



BILLET D'ÉTAT

WEDNESDAY, 23rd NOVEMBER, 2022

XX
2022

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BILLET D'ÉTAT

TO THE MEMBERS OF THE STATES OF THE ISLAND OF GUERNSEY

I hereby give notice that a Meeting of the States of Deliberation will be held at **THE ROYAL COURT HOUSE**, on **WEDNESDAY the 23rd NOVEMBER, 2022** at **9.30 a.m.**, to consider the items listed in this Billet d'État which have been submitted for debate.

R. J. McMAHON
Bailiff and Presiding Officer

The Royal Court House
Guernsey

24th October, 2022

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE

**RE-ELECTION OF BARONESS COUTTIE AS AN ORDINARY MEMBER OF THE GUERNSEY
FINANCIAL SERVICES COMMISSION**

The States are asked to decide: -

Whether, after consideration of the Policy Letter dated 27th September, 2022, of the Policy & Resources Committee, they are of the opinion:-

1. To re-appoint Philippa Marion Roe (the Baroness Couttie) as an ordinary member of the Guernsey Financial Services Commission for a three year term with effect from 1st January 2023.

POLICY & RESOURCES COMMITTEE

RE-ELECTION OF BARONESS COUTTIE AS AN ORDINARY MEMBER OF THE GUERNSEY FINANCIAL SERVICES COMMISSION

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

27th September, 2022

Dear Sir

1. Executive Summary

- 1.1 Philippa Marion Roe (the Baroness Couttie)'s appointment as an ordinary member of the Guernsey Financial Services Commission (the GFSC) will end on 1st January 2023.
- 1.2 In order to ensure continuity of experience, this Policy Letter proposes the re-election of the Baroness Couttie as an ordinary member of the GFSC for a three year term, with effect from 1st January 2023.

2. Report

- 2.1 Baroness Couttie was first elected as a GFSC Commissioner in 2019¹ and has served as a Commissioner since January 2020. In February 2022, she was elected as vice-chair for the GFSC.
- 2.2 Baroness Couttie has over 30 years of experience in governance, politics, financial services, financial strategy and, more broadly, in addressing external initiatives and influences from domestic, regional and international perspectives. Her biography is attached as Appendix 1 to this Policy Letter.
- 2.3 Baroness Couttie has been a member of the House of Lords since 2016 and is currently a member of the Lords' European Union Select Committee, the House of Lords' European Affairs Committee and also the House of Lords' EU Services Sub-Committee.
- 2.4 From 2014 to 2016, Baroness Couttie was a board member of the London Local

¹ Policy Letter "Election of Baroness Couttie as an Ordinary Member of the Guernsey Financial Services Commission" [Billet d'État XXIV of 2019](#) and [Resolutions](#) of 11th December, 2019

Enterprise Partnership and of its Infrastructure Delivery Board. This partnership was tasked with delivering and maintaining London's globally pre-eminent position, whilst the Infrastructure Delivery Board was responsible for identifying the infrastructure needs to deliver that vision and developing the strategy for financing those needs. From 2012 to 2017, she led the Westminster City Council. Baroness Couttie is also a Non-Executive Director of Mitie PLC, is a member of its Audit Committee and Nominations Committee and is also the Chair of its Social Value & Responsible Business Committee.

3. Conclusion

- 3.1 The Financial Services Commission (Bailiwick of Guernsey) Law, 1987 specifies that ordinary members of the Commission should "be persons having knowledge, qualifications or experience appropriate to the development and supervision of finance business in the Bailiwick".
- 3.2 Based on her significant professional experience, the Policy & Resources Committee is of the opinion that Baroness Couttie meets the criteria of the Law and is pleased to nominate her for re-appointment as an ordinary member of the GFSC.

4. Recommendation

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

To re-elect Philippa Marion Roe (the Baroness Couttie) as an ordinary member of the GFSC for a three year term, with effect from 1st January 2023. The Committee recommends that the States support this proposal.

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)(a), the Proposition is in line with States' objectives and policy plans as set out in the Government Work Plan Priority 2—"Managing the Effects of Brexit; Meet international Standards"².
- 5.3 In accordance with Rule 4(1)(b), no consultation was undertaken with other Principal Committees, as under the legislation only the the Policy & Resources Committee can nominate Commissioners for the GFSC.

² Government Work Plan – Stage 2, [Billet d'État XV of 2021](#) and [Resolutions](#) of 23rd July, 2021.

- 5.4 In accordance with Rule 4(1)(c), the Proposition has 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 Proposition should not be put into effect.
- 5.5 In accordance with Rule 4(1)(d), there are no financial implications to the States for these proposals.
- 5.6 In accordance with Rule 4(2)(a), the Proposition relates to the power of the Policy & Resources Committee to nominate persons for election by the States as members of the GFSC under paragraph 1(2) of Schedule 1 to the Financial Services Commission (Bailiwick of Guernsey) Law, 1987.
- 5.7 In accordance with Rule 4(2)(b), it is confirmed that the Proposition has the unanimous support of the the Policy & Resources Committee.

Yours faithfully

Policy & Resources Committee

P T R Ferbrache
President

H J Soulsby OBE
Vice-President

M A J Helyar
J P Le Tocq
D J Mahoney

APPENDIX 1

THE BARONESS COUTTIE - BIOGRAPHY

Full title: The Baroness Couttie

Name: Philippa Marion Roe

Joined the House of Lords: 5 September 2016

Party: Conservative

UK Parliament

Current Committee Memberships

European Affairs Committee (House of Lords) April 2021-present

European Union Committee (House of Lords) July 2019-present

EU Services Sub-Committee (House of Lords) April 2020-present

Former Committee Memberships

EU Financial Affairs Sub-Committee (House of Lords) July 2019-April 2020

Political Polling and Digital Media Committee (House of Lords) June 2017-March 2018

Political Life

Association of Conservative Peers Executive Member 2018

Conservative Party Whip 2017

London Local Enterprise Partnership (Infrastructure Delivery Board) 2014-2016

London Councils Deputy Leader 2014-2016

Westminster City Council Local Councillor 2006-2017, Leader 2012-2017, Cabinet Member for Finance 2011-2012

Chair of David Cameron's Public Sector Efficiency Subgroup 2006-2007

James Committee Head of Treasury team 2004-2005

Private Finance Panel Head of Education team 1997-1999

Professional Life

Mitie PLC Non-Executive Director 2018

FTI Consulting Non-Executive Senior Advisor 2014-2017

Chair of Imperial College Audit Committee 2006-2014

Citigroup Director 2000-2006

J Henry Schroder Associate Director 1999-2000

PR Consultants Proprietor and CEP 1992-1999

Cornerstone Communications Managing Director 1990-1992

CPP Brussels Joint Managing Director 1990-1992

Public Life

President of the Local Government Association 2018-

Chair of the West End Partnership 2013-2017

Local Government Association Deputy Leader 2013-2017

Royal Parks Board Member 2012-2017

Imperial College Council Member 2006-2014

ORDINANCE LAID BEFORE THE STATES

THE INCOME SUPPORT (IMPLEMENTATION) (AMENDMENT) ORDINANCE, 2022

In pursuance of the provisions of the proviso to Article 66A(1) of The Reform (Guernsey) Law, 1948, as amended, "The Income Support (Implementation) (Amendment) Ordinance, 2022" made by the Policy & Resources Committee on the 13th September, 2022, is laid before the States.

EXPLANATORY MEMORANDUM

This Ordinance amends the Income Support (Implementation) Ordinance, 1971 to increase the short term and long-term requirement rates on which the calculation of income support is based and the level of maximum rent allowances (the maximum amount that income support can contribute towards rental payments). The Ordinance also increases the limit of weekly income, above which a claimant will not receive further assistance from income support, for a person living in the community from £930 to £980. All changes are with effect from the 7th October, 2022.

The Ordinance was approved by the Legislation Review Panel on the 5th September, 2022 and made by the Policy & Resources Committee in exercise of its powers under Article 66A(1) of the Reform (Guernsey) Law, 1948. Under the proviso to the said Article 66A(1), the States of Deliberation have the power to annul the Ordinance.

STATUTORY INSTRUMENTS LAID BEFORE THE STATES

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

No. 62 of 2022

THE PUBLIC HOLIDAYS (FUNERAL OF HER MAJESTY QUEEN ELIZABETH II) REGULATIONS, 2022

In pursuance of powers conferred on it by section 1A(1) of the Public Holidays Ordinance, 19941 and all other powers enabling it in that behalf, “The Public Holidays (Funeral of Her Majesty Queen Elizabeth II) Regulations, 2022”, made by the Committee for Economic Development on 12th September, 2022, are laid before the States.

EXPLANATORY NOTE

These regulations appoint Monday 19th September 2022 as a public holiday to mark the funeral of Her Majesty Queen Elizabeth II.

These Regulations came into force on 12th September, 2022.

No. 63 of 2022

THE SANCTIONS (IMPLEMENTATION OF UK REGIMES) (BAILIWICK OF GUERNSEY) (BREXIT) (AMENDMENT) (NO.4) REGULATIONS, 2022

In pursuance of section 27(5) of the Sanctions (Bailiwick of Guernsey) Law, 2018, “The Sanctions (Implementation of UK Regimes) (Bailiwick of Guernsey) (Brexit) (Amendment) (No. 4) Regulations, 2022”, made by the Policy & Resources Committee on 13th September 2022, are laid before the States.

EXPLANATORY NOTE

The Sanctions (Implementation of UK Regimes) (Bailiwick of Guernsey) (Brexit) Regulations, 2020 (the “Principal Regulations”) gave effect with modifications within the Bailiwick, to the UK sanctions regime in respect of Russia under the UK’s Russia (Sanctions) (EU Exit) Regulations 2019 (U.K.S.I. 2019 No. 855). These Regulations amend the Principal Regulations in order to give effect within the Bailiwick to recent changes made to the UK’s legislative framework for its Russia sanctions regime in respect of an exemption to a prohibition on providing professional and business services.

The Regulations came into force on 13th September 2022.

¹ Recueil d’Ordonnances Tome XXVI, p. 289 as amended by Ordinance No. VI of 2010.

No. 65 of 2022

**THE LAND PLANNING AND DEVELOPMENT (VISITOR ACCOMMODATION) (EXEMPTIONS)
REGULATIONS, 2022**

In pursuance of section 89(4) of the Land Planning and Development (Guernsey) Law, 2005, “The Land Planning and Development (Visitor Accommodation) (Exemptions) Regulations, 2022”, made by the Development & Planning Authority on 23rd September, 2022, are laid before the States.

EXPLANATORY NOTE

These Regulations extend the date for the ending of the period during which a temporary change of use of premises can occur, from a visitor accommodation use to certain residential uses, without planning permission under the exemption in paragraph 1 of Class 9A (temporary visitor accommodation change of use) subject to all the requirements set out in the exemption. The date is extended from 31st December, 2022 to 31st December, 2023.

As a result of the above change, the Regulations also extend the date on or by which the premises, the use of which has been changed temporarily in reliance on the exemption, has to revert to its previous visitor accommodation use. The date is extended from 31st January, 2023 to 31st January, 2024.

These Regulations come into force on the 23rd day of September, 2022.

The full text of the legislation can be found at: <http://www.guernseylegalresources.gg>

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

**THE SOCIAL INSURANCE (RATES OF CONTRIBUTIONS AND BENEFITS ETC.)
ORDINANCE, 2022**

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Social Insurance (Rates of Contributions and Benefits etc.) Ordinance, 2022", and to direct that the same shall have effect as an Ordinance of the States.

EXPLANATORY MEMORANDUM

This Ordinance sets the percentage contribution rates of Class 1 to 3 social insurance contributions for 2022. The rates of contributions are increased by 0.1% for employers (to 6.8%), 0.2 for employees (to 7%), by 0.3% for self-employed people (to 11.6%) and non-employed persons under pension age (to 11%) and by 0.1% for non-employed persons over pension age (to 3.6%).

It also sets the upper and lower income limits, amounts of contributions and the Class 3 income allowance and increases the amounts of contributory social insurance benefits as set out in the First Schedule. All limits and benefits are increased by 7% in line with the June, 2022 RPIX figure. The Ordinance prescribes the percentages for the Guernsey Health Service Allocation and the Long-term Care Insurance Fund Allocation, with further adjustments to reflect the increases in contribution rates. All provisions set rates and benefits for 2023 under the Social Insurance (Guernsey) Law, 1978.

The benefit rates are increased from 2nd January, 2023 and the rest of the Ordinance comes into force on the 1st January, 2023.

The Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2022

THE STATES, in pursuance of their Resolutions of the ** October, 2022^a, and in exercise of the powers conferred upon them by sections 5, 6, 8, 11A, 19, 48(2), 49(4), 61, 101, 101A and 116 of the Social Insurance (Guernsey) Law, 1978^b, and all other powers enabling them in that behalf, hereby order:-

Percentage rates of primary and secondary Class 1 contributions.

1. For the purposes of the Social Insurance (Guernsey) Law, 1978, ("the Law") -

- (a) the percentage rate of a primary Class 1 contribution shall be 7.0%, and
- (b) the percentage rate of a secondary Class 1 contribution shall be 6.8%.

Upper weekly and upper monthly earnings limits for the purpose of Class 1 contributions.

2. For the purposes of the Law -

- (a) the upper weekly earnings limit for primary and secondary Class 1 contributions shall be £3,240, and

^a Article ** of Billet d'État No. ** of 2022.

^b Ordres en Conseil Vol. XXVI, p. 292. This enactment has been amended.

- (b) the upper monthly earnings limit for primary and secondary Class 1 contributions shall be £14,040.

Lower income limit.

3. For the purposes of the Law, the lower income limit for Class 3 contributions shall be £21,190 per annum.

Percentage rate and amount of Class 2 contributions.

4. For the purposes of the Law -

- (a) the percentage rate of a Class 2 contribution shall be, in respect of any person other than a person to whom the following paragraph of this section applies, 11.6%, and
- (b) the amount of a Class 2 contribution shall be, in respect of an overseas voluntary contributor, being a person who is not resident in Guernsey and who, satisfying prescribed conditions, is desirous of paying Class 2 contributions under the Law, £122.38 per week.

Percentage rates and amount of Class 3 contributions.

5. (1) For the purposes of the Law -

- (a) the amount of a Class 3 contribution shall be in respect of a voluntary contributor, being a person who is not liable to pay a Class 3 contribution but, satisfying prescribed conditions, is desirous of paying contributions in accordance with section 8(4) of the Law,

£24.67 per week,

(b) the percentage rates of a Class 3 contribution shall be -

(i) in respect of a person who has attained pensionable age, 3.6%, and

(ii) in respect of all other persons, 11%, and

(c) the amount of a Class 3 contribution shall be, in respect of an overseas voluntary contributor, being a person who is not resident in Guernsey and who, satisfying prescribed conditions, is desirous of paying Class 3 contributions under the Law, £110.69 per week.

(2) The percentage of a minimum Class 3 contribution payable in accordance with section 8(5) of the Law by a person who is normally in employed contributor's employment shall be 100%.

Amount of the Class 3 income allowance.

6. For the purposes of the Law, the amount of the Class 3 income allowance shall be £9,527.

Rates and amounts of benefits.

7. (1) For the purposes of the Law, the weekly rate of each description of benefit set out in column 1 of Part I of the first schedule to this Ordinance shall be the rate specified in relation thereto in column 2, and the amounts by which that rate may be increased in respect of an adult dependant shall be the amount specified in column 3.

(2) For the purposes of the Law, where the extent of the disablement is assessed for the period to be taken into account as amounting to 20% or more, industrial disablement benefit shall be payable for that period at the appropriate weekly rate specified in Part II of the first schedule to this Ordinance.

(3) For the purposes of the Law, the amounts of death grant, maternity grant, adoption grant and bereavement payment shall be the appropriate amounts specified in relation thereto in Part III of the first schedule to this Ordinance.

Guernsey Health Service Allocation and Long-term Care Insurance Fund Allocation.

8. The percentages determined in respect of the contribution year for the purposes of sections 101 (the Guernsey Health Service Allocation) and 101A (the Long-term Care Insurance Fund Allocation) of the Law are those specified in columns 2 and 3 of the second schedule to this Ordinance of the aggregate amount paid in respect of each of the classes of contribution specified in column 1 of that schedule.

Repeals.

9. The Social Insurance (Rates of Contributions and Benefits, etc.) (Amendment) Ordinance, 2021^c is repealed.

Interpretation.

10. In this Ordinance -

"the Law": see section 1, and

^c Ordinance No. XXXVII of 2021.

"**prescribed conditions**" means conditions prescribed by Regulations under the Law.

Citation.

11. This Ordinance may be cited as the Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2022.

Extent.

12. This Ordinance shall have effect in the Islands of Guernsey, Alderney, Herm and Jethou.

Commencement.

13. (1) Section 7 of this Ordinance shall come into force on the 2nd January, 2023.

(2) All other sections of this Ordinance shall come into force on the 1st January, 2023.

FIRST SCHEDULE

Section 7

RATES AND AMOUNTS OF BENEFITS

PART I

**Benefit, other than industrial disablement benefit, death grant,
maternity grant, adoption grant and bereavement payment**

Description of Benefit (1)	Weekly rate (2)	Increase for adult dependant (where payable) (3)
1. Industrial injury benefit	£184.17	Nil
2. Incapacity benefit	£221.27	Nil
3. Maternal health allowance	£250.67	
4. Newborn care allowance	£250.67	
5. Parental allowance	£250.67	
6. Old age pension: (a) payable to a woman by virtue of her husband's insurance while he is alive (b) in any other case	£125.34 £250.22	- £125.34
7. Sickness benefit	£184.17	Nil
8. Unemployment benefit	£184.17	Nil
9. Widowed parent's allowance	£263.13	-
10. Widow's pension/Bereavement allowance	£226.26	-

PART II

Industrial disablement benefit

Degree of disablement	Weekly rate
100%	£201.64
90%	£181.48
80%	£161.31
70%	£141.15
60%	£120.98
50%	£100.82
40%	£80.66
30%	£60.49
20%	£40.33

PART III

Death grant, maternity grant, adoption grant and bereavement payment

Description of grant	Amount
1. Death grant	£720
2. Maternity grant	£461
3. Adoption grant	£461
4. Bereavement payment	£2,273

SECOND SCHEDULE

Section 8

GUERNSEY HEALTH SERVICE ALLOCATION AND LONG-TERM CARE
INSURANCE FUND ALLOCATION

Class and sub-class of contribution (1)	Health Service Allocation (2)	Long-term Care Insurance Fund Allocation (3)
Class 1 primary contributions (7.0%)	26.43%	28.57%
Class 1 secondary contributions (6.8%)	Nil	Nil
Class 2 contributions paid in respect of overseas voluntary contributors	Nil	Nil
Class 2 contributions other than those referred to above (11.6%)	15.95%	17.24%
Class 3 contributions paid in respect of voluntary contributors	Nil	Nil
Class 3 contributions paid in respect of overseas voluntary contributors	Nil	Nil
Class 3 contributions paid by persons over pensionable age (3.6%)	36.11%	63.89%
Class 3 contributions other than those referred to above (11.0%)	17.27%	19.09%

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

THE LONG-TERM CARE INSURANCE (GUERNSEY) (RATES) ORDINANCE, 2022

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Long-term Care Insurance (Guernsey) (Rates) Ordinance, 2022", and to direct that the same shall have effect as an Ordinance of the States.

EXPLANATORY MEMORANDUM

This Ordinance amends rates of Long-term care benefit and the weekly contribution which a claimant must make, towards the cost of the claimant's care, under the Long-term Care Insurance (Guernsey) Law, 2002, with effect from 2nd January, 2023. The long-term care benefit rates are increased by 7% in line with the June, 2022 RPIX figure. The weekly contribution or co-payment from claimants is increased in line with proposed six-monthly increments adjusted in accordance with the June, 2022 RPIX figure of 7%.

The Long-term Care Insurance (Guernsey) (Rates)

Ordinance, 2022

THE STATES, in pursuance of their Resolutions of the ** October 2022^a, and in exercise of the powers conferred on them by sections 5 and 31 of the Long-term Care Insurance (Guernsey) Law, 2002^b and all other powers enabling them in that behalf, hereby order:-

Rates of benefit.

1. (1) The maximum weekly rates of care benefit shall be -
 - (a) for persons resident in a residential home -
 - (i) £570.29, or
 - (ii) where also receiving EMI care, £745.43, and
 - (b) for persons resident in a nursing home or the Guernsey Cheshire Home, £1,028.93.
- (2) The maximum weekly rates of respite care benefit shall be -
 - (a) for persons receiving respite care in a residential home -
 - (i) £876.75, or

^a Article ** of Billet d'État No. ** of 2022.

^b Order in Council No. XXIII of 2002. This enactment has been amended.

(ii) where also receiving EMI care, £1,051.89, and

(b) for persons receiving respite care in a nursing home or the Guernsey Cheshire Home, £1,335.39.

Co-payment by way of contribution.

2. The weekly co-payment which a claimant shall make by way of contribution towards or for the cost of that claimant's care -

(a) as a condition of the right to care benefit, and

(b) which shall be taken into account for the purposes of determining the rate of care benefit,

shall be £306.46.

Interpretation.

3. In this Ordinance, unless the context requires otherwise -

"**EMI care**" means care which, in the opinion of the Administrator, is necessary to meet the needs of a person who is assessed by the Panel as having the characteristics of an elderly and mentally infirm person, and

"**nursing home**" and "**residential home**" have the meanings given by section 18(1) of the Nursing Homes and Residential Homes (Guernsey) Law, 1976^c.

^c Ordres en Conseil Vol. XXVI, p. 71. This enactment has been amended.

Repeal.

4. The Long-term Care Insurance (Guernsey) (Rates) Ordinance, 2021^d and the Long-term Care Insurance (Guernsey) (Rates) (Amendment) Ordinance, 2022^e are repealed.

Citation.

5. This Ordinance may be cited as the Long-term Care Insurance (Guernsey) (Rates) Ordinance, 2022.

Extent.

6. This Ordinance shall have effect in the Islands of Guernsey, Alderney, Herm and Jethou.

Commencement.

7. This Ordinance shall come into force on the 2nd January, 2023.

^d Ordinance No. XXXVIII of 2021.

^e Ordinance No. X of 2022.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

PROJET DE LOI

Entitled

THE SECONDARY PENSIONS (GUERNSEY AND ALDERNEY) LAW, 2022

The States are asked to decide:-

Whether they are of the opinion to approve the draft Projet de Loi entitled "The Secondary Pensions (Guernsey and Alderney) Law, 2022", and to authorise the Bailiff to present a most humble petition to His Majesty praying for His Royal Sanction thereto.

EXPLANATORY MEMORANDUM

This Law enacts provisions that will, when the necessary secondary legislation is made, make it mandatory for employers to provide employees with pensions.

The provisions include –

- the imposition of a duty upon employers to provide a pensions to certain employees
- the ability of employees to opt in and out of pension provision
- a comprehensive suite of enforcement provisions and
- detailed provisions as to the characteristics of pensions that would meet the duty imposed ('approved pensions').

Part I contains the basic duty of enrolment, details the information to be provided to employees and employees' rights to opt in and opt out. It also enables the Committee, inter alia, to prescribe the date on which that duty shall have effect, to allow the Committee to tie that in with the operational considerations.

Part II contains a comprehensive suite of enforcement and compliance provisions to ensure that the Director of the Revenue Service has all she needs to monitor compliance and take such measures as may be necessary in relation to enforcement.

Part III contains general provisions, including, importantly a duty to create a pension trust to ensure that when the obligation to enrol employees is commenced, there will be a pension available to all employers for the benefit of their employees. There are separate commencement provisions for Guernsey and Alderney.

The Schedule contains the details of the characteristics of approved pension

schemes, which can be amended by regulations of the Committee to ensure that technical changes can be made quickly if necessary to take into account any changes in pension regulation.

PROJET DE LOI

ENTITLED

The Secondary Pensions (Guernsey and Alderney) Law, 2022

ARRANGEMENT OF SECTIONS

PART I

APPROBATED PENSION SCHEMES

1. Synopsis of provisions.
2. Duty for employers to enrol employees into a pension scheme.
3. Provision of information.
4. Opt out.
5. Right to opt in.
6. Deferred enrolment.

PART II

COMPLIANCE AND ENFORCEMENT

7. Statements of Practice.
8. Duty to make returns.
9. Penalties for failure to make a return.
10. Information notices.
11. Compliance notices.
12. Third party compliance notices.
13. Unpaid contributions notices.
14. Calculation and payment of contributions.
15. Meaning of “relevant contributions”.
16. Fixed penalty notices.
17. Escalating penalty notices.
18. Penalty notices: recovery.
19. Review of notices.
20. References to the Revenue Service Tribunal.
21. Offences of failing to comply.
22. Offences by legal persons, etc.

- 23. False or misleading information.
- 24. Penalties.

PART III
GENERAL

- 25. Duty for the Committee to establish a pension trust.
- 26. General provisions as to subordinate legislation.
- 27. Procedure for Ordinances under this Law.
- 28. Amendment of the Income Tax Law.
- 29. Interpretation.
- 30. Citation.
- 31. Commencement.
- 32. Extent.

SCHEDULE : Approbated Pension Schemes

PROJET DE LOI

ENTITLED

The Secondary Pensions (Guernsey and Alderney) Law, 2022

THE STATES, in pursuance of their Resolutions of 5th February, 2020^a and ** November, 2022^b, have approved the following provisions which, subject to the Sanction of His Most Excellent Majesty in Council, shall have force of law in the Islands of Guernsey, Herm, Jethou and Alderney.

PART I

APPROBATED PENSION SCHEMES

Synopsis of provisions.

1. This Law -

- (a) requires employers to enrol designated employees into certain pension schemes, referred to as approbated pension schemes, and
- (b) makes provision for a compliance and enforcement regime and other general matters (see Parts II and III).

^a Article II of Billet d'État No. IV of 2020.

^b Article [] of Billet d'État No. [] of 2022.

Duty for employers to enrol employees into a pension scheme.

2. (1) Where a designated employee is not an active member of an approbated pension scheme provided by that employee's employer, the employer must, subject to section 6(2), immediately enrol the employee into an approbated pension scheme (see the Schedule) in accordance with regulations of the Committee under subsection (2), and the employer may deduct the employee contributions from the employee's salary accordingly and shall also make the employer contributions.

(2) The Committee may by regulations -

- (a) prescribe the date(s) on which the duty in subsection (1) takes effect ("**the operative date**"), in what manner and in relation to which persons,
- (b) provide that, if employers do not use the Trust created under section 25 as an approbated pension scheme, employers must give employees a choice of being enrolled into the employer's chosen approbated pension scheme or the Trust, make provision for the form and manner in which such choice must be provided, and determine in what scheme the employee must be enrolled where no choice is made and the other consequences thereof.

