or injury to POB (excursion onto CGA, not overrun or undershoot RESA)
  3. 8 Mar 2006, Emerald HS748: aircraft overran runway some 145m after landing on Rwy 27. Slight damage, no injury to 2 POB (excursion onto overrun RESA)
  4. 17 May 2006, Club 328 Dornier 328 Jet: aircraft overran runway some 25m after landing on Rwy 09. Threshold light damage, no injury to POB (excursion onto overrun strip end zone)

## Appendix B. Hazard Identification Workshop

A Hazard Identification Workshop was held at Guernsey Airport on 13<sup>th</sup> March 2019, attended by the following representatives of the airport, regulatory body and airlines.

Name	Company	Job Title
Colin le Ray	Guernsey Airport	General Manager Ports
Peter Collivet	Pula Aviation Ltd	Pilot
Nick Brown	Pula Aviation Ltd	Pilot
Ross Coppolo	Guernsey Airport	Head of Safety & Compliance
Ash Nicholas	Guernsey Airport	Head of Aviation Services
Leah Jeffreys	Guernsey Airport	Manager, Air Traffic Control
Chris Arnold	Guernsey Airport	Chief Technical Officer
Simon Macphail	DCA	Dep. DCA & Aviation Security Regulator
Gareth Williams	Guernsey Airport	Airport Operations Manager
Nigel Moll	Aurigny	Flight Operations Director
Mark Darby	Aurigny	CEO
Rob le Page	Architect & Chartered Surveyor	Principal
Spencer Raynes	Blue Islands	Director of Flight Operations
Ben Verrall	Jacobs	Senior Consultant
Richard Verrall	Jacobs	Senior Airport Planner

Following a discussion on the risk assessment methodology, the workshop discussed issues around flight safety at Guernsey Airport, using the following tables as a discussion guide.

The workshop consensus view is that, whilst Guernsey is not high-risk, it is one of the higher risk airports pilots fly to, due to the combination of crosswind, reduced visibility and a shorter runway length than experienced at other typical airports.

## B.1 Factors Affecting All Phases of Flight

Flight Phase	Contributory Factor	Comment
All Phases	Long Duty Period	Typically 1/month pilot reaches max. duty period
	Single Pilot Operation	Not on scheduled flights. GA / air taxi may have single pilot ops.
	No approach radar service or airport tower service	Approach / Tower is set up well and provides good service.
	No current local weather report	Good weather information available.
	Unfamiliar airport or unfamiliar procedures	Local issue: Wind from 210-230 causes windshear from topography and hangar turbulence. Warning issued in AIP, and on ATIS when applicable.
	Minimal or no approach lights or runway lights	09 Approach has two missing lights. Enhanced lighting provided on runway centreline.
	No visual approach-slope guidance	Approach glidepath lighting is good.
	Foreign destination - possible communication / language problems	Commercial pilots required to have good English. Proximity to France draws foreign GA pilots, may not be as good.
	Fog / reduced visibility	Frequent occurrence of reduced visibility compared to other airports. Generally not prolonged – usually either morning or evening. Can be low cloud.
	Proportion of night operations	Open 06:30 until 21:00. If med-evac aircraft operating, would be small a/c
	Wet runway	} Braking action is good. Runway friction surveys good.
	Contaminated runway	
	Runway braking action	
	Runway slope	Downslope on 27 can delay touchdown
Visual illusions e.g. sloping terrain, wet runway, whiteout / snow	Runway slope can cause appearance of a dip in middle. Mirage effect / heat haze in summer.	

## B.2 Factors Affecting Landing

Flight Phase	Contributory Factor	Comment
Landing – Approach / Touch down	Obstacle environment / hilly or mountainous terrain	Nothing to affect to the west. Water tower and vehicles on road to the east are noted in obstacle charts.
	Tailwind	Variation in fog density at either end of runway can affect runway choice, resulting in tailwind component. Due to slope, minor tailwind take-off on 27 can be preferable to minor headwind 09 take-off.
	Crosswind	More of an issue than other airports. Turbulence over hangars is noted in AIP
	Windshear	210-230 wind direction – windshear concern means will be noted on ATIS message. Jersey gives report if windshear issues expected.
	Non-precision approach	Generally use ILS with daytime option to use visual – night landing must use ILS. Offset VOR can destabilise approach. Some a/c GPS equipped for approach.
	Mechanical failure on aircraft	Mostly modern fleet – freight operator using late 80's / early 90's aircraft.
	Other declared emergency	Divert to Exeter for better runway length if flapless landing. Jersey is another alternative.
	Wrong weather information given	Every RVR change is advised. Generally do not have quick changes in weather.
	Airport specific procedures	Fog / wind / shorter runway to be considered when operating to Guernsey.
	Non-precision approach - especially with step-down procedure or circling procedure	N/A
	Visual Approach in darkness	Would use ILS
	Late runway change	If need to change runway is identified, then would offer inbound a/c a hold to re-brief the approach.
	No published STAR	N/A
	Cold temperature effects - true altitude lower than indicated altitude	N/A
No GPWS / EGPWS / GCAS / TAWS	Fitted to aircraft	

	No radio altimeter	Fitted to aircraft
	No wind shear warning system	By radio feedback. Embraer and large business jets have a warning system (reactive)
	Other factors	Icing conditions increases landing speed. Typically 50% of the time in winter operations. Offset VOR can destabilise approach.
Landing – Roll out / Braking	Mechanical failure on aircraft	No issue.
	Tyre burst	No issue.
	Airport specific procedures	Night closure does not affect
	Percentage of runway length critical operations	ATR a/c never. Embraer – if wet runway circa 70% of landings could be critical. Large business jets cannot use runway if wet.  A/c which can land max weight on dry runway may be restricted if wet.

### B.3 Factors Affecting Take-off

Flight Phase	Contributory Factor	Comment
Take-Off – Line up	Line up reduces available TODA	Join runway at 90 degrees to maximise length available
Take-Off – Acceleration	Mechanical failure on aircraft	Some but not significant
Take-Off – Lift Off	Mechanical failure on aircraft	
	Bird strike	High risk.
	Other factors that may increase the probability of an abort being required	N/A
Take-Off – Deceleration to stop	Mechanical failure on aircraft	Usually due to engine indications. One a/c type can show door warning.
	Tyre Burst	
	Percentage of runway length critical operations	70 to 80% of operations have more performance available.  Intersection take-off only used by small GA. Pilot instructed to backtrack as required – a/c sequencing planned such that full length could be used.

Deputy Gavin St Pier  
The President, Policy & Resources Committee  
Sir Charles Frossard House  
La Charroterie  
St Peter Port

12<sup>th</sup> August, 2019

**STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**STATES TRADING SUPERVISORY BOARD**

**REVIEW OF A POTENTIAL GUERNSEY AIRPORT RUNWAY EXTENSION**

Dear Sir,

In accordance with Rule 4(2) of the Rules of Procedure of the States of Deliberation and their Committees, the STSB requests that the Propositions be considered at the States' meeting to be held on 25<sup>th</sup> September 2019.

It is important that the Policy Letter for the review of the potential Guernsey Airport Runway extension is considered without further delay, as Resolution 2 of the Requête directed the States' Trading Supervisory Board to return to the States by 31<sup>st</sup> March 2019 with a Policy Letter on this matter. This is notwithstanding that I have already provided an outline briefing to the States on the outcome of the review.

Yours faithfully,



P T R Ferbrache  
President  
States Trading Supervisory Board

J C S F Smithies  
Vice President

J Kuttelwascher  
Member

S J Falla MBE  
J C Hollis  
Non-States Members

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**STATES' ASSEMBLY & CONSTITUTION COMMITTEE**

DATES OF STATES' MEETINGS – 1<sup>st</sup> SEPTEMBER 2020 to 31<sup>st</sup> AUGUST 2021

The States are asked to decide whether, after consideration of the policy letter entitled "Dates of States' Meetings – 1<sup>st</sup> September 2020 to 31<sup>st</sup> August 2021" dated 12<sup>th</sup> August 2019, they are of the opinion:-

1. To agree:

(a) that the dates on which States' Meetings shall be convened in the period from the 1st September, 2020 to the 31st August, 2021 shall be as follows, and to update Schedule 1 of the Rules of Procedure of the States of Deliberation and their Committees accordingly:

<b>2020</b>	
2 <sup>nd</sup> September	
30 <sup>th</sup> September	
21 <sup>st</sup> October	
3 <sup>rd</sup> November	<b>Budget Meeting &amp; Policy Letter of the Committee for Employment &amp; Social Security on uprating of non-contributory benefits</b>
25 <sup>th</sup> November	
15 <sup>th</sup> December	<b>P&amp;R Plan Meeting</b>
16 <sup>th</sup> December	
<b>2021</b>	
27 <sup>th</sup> January	
24 <sup>th</sup> February	
24 <sup>th</sup> March	
28 <sup>th</sup> April	
26 <sup>th</sup> May	
15 <sup>th</sup> June	<b>P&amp;R Plan (Phase 2) &amp; Accounts</b>
7 <sup>th</sup> July	

(b) in respect of the period beginning on the 1<sup>st</sup> July 2020 until 31<sup>st</sup> August 2021, that statements under the provisions of Rules 10(4) and (5) shall be made by the

Presidents and, in the case of the States of Alderney, the nominated Alderney Representative according to the following rota, and to update Schedule 1a of the Rules of Procedure of the States of Deliberation and their Committees accordingly:

<b>States' Meeting 2020</b>	<b>Committee/s/States of Alderney to make Statement</b>
22 <sup>nd</sup> July	<ul style="list-style-type: none"> <li>• Policy &amp; Resources Committee</li> </ul>
2 <sup>nd</sup> September	<ul style="list-style-type: none"> <li>• Committee <i>for</i> Economic Development</li> </ul>
30 <sup>th</sup> September	<ul style="list-style-type: none"> <li>• Development &amp; Planning Authority</li> <li>• Committee <i>for</i> Education, Sport &amp; Culture</li> </ul>
21 <sup>st</sup> October	<ul style="list-style-type: none"> <li>• Committee <i>for</i> Home Affairs</li> <li>• Overseas Aid &amp; Development Commission</li> </ul>
3 <sup>rd</sup> November	<b>N/A Special Meeting</b>
25 <sup>th</sup> November	<ul style="list-style-type: none"> <li>• Committee <i>for the</i> Environment &amp; Infrastructure</li> <li>• Committee <i>for</i> Health &amp; Social Care</li> </ul>
15 <sup>th</sup> December	<b>N/A Special Meeting</b>
16 <sup>th</sup> December	<ul style="list-style-type: none"> <li>• Committee <i>for</i> Employment &amp; Social Security</li> <li>• The States of Alderney</li> </ul>
<b>States' Meeting 2021</b>	
27 <sup>th</sup> January	<ul style="list-style-type: none"> <li>• Scrutiny Management Committee</li> <li>• States' Assembly &amp; Constitution Committee</li> </ul>
24 <sup>th</sup> February	<ul style="list-style-type: none"> <li>• Policy &amp; Resources Committee</li> </ul>
24 <sup>th</sup> March	<ul style="list-style-type: none"> <li>• Committee <i>for</i> Economic Development</li> <li>• Committee <i>for</i> Education, Sport &amp; Culture</li> </ul>
28 <sup>th</sup> April	<ul style="list-style-type: none"> <li>• Committee <i>for the</i> Environment &amp; Infrastructure</li> <li>• States' Trading Supervisory Board</li> </ul>
26 <sup>th</sup> May	<ul style="list-style-type: none"> <li>• Committee <i>for</i> Employment &amp; Social Security</li> <li>• Transport Licensing Authority</li> </ul>
15 <sup>th</sup> June	<b>N/A Special Meeting</b>
7 <sup>th</sup> July	<ul style="list-style-type: none"> <li>• Committee <i>for</i> Health &amp; Social Care</li> <li>• Committee <i>for</i> Home Affairs</li> </ul>

2. To agree that the Committee *for* Education, Sport & Culture will determine and publish the calendar for the period from September 2021 to July 2024 for all States Schools (including voluntary schools) by the end of January 2020.

3. To agree that Rule 1.(1) of the Rules of Procedure of the States of Deliberation and their Committees should be amended with immediate effect to read as follows:

*1. (1) The States' Assembly & Constitution Committee shall submit, in the six months prior to a General Election, a policy letter setting out the dates on which it proposes that States' Meetings should be convened during the States' term immediately following that General Election, having first taken into account the dates of school terms and any other information which it considers relevant. The policy letter referred to above shall also include proposals setting out the Committee or Committees whose President or Presidents will be obliged to make statements, and for the States of Alderney statement to be made by one of the Alderney Representatives, under the provisions of Rules 10(4) and (5) at each ordinary Meeting during the said period.*

The above Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications.

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**STATES' ASSEMBLY & CONSTITUTION COMMITTEE**

DATES OF STATES' MEETINGS – 1<sup>st</sup> SEPTEMBER 2020 to 31<sup>st</sup> AUGUST 2021

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

12<sup>th</sup> August, 2019

Dear Sir,

**1 Executive Summary**

- 1.1 As required by Rule 1.(1) of the Rules of Procedure of the States of Deliberation and their Committees (“the Rules”), the States’ Assembly & Constitution Committee is obliged in September each year to bring a policy letter to the States setting out the dates on which it recommends that States’ Meetings should be convened in the period from the 1<sup>st</sup> September in the following year to the 31<sup>st</sup> August of the year after that.
- 1.2 It is also required to include proposals setting out the Committee or Committees whose President or Presidents will be obliged to make statements, and for the States of Alderney statement to be made by one of the Alderney Representatives, under the provisions of Rules 10(4) and (5) at each ordinary Meeting during the said period.
- 1.3 The proposed dates for States’ Meeting in the period from 1<sup>st</sup> September 2020 to 31<sup>st</sup> September 2021, and the proposed rota of statements under the provisions of Rules 10(4) and (5), are set out in section three of this policy letter.
- 1.4 This policy letter also proposes changes to the Rules to enable the 2020 to 2024 political term’s Meeting dates to be set in advance of the next term of office. It also proposes the Committee *for* Education, Sport & Culture should set the school term dates for 2021 to 2024 to enable these to be taken into account in the schedule. The reasoning for this is set out in section four of this policy letter.

**2 Background to the convening of Meetings**

- 2.1 For many years, the States generally sat on the last Wednesday of each month, apart from August (no Meeting) and December (brought forward to avoid clashing with the Christmas period). On occasion, in order to deal with the volume of business the

States Meeting was convened for the Tuesday immediately before the last Wednesday of the month.

- 2.2 In November 2015, the States considered a policy letter from the Committee entitled ‘Rules of Procedure of the States of Deliberation and their Committees – Proposed new rules’<sup>1</sup> which proposed that States’ Meetings would be scheduled for set days throughout the year rather than according to the pre-2016 pattern. It suggested that a sensible frequency would be for the States to meet approximately every three weeks.
- 2.3 The reasoning for that proposal was set out in paragraphs 3 – 11 of that policy letter. The States subsequently agreed the proposed schedule of States’ Meetings in accordance with the Committee’s recommendations and the Rules were amended to require that:

*Each year in September the States’ Assembly & Constitution Committee shall submit a policy letter setting out the dates on which it proposes that States’ Meetings should be convened in the period from the 1<sup>st</sup> of September of the following year to the 31<sup>st</sup> of August of the year after that, having first taken into account the dates of school terms and any other information which it considers relevant.*

- 2.4 In September 2017, the policy letter entitled ‘Dates of States’ Meetings – 2018 – 2019’<sup>2</sup> recommended maintaining the three-weekly cycle of Meetings. However, it was subject to a successful amendment which sought to return States’ Meetings to be scheduled to the end of each month. From September 2019, the States will revert to meeting on a 3-weekly cycle as agreed on 26<sup>th</sup> September 2018.

### 3. The proposed Meeting dates

- 3.1 Rule 1.(1) requires the Committee to take into account the dates of school terms and any other information which it considers relevant. There are no Meetings scheduled to start in any States’ school holidays or other more general holidays.
- 3.2 The school term dates from September 2020 to July 2021 is as follows:

Term	Date	Event
Autumn	1 <sup>st</sup> September	Term starts (Staff)
	2 <sup>nd</sup> September	Term starts (Students)
	26 <sup>th</sup> to 30 <sup>th</sup> October	Half Term
	22 <sup>nd</sup> December	Term Ends
Spring	4 <sup>th</sup> January	Term Starts (Staff)
	5 <sup>th</sup> January	Term Starts (Students)
	8 <sup>th</sup> to 12 <sup>th</sup> February	Half Term

<sup>1</sup> Billet d’État XXII, <https://gov.gg/article/150853/States-Meeting-on-24th-November-2015-Billets-XX-XXI-and-XXII>

<sup>2</sup> Billet XVII, Article 10, <https://gov.gg/article/160644/States-Meeting-on-27-September-2017-Billet-XVIII>

Term	Date	Event
	1 <sup>st</sup> April	Term Ends
Summer	19 <sup>th</sup> April	Term Starts (Staff)
	20 <sup>th</sup> April	Term Starts (Students)
	3 <sup>rd</sup> May	May Day Holiday
	9 <sup>th</sup> May	Liberation Day
	31 <sup>st</sup> May to 4 <sup>th</sup> June	Half Term
	16 <sup>th</sup> July	Term Ends

- 3.3 The Committee is proposing the following schedule for States' Meetings for 1<sup>st</sup> September 2020 to 31<sup>st</sup> August 2021. Please note the fourth column shows the length of time between 'normal' meetings:

Month	Date	Notes	
<b>2020</b>			
September	02.09.20		6 weeks
September	30.09.20		4 weeks
October	21.10.20	<i>Half Term from 26<sup>th</sup> to 30<sup>th</sup> October</i>	3 weeks
November	03.11.20	<b>Budget Meeting &amp; Policy Letter of the Committee for Employment &amp; Social Security on uprating of non-contributory benefits</b>	2 weeks
November	25.11.20		5 weeks
December	15.12.20	<b>P&amp;R Plan Meeting</b>	3 weeks
December	16.12.20		3 weeks
<b>2021</b>			
January	27.01.21		6 weeks
February	24.02.21		4 weeks
March	24.03.21		4 weeks
April	28.04.21		5 weeks
May	26.05.21		4 weeks
June	15.06.21	<b>P&amp;R Plan (Phase 2) Accounts</b>	3 weeks
July	07.07.21		6 weeks
August	Recess		

- 3.4 In determining the schedule, the Committee considered the number and length of meetings held during the first year of the political term from 2008/9, 2012/13 and 2016/17 (from the General Election to the 2<sup>nd</sup> summer recess). It is important to note

that the 2020 to 2021 schedule is two months shorter than previous years, given the General Election will be held in June 2020, rather than April. Please also note that in the absence of Hansard in 2008 – 2009 and knowing the time when meetings concluded, the ‘number of days used’ is the maximum number of meeting days that were used and not the total time spent in the Assembly.

Year	Number of meetings convened	Number of days used
2016 – 2017	25	34
2012 – 2013	17	30.5
2008 – 2009	19	36 ( <i>maximum</i> )

- 3.5 The table above shows that that from 2012 to 2016 the number of meetings scheduled increased by eight whereas the number of days used only increased by 3.5 days. The Committee concluded that – given the reduced volume of work in the first year of a States’ term – meeting every three weeks cannot be justified and has therefore suggested a schedule of meetings largely based upon an ‘end of the month’ timetable.
- 3.6 The States Meeting dates proposed for the second half of 2020 are affected by the October half-term and Christmas, as well as the need to accommodate special meetings for the Budget and P&R Plan. This means that, in late 2020, as towards the end of most calendar years, it's not possible to strictly follow the 'end-of-month' pattern preferred by many States Members. However, this pattern can be clearly seen in the dates proposed from January 2021 onwards.
- 3.7 The States has agreed the dates of six States’ Meetings prior to the summer recess in 2020 (four meetings covering elections, one special meeting to consider the States of Guernsey Accounts and one ‘normal’ meeting). It is proposing 14 meeting dates between 1<sup>st</sup> September 2020 to 31<sup>st</sup> August 2021, bringing the number of proposed meetings to 20. The Committee believes this is a sufficient number of meetings in the first year of the political term.
- 3.8 The Committee has consulted with the Policy & Resources Committee in respect of the dates of the Special States’ Meetings and it has confirmed it is content with the proposed dates.
- 3.9 The Committee proposes the following rota of statements, following on from the patterns in previous years. This rota commences with the first ‘normal’ States’ Meeting of the political term, on 22<sup>nd</sup> July, 2020:

Month	Date	Rota
July	22.07.20	<ul style="list-style-type: none"> <li>• Policy &amp; Resources Committee</li> </ul>
September	02.09.20	<ul style="list-style-type: none"> <li>• Committee <i>for</i> Economic Development</li> </ul>
September	30.09.20	<ul style="list-style-type: none"> <li>• Development &amp; Planning Authority</li> <li>• Committee <i>for</i> Education, Sport &amp; Culture</li> </ul>

Month	Date	Rota
October	21.10.20	<ul style="list-style-type: none"> <li>• Committee <i>for</i> Home Affairs</li> <li>• Overseas Aid &amp; Development Commission</li> </ul>
November	03.11.20	<b>N/A Special Meeting</b>
November	25.11.20	<ul style="list-style-type: none"> <li>• Committee <i>for the</i> Environment &amp; Infrastructure</li> <li>• Committee <i>for</i> Health &amp; Social Care</li> </ul>
December	15.12.20	<b>N/A Special Meeting</b>
December	16.12.20	<ul style="list-style-type: none"> <li>• Committee <i>for</i> Employment &amp; Social Security</li> <li>• The States of Alderney</li> </ul>
January	27.01.21	<ul style="list-style-type: none"> <li>• Scrutiny Management Committee</li> <li>• States' Assembly &amp; Constitution Committee</li> </ul>
February	24.02.21	<ul style="list-style-type: none"> <li>• Policy &amp; Resources Committee</li> </ul>
March	24.03.21	<ul style="list-style-type: none"> <li>• Committee <i>for</i> Economic Development</li> <li>• Committee <i>for</i> Education, Sport &amp; Culture</li> </ul>
April	28.04.21	<ul style="list-style-type: none"> <li>• Committee <i>for the</i> Environment &amp; Infrastructure</li> <li>• States' Trading Supervisory Board</li> </ul>
May	26.05.21	<ul style="list-style-type: none"> <li>• Committee <i>for</i> Employment &amp; Social Security</li> <li>• Transport Licensing Authority</li> </ul>
June	15.06.21	<b>N/A Special Meeting</b>
July	07.07.21	<ul style="list-style-type: none"> <li>• Committee <i>for</i> Health &amp; Social Care</li> <li>• Committee <i>for</i> Home Affairs</li> </ul>
August	Recess	<b>N/A</b>

#### 4. Proposed change to Rule 1.(1)

- 4.1 Rule 1.(1) of the Rules obliges the Committee to bring a policy letter to the States in September each year setting out the dates on which it recommends that States' Meetings should be convened in the period from the 1<sup>st</sup> September in the following year to the 31<sup>st</sup> August of the year after that.
- 4.2 The Committee believes there would be benefit in amending Rule 1.(1) of the Rules to enable the Committee to propose dates for the following political term prior to a General Election.
- 4.3 As the Committee is required to take into account the dates of school terms and any other information which it considers relevant, it wrote to the Committee *for* Education, Sport & Culture to ask whether it would be willing to determine and publish the dates for the school terms from September 2021 to July 2024.
- 4.4 The Committee *for* Education, Sport & Culture agreed to provide the school dates up to 2024 however it needs to liaise with other stakeholders regarding the planning of school term dates. Unfortunately it has not been possible for this to take place before the submission of this policy letter.

4.5 The Committee is therefore proposing the Committee *for* Education, Sport & Culture provide the dates of school terms from 2021 to 2024 by January 2020. It believes this proposal would be beneficial to the public and the States of Guernsey for a number of reasons:

- Teachers and parents would have the benefit of being able to plan ahead – in regard to school holidays - with more confidence.
- Prospective candidates for People’s Deputies will know the dates of States’ Meetings in advance of the political term.
- States’ Committees will be able to schedule meetings for the whole term rather than annually.
- Elected Members will be able to plan ahead with more confidence (e.g. conference attendance etc.).
- The Douzaines will have advance notification of all the meeting dates.
- It will reduce the number of policy letters that will need to be debated each term on this subject.

4.6 The Committee proposes that Rule 1.(1) is amended as follows (Proposition 3) (changes shown with bold and strikethroughs):

***Dates of Meetings***

*1. (1) ~~Each year in September~~ The States’ Assembly & Constitution Committee shall submit, **in the six months prior to a General Election**, a policy letter setting out the dates on which it proposes that States’ Meetings should be convened **during the States’ term immediately following that General Election**, ~~in the period from the 1<sup>st</sup> of September of the following year to the 31<sup>st</sup> of August of the year after that~~ having first taken into account the dates of school terms and any other information which it considers relevant. ~~With effect from the 1st September, 2018~~ The policy letter referred to above shall also include proposals setting out the Committee or Committees whose President or Presidents will be obliged to make statements, and for the States of Alderney statement to be made by one of the Alderney Representatives, under the provisions of Rules 10(4) and (5) at each ordinary Meeting during the said period.*

**5. Compliance with Rule 4**

5.1 Rule 4 of the Rules of Procedure of the States of Deliberation and their Committees sets out the information which must be included in, or appended to, motions laid before the States.

5.2 In accordance with Rule 4.(1), the Propositions have been submitted to Her

Majesty's Procureur for advice on any legal or constitutional implications.

- 5.3 In accordance with Rule 4.(4) of the Rules, it is confirmed that the propositions above have the unanimous support of the Committee.
- 5.4 In accordance with the provisions of Rule 4.(5) of the Rules, the Committee informs the States that its duties and powers include advising the States on "the practical functioning of the States of Deliberation". As set out above, the Rules require the Committee to bring forward this policy letter at this time to fulfil its responsibilities. If the States approve the Propositions, a further policy letter will follow in early 2020, setting out the remainder of the proposed States' Meeting dates for the 2020-2024 States' term. The Committee has consulted with the Policy & Resources Committee in respect of the dates of the Special States' Meetings.

Yours faithfully

N. R. Inder  
President

J S Merrett  
Vice-President

P T R Ferbrache  
J P Le Tocq  
E A Yerby

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**STATES' ASSEMBLY & CONSTITUTION COMMITTEE**

DATES OF STATES' MEETINGS – 1<sup>st</sup> SEPTEMBER 2020 to 31<sup>st</sup> AUGUST 2021

The President  
Policy & Resources Committee  
Sir Charles Frossard House  
La Charroterie  
St Peter Port

12<sup>th</sup> August, 2019

Dear Deputy St Pier,

**Preferred date for consideration by the States of Deliberation**

In accordance with Rule 4(2) of the Rules of Procedure of the States of Deliberation and their Committees, the States' Assembly & Constitution Committee requests that the Propositions be considered at the States' Meeting to be held on 25<sup>th</sup> September, 2019.

Under Rule 1.(1) of the Rules of Procedure of the States of Deliberation and their Committees, the States' Assembly & Constitution Committee is obliged in September each year to bring a policy letter to the States setting out the dates on which it recommends that States' Meetings should be convened in the period from the 1st September in the following year to the 31st August of the year after that.

Yours sincerely,

Yours faithfully

N. R. Inder  
President

J S Merrett  
Vice-President

P T R Ferbrache  
J P Le Tocq  
E A Yerby

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**POLICY & RESOURCES COMMITTEE**

**THE GUERNSEY FINANCIAL SERVICES COMMISSION:  
2018 ANNUAL REPORT AND ACCOUNTS**

The States are asked to decide: -

Whether, after consideration of the Policy Letter dated 2<sup>nd</sup> July, 2019, of the Policy & Resources Committee, they are of the opinion:-

1. To note the annual report and accounts of the Guernsey Financial Services Commission for the year ended 31<sup>st</sup> December, 2018.

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

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**POLICY & RESOURCES COMMITTEE**

THE GUERNSEY FINANCIAL SERVICES COMMISSION:  
2018 ANNUAL REPORT AND ACCOUNTS

Presiding Officer  
Royal Court  
St Peter Port  
Guernsey

2<sup>nd</sup> July, 2019

Dear Sir

**1. Executive Summary**

1.1 The 2018 annual report and accounts of the Guernsey Financial Services Commission are hereby presented to the States in accordance with the Financial Services Commission (Bailiwick of Guernsey) Law, 1987, as amended.

**2. Recommendation**

2.1 The States are asked to decide whether they are of the opinion:-

To note the annual report and accounts of the Guernsey Financial Services Commission for the year ended 31<sup>st</sup> December, 2018.

**3. Proposition**

3.1 In accordance with Rule 4(4) of The Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the proposition accompanying this policy letter is supported unanimously by the Policy & Resources Committee.

Yours faithfully

G A St Pier  
President

L S Trott  
Vice-President

A H Brouard  
J P Le Tocq  
T J Stephens

2018



Guernsey Financial  
Services Commission

ANNUAL REPORT AND FINANCIAL STATEMENTS

For the year ended 31 December 2018

*"Confidence in the Bailiwick: securing good regulatory outcomes with integrity, proportionality and professional excellence."*





# 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 and Resources Committee and submitted 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" or "the Board".*



# CHAIRMAN'S STATEMENT

## *Living with uncertainty*

In March 1973, I was an economics student in Amsterdam and I correctly 'predicted' the outcome of a Europa Cup football match between Arsenal 0 and Ajax 1. From the proceeds of that lucky sweepstake, I bought a copy of the Report of the 'Club of Rome'. Since then, from reading that report, I have been fascinated by the efforts made by scientists, central bankers and others, all trying to predict the future. The Club of Rome was particularly interested in population growth and the finite resources available to underpin increases of worldwide GDP per head. This involved the development of interacting models by the Massachusetts Institute of Technology (MIT) that were used to forecast the growth of many variables including crop yields which would allow the world's population to be fed. Inevitably, they could not include the many 'unknown unknowns' and there have been many. Concerns about the availability of chromium and silver, which were important for cars and the photographic industry, were extensively addressed in the report. The outcomes of all economic models depend substantially on the assumptions made. Those models were tested, but of course, only against the past and in the financial services industry we have all learned that the past is not necessarily a good indicator for the future.

Mankind has always had to live with uncertainty and in doing so we have been trying to give ourselves improved chances of coping with that uncertainty - sometimes clinging to obscure predictions made in the Middle Ages (Nostradamus) and in more recent times using models and computer power to try to predict the future as evidenced by the Club of Rome. Another example would be Central Banks issuing 'forward guidance' although that can often be defeated by developments in the real world. There is, however, one sector of the economy that should benefit more than most from uncertainty and that is financial services, an economic sector in which the Bailiwick excels. In particular, the insurance and pensions sectors should do well out of this.

Providing peace of mind in uncertain times is the hallmark of the industry. Financial services thrives on uncertainty as it provides products and solutions that help to address and/or minimise the financial consequences of uncertainty or mishap for its clients.

I do not intend to try to predict the future, but I am convinced that the following trends will continue in our financial services world, which need to be taken into account when preparing for the future:

- risks will continue to increase in size, impact and severity;
- in a low yield environment, increasingly complex structures are being designed to make the most of what returns there are;

- continued demand for further regulation and not just in financial services;
- good connectivity will be even more important; and
- the rate of change will not show any sign of abating.

All of these trends form part of the Commission's and the Bailiwick's reality, requiring an ever-increasing alertness and attention from the Commission's staff. Some years ago, the Commission introduced its own risk assessment tool known as PRISM. This and other tools now used by the Commission allow us to do our job in a more cost-effective manner. At the same time, the change in the pensions obligations of the Commission has enabled Commissioners to decide to forego fee increases for this year and the next.

The Bailiwick finds itself, as a result of history and local endeavour, in a good place, with c.50% of the Bailiwick's GDP directly linked to financial services, assisted by language, time zone, a highly skilled workforce, good technical infrastructure and our Law.

The Commission will continue to play a role in facilitating new opportunities through the use of innovative and proportionate regulatory approaches that allow the Bailiwick to prosper such as the introduction in the past year of the Guernsey Green Fund initiative. As part of that approach, the Commission has been putting substantial effort into the revision of the Bailiwick's financial services laws which has been designed to enable the Bailiwick to continue to be a desirable place in which to do good business. Many years of regulatory and legal developments has led to a multi-layered patchwork which needs simplification and that, in large part, is what the "Revision of Laws" project is intended to achieve. The project is now on the home straight and when it becomes law, we expect that it will enhance the Bailiwick's reputation as a preferred place to do business.

One of the Commission's aims has been to make life easier for our licensees, although it may not always feel that way. We will continue to be a thoughtful regulator working with the Government and the business community to make the most of the future. I believe we now have a workforce at the Commission that can stand comparison with any regulator anywhere who seek to protect investors and citizens whilst providing responsible and responsive services to our licensees and I thank them for their sustained effort. The Commission will continue to assist the Bailiwick in fulfilling its international regulatory obligations as a responsible jurisdiction on the global stage and I believe we are well placed to do that.

Uncertainty is not all bad; let's make the most of it.

**Cees Schrauwers**  
Chairman

## DIRECTOR GENERAL'S STATEMENT

As I write this review of 2018 in early January, it is unusually difficult to forecast what the year ahead may hold for a small jurisdiction which is part of the Sterling zone. From a global perspective, we can perhaps conclude that risks are increasing as the Chinese deal with the considerable levels of private sector debt in their economy, perhaps due in part to quantitative easing undertaken by the People's Bank of China over the last few years. The US economy continues to advance without quantitative easing although the Federal budget deficit is eye catching. Then, turning to the Euro area, we see the end of the European Central Bank's quantitative easing programme combined with weak economic growth. Taken as a whole, it strikes me that 2019 is likely to be a year in which prudential risks rise. I hope that the now largely implemented Basel III capital requirements will help international banks in such an environment but my expectations are that, after a few years in which prudential matters took a back seat relative to conduct and financial crime issues, they are worthy of further consideration by all financial services participants in 2019 as the global economic cycle cools.