(3) For the purposes of this Law -

- (a) an "**active member**" of a pension scheme is a member accruing benefits under the scheme as a direct result of

that member's employment,

- (b) an "**approved pension scheme**" is a pension scheme that meets the requirements of the Schedule, the provisions of which have effect accordingly,
- (c) "**contract of employment**" means a contract of service or apprenticeship, whether express or implied and whether written or oral,
- (d) a "**designated employee**" is an employee who –
 - (i) is 16 years old or over,
 - (ii) is not of pensionable age or over (as defined in section 121 of the Social Insurance Law),
 - (iii) is not in full time education,
 - (iv) is resident in Guernsey, Herm, Jethou or Alderney,
 - (v) is likely to earn per annum in excess of the lower earnings limit specified for the purpose of section 20 of the Social Insurance Law,
- (e) an "**employee**" is an individual who has entered into or who works under a contract of employment,

and the Committee may amend this subsection by regulations.

Provision of information.

3. (1) Where an employee is enrolled into an approbated pension scheme pursuant to section 2(1), the employer must ensure that the employee is provided with information about it, including, in particular -

- (a) a summary of the key features, benefits and provisions of the scheme,
- (b) an explanation of the employee's rights and responsibilities thereunder,
- (c) an explanation of the rights and responsibilities of the employer, administrator and any other persons thereunder, as relevant to the employee,
- (d) where rights to benefits thereunder are subject to vesting rules, the requirements of these rules and the consequent entitlements,
- (e) details of all charges or anticipated charges, which are or may be borne by the employee directly or indirectly including -
 - (i) the amount of the charge if possible to quantify,
 - (ii) what the charge is for,
 - (iii) to whom the charge is payable,

- (iv) the basis of the calculation of the charge, and
 - (v) details of any deductions, commissions, or other inducements or incentives, that may be received by the employer, administrator, or any other party insofar as the administrator is aware, either directly or indirectly, in relation to any services provided to the scheme,
- (f) save where not permitted by the relevant contract of employment -
- (i) the right to opt out (see section 4), details of how that right can be exercised, and the consequent right to a refund of contributions, and
 - (ii) details of any other right to withdraw from the scheme and the procedure to be followed,
- (g) details of the administrator's procedure for resolving complaints including contact details for any relevant ombudsman.

(2) Where it is not practical to provide the information in subparagraph (1)(e), the employer must ensure that the employee is provided with a description of what the charges, deductions, commissions or other inducements or incentives are and the reasons why it is not practical to provide further information.

(3) Notwithstanding the provisions of the Data Protection (Bailiwick of Guernsey) Law, 2017, the employer may share a designated employee's personal data with the administrator without the employee's consent for the purpose of complying with the requirements of section 2.

(4) For the purpose of this Law "**administrator**" means the person primarily responsible for the management and administration of the approved pension scheme.

Opt out.

4. (1) Save where the contract of employment does not permit, upon enrolment into an approved pension scheme the employee may decide to terminate the employee's membership of the scheme ("**opt out**"), which decision must be exercised in writing in such form and manner as the employer may reasonably require.

(2) Where the right to opt out is exercised within 6 weeks from the date of enrolment, both the employer and the employee must be given a full refund of their respective contributions from the administrator within a reasonable time,

(3) After the right to opt out is exercised, the employer -

(a) shall ensure that the written decision to opt out is retained for at least 7 years, and

(b) must re-enrol the employee into an approved pension scheme within 3 months of the third anniversary of the decision to opt out.

(4) For the avoidance of doubt, references to enrolment in subsections (1) and (2) include re-enrolment.

Right to opt in.

5. (1) Where an employee is under 75 years old and is either -
- (a) not a designated employee by virtue of –
 - (i) being of pensionable age or over,
 - (ii) earning less than the lower earnings limit, or
 - (iii) being in full time education, or
 - (b) a designated employee and has opted out in accordance with section 4,

the employee may request that the employer enroll the employee into an approbated pension scheme ("**opt in**").

(2) Subject to section 6, where an employer receives a request from an employee to opt in in accordance with subsection (1), the employer must enroll the employee within the later of 1 month from the date of the request, or 3 months from the date on which the employee previously decided to opt out.

(3) Where a designated employee has been enrolled into an approbated pension scheme under this section, notwithstanding paragraph 1(4) of the Schedule, only where such enrolment is in accordance with subsection (1)(b) need the employer make contributions to that employee's pension.

Deferred enrolment.

6. (1) Where an employer is required to enrol an employee into an approbated pension scheme pursuant to section 2 or 5, the employer may, notwithstanding the provisions of those sections, defer the enrolment provided that the employer gives notice in writing in advance of the deferral to the employee, which notice must provide the date on which the employee will be enrolled in the scheme.

(2) The date of deferred enrolment under subsection (1) must be no later than 3 months from the date on which the enrolment ought otherwise to have been done.

PART II

COMPLIANCE AND ENFORCEMENT

Statements of Practice.

7. (1) The Director may issue statements of practice for the purpose of providing practical guidance in respect of any provision made by or under this Law and in connection with the administration of this Law.

(2) Statements of practice shall come into force on such date as the Director may appoint and shall be published, together with any revision thereof, in such manner as the Director considers appropriate.

(3) The Director may revoke or vary any statement of practice, and a statement of practice may contain such consequential, incidental, supplementary and transitional provision as may appear to be necessary or expedient.

(4) Statements of practice must be taken into account by the Director in exercising the Director's functions under this Law.

(5) In any proceedings a relevant provision of a statement of practice may be adduced in evidence and where appropriate relied on as tending to support or, as the case may be, defeat a decision of the Director.

Duty to make returns.

8. (1) Every employer must provide the Director with such information and documents as the Director may require to show whether the duty in section 2 or section 5 applies and if so, to demonstrate that that duty is being and has been met.

(2) The information and documents to be provided under subsection (1) must be provided in such form and manner, at such times or intervals and within such period as the Director may require.

Penalties for failure to make a return.

9. An employer who fails to submit a return as required by section 8 to the Director on the date on which the return is due shall be liable to a penalty not exceeding £300 and the employer shall in addition be liable to a further penalty not exceeding £50 for every day after the imposition of the original penalty during which the failure continues.

Information notices.

10. (1) The Director may, by notice in writing issued to any employer, employee or administrator, require that person to provide to the Director, in such form and manner, at such times or intervals and within such period as may be specified in the notice, information and documents of such descriptions as may be so specified, being -

- (a) information demonstrating compliance with this Law, and/or
- (b) information of a kind which the Director considers necessary for the purpose of reviewing compliance with the Law.

(2) Provision may be made by regulations of the Committee requiring a person of any description specified in subsection (1) to furnish the Committee, in such form and manner, at such times or intervals and within such period as may be prescribed, information of such descriptions as may be prescribed relating to compliance with this Law and which the Committee considers that it requires for the purpose of evaluating the functioning of the Law and in order to facilitate the performance of the Director's or Committee's functions under this Law.

Compliance notices.

11. (1) The Director may issue a compliance notice to an employer if the Director is of the opinion that the employer has contravened a provision of this Law.

(2) A compliance notice is a notice directing the person to whom it is issued to take, or refrain from taking, the steps specified in the notice in order to remedy the contravention.

(3) A compliance notice may, in particular -

- (a) state the period within which any step must be taken or must cease to be taken,

- (b) require the person to whom it is issued to provide within a specified period specified information relating to the contravention,
- (c) require the person to inform the Director, within a specified period, how the person has complied or is complying with the notice,
- (d) state that, if the person fails to comply with the requirements of the notice, the Director may issue a fixed penalty notice under section 16.

(4) The steps specified in the notice may, in particular, include such steps as the Director thinks appropriate for placing any employee to whom the contravention relates in the same position (as nearly as possible) as if the contravention had not occurred.

(5) A compliance notice may give the person to whom it is issued a choice between different ways of remedying or preventing the recurrence of that person's contravention.

Third party compliance notices.

12. (1) The Director may issue a third party compliance notice if the Director is of the opinion that -

- (a) a person has contravened a provision of this Law, and
- (b) the contravention is or was, wholly or partly, a result of a failure of another person (the "**third party**") to do

any thing or a default by the third party in the doing of any thing.

(2) A third party compliance notice is a notice directing the third party to take, or refrain from taking, the steps specified in the notice in order to remedy or prevent a recurrence of the failure or default.

(3) A third party compliance notice may, in particular -

- (a) state the period within which any step must be taken or must cease to be taken,
- (b) require the person to whom it is issued to provide within a specified period specified information relating to the contravention,
- (c) require the third party to inform the Director, within a specified period, how the third party has complied or is complying with the notice,
- (d) state that, if the third party fails to comply with the requirements of the notice, the Director may issue a fixed penalty notice under section 16.

(4) A third party compliance notice may give the third party a choice between different ways of remedying or preventing the recurrence of the third party's failure or default.

Unpaid contributions notices.

13. (1) The Director may issue an unpaid contributions notice to an employer if the Director is of the opinion that relevant contributions as defined in section 15 have not been paid when those contributions fall due.

(2) An unpaid contributions notice is a notice requiring an employer to pay into a pension scheme by a specified date an amount in respect of relevant contributions that have not been paid.

(3) An unpaid contributions notice may, in particular -

- (a) specify the scheme to which the contributions are due,
- (b) specify the amount of contributions that are due,
- (c) specify the employees, or category of employees, in respect of whom the contributions are due,
- (d) state the period in respect of which the contributions are due,
- (e) state the date on which those contributions fell due,
- (f) require the employer to take such other steps in relation to remedying the failure to pay the contributions as the Director considers appropriate,

- (g) state that, if the employer fails to comply with the requirements of the notice, the Director may issue a fixed penalty notice under section 16.

Calculation and payment of contributions.

14. A compliance notice under section 11 and an unpaid contributions notice under section 13 may, in particular, include—

- (a) a requirement to calculate the amount of relevant contributions as may be specified in the notice ("**unpaid relevant contributions**"),
- (b) a requirement to pay interest on the amount required by the notice to be paid in respect of unpaid relevant contributions, at a rate and in respect of a period determined by the Director.

Meaning of "relevant contributions".

15. In sections 13 and 14 "**relevant contributions**" are the contributions payable to an approbated pension scheme in relation to the employee which are payable by the employer -

- (a) on the employer's own account (but in respect of the employee), and/ or
- (b) on behalf of the employee out of deductions from the employee's earnings.

Fixed penalty notices.

16. (1) The Director may issue a fixed penalty notice to a person if the Director is of the opinion that the person has failed to comply with -

- (a) an information notice under section 10,
- (b) a compliance notice under section 11,
- (c) a third party compliance notice under section 12,
- (d) an unpaid contributions notice under section 13, or
- (e) any other provision of this Law (save for a failure to complete a return under section 8).

(2) A fixed penalty notice is a notice requiring the person to whom it is issued to pay a penalty within the period specified in the notice.

(3) The penalty -

- (a) is to be determined in accordance with regulations of the Committee made under this paragraph, and
- (b) must not exceed £50,000.

(4) A fixed penalty notice must -

- (a) state the amount of the penalty,

- (b) state the date, which must be at least 4 weeks after the date on which the notice is issued, by which the penalty must be paid,
- (c) state the period to which the penalty relates,
- (d) specify the failure to which the notice relates,
- (e) state that, if the failure to comply continues, the Director may issue an escalating penalty notice under section 17,
- (f) notify the person to whom the notice is issued of the review process under section 19 and the right of referral to the Revenue Service Tribunal under section 20.

Escalating penalty notices.

17. (1) The Director may issue an escalating penalty notice to a person if the Director is of the opinion that the person has failed to comply with -

- (a) an information notice under section 10,
- (b) a compliance notice under section 11,
- (c) a third party compliance notice under section 12, or
- (d) an unpaid contributions notice under section 13.

(2) Notwithstanding subsection (1), the Director may not issue an escalating penalty notice if it relates to failure to comply with a notice and the person to whom that notice was issued -

- (a) has applied for a review of it under section 19 and the review has not been completed, or
- (b) has exercised the right of referral to the Revenue Service Tribunal under section 20 in respect of a fixed penalty notice issued in relation to that notice, and the reference has not been determined.

(3) An escalating penalty notice is a notice requiring a person to pay an escalating penalty if the person fails to comply with a notice referred to in subsection (1) before a specified date.

(4) An escalating penalty is a penalty which is calculated by reference to a prescribed daily rate.

(5) The prescribed daily rate—

- (a) is to be determined in accordance with regulations of the Committee made under this paragraph, and
- (b) must not exceed £10,000.

(6) An escalating penalty notice must—

- (a) specify the failure to which the notice relates,

- (b) state that, if the person fails to comply with the notice referred to in subsection (1) before a specified date, the person will be liable to pay an escalating penalty,
- (c) state the daily rate of the escalating penalty and the way in which the penalty is calculated,
- (d) state the date from which the escalating penalty will be payable, which must not be earlier than the date specified in the fixed penalty notice under section 16(4)(b),
- (e) state that the escalating penalty will continue to be payable at the daily rate until the date on which the person complies with the notice referred to in subsection (1) or such earlier date as the Director may determine,
- (f) notify the person of the review process under section 19 and the right of referral to the Revenue Service Tribunal under section 20.

Penalty notices: recovery.

18. Any penalty payable under section 9, section 16 or section 17 is recoverable by the Director as a civil debt from the person to whom the notice was issued.

Review of notices.

19. (1) The Director may review a penalty or notice to which this section applies -

- (a) on the written application of the person on whom the penalty was imposed or to whom the notice was issued, or
- (b) if the Director otherwise considers it appropriate.

(2) This section applies to -

- (a) a penalty imposed under section 9,
- (b) the following notices –
 - (i) an information notice under section 10,
 - (ii) a compliance notice under section 11,
 - (iii) a third party compliance notice under section 12,
 - (iv) an unpaid contributions notice under section 13,
 - (v) a fixed penalty notice under section 16, and
 - (vi) an escalating penalty notice under section 17.

(3) Regulations of the Committee made under this subsection may prescribe the period within which -

(a) an application to review a penalty or notice may be made under subsection (1)(a),

(b) a penalty or notice may be reviewed under subsection (1)(b).

(4) On a review of a penalty or notice, the effect of the penalty or notice may be suspended at the discretion of the Director for the period beginning when the Director determines to carry out the review and ending when the review is completed.

(5) In carrying out a review, the Director must consider any representations made by the person on whom the penalty was imposed or to whom the notice was issued, as the case may be.

(6) The Director's powers on a review include power to—

(a) confirm, vary or revoke the penalty or notice,

(b) substitute a different penalty or notice.

References to the Revenue Service Tribunal.

20. (1) A person on whom a penalty is imposed under section 9 or to whom a notice is issued under section 16 or 17 may, if one of the conditions in subsection (2) is satisfied, make a reference to Revenue Service Tribunal in respect of -

- (a) in the case of a penalty, the imposition of the penalty or the amount of the penalty,
- (b) in the case of a notice, the issue of the notice or the amount of the penalty payable under the notice.

(2) The conditions are —

- (a) that the Director has completed a review of the penalty or notice, as the case may be, under section 19,
- (b) that the person on whom the penalty was imposed or to whom the notice was issued has made an application for the review of the penalty or notice under section 19(1)(a) and the Director has determined not to carry out such a review.

(3) On a reference to the Revenue Service Tribunal in respect of a notice, the effect of the notice is suspended for the period beginning when the Revenue Service Tribunal receives notice of the reference and ending—

- (a) when the reference is withdrawn or completed, or
- (b) if the reference is made out of time, on the Revenue Service Tribunal determining not to allow the reference to proceed.

(4) For the purposes of subsection (3), a reference is completed when—

- (a) the reference has been determined,
- (b) the Revenue Service Tribunal has remitted the matter to the Director, and
- (c) any directions of the Revenue Service Tribunal for giving effect to its determination have been complied with.

(5) The Committee may, by regulations, make further provision for appeals from decisions under this Law, including, without limitation, appeals from decisions of the Revenue Service Tribunal.

Offence of failing to comply.

21. An offence is committed by an employer who without lawful authority or reasonable excuse contravenes any duty imposed under section 2 or 5 of this Law, or notice issued under this Law.

Offences by legal persons, etc.

22. (1) Where an offence under this Law is committed by a legal person and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of any of the following persons -

- (a) any director, manager, secretary or other similar officer, or any general partner or foundation official, of the legal person, or

- (b) any person purporting to act in any such capacity,

that person as well as the legal person is guilty of the offence and may be proceeded against and punished accordingly.

(2) Where the affairs of a legal person are managed by its members, subsection (1) applies to a member in connection with that member's functions of management as if that member were a director.

(3) Where an offence under this Law is committed by an unincorporated body and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any of the following persons –

- (a) in the case of any type of partnership, any partner,
- (b) in the case of any other unincorporated body, any officer of that body who is bound to fulfil any duty whereof the offence is a breach or, if there is no such officer, any member of the committee or other similar governing body, or
- (c) any person purporting to act in any capacity described in paragraph (a) or (b),

that person as well as the unincorporated body is guilty of the offence and may be proceeded against and punished accordingly.

(4) Where an offence under this Law is alleged to have been committed by an unincorporated body, proceedings for the offence shall, without prejudice to subsection (1), be brought in the name of that body and not in the name of any of its members.

(5) A fine imposed on an unincorporated body on its conviction of an offence under this Law shall be paid from the funds of that body.

False or misleading information.

23. (1) A person who -

(a) in or in connection with furnishing any statement, information or document to the Director or the Committee under the provisions of this Law,

(b) in purported compliance with a requirement imposed by or under the provisions of this Law, or

(c) otherwise than as mentioned in paragraph (a) or (b) but in circumstances in which that person intends, or could reasonably be expected to know, that the statement, information or document provided would or might be used by the Director or Committee for the purpose of exercising the functions conferred by or under this Law

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(i) makes a statement which that person knows or has reasonable cause to believe to be false, deceptive or misleading in a material

particular,

- (ii) dishonestly or otherwise, recklessly makes a statement which is false, deceptive or misleading in a material particular,
- (iii) produces or furnishes or causes or permits to be produced or furnished any information or document which that person knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular, or
- (iv) dishonestly or otherwise, recklessly produces or furnishes or recklessly causes or permits to be produced or furnished any information or document which is false, deceptive or misleading in a material particular,

is guilty of an offence.

(2) An employer who fails to provide the Director or Committee with any information in that employer's possession knowing or having reasonable cause to believe -

- (a) that the information is relevant to the exercise by the Director or Committee of their functions under this Law, and
- (b) that the withholding of the information is likely to

result in the Director or Committee being misled as to any matter which is relevant to and of material significance to the exercise of those functions in relation to the employer,

is guilty of an offence.

Penalties.

24. A person guilty of an offence under section 21 or 23 is liable –
- (a) on summary conviction, to imprisonment for a term not exceeding 6 months, to a fine not exceeding twice level 5 on the uniform scale, or to both,
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years, to a fine, or to both.

PART III
GENERAL

Duty for the Committee to establish a pension trust.

25. The Committee must create a pension trust to facilitate the provision of pensions for residents of the islands of Guernsey, Herm, Jethou and Alderney, which must ensure that all employers are able to meet the obligations arising under this Law and that members are able to accrue and access benefits arising thereunder, this trust to be called the Guernsey and Alderney Pension Trust ("**the Trust**"), and it may, from time to time, be referred to by whatever name the Committee so directs.

General provisions as to subordinate legislation.

26. (1) The States may by Ordinance –

- (a) amend Part II of this Law,
- (b) make such other provision as they think fit for the purposes of carrying this Law into effect, and
- (c) make such amendments to any other enactment as they think fit where it is necessary or expedient to do so for the purpose of giving proper effect to that enactment and as are consequential upon the enactment of this Law.

(2) Regulations under this Law shall be laid before a meeting of the States as soon as possible after being made; and, if at that or the next meeting the States resolve that the regulations be annulled, then they shall cease to have effect, but without prejudice to anything done under them or to the making of new regulations.

Procedure for Ordinances under this Law.

27. (1) The Committee shall, before recommending the States to agree to make an Ordinance under this Law, consult the Policy and Finance Committee of the States of Alderney in relation to the terms of the proposed Ordinance; but a failure to comply with this section shall not invalidate any Ordinance made under this Law.

(2) An Ordinance made under this Law ceases to have effect in Alderney if, within the period of four months immediately following the approval date, the States of Alderney resolve to disapprove its application to Alderney.

(3) If the States of Alderney resolve to disapprove the application of an Ordinance in accordance with the provisions of subsection (2), the Ordinance ceases to have effect in Alderney, but without prejudice to –

- (a) anything done under the Ordinance in Alderney, or
- (b) the making of a new Ordinance having effect in Alderney.

(4) In this section "**approval date**", in relation to an Ordinance, means the date of its approval by the States of Deliberation.

Amendment of the Income Tax Law.

28. After section 150 of the Income Tax Law insert the following section:

"Deemed approval of the Guernsey and Alderney Pension Trust.

150A. The Guernsey and Alderney Pension Trust established pursuant to section 25 of the Secondary Pensions (Guernsey and Alderney) Law, 2022 shall be deemed to be a scheme approved by the Director pursuant to section 150(2) and the provisions of this Law shall have effect accordingly."

Interpretation.

29. (1) In this Law, unless the context otherwise requires -

"**active member**" has the meaning given in section 2(3)(a),

"**approved pension scheme**" has the meaning given in section 2(3)(b),

"the Committee" means the States of Guernsey Committee for Employment and Social Security,

"contract of employment" has the meaning given in section 2(3)(c),

"defined benefits scheme" means a pension scheme where the benefit is defined independently of the contributions payable and benefits are not directly related to the investments of the scheme,

"defined contribution scheme" means a pension scheme that is not a defined benefits scheme,

"designated employee" has the meaning given in section 2(3)(d),

"the Director" means the Director of the Revenue Service under the Income Tax Law and includes any Deputy Director of the Revenue Service,

"documents" includes information stored or recorded in any form (including, without limitation, in electronic form) and -

(a) in relation to information stored or recorded otherwise than in legible form, references to its production, however expressed, include (without limitation) references to the production of a copy of the information in a form -

(i) in which it can be taken away, and

(ii) in which it is visible and legible or from which

it can readily be produced in a visible and legible form,

- (b) without prejudice to paragraph (a), references to the production of documents, howsoever expressed, include (without limitation) references to the production of a copy thereof in the English language:

provided always that the Committee may by regulation amend the definition of "documents",

"earnings" has the meaning given in subsection (2),

"employee" has the meaning given in section 2(3)(e),

"Income Tax Law" means the Income Tax (Guernsey) Law, 1975^c,

the **"operative date"** has the meaning given in section 2(2),

"prescribed" means prescribed by regulations of the Committee,

the **"provisions of"** this Law include the provisions of -

- (a) any Ordinance or subordinate legislation, or any code, guidance, principles, policies or instructions, made or issued under this Law, and

^c Ordres en Conseil Vol. XXV, p. 124; this enactment has been amended.

- (b) any subordinate legislation, or any code, guidance, principles, policies or instructions, made or issued under any such Ordinance or subordinate legislation,

"the Public Servants' Pension Scheme" means the scheme of that name established and maintained under the States of Guernsey, (Public Servants) (New Pensions and other Benefits) Rules, 2016, as from time to time amended, re-enacted (with or without modification), extended or applied,

"retirement annuity scheme" means a retirement annuity trust scheme or a retirement annuity contract scheme that meets the requirements of paragraph 1(3) of the Schedule,

"Social Insurance Law" means the Social Insurance (Guernsey) Law, 1978^d,

"the Trust" has the meaning given in section 25,

"uniform scale" means the uniform scale of fines for the time being in force under the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989^e.

(2) For the purposes of this Law –

- (a) **"earnings"** includes any remuneration or profit derived from an employment,

^d Ordres en Conseil Vol. XXVI, p. 292; this enactment has been amended.

^e Ordres en Conseil Vol. XXXI, p. 278; this enactment has been amended.

- (b) the amount of a person's earnings for any period, or the amount of that person's earnings to be treated as comprised in any payment made to that person or for that person's benefit, shall be calculated or estimated in such a manner and on such basis as may be prescribed by regulations of the Committee, and
- (c) regulations made under paragraph (b) above may prescribe that payments of a particular class or description made or falling to be made to or by a person shall, to such extent as may be prescribed, be disregarded or, as the case may be, be deducted from the amount of that person's earnings.

Citation.

30. This Law may be cited as the Secondary Pensions (Guernsey and Alderney) Law, 2022.

Commencement.

31. This Law shall come into force -

- (a) in Guernsey, Herm and Jethou, on the day on which it is registered on the records of the Island of Guernsey, and
- (b) in Alderney, on such date as may be prescribed by regulations of the Policy and Finance Committee of the States of Alderney, and different days may be

prescribed for different provisions or different purposes.

Extent.

32. This Law shall have effect in the Islands of Guernsey, Herm, Jethou and Alderney.

SCHEDULE

Section 2

APPROBATED PENSION SCHEMES

Essential criteria

1. (1) An approved pension scheme is -
 - (a) an occupational pension scheme that meets the requirements of subparagraph (2), or
 - (b) a retirement annuity trust scheme ("**RATS**") or a retirement annuity contract scheme ("**RACS**") ("**retirement annuity scheme**") that meets the requirements of subparagraph (3).
- (2) In order for an occupational pension scheme to be an approved pension scheme, it must -
 - (a) be approved, or deemed to be approved, under section 150(2) of the Income Tax Law,
 - (b) fall under the Pension Scheme and Gratuity Scheme Rules 2021^f or under an equivalent or similar statutory pensions regulatory regime in the British Islands (save that this does not apply to the Public Servants' Pension Scheme), and

^f G.S.I. No 142 of 2021.

(c) if the scheme -

(i) is not a defined benefit scheme, contributions to it must meet the contribution requirements in subparagraph (4) below, subject to subparagraph (6), or

(ii) is a defined benefit scheme, the employer must have and obtain, on a triennial basis, from an actuary independent from the employer -

(A) certification to confirm that the actuary considers the benefits for the majority of active members are likely to be at least equivalent to those they would receive by paying the minimum contributions (set out in subparagraph (4)) into a defined contribution scheme, taking into account costs, charges and benefits of a typical defined contribution scheme, and

(B) an opinion confirming the scheme funding arrangements are expected to be adequate to meet the cost of the benefits as they fall due.

(3) In order for a retirement annuity scheme to be an approved pension scheme -

- (a) the scheme must -
 - (i) be approved under section 157A of the Income Tax Law,
 - (ii) fall under the Pension Scheme and Gratuity Scheme Rules 2021 or under an equivalent or similar statutory pensions regulatory regime in the British Islands, and
 - (iii) either –
 - (A) be established, or adopted by an employer on behalf of its employees, or
 - (B) be established by the employee and the employer has consented to the use of it for the purpose of this Law.
- (b) contributions to the scheme must meet the contribution requirements in subparagraph (4) below, subject to subparagraph (6), with the contributions being paid thereto,
- (c) save in respect of a scheme created prior to the operative date, a scheme may not permit loans to members save for the purpose of contributing to the purchase, extension or alteration of the member's

principal private residence, provided that residence is in Guernsey, Herm, Jethou or Alderney,

- (d) where the scheme was created prior to the operative date, if it permits loans to members, such power may not be exercised save for the purpose of contributing to the purchase, extension or alteration of the member's principal private residence, provided that residence is in Guernsey, Herm, Jethou or Alderney.

(4) Where this subparagraph applies, employers must pay contributions into the pension scheme and such contributions must meet, or exceed, the contribution minima and proportions set out in the table below which applies only to an employee's applicable gross earnings in the relevant pay period.

Contribution Minima

		Year (year of commencement = year 1)								
		Yr 1	Yr 2	Yr 3	Yr 4	Yr 5	Yr 6	Yr 7	Yr 8	Yr 9
Minimum % contribution of applicable gross earnings	Employer	≥1%	≥1%	≥1%	≥2%	≥2%	≥3%	≥3%	≥3%	≥3.5%
	Total*	2%	2%	2.5%	4%	5%	7%	8%	9%	10%
		* the total comprises employer and employee contributions (for the avoidance of doubt, the employee contribution is the difference between the employer contribution and the total).								

(5) An approbated pension scheme may not require employee contributions in excess of 10% of the employee's applicable gross earnings without the employee's consent.

(6) Subparagraph (4) does not apply -

- (a) to any pay period in respect of which an employee earns less than the lower earnings limit, or
- (b) to any employer who is not using the scheme as an approbated scheme.

(7) For the purpose of this paragraph -

"applicable gross earnings" means an employee's gross earnings below the upper earnings limit, in the relevant calendar year, and

"pay period" means the period in respect of which the employee is paid.

(8) Where -

- (a) a scheme is established in Jersey, and
- (b) the employer participates in that scheme prior to commencement of this Law,

subparagraphs (2)(b) and (3)(a)(ii) do not apply.

Amendment of Schedule.

2. This Schedule may be amended by regulations of the Committee.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

**THE CRIMINAL JUSTICE (MISCELLANEOUS AMENDMENTS) (BAILIWICK OF GUERNSEY)
ORDINANCE, 2022**

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Criminal Justice (Miscellaneous Amendments) (Bailiwick of Guernsey) Ordinance, 2022", and to direct that the same shall have effect as an Ordinance of the States.

EXPLANATORY MEMORANDUM

This Ordinance amends the following enactments (the enactments) –

- The Criminal Justice (International Co-operation) (Bailiwick of Guernsey) Law, 2001(the International Cooperation Law);
- The Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003 (PPACE);
- The Drug Trafficking (Bailiwick of Guernsey) Law, 2000 (the Drug Trafficking Law);
- The Terrorism and Crime (Bailiwick of Guernsey) Law, 2002 (the Terrorism Law);
- The Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999 (the Proceeds of Crime Law)
- The Magistrate's Court (Criminal Appeals) (Guernsey) Law, 1988 (the Magistrate's Court Appeals Law);
- The Misuse of Drugs (Bailiwick of Guernsey) Law, 1974 (the Misuse of Drugs Law);
- The Regulation of Investigatory Powers (Bailiwick of Guernsey) Law, 2003 (RIPL)
- The Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002 (Commencement, Exclusions and Exceptions) Ordinance, 2006 (the Rehabilitation of Offenders Ordinance); and
- The Disclosure (Bailiwick of Guernsey) Law, 2007 (the Disclosure Law).

The purpose of the amendments is to improve the effectiveness of the Bailiwick's criminal justice framework in a number of areas.

Section 1 of the Ordinance amends the International Cooperation Law. The effect of the amendments is to introduce a power for the court to order the preservation of electronic material that may be relevant to an international investigation (breach of which is a criminal offence), and to specify that public authorities are not liable to assistance provided to other jurisdictions under certain specific enactments unless this was done in bad faith or comprised a breach of human rights.

Section 2 of the Ordinance amends PPACE. The effect of the amendments is to introduce a power for the court to order the preservation of electronic material that may be relevant to a domestic investigation.

Section 3 of the Ordinance amends the Drug Trafficking Law. The effect of the amendments is to give the Magistrate's Court the power to make orders in drugs related cases for the preservation and confiscation of property with a value of £25,000 or less.

Section 4 of the Ordinance amends the Terrorism Law. The effect of the amendments is to give the Magistrate's Court the power to make orders in terrorism related cases for the preservation and confiscation of property with a value of £25,000 or less.

Section 5 of the Ordinance amends the Proceeds of Crime Law. The effect of the amendments is to give the States the power to make provision by Ordinance for the management of property that has been detained or removed from a person under certain specified enactments, and to seized, and to give the Magistrate's Court the power to make orders in criminal cases other than those linked to drugs or terrorism for the preservation and confiscation of property with a value of £25,000 or less.

Section 6 of the Ordinance amends the Magistrate's Court Appeals Law. This amendment is consequential to the amendments referred to above which give the Magistrate's Court the power to make orders for the preservation and confiscation of property, and its effect is to bring those orders within the scope of the appeal provisions applicable to decisions of the Magistrate's Court.

Section 7 of the Ordinance amends the Misuse of Drugs Law. The effect of the amendments is to increase the sentencing powers of the Magistrate's Court in drug related cases.

Section 8 of the Ordinance amends RIPL. The effect of the amendments is to increase the available sentence for failure to comply with a notice requiring a person to provide a key to protected information.

Section 9 of the Ordinance amends the Rehabilitation of Offenders Ordinance. The effect of the amendments is to give the Alderney Gambling Control Commission the same powers as the Guernsey Financial Services Commission currently has to obtain information about spent convictions for licensing purposes, and to enable it and other authorities who deal with sensitive information to ask such questions for their own employment purposes.

Section 10 of the Ordinance amends the Disclosure Law. The effect of the amendments is to introduce a reporting obligation in relation to the proliferation of weapons of mass destruction and its financing, to remove some inconsistencies regarding proportionality requirements for the purposes of information sharing, to widen the information sharing

powers of the Revenue Service and to substitute references to the Financial Intelligence Unit across the legal framework for references to the Financial Intelligence Service.

Sections 12, 13 and 14 deal respectively with extent, citation and commencement.

The Criminal Justice (Miscellaneous Amendments) (Bailiwick of Guernsey) Ordinance, 2022

THE STATES, in pursuance of their Resolution of the 24th November, 2021^a, and in exercise of the powers conferred on them by section 65 of the Regulation of Investigatory Powers (Bailiwick of Guernsey) Law, 2003^b, sections 9A and 9B of the Criminal Justice (International Co-operation) (Bailiwick of Guernsey) Law, 2001^c, sections 7(4) and 14 of the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002^d, sections 71A and 72 of the Drug Trafficking (Bailiwick of Guernsey) Law, 2000^e, sections 81A and 82 of the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002^f, sections 53A and 54 of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999^g, sections 14 and 16 of the Disclosure (Bailiwick of Guernsey) Law, 2007^h, section 35 of the Misuse of Drugs (Bailiwick of Guernsey) Law, 1974ⁱ, section 93 of the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003^j, section 20 of the Interpretation and Standard Provisions (Bailiwick of

a Article IV of Billet d'État No. XXIII of 2021.

b Order in Council No. XXX of 2003. This enactment has been amended.

c Ordres en Conseil Vol. XLI, p.240. This enactment has been amended.

d Ordres en Conseil Vol. XLII, p.389. This enactment has been amended.

e Ordres en Conseil XL, p.131. This enactment has been amended.

f Ordres en Conseil Vol. XLII, p. 427. This enactment has been amended.

g Ordres en Conseil Vol. XXXIX, p. 137. This enactment has been amended.

h Order in Council No. XVI of 2007. This enactment has been amended.

i Ordres en Conseil Vol. XXIV, p.273. This enactment has been amended.

j Order in Council No. XXIII of 2003. This enactment has been amended.

Guernsey) Law, 2016^k and all other powers enabling them in that behalf, hereby order:-

Preservation orders, etc.

Amendment of International Co-operation Law.

1. (1) The Criminal Justice (International Co-operation) (Bailiwick of Guernsey) Law, 2001 is amended as follows.

(2) After section 4B, insert –

"Order to preserve data pending request for assistance.

4C. (1) Where an authority in a country or territory outside the Bailiwick has submitted or intends to submit a request for assistance under section 4(1), that authority may request His Majesty's Procureur to apply to the Royal Court constituted by the Bailiff sitting alone for an order (a "**preservation order**") for the expeditious preservation of data stored by means of a computer system.

(2) The request to His Majesty's Procureur must specify –

- (a) the authority seeking preservation,
- (b) the offence that is the subject of a criminal investigation or proceedings together with a brief summary of the relevant facts,

^k Order in Council No. V of 2018. This enactment has been amended.

- (c) the data that is to be preserved and its relationship to the offence,
- (d) any available information identifying the person in possession of the data or the computer system on which it is stored,
- (e) the reason why the preservation is necessary, and
- (f) that the authority intends to submit a request for assistance under section 4(1) for assistance in obtaining the data.

(3) His Majesty's Procureur may apply to the Royal Court constituted by the Bailiff sitting alone for a preservation order under this Law, in the absence of a request by an authority in a country or territory outside the Bailiwick that she make such an application, in circumstances where she is satisfied that –

- (a) the preservation of the data which is the subject of the application is necessary,
- (b) the relevant authority in that country or territory is likely to submit a request for assistance under section 4(1) for assistance in obtaining the data, and

(c) there are reasons to believe that the data may not be preserved if His Majesty's Procureur were to wait for that authority to make such a request.

(4) On receiving the application by or on behalf of His Majesty's Procureur under this section the court may, where it considers it is in the interests of justice to do so, make an order for the data to be preserved pending a request being made under section 4(1) or for such time as the court thinks fit.

(5) An application for a preservation order may be made ex parte in private.

(6) A preservation order must provide for notice to be given to any person named within it.

(7) A person named within a preservation order who by any act or omission causes the damage, deletion, alteration, suppression or removal of any data preserved by the order is guilty of an offence and liable on conviction to imprisonment for a term not exceeding 5 years or to a fine or both.

(8) A person named within a preservation order may apply to the Bailiff for the order to be revoked or varied, and on such application being made the Bailiff may either determine it or refer it to the Royal Court sitting as an Ordinary Court.

Offence of unauthorised disclosure of preservation order.

4D. (1) Where an order is made under section 4C(4) a person must not disclose –

- (a) the existence and contents of the order,
- (b) the details of the making of the order and of any variation of it,
- (c) the existence and contents of any requirement to provide assistance with giving effect to the order,
- (d) the steps taken in pursuance of the order or of any such requirement, and
- (e) any part of the data preserved by the order.

(2) A person who contravenes subsection (1) is guilty of an offence and liable on conviction to imprisonment for a term not exceeding 5 years or to a fine or both.

(3) In proceedings against any person for an offence under this section in respect of any disclosure, it is a defence for the accused to show that the accused could not reasonably have been expected, after first becoming aware of any of the matters mentioned in subsection (1), to take steps to prevent the disclosure.

(4) In proceedings against any person for an offence under this section in respect of any disclosure, it is a defence to show that –

- (a) the disclosure was made by or to a professional legal adviser in connection with the giving, by the adviser to any client of the adviser, of advice about the effect of any provision of this Law, and
- (b) the person to whom or, as the case may be, by whom it was made was the client or a representative of the client.

(5) In proceedings against any person for an offence under this section in respect of any disclosure, it is a defence to show that the disclosure was made only to the extent necessary to enable compliance with the order.

(6) In proceedings against any person for an offence under this section in respect of any disclosure, it is a defence to show that the disclosure was made by a professional legal adviser –

- (a) in contemplation of, or in connection with, any legal proceedings; and
- (b) for the purposes of those proceedings.

(7) None of subsections (4), (5) or (6) applies in the case of a disclosure made with a view to furthering any criminal purpose."

(3) After section 8A insert –

"Protection from liability

Protection from liability for damages, costs and consequential loss.

8B. (1) Subject to subsections (2) and (3), notwithstanding the provisions of any other enactment, a public authority shall not be liable –

- (a) in damages,
- (b) for consequential loss, or
- (c) for costs in legal proceedings,

in respect of any act done in the discharge or purported discharge of the public authority's functions under this Law or any enactment specified in Schedule 3 or subordinate legislation made under such enactment which entitles the public authority to give assistance to a relevant authority of any country or territory outside the Bailiwick unless it is shown that the act was done in bad faith.

(2) Subsection (1) –

- (a) shall not apply so as to prevent an award of damages made in respect of an act on the ground that the act was unlawful as a result of section 6(1) of the Human Rights (Bailiwick of Guernsey) Law, 2000, and

(b) is, for the avoidance of doubt, without prejudice to any other protection from liability enjoyed by a public authority in any particular case, whether under statute or otherwise.

(3) A public authority may rely on the good faith of the relevant authority to which it gave the assistance referred to in subsection (1) to prove that the public authority did not act in bad faith.

(4) The States of Guernsey Committee for Home Affairs may by regulations amend Schedule 3."

(3) In section 9B(1) and (2), in both places it appears for "Ordinance or rule" substitute "Ordinance or rule, or regulations".

(4) In section 10, in the appropriate alphabetical order, insert the following definitions –

""**assistance**" includes assistance in respect of obtaining evidence or information, obtaining assets, conducting investigations and conducting searches, and assistance in any legal proceedings,"

""**damages**" includes loss or damage to property,"

in the definition of premises for "." substitute ",", and after that definition insert –

""**public authority**" has the meaning given in the Human Rights (Bailiwick of Guernsey) Law, 2000, and

"relevant authority", in relation to a country or territory outside the Bailiwick, means an authority in that country or territory that requests assistance."

(4) After Schedule 2, insert the Schedule to this Ordinance as Schedule 3.

Amendment of PPACE.

2. (1) The Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003 is amended as follows.

(2) For the heading of section 9 substitute "Provisions as to access to, and preservation of, data", and for section 9(1) substitute -

"(1) For the purposes of a criminal investigation –

(a) a police officer may obtain access to –

(i) special material, or

(ii) material stored on a computer or stored on a device that is remotely accessible via the internet and accessible by the

person who stored it but not to users of
the internet generally, and

- (b) His Majesty's Procureur may apply for an order
that specified data be preserved,

by making an application for an order under paragraph 4 or paragraph 17 of
Schedule 1 (as the case may be) and in accordance with the applicable
provisions of that Schedule."

- (3) In the index of defined expressions at section 92, after the
definition of premises insert –

"preservation order

Schedule 1".

- (4) In Schedule 1 –

- (a) for the heading "PROCEDURE FOR SPECIAL
MATERIAL" substitute the heading "ACCESS TO,
AND PRESERVATION OF, CERTAIN MATERIAL",
- (b) for the subheading "*Making of orders by the Bailiff*",
substitute "*Making of access orders by the Bailiff*",
- (c) in paragraph 2(a)(ii), from "which consists" to the end
substitute "to which section 9 applies that is in the
possession or control of a person, or on premises,
specified in the application",

- (d) in paragraph 4, after "possession" insert "or control",
 - (e) in paragraph 12, for "enter and search the premises" substitute "search for the material and enter any premises necessary for the purposes of the search", and
 - (f) in paragraph 14(a), for "the premises" substitute "any premises".
- (5) After paragraph 16 insert-

"Making of preservation orders"

17. The Royal Court constituted by the Bailiff sitting alone may make an order, referred to in this Schedule as a "**preservation order**", on an application made by or on behalf of His Majesty's Procureur where it considers it is in the interests of justice to do so.

18. A preservation order is an order providing that certain data specified in the application be preserved pending criminal investigation or for such time as the court thinks fit.

19. An application for a preservation order may be made ex parte in private.

20. The court must not make a preservation order unless it is satisfied that there are reasonable grounds for believing that -

- (a) an offence has been committed, and
- (b) the data specified in the application includes evidence that relates to that offence or to some other offence that is connected with, or similar to, that offence.

21. A preservation order must provide for notice to be given to any person named within it.

22. A person named within a preservation order who by any act or omission causes the damage, deletion, alteration, suppression or removal of any data preserved by the order is guilty of an offence and liable on conviction to imprisonment for a term not exceeding 5 years or to a fine or both.

23. A person named within a preservation order may apply to the Bailiff for the order to be revoked or varied, and the Bailiff may determine the application or refer it to the Royal Court sitting as an Ordinary Court.

Preservation orders: offences

24. Where an order is made under paragraph 17, a person must not disclose –

- (a) the existence and contents of the order,
- (b) the details of the making of the order and of any variation of it,

- (c) the existence and contents of any requirement to provide assistance with giving effect to the order,
- (d) the steps taken in pursuance of the order or of any such requirement, and
- (e) any part of the data preserved by the order.

25. A person who contravenes paragraph 24 is guilty of an offence and liable on conviction to a term of imprisonment not exceeding 5 years or a fine or both.

26. In proceedings against any person for an offence under this section in respect of any disclosure, it is a defence to show that the person could not reasonably have been expected, after first becoming aware of any of the matters mentioned in paragraph 24, to take steps to prevent the disclosure.

27. In proceedings against any person for an offence under this section in respect of any disclosure, it is a defence to show that –

- (a) the disclosure was made by or to a professional legal adviser in connection with the giving, by the adviser to any client of the adviser, of advice about the effect of any provision of this Law, and

- (b) the person to whom or, as the case may be, by whom it was made was the client or a representative of the client.

28. In proceedings against any person for an offence under this Schedule in respect of any disclosure, it is a defence to show that the disclosure was made by a professional legal adviser –

- (a) in contemplation of, or in connection with, any legal proceedings, and
- (b) for the purposes of those proceedings.

29. Neither paragraph 27 nor paragraph 28 applies in the case of a disclosure made with a view to furthering any criminal purpose."

Powers of the Magistrate's Court

Amendment of Drug Trafficking Law.

3. (1) The Drug Trafficking (Bailiwick of Guernsey) Law, 2000 is amended as follows.

(2) In section 2(1), for "the Royal Court (**"the Court"**)" substitute "the Court".

(3) After section 69, insert -

"Interpretation – powers of the Magistrate's Court and references to the Court.

69A. (1) Subject to the provisions of this section, in this Law "**the Court**" and "**the Full Court**" mean the Royal Court sitting as a Full Court.

(2) The Magistrate's Court may make a confiscation order under this Law in any case where the amount that might be realised at the time the confiscation order is to be made against the defendant (within the meaning of section 6) is £25,000 or less, and consequently, as this Law applies to such cases, "**the Court**" means the Royal Court sitting as a Full Court or the Magistrate's Court.

(3) The Magistrate's Court may make a restraint order under this Law in any case where the realisable property to which the order applies does not exceed £25,000 in value, and consequently, as this Law applies to such cases, "**the Court**" means the Royal Court sitting as a Full Court or the Magistrate's Court.

(4) The Magistrate's Court may make a realty charging order under this Law in any case where the money the payment to the Crown of which is to be secured by the order does not exceed £25,000 in value, and consequently, as this Law applies to such cases, "**the Court**" means the Royal Court sitting as a Full Court or the Magistrate's Court.

(5) The Magistrate's Court may make a personalty charging order in any case where the value of the interest created or assigned (as the case may be) does not exceed £25,000, and consequently, as this Law applies to such cases, "**the Court**" means the Royal Court sitting as a Full Court or the Magistrate's Court."

(6) In section 70, after both ""**the Court**"" and ""**the Full Court**"" , for "section 69(1)" substitute "section 69A".

Amendment of the Terrorism Law.

4. (1) The Terrorism and Crime (Bailiwick of Guernsey) Law, 2002 is amended as follows.

(2) In section 19(1), delete "before the Royal Court sitting as an Ordinary Court".

(3) In paragraphs 3(1), (3), (4), (5) and (7), 4(5) and 5(1) of Schedule 2 (Forfeiture Orders), each time it appears for "the Royal Court" substitute "the Court".

(4) After paragraph 3(10) of Schedule 2, insert –

"(11) Subject to subparagraph (12), in this paragraph and paragraphs 4 and 5, "**the Court**" means the Royal Court.

(12) The Magistrate's Court may make a restraint order under this paragraph in any case where the property to which the order applies does not exceed £25,000 in value, and consequently, as this paragraph applies to such cases, "**the Court**" means the Royal Court or the Magistrate's Court."

(5) In paragraph 6(2) and 6(3) of Schedule 3 (Forfeiture of Terrorist Cash), each time it appears for "the Royal Court sitting as an Ordinary Court" substitute "the Court".

(6) After paragraph 6(4) of Schedule 3, insert –

"(4A) Subject to subparagraphs (4B) to (7), in this paragraph **"the Court"** means the Royal Court sitting as an Ordinary Court.

(4B) The Magistrate's Court may make an order under this paragraph in any case where the property to which the order applies does not exceed £25,000 in value, and consequently, as this paragraph applies to such cases, **"the Court"** means the Royal Court sitting as an Ordinary Court or the Magistrate's Court."

Amendment of the Proceeds of Crime Law.

5. (1) The Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999 is amended as follows.

(2) In section 2(1), for "the Royal Court (**"the Court"**)" substitute "the Court".

(3) After section 49E, insert –

"Management of seized etc. property"

Management of seized etc. property.

49EA. (1) The States may by Ordinance prescribe the principles, policies and procedures applicable to the management of property falling within subsection (2).

(2) Property falls within this subsection if it is seized, restrained, frozen, confiscated, forfeited or otherwise detained or removed under and in accordance with the provisions of this Law or –

- (a) the Drug Trafficking (Bailiwick of Guernsey) Law, 2000,
- (b) the Criminal Justice (International Co-operation) (Bailiwick of Guernsey) Law, 2001,
- (c) the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002,
- (d) the Police Property and Forfeiture (Bailiwick of Guernsey) Law, 2006.
- (e) the Forfeiture of Money, Etc in Civil Proceedings (Bailiwick of Guernsey) Law, 2007,
- (f) the Cash Controls (Bailiwick of Guernsey) Law, 2007, or
- (g) the Terrorist Asset-Freezing (Bailiwick of Guernsey) Law, 2011.

(3) The Committee may by regulation amend the list of enactments in subsection (2).".

(4) In section 52, after ""**Court**"" for "section 2(1)" substitute "section 52A".

(5) After section 52 insert –

"Interpretation – powers of the Magistrate's Court and references to the Court.

52A. (1) Subject to the provisions of this section and section 53, in this Law "**the Court**" and "**the Full Court**" mean the Royal Court sitting as a Full Court.

(2) The Magistrate's Court may make a confiscation order under this Law in any case where the amount that might be realised at the time the confiscation order is to be made against the defendant (within the meaning of section 6) is £25,000 or less, and consequently, as this Law applies to such cases, "**the Court**" means the Royal Court sitting as a Full Court or the Magistrate's Court.

(3) The Magistrate's Court may make a restraint order under this Law in any case where the realisable property to which the order would apply does not exceed £25,000 in value, and consequently, as this Law applies to such cases, "**the Court**" means the Royal Court sitting as a Full Court or the Magistrate's Court.

(4) The Magistrate's Court may make a realty charging order under this Law in any case where the money the payment to the Crown of which is to be secured by the order does not exceed £25,000 in value, and consequently, as this Law applies to such cases, "**the Court**" means the Royal Court sitting as a Full Court or the Magistrate's Court.

(5) The Magistrate's Court may make a personalty charging order in any case where the value of the interest created or assigned (as the case may be) does not exceed £25,000, and consequently, as this Law applies to such cases, "**the Court**" means the Royal Court sitting as a Full Court or the Magistrate's Court."

(6) For the heading of section 53 substitute "Constitution of Royal Court for the purposes of this Law", and in section 53(1) and (2), in each place it appears for "the Court" substitute "the Royal Court".

Amendment of Magistrate's Court (Criminal Appeals) Law.

6. (1) The Magistrate's Court (Criminal Appeals) (Guernsey) Law, 1988¹ is amended as follows.

(2) In section 1, after paragraph (a) insert –

"(aa) if such case results in the making of a confiscation order, a forfeiture order, a restraint order, a personalty charging order or a realty charging order under the Drug Trafficking (Bailiwick of Guernsey) Law, 2000, the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002 or the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999, at the instance of the defendant in the proceedings

¹ Ordres en Conseil Vol. XXXI., p. 83. This enactment has been amended.

in which the order was made, against the making of the order,".

(3) After section 4(1), insert –

"(1A) Where an order of a type referred to in section 1(aa) has been made, and the defendant (D) in the proceedings in which the order was made desires to appeal against the making of the order but has not sufficient means to enable D to obtain legal aid for the purpose, D may make an application to the Magistrate's Court for free legal aid.".

(4) In section 4(2), for "preceding subsection" substitute "preceding subsections".

Sentencing

Amendment of Misuse of Drugs Law.

7. (1) The Misuse of Drugs (Bailiwick of Guernsey) Law, 1974 is amended as follows.

(2) In the table at Schedule 3 (Prosecution and Punishment of Offences), in the fourth, fifth, sixth and seventh columns (Punishment), wherever a phrase set out in subsection (3) appears against "(a) Summary" under the third column (Mode of prosecution), substitute for that phrase "2 years or three times level 5 on the uniform scale, or both".

(3) The phrases referred to in subsection (2) are "12 months or three times level 5 on the uniform scale or both" and "6 months or level five on the uniform scale, or both".

Amendment of RIPL.

8. (1) The Regulation of Investigatory Powers (Bailiwick of Guernsey) Law, 2003 is amended as follows.

(2) In section 49(5)(a), for "two years" substitute "five years", and in section 49(5)(b) for "six months" substitute "two years".

Miscellaneous

Amendment of Rehabilitation of Offenders Ordinance.

9. (1) The Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002 (Commencement, Exclusions and Exceptions) Ordinance, 2006^m is amended as follows.

(2) In the heading of section 5 after "financial" insert ", egambling" and in section 5(1) –

(a) after "Commission" insert "or the Alderney Gambling Control Commission (as the case may be)", and

(b) in paragraph (a) after "financial" insert ", eGambling", and after "paragraph 1" insert "or 1A".

(3) In section 9, after the definition of "Commission" insert –

^m Recueil d'Ordonnances Tome XXXI, p. 386. This enactment has been amended.

"eGambling permission" means any licence, consent, authorisation, certificate, registration or other permission required to be obtained from the Alderney Gambling Control Commission by or under any enactment,".

(4) At the end of Part II of Schedule 1, insert –

- "13. The Director of the Revenue Service, or any of his or her deputies, or any office or employment in the Revenue Service.
- 14. The Registrar of Beneficial Ownership, or any of his or her deputies, or any office or employment in his or her offices.
- 15. The Registrar of Companies, or any of his or her deputies, or any office or employment in his or her offices.
- 16. The Registrar of Limited Liability Partnerships, or any of his or her deputies, or any office or employment in his or her offices.
- 17. The Registrar of Foundations, or any of his or her deputies, or any office or employment in his or her offices.
- 18. The Registrar of Non Profit Organisations, or any of his or her deputies, or any office or employment in his or her offices.
- 19. Any appointment or employment as an officer, servant or agent of the Alderney Gambling Control Commission.

20. Any person employed by the States of Guernsey whose functions include dealing with matters relating to the implementation of international sanctions."