Then of course there is Brexit. By the time this report is published we will probably know to some degree what has happened or not happened so I'm not going to speculate in early January. Suffice it to say that through 2018 we have had extensive liaison with HM Treasury (in conjunction with the States of Guernsey and our Jersey counterparts), the Bank of England and the Financial Conduct Authority and we are comfortable that, from a financial services perspective, Guernsey is well prepared to continue to work closely with the UK to handle whatever sort of Brexit is executed. It is worth repeating that, unlike the UK, Guernsey has never been part of the EU's Single Market for financial services and thus the UK's exit from the EU has little direct impact on Guernsey's terms of trade in financial services with European Union member states.

### *Authorisations*

2018 was a buoyant year for Guernsey in terms of new financial services business coming to the island. This saw our Authorisations team working at full capacity for much of the year. The investment sector particularly saw an uplift in the latter part of the year with nearly 50% of its total applications submitted between September to December. 14 open-ended fund applications were received compared to three in 2017 and open-ended sub-funds numbers continued to increase from 85 applications in 2017 to 100 in 2018. Closed-ended fund applications exceeded the 2017 level of 45 with 53 in 2018. The number of Private Investment Fund (PIF) applications received, together with their associated managers, doubled from 13 in 2017 to 27 in 2018, this included four open-ended schemes the rest being closed-ended. Insurance Linked Securities

(ILS) structures continued to form the majority of the insurance sector applications with 69 new Category 6 Special Purpose Insurer (SPI) cells compared to 65 in 2017. Protected Cell/Incorporated Cell Companies (PCC/ICCs) dropped by almost half from 32 to 18 in 2018. Whilst the majority of the business coming to the island was repeat business, there was a good flow of new business too, including some business relocating from other jurisdictions.

### *Policy*

Some of that buoyancy may perhaps be due to some of the product innovation which the Commission has led in conjunction with others in Guernsey in recent years. Our ILS rules have, in their second year of operation, again proved their worth whilst the ILS structures written under our rules have been tested by various weather events and have been proven to function well in terms of paying claims to underlying policyholders.

Our PIF rules, particularly after refinements we made to the undertakings in March 2018 in response to feedback, have proved increasingly popular whilst we are delighted that the first part of Guernsey's Green Finance programme, the Guernsey Green Fund which we were pleased to develop and launch in the summer, has been so well received. We published a Discussion Paper on Green Insurance late in 2018 and will look forward to seeing how the feedback from that paper can inform our approach to prudential insurance regulation going forward.

Other policy projects have continued to advance over the course of the year. We were delighted to see the States of Guernsey pass revised financial crime legislation in late 2018 which enabled us to publish the new Handbook on anti-money laundering and countering the financing of terrorism in November. This Handbook, the result of several years' work by the Commission, implements the 2012 Financial Action Task Force (FATF) requirements and, importantly, makes electronic customer due diligence, with all the labour saving that promises across industry, *pari passu* with the more old fashioned paper based authentication methods. We also hope that industry will find it clearer than previous versions of the Handbook as it is not just a mildly amended version of the existing version but a comprehensively redrafted document designed to ensure that the Bailiwick continues to be a beacon of good practice in fighting financial crime.

Other policy projects which consumed Commission energy during 2018 include the long running programme to upgrade our regulatory laws to meet the post-crisis standards of the Basel Committee, the International Association of Insurance Supervisors (IAIS) and the International Organisation of Securities

## Director General's Statement *(continued)*

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Commissions (IOSCO), colloquially known as, "Revision of Laws". In 2018, the Law Officers of the Crown and the Commission made very significant progress with the black letter drafting and fatal flaws consultations on the proposed new texts with a range of actors. Our hope, as I write, is that the States of Guernsey will pass the final legislative package (the original Policy Letter having been approved in late 2015) during 2019 with Privy Council consent being sought before the end of the year.

The States of Guernsey is also due to consider the Policy Letter emanating from the Commission's work developing proposals for a new lending, credit and finance law in the first part of 2019. We will look forward to working with the States to help progress this legislation to the statute book as it should provide enhanced consumer protection for vulnerable borrowers, an ability to provide assurance about the standing of electronic due diligence providers to the financial services sector and a regulatory regime well adjusted to the needs of innovative FinTech businesses which do not, on occasion, fit well into the existing architecture of regulatory laws.

On the insurance front, we made a number of reforms to our insurance rules following consultation to ensure they continued to match the international expectations set out in the Insurance Core Principles<sup>1</sup>. In making these reforms, we drew upon the recommendations of the 2017 Tower Report conducted by Ian Tower<sup>2</sup>, a report which will continue to inform our technical reform of regulations to meet international standards.

### *Supervision and Enforcement*

As usual, much of the work of the Commission involved direct supervision of financial services firms. Here we continued to employ the PRISM risk-based supervision methodology with a number of bespoke upgrades being made to the PRISM software over the course of the year to enhance its functionality with our five year service and maintenance contract with the original developers (d-Fine GmbH) being renewed. We have also had our first full year of operation as a pensions regulator and continue to work with industry participants in the sector as it adapts to the requirements associated with being regulated.

We encountered a range of issues across all our types of firms in relation to operational risk, governance, business strategy, conduct towards consumers and financial crime controls which we dealt with, for the most part, through risk mitigation programme actions asking the entities to improve and report on the improvements to us. We issued 266 of these actions over

the course of 2018 with a further 288 actions being satisfactorily concluded. These numbers should be seen in the context of the 4,686 legal entities covered by our regulation.

Unfortunately, some of the issues we uncovered as a result of our supervisory activities did not lend themselves to firm-led remedial action either because of their severity or breadth, our perspective on the competence of the management at the firms in question or because they involved repetitive law breaking. For this reason, supervisors referred seven firms or individuals to our Enforcement Division for investigation prior to the consideration of whether formal sanctions for law breaking should be applied. During the course of the year the Enforcement Division concluded six cases which, taking into account the number of cases that stretch over more than one year, means that it had 13 cases outstanding at the end of the year. A number of the cases have been unusually contested or complex which accounts, to a great extent, for the considerable increase in our expenditure on lawyers shown in the accounts. Whilst we have a small number of very capable in-house lawyers, we are not resourced to pursue all enforcement cases using internal legal staff and we will continue to outsource the legal support of some major cases to external lawyers to ensure that the public interest is as well represented as those against whom the enforcement action is being taken.

On a more positive note, we have continued with our regulatory self-assurance events with various sectors. We believe that these provide us with an opportunity to help firms which want to comply properly with the law to understand our expectations as to what such compliance should look like. In such a way we can help firms' officers avoid gold plating our requirements as well as ensuring that the law is not broken through ignorance. A highlight was undoubtedly the 500+ individuals who attended our briefing sessions on the new financial crime Handbook – evidence of the degree to which Guernsey is a jurisdiction of substance were any to be required.

### *Finances*

2018 was a strong year for the Commission in terms of income, partly driven by the fact that some firms did not surrender their licences prior to the end of 2017 as we had anticipated and partly because of strong authorisations revenue as business levels in the Bailiwick, both in terms of mergers and new business, showed a pleasing robustness. This level of business alongside our reserve levels allowed us to agree with the States that we would forego like for like fee increases for regulated firms in both 2019 and 2020.

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<sup>1</sup> Published by the International Association of Insurance Supervisors.

<sup>2</sup> Formerly a senior IMF inspector who led the 2010 IMF review of Guernsey. The Tower Report's score was agreed by the Commission with the States of Guernsey in 2017 and its results provided reassurance to the Board of the Commission and the States about the Commission's approach to regulation.

## Director General's Statement *(continued)*

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The director responsible for finance provides more detail on our financial outturn in her section of the annual report. Our expenditure increases were largely caused by us commencing a number of significant one-off projects to equip us with the right systems for the future<sup>3</sup> and by the need to retain external counsel to pursue a number of long drawn out enforcement cases against well-resourced opponents. As we have noted in the past, we will not let our enforcement team be out-lawyered as, sadly, were we to accept such a situation, the guilty would tend to walk free. That said, economical purchasing and light manning in other areas ensured the above expenditures were offset relative to budget, resulting in a healthy operating surplus of over £500,000. Whilst it is our intention to run a deficit budget for the next two to three years as we undertake a cycle of investment using our own resources, our financial health should make industry confident that we do not require significant fee increases to finance our planned technological renewal.

### *Staff*

As the Commission Secretary<sup>4</sup> sets out in his section of the annual report, we continued to provide considerable staff training – both practical and theoretical – through 2018. This training and the nurturing environment of the Commission appears to make our staff remarkably attractive to other employers in what was a buoyant employment market in 2018 and we had rather more staff leaving than we would have wished for. This has led us to examine aspects of our employment offer with more flexible working for all grades of staff being offered from the beginning of 2019 as a result of our review. We appreciate that it is inevitable, given our inability to grow the senior staff numbers, that some talented staff will wish to leave at a certain point so they can grow to reach their full potential elsewhere but we aim to ensure that our overall employment offer is reasonably competitive in terms of salary, pecuniary and non-pecuniary benefits and attractive to talented individuals at all stages of their life.

We implemented our most substantial restructuring for four years in the autumn with the merger of our investment and fiduciary divisions and the creation of a new Authorisations and Innovation Division. We have also restructured our support functions. In making these changes we have sought natural synergies (for example a number of firms have both investment and fiduciary licences so common supervision makes sense) whilst taking advantage of the strengths of different directors and deputy directors.

In terms of those who have left, I would particularly like to identify Stephen Cole who has decided to return to England after four and a half years as our Chief Operating Officer, Andy Sloan who has taken up a leadership role at Guernsey Finance and Mark Le Page who has decided to explore an enticing private sector opportunity. I have much enjoyed working closely with all of them over the last few years and would like to thank them for their endeavours on behalf of the Bailiwick during their time with us.

**William Mason**  
Director General

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<sup>3</sup> As part of our three-year business plan, discussed later in this report.

<sup>4</sup> The Commission Secretary is the director responsible for Human Resources.

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## Introduction

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Over the past year, we have merged the Investment and Fiduciary Supervision and Policy Divisions and increased our emphasis on the pension sector, resulting in the renamed Investment, Fiduciary and Pension Division.

We recognised the notable overlap between Investment and Fiduciary firms, many with dual licences, and the duplication and inefficiency this created for both licensees and us as a regulator. In merging the divisions, we have an increased depth of knowledgeable resource, can provide regulatory staff with broader opportunities and seek to reduce the scope for any inconsistency in our approach to regulation between different sectors. We intend to supervise some of our largest licensees as 'groups' (as opposed to solo entity reviews) and in time dividends should be realised in policy development, particularly in some grey areas such as where a 'fund' ends and 'fiduciary' activity commences.

We are still in the early stages of pension regulation, both policy development and supervision of providers. The transition period for the initial pension rules ended on 30 September 2018 and we are continuing to engage with local firms and industry bodies to develop our framework.

We are conscious of our role as domestic regulators within a global regulatory framework. As part of this understanding, we participate in, and keep up-to-date with international bodies such as the International Organisation of Securities Commissions (IOSCO), the International Organisation of Pension Supervisors (IOPS) and the Group of International Finance Centre Supervisors (GIFCS). We focus resource particularly on areas that we consider to be in the Bailiwick's interest. Over the past year we have participated in supervisory colleges, discussions on sustainability and technological developments (FinTech, SupTech and RegTech). Having a seat at these tables continues to enable us to keep abreast of global developments but also to have influence over international policy for the benefit of the Bailiwick.

## Supervision

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During 2018, we undertook 51 onsite visits:

- Seven Firm Risk Assessments (FRA) and 10 Engagement visits to Investment licensees;
- Eight FRAs and six Engagement visits to Fiduciary licensees; and
- 20 thematic visits in conjunction with the Financial Crime Division regarding the Beneficial Ownership of Guernsey and Alderney legal persons.

Supervisory onsite and desk-based work broadly covered similar risk areas as in previous years, which included: a focus on governance, specifically the role of dominant directors and the effectiveness of other board directors in providing sufficient challenge; a continued focus on operational risk, particularly for firms acquiring other businesses and underestimating the integration challenges presented by such transactions; and ensuring that local licensees hold adequate and appropriate

professional indemnity insurance for their business. We also identified additional risks associated with increased use of IT - for example licensees relying on IT to generate an alert and being blind to that alert being manually turned off, or relying on ineffective coding. Further, we pursued unregulated business, an activity we call "policing the perimeter", both in terms of ensuring a level playing field for those who play by the rules but also in issuing guidance on the provision of registered office services with the objective of raising awareness and standards.

A total of 51 Risk Mitigation Programme (RMP) items were imposed on Fiduciary firms during 2018 and 32 on Investment firms. One item can cover a number of different risks; the 83 RMPs covered a total of 161 risks spread over the 11 risk categories considered under PRISM. Governance, operational and financial crime risk continue to be the major risks managed by the RMPs.

## Investment, Fiduciary and Pension Division *(continued)*

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The Beneficial Ownership thematic also involved sending 192 thematic questionnaires to full and personal fiduciary licensees and reviewing 381 onsite files. As commented upon in the Financial Crime Division's section of this Annual Report, preliminary findings appear to show the high standards the fiduciary sector applies to ensuring that accurate and current beneficial ownership information on trust and corporate clients is held and maintained.

Thematic assessments continue to be a key part of our supervisory approach, identifying a key theme or issue and exploring it across a wide range of licensees (in terms of size, ownership, and business model).

Early in 2018, we published our thematic entitled "Pension Arrangements in the Bailiwick". The purpose of this thematic review was to enable the Commission to gather information regarding pension providers, assess current practices, understand the challenges facing firms and to discuss known issues within the sector. It enabled the Division to reflect on crystallised risk experienced in the sector, to support the development of the pension rules and to guide our supervisory approach to local pension providers. The report is available on the Commission's website.

Investment and Fiduciary licensees were also actively involved in the Commission-wide cyber security thematic. 38 questionnaires were sent to Investment licensees and 37 to Fiduciary licensees. 14 licensees across both sectors will receive an onsite cyber thematic visit in 2019. The Commission continues to identify cyber security as a key risk for all our licensees, and encourages continued vigilance and preparedness amongst all.

The subject for our initial 2019 thematic will be demonstrating director duties when utilising a corporate director, targeted at the Fiduciary sector; with a further Investment sector focused, thematic planned for later in 2019.

## Policy

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During 2018, we were pleased to develop the Guernsey Green Fund rules. The launch of the first regulated green fund rules contributes to the Bailiwick's Green Finance initiative and is designed to give enhanced certainty to those wishing to make high quality green investments.

Changes were implemented to the Prospectus Rules, Registered Collective Investment Scheme Rules and Private Investment Fund Rules during 2018.

The Fiduciary Financial Resources Rules came into operation in early 2018, clarifying and strengthening the liquidity and capital requirements for licensed fiduciaries and thereby contributing to the overall sound financial position and confidence in the sector. Later in the year, we also issued the Code of Market Conduct, the aim of which is to contribute to the maintenance of market confidence and integrity.

We had an open window of feedback regarding the Pension Rules and this, together with proposals to ensure we meet International Fiduciary Standards (GIFCS Standard), will form the heart of our early 2019 policy work.



## Risk Outlook

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New regulations came into operation at the start of 2019 requiring companies that are tax resident in Guernsey and undertaking specific activities, to demonstrate that they have sufficient substance in the Bailiwick. These regulations reinforce the Bailiwick's position as home to a substantial financial services sector and will contribute to ongoing discussions with the European Commission's Code Group with the aim of ensuring that the Bailiwick continues to be viewed internationally as a co-operative tax jurisdiction. Domestically, it is important, however, that licensees assess the impact of the new regulations on their business models and clients and address any challenges identified.

The impact of climate change presents an emerging risk for licensees potentially physically, through investment returns from a lower-carbon economy and through evolving investor/beneficiary expectations regarding environmental, social and governance considerations. Once previously seen as a niche area of focus, this issue has now moved firmly into the mainstream.

2018 presented a period of heightened volatility in markets and uncertainty will likely continue into 2019 with some market observers warning of the risk of a potential downturn with relevant factors including weak growth in the EU and China, political risk in the United States and, at the time of writing, uncertainty around the outcome of the Brexit process.

As mentioned elsewhere in this report and in previous years, cyber security threats are increasing and it is accepted that we are now in an era of 'when' rather than 'if' a cyber or data attack will occur and we expect licensees to be prepared.

### *Investment:*

International attention continues to be gripped by FinTech developments, whether these be crypto currencies, distributed ledger technology or Initial Coin Offerings (ICOs). The Commission issued an updated risk appetite on this subject in 2018 and has identified areas of opportunities and strengths within the Bailiwick, but would also remind licensees of the importance of considering the adequacy of their understanding and assessment of any associated risks before commencing significant new initiatives.

Technological factors are also a contributory factor in the broader trend of the disintermediation of financial markets. In addition to technological development easing access to capital markets, the ongoing growth in passive management, including Exchange Traded Funds, impacts actively managed vehicles. Another side to this trend is the growth of private family office investment structures replacing third party management. This evolution presents challenges to certain existing models but also opportunities for many market participants.

### *Fiduciary:*

The provision of banking services for fiduciaries continues to be a challenge as global banks seek to manage down their risk appetite. Banks have become more selective and price sensitive about their fiduciary customers especially those with less robust anti-money laundering practices or higher risk structures.

Scrutiny of tax related matters continues to increase and in particular with the transition from "requirement to correct" to "failure to correct", licensees should be cognisant of their tax obligations.

The first unexplained wealth orders were issued by the National Crime Agency in the UK in 2018 and licensees should be mindful of the risks of handling unexplained wealth orders received.

As consolidation continues within the sector, firms seeking to acquire other businesses should take care to conduct sufficient due diligence to understand the resourcing required to integrate the business being acquired.

### *Pensions:*

The introduction of regulation of pension providers looks to be having a positive impact on business development in the sector. A further development of the tax legislation in Guernsey has provided a new tax exemption for international savings plans. This change in legislation aligns the tax law with the supervisory position allowing providers in Guernsey to offer a statutory tax exempt international savings plan on a regulated basis.

Gillian Browning  
Director

## Supervision

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In terms of global events, the main pressure on Guernsey insurers was the continued impact of catastrophe weather events in 2017-8. This was due to Guernsey's status as a centre of alternative reinsurance. As a consequence, several Guernsey vehicles continued to settle insurer claims. However, new business continued through a steady flow of new Insurance Linked Securities (ILS) vehicles.

Other than in this area, global events had limited general impact on Guernsey insurance business. Given that global interest rates did not rise dramatically, any re-adjustment around the risk profile of historic life business was muted. Guernsey's specialised general insurance business continued to be robust.

Nevertheless, global events had an impact in specific areas. The collapse of a large non-insurance UK firm was followed by that of its Guernsey reinsurance captive, given that the latter lent to its parent. The captive was a pure reinsurer. A Danish general insurer with some non-admitted policyholders in Guernsey also failed. Meanwhile the largest Guernsey life company accepted a bid from a non-local firm, as part of the shareholder's global disinvestment strategy.

In 2018, six insurers and one insurance manager underwent a Full Risk Assessment. In addition, there were 83 engagement tasks with some firms being in close periodic contact with the Commission. Key issues varied from firm to firm. However, in so far as there was one general theme, it was the weakness of local governance in the context of some insurers that have strong links outside the Bailiwick. Whilst such firms are allowed to outsource operational work, there were cases where such group outsourcing was only lightly controlled by the Guernsey board. Although this issue was highlighted in the 2017 Annual Report, it continues to be a vulnerability.

In 2018, the Commission undertook a thematic around the quality of regulatory reporting and its assurance by external auditors. Insurance managers, who are often mandated by insurance companies to produce these returns, are key to this process. The thematic found a general weakness in the quality of both reporting and assurance. The Commission accordingly expects, and has taken measures to encourage, higher standards.

2018 aggregate figures are unavailable, given that many insurers have an end-December year-end and do not report until the end of the first quarter of 2019. Nevertheless, in 2017 gross assets stood at £28.3bn (hardly moved from £28.8bn in 2016), net worth at £12.9bn (same as in 2015), and premiums at £5.1bn (down from £5.5bn in 2015). The largest sectoral component of premiums was the captive sector at 27%.

International insurer licences increased from 820 in 2017 (restated due to updated calculation method) to 955 in 2018. This reflects the fact that many ILS cells remained open in 2018 to facilitate payouts following several weather-related events in 2018. This in turn required new ILS cells to be set up for new business.



## Insurance Division *(continued)*

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### Policy

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As highlighted in the 2017 Annual Report, the Commission undertook a gap analysis in 2017 of the Commission's policies against the Insurance Core Principles as set out by the International Association of Insurance Supervisors (IAIS). Having identified certain policy gaps, the Commission in 2018 issued an omnibus Consultation Paper. This resulted in a number of policy developments. Principally these were:

- a requirement for certain firms to publish their accounts subject to certain exemptions;
- guidance on the use of reinsurance;
- new Conduct of Business Rules for insurers;
- a requirement for more firms to produce full Own Risk Solvency Assessments (ORSAs);
- increased regulatory reporting for certain firms;
- tighter requirements around the sponsorship of Special Purpose Vehicles; and
- revised notifications requirements around a change in majority control.

In 2018, and as part of a wider initiative around green finance, the Commission joined the United Nations (UN)/IAIS Sustainable Insurance Forum – a body of some 20 insurance regulators. As a contribution to the debate, the Commission also issued a Discussion Paper on Green Insurance. This paper considered various ways in which the regulatory framework in Guernsey might be used to facilitate either the reduction or the mitigation of climate change.

The Commission continued in 2018 its international commitments around insurance. The Commission chairs the Group of International Insurance Centre Supervisors (GIICS); a body comprising 19 International Finance Centres with insurance sectors. In 2018, GIICS held its annual meeting where several issues were discussed such as captive regulation, cyber-risk, and cross-border co-operation. GIICS is also the elective body for the IAIS Offshore region. The Commission's Director General continues to act as one of its representatives on IAIS's Executive Committee. The Director General also chaired the Risk and Audit Committee of IAIS until November 2018 and its Standards Assessment Working Group. In 2017 and 2018, GIICS supported IAIS initiatives to develop IAIS' assessment capability of its Insurance Core Principles, not least given that the International Monetary Fund (IMF) and World Bank have scaled back this activity for smaller jurisdictions. The Commission also sits on the IAIS Policy Development Committee in its own right. A main theme for the latter committee in 2018 was the draft International Insurance Capital Standard which may be finalised over the next few years.

### Risk Outlook

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Last year, the Commission highlighted Base Erosion of Profit Shifting (BEPS) as a material risk. So far, Guernsey firms, not least captives, appear to be addressing this risk well. Similarly, as long as interest rates do not undergo a sudden rise, the risk profiles of life companies would appear to be within the risk appetite of stakeholders. Cyber-risk continues to be a material threat to insurers not least because of the sensitivity around personal data.

Although ILS is performing well in difficult circumstances, attention still needs to be paid to the treatment of payouts. General insurers need to avoid inadvertent exposure to cyber liabilities through routine policies.

Risk also comes from increasingly higher international regulatory standards. The local industry needs to acknowledge explicitly and mitigate this risk.

Jeremy Quick  
Director

### Supervision

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As at October 2018, the International Monetary Fund (IMF) estimated global GDP growth for 2018 at 3.7% - a strong and broadly based outturn. UK growth is estimated to have been more subdued at 1.4%. IMF projections for 2019 are 3.7% (again) and 1.5%. These figures are relatively strong though the IMF identify increasingly strong headwinds around, for example, dollar indebtedness of developing country sovereigns.

As at the end of December 2018, total liabilities of Guernsey banks stood at £120bn, unchanged from a year earlier. Third party deposits, that is deposits other than from banks, as at end December 2018, stood at £42bn compared to £41bn a year previously.

No licences were surrendered in 2018 so the number of banks in Guernsey remained at 23 at end-year. Full time equivalent staff was more-or-less static at 1,487 at end-2018.

The Commission completed four Full Risk Assessments for banks in 2018 and 82 engagement tasks.

In 2018, several topics from 2017 fell more to the background. The supply of mortgage finance in Guernsey picked up as the retail banks in Guernsey engaged more fully with this sector. The operational aspects of the ring-fencing of large UK banks are being gradually and relatively smoothly rolled out in Guernsey. Open Banking for the moment appears of limited interest to local banks.

However, key current issues are around the potential impact of Brexit (albeit seen locally to be limited); and the continuing challenge around financial crime compliance. The latter in particular relates to the need to ensure systems and people work together effectively. Public and regulatory expectations for high conduct standards are increasingly recognised by local banks.

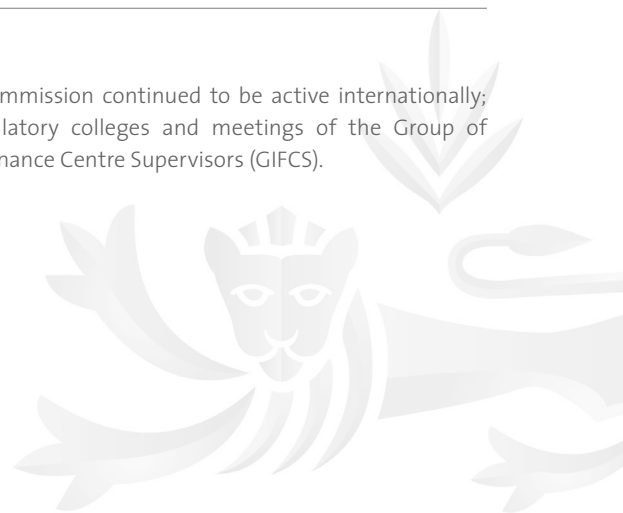
Governance remains another key challenge – and one that periodically emerges during regulatory visits. Governance has particular challenges in a host International Finance Centre. These being the need, on the one hand, to align local business with group strategy and to utilise group resources, and, on the other hand, to meet local compliance standards, not least around independence. Banks sometimes struggle to achieve an appropriate balance between these two requirements.

### Policy

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No additional regulatory policies were issued in Guernsey in 2018 after our work on implementing Basel III in 2017. However, in 2019/20, the Commission intends to issue an omnibus Consultation Paper that will seek to bring the Bailiwick fully up-to-date with the policy suite currently issued by the Basel Committee. Among other topics, this paper is likely to touch on disclosure, large exposures and liquidity.

In 2018, the Commission continued to be active internationally; attending regulatory colleges and meetings of the Group of International Finance Centre Supervisors (GIFCS).



## Banking Division *(continued)*

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### Risk Outlook

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Banks should seek to mitigate the following key risks:

- a material downturn in central London houses prices (though such exposures are usually collateralised);
- the threat from cyber-crime;
- parental upstreaming; and
- financial crime.

The best mitigation against the above continues to be effective governance.

Jeremy Quick  
Director

## CONDUCT UNIT

The Conduct Unit supports the Commission's approach to retail consumer issues with particular reference to local insurance intermediaries, insurers and banks with retail customers. The Conduct Unit is the prime liaison point within the Commission

for the Channel Islands Financial Ombudsman and bodies such as Citizens Advice Guernsey. In 2018, the role of the Conduct Unit continued to expand as the management of conduct issues became increasingly key to the Commission's role.

### Supervision

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In 2018, the Commission undertook a thematic on local general insurance intermediaries on the theme of whether customers are being treated fairly. This thematic followed prior work undertaken by the Commission on add-ons and the issuance by the Commission of a new Code of Conduct for Authorised Insurance Representatives (AIRs).

The thematic accessed several sources to build up a picture of on-the-ground practice in the Bailiwick. These sources included a public survey, an industry survey, an industry website review and onsite visits.

The thematic touched on several topics amongst which were:

- prior year premium disclosure;
- add-ons;
- remuneration;
- the treatment of vulnerable customers;
- renewal procedures; and
- complaints handling.

Overall, the findings of the thematic were encouraging with most firms making a genuine attempt at compliance and, in most cases, succeeding. Having said that, the thematic made a series of recommendations as to how standards might be further improved; as well as highlighting instances of current best practice. The Commission intends to use the thematic as the basis for presentations to the local industry in 2019.

The one area where the thematic results were disappointing was around non-authorised insurance intermediation practices. Here the public survey revealed some dissatisfaction.

There were 36 licensed insurance intermediaries as at end- 2018 (unchanged from 2017) and 21 insurance managers (20 in 2017).

### Policy

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In 2017, the Commission issued a Consultation Paper on the regulation of credit in Guernsey. In February 2018, the Commission issued a feedback paper. This paper reflected widespread support for the principle. It is anticipated that the Committee for Economic Development and the Policy and Resources Committee will soon consider a Policy Letter to be presented to the States of Guernsey seeking authority for the necessary legislation to be prepared.



## Conduct Unit *(continued)*

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### Risk Outlook

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Whilst standards around life intermediation have improved significantly in recent years, intermediaries should continue to aim for the high standards set out by the Commission and the States in the Guernsey Financial Advice Standards. Further refinement, as set out in the thematic paper, is still required around general insurance intermediation though standards in this area are reasonably high.

Most intermediaries continue to interact with their customers through personal contact of one kind or another. There is therefore a business risk from the internet through disintermediation; not least, as more and more customers prefer to avoid human contact – especially around general insurance. Cyber-risk is a material risk, given the amount of personal data held by intermediaries.

Intermediaries need to continue to train staff, especially as they are competing in a tight local labour market. They also need to have an open culture where complaints are viewed as an opportunity to improve service.

Jeremy Quick  
Director

## Supervision

During 2018, the Financial Crime Division undertook 47 onsite visits, 20 of which were carried out in conjunction with the Investment, Fiduciary and Pension Division as part of the thematic review of the Beneficial Ownership of Guernsey and Alderney legal persons - a joint report is due to be published in the first half of 2019. Preliminary findings continue to demonstrate the generally high standards the fiduciary sector applies to ensure that accurate and current beneficial ownership information on trust and corporate clients is held.

Whilst the thematic review included testing the beneficial ownership records of hundreds of Guernsey companies and other legal persons administered by licensed fiduciaries, the sampling of beneficial ownership records remains a core test we undertake as part of our onsite visits to all firms across the sectors. Findings from all visits undertaken in 2018 show that all sectors are committed to ensuring that beneficial owners have been accurately identified.

The Commission's risk-based financial crime supervision is driven by the inherent financial crime risks calculated from data all firms submit together with open and closed information sources. Inevitably, with a focus on firms which present higher risks, there were a few firms where we considered the deficiencies in

their Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT) controls identified over 2017 and 2018 to be sufficiently serious to warrant last year: (1) referring two firms to the Enforcement Division for further investigation; (2) requiring another two firms as part of their risk mitigation programmes to appoint third party experts to review their remediation; and (3) imposing licence conditions on a further three firms restricting certain of their activities to mitigate risks while deficiencies were being remediated.

Among this small cohort of firms, the principal concerns we had were: inadequate assessments of the financial crime risk posed by their clients; defective controls for managing and mitigating high-risk relationships, including ill-equipped teams undertaking periodic reviews and taking insufficient measures to establish the source of funds and the sources of wealth. As an example, with one high-risk relationship involving a significant high value complex structure for a beneficial owner resident in a jurisdiction associated with high corruption risk, the firm had not identified that the total value within the structure was significantly greater than the client's cumulative income which was reportedly the origin of their wealth. Firms would be wise to apply a sense check when considering whether they are satisfied that they have sufficiently established the source of funds and wealth of a client.

## Policy

Industry engagement on revisions to the AML/CFT Handbook, which continued to be the Division's key policy project in 2018, remained high, culminating in two "sell-out" presentations in November attended by 500 representatives from industry.

Following on from the large number of responses to the joint consultation with the Policy and Resources Committee in 2017 on revisions to the Proceeds of Crime legislation and the associated rules and guidance, we had a number of discussion groups with other parties in the first half of 2018. Firstly, on a proposed mechanism for declassifying, on grounds of risk, certain types of relationships

with former Politically Exposed Persons (PEPs), and secondly, on proposals addressing two recommendations made by Moneyval<sup>5</sup> regarding the application of enhanced measures to a wider range of customers and on the use of intermediaries in Guernsey authorised and registered collective investment schemes.

The final draft version of the AML/CFT Handbook was published on 12th November 2018 accompanying the draft Schedule 3 to the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, which was subsequently approved by the States of Guernsey on 12th December 2018. Education and outreach on the revised

<sup>5</sup> The Council of Europe's unit for inspecting jurisdictions compliance with Financial Action Task Force Anti-Money Laundering and Countering the Financing of Terrorism standards.

## Financial Crime Division *(continued)*

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framework, which becomes effective on 31st March 2019, continues into this year with regulatory self-assurance workshops on the Handbook being organised by the Commission for all sectors.

As work on the Handbook drew to a close, our input into the government-led National Risk Assessment (NRA) increased in the second half of the year, including two focussed surveys for the banking and fiduciary sectors respectively. The NRA is due to be finalised by the middle of 2019 and is likely to provide good opportunities for us to again engage with industry, this time to discuss the interplay the NRA will have with firms' money laundering and terrorist financing business risk assessments.

During 2018, we continued to provide significant input to the assessment by the Global Forum on Transparency & Exchange of Information for Tax Purposes of Guernsey's compliance with international tax standards on the exchange of information upon request, which culminated in an overall rating of "Compliant" for the Bailiwick. Our input related to our supervisory experience on how well banks and fiduciaries understand, and effectively implement, AML/CFT measures to ensure the accuracy and availability of beneficial ownership information on trusts, companies and other types of legal entity.