(4) In the heading of Schedule 4 after "FINANCIAL" insert ", EGAMBLING", and after paragraph 1 insert –

"1A. Any licence, consent, authorisation, certificate, registration or other permission required to be obtained from the Alderney Gambling Control Commission by or under any enactment.",

and after paragraph 4 insert –

"4A. Any office, occupation or work in the employment of, or undertaken on behalf of, a holder of an eGambling permission.

4B. Any office, occupation or work in the employment of, or undertaken on behalf of, an applicant for an eGambling permission."

Amendment of Disclosure Law.

10. (1) The Disclosure (Bailiwick of Guernsey) law, 2007ⁿ is amended as follows.

(2) After section 3A, insert –

ⁿ Order in Council No. XVI of 2007. This enactment has been amended.

"Proliferation of weapons of mass destruction.

3B. Sections 1, 2, 3 and 3A apply to the proliferation of weapons of mass destruction, and the financing of the proliferation of weapons of mass destruction, as they apply to money laundering, and shall be construed accordingly."

(3) Sections 6(3), 9(4) and 10(3) are repealed.

(4) After section 9(3), insert –

"(3A) No obligation as to confidentiality or other restriction on the disclosure of information imposed by statute, contract or otherwise prevents the disclosure to the Financial Intelligence Unit, in accordance with the following provisions of this section, of information to which this section applies if the disclosure is –

(a) made for the purpose of improving the effective provision and use by the Director of the Revenue Service and the Financial Intelligence Unit of information relating to –

(i) money laundering,

(ii) terrorist financing,

(iii) the proliferation of weapons of mass destruction,

- (iv) the financing of the proliferation of weapons of mass destruction, or
- (v) the investigation of offences under section 75CC and regulations made under section 171A of the Income Tax Law of the Income Tax (Guernsey) Law, 1975 ("**the Income Tax Law**"), or
- (b) otherwise made in circumstances and satisfies other conditions set out in regulations that may be made for this purpose by the Committee for Home Affairs."

(5) For section 9(6), substitute –

"(6) Information obtained by means of a disclosure authorised by subsection (2), (3) or (3A) shall not be further disclosed by–

- (a) a police officer,
- (c) the Financial Intelligence Unit, or
- (d) the Commission (as the case may be),

except –

- (i) for a purpose mentioned in those subsections, and

- (ii) with the consent of the Director of the Revenue Service, and
- (iii) in the case of information disclosed to the Financial Intelligence Unit, the consent of the relevant person, body or authority falling within subsection (2)(b), if the disclosure is of, or relates to, information supplied by such a person, body or authority."

(6) After section 9, insert –

"Consent by Director of the Revenue Service to onward disclosure.

9A. Where the Director of the Revenue Service has disclosed information to which section 9 applies to a person, body or authority in a jurisdiction outside the Bailiwick for the purposes of –

- (a) an approved international agreement (within the meaning of section 75C of the Income Tax Law,
- (b) an international tax measure (within the meaning of section 75CC(1B) of the Income Tax Law), or
- (c) regulations made under section 171A of the Income Tax Law,

he or she may consent to that person, body or authority disclosing that information within that foreign jurisdiction, if the disclosure is made for a purpose set out in section 9(2)(a) – (h).".

Amendment of Disclosure Law and other enactments: the Financial Intelligence Unit.

11. In the Disclosure (Bailiwick of Guernsey) Law, 2007, and any other enactment in which it appears, in each place it appears for "Financial Intelligence Service" substitute "Financial Intelligence Unit".

Final

Extent.

12. This Ordinance has effect throughout the Bailiwick of Guernsey.

Citation.

13. This Ordinance may be cited as the Criminal Justice (Miscellaneous Amendments) (Bailiwick of Guernsey) Ordinance, 2022.

Commencement.

14. (1) This Ordinance shall come into force on the day appointed for this purpose by regulations made by the Committee for Home Affairs; and different dates may be appointed for different provisions and for different purposes.

(2) Regulations under subsection (1) shall be laid before a meeting of the States as soon as possible after being made; and, if at that or the next meeting the States resolve that the regulations be annulled, then they shall cease to have effect, but without prejudice to anything done under them or to the making of new

regulations.

SCHEDULE

Section 1(4)

"SCHEDULE 3

Section 8B(1)

1. Bankers' Books Evidence (Guernsey) Law, 1954
2. Disclosure (Bailiwick of Guernsey) Law, 2007
3. Competition (Enabling Provisions) (Guernsey) Law, 2009
4. Drug Trafficking (Bailiwick of Guernsey) Law, 2000
5. International Criminal Court (Bailiwick of Guernsey) Law, 2019
6. Criminal Justice (Fraud Investigation) (Guernsey) Law, 1991
7. Proceeds of Crime (Bailiwick of Guernsey) Law, 1999
8. Income Tax (Guernsey) Law, 1975
9. Extradition (Bailiwick of Guernsey) Law, 2011
10. Sanctions (Bailiwick of Guernsey) Law, 2018
11. Terrorist Asset Freezing (Bailiwick of Guernsey) Law,
12. Terrorism and Crime (Bailiwick of Guernsey) Law, 2002
13. Charities and non-Profit Organisations (Registration) (Sark) Law, 2010"

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

**THE CRIMINAL JUSTICE (PROCEEDS OF CRIME) (BAILIWICK OF GUERNSEY)
(AMENDMENT) ORDINANCE, 2022**

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) (Amendment) Ordinance, 2022", and to direct that the same shall have effect as an Ordinance of the States.

EXPLANATORY MEMORANDUM

This Ordinance amends the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey), 1999 ("the Proceeds of Crime Law"), by inserting a new Schedule, making provision for a statutory minimum standards test for estate agents.

Section 1 and the Schedule to the Ordinance insert a new Schedule 6 to the Proceeds of Crime Law. Paragraph references below are to paragraphs of inserted Schedule 6.

Paragraphs 1 to 3 establish an office to be called the Administrator of Estate Agents ("the Administrator"), provide that the office shall be held by the Registrar of Companies in Guernsey or such other person as the Policy & Resources Committee ("the Committee") may from time to time appoint by regulations, and set out statutory functions and ancillary powers of the Administrator.

Paragraph 4 introduces a requirement for initial notification to the Administrator, and the provision of information relating to the minimum standards test, before a person becomes involved in estate agency and makes provision regarding notification by persons already involved in estate agency when the Schedule comes into force.

Paragraph 5 provides for an ongoing requirement for a person involved in estate agency to provide information relating to the minimum standards test upon request and to notify the Administrator if they are convicted of any offence or where there is any change in information previously provided.

Paragraphs 6 to 8 confer a power on the Administrator to apply to the Royal Court for an estate agent disqualification order (where in the opinion of the Administrator a person is not a fit person to be involved in estate agency), set out the grounds for making a disqualification order, and make provision for the revocation of a disqualification order.

Paragraph 9 makes provision for the imposition of a civil financial penalty not exceeding £20,000 (or such other amount as the Committee may prescribe by regulations) by the Administrator where there has been a failure to comply with notification and information requirements under Schedule 6, a failure to comply with a condition imposed by the Administrator under paragraph 12 of Schedule 6, where a person involved in estate agency is convicted of any offence, or has engaged in certain business practices.

Paragraph 10 confers upon the Administrator the power to issue private reprimands, having regard to the conduct of a person involved in estate agency.

Paragraph 11 confers upon the Administrator the power to issue public statements where a person has contravened in a material particular a provision of Schedule 6 or any prohibition, restriction, condition, obligation, enforcement requirement, other requirement, duty, direction or arrangement imposed, issued or arising under any such provision.

Paragraph 12 confers upon the Administrator the power to impose conditions on a person involved in estate agency or on an estate agency business in respect of that person or business's conduct of estate agency business.

Paragraph 13 gives a person or business who is the subject of a proposed financial penalty, public statement, or condition, the right to make written representations and makes provision regarding such representations. It also makes provision, for the avoidance of doubt, preventing recovery of a financial penalty during the period in which an application to the Royal Court could be made to set aside the penalty and the period during which such an application is before the Court.

Paragraph 14 provides that a person is not liable to a civil penalty if a prosecution has been commenced and that the Administrator shall repay a penalty if a prosecution commences after a penalty has been paid.

Paragraph 15 provides a general right for a person directly affected by any action, decision or determination of the Administrator to apply to the Royal Court to set aside that action, direction, decision or determination and makes provision regarding such applications.

Paragraphs 16 and 17 create offences of contravening any provision of an estate agent disqualification order, and knowingly or recklessly provide false, deceptive or misleading information to the Administrator, both punishable by a fine not exceeding level 5 on the uniform scale or imprisonment for a term not exceeding three months.

Paragraphs 18 and 19 make provision regarding the disclosure and publication of non-confidential and confidential information by the Administrator.

Paragraph 20 provides an exclusion of civil liability, to persons undertaking functions under Schedule 6, in respect of things done or omitted to be done in good faith and in compliance with the Human Rights (Bailiwick of Guernsey) Law, 2000.

Paragraph 21 makes provision regarding service and notice of documents under Schedule 6.

Paragraphs 22-23 define certain terms used in Schedule 6.

The Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) (Amendment) Ordinance, 2022

THE STATES, in pursuance of their Resolutions of the 25th day of May, 2022^a, and in exercise of the powers conferred on them by sections 53A and 54 of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999^b, and all other powers enabling them in that behalf, hereby order:-

Amendment of the Proceeds of Crime Law.

1. (1) The Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999 is amended as follows.

(2) In section 49AA, after subsection (3) insert –

"(3A) Schedule 6 (Administrator of estate agents) has effect."

(3) After Schedule 5, insert the Schedule 6 set out in the Schedule.

Extent.

2. This Ordinance has effect throughout the Bailiwick of Guernsey.

Citation.

3. This Ordinance may be cited as the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) (Amendment) Ordinance, 2022.

^a Article VIII of Billet d'État No IX of 2022.

^b Ordres en Conseil Vol. XXXIX, p. 137; this enactment has been amended.

Commencement.

4. This Ordinance shall come into force on the day appointed for this purpose by regulations made by the Committee; and different dates may be appointed for different provisions and for different purposes.

SCHEDULE

Section 1(3)

"SCHEDULE 6

ADMINISTRATOR OF ESTATE AGENTS

Section 49AA(3A)

The Administrator

Administrator of Estate Agents.

1. (1) There is established an office to be called the Administrator of Estate Agents.

(2) The holder of the office established under subparagraph (1) is referred to in this Schedule as the Administrator.

(3) The Administrator shall be the Registrar of Companies within the meaning of the Companies (Guernsey) Law, 2008, or such other person as the Committee may from time to time appoint by regulations; and a person appointed under regulations made under this subparagraph shall be appointed on such terms and conditions as may from time to time be agreed between the Committee and the person, provided that none of those terms and conditions is inconsistent with any provision of this Schedule.

(4) The purpose of establishing the office of Administrator of Estate Agents is –

- (a) to prevent unfit persons from being persons involved in estate agency, and

- (b) thereby to protect the interests of the people, and the reputation, of the Bailiwick,

and the Administrator must take account of these purposes when exercising his or her functions under this Schedule.

(5) In this Schedule a "**person involved in estate agency**" means a person who is either an estate agent, or a relevant person, within the meaning of this Schedule (and "**persons involved in estate agency**" shall be construed accordingly).

Functions of Administrator.

2. (1) In addition to functions conferred under other paragraphs of this Schedule, the functions of the Administrator are -

- (a) to communicate and co-operate with -

- (i) any authority appearing to the Administrator to exercise, in a place outside the Bailiwick, functions corresponding to the Administrator's, and

- (ii) such other persons as he or she thinks fit,

for the purposes of assisting such authorities and persons and promoting, and enhancing the performance of, the Administrator's function, and such communication and co-operation may, without limitation, take the form of sharing any information

which the Administrator may lawfully disclose, and

- (b) to exercise such other functions as may be assigned or transferred to him or her by or under this Law or any other enactment.

(2) Subparagraph (1)(a) does not authorise the Administrator to disclose confidential information other than in accordance with paragraph 19.

Ancillary powers of Administrator.

3. (1) The Administrator has power to do anything that appears to the Administrator to be necessary or expedient for the purpose of exercising his or her functions including, without limitation, power -

- (a) to require the production of such documents, accounts and information from such persons and within such periods and at such times and intervals as he or she thinks fit, including, but not limited to –
 - (i) persons involved in estate agency,
 - (ii) estate agency businesses,
 - (iii) the beneficial owners and legal owners of estate agency businesses,
 - (iv) the directors of estate agency businesses,
 - (v) the controllers of estate agency businesses, and

- (vi) the managers of estate agency businesses,
- (b) subject to any provision to the contrary in this Law or any other enactment, to publish information, guidance, reports and other documents, and
- (c) to request advice from Her Majesty's Procureur in relation to the exercise of any of his or her functions.

(2) The Administrator may also exercise the power at subparagraph (1)(a) for the purpose of enabling him or her (of the Administrator's own volition or at the request of the Committee or any other authority within the Bailiwick with functions in respect of financial crime) to obtain information relating to legal persons so that he or she can identify, assess and understand risks to the Bailiwick of money laundering, terrorist financing, the proliferation of weapons of mass destruction and all other forms of financial crime.

(3) For the avoidance of doubt (and without prejudice to any function conferred under any other enactment) the Administrator may –

- (a) seek and receive information from any person, and
- (b) take any such information into account in deciding whether and in what manner to exercise his or her functions.

Notification requirements

Initial notification requirement.

4. (1) Subject to subparagraph (2), a person ("P") or a person acting on P's behalf must notify the Administrator before P becomes a person involved in estate agency.

(2) Where, on the coming into force of this Schedule, a person ("P") is a person involved in estate agency, P, or a person acting on P's behalf, must notify the Administrator within 14 days of this Schedule coming into force.

(3) A person notifying the Administrator under subparagraph (1) or (2) must provide such information as the Administrator may specify in guidance that the Administrator causes to be published on the States of Guernsey website from time to time, including, but not limited to, information relating to the minimum standards test.

(4) For the purposes of this Schedule, "**information relating to the minimum standards test**" means information relating to whether P is a fit person to be a person involved in estate agency, including certification by the notifying person as to whether P has at any time –

- (a) been convicted of any offence (other than an offence which is spent for the purposes of the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002),
- (b) engaged in any business practices which are, or which might reasonably be regarded as appearing to be, deceitful or oppressive or otherwise improper (whether unlawful or not) or which otherwise reflect discredit on the person's method of conducting

business or the person's suitability to carry on estate agency, or

- (c) engaged in or been associated with any other business practices or otherwise conducted himself or herself in such a way as to cast doubt on his or her soundness of judgement.

(5) Without prejudice to the generality of subparagraph (4), and for the avoidance of doubt, when assessing whether a person is a fit person to be a person involved in estate agency for the purposes of this Schedule, regard shall be had to the person's probity, integrity, honesty and soundness of judgement.

Ongoing notification requirement.

5. A person involved in estate agency ("P"), or any other person who has notified the Administrator under paragraph 4(1) or (2) and who continues to act on behalf of P for the purposes of this Schedule, must –

- (a) provide the Administrator with information relating to the minimum standards test in respect of P within 21 days (or such other period as the Administrator may reasonably specify in all the circumstances) of being requested to do so, and
- (b) notify the Administrator within 21 days after –
 - (i) P is convicted of any offence, or
 - (ii) any other change in respect of information

previously provided to the Administrator,

and provide the Administrator with such information relating to that offence or change (as the case may be) as the Administrator may require.

Enforcement – estate agent disqualification orders

Estate agent disqualification orders.

6. (1) Without prejudice to any other powers of the Administrator, where in the opinion of the Administrator a person is not a fit person to be a person involved in estate agency, the Administrator may make and subsequently renew, on one or more occasions, an application to the Court for an order (an "**estate agent disqualification order**") prohibiting that person from being a person involved in estate agency.

(2) An estate agent disqualification order may, in the Court's absolute discretion, be made by consent.

(3) An estate agent disqualification order and any renewal thereof-

(a) shall have effect for such period (not exceeding 15 years), and

(b) may contain such ancillary, incidental and supplementary terms and conditions,

as shall be specified in it.

(4) Without prejudice to the generality of subparagraph (3) and for the avoidance of doubt, where the person who is the subject of an estate agency disqualification order is the beneficial owner of an estate agency business, an estate agent disqualification order may, for the purpose of (and only to the extent necessary for) giving effect to the prohibition referred to in subparagraph (1), contain terms and conditions requiring the person to divest himself or herself of such rights and interests in the estate agency business, within such period, as the Court may specify.

Grounds for making an estate agent disqualification order.

7. (1) The Court may make an estate agent disqualification order where it considers that, by reason of a person's conduct in relation to an estate agency or otherwise, that person is unfit to be a person involved in estate agency.

(2) Subject to subparagraph (3), in determining whether a person is unfit to be a person involved in estate agency, regard shall be had to the matters set out in subparagraphs 4(4)(a) – (c) and (5).

(3) For the avoidance of doubt, the Court may have regard to matters other than those set out in the subparagraphs mentioned above in determining whether a person is unfit to be a person involved in estate agency.

Revocation of estate agent disqualification orders.

8. (1) A person subject to an estate agent disqualification order may apply to the Court for a revocation of the order on the ground that he or she is not unfit to be a person involved in estate agency, and the Court may grant the application if satisfied that –

(a) it would not be contrary to the public interest to do so,

and

- (b) the applicant is not unfit to be a person involved in estate agency.

(2) An application under this paragraph for the revocation of a disqualification order shall not be heard unless the person upon whose application the disqualification order was made has been served with notice of the application to revoke not less than 28 days (or such other period as the Court may in its absolute discretion direct) before the date of the hearing; and, without prejudice to the foregoing, the Court may –

- (a) direct that notice of the application to revoke shall also be served on such other persons as the Court thinks fit, and
- (b) for that purpose adjourn the hearing of the application.

(3) The revocation of a disqualification order may, with the consent of the parties and in the Court's absolute discretion, be granted by consent.

Enforcement – other civil sanctions

Civil penalties.

- 9. (1) Where the Administrator is satisfied that –
 - (a) a person involved in estate agency is not unfit to be a person involved in estate agency but –

- (i) has, without reasonable excuse, failed to comply with a requirement under paragraph 4 or 5, or
 - (ii) falls within paragraph 4(4)(a) – (c),
- (b) a person involved in estate agency, or an estate agency business, has failed to comply with a condition imposed under paragraph 12, or
- (c) any other person has, without reasonable excuse, failed to comply with –
 - (i) a requirement under paragraph 4 or 5, or
 - (ii) a request made by the Administrator to provide information (whether to the Administrator or another person) relevant to the exercise of the Administrator's functions,

the Administrator may (subject to the provisions of this paragraph and paragraph 13) impose on that person or business a financial penalty in respect of the failure to comply that gave rise to the liability of such amount as the Administrator considers appropriate and proportionate, but not exceeding £20,000 or such other amount as the Committee may prescribe by regulations.

(2) In deciding whether or not to impose a penalty under this paragraph and, if so, the amount thereof, the Administrator must take into consideration the following factors -

- (a) whether the failure was brought to the attention of the Administrator by the person concerned,
- (b) the seriousness of the failure,
- (c) whether or not the failure was inadvertent,
- (d) what efforts, if any, have been made to rectify the failure and to prevent a recurrence,
- (e) the potential financial consequences to the person or business concerned, and to third parties including customers and creditors of that person, of imposing a penalty,
- (f) the penalties imposed by the Administrator under this paragraph in other cases, and
- (g) any other matter the Administrator considers relevant.

(3) Any financial penalty imposed under this paragraph is payable to the States and is recoverable as a civil debt.

(4) Where the Administrator proposes to impose a financial penalty, he or she must notify in writing the person or business on whom the penalty is to be imposed of –

- (a) the proposed penalty, and the reasons for the same,

- (b) the date on which it is proposed, subject to paragraph 13, to impose the penalty, which must not be less than 42 days after the date of the notice, and
- (c) the right of that person or business to make written representations to the Administrator under paragraph 13(1).

(5) Where the Administrator imposes a financial penalty he or she must-

- (a) issue to the person or business on whom the penalty is being imposed notice of the penalty, and
- (b) include in the notice a statement of the right to apply to the Court under paragraph 15.

(6) Where a penalty is imposed on a person or business under this paragraph, the Administrator may publish, in such manner and for such period as the Administrator may determine, the name of the person or business and the amount of the penalty, and the publication may contain such information in respect of any person named therein, and such ancillary, incidental and supplementary information, as the Administrator may determine.

Private reprimands.

10. (1) Without prejudice to any other powers of the Administrator, where the Administrator considers that, having regard to the conduct of a person involved in estate agency, it is appropriate to do so, the Administrator may issue to

the person a private reprimand.

(2) The Administrator may not publish a private reprimand without the consent of the person in question.

(3) A private reprimand issued under subparagraph (1) may be taken into account by the Administrator in considering any matter under this Schedule concerning the estate agent in question.

Public statements.

11. (1) Without prejudice to any other powers of the Administrator, where in the opinion of the Administrator a person involved in estate agency ("P") has contravened in a material particular -

- (i) a provision of this Schedule, or
- (ii) any prohibition, restriction, condition, obligation, enforcement requirement, other requirement, duty, direction or arrangement imposed, issued or arising under any such provision,

it may publish, in such manner and for such period as the Administrator may determine, a statement to that effect.

(2) Where the Administrator proposes to publish a statement under this paragraph, he or she must notify in writing the person in respect of whom the statement is to be published of –

- (a) the text of the proposed statement, and the reasons for

the same,

- (b) the date on which it is proposed, subject to paragraph 13, to publish the statement, which must not be less than 42 days after the date of the notice, and
- (c) that person's right to make written representations to the Administrator under paragraph 13(1).

(3) A statement published under subparagraph (1) may contain such information in respect of any person named therein, and such ancillary, incidental and supplementary information (including information as to any conditions imposed on the person under paragraph 12) as the Administrator may determine.

(4) In deciding whether or not to publish a statement under this paragraph and, if so, the terms thereof, the Administrator must take into consideration the following factors -

- (a) whether the contravention was brought to the attention of the Administrator by P,
- (b) the seriousness of the contravention,
- (c) whether or not the contravention was inadvertent,
- (d) what efforts, if any, have been made to rectify the contravention and to prevent a recurrence,

- (e) the potential financial consequences to P, and to third parties including customers and creditors of P, of publishing a statement,
- (f) the action taken by the Administrator under this paragraph in other cases, and
- (g) any other matter the Administrator considers relevant.

(5) If at any time it appears to the Administrator that a statement published under this paragraph or any information contained in it is or has become misleading, inaccurate or incomplete, or that it is necessary or desirable in the interests of the public or the reputation of the Bailiwick to do so, the Administrator shall make such addition, erasure or other alteration to the statement or content thereof as the Administrator considers necessary.

(6) A statement published under subparagraph (1) may be taken into account by the Administrator in considering any matter under this Schedule concerning the estate agent in question.

Imposition of conditions.

12. (1) Without prejudice to any other powers of the Administrator, where the Administrator considers that, having regard to the conduct of a person involved in estate agency or an estate agency business, it is appropriate to do so, the Administrator may impose conditions on that person or business in respect of the person or business's conduct of estate agency.

(2) Where the Administrator proposes to impose conditions under this paragraph, he or she must notify in writing the person or business in

respect of whom or which the conditions are to be imposed of –

- (a) the conditions, and the reasons for the same,
- (b) the date on which it is proposed, subject to paragraph 13, to impose the conditions, which must not be less than 42 days after the date of the notice,
- (c) the duration of the conditions, and
- (d) that right of that person or business to make written representations to the Administrator under paragraph 13(1).

Representations prior to civil penalty, etc.

13. (1) The person or business notified under paragraph 9(4), 11(2) or 12(2) may make written representations to the Administrator concerning the proposed financial penalty, public statement or conditions (as the case may be) within 28 days of the date of the notice.

(2) If the person or business in question exercises their right under subparagraph (1) the Administrator -

- (a) must consider their representations, and
- (b) may decide to –
 - (i) impose the penalty, publish the statement or impose the conditions,

- (ii) in the case of a proposed financial penalty, impose a penalty in a lesser amount, issue a private reprimand, publish a statement or impose conditions,
- (iii) withdraw the penalty, not publish the statement or not impose the conditions, or
- (iv) postpone the date for imposing the penalty, publishing the statement or imposing the conditions,

as the case may be, but in any event must inform that person or business of his or her decision in writing, and the reasons for the same, before the date on which the financial penalty is imposed or would otherwise have been imposed, the statement is published or would otherwise have been published, or the conditions are imposed or would otherwise have been imposed, as the case may be.

(3) For the avoidance of doubt, where the Administrator has imposed a financial penalty under paragraph 9 he or she may not seek to recover payment of that penalty until –

- (a) 28 days immediately following the date of the notice of the penalty issued under paragraph 9(5)(a), or
- (b) if an application to the Court is instituted within that period under paragraph 15, the final determination, or withdrawal, of that application,

and for the purposes of this subparagraph, an appeal shall be deemed not to have been finally determined until the expiration of the time allowed for the institution of an appeal to the Court of Appeal under the Court of Appeal (Guernsey) Law, 1961 or until the determination of any such appeal instituted within that time.

Relationship of civil penalties with prosecutions.

14. (1) A person is not liable to a civil penalty if a prosecution in respect of the matter has been commenced.

(2) If the prosecution commences after a civil penalty has been paid, the Administrator shall repay the civil penalty.

General right to apply to Court to set aside action of Administrator.

15. (1) Without prejudice to any specific right of appeal in any enactment, a person who is directly affected by any action, direction, decision or determination of the Administrator (including an order imposing a financial penalty) may apply to the Court to set aside that action, direction, decision or determination.

(2) An application under subparagraph (1) shall be made in such manner (if any) as may be prescribed by order of the Court.

(3) On such an application the Court may make such order on such terms and conditions as it thinks fit.

(4) Subject to any direction given by the Court –

- (a) the applicant shall give at least seven days' notice of the application to the Administrator,
- (b) where the application is made in respect of a legal person and the applicant is not the legal person in respect of which the application is made, the applicant shall give at least seven days' notice of the application to the legal person, and
- (c) the application shall be made within 21 days after the day of the action, direction, decision or determination of the Administrator.

(5) An appeal from an order of the Court under this section lies, with leave of the Court or the Court of Appeal, to the Court of Appeal on a question of law.

(6) Section 21 of the Court of Appeal (Guernsey) Law, 1961 (powers of a single judge) applies to the powers of the Court of Appeal to give leave to appeal under this section as it applies to the powers of the Court of Appeal to give leave to appeal under Part II of that Law.

Enforcement: offences

Offences: general.

16. (1) A person who contravenes any provision of an estate agent disqualification order is guilty of an offence.

(2) A person guilty of an offence this paragraph is liable on

conviction to a fine not exceeding level 5 on the uniform scale, to imprisonment for a term not exceeding three months, or to both.

False or misleading information.

17. (1) If a person to whom subparagraph (2) applies –
- (a) makes a statement which the person knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular,
 - (b) recklessly makes a statement, dishonestly or otherwise, which is false, deceptive or misleading in a material particular,
 - (c) produces or furnishes or causes or permits to be produced or furnished any information or document which the person knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular, or
 - (d) recklessly produces or furnishes or recklessly causes or permits to be produced or furnished, dishonestly or otherwise, any information or document which is false, deceptive or misleading in a material particular,

he or she is guilty of an offence.