We also contributed our experience and expertise as an AML/CFT supervisor of the fiduciary sector to a joint report published in July 2018 by the Financial Action Task Force (FATF) and the Egmont Group of Financial Intelligence Units on the concealment of beneficial ownership which found that:-

*"Some countries, particularly low-tax jurisdictions, have well-established and regulated Trust and Company Service Providers (TCSP) sectors, and have implemented a range of measures to enhance the AML/CFT regulation of TCSPs, including integrity, competence, and financial soundness tests. These measures are a good means of professionalising the TCSP sector, and countries with TCSP sectors that are not as well-defined should consider implementing similar measures domestically."*

Through the Commission's membership of the Group of International Finance Centre Supervisors ("GIFCS"), we are representing GIFCS in a FATF group drafting three updated guidance papers on the risk-based approach for lawyers, accountants and TCSPs, which are due to be published later this year. Both FATF projects present opportunities to show how effective AML/CFT supervision of the sector is in the Bailiwick.

## Risk Outlook

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The effective date for the revised legislation and AML/CFT Handbook of 31st March 2019 will be a significant milestone in the preparations for Guernsey's next evaluation by Moneyval. How well industry implements revisions, such as the application of enhanced measures to a wider range of customers, managing and mitigating the risks posed by politically exposed persons and how well a firm understands, assesses and manages both its money laundering and terrorist financing risks, are likely to be key areas of focus for the assessors who will be measuring how effectively the financial services sector is applying risk-based AML/CFT controls.

It is imperative that Boards are supportive and seen by their staff to be supporting their compliance teams when revised policies and procedures are rolled out early next year. Getting this wrong now risks costly remediation as well as potentially damaging the reputation of the Bailiwick as a good place to do business when the Bailiwick faces its next evaluation.

Fiona Crocker  
Director

### General

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2018 saw the number, complexity and size of cases increasing. At the beginning of 2018, the Division had 12 active investigations ongoing. During the year we took on a further seven investigations and completed six investigations. This resulted in 13 active investigations remaining at the end of 2018. One case was appealed before the Royal Court and the judgment is now subject to further appeal before the Court of Appeal.

Whilst the Enforcement Division strives to deal with investigations in an expeditious manner, 2018 saw a further rise in the number of firms having their cases heard before one of our Senior Decision Makers. This inevitably increases the time taken to conclude matters.

During the course of 2018, the Division conducted 30 interviews over 120 non-continuous hours with various directors, senior managers, and controllers. Our investigations involved firms and individuals from across the full range of financial services businesses and some of these cases are ongoing. It is often the case that during the open and frank discussions that take place during these interviews, the Commission gains a better understanding of the events that have occurred within that business. On occasion, this has alleviated some of the concerns that we had regarding those events.

In addition, we have served 41 statutory Notices under the various Regulatory Laws for either provision of material, and invitations or compulsion to attend the Commission for interview. As a result of information received across the various investigations, we have received approximately 2 million documents and have used our e-discovery platform to review and identify key documents using defined search terms to secure material that we may wish to rely upon. We have also used our powers to appoint inspectors during 2018. These powers are used sparingly, but we will consider using them where we have found either firms who are repeat offenders or the breaches identified are systemic and serious in nature, or there is an unwillingness to comply with the regulatory framework.

During the year, we continued to receive a steady flow of referrals from the supervisory divisions. We always liaise closely with our supervisory colleagues in an effort to understand their findings and concerns which then enables the Enforcement Division to conduct a more focussed investigation. This can sometimes lead to a case being dropped; it remains a myth that just because a matter has been referred to the Enforcement Division sanctions will inevitably follow.

Those cases concluded in 2018 are detailed below. They provide evidence of the Commission's commitment to addressing serious or repeat regulatory failings or misconduct. Further details of the cases against regulated entities are to be found in the public statements on our website where we endeavour to provide as much information as possible to explain clearly the serious failings we have uncovered and the consequences for those involved.

I continue to represent the Commission on Committee 4 for the International Organisation of Securities Commissions ("IOSCO"). There is clear focus within the Committee on the global threat of Initial Coin Offerings ("ICOs"). There has also been much work around credible sanctions used to deter wrongdoing. This has produced interesting debates on a global perspective and the Bailiwick is at the heart of these debates where efforts are made to seek a consensus around what 'good practice' looks like as responsible jurisdictions seek to afford investors the best protection possible from those that wish to undermine the financial markets.



## Enforcement Division *(continued)*

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### Cases reported

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Of the six completed cases, three resulted in sanctions being imposed (although one is the subject of extended appeal proceedings before the courts). No further action was taken in the other three completed cases apart from a private reprimand being issued to one individual. One case was referred to Law Enforcement during the year because of the Division uncovering, what we considered to be information deemed serious enough to be referred for a criminal investigation.

One individual was prohibited last year from all regulated activity as they did not fulfil the requirements for the minimum criteria for licensing. Failings were found in relation to probity, competence and soundness of judgment with regard to the way in which they handled their clients and their dealings with a Politically Exposed Person.

A Trust company was also sanctioned by way of a financial penalty last year although considerable mitigation was given as a consequence of the firm's directors and staff working cooperatively with the Commission to rectify the serious failings that had been identified and to move the firm into a position where they were meeting their regulatory requirements.

Of the cases referred to the Division, some involved suspected unauthorised business. It is important that we protect the public and those that are licensed against individuals seeking to act without an appropriate licence to do so. These cases can lead to serious reputational damage to the Bailiwick particularly where investors/clients suffer losses or serious Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT) failings are identified.

### Outreach to Industry

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We have attended many industry events during 2018 to provide information and answer questions about our enforcement processes, how we deal with matters and some of the investigations we have conducted and the associated outcomes, albeit we often do this in an anonymised format. In one particular presentation we provided, we decided to talk about the cases that have been investigated and were either referred back to the supervisory divisions or were ceased after the Enforcement Division had completed its own investigations. We did this to reassure those in the industry that just because a matter may have been referred to the Enforcement Division it does not necessarily mean that sanctions will follow, and I will reiterate that year on year, as these rumours still persist.

We also aimed to provide those in attendance with a better understanding of what the Commission's staff look for in terms of the level of co-operation and the provision of material we expect which then allows us to make a more informed assessment of the suspected failings. Unfortunately, on some occasions we have come across licensees who wish to stall matters or fail to co-operate fully with requests for information. This not only delays the process but can also raise questions about the real extent of the issues within their respective businesses. Principle 10 of the Principles of Conduct of Finance Business requires a licensee to be open and co-operative with the Commission when dealing with it.

We already have a number of regulatory assurance events lined up for 2019 which we hope will be helpful to industry in an effort to ensure that as many licensed entities as possible are aware of our activities and how potential pitfalls and problems can be avoided.

Simon Gaudion  
Director

## SENIOR DECISION MAKERS

This is my fourth Report as President of the Panel of Senior Decision Makers which was established by the Commission in late 2014. The Panel originally consisted of seven Members, together with myself as President, but, as reported in the Annual Report for 2017, by the end of 2017 the number of Members had been reduced to four only, that is:

- Glen Davis QC (England and Wales);
- Kirsty Hood QC (Scotland);
- Terence Mowschenson QC (England and Wales); and
- Leigh-Ann Mulcahy QC (England and Wales and the Republic of Ireland).

Mr Richard Millett QC (England and Wales) remains a member of the Panel, but is unavailable to sit since he is still occupied as Counsel to the Tribunal of Inquiry looking into the Grenfell Tower fire.

I also mentioned in the 2017 Report that a competition for further appointments was to be held in early 2018 and that fresh appointments had been made by 18 April 2018. 23 applications were received, 20 of which were from England and Wales and three from Scotland. The four successful candidates were:

- Catherine Gibaud QC (England and Wales);
- Ben Hubble QC (England and Wales);
- Richard Jones QC (England and Wales), and
- Alison Potter (a senior junior in England and Wales).

I am most grateful to these four for joining the Panel, the active membership of which now consists of all eight of the names above. There are six Queen's Counsel from England and Wales (one of whom is also a qualified actuary; and one of whom is also qualified in the Republic of Ireland), one Queens' Counsel from Scotland and one junior Barrister from England and Wales. Four of the active members are female and four are male.

The Commission and I believe that the Panel as so constituted should be able to operate for some years from now without further reinforcement.

During the calendar year 2018, four cases were before a Senior Decision Maker, each of which was assigned to one of the four established Senior Decision Makers. As yet, none of the four new appointees has been called upon to take on a case, but that should change in the course of the new year of 2019.

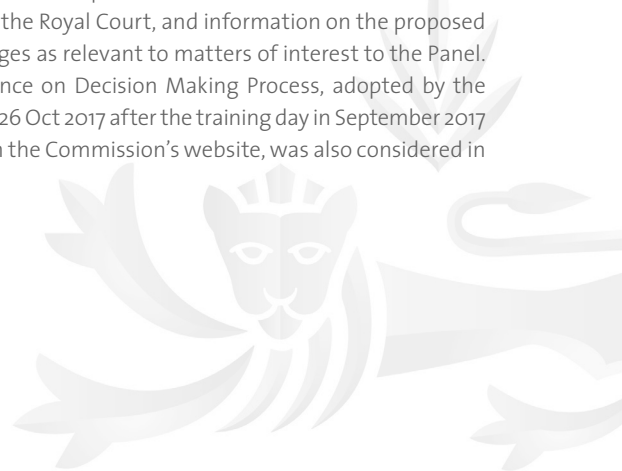
Michael Blair QC  
President of the Panel of Senior Decision Makers

Two of these four cases were the subject of determinations made in the year, but only one outcome currently appears in an announcement on the Commission's website. That completed case involved the activities of a director of a number of licensed and unlicensed companies carrying on business in the Bailiwick, which led to a financial penalty, a prohibition and a public statement, dated 31 May 2018. The second case was determined by the Senior Decision Maker in the summer of 2018, but was immediately made the subject of an appeal to the Royal Court. The outcome of that appeal is discussed further below, but means that the case before the Senior Decision Maker is not yet completed.

The other two cases were also still in progress at the year end. I understand that one of these cases has required further submissions to be made regarding the potential implications for that case of the appellate decision of the Royal Court mentioned above.

During 2018 there was one set of proceedings in the Royal Court relating to the work of the Panel. This is the case of *Y v.* The Chairman of the Guernsey Financial Services Commission, where the Judgment of the Deputy Bailiff was handed down on 29 November 2018. Whilst the judgment supported the Senior Decision Maker's conclusion that Y was capable of being found not to be fit and proper, two notable aspects of the decision were a finding that the Commission lacks the power to issue a prohibition order that is limited in time and a remittal to the Commission of the proposed Public Notice on the footing that it contained more detail than the relevant statutory power permitted. I understand that the Commission is appealing some aspects of the ruling.

Two training days were organised for the Panel in October 2018. One of these was an introductory session for the four new appointees and the other, attended by all eight active members of the Panel, was a review of the present state of play in terms of casework, practice and legislation. The agenda included issues of practice and procedure arising out of the current case load, a discussion of certain aspects of the case mentioned above then pending before the Royal Court, and information on the proposed legislative changes as relevant to matters of interest to the Panel. The new Guidance on Decision Making Process, adopted by the Commission on 26 Oct 2017 after the training day in September 2017 and available on the Commission's website, was also considered in some detail.



### Risk Unit

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The Risk Unit within the Commission provides, as all good risk units should, an internal voice of challenge to our supervisors as well as an independent view on the Risk Mitigation Programme (RMPs) actions set for the firms we regulate. This has helped to ensure that the 266 actions set for firms from 35 Firm Risk Assessment visits and over 55 further engagements with firms in 2018 are consistent, proportionate and risk focused.

As in previous years, we continue to see RMP actions set over a number of key risk areas with our main areas of concern being governance, operational, financial crime and conduct risks. In the large majority of cases it is the firm which is asked to take action to mitigate the risk we have identified and, in the most part, our firms respond appropriately with 288 RMP actions closed during 2018. Actions are closed when a firm has undertaken relevant work and demonstrated to the Commission that the risk has now been mitigated appropriately. It is rare that we identify similar issues following completed RMP actions but when we do, this is taken very seriously by our supervision teams as it throws into question what reliance, if any, can be placed on the senior management at the firm. In these circumstances we could look to use an external party to assess the actions a firm has taken and we have, in 2018, done so in a limited number of cases. The objective is generally to return a firm to a position where we can be confident that the senior management are doing an effective job of managing and mitigating the risks that their firm poses to customers, companies and the reputation of the Bailiwick.

In line with our PRISM methodology, the main focus of our proactive supervision, in the form of Firm Risk Assessments, is our higher impact firms i.e. those that would have the greatest impact on the Bailiwick should they fail. Nevertheless, each supervisory division also undertakes thematic reviews where a particular risk area has been identified for further investigation. This ensures that a number of our lower impact firms are visited each year to discuss a particular topic. Previously these thematics have covered risk areas such as client money, sales processes of insurance intermediaries, governance and financial crime risks and controls in individual sectors. In 2018 we undertook two crosscutting thematics, one on the Beneficial Ownership Register and the second on cyber security.

#### *Thematics*

2018 saw the launch of Guernsey's Beneficial Ownership Register. For firms that are regulated by the Commission, it is our responsibility

to assess whether the information submitted for inclusion on this register is accurate and complete. A number of firms participated in our thematic looking at this area, which was led by our Financial Crime and Investment, Fiduciary and Pension Divisions. The results of this thematic should be published in the first half of 2019.

The Commission, along with others, has identified the growing risk of cyber attacks, not only internally, but also to the firms that we supervise. Globally, there is daily evidence of the necessity for robust systems and controls surrounding data and operations, not to mention the need to be prepared for the worst-case scenario should an event occur. To measure how well our financial services firms are dealing with this risk, towards the end of 2018 we initiated a cyber security thematic covering every firm that we regulate, including our Prescribed Businesses and Personal Fiduciary Licensees. A sample of firms received a questionnaire to complete on their cyber security controls. After publishing this on our website we also saw some firms which had not been included in the sample responding by deciding to complete the questionnaire. The Commission would wish to thank each of the firms for taking the time to complete the questionnaire, the results of which are being analysed before we carry out follow up visits to individual firms. Our aim is to use the insights we gain to refine our policies for financial services firms and our expectations with respect to cyber security systems and controls. At the same time as launching the questionnaire, we highlighted to firms a range of guidance and resources to help deal with cyber security threats and to build the governance required for this risk area. We would encourage all firms, boards and directors to review this information on our website and to consider whether their firm has taken all the necessary steps to be confident in their systems and controls for this key risk area.

#### *PRISM and Fintech*

PRISM is not only our methodology for risk-based supervision but also our internal system for recording information and the outcomes of our visits to firms. As with any system, there are ways of improving it and over the last year the Risk Unit has been working closely with our supervisory divisions to identify key areas for development. Some of these are in relation to new areas of responsibility, such as pension regulation in 2017, but others are making sure we are using the information we hold effectively. Towards the end of 2018 we updated the system to ensure it can better retain key historical information about a firm, its impact

## Risk and Financial Stability *(continued)*

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and its risks. As this information builds over time, it will facilitate greater analysis of trends by our supervisors, enabling them to identify more risks before they crystallise although, as has been

repeatedly emphasised, we are not a zero-failure regulator given the context of the free market economy in which we operate with firms responsible for their actions.

## Financial Stability

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As noted within the Director General's report, our ability to predict the outcome of Brexit at the time of drafting this report is severely limited - even the football predicting octopus would be having trouble. However, the Commission believes that the Bailiwick of Guernsey is in a strong position to be able to deal with any challenges it faces.

As highlighted within the States of Guernsey's Economic and Financial Stability Overview issued in December 2018, the financial services sector continued to grow in 2017 and the States' expectation is that this will continue into 2018, though perhaps at a lower level. If we consider our authorisation statistics at the end of 2018, we saw a higher number of authorisations in December than we had in any of the previous two years and across the full year we saw an increased number of authorisations in the insurance and investment sectors taken together.

We continue to see challenges for our firms in identifying the right skills and talented individuals for the roles they have available, something which we have also experienced through our own recruitment process and whilst this is difficult in itself, it could lead to increasing wage growth as firms try to retain or acquire the key skill sets they need. Linked to this is a gentle trend in consolidation across the fiduciary sector and a reduction in captives within insurance. It suggests that areas which have seen significant growth in previous years are now re-evaluating and tailoring their offering to specific areas. This may mean that those firms remaining are more robust and therefore better able to deal with the twists and turns of Brexit and cope with other changes such as the reforms made by the States to the Bailiwick's substance regime in late 2018.

### *International Policy*

Accompanying Brexit is likely to be a range of opportunities for the financial services sector in the Bailiwick. The draft Statutory Instruments issued by the UK in the event of a 'no-deal' Brexit demonstrate an awareness that European funds would need to be able to sell/operate in the UK post-Brexit if UK customers are not to have their investment opportunities restricted. Any amendments

to the UK's processes in this area will not just benefit EU funds but would also benefit funds located in other reputable third country jurisdictions such as the Bailiwick. As a jurisdiction which has not joined the EU's Single Market, the Bailiwick's financial services industry is less affected by Brexit than the City of London and as our Chairman points out is well placed to be a haven of stability in times such as these.

The Commission also participates in the States of Guernsey's Financial Stability Committee. This focuses on the financial stability issues relevant to the Bailiwick and has resulted in the publication of regular reports on financial stability by the States, the most recent of which was published in December 2018 and is available on the States website.

The Commission continues to engage with other regulators and international bodies so that we remain abreast of developing international policies and their potential impact on the Bailiwick. This awareness is what led to our participation in the Global Financial Innovation Network (GFIN) and ensures that we have a voice on bodies such as Moneyval and hence are able to demonstrate our robust approach to AML/CFT threats.

During 2018 the Commission attended meetings of a number of international regulatory bodies. Our banking interactions tend to be on a firm-by-firm basis with individual regulators. Our continuing participation in these international bodies allows us to monitor and assess regulatory developments.

We continue to monitor developments within the EU with regard to the European Supervisory Authorities and their views on, for example, the subject of Alternative Investment Fund Managers Directive (AIFMD) equivalence. As this could also impact the use of the National Private Placement Regimes (NPPRs), this is an area where we are keeping a close watching brief although we do not believe there will be changes in the immediate future.

Katherine Jane  
Director

## AUTHORISATIONS AND INNOVATION DIVISION

2018 brought with it a range of changes for the Division not least the transformation in September of what was previously a unit into a division with, at the same time, the merger of innovation into the Division. Further change arose with the loss, albeit for good reason (retirement, relocation and career change), of some experienced members of the Division. As much of this personnel change was known in advance, we were able to plan for it and where necessary replacements were found with relevant experience and skills. That said, there is always a learning curve where a number of new entrants are introduced into a team and efforts in the final quarter of 2018 were focussed on providing appropriate training across the Division to ensure smooth transitions and a cross-fertilisation of skills. Finally, heading into the last quarter of the year there was a significant change in the volume of the workload being handled by the Division, with nearly 50% of the total investment applications for the year being received between September and December.

Bringing Authorisations and Innovation together has proven to make for a good fit and although still relatively early days in its new configuration, the general acceptance, both internally and externally of the Commission, is proof of that. Whilst the marriage is a successful one, it is still sensible for the purposes of this report, which covers the transition period, to focus on each area as an 'individual' in its own right.

### Authorisations

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2018 proved to be another year of contrasts with a range of workflows and continued diversity of applications passing across the desks and screens of the members of the Division. We continued to adopt a risk-based approach to our assessment of application submissions and in the majority of applications this allowed for straight through processing by the Division. Where necessary though, the Division continued to work closely with colleagues in all of the supervisory divisions and utilised their specialist knowledge during the review of complex or technical submissions. We referred in our 2017 report to the use of Authorisation Review Panels (ARPS) which were described as the application equivalent of RGP's under PRISM. Their use continued into 2018. ARPs can be called ad-hoc and at short notice and they have only been used in a very small percentage of the overall total of applications received. The use of the ARPS allows for consistent and fair decision-making.

As well as the applications and one-off fees reflected in the statistics tables in the back of this report, the Division was responsible for a range of other tasks including the processing of surrenders across all sectors and changes of control for entities in those sectors where a fee is currently not chargeable.

The Investment sector continued to see in 2018 the uplift it had started to experience in the latter stages of 2017 resulting in the last quarter of 2018 in a high number of applications. In particular,

new applications for both open-ended and closed-ended funds, including Registered Funds and Private Investment Funds (PIFs), exceeded levels seen in the previous year. 2018 saw the registration of two Guernsey Green Funds, one being a conversion of an existing fund and the other being a new fund launch. There continues to be strong interest in the Guernsey Green Fund with a number of other applications in the pipeline. 2018 also saw the introduction of a fee for a change of controller for investment licensees and 33 such applications were processed during the year.

The trend of 2017 in the increase in Insurance Linked Securities (ILS) structures continued into 2018 for the Insurance sector with new Category 6 Special Purpose Insurer (SPI) cells exceeding the level for 2017. Our engagement with this sector over the application process for such structures also continued.

Overall levels of fiduciary applications were down in 2018 compared to 2017 and full licence applications fell by 50% from 49 in 2017 to 22 in 2018. The vast majority of applications for the Fiduciary sector throughout 2018 continued to be for discretionary exemptions, although the levels were slightly down on those seen for 2017.

Our assessment turnaround times are dependent on the standard of the applications received and it is pleasing to note that once again only a small number of applications submitted did not proceed

## Authorisations and Innovation Division *(continued)*

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to the approval stage during 2018. In 2017 over 95% of the applications submitted were approved, in 2018 this figure rose to 98%. All of the applications which did not receive approval were either withdrawn by the applicant or lapsed. However, there was a need on a few occasions to return applications that were felt to be of poor quality, a reflection of the completeness of the submission documentation as opposed to the quality of the business itself. Whilst disappointing, we have in those cases taken the time to provide feedback to the entities involved to help ensure that this is not repeated and indeed we were able, in a couple of instances, to accept revised application submissions.

In that vein of assisting applicants in understanding our requirements, in October 2018 we issued guidance to assist individuals in prescribed positions to meet the Fit and Proper standard set out in the relevant Minimum Criteria for Licensing in the Regulatory Laws. This guidance is for individuals who are holding, or intending to hold, one of these positions or the entities looking to employ them.

In addition, members of the Division continued to meet with potential and existing licensees to discuss proposed and ongoing applications. On the whole the quality of applications continues to be high and early communication ensures the authorisation process remains as effective and efficient as possible.

The levels for online submissions and for online PQs are detailed in the graphs in the section entitled "Statistical Data". The Division continued to staff the online services Helpdesk and handled a range of queries from new users as well as from those more familiar with the system who were experiencing technical issues. As far as possible, the enquiries are handled by the Helpdesk and where more IT-related technical support is required they are passed over to the Commission's IT team.

## Innovation

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The Commission's innovation hub, the Innovation Soundbox, continued to welcome all conversations and engagement during 2018. The Commission, recognising though that the Innovation Soundbox had been in place for a couple of years, reflected on how we could reaffirm its purpose and demonstrate the Commission's continuing commitment to supporting innovation within the Bailiwick's financial services industry.

As a result, the Commission hosted a one-day event on 22 June 2018 – the Soundbox Sprint. The Soundbox Sprint provided an exciting opportunity for the participating teams to develop digital solutions to address one or more of three pre-set challenges including how technology could be used to:

1. optimise efficient and effective client due diligence (and hence reduce costs for Bailiwick businesses);
2. improve administration; and
3. help the financially excluded.

The event was a considerable success with entries submitted by 10 teams which included representatives of 35 Guernsey businesses including banks and other financial institutions, accountants, lawyers and technology companies. Those participating were able to share and discuss how to unlock the potential of FinTech for the benefit of the Bailiwick and to highlight the capability of local firms in this important and growing area.

The entries were considered by six judges drawn from across the financial services sector including the Commission's Chairman. Each entrant had the opportunity to pre-book a surgery with subject matter experts, such as regulators, politicians, accountants and lawyers, to enhance their solutions. The day concluded with the presentation of prizes, including The Bailiwick Innovation Awards (Gold, Silver & Bronze) and The SoundBox Sprint Support Awards, (Gold, Silver & Bronze), to teams from PwC, Midshore Consulting, Barclays, C5 Alliance, The ID Register and Guernsey Community Savings with the last being the overall winner with a community savings concept.

Feedback from the Soundbox Sprint was particularly positive about the roundtable discussions held as part of the day's proceedings. We have therefore decided to follow up on the Soundbox Sprint by holding further roundtables – Soundbox Dashes - throughout 2019 focusing upon specific financial innovation subjects commencing with the first one that was held on 18 January 2019 on the topic of the Global Financial Innovation Network (GFIN).

The Commission, in collaboration with 11 financial regulators and related organisations, on 7 August 2018 announced the establishment of GFIN, building on a proposal earlier in the year to create a 'global sandbox'.

## Authorisations and Innovation Division *(continued)*

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The network will seek to provide a more efficient way for innovative firms to interact with regulators, helping them navigate between countries as they look to scale new ideas. It will also create a new framework for co-operation between financial services regulators on innovation related topics, sharing different experiences and approaches.

GFIN will have three main functions:

- act as a network of regulators to collaborate and share experience of innovation in respective markets, including emerging technologies and business models;
- provide a forum for joint policy work and discussions; and
- provide firms with an environment in which to trial cross-border solutions.

The Commission is one of the founding members of GFIN and sits on the Coordination Group. We are also one of the jurisdictions willing to participate in the cross-border trials.

Finally, the Division has represented the Commission on Guernsey Finance's FinTech Strategy group since inception, contributing to the development of the strategy by providing regulatory insight. Our involvement extended to participation in the seminar on FinTech held on 19 January 2019 in London where we spoke on the topic of the permissiveness of the new Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT) handbook for the deployment of technology in the processing of client due diligence.

Emma Bailey  
Director

# THE COMMISSION'S THREE-YEAR BUSINESS PLAN

Recent international regulatory standards suggest that an independent regulator should seek to set out in a public fashion its intentions for a period of time in excess of a year. This evolution in standards has coincided with the removal of States Pension related liabilities from our balance sheet - resulting in an improvement in our financial position which gave the Commission capacity to consider longer term development plans. These events led our Board to ask the Executive to develop a three-year business plan in the first half of 2018. The business plan development work was undertaken over a number of months and involved rigorous sifting of proposals to identify those which were most essential with c. half of all projects proposed being deprioritised after critical discussion as to the value they would add and our capacity to execute them alongside other activities. The Plan was formally adopted by Commissioners on 13 April 2018.

This section of the annual report sets out key elements of the business plan we have developed to operate from 2018 through to the end of 2021. It is not set in stone, nor should it be as it is important that the Commission retains flexibility to react to external events. It should be read alongside other key Commission documents which set out our approach to our statutory duties - Our Regulatory Framework and Risk Based Supervision in Guernsey. In drafting this version of our three-year business plan we are cognisant of the strategy document published by Guernsey Finance, Guernsey's promotional agency in late 2018, which sets out certain ambitions for the financial services sector. We have taken note of it to the degree it is appropriate for us to do so given that we have finite resources, an independent board appointed by the States and clear statutory duties which focus on regulatory and financial stability matters rather than sectoral promotion.

## *Getting the Basics Right*

In the first instance, it is important to note that much of what we do is intended to remain constant under our three-year business plan. Our organisational structure may undergo some organic change over the next three years as the right people are matched to the right roles, but we have no intention of radically changing how we operate, because we think having the right people, properly motivated doing the right things is far more important than any particular organisational design, all of which have their merits and disadvantages. We intend to continue to:

- provide a high quality and responsive authorisations regime;
- offer support on regulatory matters to innovative financial services businesses;
- provide educational events to help firms with regulatory self-assurance;

- apply a risk-based supervisory regime; and
- take enforcement action against serious malefactors.

Further to this, we intend to continue to invest in our staff, to remain roughly the same size in terms of permanent headcount and to spend the public money we raise through fees levied on the financial services sector in a sensible and careful manner.

We will also continue to interact with key UK and EU stakeholders including the Bank of England, HM Treasury (alongside the States of Guernsey), the Financial Conduct Authority, the European Supervisory Authorities and the European Central Bank. Further, we will continue to participate in key international regulatory organisations including the International Association of Insurance Supervisors (IAIS), the Financial Action Task Force (FATF), the International Organisation of Securities Commissions (IOSCO), the International Organisation of Pensions Supervisors (IOPS) and emerging regulatory organisations of benefit to the Bailiwick such as the Sustainable Insurance Forum and the Global Financial Innovation Network (GFIN) of which we are a founder member. During this period, properly preparing for the likely visit of the Council of Europe's Moneyval inspectors who will assess how well the jurisdiction as a whole complies with the 2012 FATF standards when they visit in the early 2020s, will be a key activity.

## *Policy Work*

Much policy work takes place over a period considerably longer than a calendar year and we have found the preparation of a three-year business plan helpful in examining what we can do and what we cannot do over a multi-year period. Some of our policy work is, to some degree, voluntary in the sense that we are not compelled to do it by international standards. Recent examples of this type of work include the Guernsey Green Fund rules which we were pleased to develop in conjunction with a number of interested parties. Over the course of the three-year business plan we would intend to continue this workstream looking to enhance Guernsey's sustainable development credentials from a regulatory perspective, making clear that we are, "long-term greedy" when it comes to providing an environment which nurtures sustainable finance because by doing so we can help nurture our much-threatened global environment.

Some policy work is less voluntary in so much that it is based on ensuring the Bailiwick's continued compliance with international expectations. A recent example of this would be the Bailiwick's new Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT) Handbook discussed in the Director General's Report. In December 2018 we were subject to an international

## The Commission's Three-Year Business Plan *(continued)*

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inspection by IAIS which assessed us against international Insurance Core Principles. It is likely that the report on that inspection will make a number of recommendations which we will need to consider alongside the recommendations made by Ian Tower in his 2017 report which we commissioned in conjunction with the States of Guernsey. Whilst we are not, a priori, going to commit ourselves to implementing all the recommendations made by both inspection reports, we are certainly committed to, alongside other stakeholders, giving them serious consideration and implementing them to the extent we consider them sensible in a Guernsey context. Not to do so would threaten our reputation as a well regulated jurisdiction, a reputation on which so much of our financial services sector success depends, as it requires access to other countries' markets to prosper.

Some of our policy work is contingent on the legislation which we hope will be passed by the States of Guernsey over the coming year. To the extent it passes the Revision of Laws legal text as well as the Lending, Credit and Finance Policy Letter and the Policy Letter providing for Bank Resolution Powers in 2019, it will create implementation and drafting work relating to those laws and Policy Letters for us. Our current understanding is that senior politicians intend to present all this legislation to the States of Guernsey during the autumn of 2019. To the extent it is proper for us to anticipate the will of the legislature, our three-year business plan provides for us to have sufficient resource to implement these new laws or to support their evolution to the next stage in the legislative process.

### ***Big Data, Information Systems and Machine Learning***

Alongside ongoing policy development, the other key area of the three-year business plan is our intention to invest in technology involving consideration and implementation of enhanced information systems for the Commission designed to allow it to better and more effectively regulate firms using new data-driven technology. The Commission already has fairly sophisticated systems able to undertake automated analysis of key information provided to it electronically in financial returns but we are conscious that big data and the use of augmented intelligence is evolving fast in the regulatory world as regulators struggle to understand and appropriately regulate FinTech firms which exploit data in novel ways to offer heretofore impractical services which may have benign or malign effects on consumers and market stability.

To take the example of general insurance, the increased availability of data by general insurers allows them to micro-segment the market and use highly personal data to risk assess customers.

Those insurers who fail to follow the lead of the most aggressive are likely to face financial losses as they end up with the high risk customers who suffer from the risk assessed machine learning employed by the leading FinTech insurers. What use of data constitutes appropriate conduct in a freedom loving, democratic society which seeks to look after the less fortunate will become a more, rather than a less, pressing issue for all Western regulators.

Major international financial centre regulators such as the Singapore Monetary Authority are putting considerable resources into developing Supervisory Technology (SupTech) to help them cope and keep up with this new and very different financial services universe. As part of the three-year business plan, we are entering into partnerships with academic experts interested in this field to ensure that we remain abreast of developments and have a capacity to undertake some controlled experiments with our current data to better understand the art of the possible at a modest cost. In this way, we intend that Guernsey's regulation will not fall behind evolving international norms whilst remaining appropriate to the specialisms of Guernsey as an International Finance Centre (IFC). It is too soon to predict whether SupTech developments will be labour saving in the longer term but they certainly promise a world in which the supervisory role is less routine as machines undertake much of the analysis for the supervisor, where inspections become more targeted, where good firms see less of the regulator while poor quality firms see more of the regulator, assuming resources remain constant.

In addition to SupTech, we will also be making a substantial investment in Regulatory Technology (RegTech) to upgrade the reporting infrastructure with which our licensed firms have to interact. Whereas SupTech generally denotes the internal use of technology by a regulator to do its job better, RegTech is more commonly associated with the regular reporting of data by firms to the regulator. Here the Commission has identified a need to substantially upgrade its current systems as software evolves and we will be implementing a project to achieve this within the next three-year business plan cycle. Our current intention is that the "front end" used by industry should remain mostly similar to that which firms see now with the current login and authentication architecture remaining valid. Behind the scenes, the facts of the matter are that our underlying reporting software needs to undergo radical change if firms are not to have to revert to using pen and ink to communicate with us. Delivering this new reporting system for industry is a key objective of the three-year plan. This investment will happen alongside continued upgrades to our PRISM technology which will, for example, see financial crime supervision activity fully integrated into PRISM over the course of 2019 as PRISM functionality is improved. This will enhance

## The Commission's Three-Year Business Plan *(continued)*

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the ability of different supervisors in the Commission to work alongside each other benefiting from a common understanding built on a common supervisory system.