- (2) This subparagraph applies to a person (D) who –

- (a) makes any statement or provides any information or document to the Administrator, or to any officer, servant or agent of the Administrator, when the Administrator or that person is acting in the exercise of his or her functions, or
- (b) otherwise than as mentioned in paragraph (a) makes any statement or provides any information or document to the Administrator in circumstances in which D knows or could reasonably be expected to know that the statement, information or document would or might be used by the Administrator for the purpose of exercising his or her functions.

(3) A person guilty of an offence under this paragraph is liable on conviction to a fine not exceeding level 5 on the uniform scale, to imprisonment for a term not exceeding three months, or to both.

Miscellaneous and Final

Disclosure and publication of non-confidential information.

18. Any information held by the Administrator, other than confidential information, may be disclosed or published by him or her –

- (a) in accordance with the provisions of this Schedule, any other enactment or any rule of law, or
- (b) if no such provision is made, in such manner, subject to such conditions and for such purposes as he or she thinks fit.

Disclosure and publication of confidential information.

19. (1) Any confidential information held by the Registrar shall not be disclosed or published by him except –

(a) to the persons and bodies set out in subparagraph (2) where the Administrator considers that disclosure necessary and proportionate for the purposes set out in paragraph 1(4), or

(b) in accordance any other enactment or any rule of law.

(2) The persons and bodies referred to in subparagraph (1) are –

(a) the Commission,

(b) the Director of the Economic and Financial Crime Bureau,

(c) the Registrar of Companies (including in his or her capacity as the Registrar of Foundations),

(d) the Registrar of Limited Liability Partnerships,

(e) the Registrar within the meaning of the Companies (Alderney) Law, 1994,

(f) the Registrar of Beneficial Ownership,

- (g) the Greffier,
- (h) any body or person with the function of implementing or enforcing international sanctions measures within the Bailiwick,
- (i) the Greffier within the meaning of the Government of Alderney Law, 2004,
- (j) the Alderney Gambling Control Commission,
- (k) the Director of the Revenue Service,
- (l) the Registrar of Charities and other Non Profit Organisations under the Charities etc. (Guernsey and Alderney) Ordinance, 2021, and
- (m) the Registrar of Non-Profit Organisations appointed under the Charities and Non-Profit Organisations (Registration) (Sark) Law, 2010.

Exclusion of liability.

20. (1) No person undertaking a function under this Schedule is to be liable in damages or personally liable in any civil proceedings in respect of anything done, or omitted to be done, after the coming into force of this Law in respect of that function, unless the thing was done or omitted to be done in bad faith.

(2) Subsection (1) does not prevent an award of damages in respect of an act or omission on the ground that it was unlawful as a result of section

6(1) of the Human Rights (Bailiwick of Guernsey) Law, 2000.

Service of notices and documents.

21. (1) Any document other than a summons to be given or served under the provisions of or for the purposes of this Schedule may be given to or served upon –

- (a) an individual ("A"), by being delivered to A, or by being left at, or sent by post to, A's usual or last known place of abode, or by being transmitted to A's relevant electronic address,
- (b) a company or other legal person with a registered office in the Bailiwick, by being left at, or sent by post to, that office, or by being transmitted to its relevant electronic address,
- (c) a company or other legal person without a registered office in the Bailiwick, by being left at, or sent by post to-
 - (i) its principal or last known principal place of business in the Bailiwick, or
 - (ii) if there is no such place, its registered office or principal or last known principal place of business elsewhere,

or by being transmitted to its relevant electronic

address,

- (d) an unincorporated body -
 - (i) by being given to or served on any partner (not being a limited partner in a limited partnership), member of the committee or other similar governing body, director or other similar officer thereof in accordance with subparagraph (a), or
 - (ii) by being left at, or sent by post to -
 - (A) the body's principal or last known principal place of business in the Bailiwick, or
 - (B) if there is no such place, its principal or last known principal place of business elsewhere,
- or by being transmitted to its relevant electronic address,
- (e) the Administrator, by being left at, or sent by post to, his or her principal office in the Bailiwick, or by being transmitted to his or her electronic address,

and in this paragraph –

- (i) **"by post"** means by special delivery, recorded or signed for delivery or ordinary letter post,
- (ii) **"electronic address"** includes, without limitation, an e-mail address and telecommunications address,
- (iii) **"relevant electronic address"** means an electronic address -
 - (A) with which, in the opinion of the Administrator, the person concerned has a personal, business or other connection, and
 - (B) a document transmitted to which is likely to come to the attention of the person concerned,
- (iv) **"transmitted"** means transmitted by electronic communication (that is to say, in electronic form and by electronic means), facsimile transmission or other similar means which produce or enable the production of a document containing the text of the communication, and
- (v) **"summons"** includes any document compelling

a person's attendance before the court.

(2) Subparagraph (1) is without prejudice to any other lawful method of service.

(3) A document sent by post shall, unless the contrary is shown, be deemed for the purposes of this Schedule to have been received –

(a) in the case of a document sent to an address in the United Kingdom, the Channel Islands or the Isle of Man, on the third day after the day of posting,

(b) in the case of a document sent elsewhere, on the seventh day after the day of posting,

excluding in each case any day which is not a business day.

(4) Service of any document sent by post shall be proved by showing the date of posting, the address thereon and the fact of prepayment.

(5) A document shall be deemed for the purposes of this Schedule to have been –

(a) addressed to the person concerned, and

(b) delivered to any person, or left at or transmitted to a place or address,

if the person effecting service certifies that it was addressed, and delivered, left or

transmitted (as the case may be), in accordance with the provisions of this section, and the document shall, unless the contrary is shown, be deemed for those purposes to have been received when it was delivered, left or transmitted (as the case may be).

Interpretation.

22. In this Schedule –

"**beneficial owner**" has the meaning given in paragraph 22 of Schedule 3, subject to the following modification: wherever "25%" appears, there is substituted "15%",

"**confidential information**" means –

- (a) an individual's usual residential address, and
- (b) beneficial ownership details relating to an estate agency business within the meaning of Part XXIX of the Companies (Guernsey) Law, 2008,

"**the Court**" means the Royal Court sitting as an Ordinary Court,

"**estate agency**" has the meaning given in paragraph 3 of Schedule 2, but does not include acting in the course of a business in circumstances where that business is a small business within the meaning of the Prescribed Businesses (Bailiwick of Guernsey) Law, 2008,

"**estate agency business**" means a business engaged in estate agency (and, for the avoidance of doubt, consequently does not include a small business within the meaning of the Prescribed Businesses (Bailiwick of Guernsey) Law, 2008),

"**estate agent**" means a person engaged in estate agency who is not a relevant person,

"**estate agent disqualification order**": see paragraph 6(1),

"**information relating to the minimum standards test**": see paragraph 4(4),

"**person involved in estate agency**": see paragraph 1(5), and

"**relevant person**": see paragraph 23.

Meaning of relevant person.

23. In this Schedule a "**relevant person**" means –

- (a) a person participating (directly or indirectly) in the management of an estate agency business, or
- (b) the beneficial owner of an estate agency business."

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

**THE LENDING, CREDIT AND FINANCE (BAILIWICK OF GUERNSEY) (COMMENCEMENT)
ORDINANCE, 2022**

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Lending, Credit and Finance (Bailiwick of Guernsey) (Commencement) Ordinance, 2022", and to direct that the same shall have effect as an Ordinance of the States.

EXPLANATORY MEMORANDUM

This Ordinance commences sections 2, 16, 17, 26, 91 and Schedule 2 of the Lending, Credit and Finance (Bailiwick of Guernsey) Law, 2022 on the 1st July, 2023. The remainder shall come into force on the 1st January 2023.

The Lending, Credit and Finance (Bailiwick of Guernsey) (Commencement) Ordinance, 2022

THE STATES, in exercise of the powers conferred on them by section 95 of the Lending, Credit and Finance (Bailiwick of Guernsey) Law, 2022^a and all other powers enabling them in that behalf, hereby order:-

Commencement of Law.

1. (1) The Lending, Credit and Finance (Bailiwick of Guernsey) Law, 2022 ("**the Law**") shall come into force as follows.

(2) The following provisions of the Law –

- (a) sections 2, 16, 17 and 26 (prohibition of providing or carrying on services, business or activities regulated by the Law without a licence), and
- (b) section 91 and Schedule 2 (repeal of Registration of Non-Regulated Financial Services Businesses (Bailiwick of Guernsey) Law, 2008 and related enactments),

shall come into force on the 1st July, 2023.

(3) The remainder of the Law shall come into force on the 1st January, 2023.

^a Approved by the States of Deliberation on the 14th July, 2022.

Citation.

2. This Ordinance may be cited as the Lending, Credit and Finance (Bailiwick of Guernsey) (Commencement) Ordinance, 2022.

Commencement.

3. This Ordinance shall come into force on the 25th November, 2022.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

**THE HUMAN TISSUE AND TRANSPLANTATION (EXCLUDED MATERIAL) (BAILIWICK OF
GUERNSEY) ORDINANCE, 2022**

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Human Tissue and Transplantation (Excluded Material) (Bailiwick of Guernsey) Ordinance, 2022", and to direct that the same shall have effect as an Ordinance of the States.

EXPLANATORY MEMORANDUM

This Ordinance prescribes various organs and descriptions of human tissue as excluded material for the purposes of the Human Tissue (Bailiwick of Guernsey) Law, 2020. Under that Law, consent cannot be deemed for transplantation activity involving excluded material. Removal or other transplantation activity involving excluded material would require express consent to be given.

The Human Tissue and Transplantation (Excluded Material) (Bailiwick of Guernsey) Ordinance, 2022

THE STATES, in pursuance of their Resolution of the 28th November, 2018^a, and in exercise of the powers conferred on them by sections 21, 27 and 31 of the Human Tissue and Transplantation (Bailiwick of Guernsey) Law, 2020^b and all other powers enabling them in that behalf, hereby order: -

Excluded material.

1. (1) Each of the following is excluded material for the purposes of the Human Tissue and Transplantation (Bailiwick of Guernsey) Law, 2020 ("the Law") -

(a) the whole of, or a visibly recognisable part of, any of the following body parts -

(i) brain,

(ii) spinal cord,

(iii) face (other than the eyes),

(iv) arm,

(v) hand,

^a Article XIV of Billet d'État No. XXV of 2018.

^b Order in Council No. III of 2021.

- (vi) leg, and
- (vii) foot,
- (b) any other human tissue (including skin or internal tissue), but only if it is being removed for the purpose of the transplantation of material described in paragraph (a),
- (c) an embryo that is inside the body of a person, and
- (d) ovary, uterus, penis, testicle, foetus, placenta and umbilical cord.

(2) In this section, "**internal tissue**" includes, but is not limited to, bone, muscle, nervous tissue, arteries and tendons.

Extent.

2. This Ordinance shall have effect throughout the Bailiwick of Guernsey.

Citation.

3. This Ordinance may be cited as the Human Tissue and Transplantation (Excluded Material) (Bailiwick of Guernsey) Ordinance, 2022.

Commencement.

4. This Ordinance shall come into force on the 1st January, 2023.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

THE FISHING (AMENDMENT) ORDINANCE, 2022

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Fishing (Amendment) Ordinance, 2022", and to direct that the same shall have effect as an Ordinance of the States.

EXPLANATORY MEMORANDUM

This Ordinance amends the Fishing Ordinance, 1997 (the "Fishing Ordinance") as follows:

Section 2 amends the Fishing Ordinance to provide that the Committee for Economic Development may by order regulate the import, export, taking, buying and selling of any fish which is of a prescribed species.

Section 3 amends the Fishing Ordinance to provide that the taking of ormers at any time between the hours of sunset and sunrise is prohibited. This was the position in legislation prior to the enactment of the Fishing Ordinance. The policy letter that led to the enactment of the Fishing Ordinance proposed that no changes should be made to the restrictions concerning the shoregathering of ormers. This amendment therefore corrects an oversight and gives effect to the States resolution of 30th October 1996.

The Ordinance shall come into force on the 25th November, 2022.

The Fishing (Amendment) Ordinance, 2022

THE STATES, in pursuance of their Resolutions of the 30th October 1996^a and the 25th March 2021^b, hereby order:-

Amendment of 1997 Ordinance.

1. The Fishing Ordinance, 1997 is amended as follows.

2. In section 1, immediately after subsection (3) insert the following subsection -

"(4) The Committee may by order regulate the import, export, taking, buying and selling of any fish which is of a prescribed species."

3. In section 3, immediately after subsection (3) insert the following subsection -

"(3A) Notwithstanding anything in this section, a person shall not take ormers at any time between the hours of sunset and sunrise."

Interpretation

4. Unless the context requires otherwise, in this Ordinance -

"**the 1997 Ordinance**" means the Fishing Ordinance, 1997, and other expressions have the same meanings as in the 1997 Ordinance.

^a Article VIII of Billet d'État No. XXIV of 1996.

^b Article I of Billet d'État No. VIII of 2021.

Citation.

5. This Ordinance may be cited as the Fishing (Amendment) Ordinance, 2022.

Commencement.

6. This Ordinance shall come into force on 25th November, 2022.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

**POLICY & RESOURCES COMMITTEE AND
THE STATES' TRADING SUPERVISORY BOARD**

ALDERNEY AIRPORT RUNWAY REHABILITATION

The States are asked to decide: -

Whether, after consideration of the Policy Letter entitled 'Alderney Airport Runway Rehabilitation' of the Policy & Resources Committee and the States' Trading Supervisory Board, they are of the opinion:-

1. To agree Option C+ optimises public value in Alderney Airport by way of restoration of the existing pavement surfaces of the runway, including its re-widening and extension, and the redevelopment of the terminal building and other building alterations to secure improvements to enhance service provision; and therefore to replace the previously agreed proposal with this Option C+ scheme in the Government Work Plan.
2. To direct the Policy & Resources Committee on behalf of the States of Guernsey to negotiate with the Policy & Finance Committee of the States of Alderney in order to update the operational relationship and secure capital funding for the Option C+ scheme to redevelop Alderney Airport and runway; and if a reasonable and robust agreement cannot be reached, to direct that the Policy & Resources Committee reverts to the States of Guernsey for further consideration of options to secure funding for Option C+.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

**POLICY & RESOURCES COMMITTEE AND
THE STATES' TRADING SUPERVISORY BOARD**

ALDERNEY AIRPORT RUNWAY REHABILITATION

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

3rd October, 2022

Dear Sir

1 Executive Summary

- 1.1 The rehabilitation of Alderney Airport's runway is a critically important investment in Guernsey and Alderney's future. The runway provides an essential social and economic lifeline for the community of Alderney. This has been recognised through a number of previous Resolutions of the States of Deliberation, including in 2019 a commitment to invest in a major rehabilitation of the existing pavements¹. That investment was further endorsed through the Government Work Plan in July 2021 when it was categorised as a 'Must Do' project. In addition, the Guernsey to Alderney route has been designated as a lifeline, essential for social and economic well-being in Alderney.
- 1.2 This vital connectivity is a Bailiwick issue. The States of Guernsey are required to provide critical infrastructure as a "Transferred Service" in accordance with the Alderney (Application of Legislation) Law, 1948. Alderney Airport is operated by Guernsey Airport and provides year-round lifeline services.
- 1.3 This Policy Letter provides an update on the project and recommends a change to the preferred option for the runway rehabilitation. This change has proven necessary given additional information and changes in circumstances since the debate (detailed in paragraph 2.2) and has been evidenced through revisiting the original long list and short-listed options. The recommendation has been subject to substantial additional consultation and appraisal.

¹ Billet d'État I of 2019, Article II – Alderney Airport Runway Rehabilitation

- 1.4 The condition of the runway at Alderney Airport continues to deteriorate because the existing pavement has exceeded its operational life. Regular engineering inspections evidence a continued decline and substantive patch repairs continue to be undertaken. These treatments only serve to mitigate the immediate problems and to slow down further significant deterioration. Whilst they provide short term solutions, the reconstruction project is vital to avoid ongoing and escalating maintenance costs and operational risks.
- 1.5 This Policy Letter sets out the rationale for the revised recommended solution (Option C+), to both restore and extend the existing pavements, and to provide additional facilities and improvements to some of the existing buildings on site. It also describes why this is considered to be the best option, calculated through whole life cost and demonstrating the best value for money. In addition, it highlights the key findings from a revised Outline Business Case (OBC), which was substantially updated in early 2022.
- 1.6 The proposed redevelopment will address the condition of the current infrastructure ensuring it meets the international aviation regulatory requirements and is fit for purpose for the next 15-20 years. It will also provide greater resilience and more versatile infrastructure through a short extension and strengthening of the existing runway to accommodate larger aircraft, with the provision of a new terminal building and refurbishment of the existing airport fire station. Such provisions are anticipated to result in cost savings in the current Public Service Obligation (PSO) contract that the States of Guernsey have put in place, subject to the issues set out in section 7, leading to an anticipated overall reduction in the revenue cost of providing Alderney's lifeline air services.
- 1.7 This investment represents a significant capital outlay, which reflects extensive reliance on night working (to maintain runway access during the day) and the logistical challenges associated with working at an operational airfield in an island. The estimated cost for this preferred option at this stage of the project has been identified within the OBC at circa £24.1m. Whilst this cost estimate includes appropriate contingencies and is based on a reasonable set of assumptions, it remains an estimate until the essential stages of final design and procurement are completed.
- 1.8 Detailed financial analysis has involved input from the current PSO air route provider, Aurigny Air Services Ltd (Aurigny), regarding its current and predicted operating costs, as well as input from specialist aviation pavement design engineers. The information provided by Aurigny indicates the additional costs associated with a runway extension as proposed within Option C+, compared to refurbishment of the current length, can be partly offset by a reduction in the PSO subsidy that Aurigny receives. This would be as a result of a consolidation of its fleet on a common, larger aircraft type. Such are the potential advantages of a runway extension, the option has now been revisited and is considered by the

States' Trading Supervisory Board and Policy & Resources Committee as the option that should be tendered subject to an agreed funding package with the States of Alderney.

- 1.9 Project and financial assurance have been carried out at the Strategic Outline Case (SOC) and OBC stages. A number of financial risks to the project remain and more detailed work is required to firm up on some of the associated costs. The Policy & Resources Committee will monitor the development of costs and benefits closely to ensure that Option C+ continues to deliver the best overall value and will not use its delegated authority to approve any expenditure should it suspect this no longer to be the case.

2 Introduction

- 2.1 In January 2019, the States resolved²:

- i. To approve Option 3 as the 'preferred option', to restore the existing pavement surfaces to provide a more lasting life for the runway, including re-widening and other improvements, as the option which optimises public value, following a detailed appraisal, as set out in the Policy Letter.
- ii. To approve an increase of a maximum of £460,000 in the existing capital vote for the Alderney Airport Project funded from the Capital Reserve, to fund all necessary steps for the development of the design stage and proposals for the procurement of Option 3.
- iii. Subject to the Policy & Resources Committee's approval of the Final Business Case, to direct that Committee to increase the existing capital vote for the Alderney Airport Project, funded from the Capital Reserve, to a maximum of £12.2 million to fund the construction of the runway pavement rehabilitation scheme, in accordance with Option 3, including the design stage, professional fees and contingencies.
- iv. To rescind Resolutions of the States at Article 6, Billet XXVI of 10th December, 2014, 4(b) and 4(e) in relation to the potential proposals to hard surface the grass runways at 14/32 and 03/21.

² Billet d'État I of 2019, Article II – Alderney Airport Runway Rehabilitation

2.2 A number of significant events and changes have necessitated a thorough project review and substantial revisions of the original OBC for this project as follows:

- A global pandemic which has completely rewritten all previous economic and financial analysis and modelling and changed passenger behaviour;
- Further detail on the operating costs of the Dornier aircraft which are currently operating to and from Alderney that identifies cost saving opportunities for delivering air connectivity to Alderney by switching to payload restricted ATR 72-600 aircraft (introduced since the original OBC);
- The impacts of the global pandemic on aircraft manufacturers have led to some medium-term uncertainty over the ongoing production and support of the Dornier 228 NG aircraft type. Therefore, there are potential risks in relation to the longer-term viability of that fleet in terms of supply and maintenance, specifically replacement parts;
- Confirmation of a five-year PSO agreement with Aurigny as the supplier of air services to and from Alderney, which offers greater certainty over the ongoing level of subsidy required to provide that service and capacity commitment on the route. It is also worth noting that a wider market test for alternative providers of such services, as part of two separate open PSO tender processes, failed to secure any alternative viable operators from the current airport;
- Further challenges over time in the provision of medevac cover including through the PSO contract, which supports the case for a longer runway from which specialist medevac operators can operate and which currently are unable to use the existing runway length;
- The introduction of a new International Civil Aviation Organisation (ICAO) Global Reporting Format for runway surface conditions (GRF), effective from 4th November 2021, with the primary objective to mitigate the risk of runway excursions by enabling a harmonised assessment and reporting of runway surface conditions and an improved flight crew assessment of take-off and landing performance. This has led to an increase in the number of days per annum when the runway is declared 'wet' due to the removal of the 'damp' classification. The end result of this change is more aircraft restrictions in poor weather; and
- A review of previous technical advice in 2018 which concluded that a less expensive runway extension to the west was not viable. Extensive engagement with Guernsey Ports' current specialist advisors, Aurigny and the regulators have demonstrated that this is both viable and less costly than had been previously estimated.

- 2.3 As a result of the above information, further work has been undertaken to reassess all options previously considered by the States of Deliberation, and as a result, a revised preferred option is now proposed.

3 Current Situation

- 3.1 Alderney Airport has three runways: one paved runway and two grass runways. Following improvements to the grass runways, it is the paved areas that are now the focus for this project.
- 3.2 The asphalt runway was last resurfaced in 1999 with a surfacing which has a design life of between 12 and 15 years. A major patch and repair were undertaken on the eastern end of the runway in Autumn 2016, to provide a short-term improvement. As bitumen ages, the surfacing becomes brittle and is then prone to loss of stone particles. If left untreated, potholes occur because of weather and traffic. Deterioration to that extent would be in contravention of regulatory requirements and would lead to unpredictable losses of service to the community and the airlines. This reduction in services would be required to decrease the risks of aviation incidents or accidents.
- 3.3 Following several harsh winters, the pavements experienced an increased rate of deterioration, with more loss of aggregate from the surface of the runway. Following detailed inspection and specialist advice, an asphalt stabiliser was applied in September 2018. This provided improved binding and waterproofing properties to the existing surface. While this treatment arrested immediate deterioration of the pavement, it did not improve the underlying strength and over time that surface treatment has worn off, and more intrusive patch repairs are now required to maintain a safe operating pavement.
- 3.4 The condition of the existing paved runway (which is designated 08/26), taxiway and apron are now deteriorating to the extent where ongoing patch repairing will neither provide an acceptable surface for safe operation of aircraft, nor be economical over the medium term. Significant runway and taxiway patch repairs have been undertaken at Alderney Airport in summer 2021 and again in summer 2022.
- 3.5 Alderney Airport currently benefits from a variation in respect of its full application of Aviation Security requirements, as determined by the UK Department for Transport. This body is responsible for setting Aviation Security requirements across airports in the United Kingdom and the Crown Dependencies. The existing variation applies to generally smaller airfields in the UK used by commercial air transport that meet seat capacity and aircraft length criteria. The current variation could be amended or withdrawn at short notice because of events or incidents at other airports that currently benefit from this same arrangement. At that point, an immediate and significant change to aviation security arrangements would be triggered at Alderney Airport, involving significant investment in equipment and

personnel.

- 3.6 Despite being well maintained and upgraded where possible over time, the current terminal and fire station at Alderney Airport need significant improvement or replacement. Irrespective of which runway rehabilitation option is selected, for reasons stated in paragraphs 3.7 to 3.11, a substantial investment in those buildings will be required within a five-year timeframe.
- 3.7 The current airport terminal was constructed in 1968. It is a wooden structure and has no insulation. Whilst it has coped well with many changes over the last 50+ years in the way air passengers are needed to be security screened, it has become increasingly unsuitable. A lack of insulation results in high summer temperatures within the building. In winter, the lack of insulation leads to excessive heating costs. When poor weather causes flight delays there is little or no waiting room. Additionally, the arrivals hall is cramped and provides poor facilities for baggage claim, customs checks and interviews. The security area is small. Departing passengers are required to queue between café tables before entering the search area. Once security cleared, the passengers must wait to be called for boarding from a constricted and open-air waiting area, with no refreshment or toilet facilities. The only shelter from inclement weather is a small portacabin which houses the pre-flight safety video.
- 3.8 In addition, the existing terminal and its services have been heavily criticised by various organisations for not meeting expected levels of service for passengers with reduced levels of mobility or other disabilities. There are no disabled toilet facilities, and doorways are narrow so restricting wheelchair use. The access to and from the main aircraft apron involves a flight of steps both for arriving and departing passengers.
- 3.9 The existing terminal building was designed to support the operations of one airline. In recent years several other airlines have operated, or expressed a desire to operate, alongside the incumbent carrier. The limited floorspace available has meant the current building has been unable to accommodate many of the facilities that a second operator would reasonably demand. This restriction is hampering business development, both for the current operator and any additional providers.
- 3.10 The current airport fire station was constructed in 1968. It is a single block construction with asbestos roof cladding. Despite being subject to annual safety inspections by a competent agent, there remains a risk that the roofing product has been made brittle by age and is more likely to be prone to damage. The unsuitability of this type of roofing is heightened as the roof supports, made of the same asbestos cement product, make attempts to install extractor units to deal with exhaust fumes from the fire vehicles quite challenging. The appliance bay provides workshop facilities which enable the firefighters to undertake maintenance and repairs on site. The building and its crew accommodation are

very small, with the most recent appliances having to be adapted to fit within the station. The existing station has no insulation and does not provide a sufficient standard of accommodation for staff in winter or summer. It comprises three small rooms totalling 23m², which created specific challenges in implementing social distancing recommendations during the pandemic.

- 3.11 Given the current condition of the buildings, the whole-life costs of such requirements have been reflected in all options but would only be advanced specifically within a short timeframe under Option C+, for reasons outlined under paragraph 5.19.

4 Context

- 4.1 The States of Guernsey have an obligation under the Alderney (Application of Legislation) Law, 1948, to provide, amongst other services, an airfield for Alderney. These services are known as the “Transferred Services”. In exchange for these services, Alderney residents pay Bailiwick tax.
- 4.2 The States’ Trading Supervisory Board (STSB) is responsible politically for discharging the obligation to provide and maintain an airfield for Alderney and is funded accordingly. The day-to-day operational management for Alderney Airport is provided by Guernsey Airport, which levies a cross-charge for these services, funded through General Revenue as part of the annual operating losses.
- 4.3 The Alderney Airport Pavements Project was identified within the Government Work Plan – Stage 1 (approved March 21) as a priority project. Stage 2 of the Government Work Plan (approved July 2021) confirmed this specific project under the ‘Must Do’ category to maintain essential infrastructure and systems and it remains a priority in the latest Government Work Plan (July 2022).
- 4.4 Aerodrome pavement design is highly prescriptive and based upon international civil aviation regulatory requirements. The proposed pavement designs are required to conform to these standards and are endorsed by the Office of the Director of Civil Aviation (Channel Islands) which is involved in the formal design review process.

5 Review of Proposed Options for Alderney Airport Runway Rehabilitation

- 5.1 All the identified project options have been assessed against the Investment Objectives in Table 1. These were developed from the investment objectives set out in the original SOC, and follow consultation with key stakeholders during 2021, to revalidate and update it where necessary.

Table 1: Investment Objectives

Investment objective 1:	To fully refurbish, strengthen, lengthen and widen the 08/26 asphalt runway, realign and resurface the bravo taxiway and resurface and reconfigure the apron to provide a long-term sustainable, reliable and safe paved surfaced for the operation of Code C ³ aircraft.
Investment objective 2:	To ensure that any works achieve an appropriate level of compliance with current aerodrome regulatory standards. This will be achieved by following the UK Civil Aviation Authority's (CAA) regulatory approval process ⁴ where the preferred design and project delivery phases will be assessed in consultation with Guernsey Ports and the Office of the Director of Civil Aviation (Channel Islands) (ODCA).
Investment objective 3:	To ensure that works consider the likely passenger and aircraft demands for the next 15 years in accordance with the structural requirements ⁵ based on status quo accepting there is already capacity for significant additional aircraft movements (commercial, business and private).

³The ICAO Aerodrome Reference Code is a two-part categorization which simplifies the process of establishing whether a particular aircraft can use a particular aerodrome. The first part of the code is a numeric, based on the aerodrome's runway length, the second part of the code is a letter based on a combination of aircraft wingspan and main gear wheel span. By way of example, Alderney's existing runway length is only able to accept Code B aircraft (or smaller), and with a runway extension it would then be able to attract Code C aircraft, or smaller. The ATR72 is a Code C aircraft.

⁴ Civil Aviation Publication (CAP) 791

⁵ ICAO Design and Maintenance Guide 27 section 4.7.2

Investment objective 4:	To ensure that the works consider the design requirements and costs for the potential provision of full aviation security screening of passengers and baggage in Alderney. The use of an ATR 72-600 would negate an existing dispensation which applies to the current Dornier 228 aircraft and, therefore, would trigger the need for additional capital and operating costs. It is also worth noting that the current aviation security dispensation cannot be guaranteed to continue indefinitely regardless of the aircraft type operating in Alderney and some upgrade may be required at any time. Any design should take into account this need for future enhanced security provision.
Investment objective 5:	To provide opportunity to future-proof further phased development at a later stage including the construction of a new terminal and refurbishment of the fire station. It should be noted that both the current buildings are at, if not beyond, their end of useful life and, therefore, the redevelopment of both would be required regardless of any decision on runway length.
Investment objective 6:	To enable a reduction in the cost of the Alderney PSO agreement, in the hands of the States of Guernsey, by removing the need for specialist aircraft currently required to operate to/from Alderney due to the current short, runway length.
Investment objective 7:	To provide benefit to the Alderney community in the form of a less bespoke air transportation solution that accommodates a wider array of aircraft types, along with increased seat capacity and a better ability to cater for seasonal peak demand periods.
Investment objective 8:	To allow fleet simplification within Aurigny through the removal of the Dornier 228 NG fleet, which, in addition to the financial benefits accruing to the States of Guernsey consequent to a reduction to PSO cost, presents a further operational and financial benefit to Aurigny outside of the Alderney operations, ultimately to the benefit of Aurigny's shareholder.

Review and Appraisal of the Long List of Options

- 5.2 At the SOC stage, a long list of potential refurbishment options (see Table 2) were identified and, following evaluation, a short list of options was carried forward. Ultimately the preferred option was identified as Option 3 which was subsequently approved by the States in 2019.

Table 2: Long List Options as debated in 2019 (¹ [Billet d'État I of 2019, Article II – Alderney Airport Runway Rehabilitation](#))

Options for Scoping		Finding	Shortlisted - ✓ Rejected - X
0	Do nothing	Incompatible with the requirement to retain the airport as an essential lifeline link for Alderney.	X
1	Do Minimal: widen runway to 23m	In the medium term (five years) this is incompatible with requirement to retain essential lifeline link for Alderney. No support at workshops.	✓
2	Basic resurfacing: no improvement to airfield ground lighting (AGL)	Meets full requirements for pavement rehabilitation but AGL is also aged and in need of replacement. Little support at workshops.	X
3	Basic resurfacing plus enhancements, including lighting.	Meets full requirements for pavement and AGL rehabilitation. Runway centreline included to reduce the number of go arounds due to missed approaches. Incorporates positive drainage to protect two grass runways. Good support from all parties.	✓
4	Option 3 + Pave the grass Crosswind Runway 03/21	As Option 3, plus a short, paved runway for wind conditions that prevent use of Runway 08-26. Other than a few General Aviation (private) pilots, there was limited support, probably because there are very few occasions when it would be used by commercial aircraft.	X
5	Extend the existing Runway to 1100m (Single phase extension)	Meets full requirements for pavement and AGL rehabilitation, increases runway length to 1100m, width to 30m, and strength to allow 42-50 seat aircraft to operate. Runway centreline lighting included to reduce the number of missed approaches. Positive drainage incorporated to protect the two grass runways. Improvements to terminal needed for this option.	✓
6	Option 3 with more significant improvement to enable extension to 1100m at a later stage (Two-phase extension)	A phased approach that provides the full benefits of option 3 in phase 1 and option 5 in phase 2. Phase 2 is generated by the demand from commercial airlines to use 42-50 seater aircraft on a regular timetable, should these demand conditions be in place. Improvements to terminal needed for this option. A high level of support other than from States of Alderney.	✓

Evaluating the Short List of Options

- 5.3 The long list, as detailed in Table 2, has been revisited as part of the most recent review of the OBC. This considered the revised set of Investment Objectives (see Table 1), additional technical and financial information and the wider project influences as described in paragraph 2.2. Option A in Table 3 below is the baseline equivalent to the currently approved Option 3.

Table 3: Current Shortlisted Options

Options for Scoping	Description	Notes
Option 0: Do nothing	Continued degradation of current paved surfaces resulting in an increase in operational disruption, risk to aircraft safety and levels of reactive maintenance	Incompatible with the requirement to retain the airport as an essential lifeline link and long-term sustainable infrastructure for Alderney. This option was not taken forward to costing.
Option A: Basic refurbishment including airfield ground lighting	Minimum works required to support ongoing Code B ⁶ aircraft operations including Dornier 228 and Britten Norman Islander with some safeguarding for a future extension where there is little or no impact on cost	Option 3 as described in the long-list and the preferred option approved in 2019.
Option B: Basic refurbishment plus safeguarding for larger aircraft	Additional work from the baseline of Option A to include thicker pavement construction and minor amendments to taxiway alignments and apron extents to safeguard for future Code C aircraft (e.g. ATR 72). Security arrangements to be	Potential low-cost safeguarding option that extends pavement life and reduces

⁶ Code B Aircraft - See definition in Footnote ³ on Table 1.

	enhanced to meet minimum aviation security regulatory requirements through the provision of a modular building	future costs associated with improvements for Code C aircraft.
Option C: Runway extension to facilitate larger aircraft operations (Intermediate Scope Project)	Extended runway to the west, realignment of bravo taxiway, reconfiguration of apron and all associated pavement works required to support Code C aircraft (e.g. ATR 72) operations	Aurigny could remove Dornier 228 aircraft and project substantial, subsequent savings that can be offset against the additional costs associated with this option by the reduction in the annual PSO subsidy. Specialist and dedicated medevac aircraft will be able to operate at the airport
Option C +: As per Option C but includes the construction of a new airport terminal building and refurbishment of the fire station building	No requirements for a dedicated modular building for aviation security. Aviation security processing will be encompassed within the new terminal building	Ensures end of life terminal and fire station buildings are fit for purpose and future proofed, and have the added benefit of managing Code C aircraft

Advantages and disadvantages of each option

5.4 The main advantages and disadvantages of all options are captured in Table 4 which provides a summary of each scheme considered in the overall assessment.

Table 4: Advantages and disadvantages of each option

Option	Advantages	Disadvantages
0	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Incompatible with the requirement to retain the airport as an essential lifeline link for Alderney
A	<ul style="list-style-type: none"> • Lowest capital cost of Options A to C+ • Reduced maintenance costs compared with existing situation • Does not extend beyond the current airport boundary • Lower risk planning approvals as traffic does not change significantly from existing and most 'development works' are associated with temporary construction-related activity. 	<ul style="list-style-type: none"> • Limited capacity for larger and/or heavier aircraft (e.g. Code C aircraft such as the ATR 72) • Very limited range of potential operators • Non-compliant and poor customer service for passengers with restricted mobility (PRM) in current fleet • Least safeguarding for future changes in aircraft type or use • Greatest numbers of displaced passengers due to weight restrictions • Continued non-compliance with minimum aviation security regulatory requirements (which could change at short notice) • Dedicated, specialist medevac aircraft continue to be unable to use the airport • Continued concern regarding the financial and operational status of smaller aircraft

		manufacturers post pandemic
B	<ul style="list-style-type: none"> • Marginal increase in capital cost when compared with Option A • Reduced maintenance costs compared with existing situation • Improved safeguarding for future changes in aircraft type or use when compared with Option A • Does not extend beyond the current airport boundary • Lower risk planning approvals as traffic does not change significantly from existing and most 'development works' are associated with temporary construction-related activity. 	<ul style="list-style-type: none"> • Marginally increased capacity for larger and/or heavier aircraft than Option A • Limited range of potential operators • Poor service for Passengers with Restricted Mobility (PRM) in current fleet • Greatest numbers of displaced passengers due to weight restrictions • Dedicated, specialist medevac aircraft continue to be unable to use the airport • Continued concern regarding the financial and operational status of smaller aircraft manufacturers post pandemic
C	<ul style="list-style-type: none"> • Increased capacity for larger and/or heavier aircraft than either Options A or B • Improved range of potential operators • Improved service for Passengers with Restricted Mobility (PRM) in Aurigny's proposed fleet 	<ul style="list-style-type: none"> • Increase in capital cost compared with Options A & B • Increased area of pavement to maintain compared with Options A & B • Extends the airport boundary • Increased planning and programme risk as

	<ul style="list-style-type: none"> • Reduced numbers of displaced passengers due to weight restrictions • Meets minimum aviation regulatory security requirements (which could change at any time with short notice) • Dedicated, specialist medevac aircraft can operate at the airport 	<p>changes are potentially more significant</p> <ul style="list-style-type: none"> • Consequential impacts on fire fighting and terminal capacity as a result of larger aircraft
C+	<ul style="list-style-type: none"> • As per Option C but with additional capacity to handle passengers that larger aircraft might generate • New airport terminal and refurbished fire station buildings replacing current structures at end of life • Removes a requirement for a separate, modular structure dedicated to aviation security 	<ul style="list-style-type: none"> • As per Option C but with consequent additional costs • Potential challenges associated with two major construction activities being scheduled within one project (ie civil works on pavements alongside construction activity on buildings)

Results of the shortlisting appraisal

- 5.5 Each of the above short-listed options, with the exception of Option 0 (do nothing) has been assessed against the investment objectives as outlined in Table 1 and subjected to a qualitative benefits assessment (see Table 5).

Table 5: Results of shortlisting appraisal

Investment objectives		Options assessment			
		A	B	C	C+
Investment objective 1	To maintain a fit for purpose airfield over the medium/long term to facilitate sustainable, commercial air transport operations				
Investment objective 2	To ensure that the project achieves an appropriate level of compliance with current and any foreseeable future aerodrome regulatory standards				
Investment objective 3	To ensure that the project takes into account the likely passenger, cargo and medevac requirements for the next 15 – 20 years				
Investment objective 4	To ensure the project takes into account design requirements for the potential future provision of full security at Alderney Airport				
Investment objective 5	To provide opportunity in the solution to future-proof further phased developments, particularly with the terminal and fire station buildings as part of a later development phase				
Investment objective 6	To enable a reduction in the cost of the Alderney PSO agreement				
Investment objective 7	To ensure that the preferred option is supported and provides benefit to key stakeholders including the Alderney Community.				
Investment objective 8	To allow fleet simplification to Aurigny with benefits accruing to the States of Guernsey as a result of reductions to PSO contract				
Key:					
	Does not comply/ Minimal compliance		Mainly compliant		Fully compliant

Cost Benefit Analysis

- 5.6 The benefits associated with each option were identified as the Investment Objectives for the project (Table 1).
- 5.7 Rough Order of Magnitude (ROM) costs have been calculated for each shortlisted option by estimating the capital cost of the design and construction. Costs were assessed for direct comparison of all options. Previous estimates for the on-island costs have used UK construction rates increased by some form of 'island factor'. In the OBC this method has been replaced with individual island specific costs associated with each option. These estimates have been predominantly derived through:
- Visits to Alderney to review the existing infrastructure and its suitability for a major construction project.
 - Communication with on-island personnel working in planning, docking, construction and airport sectors.
 - Reference to similar projects particularly located in remote, more difficult to access locations.
- 5.8 Construction costs have been derived using industry standard pricing documents, manufacturers quotations and reference to other airport projects which have taken place in the last 5-10 years. Similar projects were used in part to price activities with reference to a suitable inflation figure.
- 5.9 Optimism biases have been removed through an evaluation of the on-island specific costs. Project preliminaries, professional fees and surveys have been priced individually for each option and are included below. A risk and contingency allowance has been made for each option which covers the remainder of the retained risks.
- 5.10 It should be noted that the estimates below relate to capex costs for works to the runway and associated pavements and consequential capital and operating cost variations as a result of larger Code C aircraft commencing operations upon completion of a runway extension to the west.
- 5.11 Option C and C+ have considered the introduction of minimum aviation security requirements and associated infrastructure. Both these requirements would be triggered through the use of larger aircraft, which would be feasible with the provision of a longer runway. The triggers for these requirements are outlined in more detail in Section 6.
- 5.12 In addition, Option C + has considered the provision of a new terminal building and the refurbishment of the current fire station building.

Table 6: Estimated 15-Year whole life costs for each of the shortlisted options

Element	Option A	Option B	Option C	Option C+
1) Capital Expenditure (Total project costs including; Construction Works, Preliminaries, Design, project management, professional fees and estimates for inflation; and where applicable costs for Land, new security buildings, and security equipment.) ⁷				
Sub-Total	£13,825,408	£15,124,860	£20,055,738	£24,016,034
2) Operating Expenditure over 15 years (Total operating expenditure relating to planned pavement maintenance and where applicable the costs associated with required additional security provision) ¹⁰				
Sub-Total	£675,924	£675,924	£2,575,446	£2,575,446
3) PSO Considerations				
15 Year PSO Reductions (SoG Benefit Cash Release)	0	0	(£11,460,000)	(£11,460,000)
Sub-Total	0	0	(£11,460,000)	(£11,460,000)
Total Costs over 15 years	£14,501,332	£15,800,784	£11,171,184	£15,131,480
Ranking	2	4	1	3

Summary of Option Appraisal and Overall Conclusion

5.13 Table 6 shows the overall investment over 15 years, being the typical minimum life expectancy of the runway and paved surfaces. It is however worth noting, that if Options A, B or C are commissioned, there will be a basic requirement within this timeframe to replace both the terminal and fire station. Option C+ as captured in the table, provides that investment from the outset of this project.

5.14 To provide a fair comparison across all options, a provisional sum of £4.5m to be funded from other sources, has been included to illustrate the potential value or otherwise of Option C+. This is presented in Table 7.

⁹ ROM costs are based on Jan 2022 pricing

¹⁰ Additional Security Costs offset by increase in security levy to passengers

Table 7: Unavoidable associated future capital cost

Unavoidable Associated Future Capital Cost (then added to total costs over 15 years from Table 6)				
	Option A	Option B	Option C	Option C+
Provisional sum for existing Building Refurb or Replacement within 5 year timeframe due to dilapidation (triggered for Options A, B or C)	£4,500,000	£4,500,000	£4,500,000	0.00
Potential Total Costs over 15 years	£19,001,332	£20,300,784	£15,671,184	£15,131,480
revised ranking	3	4	2	1

5.15 Inclusion of this provisional sum changes the potential overall ranking, and evidences that Option C+ would provide the overall longer term cost benefit, taking into account the need for existing building refurbishment or replacement within the lifetime of the overall pavements project anticipated life with Options A, B and C.

5.16 The preferred option is **Option C+**. This will future-proof the paved asphalt runway, taxiway and apron at Alderney Airport, with a minimum runway length of 1,050m, strengthened to a Pavement Classification Number of 15 and widened from its current 18m to 23m. Operational enhancements including the installation of AGL centreline lighting, replacing the existing approach lights, upgrading the AGL system to LED light fittings and installation of a dedicated runway drainage system and outfall are also included in this option, along with the provision of a new terminal building and refurbishment of the existing airport fire station.

5.17 The tender process will seek an option to widen the runway from its current width of 18m to 30m, specifically for Option C or C+ (n.b. ROM costs in Table 6 for all options are based on 23m wide design). It is recognised that with a 23m width, the

runway will still be subject to crosswind limitations when the ATR 72 is scheduled to operate in winds in excess of 25 knots (dry runway) and 20 knots (wet runway). The ATR 72 will have the same crosswind limits as the Dornier 228 on a 23m wide runway which would apply for Option A or B. Met data would suggest this crosswind limitation could impact operations on an average of 24 days per annum (average data 2018 – 2021), for several hours of each day. The costs of reducing this potential crosswind impact will be tested at tender, but is not included in ROM costs, as this option is not expected to void all disruption typically experienced from crosswinds at Alderney Airport.

5.18 Aurigny has carried out substantial flight trials in Alderney with the ATR 72 600 and have received the full endorsement from the manufacturer ATR in relation to the operation of the aircraft in Alderney.

5.19 Option C+, in summary:

- Enables dedicated, specialist medevac aircraft operators to operate to Alderney (the current runway is too short);
- Assures sustainable commercial passenger and cargo operations for the longer term particularly noting continuing uncertainty with smaller aircraft manufacturers post pandemic;
- Future-proofs aviation security requirements by bringing Alderney in minimum compliance with EU and UK aviation security requirements (it is always foreseeable this could happen at short notice and potentially during the design life span of the new runway);
- Provides opportunity by using larger aircraft to increase route capacity over and above the PSO obligation levels (provisionally projected at approximately 20,000 passenger seats per annum), to support wider economic enablement and potential growth;
- Offers potentially substantial PSO savings per annum which could be offset against the capital costs of the project (see section 7);
- Allows for improvements in the reliability of the air-link because of reduced occasions when operations would be restricted by weather;
- Allows for the improvement to services from more comfortable, larger aircraft;
- Facilitates for improved customer experiences for passengers with reduced mobility and for medevac operations as it enables the use of industry standard equipment such as Aviramp (costs not included in the project scope);

- Aurigny ATR 72 600 aircraft are fitted with the latest EVS 2 technology which should result in less adverse weather disruption and delays resulting in an improved passenger experience and potential reduction in operating costs for the airline (this saving has not been quantified as a conservative approach has been adopted);
- Enables the airport, through increasing its passenger security levy, to recover the security expenditure associated with Option C+.
- Enables a much wider range of business and GA aircraft to use Alderney Airport potentially attracting new business and leisure users and visitors to the Island;
- Safety is improved through a series of operational advancements including additional AGL and runway markings and by addressing a number of known aerodrome deviations.
- Seeks from the outset the refurbishment of the fire station building and upgrade to the terminal facilities that will be required to service larger aircraft and greater passenger numbers on those aircraft. The estimate is based on the minimum facilities that would be required. Option C+ brings forward a much-needed investment in the existing buildings at Alderney Airport, which would be required within a five-year timeframe, and irrespective of which runway option was selected.

6 Full Security Provision

- 6.1 The most significant operational costs in advancing Option C or C+, relate to the introduction of full security provision because of the operation of larger aircraft. Paragraph 3.5 outlines that Alderney Airport is currently exempted from full security provision, based on the smaller size aircraft and seating capacity typically able to operate from the current shorter runway length. This exemption would no longer apply with the use of larger aircraft and would trigger the need for full security provision. This comprises two elements, capital equipment provision (such as x-ray equipment, scanners etc) and additional labour to operate it. The capitalised aspects (equipment provision) are shown as investment requirements 'Capital Expenditure' heading and are unique to Option C and C+.
- 6.2 The requirement for more infrastructure, equipment and resources will necessitate a need for layout changes to the airport terminal to house the additional and larger equipment and to generate space for additional security checks and searches. In Option C, this additional accommodation is proposed to be delivered through the provision of a single storey, modular building which would be positioned in front of the current terminal building at least until, and for other reasons, the terminal is reconstructed. In Option C+, the need for a temporary building would be avoided, through provision of a new terminal from

the outset into which the requirements demanded by full aviation security requirements would be scoped.

- 6.3 The total current operating costs of security are traditionally recovered by a passenger security levy, which is currently £2.30 per head. The additional costs associated with labour and maintenance of the equipment (accepting the provision of that equipment is capitalised) would necessitate an increase in the passenger security levy to circa £3.50 per head based on near pre-COVID travel levels. This additional income stream, based on 50,000 passengers per annum is included in Table 6 under the 'Operating Expenditure over 15 years' heading.

7 Strategic Considerations

Alderney Public Service Obligation (PSO)

- 7.1 The States of Guernsey have entered into a contract with Aurigny to provide airlinks to and from Alderney under a PSO. The contract, which commenced on 1st January 2021 and has a duration of five years, includes scheduled passenger services between Alderney and Guernsey, and Alderney and Southampton, plus the provision of ad hoc medivac services using the same fleet of aircraft.
- 7.2 The contract is constructed and managed to deliver a service which requires a subsidy of £2m per annum and a sum which shall never exceed £2.5m per annum. Under the terms of the agreement, Aurigny does not make a profit from the services, and in turn, the States of Guernsey hold the cost and revenue risk. The parties work together to adjust the services and the commercial model in order to deliver the required subsidy level of £2m.
- 7.3 A runway extension in Alderney would enable Aurigny to operate the ATR72-600 series of aircraft in place of the current Dornier 228NG aircraft operating the routes. Given the additional capacity that the ATR72 offers over the Dornier 228NG this would inevitably lead to a reduction in the frequency of services between Alderney and Guernsey and this would need to be reflected in a change to the terms of the PSO arrangement. Likewise, Aurigny's own financial analysis suggests such a change would deliver a financial benefit of around £800,000 per annum and this would need to be reflected in a revised PSO agreement.
- 7.4 The current PSO requires that the parties work together to agree changes to the services in order to deliver the subsidy target as set out in the agreement. This can result in either increases or reductions to the frequency of services, or changes to the pricing model and prices, to either reduce costs or to maximise revenue and improve margins. One of the challenges to consider with a runway extension is the impact that this may have on the competitive environment. Currently, the short runway in Alderney acts as a natural barrier to competition as very few operators are able to fly into and out of Alderney given their fleet types. A longer runway, as envisaged, opens the market to much bigger aircraft and, in particular, to known

operators who also operate the ATR72. The consequence of a longer runway in Alderney could be that other operators wish to operate other routes and these then have the effect of reducing demand on the existing routes operated by Aurigny. Under the terms of the PSO, the parties' response to such reductions in demand would be to either reduce services further or to increase ticket prices to enable the target subsidy to be maintained. It is therefore considered that a supportive licensing regime in Alderney and Guernsey is necessary to ensure the PSO arrangement remains sustainable and is not undermined by the potential for other operators to serve routes which potentially compete for passengers currently using the Southampton or Guernsey routes to and from Alderney.

Relationship with the States of Alderney

- 7.5 Since 1948, with the agreement of the States of Alderney, the States of Guernsey have exercised financial and administrative responsibility for the policy and operations of certain public services in Alderney, and applied certain taxes, duties and impôts on Alderney residents and businesses. These fiscal measures accrue to the States of Guernsey's general revenues. The Transferred Services supplied by Guernsey include: the airfield, immigration, policing, social services, secondary healthcare and education, amongst other things. This arrangement for the supply of Transferred Services and their oversight is referred to as the "1948 Agreement" and effectively puts Guernsey and Alderney in a fiscal union. Alderney is directly represented in the States of Deliberation by two elected Alderney representations to ensure that this constitutional arrangement has democratic control and scrutiny.
- 7.6 The outcome of the 1948 Agreement is set out in legislation made by the States of Alderney and States of Deliberation. The 1948 Agreement works in practice by the consent of the States of Guernsey and States of Alderney. This allows an evolution of the Transferred Services over time. While the definition of "airfield" is not provided in the legislation, it is self-evident that the concepts covered by the arrangement such as "airfield", "policing" and "healthcare" will have evolved in complexity from 1948 to 2022 as regulations, practice and expectations have changed. In the absence of any service level agreements between the States of Alderney and the States of Deliberation for these services, the standards need to be set at a level which is politically acceptable to both parties. The absence of any political agreement will inherently lead to discourse between the two jurisdictions. The relationship operates on the basis of mutual respect and understanding between Guernsey and Alderney.
- 7.7 There have been in-depth political conversations between representatives of the Policy & Resources Committee, STSB and Alderney's Policy & Finance Committee on the options outlined in this Policy Letter to seek a solution that is in the interests of both islands and governments and is fair and equitable. Public engagement has also taken place on the options, mindful that any change in infrastructure is likely

to bring about a change in the availability of transport links and level of service which impacts on the quality of life for residents and the attractiveness of the Island.

- 7.8 Discussion has included consideration on the impact of Aurigny's operations. This was explored in detail in the York Aviation report appended to the Policy Letter entitled "Alderney Airport Runway Rehabilitation", considered by the States in January 2019 (p.2018/138)⁸.
- 7.9 The States of Guernsey's obligation under the 1948 Agreement to the current runway's rehabilitation is clear, but the wider improvements such as its lengthening and the allied redevelopment of the terminal and fire station which are connected to regulatory requirements that then are engaged may be considered to be more subjective.
- 7.10 The States' support of any of the revised proposals being considered to deliver on the 1948 Agreement obligation represents a substantial financial commitment by the States of Guernsey on behalf of both islands, but with the financial burden being greater for Guernsey rather than Alderney. This will have an inherent impact, causing a shift in the political relationship. The States of Deliberation will want to ensure that the maximum benefit is made in respect of this investment, both financially and in terms of the economic development and standards of life in the Bailiwick.
- 7.11 This shift in the political relationship will be managed by the Policy & Resources Committee as part of its responsibilities for Bailiwick relationships, through the Alderney Liaison Group and the Bailiwick Council. Separately to the specific matter of this Policy Letter, the Policy & Resources Committee has also been working with Alderney counterparts on opportunities to develop and strengthen the relationship in the mutual interest of both parties, through a project known as "Alderney-Guernsey Working Together". This project seeks to find efficiencies by providing a wider array of operational services from Guernsey, such as Human Resources, IT, management of pensions, amongst other things. Discussions have also included consideration as to whether other more formal changes to the relationship may be necessary where they are in Alderney and Guernsey's mutual interest and enhance the Bailiwick as a whole.