We also envisage supporting other technology projects in the data management, human resources and finance areas. Our financial control systems, whilst very proper, are largely manual. We intend, for example, to improve our systems so that we can undertake e-billing whilst at the same time improving our HR software through implementing an improved "off the shelf" system.

In the realm of data, we are conscious that making improvements to our current approach to data storage is attractive to enhance our ability to find and analyse all relevant documents swiftly and easily. For some time now, our Enforcement Division has been making use of a piece of software which is particularly adept at document retrieval and analysis and one of our current projects will see the Commission adapt the lessons learnt by Enforcement from a number of large scale investigations to improve our data architecture.

### *Funding and Resourcing the Three-Year Plan*

We have wanted to undertake a number of these projects for several years to improve our efficiency and effectiveness but to date, we have lacked the financial resources to do so. We are keen to make the necessary investments in good time to ensure that our financial regulatory technology remains current and functional. The good news for the financial services sector is that the arrangement reached with the States of Guernsey in the latter part of 2017 with regard to the States Pension Scheme liabilities, has put us in a position to finance our policy and technology development projects from reserves.

Thus, whilst we are not moving away from our ambition to run a balanced budget in the medium term, for the three-year business plan cycle we plan to run a deficit budget, reducing reserves whilst maintaining our long-term minima of liquid reserves equal to six months expenditure. The extra expenditure is being used to buy assets (such as new software) and to employ technical specialists (such as IT developers and legal draftsmen) on short term contracts designed to conclude at the end of the three-year business plan cycle thus helping restore the Commission's budget to balance.



## Human Resources

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We experienced a challenging year in 2018 on the recruitment and retention front, which saw a number of well-regarded staff leave to take up roles in the industry. While this inevitably results in some short-term issues for the Commission, not least in securing good replacements in what seemed to us to be a tight employment market, nevertheless, we see longer-term benefits for the industry and the Bailiwick when our staff move on. They leave us as highly motivated individuals who have been well trained, possess a good degree of experience relevant to the industry and hence are able to make important contributions in their future careers.

The Commission employed 108 permanent staff at 31 December 2018. Our organisational aim is to facilitate intelligent and co-ordinated delivery of all learning, training and development opportunities.

To give a flavour of our approach to training and development, during 2018 the Commission supported 24 staff in studying towards a professional qualification - these included the Investment Management Certificate, CIPD Certificate in HR Practice, CFA Levels I-III, CISI Risk in Financial Services, STEP Certificates, ICA Certificates and Diplomas and the MSC in Corporate Governance. We also organised over 100 internal training sessions covering matters as diverse as corporate governance, analysing business models, conducting interviews, chairing and participating effectively in Risk Governance Panels (used for internal quality assurance purposes), cyber security and data protection. Our staff also attended an extensive number of external training courses including STEP lectures, IOSCO seminars, RegTech conventions, FinTech conferences, AML and Financial Crime seminars, Cybercrime conferences and IOD courses. We also continued to offer our Graduate Development Programme which has been very successful since its inception in 2014. 16 graduates have been employed on the scheme to date with seven promoted to Analyst and five promoted to Senior Analyst over that period with more recent entrants continuing on the scheme for now.

Of course, we look to support our staff in other ways. For example, during 2018 we continued to provide wellness and educational support which included delivering 10 Technology, Entertainment and Design Talks (TED Talks). The subjects of these talks included Mental Health in the Workplace, Demystifying Liquidation, Leveraging the Universal Law of Reciprocity, the Benefits of Mindfulness, an overview of Companies, Trusts and Partnerships, in Guernsey and ILS Structures. We also continued to provide new staff with internal mentors, appointed a Chaplain to provide general support and advice to staff irrespective of faith and we now have four staff who are qualified Adult Mental Health First Aiders. In addition, we have a very active Sports and Social Club.

We are also constantly looking for new ideas to assist in our recruitment and retention of staff at all levels. Our latest initiative has seen the introduction of a 9-day fortnight which we hope will provide us with a competitive edge as, put simply, we are unable to compete with industry on our basic salary package offering. The 9-day fortnight gives our staff the option of building up sufficient additional hours during those 9 days to enable them to take off one Friday every two weeks as paid leave. At the time of preparing this report, 49 staff have opted into the Scheme and a number of new joiners have already commented positively about this initiative during the recruitment process.

Dale Holmes  
Commission Secretary

### Financial Information

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As noted in our 2017 annual report and accounts, due to the conclusion of the actuarial account arrangement within the States Public Sector Pension Scheme, the resultant settlement removed the net pension liability from the Commission's balance sheet. From 2018 onwards, our balance sheet will reflect the more straightforward business model of the Commission with income being received as fees from our licensees which are then used, through our operational costs, to carry out efficient and effective supervision of financial sector firms within the Bailiwick.

The removal of this liability has shown a balance sheet in a strong financial position and this is one of the reasons why, despite the inherent uncertainty in today's financial markets, the Commission's Chairman was able to inform the States of Guernsey and industry that, absent any significant unforeseen and adverse event, we would not be seeking an increase in licence fees or charges during 2019 or 2020.

The Commission continues to maintain a position that we believe, in line with good prudential management, maintains an adequate buffer of reserves and liquidity with cash, short-term deposits and investments of £11.7m at the 31 December 2018.

During the period when we were subject to extensive fluctuations in the valuation of our pension liabilities, it would have been inherently imprudent to invest heavily in developing our IT or other processes. However, as discussed in the three-year business plan section of this report, following the removal of this uncertainty, we have taken the opportunity to reassess our requirements and to make essential and long overdue investment in our IT systems as well as in other areas. From a financial perspective, this has temporarily increased our overall expenditure on a year on year basis. With the removal of the temporary additional costs relating to the three-year business plan, our overall expenditure for 2018 would be £13.5m which is only a small percentage increase (4%) compared to our 2017 position. This increase reflects an ongoing investment in our staff, their training and development along with a material increase in legal costs (52%) associated with undertaking a number of significant enforcement cases.

With respect to the three-year business plan, as the projects progress we will capitalise a large proportion of the expenditure made in our IT systems, however, at this time our total fixed assets have decreased as this new investment has not yet overtaken the depreciation of our current fixed assets.

Overall we have seen a positive outcome for the year (£546,000) which is due not only to tight control of our expenditure, but also due to a higher income flow. This income was not only due to a number of surrenders and mergers occurring within 2018 not, as expected in 2017, but also to a higher than expected application income with a favourable variance relative to our forecasts of c.£171,000 and total income from applications for the year coming in just under £1 million. To add a note of caution, a large proportion of this income related to one-off fees such as Insurance Linked Securities or Discretionary Exemptions within the fiduciary sector, although there was a growth in income from new investment business.

Katherine Jane  
Director



### Information Technology (IT)

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The day-to-day work of supervision and regulation could not occur without a stable operating platform and robust IT systems, including online systems, that work in an efficient manner. The Commission is able to achieve this through the hard work and dedication of our able IT staff. Over the years, we have built a core structure of IT systems to enable the Commission's staff to undertake their work efficiently and effectively. However, all systems have to be maintained, updated and eventually changed when they become unsupported.

Over the course of 2018, we had to face the normal challenges of IT with increasing usage of email and online systems, numerous cyber-attacks (all defended), phishing scams, increasing amounts of junk mail and the usual peaks in system demand at the end of April and October when a large number of regulatory returns are due. All of these were dealt with by our IT team with minimal service disruption. At the same time, we have maintained our focus on cyber security and recovery of systems with a war-gaming exercise that took place towards the end of the year, with external support used to check how our systems would work in extreme circumstances.

As discussed further in the three-year business plan section, during 2018 we developed a comprehensive three-year business plan to ensure that the Commission is in the best possible place to continue to provide efficient and effective supervision to the Bailiwick. It is rare these days to have a policy development or process improvement which doesn't touch on IT and there are two major IT projects, which form part of our three-year business plan, which have already commenced.

Katherine Jane  
Director

The first of these is an updating and upgrading of our data management systems. As noted previously, we are seeing greater use of our online services and an increasing number of submissions being sent to us electronically. Indeed, with the cost of storage on the island and the limitations on office space, this is preferable but it does place a greater emphasis on ensuring that this data and information is stored safely and in a logical location where it can be easily retrieved. In addition, the work we did in 2018 to ensure compliance with our data protection responsibilities has highlighted that in a number of instances deleting this information can be a manual and resource-intensive task. Improvements in those systems will mean more time and effort can be spent on added-value tasks.

Secondly, in 2017, a large amount of time and effort was spent on improving our online portal for Online Personal Questionnaires, appointments and resignations. In 2018, as part of our regular review and discussions with our service providers, we identified that in the future one aspect of our system would become unsupported within the foreseeable future. In line with our guidance to regulated entities, we do not believe it is appropriate or secure to run unsupported software and therefore the second project is a back office update and restructure of our online submissions portal. This should not impact upon our regulated entities as we plan to continue to use a 'Single Sign On' process. However, it should improve our ability to flex the capacity of our systems at key times of demand, such as April and October, as well as enabling a less labour intensive approach to the creation of forms and information requests.

# INDEPENDENT AUDITORS' REPORT

## Opinion

We have audited the financial statements of the Guernsey Financial Services Commission (the 'Commission') for the year ended 31 December 2018, which comprise the Statement of Comprehensive Income, the Statement of Reserves, the Balance Sheet, the Statement of Cash Flows and notes to the financial statements, including a summary of significant accounting policies. The financial reporting framework that has been applied in their preparation is applicable law and United Kingdom Accounting Standards including Financial Reporting Standard 102; 'The Financial Reporting Standard applicable in the UK and Republic of Ireland' (United Kingdom Generally Accepted Accounting Practice).

In our opinion, the financial statements:

- give a true and fair view of the state of the Commission's affairs as at 31 December 2018 and of its surplus for the year then ended;
- are in accordance with United Kingdom Generally Accepted Accounting Practice; and
- have been properly prepared in accordance with the Financial Services Commission (Bailiwick of Guernsey) Law, 1987.

## Basis for opinion

We conducted our audit in accordance with International Standards on Auditing (UK) (ISAs (UK)) and applicable law. Our responsibilities under those standards are further described in the 'Auditor's responsibilities for the audit of the financial statements' section of our report. We are independent of the Commission in accordance with the ethical requirements that are relevant to our audit of the financial statements in Guernsey, including the FRC's Ethical Standard, and we have fulfilled our other ethical responsibilities in accordance with these requirements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

## Who we are reporting to

This report is made solely to the Commissioners, as a body, in accordance with our Terms of Engagement as detailed in our letter dated 26 March 2018. Our audit work has been undertaken so that we might state to the Commissioners those matters we are required to state to them in an auditor's report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the Commission and the Commissioners, as a body, for our audit work, for this report, or for the opinions we have formed.

## Conclusions relating to going concern

We have nothing to report in respect of the following information in the annual report, in relation to which the ISAs (UK) require us to report to you where:

- the Commission's use of the going concern basis of accounting in the preparation of the financial statements is not appropriate; or
- the Commission has not disclosed in the financial statements any identified material uncertainties that may cast significant doubt about the Commission's ability to continue to adopt the going concern basis of accounting for a period of at least twelve months from the date when the financial statements are authorised for issue.

## Other information

The Commission is responsible for the other information. The other information comprises the information included in the annual report, other than the financial statements and our auditor's report thereon. Our opinion on the financial statements does not cover the other information and, except to the extent otherwise explicitly stated in our report, we do not express any form of assurance conclusion thereon.

In connection with our audit of the financial statements, our responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or our knowledge obtained in the audit or otherwise appears to be materially misstated. If we identify such material inconsistencies or apparent material misstatements, we are required to determine whether there is a material misstatement in the financial statements or a material misstatement of the other information. If, based on the work we have performed, we conclude that there is a material misstatement of this other information, we are required to report that fact.

We have nothing to report in this regard.

## Responsibilities of the Commissioners for the financial statements

As explained more fully above, the Commissioners are responsible for the preparation of the financial statements which give a true and fair view, and for such internal control as the Commissioners determine is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

## Independent Auditor's Report *(continued)*

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In preparing the financial statements, the Commissioners are responsible for assessing the Commission's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless it is inappropriate to presume that the Commission will continue to operate.

### **Auditor's responsibilities for the audit of the financial statements**

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISAs (UK) will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

A further description of our responsibilities for the audit of the financial statements is located on the Financial Reporting Council's website at: [www.frc.org.uk/auditorsresponsibilities](http://www.frc.org.uk/auditorsresponsibilities). This description forms part of our auditor's report.

For and on behalf of Grant Thornton Limited  
Chartered Accountants  
St Peter Port  
Guernsey

3rd May 2019

# FINANCIAL STATEMENTS

## STATEMENT OF COMPREHENSIVE INCOME

For the year ended 31 December 2018

	Note	2018	2017
		£	£
<b>Income</b>			
Fees receivable		13,943,269	13,147,710
Financial penalties imposed	13	108,500	136,500
Bad debts recovered	13	40,288	34,748
Interest receivable and similar income		105,065	83,673
Net change in investments measured at fair value through profit or loss	11	-	107,921
		14,197,122	13,510,552
<b>Expenses</b>			
Salaries, pension costs, staff recruitment and training		(9,314,173)	(8,911,156)
Commissioners' fees		(275,345)	(273,654)
Legal and professional fees		(820,725)	(536,824)
Premises and equipment, including depreciation and dilapidations		(1,838,964)	(1,817,448)
Other operating expenses		(1,220,892)	(1,282,658)
Bad debt provision expense	13	(72,134)	(101,636)
Net change in investments measured at fair value through profit or loss	11	(100,027)	-
Auditor's remuneration		(8,500)	(8,250)
		(13,650,760)	(12,931,626)
<b>Surplus before net gain on pension scheme</b>			
		546,362	578,926
Other pension costs	7(a)	-	(137,856)
Gain on settlement of defined benefit pension scheme	7(a)	-	14,172,606
<b>Surplus for the financial year</b>			
		546,362	14,613,676
<b>Other comprehensive income</b>			
Re-measurement of net defined benefit liability	7(b)	-	761,080
<b>Total comprehensive income for the year</b>			
		546,362	15,374,756

The notes on pages 39 to 48 form an integral part of these financial statements.

## STATEMENT OF RESERVES

For the year ended 31 December 2018

	Note	2018	2017
		£	£
Opening reserves		13,079,883	(2,294,873)
Total comprehensive income for the year		546,362	15,374,756
<b>Balance at 31 December 2018</b>		<b>13,626,245</b>	<b>13,079,883</b>

*The notes on pages 39 to 48 form an integral part of these financial statements.*

# BALANCE SHEET

As at 31 December 2018

	Note	2018	2017
		£	£
<b>Fixed assets</b>			
Tangible assets	4	2,837,811	2,891,857
<b>Current assets</b>			
Debtors and prepayments	5	721,638	603,494
Short-term deposits	10	7,565,894	6,759,004
Investments	11	3,198,867	3,298,894
Cash at bank and in hand	10	976,559	1,532,839
		<b>12,462,958</b>	<b>12,194,231</b>
<b>Current liabilities</b>			
Creditors – amounts falling due within one year	6	(1,400,068)	(1,770,236)
		<b>11,062,890</b>	<b>10,423,995</b>
<b>Net current assets</b>			
<b>Non-current liabilities</b>			
Provisions for liabilities	14	(274,456)	(235,969)
		<b>13,626,245</b>	<b>13,079,883</b>
<b>Net assets</b>			
<b>Total reserves</b>			
		<b>13,626,245</b>	<b>13,079,883</b>

The Financial Statements on pages 35 to 48 have been approved by the Commissioners and signed on their behalf on 3rd May 2019 by:-

C Schrauwers  
**Chairman**

R Moore  
**Vice-Chairman**

W Mason  
**Director General**

The notes on pages 39 to 48 form an integral part of these financial statements.



# STATEMENT OF CASH FLOWS

For the year ended 31 December 2018

	Note	2018	2017
		£	£
<b>Cash flows from operating activities</b>			
Surplus for the financial year		546,362	14,613,676
Adjustments for:			
Defined benefit pension scheme:			
Gain on settlement of pension scheme	7(a)	-	(14,172,606)
Contributions to pension scheme	7(d)	-	(122,159)
Pension scheme administration costs	7(d)	-	1,333
Other pension costs	7(a)	-	137,856
Depreciation of tangible fixed assets	4	747,772	764,480
Loss on disposal of tangible fixed assets	4	13,180	8,461
Interest receivable		(105,065)	(83,673)
Unrealised loss / (gain) on investment portfolio	11	100,027	(107,921)
(Increase) / decrease in debtors and prepayments		(118,144)	76,196
(Decrease)/increase in creditors		(370,168)	645,938
Increase in provisions for liabilities	14	38,487	37,873
<b>Net cash generated from operating activities</b>		<b>852,451</b>	<b>1,799,454</b>
<b>Cash flows from investing activities</b>			
Purchases of tangible fixed assets	4	(706,906)	(360,816)
Interest received		105,065	83,673
Purchase of short-term deposits	10	(806,890)	(648,531)
<b>Net cash from investing activities</b>		<b>(1,408,731)</b>	<b>(925,674)</b>
<b>Net (decrease) / increase in cash at bank and in hand</b>	10	<b>(556,280)</b>	<b>873,780</b>
Cash at bank and in hand at the beginning of the year		1,532,839	659,059
<b>Cash at bank and in hand at end of the year</b>		<b>976,559</b>	<b>1,532,839</b>

The notes on pages 39 to 48 form an integral part of these financial statements.

# NOTES TO THE FINANCIAL STATEMENTS

For the year ended 31 December 2018

The Guernsey Financial Services Commission (“the Commission”) is a Public Benefit Entity whose primary objective is to regulate the finance industry in the Bailiwick of Guernsey. The reserves support the primary objectives of the Commission.

## 1. Accounting policies

The financial statements of the Commission have been prepared in accordance with FRS 102, the financial reporting standard applicable in the United Kingdom and the Republic of Ireland.

### i. Presentation and functional currency

The financial statements are presented in pounds sterling. The Commission’s functional currency is also pounds sterling.

### ii. Legal status

The Commission is a body corporate established under The Financial Services Commission (Bailiwick of Guernsey) Law, 1987. The Commission’s operations are conducted from offices at Glatigny Court in Guernsey. The Commission had placed a member of staff in the Guernsey Finance office in Hong Kong.

### iii. Preparation

The preparation of financial statements in compliance with FRS 102 requires the use of certain critical accounting estimates. These financial statements have been prepared on a going concern basis. 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.

### iv. Going concern

The Commission continues to meet its day-to-day working capital requirements through its bank balances and short-term deposits.

## The following significant accounting policies have been consistently applied:

### (a) Fees receivable

Fees are a combination of annual licence fees, application fees and late filing fees. Fees payable by licensees and registrants are enshrined in law and set out on the Commission’s website, split by sector. Annual licence fees receivable are accounted for on an accruals basis. Income received prior to the 1 January invoice date for annual licence fees are treated as Fees in Advance, as part of creditors. A breakdown is shown in note 6.

### (b) 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. Financial penalties are recognised as income receivable when the decision is made and the public statement is placed on the Commission’s website. When the circumstances of a debtor give rise to concerns over settlement, and/or payment is not made within 7 days of the financial penalty being imposed, consideration is given to raising a provision.

### (c) Interest receivable

Bank interest is accounted for on an accruals basis. Interest income received from fixed and notice deposits and certificates of deposit are also accounted for on an accruals basis.

### (d) Investigation and litigation

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

## NOTES TO THE FINANCIAL STATEMENTS *(continued)*

### (e) Tangible fixed assets and depreciation

Tangible fixed assets are stated at historical cost less accumulated depreciation and any accumulated impairment losses. Historical cost includes expenditure that is directly attributable to bringing the asset to the location and condition for it to be capable of operating in the manner intended by management. Depreciation on tangible fixed assets is calculated, using the straight-line method to allocate the cost of assets, less their residual value, over 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	25% straight-line
Furniture and fittings	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

### (f) Financial instruments (financial assets and financial liabilities)

#### i. Recognition

All financial assets and financial liabilities are recognised when the Commission becomes party to the contractual provisions of the instrument. The financial assets and financial liabilities comprise of the following basic financial instruments: cash at bank; short-term deposits, including fixed maturity deposits and accounts where notice of withdrawal is required; certificates of deposit; current asset investments in a portfolio of equities, bonds and funds; other debtors and expense creditors.

#### ii. Initial measurement and subsequent measurement

All financial assets and liabilities are initially measured at transaction price. Financial assets subsequently measured at fair value through profit or loss comprise the current asset investments in a portfolio of equities, bonds and funds. Financial assets subsequently measured at amortised cost comprise cash at bank, short-term deposits and other debtors. Financial liabilities measured at amortised cost comprise expense creditors.

#### iii. De-recognition

Financial assets are de-recognised when the contractual rights to the cash flows from the financial asset are settled. Financial liabilities are derecognised only when the obligation specified in the contract is discharged, cancelled or expires.

### (g) Cash at bank and in hand

Cash at bank and in hand includes cash, deposits held at call with banks, with a maturity date of less than three months.

### (h) Short-term deposits

Fixed and notice deposits, with original maturities of between three and twelve months, are included as current assets. Other short-term deposits, represented by a portfolio of certificates of deposit are managed by an investment manager.

### (i) Investments

A portfolio comprising equities, bonds and funds, held in listed companies, which are traded on a regular basis, is managed by an investment manager. Investments are accounted for at fair value and gains or losses on fair value are included in the Statement of Comprehensive Income.

### (j) Leases

Rental payments made in relation to office accommodation are treated as operating leases and are charged to the Statement of Comprehensive Income account on a straight-line basis over the lease term. Provisions are maintained for dilapidations, including redecoration, to cover future liabilities under the terms of the lease.

**(k) Employee benefits**

**i. Short term benefits**

A liability is recognised to the extent of any unused holiday pay entitlement which has accrued at the balance sheet date and carried forward to future periods. This is measured at the undiscounted salary cost of the future holiday entitlement and accrued at the balance sheet date.

**ii. Defined benefit scheme**

Following closure of the defined benefit scheme to future service accrual on 30 June 2014, employees had the option to transfer out their pension or become deferred members of the scheme. Following this date, the Commission's actuarial account was kept open to accurately calculate and pay what became either deferred or pensioner members. The actuarial account was closed as at 30 April 2017 following the agreement by the States of Guernsey to assume responsibility for all historic and future liabilities.

Upon closure of the actuarial account, a net settlement gain was recognised within the 2017 Statement of Comprehensive Income.

The net interest cost was calculated by applying the discount rate to the net balance of the defined benefit obligation and the fair value of plan assets. This cost was recognised in the Statement of Comprehensive Income for 2017 as 'Other pension costs' and was calculated as at 30 April 2017.

Actuarial gains and losses arising from experience adjustments and changes to actuarial assumptions were charged or credited to other comprehensive income, within the Statement of Comprehensive Income. These amounts together with the return on plan assets, less amounts included in net interest, were disclosed as 'Re-measurement of net defined benefit liability'. All such disclosures were calculated at 30 April 2017, prior to the closure of the actuarial account.

**iii. Defined contribution schemes**

Employees who joined the Commission after 31 December 2007 up until 30 June 2014 were generally eligible to be members of the Island Trust Plan ("the DC Plan"). With effect from 1 July 2014, members of the DC Plan, deferred members of the defined benefit scheme and new employees were offered a choice of pension offerings. The options consist of the DC plan, a multi-member Group RATs scheme or a personal approved pension plan. Contributions by employees are no longer a mandatory requirement.

The contributions are recognised as an expense when they are due.

**2. Judgements in applying significant accounting policies and key sources of estimation uncertainty**

**i. Tangible fixed assets (see note 4)**

Tangible fixed assets are depreciated over their useful lives taking into account residual values, where appropriate. The actual lives of the assets and residual values are assessed annually and may vary depending on a number of factors. In re-assessing asset lives and residual value, factors such as technical innovation, product life cycles and the remaining life of the asset are taken into account.

**ii. Lease classification (see note 8)**

The Commission established a lease with the landlord of its Gategny Court office accommodation in September 2010. This is classed as a non-cancellable operating lease.

**iii. Investments (see note II)**

The most critical estimates, assumptions and judgements relate to the determination of the carrying value of investments measured at fair value through profit or loss. In determining this amount, the Commission has applied the concept that fair value is the amount for which an asset can be exchanged between knowledgeable willing parties in an arm's length transaction. Investments, comprising equities, bonds and funds, are valued at the reporting date at the quoted bid price.

## NOTES TO THE FINANCIAL STATEMENTS *(continued)*

### iv. Bad debt provision (see note 13)

The recoverability of debts is assessed and where appropriate a provision is raised in line with the approved internal policies. Debtors comprise entities or individuals who, given their circumstances, are unlikely to be able to settle the debt, in part or in full. Primarily, but not exclusively, the debt arises as a result of the imposition of a financial penalty under Section 11D (1) of the Financial Services Commission (Bailiwick of Guernsey) Law, 1987 as amended.

The debts, for which a provision has been raised, are reviewed regularly to ensure that all avenues are explored to obtain recovery.

### v. Dilapidations (see note 14)

Provisions are maintained for dilapidations, including redecoration, to cover future liabilities under the terms of the Gategny Court lease. A professional review of the future dilapidations liability provided an initial estimate of the level of provision to be applied on an annual incremental basis. The original amount is increased annually at the Guernsey rate of inflation as measured by RPIX.

## 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
	£	£	£	£	£
<b>Cost</b>					
At 1 January 2018	1,375,441	402,400	825,004	4,258,612	6,861,457
Additions	57,474	169,977	172,123	307,332	706,906
Disposals	-	(35,255)	(189,241)	(76,601)	(301,097)
<b>At 31 December 2018</b>	<b>1,432,915</b>	<b>537,122</b>	<b>807,886</b>	<b>4,489,343</b>	<b>7,267,266</b>
<b>Depreciation</b>					
At 1 January 2018	421,304	337,024	700,243	2,511,029	3,969,600
Charge for the year	72,882	29,838	71,583	573,469	747,772
On disposals	-	(33,363)	(184,866)	(69,688)	(287,917)
<b>At 31 December 2018</b>	<b>494,186</b>	<b>333,499</b>	<b>586,960</b>	<b>3,014,810</b>	<b>4,429,455</b>
Net book value at 31 December 2017	954,137	65,376	124,761	1,747,583	2,891,857
<b>Net book value at 31 December 2018</b>	<b>938,729</b>	<b>203,623</b>	<b>220,926</b>	<b>1,474,533</b>	<b>2,837,811</b>

## 5. Debtors and prepayments

	2018	2017
	£	£
Prepayments	651,388	535,312
Provision for bad debts (see note 13)	(147,283)	(227,142)
Other debtors	217,533	295,324
	<b>721,638</b>	<b>603,494</b>

Included in the total are prepayments of £94,433 (2017: £52,362) which relate to periods longer than 12 months.

## 6. Creditors - amounts falling due within one year

	2018	2017
	£	£
Creditors and accruals	724,274	659,065
Fees received in advance	675,794	1,111,171
	<b>1,400,068</b>	<b>1,770,236</b>

## 7. Post-employment benefits

### FRS 102 (Section 28) Disclosure for the Guernsey Financial Services Commission ("GFSC") Actuarial Account of the States of Guernsey Public Servants Pension Scheme ("PSPS")

#### Background

Having closed the above scheme to future accrual of benefits with effect from 30 June 2014, all remaining active members were treated as having left pensionable service with effect from that date, and were classified as deferred members. Following the closure date, the GFSC's actuarial account was kept open to accurately calculate and pay what became either deferred or pensioner members, active membership being closed.

In 2017, the Commission entered into an agreement with the States of Guernsey to close the actuarial account and settle outstanding liabilities. All of the GFSC's deferred and pensioner members as at 30 April 2017 were re-classified as being in the combined pool section of the PSPS. The agreement allowed for the States of Guernsey to assign the value of the GFSC's actuarial account to the combined pool. As a result all of the historic defined benefit pension financial commitments were removed from the Commission's balance sheet as at 30 April 2017.

## NOTES TO THE FINANCIAL STATEMENTS *(continued)*

### Employee benefit obligations

a) The amounts recognised in the Statement of Comprehensive Income are as follows:

	2018	2017
	£	£
Net interest on net defined liability	-	(137,856)
Settlement gain	-	14,172,606
<b>Gain recognised in the Statement of Comprehensive Income</b>	<b>-</b>	<b>14,034,750</b>

b) The amounts recognised as re-measurements in other comprehensive income are as follows:

	2018	2017
	£	£
Return on assets (not included in interest)	-	563,530
Actuarial gains on obligation	-	197,550
<b>Total re-measurements recognised</b>	<b>-</b>	<b>761,080</b>
<b>Cumulative amount of re-measurements recognised in other comprehensive income</b>	<b>-</b>	<b>(4,095,086)</b>
<b>Actual return on scheme assets</b>	<b>-</b>	<b>747,959</b>

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

	2018	2017
	£	£
Opening defined benefit obligation	-	(35,245,295)
Liabilities extinguished on settlement	-	35,196,206
Interest on obligation	-	(322,285)
Experience gains	-	197,550
Loss from changes in assumptions	-	-
Net benefits paid including pensions, lump sums, refunds of member contributions and transfer values	-	173,824
<b>Closing defined benefit obligation</b>	<b>-</b>	<b>-</b>

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

	2018	2017
	£	£
Opening fair value of scheme assets	-	20,328,639
Assets distributed on settlement	-	(21,023,600)
Interest on scheme assets	-	184,429
Return on assets (not included in interest)	-	563,530
Contributions by employer	-	122,159
Net benefits paid including pensions, lump sums, refunds of member contributions and transfer values	-	(173,824)
Administration expenses	-	(1,333)
<b>Closing fair value of scheme assets</b>	<b>-</b>	<b>-</b>

e) Disclosure for defined contribution schemes

i) **Defined Contribution Scheme 1**

The amount recognised in the profit and loss account as an expense in relation to Defined Contribution Scheme 1, for the year ended 31 December 2018, was £81,777 (2017: £100,464). No contributions were outstanding as at 31 December 2018 or 2017. Employer contributions are calculated at 12% of pensionable salary and mandatory employee contributions were at a rate of 5% of pensionable salary up until 30 June 2014. Subsequent to this date, employee contributions are entirely voluntary.

ii) **Multi-member RATs scheme ("GFSC Group Pension Scheme")**

The net expense of employer contributions to the GFSC Group Pension Scheme for the year ended 31 December 2018 was £482,420 (2017: £429,390). No contributions were outstanding as at 31 December 2018 or 2017 and no contributions were prepaid as at 31 December 2018 or 2017. Employer contributions are calculated at 12% of pensionable salary and employee contributions are entirely voluntary.

## 8. Operating lease commitments

The Commission had minimum lease payments under non-cancellable operating leases as set out below:

	£
Lease payments up to 1 year after balance sheet date	664,927
Lease payments between 1 and 5 years after balance sheet date	2,659,708
Lease payments more than 5 years after balance sheet date	7,121,095
<b>Total future minimum lease payments</b>	<b>10,445,730</b>

The Commission leased office accommodation at Gategny Court during the year. The lease for Gategny Court is non-cancellable and expires on 16 September 2034.

## NOTES TO THE FINANCIAL STATEMENTS *(continued)*

### 9. Controlling party

In the opinion of the Commissioners there is no controlling party of the Commission, as defined by FRS 102 (Section 33.5), 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.

### 10. Cash at bank and in hand and short-term deposits

	At 1 January 2018	Cash flow	At 31 December 2018
	£	£	£
Call account balances	96,290	(11,016)	85,274
Cash at bank and in hand	1,436,549	(545,264)	891,285
<b>Total cash at bank and in hand</b>	<b>1,532,839</b>	<b>(556,280)</b>	<b>976,559</b>
Certificates of deposit	1,255,920	51,847	1,307,767
Fixed deposits and notice accounts	5,503,084	755,043	6,258,127
<b>Total short-term deposits</b>	<b>6,759,004</b>	<b>806,890</b>	<b>7,565,894</b>

Certificates of Deposit are managed as liquid investments and have maturity dates typically between three months and one year after the balance sheet date. The fixed deposits have original maturity dates ranging between three months and one year, whilst other deposits require notice of withdrawal of a maximum of three months.

### II. Current asset investments

	2018	2017
	£	£
Opening fair value	3,298,894	3,190,973
Purchases	-	-
Net movement in fair value through profit or loss	(100,027)	107,921
<b>Market value</b>	<b>3,198,867</b>	<b>3,298,894</b>

A defensive strategy for these current asset investments is employed, and the portfolio comprises shares, bonds and funds, held in listed companies and gilts, which are traded on a regular basis. The total unrealised loss recognised on these investments in the year was £100,027. The portfolio was first established in February 2015.

## 12. Financial instruments

The Commission's financial instruments may be analysed as follows:

	2018	2017
	£	£
<b>Financial assets</b>		
Financial assets measured at fair value through profit or loss	3,198,867	3,298,894
Financial assets measured at amortised cost	8,612,704	8,360,025
<b>Financial liabilities</b>		
Financial liabilities measured at amortised cost	1,674,524	2,006,205

Financial assets measured at fair value through profit or loss comprise a portfolio of equities, bonds and funds, which are valued at the reporting date at the quoted bid price.

Financial assets measured at amortised cost comprise cash at bank and in hand, certificates of deposit, short-term deposits, and other debtors.

Financial liabilities measured at amortised cost comprise creditors.

## 13. Financial penalties and provisions for bad debts

During the year the Commission imposed financial penalties under section 11D (1) of the Financial Services Commission (Bailiwick of Guernsey) Law, 1987 as amended, amounting to £108,500 (2017: £136,500). The amounts written off and provided for by the Commission during the year amounted to £72,134 (2017: £101,636).

The total of provisions relating to financial penalties as at 31 December 2018 were £68,088 (2017: £194,946). Provisions relating to other fees outstanding at 31 December 2018 total £79,195 (2017: £32,196). 2018 debts totalling £6,757 (2017: £23,726), written off during the year, are also reflected under bad debt expense. Recoveries of previously disclosed doubtful debts, reflected under bad debts recovered, amounted to £40,288 (2017: £34,748).



## NOTES TO THE FINANCIAL STATEMENTS *(continued)*

### 14. Provision for liabilities

A provision is maintained for dilapidations, including redecoration, to cover future liabilities under the terms of the Gategny Court operating lease. Over the course of the 24 year lease the dilapidation provision is planned to increase to £700,000, subject to annual inflationary increases. Provision for re-decoration of the office is also included which needs to be undertaken on a 5 yearly cycle.

	2018	2017
	£	£
Provision brought forward from previous year	235,969	198,096
Dilapidations charged to Statement of Comprehensive Income	38,487	37,873
<b>Total provision at year end</b>	<b>274,456</b>	<b>235,969</b>

### 15. Related party

#### Key management personnel compensation

Key management comprises the Commissioners and members of the Executive Committee. The compensation paid to key management for employee services in 2018, including pension and social insurance, amounted to £2,274,838 (2017: £2,158,460).

#### Related-party transactions

The Commission engaged Commissioner Dorey's husband to provide a presentation on external regulation. This was contracted on an arm's length basis and is not considered to be significant in the context of the business of the parties. Separately, Commissioner Dorey, in her capacity as a Non-Executive Director of Schroders (C.I.) Limited, is not present at discussions with Commissioners relating to any business involving this firm, which provides investment and deposit administration services for the Commission.

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## COMMISSIONERS

### **Drs. Cees Schrauwers** **Chairman of the Commission**

Drs. Schrauwers is a Dutch economist with over forty years' experience in financial services. 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 implementation of 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 its insurance consultancy practice. He has served as Chairman of Drive Assist Holdings Limited, Senior Independent Director of Brit Insurance Holdings Plc. and Brit Syndicates Limited, Non-Executive Director of Canopus Holdings UK Limited and Canopus Managing Agents Limited, Director of Munich Re (UK) Plc and as Senior Independent Director of Record Plc for nine years. He also served as an Independent Director at the Scottish Widows Group and Chairman of EC3 Legal LLP. He is currently Chairman and Commissioner of the Guernsey Financial Services Commission. Cees was appointed as a Commissioner in 2008 and Chairman in 2012 and is also a Non-Executive Director of China Taiping Insurance (UK) Company Limited. He was educated at the Vrije Universiteit Amsterdam and the Nautical College Den Helder. He lives with his wife near London.

### **Bob Moore** **Vice-Chairman of the Commission**

Bob Moore was appointed as a Commissioner in February 2012 and Vice-Chairman with effect from 2 February 2017. He has spent over thirty 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 United States, the United Kingdom and in 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 banks and investment funds.

### **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 Chief Secretary to the Treasury and a member of the Shadow Cabinet. 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 forty 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.

### **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 twenty years has been a consultant advising a wide range of clients in financial services on regulatory, risk and governance issues. He was previously Chairman of Faber Global Limited, a wholesale insurance broker and Barbican Managing Agency Limited, a Lloyd's managing agent. He is currently a Non-Executive Director on the Board of Beach UK Holdco Limited, a reinsurance broker.

## Commissioners *(continued)*

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### **Simon Howitt Commissioner**

Advocate Howitt was appointed as a Commissioner in June 2013. He has over thirty years' experience as an advocate and is a consultant at Babbé having previously been a Partner. 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 and its successor, the Legislation Review Panel, since 2004, the share transfer duty working party and the Inheritance Law Review Committee. Advocate Howitt is currently the Deputy Bâtonnier of the Guernsey Bar.

### **Wendy Dorey Commissioner**

Wendy Dorey was appointed as a Commissioner in November 2015. She has spent over twenty years in the financial services industry in the UK, France and Guernsey. Prior to moving to Guernsey in 2010 as Director of Dorey Financial Modelling, she occupied senior posts in financial marketing, distribution and business planning and strategy with Robert Fleming, Friends Ivory & Sime and M&G Asset Management in London. During that period she was also responsible for internal audit reporting, external risk reporting to the Financial Services Authority and embedding new "Treating Customers Fairly" processes. In 2005, she was responsible for the launch and on going promotion of the Guernsey-domiciled M&G Property Fund to the UK Market. She also previously assisted the Investment Management Association in developing a new investment management syllabus for Independent Financial Advisors. In November 2017, she was appointed as a Non-Executive Director of Schroders (C.I.) Limited and obtained a Diploma in Company Direction from the Institute of Directors in 2018.

### **John Aspden MBE Commissioner**

John Aspden was appointed as a Commissioner in April 2017. He is a senior finance professional with significant experience in investment and banking supervision in both the public and private sectors. He was Chief Executive of the Financial Supervision Commission in the Isle of Man from 1998 to 2015, where he was responsible for the regulation and supervision of all banking, securities and funds, trusts and companies, and money transmission activities. Prior to taking up his role at the Financial Supervision Commission in the Isle of Man, Mr Aspden held roles in the private sector including Managing Director of Matheson InvestNet Ltd, at the time Hong Kong's largest independent distributor of, and adviser on, collective investments for retail investors. Mr Aspden has also held the role of Deputy General Manager of the International Bank of Asia Ltd and has worked in banking supervision at the Bank of England and at the Office of the Commissioner of Banking in Hong Kong, now HKMA. Mr Aspden is also Chairman of the Group of International Finance Centre Supervisors and was awarded a MBE for his work in financial services supervision.

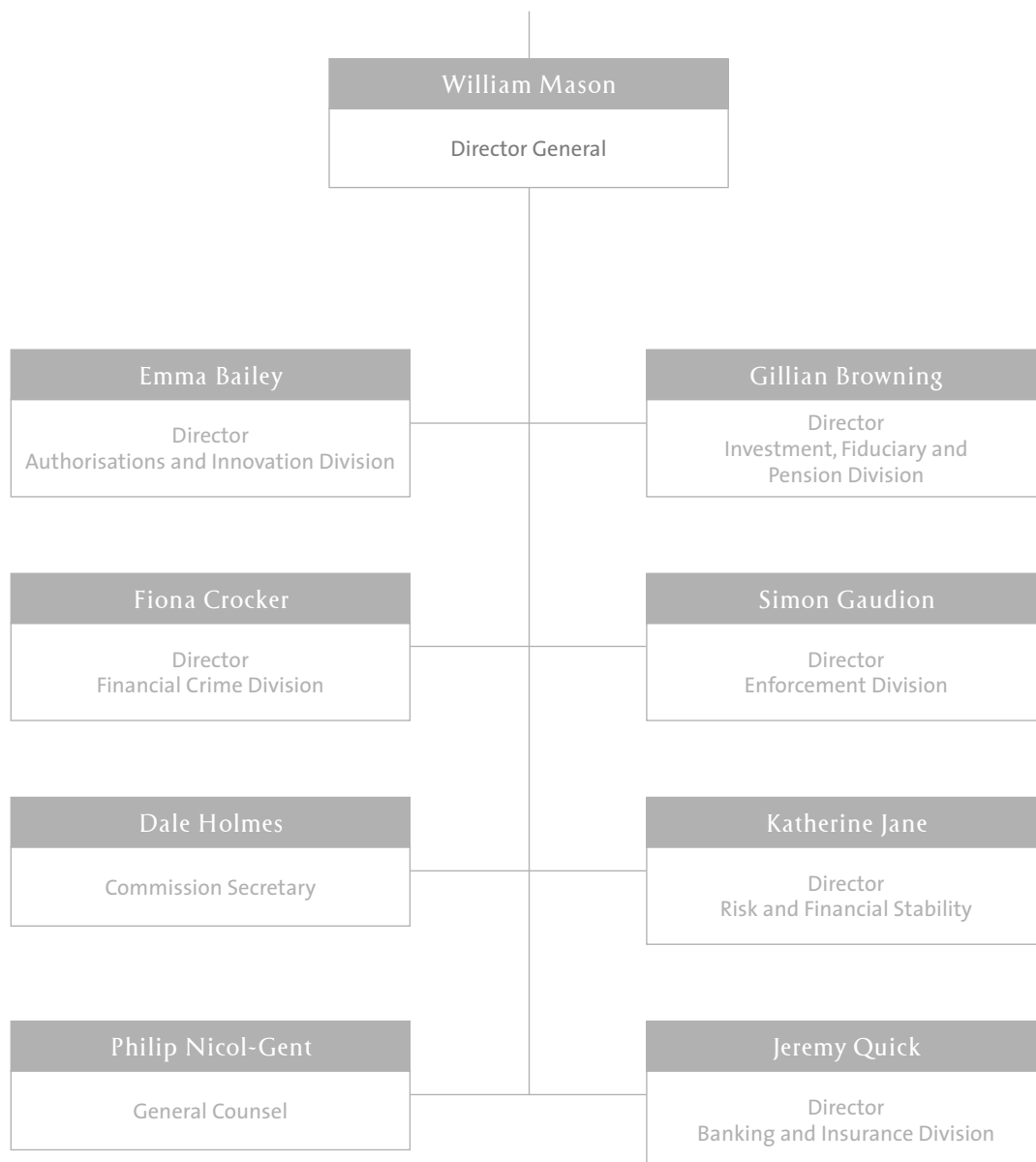
### **Philip Middleton Commissioner**

Philip Middleton was appointed as a Commissioner in April 2017. He is a senior financial services strategist with significant recent experience in advising government, central banks and financial institutions on crisis related issues. Since 2014, he has carried out consulting and advisory work in central banking and financial services through Rifle House Capital Ltd. He is also Deputy Chairman of the Board of the Official Monetary and Financial Institutions Forum, a leading Central Banking think tank. He has had significant experience in the private sector, holding various roles within KPMG LLP, including Partner and European Head of Financial Services Strategy, and within Ernst & Young LLP, including Partner and Head of Central Banking, EMEIA.



# SENIOR OFFICERS OF THE COMMISSION

## COMMISSIONERS



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# STATISTICAL DATA

## Investment, Fiduciary and Pension Division

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

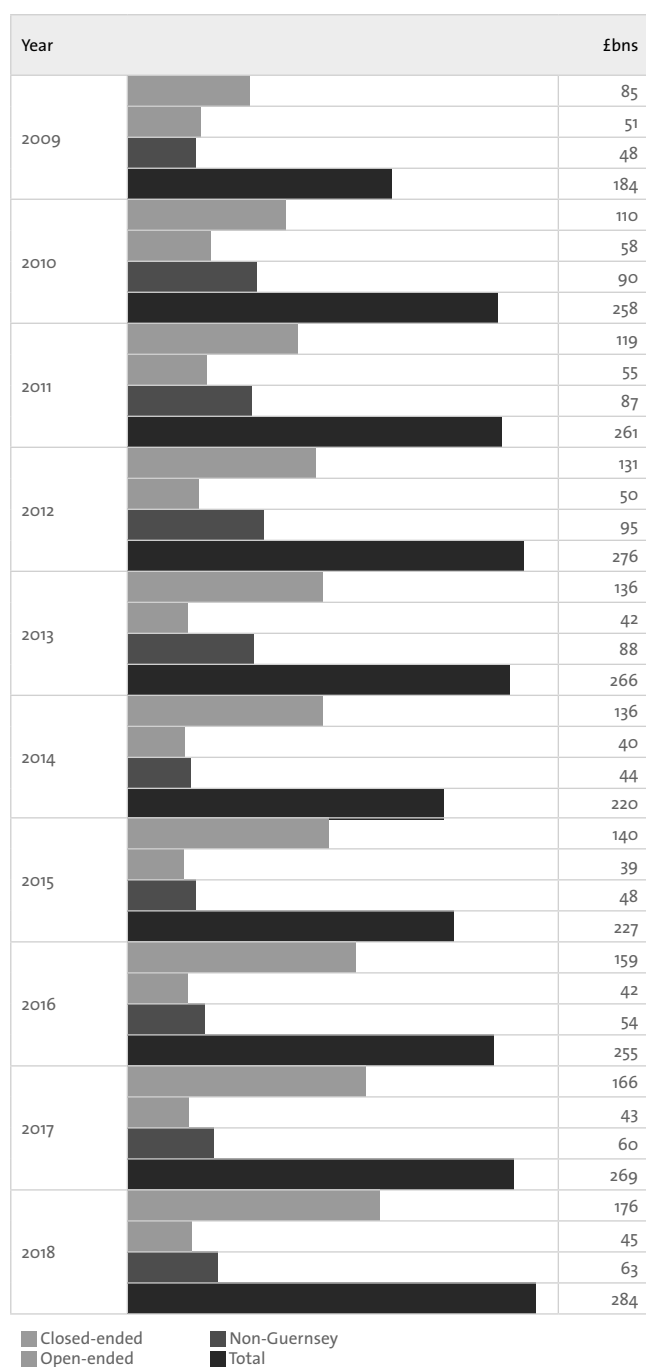


Figure 2. Total number of investment funds at the year end

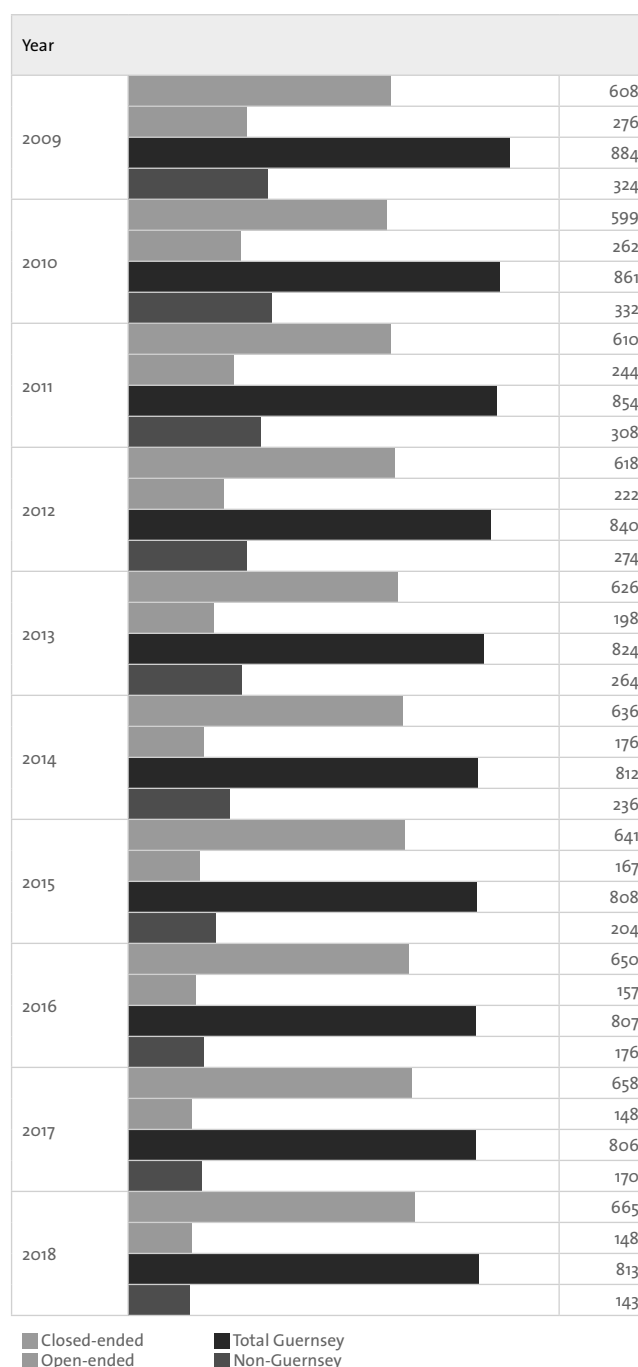


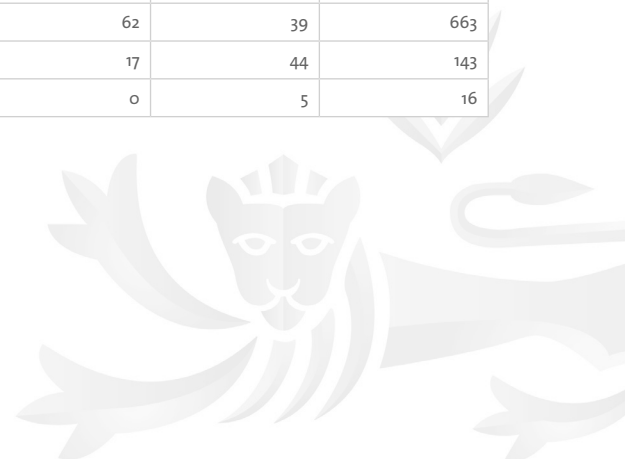
Figure 3. Total number of investment licensees at the year end

Year	
2007	636
2008	680
2009	661
2010	652
2011	654
2012	644
2013	635
2014	622
2015	639
2016	644
2017	640
2018	663

Under the Protection of Investors (Bailiwick of Guernsey) Law, 1987, investment funds (Figure 2.) are either Registered or Authorised; whereas the firms (Figure 3.) undertaking Controlled Investment Business are Licensed under the same law. There is no meaningful correlation to be drawn between the number of investment funds and the number of licensees in existence.

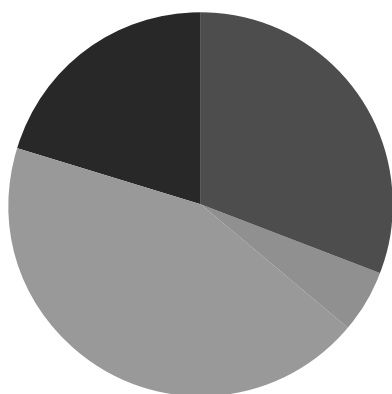
Figure 4. Movements within period

Type	Total as at 31 December 2017	Approved in year	Lost in year	Total as at 31 December 2018
<b>Total of open-ended schemes</b>	148	13	13	148
of which Authorised	134	8	12	130
of which Registered	14	5	1	18
of which Qualifying Investor Funds (QIFs)	23	1	1	23
<b>Total of closed-ended schemes</b>	658	57	50	665
of which Authorised	369	12	33	348
of which Registered	289	45	17	317
of which QIF's	160	8	11	157
<b>Total of licensees</b>	640	62	39	663
<b>Total of non-Guernsey schemes</b>	170	17	44	143
of which QIF's	21	0	5	16



## Investment, Fiduciary and Pension Division

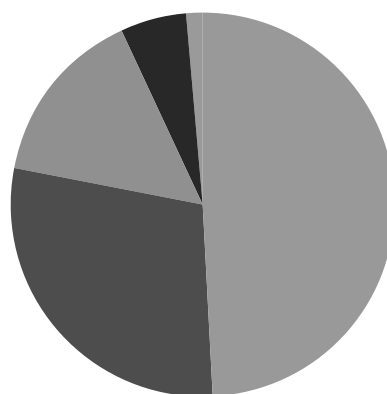
Figure 5. Ownership of Fiduciary lead licensees as at 30 June 2018\*



	2018	2017
■ International financial group	46	46
■ Lawyers and accountants	8	9
■ Privately owned – local	65	70
■ Privately owned – overseas	30	25

\*Based on 149 persons holding a full fiduciary licence as at 30 June 2018.

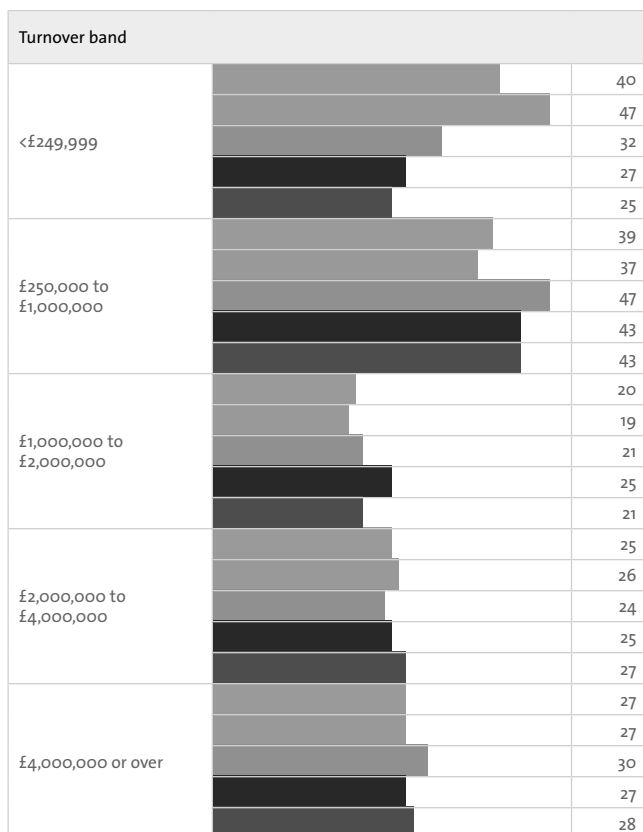
Figure 6. Staffing levels of licensees based on total number of staff carrying out regulated fiduciary activities as at 30 June 2018\*



	2018	2017
■ Up to 10 staff	72	75
■ 11-25 staff	42	44
■ 26-50 staff	22	22
■ 51-75 staff	8	5
■ More than 75 staff	2	1

\*Based on the submission of an annual return by 146 licensees as at 30 June 2018\*.

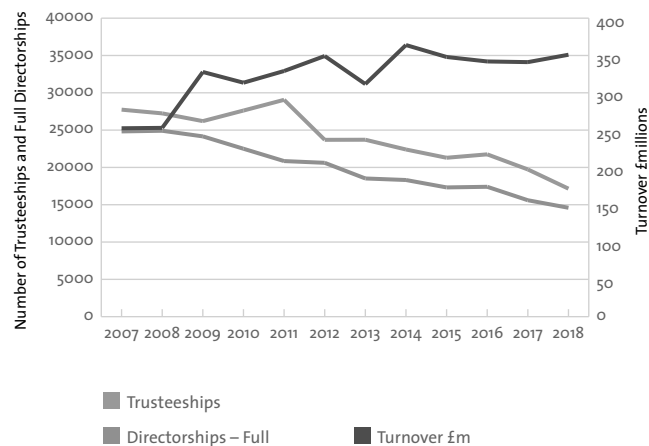
Figure 7. Number of licensees in each turnover band based on fiduciary turnover for accounting periods falling in the year ended 30 June 2018\*



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

- 2014
- 2015
- 2016
- 2017
- 2018

Figure 8. 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 Division

Figure 9. International insurers as at 31 December 2018

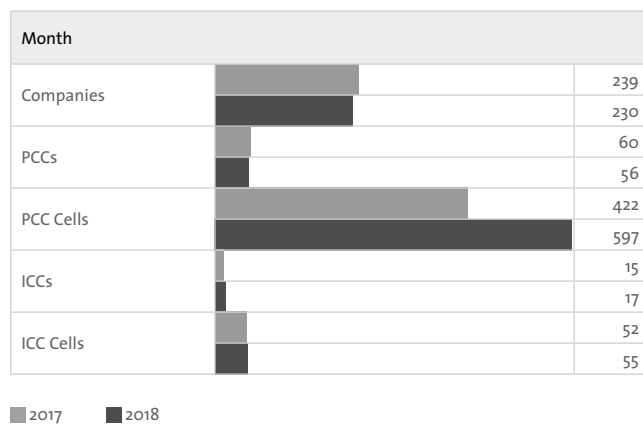


Figure 10. International insurers – net worth

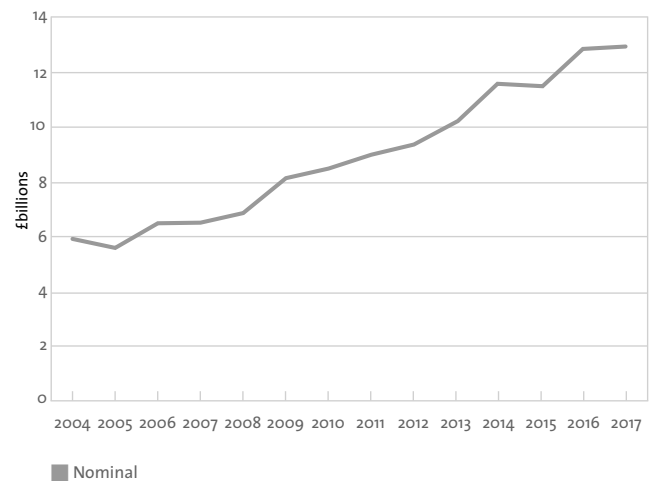


Figure 11. International insurers – gross assets

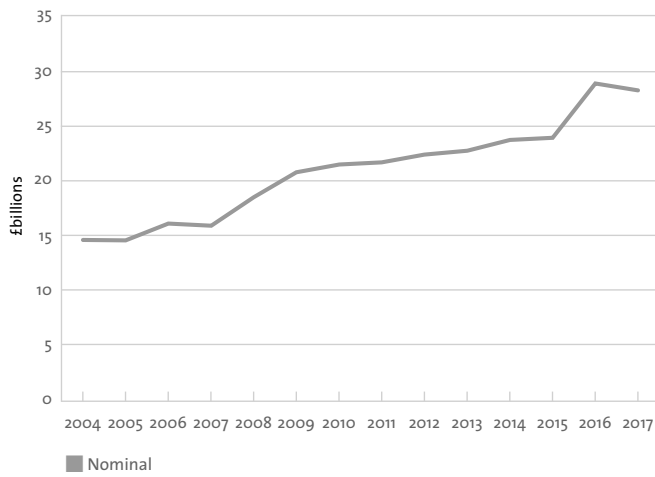


Figure 12. International insurers – gross premium

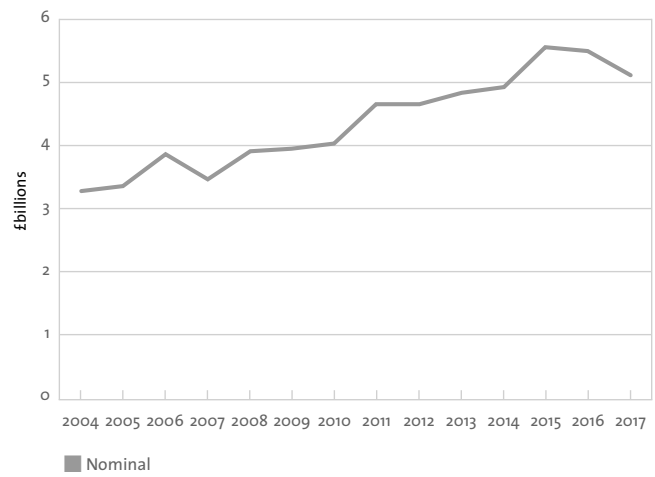


Figure 13. Guernsey bank assets

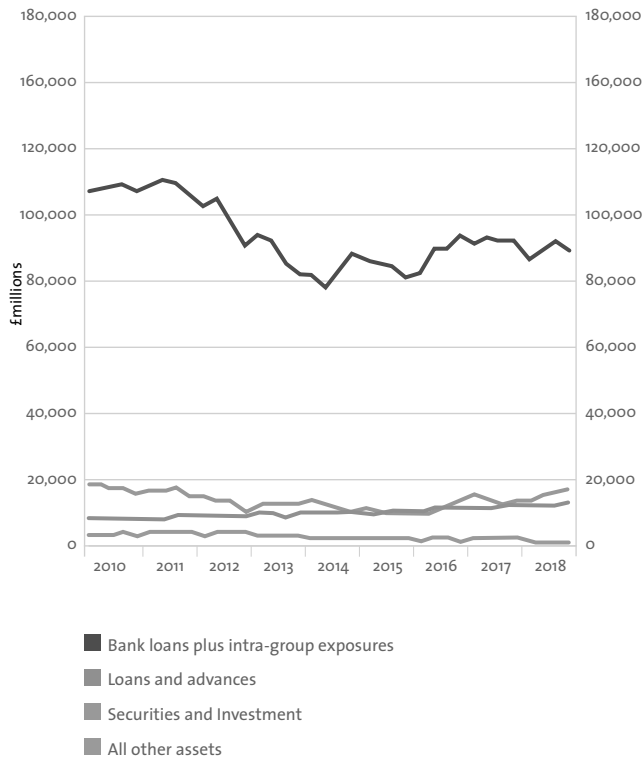
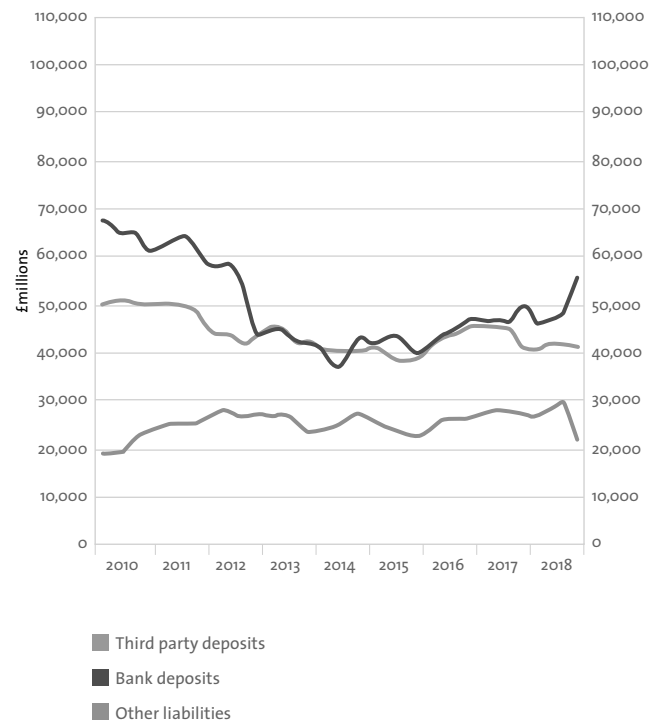


Figure 14. Guernsey bank liabilities



# Authorisations and Innovation Division

Figure 15. Total application and one-off fees by volume and type - 2017 to 2018 comparison

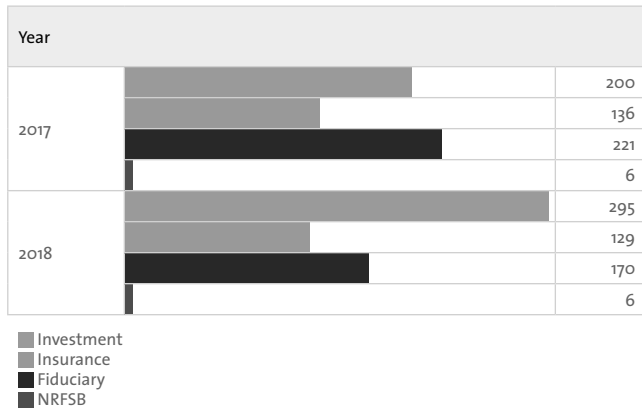


Figure 16. Online submissions 1 January to 31 December 2018

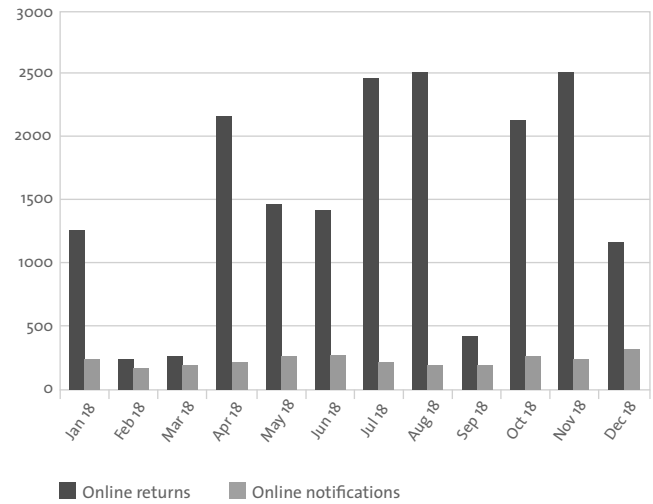
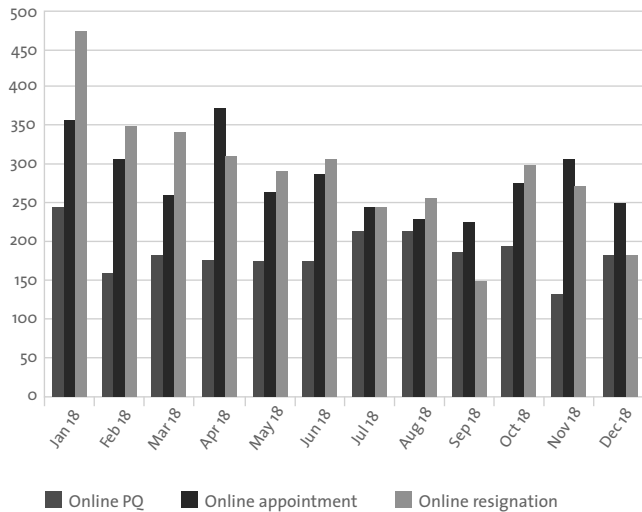


Figure 17. Online Personal Questionnaire portal submission 1 January to 31 December 2018



# Finance and Operations

Table 1. Expenditure by functional area

	2018	2017
	£'000	£'000
Enforcement	1,900	1,445
Authorisations	815	816
Risk	516	525
Supervisory and Policy divisions	5,451	5,500
Internal operational support functions	1,493	1,315
Overheads incl. Premises, IT expenses and depreciation	3,476	3,331
<b>Total</b>	<b>13,651</b>	<b>12,932</b>

Table 2. Salaries and related costs

	2018	2017
	£'000	£'000
Salaries	7,268	6,964
Pension costs	777	750
Social insurance, permanent health and medical insurance	877	840
Recruitment and training	392	357
<b>Total</b>	<b>9,314</b>	<b>8,911</b>

Table 3. Number of staff by total remuneration

Annual salary	2018	2017
£0 - £39,999 p.a.	38	31
£40,000 - £79,999 p.a.	58	61
£80,000 - £119,999 p.a.	12	13
£120,000 - £159,999 p.a.	6	6
£160,000 p.a. and above	2	3
Total number of staff	<b>116</b>	<b>114</b>
Full time equivalent	<b>108.8</b>	<b>109.6</b>
Comprising:		
Permanent staff	107	112
Fixed-term staff	9	2
	<b>116</b>	<b>114</b>
FTE vacancies at year end	10	4

Table 4. Legal and professional fees

	2018	2017
	£'000	£'000
Legal fees - enforcement	368	129
Legal fees - judicial process	262	68
Legal fees - advisory	15	24
Professional fees	162	278
Internal audit	14	38
<b>Total</b>	<b>821</b>	<b>537</b>



## Finance and Operations

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Table 5. Commissioners' fees

		2018	2017
		£	£
Cees Schrauwens		60,600	67,800
Robert Moore		27,000	27,000
Alex Rodger	Retired 1 February 2017	-	2,354
Lord Flight		35,000	35,000
Richard Hobbs		37,400	35,000
Simon Howitt		27,000	27,000
Wendy Dorey		27,000	27,000
John Aspden	Appointed 3 April 2017	35,000	26,250
Philip Middleton	Appointed 3 April 2017	35,000	26,250

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## 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 Protection of Investors (Bailiwick of Guernsey) Law, 1987 as amended;
- the Banking Supervision (Bailiwick of Guernsey) Law, 1994 as amended;
- the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999;
- 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;
- the Non-Regulated Financial Services Businesses (Bailiwick of Guernsey) Law, 2008.