8 Funding

- 8.1 The Funding & Investment Plan, part of the Government Work Plan, which was approved by the States in June 2021 (Billet d’Etat XV 2021) included the proposed capital portfolio for this term of government. One of the projects classified as

⁸ Alderney Airport Runway Rehabilitation - States of Guernsey (gov.gg)

‘must do’ was the Alderney Airport Pavement Rehabilitation project. The cost of this original project was included in the overall portfolio which was estimated to have an overall value of £580m.

- 8.2 The States have also approved an additional allocation of £2m per annum as part as the Policy & Resources Committee’s Core budget to cover the cost of the Alderney PSO.
- 8.3 The analysis undertaken which has been set out in this Policy Letter demonstrates that Option C+ offers the best overall value for the States despite the capital costs of the project being significantly higher (over £10m) than the original scheme. This is because of the likely savings to the States of Guernsey in funding the Alderney air routes through the PSO. This contract currently costs £2m per annum.
- 8.4 Proposition 1 to this Policy Letter proposes that the revised scheme – Option C+ - replaces the existing Alderney Airport Pavement Rehabilitation in the capital portfolio. This will enable further detailed planning to be undertaken on the scheme to be approved under the delegated authority granted to the Policy & Resources Committee by the States in respect of the capital portfolio.
- 8.5 As set out in the section above, Guernsey and Alderney are effectively in fiscal union for the Transferred Services and the cost of Alderney Airport is part of the budget of the STSB at a cost of £1.3m. Although the 1948 Agreement includes a requirement to provide an airfield there is no requirement to ensure air services are able to operate to it. At the current time, the combined cost of the airfield and the air services to the taxpayers of Guernsey and Alderney is £3.3m.
- 8.6 Given the significant benefit to the island of Alderney that would be achieved through this project and the scope that it offers for resilience and economic benefit, representatives of the States of Guernsey and Alderney have discussed the States of Alderney making a contribution to the project. The letter from the Chair of the Policy and Finance Committee of the States of Alderney dated 26th September 2022 (which is appended at Appendix 1) confirms the willingness of the States of Alderney to make a financial contribution towards the scheme. Further detailed work needs to be undertaken to determine the level of such support and how it might be structured given the limited funding available to the States of Alderney and the existing demands on it.
- 8.7 Therefore, Proposition 2 of this Policy Letter requires that a reasonable and robust funding agreement is reached between the Policy & Resources Committee and the Policy and Finance Committee as a precursor to the project progressing to the construction phase. The Policy & Resources Committee is optimistic that such an agreement is realistic, albeit that the funding may need to be spread over a number of years. Should it not prove possible to secure such an agreement, the Policy & Resources Committee will return to the States with further proposals and to seek States’ direction.

- 8.8 At this stage a number of financial risks to the project remain and more detailed work is required to firm up on some of the associated costs. The Policy & Resources Committee will monitor the development of costs and benefits closely to ensure that Option C+ continues to deliver the best overall value and will not use its delegated authority to approve any expenditure should it suspect this no longer to be the case.

9 Timescale and Implementation Plan for the Preferred Way Forward

- 9.1 It is anticipated that subject to a satisfactory conclusion with respect to funding, the rehabilitation project planning will be completed by the end of 2023, following the necessary procurement processes, regulatory and political approval timescales, and construction concluded by the mid-2025 (Table 8 sets out key milestones for Options C+). In the short term (to 2023) it will be necessary to continue regular maintenance and to patch and repair the runway as required, to ensure it meets with regulatory standards.

Table 8: Key Milestones

Option C+ – Preferred Option Outline Plan		
Key Milestone	Completion Date	
Finalise OBC	March	2022
States Decision on Policy Letter	November	
Finalise Detailed Designs for Option C+	December	
CAA/ EASA Approval of design	Q1	2023
Issue Construction Tender	Q1	
Appoint Preferred Bidder	Q3	
Value Engineering and EIA finishes	Q4	
Planning Application for Site Construction Compounds	Q4	
Pre-Construction Conditions Discharged	Q1	2024
Contractor Mobilisation	Q2	
Construction Completion	Q2	2025

- 9.2 Clearly the project management will need to mitigate and manage some significant risks centred on facilitating inter-island agreement, securing timely regulatory approvals, managing inflationary costs and avoiding construction

delays.

10 Engagement and Consultation

- 10.1 There have been presentations and briefings to key stakeholders and islanders at significant stages of the project. Central to this engagement have been inputs from the States of Alderney and the Alderney Chamber of Commerce. Both organisations have provided letters of support which are appended to this Policy Letter.
- 10.2 The States of Alderney are updated regularly on the project and through their officers have been able to contribute throughout the review.
- 10.3 An independent Project 'health check' was undertaken in April 2022 to review the revised OBC (including the development of the short list and preferred option) and to provide assurance following which a number of adjustments to the business case were made.
- 10.4 The OBC was considered and approved by the STSB on 24th March 2022 and the Policy & Resources Committee on 13th June 2022, subject to developing the funding model.

11 Conclusions

- 11.1 In view of the current condition of the pavements at Alderney Airport, in line with legislative and regulatory requirements, and because of additional pertinent technical and financial input, a revised preferred Option (Option C+) is being proposed to the States of Deliberation. Whilst some preliminary work on the design has been undertaken to inform the ROM costs set out in the Policy Letter, detailed design associated with Option C+ needs to commence immediately under the delegated authority of the Policy & Resources Committee while it explores the best funding option for the Bailiwick with Alderney's Policy & Finance Committee.
- 11.2 This option will rehabilitate the existing runway and associated pavements, re-widen and lengthen the runway, and improve the approach and centre line lighting as well as drainage enhancements. Design work to facilitate the provision of the enhanced terminal facility and refurbished fire station will also be undertaken.
- 11.3 This investment will be against a backdrop where the amount of revenue generated by the States of Guernsey through taxation in Alderney (Income Tax, Excise and Import Duties) was roughly half of the total cost of delivering the Transferred Services in 2021. In total, net revenue expenditure to deliver Transferred Services was £12.30m. The States of Guernsey received a total of £6.89m.
- 11.4 There is therefore already a substantial financial commitment by the States of

Guernsey on behalf of both islands through the 1948 Agreement on which this investment in infrastructure will have an inherent impact. The Policy & Resources Committee therefore is of the view that it must reach a reasonable and robust arrangement with Alderney's Policy and Finance Committee to fund and operate an enlarged airport facility, including any legislative changes necessary to protect a lifeline route. In the absence of such an arrangement, the matter will need to be returned to the States of Guernsey.

- 11.5 The Policy & Resources Committee is already working with its Alderney counterparts on opportunities to develop and strengthen the relationship in the mutual interest of both parties on which it believes it will be able to build successfully.

12 Compliance with Rule 4

- 12.1 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.

- 12.2 In accordance with Rule 4(1):

- (a) By addressing the current condition of the Alderney Airport Pavements, the Propositions will:
 - enable the States to discharge their obligations to provide this critical infrastructure, as a Transferred Service in accordance with the Alderney (Application of Legislation) Law, 1948, and future-proof the connectivity of Alderney in a new financial partnership with the States of Alderney.
 - contribute to the Government Work Plan recovery outcome "To maintain essential infrastructure and systems" whereby this specific project was approved under the 'Must Do' category in June 2021", and as a 'Priority 4' project in the Government Work Plan in June 2022.
- (b) The Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications.
- (c) The financial implications of the Propositions are considered in section 8 and addressed in the Propositions.

- 12.3 In accordance with Rule 4(2):

- (a) The Propositions relate to the mandate of the STSB in respect of its responsibility to ensure the efficient management, operation and maintenance of Alderney Airport, and the requirements as set out in the

Alderney (Application of Legislation) Law, 1948 which determines the classification of Alderney Airfield as a Transferred Service; and

- (b) The mandate of the Policy & Resources Committee in respect of its responsibility for Bailiwick relationships, management of the PSO contract and duties with respect to financial and other resources under the control of the States of Guernsey.
- (c) The Propositions have the unanimous support of the States' Trading Supervisory Board and the majority support of the Policy & Resources Committee, with Deputy Soulsby and Deputy Le Tocq dissenting.

Yours faithfully

P T R Ferbrache
President, Policy & Resources Committee

H J R Soulsby M.B.E.
Vice-President

M A J Helyar
J P Le Tocq
D J Mahoney

Policy & Resources Committee

P J Roffey
President, States' Trading Supervisory Board

C N K Parkinson, Vice President
N G Moakes Member

S J Falla C.B.E.
S J Thornton
Non-States Members

States' Trading Supervisory Board



ALDERNEY CHAMBER OF COMMERCE

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5th April 2022

Deputy Peter Roffey
President
States' Trading Supervisory Board
The States of Guernsey

By email

Dear Peter,

The Alderney Chamber looks upon our airport as the prime gateway in and out of the island for business, social, tourist and medical reasons. Our viewpoint is to look to the future as more immediate decisions and resolutions may be made that are not ideal for the long term.

Our Chamber has over 160 member businesses representing the vast majority of the island's working population. In the 1980s our population was over 2,400 and our tax receipts were in excess of the Transferred Services provided. A decline in population followed reaching a low of around 1,800 a few years ago. Since then, however, and especially in the past three years, we have increased our population to around the 2,100 mark. This has resulted in a pleasing amount of new businesses moving to and setting up in Alderney and several of the larger employers, particularly in the finance sector, have increased their workforce so providing more quality jobs.

This increase in the working population is putting pressure on our infrastructure – in particular air transport. It is becoming increasingly difficult booking seats on both our Guernsey and Southampton sectors. More capacity is required and it is difficult to see where this can come from while we have our existing runway and just two Dorniers.

The decision taken some time ago by the States of Guernsey to widen our runway was met with much approval and would have resulted in fewer cancelled flights due to crosswinds.

The Alderney Chamber is continuing to see further growth in both population and business – this 'problem' needs to be met with a more resilient air transport structure that will allow for expansion.

Therefore we consider that for Alderney to retain and maintain its current length runway would, in reality, be a retrograde step. We also see it as paramount for the width to be increased both to improve crosswind capability and to be compliant within appropriate ratio re length/width for payloads.

Chamber understands Aurigny's logic in wishing to reduce its fleet of differing aircraft for efficiency and cost purposes – and hence its wish for a lengthened runway. We suggest looking further than this in that as time progresses it will be harder to find smaller commercial aircraft if we maintain our runway in its current configuration. There is a similar scenario within the shipping industry – harder to acquire smaller cargo ships for smaller harbours.

A further essential reason for an extended runway is to allow a medivac service to be able to operate in and out of Alderney. Aurigny has always provided a service of sorts that extends to transferring a patient – more of an air taxi service. But with the present fleet of two planes covering Alderney, this has negative repercussions for Aurigny's schedules.

We believe in looking to the long term and, with this in mind, we feel it essential to choose Option C+ which would allow Aurigny's larger planes to service us.

To future proof us for many years to come we need the longer runway and the width to be extended to 30 metres which is the CAA and EASA minimum for the ATR-72 800s to use the runway.

Yours sincerely,

Andrew

Andrew Eggleston
President
On behalf of the Council of the Alderney Chamber of Commerce



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Deputy P T R Ferbrache
Sir Charles Frossard House
La Charroterie
St Peter Port
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26/9/22

Dear Deputy Ferbrache

Alderney Airport Rehabilitation Project

I refer to your letter dated 08 September 2022, which was considered by the Policy & Finance Committee at its meeting on 26 September.

As explained in my earlier letter of 08 June 2022:-

“The Policy & Finance Committee believes that the Airport Rehabilitation Project is the most important Alderney infrastructure project to be considered since the Breakwater in the 19th Century, and the eventual outcome will have a material effect on how Alderney develops in the decades ahead in terms of its level and rate of economic recovery.”

Given the above, the Committee is pleased to agree in principle to explore options which can be expressed formally and appended to the policy letter whereby the States of Alderney could make a financial contribution towards Option C+, i.e the refurbishment and extension of the runway with upgrades to the terminal building, and other necessary associated infrastructure improvements.

I have instructed my officers to begin looking at this matter, ahead of our proposed meeting.

Yours sincerely

Ian Carter

Chair of the Policy and Finance Committee
States of Alderney

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *FOR* HOME AFFAIRS

**A NEW GUERNSEY ANTI MONEY LAUNDERING/COMBATING THE FINANCING OF
TERRORISM FORUM**

The States are asked to decide:-

Whether, after consideration of the policy letter entitled 'A New Guernsey Anti Money Laundering/Combating the Financing of Terrorism Forum' dated 3rd October 2022, they are of the opinion –

1. To endorse the policy approaches set out in the Policy Letter;
2. To agree to amend the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002 and the Disclosure (Bailiwick of Guernsey) Law, 2007 (and to make such consequential and incidental legislative provision as may be necessary) to:
 - (a) enable information to be shared between the Financial Intelligence Unit and third parties in line with the information-sharing provisions in the Crime and Courts Act, 2013, the Proceeds of Crime Act 2002 and the Terrorism Act 2000,
 - (b) introduce confidentiality provisions applicable to any information shared under the provisions referred to above, and
 - (c) introduce a power for the Committee *for* Home Affairs to make regulations to introduce a process whereby information provided by the private sector to their head offices or other linked organisations in another jurisdiction are shared with the Guernsey Financial Intelligence Unit;
3. To agree to amend the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002 (Commencement, Exclusions and Exceptions) Ordinance, 2006 (and to make such consequential and incidental legislative provision as may be necessary) to extend the exemptions from the provisions in the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002 to questions asked in relation to assessing the suitability of any person for the purposes of participation in the proposed Guernsey Integrated Money Laundering and Terrorist Financing Intelligence Task Force, and;
4. To direct the preparation of such legislation as may be necessary to give effect to the above decision.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *FOR* HOME AFFAIRS

A NEW GUERNSEY ANTI MONEY LAUNDERING/COMBATING THE FINANCING OF
TERRORISM FORUM

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

3rd October, 2022

Dear Sir

1. Executive Summary

- 1.1 It is becoming increasingly accepted internationally that jurisdictions which have close cooperation between the Anti-Money Laundering/Countering the Financing of Terrorism (“AML/CFT”) authorities (i.e. the public sector) and the private sector in partnership arrangements are more effective in efforts to counter-act the adverse effects of money laundering and terrorist financing, than those which do not have such arrangements in place. These Public and Private Partnerships (“PPPs”) are voluntary arrangements in which the coordinating authority for the PPP asks if the private sector members have information relevant to a particular case or cases and, if any of them do, it is a matter for the member(s) whether they provide information to the authority. Such PPPs do not replace the traditional mechanisms for obtaining confidential information but add to them.
- 1.2 The Joint Money Laundering Intelligence Taskforce (“JMLIT”), a PPP arrangement in the UK, has received particular attention in light of its effectiveness since it commenced operations in 2015. As at quarter 3, 2022, JMLIT had developed over 950 cases, identified over 7500 accounts previously not known to law enforcement, received over 5900 JMLIT Suspicious Activity Reports (“SARs”), closed over 4800 accounts, made over 280 arrests, granted over 700 legislative orders, identified over £92m in criminal assets under restraint and issued 66 alerts to the wider sector.
- 1.3 Following the success of the UK model and the increasing traction of such structures internationally, with at least 20 national and 3 trans-national financial information sharing partnerships currently in operation, it is proposed that the

Bailiwick's Financial Intelligence Unit ("FIU") should establish a similar task force in the Bailiwick of Guernsey. It is expected that this PPP, the Guernsey Integrated Money Laundering and Terrorist Financing Intelligence Task Force ("GIMLIT"), will be established in 2022. In order for this to be achieved, Guernsey's legislation requires amendment to allow members of GIMLIT to provide information voluntarily to the FIU and to enable voluntary disclosures to be made within the regulated sector, under certain conditions and to ensure that all members of GIMLIT can be properly security vetted. In particular, this would mean amendments to the Disclosure (Bailiwick of Guernsey) Law, 2007 ("the Disclosure Law")¹ and the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002 ("the Terrorism Law")² are needed in order to provide aspects of the legal framework for the new PPP to be effective.

- 1.4 In considering the best model for Guernsey, the FIU has liaised with JMLIT and with the equivalent PPPs in Hong Kong and Singapore. These and other PPPs are confident that they have generated considerable value in addressing serious crime. The FIU has also liaised with the other Quad Islands (Gibraltar, Isle of Man, and Jersey) and has been instrumental in setting up a Quad Island PPP forum. The forum has been liaising with the UK JMLIT and have subsequently signed a Memorandum of Understanding ("MOU") with JMLIT in June 2022, which will increase the effective sharing of information between the FIUs and the UK. Gibraltar formed its own independent PPP in July 2022, and the other Quad Islands also aim to form their own PPPs in 2022.

2. Guernsey Integrated Money Laundering and Terrorist Financing Intelligence Task Force

- 2.1 The Guernsey task force would be similar to that in the UK and other models, including the Quad Islands. The key point made by PPPs elsewhere is to ensure that there is trust between the public and private sectors (and between different firms in the private sector) and this takes time to build.
- 2.2 The Quad Island FIUs PPP models will initially comprise representatives from the banking 'retail' sector. The intention in Guernsey is to set-up a 'Pilot Scheme' GIMLIT model which will consist of the four main retail banks in the Bailiwick. This 'Pilot Scheme' will not require any change in the legal framework, or approval from the States members as this model will only be sharing FIU and law enforcement information with the members, and there will be no sharing of information between members. The FIU will be using its coercive powers under the Disclosure Law and supporting regulations to obtain information from the 'Pilot Scheme' members where appropriate, primarily regulation 2 of the Disclosure (Bailiwick of

¹ [Disclosure \(Bailiwick of Guernsey\) Law, 2007](#)

² [Terrorism and Crime \(Bailiwick of Guernsey\) Law, 2002](#)

Guernsey) (Information) Regulations, 2019³. This regulation is looked at in more detail below.

- 2.3 The 'Pilot Scheme' will be extended to other international banks on the approval of the Policy Letter and the changes proposed to the legal framework. The FIU has sought feedback/engagement from the main retail banks and they have all confirmed that they are keen to promote and participate in the 'Pilot Scheme' model.
- 2.4 GIMLIT would have an overriding objective, which is the optimisation of the collective capabilities of the members of the task force so as to prevent, identify and disrupt financial crime, money laundering, terrorist financing and financing of weapons of mass destruction. This would be consistent with Guernsey's money laundering and financing of terrorism national risk assessment. In practice, in light of Guernsey's risk profile, GIMLIT would be almost entirely concerned with money laundering. The objective of PPPs in other jurisdictions is achieved in two main ways, first at an operational level by sharing of case-specific information by the public sector with the private sector members on the PPP and, second, at a strategic level building on common understandings of threats, risks and associated systems and controls required to mitigate risk (which includes the preparation of "Alerts" outlining typologies, indicators and other allied material relevant to the jurisdiction). The FIU proposes to begin with the first of these two approaches.
- 2.5 However, it is important to stress that SARs submitted to the FIU by reporting entities will not be shared within GIMLIT. While case information might reflect the contents of one or more SARs (in the same way as any exchange of intelligence material), the GIMLIT framework would be different to the framework for reporting of suspicion of money laundering or the financing of terrorism. It will not be possible to identify any Guernsey party, or other GIMLIT member, as a source of information, or subject of a request leading to a request for further information from members of GIMLIT. This will be an important element in maintaining trust between the FIU and the private sector.
- 2.6 The initial 'Pilot Scheme' members and industry sub-sectors and firms represented as future members would be agreed by the FIU and other GIMLIT members from among those sub-sectors subject to AML/CFT obligations; each firm would select an appropriate officer or officers at senior level to represent it (for example, the money laundering reporting officer), this would be subject to the vetting procedures referred to below. It is typical for the starting point to be the inclusion of representatives of major retail banks and in the Guernsey context, it is envisaged that the membership of the task force would be governed in this way. Membership of the GIMLIT will be regularly reviewed by the FIU and current members, and consideration may be given to new members subject to operational

³ [Disclosure \(Bailiwick of Guernsey\) \(Information\) Regulations, 2019](#)

experience and demand. However, membership of GIMLIT will continue to be on a voluntary basis.

- 2.7 In order to mitigate risk and maximise trust between members of GIMLIT all of the members would be vetted by the FIU. Public authority representation would include officers of the Economic & Financial Crime Bureau, the Revenue Service, and supervisory authorities (the Guernsey Financial Services Commission and the Alderney Gambling Control Commission). Each member of the task force would sign a MOU concerning the GIMLIT information sharing arrangements; this would be modelled on that used in the UK as that precedent has worked successfully. In addition, in light of the links between groups active in both the UK and Guernsey, this should increase trust with regard to the flow of information.
- 2.8 The FIU would make requests to members of GIMLIT for information; first, the FIU would make requests based on its own analysis. Second, it would share elements of requests for assistance received from domestic and international law enforcement agencies, financial intelligence units, and other PPPs such as JMLIT, and other Quad Island PPPs, to identify financial assets or products or to provide tactical intelligence about specific subjects or suspect financial activity within the Bailiwick. The aim would be for each member of GIMLIT to search its databases and then provide the FIU (and, if that member considers it appropriate, other private sector participants) with any information it holds (or can obtain from elsewhere in the group to which the member belongs) which is relevant to a request. The aim of the FIU in making the request would be to receive information that will or might assist in determining any matter in connection with a suspicion that a person is or has been engaged in financial crime, money laundering or the financing of terrorism or proliferation – or potentially other serious crime if the information points in that direction. The provision of information to the FIU through GIMLIT will be voluntary. That said, if information provided by the FIU to GIMLIT leads to a suspicion then the reporting requirements and obligations under the Disclosure and Terrorism Laws, and supporting regulations, will still be applicable.
- 2.9 In order to facilitate specific information sharing between other PPPs including JMLIT members must sign an MOU. An initial MOU with the 'Pilot Scheme' members will be signed and amendments made to the MOU accordingly, with new members joining.
- 2.10 In order to facilitate information sharing, including ensuring that members of GIMLIT are confident that they will receive a reasonable amount of information, the FIU will use a template document for its requests.
- 2.11 On receipt of request for information members of GIMLIT must respond within thirty (30 days) and within twenty-four hours for terrorist related requests. A negative response after 30 days would denote that the member has no

information to share with the FIU. In other words, this would comprise a nil response.

- 2.12 On receipt of information through GIMLIT, the FIU could utilise the provisions of the Disclosure Law or the Terrorism Law and supporting regulations as appropriate to formally request the information from the member. On receipt of the information, the FIU would undertake operational analysis and, if a requesting authority is involved, disseminate relevant intelligence to that authority.
- 2.13 The FIU needs no new legal powers to establish GIMLIT. However, the legislative framework on the provision of information sharing will require amendment for the effectiveness of GIMLIT to be assured, including the confidentiality provisions or other restrictions on sharing such information between the members of the GIMLIT.
- 2.14 The members of GIMLIT will meet quarterly or on an ad-hoc basis to discuss specific GIMLIT referrals.

3 Existing Powers in Relation to Provision of Information to the FIU

- 3.1 There is a range of circumstances in which Guernsey businesses subject to the AML/CFT framework can already provide information to the FIU.
- 3.2 First, businesses are required to report suspicion of money laundering or terrorist and proliferation financing to the FIU under the Disclosure and Terrorism Laws. Linked with this, under the Disclosure (Bailiwick of Guernsey) Regulations, 2007, and corresponding regulations under the Terrorism Law, the FIU can require businesses to provide additional information, either after receipt of a report of suspicion, or when a business is identified in a third party's report.
- 3.3 Second, in the absence of a SAR from the private sector, the FIU can compel a business to provide information to it under the Disclosure Law and the Disclosure (Bailiwick of Guernsey) (Information) Regulations, 2019 (or, in terrorist financing cases, under the equivalent powers and supporting regulations under the Terrorism Law), in relation to a report from a domestic or foreign authority (a report for these purposes includes a request for information). For example, the FIU might receive a report which includes a request for information from an authority in another jurisdiction, and it might be appropriate to respond to that request by compelling a business in Guernsey to provide that information. Provision of both positive and negative information falls within these provisions. By way of illustration of negative findings, if a foreign authority advises the FIU that an individual is under investigation and requests the FIU to find out whether that person has a business relationship in Guernsey for the purposes of their investigation, confirmation that the individual does not have a business relationship within this jurisdiction is just as relevant to the foreign authority's

request as confirmation that the individual does have a relationship with a firm in Guernsey.

- 3.4 The FIU can also use its information gathering powers not only to make a request to a particular firm to provide information, but also to make a general request to the finance sector to establish whether a business relationship with a particular individual or entity exists within the Bailiwick, and if so with whom. Once that has been clarified, the FIU can then use its powers under the Disclosure Law and supporting Disclosure Regulations provisions (or its equivalent powers under the Terrorism Law and supporting regulations) to obtain specific details from any entity that has a business relationship with the individual.
- 3.5 These powers are underpinned by “confidentiality” provisions, when financial institutions provide information to the FIU. The lawful sharing of such information, voluntarily by GIMLIT members including personal data is covered by the Data Protection (Bailiwick of Guernsey) Law, 2017 (para 13A of Schedule 2).
- 3.6 There are also "tipping off" provisions, which make it a criminal offence in certain circumstances to disclose information relating to SARs or to requests for information from other jurisdictions.

4 Proposed Changes

- 4.1 There are no legal barriers to prevent the FIU from cooperating with a foreign authority, including PPPs such as JMLIT. However, some amendments to the Guernsey legal framework are necessary in order to put in place a similar scheme for domestic purposes. This is because the existing information sharing gateways in the Disclosure Law, Terrorism Law and supporting regulations are not wide enough to permit the private sector to disclose confidential information to the FIU voluntarily (i.e. without the FIU using its formal powers under legislation to require information to be provided) or to enable the FIU to require information from the private sector in the absence of a domestic report of suspicion or foreign report of suspicion or request for information. In addition, there is currently no power for business participants to share information among themselves should they consider it appropriate, proportionate and necessary to do so to enhance the sharing of information. Therefore, in order to ensure that business participants are fully protected, and to give them comfort that if they decide to share information they will not be exposed to any claims of breach of confidentiality, it is proposed to address this by making amendments to the Disclosure Law and the Terrorism Law, based on the provisions of the UK's Crime and Courts Act 2013, Proceeds of Crime Act 2002 and Terrorism Act 2000. These provisions enable disclosures within the UK's regulated sector subject to specified conditions. To be clear, these provisions do not require any person to provide information, but simply protect persons who choose to provide information on a voluntary basis (and this protection will apply to any person from the regulated sector, not just GIMLIT

members). The proposed amendments should be underpinned by regulation-making powers for the Committee *for* Home Affairs so that any practical issues in connection with the FIU having access to information relating to its core functions that may have been provided by the private sector to a head office or other linked organisation in another jurisdiction which might arise once GIMLIT becomes operational can be easily addressed.