### Relationship with the States

The Policy and Resources Committee of the States of Guernsey is responsible for 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 and Resources Committee.

The Commission maintains regular dialogue with the States. During 2018, the Commission continued to engage with the Policy and Resources Committee, with meetings held to facilitate an open exchange of views on matters of importance to the States and the Commission. The Commission also engaged with the Committee for Economic Development in relation to financial services legislation.

Outside of formal meetings and presentations, the Commissioners and Director General maintain regular contact with senior States Members.

### The Commissioners

The activities of the Commission’s executive are overseen by the Board of the Commission (Commissioners). The Commission Law provides that the Board shall consist of a minimum of five members who are elected by the States from persons nominated by the Policy and Resources Committee 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 three years from amongst the Commissioners and is elected by the States following nomination by the Policy and Resources Committee. The Vice-Chairman is appointed for a period of one year by the Commissioners. A Commissioner is appointed 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. Commissioners must currently retire on reaching the age of 75 years.

The Commissioners during 2018 were Drs. Cees Schrauwers, The Lord Flight, Richard Hobbs, Bob Moore, Simon Howitt, Wendy Dorey, John Aspden and Philip Middleton. A brief résumé for each Commissioner is provided on pages 50 and 51 of this report. Three Commissioners reside in Guernsey, with the remainder living in the UK.

There were 11 meetings of the Board in 2018. The attendance was as follows: Drs. Cees Schrauwers 11, Howard Flight 11, Richard Hobbs 11, Bob Moore 9, Simon Howitt 10, Wendy Dorey 10, John Aspden 11 and Philip Middleton 11. 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. In addition, each year Commissioners undertake a board effectiveness review.

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 and Resources Committee;
- 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.

### Annual report and financial statements

The Commission must, as soon as possible in each year, make a report to the Policy and Resources Committee on its activities during the preceding year. The President of the Committee 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 and Resources Committee, 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 and Resources Committee with confirmation in the 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.

Two Commissioners, Drs Cees Schrauwers and the Lord Flight have served as Commissioners for longer than nine years. The other Commissioners led by the Vice-Chairman have taken relevant factors into account and have concluded that those two Commissioners should continue to serve. This process will be conducted annually when necessary.

The Commission has robust policies and procedures in place to ensure that any conflicts of interest involving Commissioners or staff are managed effectively.

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

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

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## **Audit Committee**

In 2018, the Commission's Audit Committee comprised Simon Howitt, Wendy Dorey and John Aspden and was chaired by Richard Hobbs. The Committee covered oversight of the management of risk, reviewed corporate governance and the systems of internal control and reported routinely to meetings of the Board as a whole. Meetings are attended by the Director General, the Director of Risk and Financial Stability and the Financial Controller.

The Committee met four times in 2018. The attendance of the individual members at these meetings was as follows: Richard Hobbs four, Simon Howitt four, Wendy Dorey three and John Aspden four. The Audit Committee has oversight for non-regulatory risk; regulatory risk is reviewed by the Board as a whole.

## **Remuneration Committee**

The Remuneration Committee, which comprised Bob Moore (Chairman), Richard Hobbs, Wendy Dorey and Philip Middleton, is mandated to advise and assist the Commission in fulfilling appropriate governance in respect of remuneration policies, practices and structure.

The Committee has specific responsibility for proposing to the Board (1) the remuneration and reward of the senior executive and (2) the general policy for staff remuneration and benefits to ensure that all of our people are fairly rewarded for their individual contributions to the Commission. (The Policy and Resources Committee determines the level of Commissioners' fees)

Meetings are attended by the Director General and the Commission Secretary. The Committee met twice in 2018 with all members attending both meetings other than Richard Hobbs who attended one. The Commission's Chairman also attended one meeting.

## **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 2018, the Commission appointed an external party to undertake internal audits in the following areas:-

- Expenditure and Payments;
- Assets and Liabilities;
- Online Services.

The Commission also used an external party to facilitate an IT 'war gaming' exercise. Internal assurance reviews were undertaken on our use of PRISM and the development of our risk-based supervisory approach.

The outcomes of the audits have been taken forward to the satisfaction of the Audit Committee and the Board.

In 2018, the corporate governance standards of the Commission were reviewed by the Board. 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. This was reaffirmed by the Council of Europe's Financial Action Task Force regional inspectorate, Moneyval, which visited the Bailiwick in late 2014 and which published its final report in January 2016.

During 2017, an assessment was undertaken of the Bailiwick's regulatory regime against current international standards. This was undertaken by Mr Ian Tower, a former IMF assessor who was contracted by the Commission. The principal conclusion was that the main areas for improvement are already being progressed through the Revision of Laws project which is anticipated to be concluded by the end of 2019.

During 2018, an assessment was conducted by the International Association of Insurance Supervisors (IAIS) of the Bailiwick's insurance regulatory regime against current international standards. The results are expected to be received in the summer of 2019.



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**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**COMMITTEE FOR ECONOMIC DEVELOPMENT**

THE GUERNSEY COMPETITION AND REGULATORY AUTHORITY:  
ACCOUNTS AND AUDITORS' REPORT FOR THE YEAR ENDING 31<sup>ST</sup> DECEMBER 2018

The States are asked to decide:-

Whether, after consideration of the Policy Letter entitled "The Guernsey Competition and Regulatory Authority: Accounts and Auditors' Report for the year ending 31<sup>ST</sup> December 2018" dated 25<sup>th</sup> June 2019, they are of the opinion:-

1. To note the accounts of the Guernsey Competition and Regulatory Authority and auditors' report for the year ended 31<sup>ST</sup> December 2018.

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

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**COMMITTEE *FOR* ECONOMIC DEVELOPMENT**

THE GUERNSEY COMPETITION AND REGULATORY AUTHORITY:  
ACCOUNTS AND AUDITORS' REPORT FOR THE YEAR ENDING 31<sup>ST</sup> DECEMBER 2018

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

25<sup>th</sup> June 2019

Dear Sir

**1 Executive Summary**

1.1 The 2018 annual accounts of the Guernsey Competition and Regulatory Authority (“GCRA”) and auditors' report are hereby presented to the States in accordance with section 13(5) of the Guernsey Competition and Regulatory Authority Ordinance, 2012.

**2 Proposition**

2.1 The States are asked to note the accounts of the GCRA and auditors' report for the year ended 31<sup>st</sup> December 2018.

**3 Compliance with Rule 4**

3.1 Rule 4 of the Rules of Procedure of the States and their Committees sets out the information which must be included in, or appended to, motions laid before the States.

3.2 In accordance with Rule 4(4) of the Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the proposition above has the unanimous support of the Committee *for* Economic Development.

Yours faithfully

C Parkinson  
President

A C Dudley-Owen  
Vice-President

J I Mooney  
D de Lisle  
N R Inder



# ANNUAL REPORT 2018

## ABOUT THIS DOCUMENT

This document sets out our annual report and accounts for the period 1 January 2018 to 31 December 2018. It is presented to Guernsey's Committee for Economic Development and Jersey's Chief Minister pursuant to Section 13 of The Guernsey Competition and Regulatory Authority Ordinance, 2012 and Articles 17 and 18 of the Competition Regulatory Authority (Jersey) Law 2001. It also fulfils the obligations on CICRA as set out in the Islands' competition laws and sector-specific legislation, by including a description of the work we carried out during the year to fulfil our statutory responsibilities.

Further information about our work is available on our website [www.cicra.gg](http://www.cicra.gg) or [www.cicra.je](http://www.cicra.je).

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## CHAIR'S MESSAGE



### Making markets work is an accurate description of CICRA's purpose.

In small island economies, this purpose needs to be interpreted pragmatically, since the nature of the economies means that competition — the natural means of making markets work — will often be limited and that, in some cases, such as the supply of airports, there will be natural monopolies. In such cases regulation can be used in order to protect consumer interests from monopoly power.

During the past year, we have worked effectively with the islands' telecom companies, both in overseeing their normal operations and in working with them and government bodies to consider the pathways towards 5G technology. It is in the interests of islanders, and the economies of the islands, that the deployment of such technologies is carried out in a way that is both economically efficient, e.g. avoiding unnecessary duplication of infrastructure expenditure, but also gives a commercial return to the operators. As technology cycles become ever shorter, ensuring both investment and return becomes correspondingly more difficult. Our focus has, therefore, been on anticipating the issues and seeking solutions, rather than trying to sort them out afterwards, when it is likely to be too late. I am grateful to the telecom operators for the constructive way in which they have engaged with us in these discussions.

We have also worked intensively with Ports of Jersey Ltd (PoJ), including significant Board-level participation on both sides, on devising a price control mechanism that enables PoJ to undertake necessary investment, while protecting airport and seaport users and building incentives for efficiency improvements by those running the ports. This engagement has been time-consuming and not without its difficulties, but I am pleased that we have conducted our first public consultation. We are on target to conclude the process mid-2019.

In Guernsey, it was decided several years ago to remove the regulation of postal services and electricity from our remit. This decision was, however, never formally passed into law, leaving us still as *de jure* regulators. In the electricity sector, this began to come to a head in August 2017 as a competitor firm appeared in the market and we had to make a number of decisions about access, despite the 2015 decision. We now understand that our role in electricity market regulation will be formally restored, which will facilitate our taking a more active role in this space.

As I wrote last year, we lost a case in the Royal Court of Jersey concerning ATF and fuel supply. The then Chief Minister commissioned a review, conducted by a senior Queen's Counsel, Kassie Smith, into both our handling of the case and the implications for the application of competition law in Jersey. I am delighted that the review found that CICRA acted correctly throughout, both on the substance of the issue and in the application of its processes. This validation of the professionalism of our staff is greatly welcomed. We are in discussion with relevant officials about the review's recommendations in respect of the application of competition law.

During the year, Philip Marsden and Peter Neville retired from the Board, Philip after eight years and Peter after two separate terms. I would like to thank them for their wise counsel and commitment. John Curran, formerly a chief executive of one of our predecessor bodies, has joined the Board and we welcome the knowledge and experience, as well as the island presence that he brings.

**Michael O'Higgins**

## CHIEF EXECUTIVE'S REPORT



As an economic regulator and competition law enforcement body the overarching aim of the Channel Islands Competition and Regulatory Authorities is to make markets work. What this means in practice varies with the structure and dynamics of these different markets as well as the duties given to us set out in law. Our strategic objectives documents set out our ambitions in greater detail for each of our areas of responsibility.

Markets exist to serve consumers and thriving, efficient markets are in their interests as well as businesses and society.

Investment in next-generation connectivity, supporting policy ambitions to maintain the pace of innovation, improving the quality of services available to islanders, and facilitating productivity gains through efficient competitive markets are just some of the factors we weigh up in our decisions that aim to make markets work.

The island economies of Jersey and Guernsey are continuously subject to the force of technological advances. The policy and strategic direction to harness the benefits of that are provided by both the States of Jersey and the States of Guernsey in the telecoms sector. These have been a major contribution to this key sector of our work over 2018, guiding CICRA's own regulatory framework and priorities. Progress in the development of policy in the energy sector is also underway, which will provide similar benefits.

CICRA's processes and the manner in which we approach our decision making reflect the complexity and scale of a number of areas of our work over 2018 as well as a wish to draw from a wide pool of stakeholders who can support us in making the right decisions. Over 2018 we held a series of open workshops and summits engaging those who have a stake in the outcome of our decisions. This approach has been strongly endorsed by industry groups, attracting a wide range of participation across our key stakeholders and we are grateful for their role.

In the telecommunications sector, we facilitated 'summit events' covering 5G and Broadband. These have supported open discussions on key issues and provided perspectives from a wide group of stakeholders, making for a constructive process and significantly enhancing our decision-making process. In particular, it has allowed us to bring in contributions from parties that would otherwise not participate in formal 'document based' consultation processes. Government executives and Ministers have also played a key role in the success of these events.

A similar process was undertaken to assist consideration of Ports of Jersey's (PoJ) long term regulatory pricing framework, with a wide representation of stakeholders present at the public event. As key 'gateways' of the island, the importance of the airport and harbours for Jersey are plain. We all share the ambition to have a safe, secure and efficient airport and harbour. As the monopoly provider, PoJ has a significant responsibility to demonstrate its commitment to those imperatives to ports users while CICRA as the economic regulator has a key role in balancing the needs of customers, shareholders, PoJ and the wider interests of Jersey. Transparency is also key and to that end CICRA has put in place a framework for PoJ to report on its quality of service performance.

Our competition law enforcement work is largely in response to events and issues that arise, including merger transactions. We have carefully looked at a number of notified merger transactions over 2018, focussing on those where a risk of market concentration might not serve consumers well.

A review commissioned by the Jersey Chief Minister of a decision made by the Competition Authority was carried out over 2018 by a leading Queen's Counsel. The conclusions from that review are a significant validation of our approach and an endorsement of the professionalism of our staff in a case that went to appeal in the Jersey Royal Court. Our processes, the measured way the case was developed and reasons for defending its decision in the Royal Court were considered carefully and emphatically endorsed by that review. However, the recommendations

also identify a need for a significant rethink in key areas of the appeals framework and we strongly support the recommendations in that report. It is our hope that they will be rapidly acted upon.

Another area of focus of our competition work has been to improve the understanding of the scope and purpose of the competition law through a number of education seminars targeted at the particular needs of businesses, policy-makers and civil servants. In common with other jurisdictions, small and medium businesses have limited capacity to invest in this area of law so the Authority has hosted a series of educational programmes with law firms, who are in regular contact with and advise such clients. Given the importance of public procurement projects we then rolled out a programme of bespoke education events for public service procurement officials who rely on the market to deliver public projects. The benefits of fair competition are important in this area and the designers of public sector bidding processes should be as alive to the risks of anti-competitive behaviour as any commercial business. The ongoing levels of attendance and feedback from those events have been positive and we will continue to develop them as long as a demand exists.

Over 2018 we have also been involved in settling a dispute between Guernsey Electricity Ltd and International Energy Group Ltd in the energy sector where market changes pose new challenges and opportunities. This sector is changing quickly and new questions are posed for incumbents, alternative providers as well as policy makers. As consideration is given to energy policy in Guernsey and Jersey and given the decision by the Guernsey Committee for Economic Development for us to continue to carry out our statutory duties in the electricity sector, an energy policy that guides economic regulation will serve the interests of islanders well and we will support that process.

2019 promises to be a year with a number of significant regulatory projects culminating in decisions that deliver against our legal duties. The quality and commitment from a small team is the foundation on which the success of the Authority relies. The high standard they hold themselves to is apparent in the quality of their work in a context where the volume and scope of areas they cover is considerable. Validation of their high standard of professionalism from a Queen's Counsel with significant expertise in the field of competition law and regulation is something they can be justifiably proud of.

Finally, the extent to which key participants in the sectors we regulate have been willing to invest their time and energy in the work we do not only underlines the importance to them to these areas but is also very much appreciated by us. I therefore want to thank those who have participated in the new approach to engagement by us over the year and look forward to continuing that into 2019.

**Michael Byrne**

# OUR YEAR AT A GLANCE

## 16.4 DAYS

The average number of days we took to clear the 11 phase I merger applications received during 2018.

## 27

During 2018 we publically consulted on 27 occasions across both islands, all regulated sectors and in relation to competition law matters.

## 5G

CICRA facilitated two 5G summits designed to bring together key stakeholders in support of the policy objectives of the States of Jersey and States of Guernsey.

## 80

We ran eight training sessions across the Channel Islands attended by 80 local advocates focussed on the roles of CICRA, competition policy and compliance with competition law.

Separately competition law procurement training was well received by States of Guernsey employees.

## SMITH REVIEW

In December we welcomed the outcome of the review by Kassie Smith QC of an appeal to the decision that competition law had been breached in Jersey.

The review confirmed that CICRA asked the right questions, focussed on the correct issues, acted properly from a legal and professional viewpoint and its decision based on the evidence before it was wholly justified.

## NED APPOINTMENT



We welcomed John Curran to the Board

## SPECTRUM

We completed a reorganisation of the 2.1GHz and 2.6GHz spectrum bands to ensure efficient allocations for the current market and technological context.

## PRICING

We started the process (that will conclude in 2019) to introduce a longer term pricing framework for Ports of Jersey Ltd, focussing on the needs of consumers in the short and longer term.

## TRANSPARENCY

We introduced quality of service reporting in the ports sector and repeated our customer satisfaction and quality of service reporting in the telecoms and post sectors. Transparency is key to ensuring consumer can make informed choices.

# PERFORMANCE REPORT

## What we do

We are responsible for administering competition law and regulating the telecoms sector across the Channel Islands together with regulating the ports and postal sectors in Jersey.

We are one of a number of agencies that work together to help Channel Islands businesses and consumers get the best from services they receive and to protect them from unfair practices. We can also be called on to advise government on matters of economic regulation and competition.

Where appropriate, we support competition as the basis for delivering good consumer outcomes.

We are an independent public authority, accountable to the States Assemblies in Jersey and Guernsey.

We operate as CICRA but were established as two separate entities, the Guernsey Competition and Regulatory Authority (GCRA) under the Guernsey Competition and Regulatory Authority Ordinance, 2012 and the Jersey Competition Regulatory Authority (JCRA) under the Competition Regulatory Authority (Jersey) Law 2001.

Our functions and legal duties guide the direction of our work and are set out in legislation passed by the States Assemblies in each island, to whom we are accountable.

## Our principal duty is to ensure markets work

In competition law, we ensure businesses compete fairly with each other by working in a way that generates the positive, defined benefits associated with free markets, has a positive impact on the Channel Islands economies as a whole, and delivers outcomes that are trusted, respected and as far as reasonable consistent with international norms.

In the telecoms sector, we carry out our functions in a way that maintains well-regulated Channel Islands telecoms markets, supports retail competition and the path to next generation connectivity (5G) and co-ordinates spectrum and number management with Ofcom (the UK telecoms regulator).

In the postal sector, we provide oversight of Jersey Post's behaviour and charges, as well as ensuring quality of service provision and USO obligations are met.

In the ports sector, we provide oversight that ensures charges for services and facilities are reasonable as well as protecting consumers through a transparent and relevant range of quality of service standards.

# PERFORMANCE REPORT - PROGRESS ON DELIVERING AGAINST OUR ANNUAL WORK PROGRAMME

## 1. Competition Law



Competition law came into force in 2005 in Jersey and in 2012 in Guernsey. The policy reasons for putting in place a system of competition law were virtually identical across both jurisdictions and are consistent with international best practice.

Competition law enforcement is a role that generally responds to market events such as mergers, acquisitions or concerns about anti-competitive behaviour. It may however also look at whether markets are working as well as they should by carrying out market reviews. The three overarching strategic objectives for Jersey and Guernsey by CICRA in this area of its responsibilities are:

*Generate positive, defined benefits for Channel Islands businesses and consumers associated with free markets.*

*Have a beneficial impact on their respective economies as a whole.*

*Deliver outcomes that are trusted and respected, and as far as reasonable, consistent with international norms.*

Given our experience over the past few years, particularly from investigating matters brought to our attention, it is apparent that the level of competition law awareness among key stakeholder groups in the Channel Islands is underdeveloped. CICRA came to a view that if the above aims are to be achieved a concerted effort is needed to address this.

Low levels of awareness are by no means unique to the Channel Islands or confined to jurisdictions where competition law is relatively new. However, CICRA recognises that these low awareness levels may prevent the full realisation of the benefits to the Channel Islands' economies, businesses and consumers that the States of Guernsey and the States of Jersey intended to flow from the introduction of competition law. It may, in fact, contribute to a more expensive competition law oversight regime since addressing behaviour arising from not fully understanding what is required under the law can lead to greater cost in terms of resources needed to address any failings after the fact. CICRA has identified two ambitions in this area:

- Raise the awareness and understanding of competition law within public bodies so that measures taken by those public bodies are informed by the need to promote (or take account of the aims of) competition law where possible;
- Increase key stakeholders' awareness of the benefits of competition and the role that competition law and its aims can play in promoting and protecting welfare enhancing competition as well as the risks from non-compliance. If businesses are more aware of the law and have better compliance processes there is less likelihood that they will break the law.

A series of competition law training sessions targeted at public procurement personnel have already taken place and proven successful. CICRA will expand on this and advance its strategic priorities through a number of targeted advocacy projects.

*Investigate, and where appropriate remedy, contraventions of the competition law consistent with CICRA's prioritisation principles*

This is an ongoing work-stream.

CICRA investigates cases on the basis of its prioritisation principles, and may use less formal methods of engagement, including education, to address any potential contraventions. The work is largely reactive.

CICRA receives numerous informal complaints from a range of complainants. Where complaints disclose a potential genuine competition law issue, officers will assess whether these meet CICRA's prioritisation principles for investigation before undertaking a formal "reasonable cause to suspect" analysis. Of the cases reported to it, CICRA progressed one to the formal "reasonable cause to suspect" stage during 2018. One further case remains open at year end and may result in further action in due course.

As a result of the Smith Review of the ATF appeal, we will, where it is appropriate, publish how we have assessed cases against our prioritisation principles.

*Support the States of Jersey and Guernsey to bring block exemptions into effect*

Following the recommendation made, supported by Oxera in its 2015 report<sup>1</sup>, and further discussion during 2016, CICRA remains available to progress this work with the States of Jersey and Guernsey.

*Support the States of Jersey and Guernsey to bring into effect recommendations for changes in the merger and acquisition framework prescribed by Jersey and Guernsey competition law*

In Jersey, following the recommendation made by Oxera in its 2015 report, CICRA consulted on changes to the merger control rules in 2015 and made recommendations to the government departments in 2016. In addition, CICRA has proposed an amendment to the Jersey Order, which if accepted would mean that transactions approved by the European Commission would not also require clearance by CICRA in Jersey. This would partly address some of the issues this work stream has sought to resolve prior to law changes

Officers remain available to progress this work with the States of Jersey on which CICRA must rely to achieve this objective. This matter continues to be raised at meetings with senior government officials.

In Guernsey, officers have held meetings with the Law Officers department and civil servants to progress this work and have undertaken further work on particular aspects of CICRA's recommendations. CICRA officers remain available to undertake any further work required by the States of Guernsey in this area.

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<sup>1</sup> <https://www.oxera.com/Latest-Thinking/Publications/Reports/2015/A-review-of-the-Jersey-regulatory-and-competition.aspx>

*Work with consumer bodies to support consumer interests in a manner that is joined-up and focussed on priority areas*

CICRA remains available to work with consumer bodies to support consumer interests when it is appropriate to do so.

*Scrutinise proposed mergers and acquisitions where they are subject to notification*

During 2018, CICRA reviewed 14 mergers. 2 were withdrawn, 11 were cleared at the end of the first detailed review period (Phase 1) and 1 was cleared at the end of the second detailed review period (Phase 2). Clearance in Phase 1 took an average of 16.4 days against an administrative target of 25 days.

*Evaluate the merits of exemption applications received*

1 clearance application was received during 2018, and is being progressed by officers.

*A series of seminars, through the legal community, for businesses on the benefits of competition law and practical strategies for compliance*

During 2018, CICRA officers ran eight training sessions for advocates in Guernsey and Jersey, attended by approximately eighty advocates across the two jurisdictions. The sessions, which focused on the role of CICRA, the role of competition policy and practical compliance with competition law, were well received. In particular, feedback forms indicate uplifts of the following order:

- Understanding of CICRA's role +27%
- Understanding of competition policy +25%
- Application of competition law to work +18%
- Ability to spot issues +31%

A competition and procurement law training programme was delivered to States of Guernsey employees. This consisted of ten sessions, each one attended by a maximum of twelve participants. Feedback on these sessions has been very positive with a marked improvement in attendees' understanding of CICRA's role and of competition law. Officers will meet with senior civil servants in Jersey in early 2019 to explore whether similar training could be offered in Jersey.

*Assessing levels of awareness of competition law amongst Channel Islands businesses to identify whether any specific sectors may be at particular risk of non-compliance with proactive engagement where this is found to be the case*

Officers have engaged with a number of business organisations, such as Jersey Business, Digital Greenhouse and Chamber of Commerce, and have been working to put together practical support for their members to help them comply with and derive the benefits from competition law.

*Engaging with competition law specialists from other jurisdictions (EU / UK) to facilitate one or more "round table" forums for law officers and/or judiciary to exchange ideas and best practice on key competition law considerations*

Given the ongoing review of the ATF appeal (which was published in December), CICRA decided to deprioritise this area of work in 2018.

*Putting in place a series of meetings with States members to raise awareness and understanding of competition law, its place in the wider policy context and how it can support those priorities – both generally and in specific instances*

A presentation was given to the new States of Jersey members in July. Follow-up discussions were offered to those who attended and an open invitation issued to those who were not able to attend. CICRA and senior politicians and civil servants in both Bailiwicks have discussed a range of wider strategic States priorities including the role competition law may or may not play in those. Those discussions have informed the recently announced review, 'Evaluation of the Guernsey Competition and Regulatory Framework'.

## 2. Telecoms



Three high-level objectives have been identified by CICRA. Telecoms law came into force in 2002 in Jersey and in 2001 in Guernsey. There are currently three main operators across the Channel Islands with the two full service operators being the incumbent / entrant in each island respectively. The third Channel Islands operator offers mobile services only. A fourth operator offers broadband services in Jersey only.

*Consumer protection supporting attainment of customer satisfaction levels comparable to the UK*

*A retail / downstream market where access to upstream inputs ensures new services and innovations can be made available to consumers in time-frames comparable to neighbouring jurisdictions*

*Provision of wholesale network infrastructure services where charges are set at sustainable and equitable levels*

*Following the publication of its decision in 2017 relating to the market definition and dominance on the market for Mobile Termination Rates (MTRs), consider an impact analysis of existing mobile traffic and its associated MTRs before reviewing and assessing whether any further changes to existing remedies or the introduction of new remedies are required on this market*

CICRA is considering potential regulatory interventions, including the option of setting the local MTR at a rate equivalent to that of the UK rate by using, for example, a glide-path over two to three years.

The local rate is currently 4.11pence per minute (ppm) compared with under 1ppm in UK/EU. 4.11ppm is both significantly higher than many other countries and, given studies elsewhere, may be in excess of the long run incremental cost to mobile network operators of providing those services. An appropriate level of MTRs in the Channel Islands is important because a potential failure to assess the level of MTRs in the Channel Islands could result in customers who are subject to existing MTR rates, which are set by a dominant operator and where customers are not able to express any choice of who provides that service, are potentially cross-subsidising the retail mobile services that are being provided in a competitive environment.

In December 2018, CICRA issued a Call for Information consulting on the need for reassessment of the current MTR and if so on what basis. Once the information from stakeholders has been assessed by officers a decision will be taken by the board as to how to proceed.

*Develop a regulatory framework for the delivery of 5G that supports the policy objectives of the States of Jersey and Guernsey, including the review of existing spectrum allocations to ensure efficient use of spectrum and the development and management of a forward-looking spectrum strategy to ensure future spectrum needs are met*

Developing a regulatory framework for the delivery of 5G is important because the States of Jersey and the States of Guernsey have both stated their intent to support the implementation of 5G.

CICRA has placed significant emphasis on encouraging early engagement by all key stakeholders given the complexities around this multi-dimensional project, facilitating two stakeholder summits during 2018. The first summit, held in July, included a key-note speech by McKinsey and provided a clear framework to progress this project alongside policy aspirations. The second summit, held in October, provided an overview of challenges and opportunities with this technology and a time-line for implementation.

Following liaison with Ofcom, in August CICRA announced the availability of innovation and trial spectrum licenses for 5G for the Channel Islands.

The 2018 telecoms action plan to review existing spectrum allocation to ensure efficient use of spectrum which included the 2.1GHz band is complete. The recommendation made to Ofcom for additional spectrum for operators in the 2.6GHz band has been accepted and Ofcom is coordinating this transition.

Officers also commenced work on reviewing fair and reasonable non-discriminatory access to fibre backhaul solutions for mobile sites for all mobile providers, and this will continue in 2019.

*Work with Ofcom to ensure that strategic aims are taken into account in spectrum harmonisation and allocation*

A good working relationship with Ofcom is important because they manage both number ranges and spectrum on our behalf and it is fundamental to enabling fair competition across the Channel Islands.

CICRA and Ofcom have agreed a working process document that will be used to manage the working relationship. It formalises the respective roles of CICRA and Ofcom with regard to spectrum management, numbering and amendments to UK legislation extended to the Channel Islands.

*Through our own initiatives as well as in co-ordination with other consumer bodies, seek to improve the ability of consumers to make informed choices in the mobile markets in Jersey and Guernsey and ensure the benefits are seen across society*

*Provide telecoms customers with meaningful information on telecom operator performance where the market does not meet this need*

Consumers need to have access to reliable independent information in order to make informed choices.

The results of the 2018 customer satisfaction survey were published in September and showed that most Channel Islanders are happy with their landline, mobile and broadband services. The survey followed the approach used by Ofcom to allow for local results to be benchmarked against those achieved in the UK. To provide an opportunity for both CICRA and operators to develop a more detailed understanding of the results, a series of focus groups was also undertaken.

*Review the licensing framework in light of developments and if appropriate modify or establish a new licensing framework that best meets the future needs of Jersey and Guernsey*

The licensing framework needs revision because the telecoms market has changed dramatically since the current licences were introduced. Undertaking this work in conjunction with the future introduction of 5G services is considered a more efficient use of resources and has been planned accordingly.

Work has commenced on the new 5G licensing framework, which is aligning with the UK (i.e. general conditions). Once this new framework has been agreed current licences will be adjusted to align with this approach.

*Ensure service quality standards by telecom providers with market power are demonstrably aligned with the interests of consumers*

*Seek to improve transparency of commitments and standards of all telecom licensees*

Ensuring service quality standards are aligned with the interests of consumers is key so that telecom provider efforts are focussed appropriately.

Following the consultation carried out during 2017, operators have voluntarily

- published details of their retail service standards & compensation (under the heading Code of Practice) and
- met the UK standard for dispute handling.

CICRA will continue to monitor service standards. Wholesale service standards are being considered as part of the broadband consultation process.

*Identify access products that lower switching costs and improve the prospects for retail competition*

Lowering switching costs and improving the prospects for retail competition are important because this enables fair, reasonable competition.

The broadband consultation process will address this issue with a key area being the introduction of bit stream or new wholesale solutions for competitors to enable them to differentiate not just on price but products, speed and quality.

Ensuring the availability of correct backhaul products will be a focus for 2019 as will a potential review of leased lines.

*Work with consumer bodies to support consumer interests in a manner that is joined-up and focused on priority areas*

Working with consumer bodies to support consumer interests in a manner that is coordinated and focused on priority areas is important to deliver the best outcomes and avoid duplication of effort.

CICRA has worked through the Consumer Protection Network with the Jersey Consumer Council to raise awareness of two telecoms issues during the year: the new ASA advertising standards for broadband services and the need to review mobile phone packages prior to travelling abroad to avoid potential bill shock.

In both cases the issues have been highlighted in local media to ensure that there is awareness among islanders, who are better able to make informed choices as a result.

*Review the minimum quality of service standards for wholesale broadband services to ensure they are aligned with the priorities of downstream service providers and consumers*

Appropriate minimum quality of service standards for wholesale broadband services, aligned with the priorities of downstream service providers and consumers, are important because they ensure that the dominant supplier provides a reasonable service, which enables the retail providers to compete on a par with the incumbent.

This is being looked into as part of the broadband consultation process and officers are aiming to complete this by the end of 2019.

*Address any structural or behavioural constraints in wholesale service provision that inhibits innovation by downstream service providers*

*Ensure that wholesale services support the promotion of effective retail competition*

Addressing structural or behavioural constraints in wholesale service provision that inhibits innovation is important because it enables retail competition.

There have been complaints from competitors regarding their ability to retain or develop wholesale products for their requirements.

As a result of the feedback from the broadband consultation process officers are looking into bit stream or obliging the introduction of new wholesale solutions as a way of allowing competitors to offer more competitive retail options. Should commercial discussions between parties fail, CICRA may either direct the introduction of either bit stream or new wholesale solutions, or introduce a new licence condition that would provide the necessary powers to deal with the specific issues arising.

*Ensuring fair, reasonable and non-discriminatory access to backhaul for mobile sites for all mobile operators*

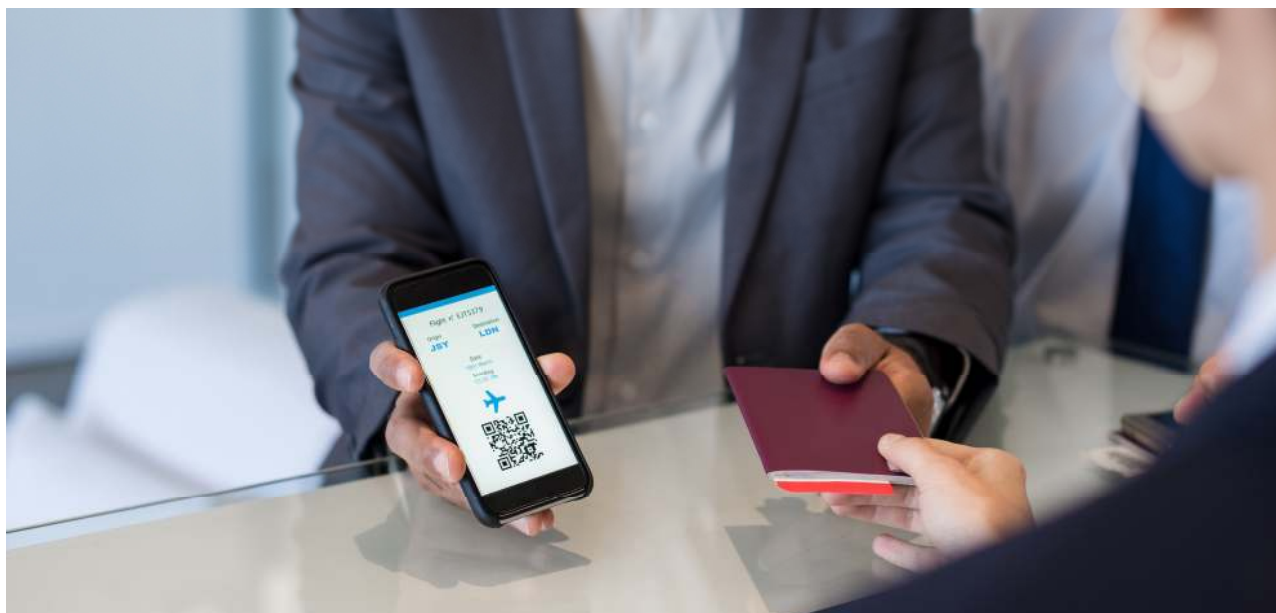
Ensuring fair, reasonable and non-discriminatory access to backhaul for mobile sites for all mobile operators is important to delivering a competitive, vibrant mobile market in the longer term. Consumers benefit as a result of greater choice, better quality and more innovative services.

As a result of a complaint in Jersey and looking at future challenges for supporting 5G, officers are actively looking at backhaul solutions that are cost effective and meet the needs of the market. This may result in CICRA requiring dominant providers / incumbents to develop a new mobile backhaul-only product that provides the technical quality required along with a cost effective price.

*Review of wholesale charging for broadband services by network operators to ensure that charges are set at sustainable and equitable levels including the consideration of reporting requirements and other regulatory tools to enforce this requirement*

This is being addressed as part of the broadband consultation process.

### 3. Ports



Regulation of Jersey's airport and sea ports commenced in 2015. All port facilities in Jersey are owned and operated by Ports of Jersey Ltd (PoJ) which, in turn, is 100% owned by the States of Jersey. Two high level objectives have been set in this area.

***Protection of consumers of port operation services and facilities through a transparent and relevant range of quality of service standards***

***A principles-based level of oversight that ensures charges are reasonable***

*Development of a transparent set of measures that ports users value which will be monitored over time and, where feasible, compared to other port operators*

Quality of service measures for PoJ were confirmed in May. The first reporting period was 1 July to 30 September 2018 with first publication of those results on 13 November 2018. Results for the second reporting period ending 31 December are due during quarter 1, 2019.

*Recognising that a longer term price control will not be in place for 2018, consider submissions from PoJ for interim pricing adjustments*

On 15 March 2018 CICRA issued a Final Notice withdrawing its proposal to allow PoJ to increase its prices effective from 2018 following new information and detail provided by PoJ.

No further submission was received from PoJ during 2018.

*Development of a longer term price control framework that ensures a fair sharing of risk and incentives between PoJ and ports users*

Following a successful stakeholder seminar in September 2018, in October 2018 CICRA began the process to develop a longer term price control framework for PoJ. A draft decision was issued in December 2018 with the intention that the statutory process will be complete by end of quarter 2, 2019.

## 4. Post



Regulation of Jersey's postal sector commenced in 2004. The main postal operator is Jersey Post Ltd which is 100% owned by the States of Jersey.

Activities in this area are based on ongoing monitoring and surveillance, in line with our strategic objectives which are to provide oversight of Jersey Post's behaviour and charges based on reliance on competition law by default and economic regulation by exception, as well as to ensure quality of service provision and USO obligations are met.

*Post - Ensure the efficiency provision of postal services, including the universal service obligation (USO), that delivers value and quality to postal users and the economy*

No issues arising.

*Post - Monitoring of quality of service performance and targets for postal operators, to ensure that customers' needs are effectively met*

CICRA has continued to monitor compliance with quality of service performance and targets. No significant issues have been identified.

In February 2018, following a request from Jersey Post, CICRA began the statutory process to change Jersey Post's quality of service targets as a result of changes to Royal Mail's processes in the UK. The statutory process was withdrawn when confirmation was received from Royal Mail that the relevant changes would no longer be made.

# PERFORMANCE REPORT - WHO WE WORK WITH AND HOW WE WORK

## Engagement with stakeholders - Industry and Government

We engage with a wide range of stakeholders across the Channel Islands, including States members, government officials, companies and industry bodies, consumer associations, and fellow regulatory bodies both locally-based and further afield.

An advantage of regulating in the Channel Islands is the relative proximity of key stakeholders. In particular, support the introduction of 5G and provide a longer term pricing framework for the ports sector have benefited from significant 'round table' engagement with industry and government, in conjunction with formal regulatory process.

Our advocacy programme targeted at local law firms has delivered training to 80 lawyers across the Channel Islands. This well-received programme will continue into 2019. We also ran a programme of competition law and procurement training sessions for the States of Guernsey.

## Engagement with stakeholders - Consumers and Islanders

Understanding consumers' and Islanders' interests and behaviour is vital to our work. Our offices in Guernsey and Jersey provide us with insights into the particular challenges faced in each jurisdiction, although it is often the case that the challenges faced are common across the Channel Islands.

We undertake research to better understand what matters to consumers and tailor our work accordingly. Our annual Telecommunication Statistics Market Report provides specific insight into the trends in the telecoms sector. And our oversight of quality of service in the telecoms, ports and postal sectors is targeted to identify and focus on those areas that matter most to consumers.

As a result of our intervention, local telecoms operators have voluntarily published details of their retail service standards and compensation and have met the UK standard for dispute resolution.

CICRA receives calls, emails and letters directly from consumers. The information that consumers provide and the issues they highlight help us to prioritise our work. Our contact details are available on our website [www.cicra.gg](http://www.cicra.gg) or [www.cicra.je](http://www.cicra.je).

## Engagement with stakeholders - Co-regulators and other bodies

As a founding member of Jersey's Consumer Protection Network, we engage with various regulatory and consumer bodies on a regular basis.

We work alongside Ofcom (the UK telecoms regulator) to support our work in regulating the telecoms sector. This includes collaborative working on cross-border issues and making recommendations for the effective allocation of spectrum, through issuance of wireless telegraphy licences.

When assessing applications for the approval of certain mergers and acquisitions we work alongside colleagues in the UK's Competition and Markets Authority and the European Commission to avoid duplication of effort both on our part and that of the parties to the transaction.

## When we regulate

We operate with a bias against intervention, but with a willingness to intervene promptly and effectively where required.

We have choices to make in deciding where to focus our resources and the appropriate approach to take. Our published prioritisation principles support how we decide which matters to focus on, considering whether matters are Actionable (whether we have the power to effect change), Realistic (whether we have the capacity and capability to effect the change to the required legal standard), and Meaningful (the extent of the likely benefit to consumers).

As a consumer-focussed rather than consumer-facing organisation we encourage consumers with complaints to seek to resolve these, in the first instance, with their service provider, through that provider's complaints procedure. We also refer consumers to other consumer organisations such as Trading Standards, Citizen's Advice and Jersey's Consumer Council where these organisations are better placed to provide the consumer with the support they need. We only seek to broker a resolution on an individual consumer's behalf as a last resort.

## How we regulate

When available, we regulate in accordance with the policies and frameworks provided by government, such as the telecoms policies published during 2018 by the States of Guernsey and Jersey. Where such policies and frameworks have not yet been developed, we base our work on established best practice elsewhere, having discussed our proposed plans and strategic direction with government.

We will always seek the least intrusive regulatory method of achieving our objective. We refer to this approach as principled pragmatism.

We focus on reducing regulation where it is appropriate to do so and believe that principled pragmatism means ensuring our work is properly targeted and does not impose undue burdens on stakeholders.

Across all areas of work we have regard to the principles of better regulation; that regulation should be transparent, proportionate, consistent, accountable and targeted only at cases where action is needed.

We regulate with a clearly articulated and publicly reviewed strategic objectives and annual work programme that has been the subject of consultation prior to being finalized.

Public consultation is a key way in which stakeholders are able to comment on and respond to our proposals before any final decisions are made. While we consider each consultation on its merits, we generally consult for four weeks to allow stakeholders time to prepare their responses. During 2018 we publicly consulted on 27 occasions (including 14 for competition law matters, 7 for telecoms, 3 for ports, 1 for post, and 1 for electricity and 1 for regulation in general).

During 2018, we reviewed our regulatory consultation process which has resulted in an amended process that allows stakeholders to comment and respond at an early, informal, pre-statutory stage allowing us to deal with such responses flexibly and thoroughly before beginning the statutory process. The amended process also reduces the administrative burden on us and stakeholders through running a Channel Islands process rather than island-specific consultations, which is of particular benefit to the telecoms sector.

## Openness, Integrity and Accountability

We abide by the principles of openness, integrity and accountability – and those standards which are widely recognised as being applicable to public service, and to the conduct of all involved in public life. In the discharge of our duties, we will ensure that:

- subject to the appropriate level of confidentiality, we maintain an openness in our public affairs, in order that the islanders can have confidence in the our actions and decision-making processes, in the management of our activities, and in the Members and staff of CICRA itself;
- we maintain, at all times, an appropriate degree of integrity in the conduct of our affairs. Integrity comprises both straightforward dealing and completeness. We base our integrity upon honesty, selflessness and objectivity, and high standards of propriety and probity in the stewardship of our funds and management of our affairs;
- we are fully accountable in the application of the fees and grant monies entrusted to us and that these are properly safeguarded, and are used economically, efficiently and effectively.

The three fundamental principles have been refined to include the findings and recommendations of the Nolan Committee on Standards in Public Life. We will make our best efforts to abide by Nolan’s seven general principles that underpin public life, namely: selflessness, integrity, objectivity, accountability, openness, honesty, and leadership.

## Summary

We are a not-for-profit organisation. Where we receive more funding (from grants or licence fees) than we require for any particular year, the surplus income is deferred to the next year. Each of the bodies of which CICRA is comprised therefore has a surplus of £1 for 2018. All of the activities we undertake are separately funded, by island and by sector: cross-subsidisation is not permitted, and common costs are shared between sectors. A working capital balance and an appropriate level of reserves are maintained at all times.

We set a budget for CICRA of £1,872k for 2018, which covered our regulatory and competition law activities across the Channel Islands.

## Delivering our duties and value for money

The work we undertake each year varies significantly and is dependent on a range of factors, but we always aim to ensure that we work efficiently both in time and expenditure.

For 2018, the income needed to cover our costs was £1,784k, 5% below budget, of which £779k related to Guernsey and £1,005k related to Jersey. The surplus of the grants and licence fees we received will be retained for future use, or refunded as appropriate, in order to allow us to maintain appropriate working capital and reserves.

Expenditure is closely controlled through maintaining strict internal guidelines for purchasing including tendering for services which, combined with appropriate best practice corporate governance, helps to ensure that CICRA is run as an effective and efficient organisation. Independent internal auditors audit policies and procedures annually, to ensure that high standards are maintained and that appropriate processes are in place.

## Grant funding

Grant funding is received from the Committee for Economic Development in Guernsey and the Chief Minister's Department in Jersey to cover the costs of administering and enforcing the Channel Islands' competition laws. Basic funding has remained at £300k per annum in Jersey and £140k per annum in Guernsey since 2011 and 2013 respectively. In Jersey, we only drew down £209k of cash during 2018.

We recognise the financial constraints faced by both islands' governments and have continued to take active measures to reduce our fixed and administrative overheads, rather than restrict our work administering and enforcing competition law.

In addition to grant funding, we receive fees from parties making applications for approval of notifiable mergers and acquisitions. During 2018, these fees amounted to £94k in Jersey and £22k in Guernsey. These applications and costs are by their nature unpredictable. Any costs in excess of fees received are funded through the competition law grant.

In total, the costs for all competition law activity during 2018 was £523k, £158k in Guernsey and £365K in Jersey. Grant income in excess of costs is, with the agreement of the relevant States department, either returned to that department after the year end or held to fund future work.

While we will continue to seek further efficiencies, in the near term, when faced with continued grant freezes, there will be a direct impact on our effectiveness and the impact we can have as the islands' competition body. We will continue engagement with government officials in both islands in this regard.

## Licence fees

Sector-specific regulation is funded through licence fees paid by licensed operators in each of the telecoms, postal and ports sectors.<sup>2</sup> The licence fees are calculated based on the forecasted cost of regulating the sector for the year in question.

Any surplus licence fees above costs are either returned to operators after the year end or held to fund future work.

A breakdown of the licence fees charged, the cost of regulating the sector and the surplus for the year is provided below. Amounts returned to licensees are also shown.

£'000	Telecoms				Ports	
	GCRA		JCRA		JCRA	
	2018	2017	2018	2017	2018	2017
Licence and application fees						
- charged in year	596	594	641	619	180	180
- released from reserves	0	0	0	0	0	0
<i>Total</i>	596	594	641	619	180	180
Costs	595	534	477	521	149	143
<i>Surplus for the year</i>	1	60	164	98	31	37
Returned to licensees	117	0	90	0	37	55

£'000	Postal				Electricity	
	GCRA		JCRA		GCRA	
	2018	2017	2018	2017	2018	2017
Licence and application fees						
- charged in year	0	0	22	22	61	0
- released from reserves	0	0	0	0	0	11
<i>Total</i>	0	0	22	22	61	11
Costs	0	0	14	11	26	11
<i>Surplus for the year</i>	0	0	8	11	35	0
Returned to licensees	0	0	11	17	0	0

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<sup>2</sup> The electricity sector in Guernsey has also required some work recently, notwithstanding an extant decision of the States of Deliberation to remove electricity from regulation by CICRA.

# ACCOUNTABILITY REPORT

## ACCOUNTABILITY REPORT – THE CICRA BOARD



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### *1 Michael O'Higgins - Chair*

Michael is Chair of the Local Pensions Partnership and of Calculus VCT, and a non-executive Director of the pensions company Hedgehog. He became the 'Independent Person' for Tunbridge Wells Borough Council in October 2015.

Michael chaired The Pensions Regulator from 2011 to 2014, the Audit Commission from 2006 until 2012 and the NHS Confederation from 2012 to 2015. He was also a non-executive Director of HM Treasury and Chair of the Treasury Group Audit Committee from 2008 to 2014, and a non-executive director of Network Rail from 2012 to 2018. Previously Michael chaired the youth homelessness charity Centrepoint, was a managing partner with PA Consulting (leading its Government and IT Consulting Groups), was a partner at Price Waterhouse, worked at the OECD, and has held several academic posts.

### *2 Michael Byrne - Chief Executive*

Michael has extensive experience applying regulation and competition law in the UK energy, media and telecoms sectors.

Michael holds a diploma in Company Direction from the IoD, an MBA, a post graduate qualification in European Competition Law, and a BSc Honours degree in Mathematical Statistics.

### *3 Paul Masterton – Senior Independent Director*

Paul, a resident of Jersey, joined CICRA as a Non-Executive Board Member in February 2017. He has spent most of his career in the printing and communications industry in the UK, USA and Asia.

From 2008 to 2013, Paul was the Chief Executive of the Durrell Wildlife Conservation Trust, an international wildlife charity.

Paul has a number of directorships in finance, insurance and property development and in 2012 was appointed as the founding Chair of Digital Jersey, a partnership between the States of Jersey and the digital sector to represent and promote the industry. Paul stood down as their Non-Executive Chair in June 2017.

### *5 John Curran – Non-Executive Director*

John is a former Chief Executive of CICRA and led the integration of the Guernsey and Jersey regulators in 2010. He was Director General of the Guernsey Office of Utility Regulation from January 2005 before being asked to also head up the JCRA in 2010.

John is currently a Non-Executive Director of the Channel Islands Financial Ombudsman and of the Guernsey Data Protection Authority. He is a non-voting member of the States of Guernsey Transport Licensing Authority and is Chair of Guernsey Mind.

Before moving to Guernsey in 2003, John worked with the largest telecoms provider in Australia, Telstra, and the Irish telecoms regulator, Comreg, where he was involved with the introduction of competition to the communications market there.

### *7 Philip Marsden - Non-Executive Director*

Philip is a competition lawyer with a particular interest in abuse of dominance, consumer welfare, innovation incentives and international competition issues.

Philip's terms of office for both the JCRA and GCRA ended on 31 August 2018.

### *4 Hannah Nixon - Non-Executive Director*

Hannah has extensive experience in economic regulation and competition issues, working across a range of industries in the public and private sectors.

She is currently Managing Director of the UK Payment Systems Regulator. Hannah was previously a Senior Partner at Ofgem, the UK gas and electricity regulator; she was also Ofgem's Head of Profession for Economics.

### *6 Louise Read – Director*

Louise is a chartered accountant, with extensive experience of managing finance, personnel and operational aspects of business. She is the Board and Audit and Risk Committee secretary.

Louise is a Chartered Director of the IoD, a fellow of the Institute of Chartered Accountants in England and Wales and holds a BSc in Accounting and Management Sciences from the University of Southampton.

### *8 Peter Neville – Non-Executive Director*

Peter, a resident of Guernsey, has more than 36 years' experience in the financial services and financial services regulatory sectors in the UK and overseas including serving as the Director General of the Guernsey Financial Services Commission from 2001 to 2009.

Peter resigned his position effective from 27 July 2018.

## ACCOUNTABILITY REPORT – THE CICRA TEAM



*Matthew Harrison – Management Accountant and Analyst*  
Accounting, ports regulation, telecoms analytics

*Anna Johnson – In-house Counsel*  
Competition and regulatory laws, legal practice and procedure



*Jill Perkins – Office Manager*  
Office administration, event co-ordination

*Sarah Livestro – Legal Director*  
Competition law



*Sarah Price – Project manager*  
Mergers and acquisitions, competition law and telecoms regulation

*Tim Ringsdore – Director*  
Telecoms regulation



*Kevin Werry – Telecoms Regulatory Manager*  
Telecoms and postal regulation

## The governance structure

While CICRA is not subject to the UK Corporate Governance Code, the Board is committed to maintaining a high standard of corporate governance. The Board follows the Corporate Governance Handbook which is based on the best practice principles of the UK Corporate Governance Code, issued by the Financial Reporting Council, where it is appropriate and practical to do so.

## CICRA

CICRA consists of two separate statutory bodies corporate, the Jersey Competition Regulatory Authority under Article 2 of the Competition Regulatory Authority (Jersey) Law 2001 and the Guernsey Competition and Regulatory Authority under Section 1 of the Guernsey Competition and Regulatory Authority Ordinance, 2012.

## The Board

CICRA is led by a joint Board. Legislation requires CICRA to comprise, as a minimum, three Members, with one as Chair. As at 31 December 2018, the Board consisted of a Chair, three non-executive directors and two executive directors. The Board leads the organisation. Its core activities include:

- Establishing and maintain CICRA's vision, mission and values
- Setting and monitoring the overall strategy and structure
- Acting as the decision-making authority as established in law
- Board and executive management and succession planning
- Defining CICRA's appetite for risk
- Obtaining assurance that material risks to CICRA are identified and that appropriate systems of risk management and control exist to mitigate such risks

The Board believes that Members have, between them, a wide range of experience which ensures an effective Board to lead and control CICRA.

The non-executive members comprise a majority of the board. Paul Masterton holds the position of the senior non-executive member.

The Board considers all the non-executive members to be independent of management and free of any business or other relationship which could materially interfere with the exercise of their judgment. However, should circumstances arise which suggest an actual or perceived conflict of interest, appropriate action is taken to ensure that independence is maintained.

## Appointments to the Board

The Chair is appointed concurrently as Chair of the GCRA by the States of Deliberation in Guernsey on the recommendation of the Committee for Economic Development and Chair of the JCRA by the States of Jersey on the recommendation of the Chief Minister. Members are appointed to the Boards of the GCRA and JCRA by the Committee for Economic Development and the Chief Minister respectively after consultation with the Chair. Vacancies which arise are filled through an open and transparent process, consistent with the procedures recommended by the Jersey Appointments Commission. Customarily, appointments are for periods of three years although periods of up to five years are provided for in legislation and shorter appointments may be made when appropriate.

## The Chair

The Board is led by the Chair, who manages the Board to ensure that

- CICRA has appropriate strategic objectives and an effective forward work programme
- A structure is in place to allow the effective contribution of all Members
- The Executive directors and senior management are able to deliver against the strategic objectives and forward work programme
- The Audit and Risk Committee is properly established, composed and operated
- Procedures are in place to inform the Board of performance against the strategic objectives and forward work programme
- CICRA is operating in accordance with the highest standards of corporate governance

## Board Assessment

During 2018, the Board commissioned an independent effectiveness review. The main recommendations from the review were around strategic focus and stakeholder engagement.

## Meetings

The Board meets regularly. Customarily, there are eight scheduled meetings each year with additional meetings when circumstances require it. During 2018, the GCRA board met on 11 occasions and the JCRA board met on 12 occasions. The table below details meetings and attendances for 2018.

Member	GCRA		JCRA	
	<i>Board</i>	<i>Audit and Risk</i>	<i>Board</i>	<i>Audit and Risk</i>
Michael O'Higgins	9/9	-	10/10	-
Philip Marsden	7/8	0/1	8/9	0/1
Hannah Nixon	9/10	3/3	10/12	3/3
Peter Neville	5/6	1/1	6/7	1/1
Paul Masterton	10/10	3/3	12/12	3/3
John Curran	3/3	2/2	3/3	2/2
Michael Byrne	9/10	3*/3	11/12	3*/3
Louise Read	10/10	3*/3	12/12	3*/3

\* in attendance only

## Board Committees

Legislation allows CICRA to established committees, which it has done through the establishment of an Audit and Risk Committee. The members of this committee are the non-executive members, excluding the Chair; they are appointed by the Board. Hannah Nixon succeeded Philip Marsden as committee Chair in September 2018. Executive members attend Committee meetings in an advisory capacity. The key duties of the Committee are to

- consider certain matters relating to the external audit, including reviewing the financial statements prior to their consideration by the board
- review the mechanisms for ensuring the effectiveness of internal controls
- review and agree the internal auditor's work plan, monitor and review the effectiveness of internal audit work, and review all reports produced, monitoring the response to the findings and recommendations
- meet with the internal and external auditors at least once per year without the presence of the Executive
- review annually the application of corporate governance best practice

# ACCOUNTABILITY REPORT – REMUNERATION REPORT

In preparing the remuneration report the Board has given consideration to, and adopts the provisions of, the UK Corporate Governance Code where it considers it is appropriate, proportionate and applicable.

## General policy

The Board believes that CICRA should, within the constraints of being a public body, provide rewards that will attract and retain the high-calibre management necessary for CICRA to fulfil its statutory remit and responsibilities. This overall approach is not expected to change in the coming year.

The remuneration paid to Executive Members and the fees paid to non-executive Members are set with the agreement of the Committee of Economic Development in Guernsey and the Chief Minister in Jersey.

## Components of remuneration

The main components of Executive Members' remuneration are salary and other benefits.

Executive Members are members of each authority and employees of either the JCRA or GCRA.

Executive Members receive no fees as members of the Authorities.

The basic salary for Executive Members is determined by taking into account each individual's responsibilities, performance and experience together with market trends. All basic salaries are reviewed annually, effective 1 January, by the non-executive members. Recommended changes are notified to the Committee for Economic Development in Guernsey and the Chief Minister in Jersey for approval.

In addition to salary, Jersey based Executive Members receive certain benefits; specifically private medical insurance, life insurance, critical illness insurance and a contributory pension scheme. These benefits are not disclosed in the remuneration tables below because they are not taxable as benefits in kind.

## Non-executive Members' remuneration

Fees are determined by the Chief Minister in Jersey and the Committee for Economic Development in Guernsey. Customarily, each member's fees are split equally between the GCRA and JCRA.

During 2018, the Chief Minister in Jersey reached an agreement with the Chair to increase the number of days which he worked for the JCRA for 2018 only. The objective was to use the time to improve relations with leaders in the business community, including regulated entities and those affected by competition issues. In total the Chair spent an additional 8 days on JCRA matters.

## Remuneration schedules

Details of the remuneration received for the Board are set out in the following tables. The tables reflect the remuneration for that part of the year during which individuals were members of the Board.

### CICRA EXECUTIVE MEMBER REMUNERATION 2018

Executive Member	GCRA		JCRA	
	2018 £	2017 £	2018 £	2017 £
<b>Michael Byrne</b>	82,500	82,500	82,500	82,500
<b>Louise Read</b>	54,641	54,641	54,641	54,641
<b>Total</b>	137,141	137,141	137,141	137,141

### CICRA NON-EXECUTIVE MEMBER REMUNERATION 2018

Member	GCRA		JCRA		Shared expenses	
	2018 £	2017 £	2018 £	2017 £	2018 £	2017 £
<b>Michael O'Higgins</b>	25,000	25,000	38,333 <sup>++</sup>	25,000	7,108	5,151
<b>Hannah Nixon</b>	10,000	10,391	10,000	10,391	2,073	2,364
<b>Paul Masterton</b>	10,000	8,833 <sup>+</sup>	10,000	8,833 <sup>+</sup>	634	742 <sup>+</sup>
<b>John Curran</b>	3,333 <sup>+</sup>	-	3,333 <sup>+</sup>	-	710	-
<b>Peter Neville</b>	5,758 <sup>+</sup>	9,042 <sup>+</sup>	5,758 <sup>+</sup>	9,042 <sup>+</sup>	320 <sup>+</sup>	1,143 <sup>+</sup>
<b>Philip Marsden</b>	8,000 <sup>+</sup>	12,000	8,000 <sup>+</sup>	12,000	1,219 <sup>+</sup>	1,779
<b>Total</b>	62,091	65,266	75,424	65,266	12,064	11,179

+part year only ++ includes additional work commissioned by Jersey's Chief Minister's Department

# FINANCIAL STATEMENTS

# MEMBERS' REPORT FOR THE FINANCIAL STATEMENTS

## Members

The Members in office during the year are shown on pages 25 to 26.

## Events after the end of the reporting period

There have been no events between the statement of financial position date and the date when the financial statements were authorised for issue that need to be disclosed or recognised in the financial statements.

## Likely future developments in the activities of CICRA

No significant change in the activities of the GCRA or JCRA is currently foreseen.

## Independent auditor

The auditor, BDO Limited, which was appointed in accordance with Section 13(4)(a) of The Guernsey Competition and Regulatory Authority Ordinance, 2012, and Article 17 of the Competition Regulatory Authority (Jersey) Law 2001, has indicated its willingness to continue in office as auditor.

## Members' disclosure

As far as the members are aware, there is no relevant audit information of which the auditor has not been made aware. All reasonable steps have been taken by the members in order to make themselves aware of any relevant audit information to establish that the auditor is aware of this information.

## Members' responsibilities

The Members are responsible for preparing the Members' Report and the financial statements in accordance with applicable law and regulations.

The Guernsey Competition and Regulatory Authority Ordinance, 2012, and the Competition Regulatory Authority (Jersey) Law 2001 require Members to keep proper accounts and proper records in relation to those accounts. The Members therefore consider themselves responsible for keeping adequate accounting records that are sufficient to show and explain the GCRA's and JCRA's transactions and disclose with reasonable accuracy, at any time, the financial position of the GCRA and JCRA and which enable them to ensure that these financial statements comply with the Ordinance and the Law. They also consider that they are responsible for safeguarding the assets of the GCRA and JCRA and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

The Ordinance also requires Members to prepare accounts in respect of each financial year, and once audited by auditors appointed by the States of Guernsey on the recommendation of the Public Accounts Committee, to submit to the Committee for Economic Development, a statement of account giving a true and fair review of the state of the GCRA's affairs together with the auditor's report. The Committee for Economic Development, in turn, must submit the accounts and the auditor's report thereon to the States of Guernsey.

The Law also requires Members to prepare accounts in respect of each financial year, and once audited by auditors appointed by the Auditor and Comptroller General, to submit to the Chief Minister's Department the accounts together with the auditor's report. The Chief Minister's Department, in turn, must submit the accounts and auditor's report thereon to the States of Jersey.

The Members have elected to prepare the financial statements in accordance with United Kingdom Generally Accepted Accounting Practice (United Kingdom Accounting Standards and applicable law).

Members' Report for the Financial Statements (Continued)

In preparing the financial statements the Members are required to:

- select suitable accounting policies and then apply them consistently;
- make judgements and estimates that are reasonable and prudent;
- state whether applicable UK 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 GCRA and JCRA will continue in operation.

The Members confirm that these financial statements comply with these requirements.

[Signed on Original]

Louise Read

Secretary

11 March 2019

FINANCIAL STATEMENTS

GUERNSEY COMPETITION  
AND REGULATORY  
AUTHORITY

# INDEPENDENT AUDITOR'S REPORT TO THE MEMBERS OF THE GUERNSEY COMPETITION AND REGULATORY AUTHORITY

## *Opinion*

We have audited the financial statements of Guernsey Competition and Regulatory Authority ("the Authority") for the year ended 31 December 2018 which comprise the Statement of Comprehensive Income, the Statement of Cash Flows, the Statement of Financial Position and notes to the financial statements, including a summary of significant accounting policies. The financial reporting framework that has been applied in their preparation is applicable law and United Kingdom Accounting Standards ('United Kingdom Generally Accepted Accounting Practice').

In our opinion, the financial statements:

- give a true and fair view of the state of the Authority's affairs as at 31 December 2018 and of its surplus for the year then ended;
- have been properly prepared in accordance with United Kingdom Generally Accepted Accounting Practice; and
- have been properly prepared in accordance with the requirements of the Guernsey Competition and Regulatory Authority Ordinance, 2012.

## *Basis for opinion*

We conducted our audit in accordance with International Standards on Auditing (UK) (ISAs (UK)) and applicable law. Our responsibilities under those standards are further described in the Auditor's responsibilities for the audit of the financial statements section of our report. We are independent of the Authority in accordance with the ethical requirements relevant to our audit of the financial statements in the UK, including the FRC's Ethical Standard and we have fulfilled our other ethical responsibilities in accordance with these requirements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

## *Conclusions relating to going concern*

We have nothing to report in respect of the following matters in relation to which the ISAs (UK) require us to report to you where:

- the Members use of the going concern basis of accounting in the preparation of the financial statements is not appropriate; or
- the Members have not disclosed in the financial statements any identified material uncertainties that may cast significant doubt about the Authority's ability to continue to adopt the going concern basis of accounting for a period of at least twelve months from the date when the financial statements are authorised for issue.

## *Other information*

The Members are responsible for the other information. The other information comprises the information included in the annual report, other than the financial statements and our auditor's report thereon. Our opinion on the financial statements does not cover the other information and, except to the extent otherwise explicitly stated in our report, we do not express any form of assurance conclusion thereon.

In connection with our audit of the financial statements, our responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or our knowledge obtained in the audit or otherwise appears to be materially misstated. If we identify such material inconsistencies or apparent material misstatements, we are required to determine whether there is a

material misstatement in the financial statements or a material misstatement of the other information. If, based on the work we have performed, we conclude that there is a material misstatement of this other information, we are required to report that fact.

We have nothing to report in this regard.

### *Responsibilities of Members*

As explained more fully in the Statement of Members' Responsibilities, the Members are responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view and for such internal control as the Members determine is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Members are responsible for assessing the Authority's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless the Members either intend to liquidate the Authority or to cease operations, or have no realistic alternative but to do so.

### *Auditor's responsibilities for the audit of the financial statements*

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISAs (UK) will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

A further description of our responsibilities for the audit of the financial statements is located at the Financial Reporting Council's website at:

<https://www.frc.org.uk/auditorsresponsibilities>. This description forms part of our auditor's report.

### *Use of our report*

This report is made solely to the Authority's members, as a body, in accordance with Section 13 of The Guernsey Competition and Regulatory Authority Ordinance, 2012. Our audit work has been undertaken so that we might state to the Authority's members those matters we are required to state to them in an auditor's report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the Authority and the Authority's members as a body, for our audit work, for this report, or for the opinions we have formed.

[Signed on Original]

BDO Limited  
Chartered Accountants  
Place du Pré  
Rue du Pré  
St Peter Port  
Guernsey

Date

GUERNSEY COMPETITION AND REGULATORY AUTHORITY  
STATEMENT OF COMPREHENSIVE INCOME FOR THE YEAR  
ENDED 31 DECEMBER 2018

	Notes	2018	2017
		£	£
<b>INCOME</b>			
Telecommunications licence and application fees		594,485	534,135
Electricity licence and application fees		26,474	10,849
Postal licence fees		-	-
Competition law grant		136,208	124,154
Mergers and acquisitions fees		21,500	10,500
		<b>778,667</b>	<b>679,638</b>
<b>EXPENDITURE</b>			
Salaries and staff costs		522,211	408,219
Consultancy fees		53,351	97,554
Operating lease rentals		61,070	57,157
Travel and entertainment		30,909	20,095
Conference and course fees		7,928	18,434
Depreciation	3	14,122	9,802
Administration expenses		10,316	10,050
Legal and professional fees		8,643	1,288
Audit and accountancy fees		16,906	10,107
Advertising and publicity		14,218	16,531
Repairs and maintenance		22,774	18,541
Heat, light and water		2,489	2,480
Recruitment		3,479	1,348
General expenses		10,250	8,031
		<b>778,666</b>	<b>679,637</b>
<b>SURPLUS FOR THE FINANCIAL YEAR</b>	<b>6</b>	<b>1</b>	<b>1</b>

Where the GCRA receives more funding than it spends on its activities, the surplus income is deferred. Any shortfall in the year is released from deferred income. The GCRA therefore has a surplus of £1 for 2017 and 2018.

STATEMENT OF TOTAL COMPREHENSIVE INCOME

There are no differences between the surpluses for the financial years stated above and total comprehensive income.

The notes on pages 41 to 46 form an integral part of these financial statements.

GUERNSEY COMPETITION AND REGULATORY AUTHORITY  
STATEMENT OF CASH FLOWS FOR THE YEAR ENDED 31  
DECEMBER 2018

	Notes	2018	2017
		£	£
CASH FLOWS FROM OPERATING ACTIVITIES			
<i>Surplus for the financial year</i>		1	1
Adjustments for:			
Depreciation of fixed assets	3	14,122	9,802
Decrease in debtors and prepayments	4	2,713	16,073
(Decrease) / Increase in creditors	5	(52,823)	72,882
<i>Net cash (used in) / generated from operating activities</i>		(35,987)	98,758
CASH FLOWS FROM INVESTING ACTIVITIES			
Purchases of fixed assets	3	(11,595)	(14,625)
<i>Net cash used in investing activities</i>		(11,595)	(14,625)
<i>Net (decrease) / increase in cash and cash equivalents</i>		(47,582)	84,133
<i>Cash and Cash Equivalents at the Beginning of the Year</i>		461,476	377,343
CASH AND CASH EQUIVALENTS AT THE YEAR END		413,894	461,476

The notes on pages 41 to 46 form an integral part of these financial statements.

GUERNSEY COMPETITION AND REGULATORY AUTHORITY  
STATEMENT OF FINANCIAL POSITION AS AT 31 DECEMBER  
2018

	Notes	2018	2017
		£	£
FIXED ASSETS			
Fixed assets	3	37,483	40,010
CURRENT ASSETS			
Debtors and prepayments	4	21,927	24,640
Cash and cash equivalents		413,894	461,476
		435,821	486,116
CURRENT LIABILITIES			
Creditors: amounts falling due within one year	5	273,302	326,125
<i>Net Current Assets</i>		162,519	159,991
TOTAL ASSETS LESS CURRENT LIABILITIES		200,002	200,001
RETAINED SURPLUS	6	200,002	200,001

The financial statements on pages 38 to 46 were approved on 11 March 2019 and authorised for issue by the Members, and signed on their behalf by:

[Signed on Original]

Michael O'Higgins

Chair

The notes on pages 41 to 46 form an integral part of these financial statements.

# GUERNSEY COMPETITION AND REGULATORY AUTHORITY

## NOTES TO THE FINANCIAL STATEMENTS

### FOR THE YEAR ENDED 31 DECEMBER 2018

#### 1. ACCOUNTING POLICIES

The financial statements have been prepared in accordance with FRS 102, the Financial Reporting Standard applicable in the UK and Republic of Ireland.

The presentation currency of these financial statements is sterling with all amounts rounded to the nearest whole pound.

The preparation of financial statements in compliance with FRS 102 requires the use of certain critical accounting estimates. It also requires members to exercise judgement in applying the accounting policies.

The following principal accounting policies have been consistently applied:

##### *a) Income*

Income is received from a government grant and other charges raised in respect of the GCRA's responsibilities as the administrator and enforcer of Guernsey's competition law, as well as through fees raised through the licensing regime in place for certain sectors. Further details are given below:

##### *i) Grants and other charges*

Grants received are of a revenue nature and are recognised in the statement of comprehensive income in the same period as the related expenditure. The grant received for 2018 was £140,000 (2017:£140,000). £136,208 is reflected in the statement of comprehensive income in order to match the expenditure incurred in relation to competition law matters during 2018. 'Mergers and acquisitions fees' comprises fees received for the assessment of certain notifiable mergers and acquisitions. These fees are recognised in the statement of comprehensive income once the proposed transaction has been formally registered with the GCRA. Fees received in 2018 were £21,500 (2017: £10,500) with £21,205 (2017:£13,903) reflected in the statement of comprehensive income to recognise the expenditure incurred. Any unused funds at the financial year end are either deferred or repaid to the Committee for Economic Development. Any deficits are funded from agreed releases of deferred income or recovered from future grants. The surplus grant income deferred for the year amounted to £3,792 (2017: £15,846).

##### *ii) Licence fees*

Licence fees across regulated sectors are set on the basis of cost recovery in accordance with sector-specific legislation and are recognised in the period to which they relate. The GCRA's costs are estimated on an annual basis and these are recovered either by applying a percentage to the licensed revenue of each licensed operator (in the case of telecoms) or through charging an annual fee (in the cases of post and electricity). If fee income exceeds costs the balance is transferred to deferred income. License fee percentages / charges and deferred income balances are set out overleaf:

	2018		2017	
	<i>Licence fee % / charge</i>	<i>Deferred income balance</i>	<i>Licence fee % / charge</i>	<i>Deferred income balance</i>
<b>Telecoms</b>	1.1% of relevant turnover	£62,392	1.1% of relevant turnover	£179,110
<b>Post</b>	-	£20,988	-	£20,988
<b>Electricity</b>	£60,500	£50,121	-	£16,095

*b) Expenditure*

Expenditure is accounted for on an accruals basis and is measured at its transaction price.

*c) Fixed assets*

Fixed assets are stated at cost less depreciation. Depreciation is provided on all fixed assets at rates calculated to write down their cost on a straight line basis to their estimated residual values over their expected useful economic lives. The depreciation rates used are as follows:

Office equipment	20% per annum
Fixtures and fittings	20% per annum
Computer equipment	20% per annum
Website costs	33% per annum
Leasehold improvements	shorter of remaining length of lease or expected useful life

Assets' residual values, useful lives and depreciation methods are reviewed, and adjusted prospectively if appropriate, if there is an indication of a significant change since the last reporting date.

Gains and losses on disposals are determined by comparing the proceeds with the carrying amount and are recognised within 'other operating income' in the statement of comprehensive income.

*d) Leasing commitments*

All leases entered into by the GCRA are operating leases. Rentals payable under operating leases are charged in the statement of comprehensive income on a straight line basis over the lease term.

*e) Taxation*

Under section 12 of The Guernsey Competition and Regulatory Authority Ordinance, 2012 the GCRA is exempt from Guernsey income tax.

## 2. JUDGEMENTS IN APPLYING ACCOUNTING POLICIES AND KEY SOURCES OF ESTIMATION UNCERTAINTY

In the application of the GCRA's accounting policies, which are described in note 1, the Members are required to make judgements, estimates and assumptions about the carrying values of assets and liabilities that are not readily apparent from other sources. The estimates and underlying assumptions are based on historical experience and other factors that are considered to be relevant. The estimates and underlying assumptions are reviewed on an ongoing basis. The critical judgements made by management that have a significant effect on the amounts recognised in the financial statements are described below:

- Determined whether leases entered into by the GCRA as a lessee are operating or finance leases. These decisions depend on an assessment of whether the risks and rewards of ownership have been transferred from the lessor to the lessee on a lease by lease basis.
- Determined whether there are indicators of impairment of the GCRA's fixed assets. Factors taken into consideration in reaching such a decision include the economic viability and expected future performance of the asset.
- Determined the split of general expenses incurred for work undertaken under the aegis of the Channel Islands Competition and Regulatory Authorities. These decisions depend on an assessment of resource allocation, including that of staff time.
- Determining the appropriate treatment for the costs incurred in developing a new website. Factors taken into consideration in reaching the decision include: the ability to separate the asset from the GCRA; the benefit of an improved website internally and externally; the intention to complete the project and bring the website into use, noting that it has the resources so to do; and the ability to reliably measure the expenditure incurred on developing the website during the development phase.

Key sources of estimation uncertainty:

- Fixed assets (see note 3) are depreciated over their useful lives taking into account residual values, where appropriate. The actual lives of the assets and residual values are assessed annually and may vary depending on a number of factors. In reassessing asset lives, factors such as technological innovation, product life cycles and maintenance programs are taken into account. Residual value assessments consider issues such as future market conditions, the remaining life of the asset and projected disposal values.

## 3. FIXED ASSETS

	<i>Leasehold Improvements</i>	<i>Computer Equipment</i>	<i>Website</i>	<i>Fixtures &amp; Fittings</i>	<i>Office Equipment</i>	<i>Total</i>
	£	£	£	£	£	£
<i>Cost</i>						
As at 1 January 2018	33,494	13,497	15,376	20,093	497	82,957
Additions	1,267	8,703	1,625	-	-	11,595
Disposals	-	(1,581)	-	-	-	(1,581)
<i>As at 31 December 2018</i>	<b>34,761</b>	<b>20,619</b>	<b>17,001</b>	<b>20,093</b>	<b>497</b>	<b>92,971</b>
<i>Depreciation</i>						
As at 1 January 2018	13,300	10,587	2,114	16,449	497	42,947
Provided for the year	5,871	1,708	5,556	987	-	14,122
Disposals	-	(1,581)	-	-	-	(1,581)
<i>As at 31 December 2018</i>	<b>19,171</b>	<b>10,714</b>	<b>7,670</b>	<b>17,436</b>	<b>497</b>	<b>55,488</b>
<i>Net Book Value</i>						
As at 31 December 2018	15,590	9,905	9,331	2,657	-	37,483
As at 31 December 2017	20,194	2,910	13,262	3,644	-	40,010

## 4. DEBTORS AND PREPAYMENTS

	<i>2018</i>	<i>2017</i>
	£	£
Prepayments	20,802	17,598
Amount due from the Jersey Competition Regulatory Authority	937	3,818
Other debtors	188	3,224
	<b>21,927</b>	<b>24,640</b>

## 5. CREDITORS: AMOUNTS FALLING DUE WITHIN ONE YEAR

	<i>2018</i>	<i>2017</i>
	£	£
Accruals	29,170	20,158
Deferred licence fee and grant income	222,078	300,978
Trade creditors	3,202	1,785
Amounts due to the Jersey Competition and Regulatory Authority	18,852	3,204
	<b>273,302</b>	<b>326,125</b>

## 6. MOVEMENT ON RETAINED SURPLUS

	2018	2017
	£	£
At 1 January	200,001	200,000
Surplus for the year	1	1
	200,002	200,001

## 7. COMMITMENTS UNDER OPERATING LEASES

At 31 December 2018 the GCRA had commitments under non-cancellable operating leases as set out below:

	<i>Buildings</i>	
	2018	2017
	£	£
Amounts payable under operating leases:		
Not later than one year	58,150	57,445
In more than one year but less than five years	86,030	144,339
	144,180	201,784

In February 2015, with the consent of the CfED, the GCRA entered into a six and a half-year lease at a cost of £54,000 per annum, including service charge and parking for office accommodation at La Plaiderie Chambers, La Plaiderie, St Peter Port, Guernsey. The rental amount increased to £58,150 per annum in February 2018.

## 8. RELATED PARTY DISCLOSURES

a) *The GCRA and the Committee for Economic Development (CfED)*

The GCRA acts independently of the States of Guernsey, but is accountable to the States of Guernsey through the CfED for funding received to administer and enforce Guernsey's competition law, which is also covered by a service level agreement. The CfED acts as a conduit for requests from other States departments which may request the GCRA to carry out projects. The GCRA reports formally to the States of Guernsey through the CfED on an annual basis.

In 2018, the CfED provided £140,000 (2017: £140,000) in funding to the GCRA to finance the administration and enforcement of The Competition (Guernsey) Ordinance, 2012 under the provisions contained within that legislation. The funding surplus for the year ended 31 December 2018, which has been notified to CfED as required under the service level agreement, amounted to £3,792 (2017: £15,846). The accumulated balance of deferred grant income at the year-end was £88,577 (2017: £84,785).

*b) The GCRA and the Jersey Competition Regulatory Authority (JCRA)*

The GCRA and the JCRA work together under the aegis of CICRA, sharing a board, resources and expertise between the islands, whilst retaining their own separate legal identities. Recharges are made for expenses incurred (including staff costs) on a no gain no loss basis.

During 2018, £72,636 (2017: £249,500) was invoiced by the GCRA to the JCRA and £123,966 (2017: £84,501) was invoiced by the JCRA to the GCRA. At the statement of financial position date the amount owed by the GCRA to the JCRA was £18,852 (2017: £3,204) and the amount owed by the JCRA to the GCRA was £937 (2017: £3,818).

*c) Key management personnel*

Key management personnel include all members of the GCRA who together have authority and responsibility for planning, directing and controlling the Authority's activities. The total compensation paid to key management personnel for services provided to the GCRA was £210,207 (2017: £213,049).

9. EVENT AFTER THE DATE OF THE STATEMENT OF FINANCIAL POSITION

A consultant which undertook a piece of work during 2018 decided during 2019 not to charge for the services provided, resulting in the cancellation of a liability of £7,300. This amount will be recognised in the financial year ending 31 December 2019.

FINANCIAL STATEMENTS

JERSEY COMPETITION

REGULATORY AUTHORITY

# INDEPENDENT AUDITOR'S REPORT TO MEMBERS OF JERSEY COMPETITION AND REGULATORY AUTHORITY

## *Opinion*

We have audited the financial statements of Jersey Competition and Regulatory Authority ("the Authority") for the year ended 31 December 2018 which comprise the Statement of Comprehensive Income, the Statement of Cash Flows, the Statement of Financial Position and notes to the financial statements, including a summary of significant accounting policies. The financial reporting framework that has been applied in their preparation is applicable law and United Kingdom Accounting Standards ('United Kingdom Generally Accepted Accounting Practice').

In our opinion, the financial statements:

- give a true and fair view of the state of the Authority's affairs as at 31 December 2018 and of its surplus for the year then ended;
- have been properly prepared in accordance with United Kingdom Generally Accepted Accounting Practice; and
- have been properly prepared in accordance with the requirements of the Competition Regulatory Authority (Jersey) Law, 2001.

## *Basis for opinion*

We conducted our audit in accordance with International Standards on Auditing (UK) (ISAs (UK)) and applicable law. Our responsibilities under those standards are further described in the Auditor's responsibilities for the audit of the financial statements section of our report. We are independent of the Authority in accordance with the ethical requirements relevant to our audit of the financial statements in the UK, including the FRC's Ethical Standard and we have fulfilled our other ethical responsibilities in accordance with these requirements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

## *Conclusions relating to going concern*

We have nothing to report in respect of the following matters in relation to which the ISAs (UK) require us to report to you where:

- the Members use of the going concern basis of accounting in the preparation of the financial statements is not appropriate; or
- the Members have not disclosed in the financial statements any identified material uncertainties that may cast significant doubt about the Authority's ability to continue to adopt the going concern basis of accounting for a period of at least twelve months from the date when the financial statements are authorised for issue.

## *Other information*

The Members are responsible for the other information. The other information comprises the information included in the annual report, other than the financial statements and our auditor's report thereon. Our opinion on the financial statements does not cover the other information and, except to the extent otherwise explicitly stated in our report, we do not express any form of assurance conclusion thereon.

In connection with our audit of the financial statements, our responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or our knowledge obtained in the audit or otherwise appears to be materially misstated. If we identify such material inconsistencies or apparent material misstatements, we are required to determine whether there is a material misstatement in the financial statements or a material misstatement of the other information. If, based on the

work we have performed, we conclude that there is a material misstatement of this other information, we are required to report that fact.

We have nothing to report in this regard.

### *Responsibilities of Members*

As explained more fully in the Statement of Members' Responsibilities, the Members are responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view and for such internal control as the Members determine is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Members are responsible for assessing the Authority's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless the Members either intend to liquidate the Authority or to cease operations, or have no realistic alternative but to do so.

### *Auditor's responsibilities for the audit of the financial statements*

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISAs (UK) will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

A further description of our responsibilities for the audit of the financial statements is located at the Financial Reporting Council's website at:

<https://www.frc.org.uk/auditorsresponsibilities>. This description forms part of our auditor's report.

### *Use of our report*

This report is made solely to the Authority's members, as a body, in accordance with Article 17 of the Competition Regulatory Authority (Jersey) Law, 2001. Our audit work has been undertaken so that we might state to Authority's members those matters we are required to state to them in an auditor's report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the Authority and the Authority's members as a body, for our audit work, for this report, or for the opinions we have formed.

[Signed on Original]

BDO Limited  
Chartered Accountants  
Place du Pré  
Rue du Pré  
St Peter Port  
Guernsey

Date

JERSEY COMPETITION REGULATORY AUTHORITY  
STATEMENT OF COMPREHENSIVE INCOME FOR THE YEAR  
ENDED 31 DECEMBER 2018

	Note	2018	2017
		£	£
<b>INCOME</b>			
Telecommunications licence fees		476,805	521,342
Postal licence fees		13,770	10,810
Ports of Jersey incorporation grant and licence fees		149,458	142,547
Competition law grant and other competition law funding		271,412	507,059
Mergers and acquisitions fees		94,000	85,482
		1,005,445	1,267,240
<b>EXPENDITURE</b>			
Salaries and staff costs		636,322	578,554
Consultancy fees		82,488	147,688
Operating lease rentals		58,996	60,527
Travel and entertainment		30,282	23,800
Conference and course fees		8,416	17,607
Depreciation	3	7,772	5,826
Administration expenses		7,731	8,847
Legal and professional fees		87,965	352,128
Audit and accountancy fees		19,521	10,593
Advertising and publicity		14,218	16,354
Repairs and maintenance		22,842	19,481
Heat, light and water		2,836	2,094
Recruitment		3,479	3,936
General expenses		22,576	19,804
		1,005,444	1,267,239
<b>SURPLUS FOR THE FINANCIAL YEAR</b>	6	1	1

Where the JCRA receives more funding than it spends on its activities, the surplus income is deferred. Any shortfall in the year is released from deferred income. The JCRA therefore has a surplus of £1 for 2017 and 2018.

STATEMENT OF TOTAL COMPREHENSIVE INCOME

There are no differences between the surpluses for the financial years stated above and total comprehensive income.

The notes on pages 53 to 58 form an integral part of these financial statements.

JERSEY COMPETITION REGULATORY AUTHORITY  
 STATEMENT OF CASH FLOWS FOR THE YEAR ENDED 31  
 DECEMBER 2018

	Notes	2018	2017
		£	£
CASH FLOWS FROM OPERATING ACTIVITIES			
<i>Surplus for the financial year</i>		1	1
Adjustments for:			
Depreciation of fixed assets	3	7,772	5,826
(Increase) / Decrease in debtors and prepayments	4	(15,124)	196,000
Increase / (Decrease) in creditors	5	7,896	(102,717)
<i>Net cash generated from operating activities</i>		545	99,110
CASH FLOWS FROM INVESTING ACTIVITIES			
Purchases of fixed assets	3	(3,553)	(9,471)
<i>Net cash used in investing activities</i>		(3,553)	(9,471)
<i>Net (decrease) / increase in cash and cash equivalents</i>		(3,008)	89,639
<i>Cash and cash equivalents at beginning of the year</i>		552,859	463,220
CASH AND CASH EQUIVALENTS AT THE YEAR END		549,851	552,859

The notes on pages 53 to 58 form an integral part of these financial statements.

JERSEY COMPETITION REGULATORY AUTHORITY  
 STATEMENT OF FINANCIAL POSITION AS AT 31 DECEMBER  
 2018

	Notes	2018	2017
		£	£
FIXED ASSETS			
Fixed assets	3	15,359	19,578
CURRENT ASSETS			
Debtors and prepayments	4	49,733	34,609
Cash and cash equivalents		549,851	552,859
		599,584	587,468
CURRENT LIABILITIES			
Creditors: amounts falling due within one year	5	489,486	481,590
<i>Net Current Assets</i>		110,098	105,878
TOTAL ASSETS LESS CURRENT LIABILITIES		125,457	125,456
RETAINED SURPLUS	6	125,457	125,456

The financial statements on pages 50 to 58 were approved on 11 March 2019 and authorised for issue by the Members and signed on their behalf by:

[Signed on Original]

Michael O'Higgins

Chair

The notes on pages 53 to 58 form an integral part of these financial statements.

# JERSEY COMPETITION REGULATORY AUTHORITY

## NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 DECEMBER 2018

### 1. ACCOUNTING POLICIES

These financial statements have been prepared in accordance with FRS 102, the Financial Reporting Standard applicable in the UK and Republic of Ireland.

The presentation currency of these financial statements is sterling with all amounts rounded to the nearest whole pound.

The preparation of financial statements in compliance with FRS 102 requires the use of certain critical accounting estimates. It also requires Members to exercise judgement in applying the accounting policies.

The following principal accounting policies have been consistently applied:

#### a) *Income*

Income is received from government grant and other charges raised in respect of the JCRA's responsibilities as the administrator and enforcer of Jersey's competition law and through fees raised through the licensing regime in place for certain sectors. Further details are given below:

#### i) Grants and other charges

Grants received are of a revenue nature and are recognised in the statement of comprehensive income in the same period as the related expenditure. The grant received for 2018 was £209,000 (2017:£300,000), and £62,412 was released from deferred income. No additional cash funding was provided (2017: Additional cash funding of £315,331 was also provided for specific expenses, although income of £108,271 was deferred). 'Mergers and acquisitions fees' comprises fees received for the assessment of certain notifiable mergers and acquisitions. They are recognised in the statement of comprehensive income once the proposed transaction has been formally registered with the JCRA, with partial deferral of fees where the work has not yet been completed at the year end. Fees recognised in 2018 were £94,000 (2017: £85,482) with expenditure of £91,031 (2017:£55,419) reflected in the statement of comprehensive income. Any unused funds at the financial year end are either deferred or repaid to the Chief Minister's Department. Any deficits are funded from agreed releases of deferred income or recovered from future grants. Total deferred grant income as at 31 December amounted to £128,087 (2017: £190,499).

#### ii) Licence fees

Licence fees across all regulated sectors are set on the basis of cost recovery in accordance with sector-specific legislation and are recognised in the period to which they relate. The JCRA's costs are estimated on an annual basis and these are recovered either by applying a percentage to the licensed revenue of each licensed operator (in the case of telecoms) or through charging an annual fee (in the cases of post and ports). If fee income exceeds costs, the balance is transferred to deferred income. Licence fee percentages / charges and deferred income are set out overleaf:

## 1. ACCOUNTING POLICIES (CONTINUED)

	2018		2017	
	Licence fee % / charge	Deferred income balance	Licence fee % / charge	Deferred income balance
<b>Telecoms</b>	0.75% relevant turnover	£262,352	0.75% relevant turnover	£187,455
<b>Post</b>	Class II £20,000 Class I £1,000	£9,730	Class II £20,000 Class I £1,000	£12,690
<b>Ports</b>	£180,000	£30,542	£180,000	£37,453

*b) Expenditure*

Expenditure is accounted for on an accruals basis and is measured at its transaction price.

*c) Fixed assets*

Fixed assets are stated at cost less depreciation. Depreciation is provided on all fixed assets at rates calculated to write down their cost on a straight line basis to their estimated residual values over their expected useful economic lives. The depreciation rates used are as follows:

Other equipment	20% per annum
Fixtures and fittings	10% per annum
Computer equipment	33% per annum
Website costs	33% per annum
Leasehold improvements	shorter of remaining length of lease or expected useful life

Assets' residual values, useful lives and depreciation methods are reviewed, and adjusted prospectively if appropriate, if there is an indication of a significant change since the last reporting date.

Gains and losses on disposals are determined by comparing the proceeds with the carrying amount and are recognised within 'other operating income' in the statement of comprehensive income.

*d) Leasing commitments*

All leases entered into by the JCRA are operating leases. Rentals payable under operating leases are charged in the statement of comprehensive income on a straight line basis over the lease term.

*e) Pensions*

The JCRA provides a defined contribution pension scheme to some of its employees. Contributions are charged in the statement of comprehensive income as they become payable in accordance with the rules of the scheme.

*f) Taxation*

Article 16 of the Competition Regulatory Authority (Jersey) Law 2001 provides that the income of the JCRA shall not be liable to income tax under the Income Tax (Jersey) Law 1961.

2. JUDGEMENTS IN APPLYING ACCOUNTING POLICIES AND KEY SOURCES OF ESTIMATION UNCERTAINTY

In the application of the JCRA's accounting policies, which are described in note 1, the Members are required to make judgements, estimates and assumptions about the carrying values of assets and liabilities that are not readily apparent from other sources. The estimates and underlying assumptions are based on historical experience and other factors that are considered to be relevant. The estimates and underlying assumptions are reviewed on an ongoing basis. The critical judgements made by management that have a significant effect on the amounts recognised in the financial statements are described below:

- Determined whether leases entered into by the JCRA as a lessee are operating or finance leases. These decisions depend on an assessment of whether the risks and rewards of ownership have been transferred from the lessor to the lessee on a lease by lease basis.
- Determined whether there are indicators of impairment of the JCRA's fixed assets. Factors taken into consideration in reaching such a decision include the economic viability and expected future performance of the asset.
- Determined the split of expenses incurred for work undertaken under the aegis of the Channel Islands Competition and Regulatory Authorities. These decisions depend on an assessment of resource allocation, including that of staff time.
- Determining the appropriate treatment for the costs incurred in developing a new website. Factors taken into consideration in reaching the decision include: the ability to separate the asset from the JCRA, the benefit of an improved website internally and externally, the intention to complete the project and bring the website into use, noting that it considers that it has the resources so to do, and the ability to reliably measure the expenditure incurred on developing the website during the development phase.

Key sources of estimation uncertainty:

- The liability arising from an order of costs against the Authority by the Royal Court has not yet been determined (see note 10). The Authority has considered the likely amount of the costs to be reimbursed, taking into account available sources of information and the advice of its lawyers.
- Tangible fixed assets (see note 3) are depreciated over their useful lives taking into account residual values, where appropriate. The actual lives of the assets and residual values are assessed annually and may vary depending on a number of factors. In reassessing asset lives, factors such as technological innovation, product life cycles and maintenance programs are taken into account. Residual value assessments consider issues such as future market conditions, the remaining life of the asset and projected disposal values.

## 3. FIXED ASSETS

	<i>Leasehold Improvements</i>	<i>Computer Equipment</i>	<i>Website</i>	<i>Fixtures &amp; Fittings</i>	<i>Equipment</i>	<i>Total</i>
	£	£	£	£	£	£
<i>Cost</i>						
As at 1 January 2018	38,570	35,476	15,376	22,266	989	112,677
Additions	-	1,928	1,625	-	-	3,553
Disposals	-	-	-	-	-	-
<i>As at 31 December 2018</i>	<b>38,570</b>	<b>37,404</b>	<b>17,001</b>	<b>22,266</b>	<b>989</b>	<b>116,230</b>
<i>Depreciation</i>						
As at 1 January 2018	36,650	34,358	2,114	18,988	989	93,099
Provided for the year	563	1,130	5,557	522	-	7,772
Disposals	-	-	-	-	-	-
<i>As at 31 December 2018</i>	<b>37,213</b>	<b>35,488</b>	<b>7,671</b>	<b>19,510</b>	<b>989</b>	<b>100,871</b>
<i>Net Book Value</i>						
As at 31 December 2018	1,357	1,916	9,330	2,756	-	15,359
As at 31 December 2017	1,920	1,118	13,262	3,278	-	19,578

## 4. DEBTORS AND PREPAYMENTS

	<i>2018</i>	<i>2017</i>
	£	£
Prepayments	22,886	27,072
Amounts due from the Guernsey Competition and Regulatory Authority	18,852	3,204
Trade and other debtors	7,995	4,333
	<b>49,733</b>	<b>34,609</b>

## 5. CREDITORS: AMOUNTS FALLING DUE WITHIN ONE YEAR

	<i>2018</i>	<i>2017</i>
	£	£
Accruals	49,367	30,015
Deferred grant income	128,087	190,499
Deferred licence fee income and amounts paid in advance	302,624	240,292
Deferred mergers and acquisitions fee income	-	9,000
Trade and other creditors (see also note 10)	8,471	7,966
Amounts due to the Guernsey Competition and Regulatory Authority	937	3,818
	<b>489,486</b>	<b>481,590</b>

## 6. MOVEMENT ON RETAINED SURPLUS

	2018		2017	
	£		£	
At 1 January	125,456		125,455	
Surplus for the year	1		1	
At 31 December	125,457		125,456	

## 7. COMMITMENTS UNDER OPERATING LEASES

At 31 December 2018 the JCRA had commitments under non-cancellable operating leases as set out below:

	Buildings			
	2018		2017	
	£		£	
Amounts payable under operating leases:				
Not later than one year	58,263		56,906	
In more than one year but less than five years	84,202		26,660	
	142,465		83,566	

The amount shown above relates to a five year lease which had an option to break at the end of year three for the JCRA's office in Salisbury House, Union Street, St. Helier. The lease expires in June 2021.

## 8. PENSION COMMITMENTS

The JCRA provides a defined contribution pension scheme (the Public Employees Contributory Retirement Scheme) to some of its employees. The assets of the scheme are held separately from those of the JCRA in an independently administered fund. Contributions of £20,326 (2017: £20,326) were paid across in the year. There were no unpaid contributions at the year end.

## 9. RELATED PARTY DISCLOSURES

a) *The JCRA and the Chief Minister*

The JCRA acts independently of the States of Jersey, but is accountable to the States of Jersey through the Chief Minister for the funding it receives to administer and enforce Jersey's competition law, and the funding is covered by a service level agreement. The Chief Minister acts as a conduit for requests from other Ministers who may request the JCRA to carry out projects. The JCRA reports formally to the States of Jersey through the Chief Minister on an annual basis.

In 2018, the Chief Minister's Department provided £209,000 (2017: £300,000) in funding to the JCRA to finance the administration and enforcement of the Competition (Jersey) Law 2005. No additional funding was provided (2017: £315,331). As at the year end the balance of deferred grant income due to the Chief Minister's Department was £128,087 (2017: £190,499).

*b) The JCRA and the Guernsey Competition and Regulatory Authority (GCRA)*

The JCRA and the GCRA work together under the aegis of CICRA, sharing a board, resources and expertise between the islands, whilst retaining their own separate legal identities. Recharges are made for expenses incurred (including staff costs) on a no gain no loss basis.

During 2018, £123,966 (2017: £84,501) was invoiced by the JCRA to the GCRA and £72,636 (2017: £249,500) was invoiced by the GCRA to the JCRA. At the statement of financial position date the amount owed by the JCRA to the GCRA was £937 (2017: £3,818) and the amount owed by the GCRA to the JCRA was £18,852 (2017: £3,204).

*c) Key management personnel*

Key management personnel includes all members of the JCRA who together have authority and responsibility for planning, directing and controlling the activities of the JCRA. The total compensation paid to key management personnel for services provided to the JCRA was £223,540 (2017: £213,049).

## 10. CONTINGENT LIABILITY

In January 2018, the Royal Court issued a judgment overturning a decision of the JCRA on appeal. Costs on a standard basis were subsequently awarded to the appellant, although the cost to the JCRA has not yet been determined. The probable amount of the resultant liability has been considered and the Authority is confident that it will be able to meet the liability from available sources of funding and continue its other competition-related activities. Competition law grant funding or other sources of funding specifically designated for the purpose were required to finance the cost of defending the appeal, and this will apply to the amount payable to the appellant. During 2018, no additional funding (2017: £315,331) was agreed in relation to the JCRA's costs of defending the appeal.

## 11. EVENT AFTER THE DATE OF THE STATEMENT OF FINANCIAL POSITION

A consultant which undertook a piece of work during 2018 decided during 2019 not to charge for the services provided, resulting in the cancellation of a liability of £7,300. This amount will be recognised in the financial year ending 31 December 2019.