5. Confidentiality

- 5.1 The tipping off offences referred to above are likely to protect much of the information relevant to GIMLIT, but the possibility of cases where the criteria for those offences is not met cannot be ruled out. Therefore, while it is not expected that any firm within the GIMLIT environment will provide any confidential information to any external party, the intention of GIMLIT is to provide an environment whereby members will enhance the sharing of information and build trust by ensuring that members of the task force are aware of and acknowledge the sensitivity of the information provided within GIMLIT. In addition, foreign authorities will need to be confident that the information they provide will be circulated only within a secure environment, specifically via the FIU's secure online THEMIS Money Laundering Reporting Officer Portal. Accordingly, it is proposed that the Disclosure and Terrorism Laws should be amended along the lines of confidentiality provisions in the Civil Contingencies (Bailiwick of Guernsey) Law, 2012⁴. These provide that it is an offence for any member of the Civil Contingencies Authority, or any employee of the States of Guernsey engaged in work for the Authority, to unlawfully disclose any information, document or other article to which they have access by virtue of their position.
- 5.2 In addition, as indicated in paragraph 2.5 above, the FIU proposes to follow other PPP models and would require all participants in GIMLIT to sign a MOU. This document will highlight the importance of confidentiality and the purpose(s) for which information obtained by GIMLIT members can be used.
- 5.3 Related to this, it is clearly important that all members of GIMLIT are properly vetted, including with regard to any previous convictions. Under the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002⁵, it is a general rule that the obligation to disclose details of previous convictions under any agreement or arrangement and the ability to ask questions about those convictions do not apply to convictions that are to be treated as spent by virtue of the passage of time. This general rule would apply to the proposed MOU underpinning participation in GIMLIT, unless it is subject to an exemption under the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002 (Commencement, Exclusions and Exceptions)

⁴ [Civil Contingencies \(Bailiwick of Guernsey\) Law, 2012](#)

⁵ [Rehabilitation of Offenders \(Bailiwick of Guernsey\) Law 2002](#)

Ordinance, 2006⁶ (“the 2006 Ordinance”). The effect of exemption under the 2006 Ordinance is that questions may be asked about any convictions a person has, irrespective of how long ago the convictions may have occurred. The exemption currently applies to people working at senior levels in the financial services sector, but only in respect of questions asked by an employer, or by the Guernsey Financial Services Commission for the purposes of the licensing process. This means it is not wide enough to cover questions asked by the FIU for the purposes of GIMLIT. It is therefore proposed that the 2006 Ordinance be amended to enable questions to be asked by the FIU about any convictions, whenever incurred, in relation to members of the private sector for the purposes of participation in GIMLIT.

- 5.4 In addition to an MOU, the FIU propose to draft a Data Protection Impact Assessment (“DPIA”) which will identify and minimise the data protection risks that may need to be considered when developing GIMLIT. This DPIA will include the process that the FIU will adopt when sharing information between the GIMLIT members, the legal basis for sharing information, and the controls and measures that will be put in place to reduce the risk of breaching data protection requirements.

6. Compliance with Rule 4

- 6.1 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.

- 6.2 In accordance with Rule 4(1):

- a) The propositions contribute to Priority 2 of the Government Work Plan by ensuring compliance with international agreements and standards.
- b) In preparing the propositions, consultation has been undertaken with:
 - a. institutions in the private sector subject to AML/CFT requirements. The importance and value of sharing information is recognised. PPPs, and the voluntary ethos for information sharing which underpins them, are a step change in approach from the compulsory mechanisms which have existed to date. They require a different way of thinking. In that regard, the Financial Intelligence Unit, which is proposed to administer GIMLIT, has paid particular attention to addressing, to the extent that it can, concerns by some banks as to how the PPP will operate. These concerns included the extent to which a formal legal structure is needed and the potential volume of

⁶ [Offenders \(Bailiwick of Guernsey\) Law, 2002 \(Commencement, Exclusions and Exceptions\) Ordinance, 2006](#)

work. The Association of Guernsey Banks has been provided with the draft procedural documentation. The Association recognises the proposed protections offered by a legal framework in establishing GIMLIT and that procedures will be put in place to emphasise protection and trust in voluntary information sharing.

- b. the Law Officers Chambers, the Financial Intelligence Unit, the Economic and Financial Crime Bureau, Bailiwick Law Enforcement, the Guernsey Financial Services Commission, the Alderney Gambling Control Commission and the Revenue Service. All of these authorities are supportive of the establishment of GIMLIT.
- c. the States of Alderney Policy & Finance Committee and Sark Chief Pleas Policy & Finance Committee.
- c) The propositions have been submitted to His Majesty's Procureur for advice on any legal or constitutional implications.
- d) There are no financial implications to the States of carrying the proposals into effect.

6.3 In accordance with Rule 4(2):

- a) The propositions relate to the Committee's purpose and policy responsibilities to advise the States and to develop and implement policies on matters relating to its purpose including law enforcement, including policing and customs.
- b) The propositions have the unanimous support of the Committee.

Yours faithfully

R G Prow
President

S P J Vermeulen
Vice-President

S Aldwell
L McKenna
A W Taylor

P A Harwood OBE
Non-States Member

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE

**REFORM TO THE SYSTEM FOR PUBLICATION OF OFFICIAL NOTICES AND
ESTABLISHMENT OF THE GUERNSEY GAZETTE**

The States are asked to decide:-

Whether, after consideration of the Policy Letter entitled “Reform to the System for Publication of Official Notices and Establishment of the Guernsey Gazette” dated 27th September 2022, of the Policy & Resources Committee, they are of the opinion:-

1. To agree that there should be liberalisation of the market for publication of official notices to enable such notices to be published anywhere that is appropriate to suit the aim of the publication and reach the public affected.
2. To agree that the States of Guernsey should establish and operate an online Gazette in which official notices may be published.
3. To agree that any notice, document or information currently required by law to be published in La Gazette Officielle may be published anywhere that is appropriate to suit the aim of the publication and reach the public affected, including within the online Gazette.
4. To direct the preparation of such legislation as may be necessary to give effect to the above decisions.
5. To rescind Resolutions 2, 3 and 4 of 30th November 2011 relating to the Policy Letter entitled “States Official Gazette” dated 5th October, 2011.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE

REFORM TO THE SYSTEM FOR PUBLICATION OF OFFICIAL NOTICES AND
ESTABLISHMENT OF THE GUERNSEY GAZETTE

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

27th September, 2022

Dear Sir

1. Executive Summary

- 1.1. The Gazette Officielle formerly operated as a private business providing a public service in terms of notifications of certain official information. This was subsumed into the Guernsey Press in 1965. The States of Guernsey have historically legislated to provide that certain official notices continue to be required to be published in the Gazette Officielle and legislation provides that the Gazette Officielle is part of the Guernsey Press.
- 1.2. This legislative approach has been reviewed several times in recent years to find a solution that suits modern communications methods. The Policy & Resources Committee ("the Committee") is of the view that the approach for publication of official notices should be liberalised. This will enable such notices to be published anywhere that is appropriate to suit the aim of the publication and reach the public affected. Also, that the States of Guernsey should establish their own official gazette to be named "the Guernsey Gazette" (as a new webpage to be incorporated into the www.gov.gg platform in the future) for the publication of notices issued by the States and Douzaines, as well as making this facility open to external publishers. Under the proposals, the Gazette Officielle will remain the property of the Guernsey Press and can continue to publish official notices but it will no longer operate under the monopoly created by the current domestic legislation.
- 1.3. The new approach will ensure that notices are publicly available and accessible and that the approach to the publication of official notices can evolve over time with the development of new communication technologies.

2. Background

- 2.1. La Gazette Officielle is the primary means for the publication of official notices in Guernsey (meaning information required by law or custom to be made publicly available). La Gazette Officielle is currently published both in printed form in the Guernsey Press newspaper and also online by that company. However, the mechanism which was designed to meet the needs of the 19th Century is no longer entirely appropriate to meet Guernsey's community and commercial needs today and in the future. Appendix 1 to this Policy Letter sets out the history and outlines the recent States' decisions regarding this matter.
- 2.2. The States of Deliberation previously considered the subject of the publication of official notices in 2008 and 2011. In 2008¹, the States approved the Policy Council's proposals to establish and maintain an online States' Official Gazette in which all official notices would be published. However, the Douzaines were not ready to move to an online system at that time and, therefore, this policy was not implemented. In 2011², the States decided against progressing to establish an online States' model by rescinding the 2008 Resolutions and instead decided to preserve the status quo for official notices by continuing publication in La Gazette Officielle whilst at the same time reducing the length of such notices.
- 2.3. In 2019, the former Policy & Resources Committee reviewed the legislation drafted to implement the 2011 resolutions and decided that the legislation would have minimal impact in reforming this policy area and decided not to proceed with implementation of the legislation. The Committee instead confirmed its intention to establish an online States' Gazette, in a similar way to the 2008 position. However, due to the COVID-19 pandemic and workstreams relating to Brexit, this work was not progressed at that time.
- 2.4. In 2021, the Committee reviewed the policy options regarding the La Gazette Officielle and decided that the establishment of an online States operated Gazette was now appropriate in order to modernise the system for publishing official notices in Guernsey and to provide a cost-effective digital alternative to La Gazette Officielle. The Committee has also reviewed the extant 2011 resolutions as part of the Government Work Plan and held in abeyance the resultant drafting of legislation while the alternative approach was developed.
- 2.5. The Committee is of the view that in order to reform this area and achieve a more cost effective, efficient and accessible approach to communications for

¹ ["States Official Gazette", Billet d'État No II of 27th February 2008](#) and [Resolutions of 27th February 2008](#)

² ["States Official Gazette", Billet d'État XIX of 30th November 2011](#) and [Resolutions of 30th November 2011](#)

official notices, the marketplace for these notices should be liberalised. This will remove the monopoly created by the current regime. In order to introduce these changes, existing legislation will be amended so that any notice, document or information currently required by legislation to be published in La Gazette Officielle could instead be published anywhere appropriate to suit the aim of the publication and reach the public affected. The proposals would not change the option for publishers to continue to publish official notices in La Gazette Officielle, which would remain a brand with the Guernsey Press.

- 2.6. The States would establish their own online gazette, to be named the Guernsey Gazette, for the publication of their notices. The service could also be used by other external publishers, including the Douzaines.
- 2.7. As currently, where there is no legal requirement to publish a notice in a particular place, including La Gazette Officielle, publishers can determine where to publish notices, in accordance with custom, practice or by exercising discretion and using the most appropriate publication methods to communicate the information to those affected.

3. The case for change

- 3.1. There are a number of reasons to support the establishment of an online States' Gazette at this time, including to recognise the increase in digitalised services and internet access in the community; to reduce publication costs; and also to expand the choice of options available for publishers.
- 3.2. Growth in internet usage - The policy to establish an online States' Gazette as an alternative to the printed copy is consistent with increased online usage across the Bailiwick, with significant growth in usage particularly in recent years. In 2022, over 86% of Guernsey's population has internet access, an increase of 2.1 % from 2021,³ and a significant increase from 70% of the adult population with access when the establishment of an online States' Gazette was approved by the States in 2008. Latest data in Guernsey suggests that internet usage and internet access has continued to increase, particularly during the COVID-19 pandemic when a greater proportion of the population became dependent on accessing services online. It is likely that this pattern of growth will continue in the future, as more services are delivered online and the population becomes increasingly familiar with accessing services digitally.
- 3.3. Digitising services wherever possible was a key component of Guernsey's Framework for Public Service Reform⁴, as agreed by the States in 2015.⁵ Community feedback has also consistently clarified that islanders wish to access

³ [Digital 2021: Guernsey](#)

⁴ [A Framework for Public Service Reform 2015-2025, Billet XVI of 21st August 2015](#)

⁵ [Resolutions of 29th September 2015](#)

services online. This became the States' agreed policy when it approved the Future Digital Services programme in June 2019.⁶ Communicating official notices via a specific section of the States of Guernsey website would ensure increased ease of access for the community, given the ever-increasing prominence of and desire for online services, supported by the roll-out of universal fibre provision over the next five years.

- 3.4. Initially, the Guernsey Gazette will be established as separate webpages that can be launched once the relevant law changes have been brought into force and, in the future, can be incorporated into the updated States of Guernsey website when available. The webpages for the Guernsey Gazette will enable publishers to submit notices electronically using both a prescribed format and template suitable for various forms of notice and those which have a statutory format. It will be logical that government and States Committees' notices are sited and accessible on the States' website. External users required to publish notices due to legal requirements will also be able to publish official notices online within the Guernsey' Gazette.
- 3.5. Costs for publishing notices - Publication costs vary depending on the number of notices that are published by particular organisations. Concerns have been expressed by some publishers regarding the costs for publishing notices in La Gazette Officielle. For example, legislation currently requires the parishes to publish a number of notices in La Gazette Officielle, including regarding elections and annual rates. The costs to the parishes for publishing such notices is approximately £60,000 each year. States' Committees collectively spend approximately £13,000 annually publishing notices in La Gazette Officielle. It is intended that the liberalisation of the market will lead to more competitive charges for placing notices.
- 3.6. The appropriateness of legislation directing publication with one company and the provision of choice - In terms of achieving fair competition and value for money, it no longer appears acceptable for the expenditure of public funds to be restricted by legislation to be spent with one private company for the purposes of communicating with interested third parties and the public. The current legislation provides a guaranteed revenue stream for the Guernsey Press created by a States of Guernsey-supported monopoly. A free and independent media is crucial to any democracy and the Committee's support for that principle remains absolute, with the Committee also recognising the importance of local media including a local newspaper. However, the Committee sees no strong case for the States to support the continuation of a policy that provides a monopoly to one company and supports the liberalisation of the market.

⁶ ["Future Digital Services"](#) Billet X of 2019 and [Resolutions of 12th June 2019](#)

- 3.7. The proposals will introduce increased choice for publishers, with options regarding format and price. This choice reflects feedback given by the Guernsey Bar in 2019 that it wished to continue to publish legal and company notices in La Gazette Officielle rather than moving to an online model. The Bar considered the accessibility to notices in a printed copy as important and necessary, particularly for those members of the community with limited internet access. As such, the current proposals have been developed to modernise this policy area and liberalise the market, by providing alternatives for the publisher to publish in the most appropriate manner, including by permitting the publication of official notices both in La Gazette Officielle and also in the Guernsey Gazette.
- 3.8. Constructive notice - While consulting on the proposals in 2019 to establish a States online model to replace La Gazette Officielle, the Committee received feedback from the Scrutiny Management Committee seeking reassurance regarding the doctrine of constructive notice. This doctrine is a legal principle in English Law according to which, in certain circumstances, a party is deemed to have notice of a legal action of which there is an official public record of the matter even if the party does not in fact have actual knowledge. For example, in company law, all parties are deemed to have knowledge of a company's articles of association as these are publicly accessible documents. The Committee is satisfied that if advised that it is necessary or desirable, constructive notice can be dealt with by suitable express provision in the implementing legislation. In any event, now that the policy set out in this Policy Letter enables the continued publication of official notices in La Gazette Officielle, this issue is unlikely to be of concern.
- 3.9. Publishing official notices online in other jurisdictions and publications - There is support for the introduction of an online Gazette by the steps taken in neighbouring jurisdictions. In Jersey, legislation⁷ introduced in 2018 requires the publication of official notices online at www.gov.je/gazette rather than in a local newspaper. The objective of the legislation was to improve communications with the public and save money and followed two years of the online model operating alongside the publication of notices in the newspaper. However, parishes, government departments and other organisations can additionally advertise in printed and online publications as they see fit in order to best communicate the information with the public. Printed copies of any notice are also available on request. The States of Jersey has not reported any negative consequences to date following the move to online notices.
- 3.10. Future Proofing - The channels of communication available and use of technology has changed dramatically since the turn of the century. The liberalisation of the market for the publication of official notices will ensure that

⁷ [Official Publications \(Publication of Jersey Gazette\) \(Jersey\) Order, 2018](#)

practice can evolve with the marketplace, technology and the demands of the community.

4. Legislative requirements

- 4.1. In order to introduce these changes, amendments will be made to existing legislation by the drafting of a *Projet de Loi*.
- 4.2. It is proposed that a review of existing notices required by law to be published in *La Gazette Officielle* should be undertaken to ensure that any provisions specifying publication in *La Gazette Officielle* (and the *Guernsey Gazette* in due course) make sense in policy terms for the subject area. This will then enable existing provisions to be amended in time, as appropriate and necessary to remove such requirements if no longer necessary. For example, legislative requirements for the *Douzaines* to publish election notices in *La Gazette Officielle* could be amended, thereby enabling future publication of such notices on *Douzaine* websites and by displaying notices in the *Douzaine* building, to communicate information to those affected using effective, flexible and economical methods.

5. Impact on resources

- 5.1. The Committee is aware that some notices in *La Gazette Officielle* are published, not because there is a legal requirement to do so, but rather because it has become custom or practice to do so. The intention of the Committee's proposals is for the *Guernsey Gazette* to only be used to publish notices where there is a statutory requirement for publication. It is expected this will limit the impact of the changes upon States' resources.
- 5.2. Including provision to enable charging for publishing notices in the *Guernsey Gazette* will reduce any significant impact on States' resources for establishing and operating the *Guernsey Gazette*. Provision of support for users of the webpages can be provided within existing resources. The need for staff resources can be reduced by the use of technology placing the onus on the publisher to ensure accuracy and be responsible for the publication of their notices. Regardless of the use of technology, there may be some need to provide editorial monitoring or the approval of persons authorised to publish on the government website to ensure that the system was not open to abuse.
- 5.3. A quote of £15,000 has been provided for developing the webpages for establishment of the *Guernsey Gazette*, to be incorporated into the new States of *Guernsey* website in due course. This cost can be met within existing budgets.

6. Accessibility

- 6.1. The launch and presence of the Guernsey Gazette will be regularly promoted via the States of Guernsey social media channels. This will include using social media to publicise notices that are of particular relevance for the community and to ensure increased accessibility. Once operational, the processes for using the Guernsey Gazette will be publicised by online and non-online communications and via social media.
- 6.2. As some members of the public may not have access to online services, steps will be taken to ensure accessibility to notices. A requirement will be included so that a paper copy of notices published within the Guernsey Gazette will be made available by the relevant publisher publishing on the webpages on request at no charge.
- 6.3. Once the Guernsey Gazette is fully operational, accessibility could also be increased by the implementation of good practice so that official notices are physically displayed in appropriate and accessible locations. For example, States' notices could be exhibited in a suitable States of Guernsey building and Douzaine notices displayed at the relevant Douzaine building. Over time, as the public becomes familiar with the Guernsey Gazette, with increased internet use and the new arrangements for publishing notices, the need for notices to continue to be physically displayed could be reviewed and may no longer be necessary. It is also proposed that the Guernsey Gazette will include a function to enable the public to subscribe to receive copies of published notices by email.
- 6.4. It is considered that the inclusion of the Guernsey Gazette will not introduce any onerous steps for any third parties searching notices, due to the functionality of the website and increased online access. It is likely that the community will benefit from the accessibility and ease of use when searching notices online. By way of example, it is considered that the digitalisation of the UK's Gazette has increased the accessibility to notices, which supports the position that moving to an online gazette should improve accessibility.

7. Consultation

- 7.1. In 2019, the Committee consulted a wide range of stakeholders required by law to publish official notices regarding their use of the La Gazette Officielle and their views on the proposal to introduce an online Gazette. Consultation was also undertaken with the management of the Guernsey Press. The consultation exercise was not repeated in 2021-2, as the proposals have not changed significantly since that time and will continue to offer publishers an online model and increase publication options and choice. However, stakeholders have been updated on the current proposals and any changes in their positions considered in this Policy Letter.

- 7.2. States' Committees - Officers for States' Committees were consulted on behalf of the Committees they support. There was general agreement for the introduction of an online Gazette to increase flexibility and reduce publishing costs provided that any issues regarding accessibility were addressed. It was noted that, where there is no legal requirement to publish notices, Committees already used alternative methods to publicise information as an alternative to publishing in La Gazette Officielle, such as by use of mail shots to households; use of the States website; and by publishing information on social media.
- 7.3. The Douzaines - The Douzaines are currently required by law to publish a number of notices in La Gazette Officielle. The Committee's proposals were discussed at an Island Constables' meeting in October 2019. Constables from all the parishes were present other than those representing the Vale. A letter signed by the Torteval Constables on behalf of the Island Constables, stated the Douzaine's unanimous agreement to support the Committee's proposals to move to online publication of notices on the States of Guernsey's website. In addition to the formal publication of official notices on the States of Guernsey's website with hard copies available on request, individual parishes intended to publish their own notices on their parish websites and notice boards. Further updates on the progress of the policy have been provided to the Douzaines since 2019 and no information has been received to indicate that the proposals to include an online system are no longer supported. It is understood that the Douzaines will support any reforms that result in a reduction in the charges and that introduce flexibility to the system for publishing notices.
- 7.4. The Guernsey Bar - In 2019, the former Bâtonnier consulted with members of the Guernsey Bar and responded to confirm that La Gazette Officielle was used widely by its members, both in terms of fulfilling legal requirements but also for publication of notices by custom and practice. It was widely accepted that the cost of publishing in La Gazette Officielle was 'unnecessarily expensive and so a system which saw a reduction in this cost would be most welcome'. However, while the Bar generally supported the idea of online notices, the Bâtonnier stated that the 'overwhelming response I have received is concern about members of the public actually gaining notice of what is published online'. Members questioned how the public would know of any publication if it was published online only, unless they checked the States' online Gazette with regularity. The Bar confirmed that its preference at that time was to continue using the paper format of La Gazette Officielle to publish its notices. Under these proposals, the La Gazette Officielle would remain an option for the publication of notices, alongside the introduction of new options.
- 7.5. The Guernsey Press – The Guernsey Press has successfully operated the La Gazette Officielle since the last century providing an essential service for publishing notices and in providing permanent and searchable records. Since 2019, there has been close engagement with both the previous and current

management team at the Guernsey Press regarding the policy and impact of the proposals. The former Guernsey Press management was concerned that replacing La Gazette Officielle with a sole States' administered online model could impact negatively upon its business. The current management team at the Press has worked with the Committee to explore options, is aware of the Committee's reasons for its current proposals and its wish to modernise the options available. The Committee has agreed to keep the Guernsey Press updated regarding the implementation of the new model, in order that it can prepare for any impact the change may have on their business. Under the proposals detailed in this Policy Letter, publishers will be able to continue to publish notices in La Gazette Officielle if they wish to do so. It is understood that the Guernsey Press intends to continue to operate La Gazette Officielle in the future.

8. Conclusion and recommendation

- 8.1. Given the change in landscape since the States of Deliberation last considered the publication of official notices in 2011 and the strong case for reforming this area, the Committee believes that steps should now be taken to liberalise the market and modernise and provide future resilience for this area. The Committee recommends that the Propositions are supported to enable these changes to be introduced.

9. Compliance with Rule 4

- 9.1. 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.
- 9.2. In accordance with Rule 4(1)(a), the changes proposed within this Policy Letter contribute to the States objectives and policy plans. In developing the Government Work Plan (GWP), the Committee reviewed all extant resolutions at Stage 1 of the GWP⁸ to consider which Resolutions to recommend for recission/ prioritisation of legislation in Stage 2 of the Plan.⁹ This included a review of the 2011 extant resolutions regarding the Gazette Officielle. The current iteration of the GWP, "the Government Work Plan 2022"¹⁰ references the 2011 extant resolutions as being "at stage 4" in the schedule of legislation for drafting. This means that the draft legislation relating to the 2011 resolutions

⁸ Government Work Plan – Stage 1, [Billet d'État VI of 2021](#) and [Resolutions](#) of 26th March, 2021.

⁹ Government Work Plan – Stage 2, [Billet d'État XV of 2021 at Annex 7 at page 252](#) and [Resolutions](#) of 23rd July, 2021.

¹⁰ [Government Work Plan 2022, Billet d'État X Volume 1 of 2022](#) and [Resolutions](#) of 1st July, 2022

has been shared with the Committee. However, if this Policy Letter is approved, the 2011 resolutions will be rescinded, and the legislation drafted to meet the 2011 resolutions will not be implemented.

- 9.3. In accordance with Rule 4(1)(b), the Committee's consultation with other parties is outlined in Section 7. The Committee will continue to consult and engage with relevant stakeholders regarding the development and implementation of the Guernsey Gazette.
- 9.4. In accordance with Rule 4(1)(c), the Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications.
- 9.5. In accordance with Rule 4(1)(d), the resources required to fulfil the Propositions of this Policy Letter are set out in Section 5.
- 9.6. In accordance with Rule 4(2)(a), the Propositions relate to the duties of the Policy & Resources Committee because its mandate includes responsibilities for "leadership and co-ordination of the work of the States, which includes:[...] Examining issues which expressly do not fall within the mandates of other committees."
- 9.7. In accordance with Rule 4(2)(b), it is confirmed that the Propositions have the unanimous support of the Committee.

Yours faithfully

P T R Ferbrache
President

H J Soulsby
Vice-President

M A J Helyar
J P Le Tocq
D J Mahoney

APPENDIX 1

The History of the Gazette Officielle

1. History

- 1.1. From at least the early part of the 19th century, official notices were published in the weekly journal known as “La Gazette de Guernesey”. However, in 1935, the company publishing that journal informed the Royal Court that it would not be possible to continue publication. Therefore, the Loi par rapport à la Publication des Annonces Officielles, 1936¹¹ (“the 1936 Law”) was introduced so that every notice then required¹² by Law, Ordinance or Custom to be published in “La Gazette de Guernesey” was instead to be published in each of two daily newspapers published in the English language in Guernsey (or if there should be only one such newspaper, published therein); and the Royal Court was authorised to make Ordinances relating to such publications.
- 1.2. The Ordonnance par rapport à la Publication des Annonces Officielles, 1936¹³ (“the 1936 Ordonnance”) was made by the Royal Court under the 1936 Law and brought the Law into operation. The 1936 Ordonnance provided for the creation of what was to become known as “La Gazette Officielle”, to be published in two local newspapers of the time, the “Guernsey Evening Press” and “The Star”.
- 1.3. The 1936 Ordonnance required the Guernsey Evening Press and The Star to publish such notices in “the first column of the last page but one”, with the column being headed with “the Arms of the Island of Guernsey” followed by the words “La Gazette Officielle” on each day (excluding public holidays). This practice evolved into the current publication of notices in the printed copy of the Guernsey Press, following the merger in 1965 of the Guernsey Evening Press and The Star. The Guernsey Press later added a website displaying the notices published in the printed copy.

2. Reviews since 2008

- 2.1. The States of Deliberation most recently considered the subject of La Gazette Officielle in 2008 and 2011. In 2008¹⁴ the States approved the Policy Council’s proposals to establish and maintain an online States’ Official Gazette, in which all official notices would be published, initially both online and in hard copy, in

¹¹ [Loi par rapport à la Publication des Annonces Officielles, 1936](#)

¹² Notices required by Law, Ordinance or Custom to be published – as was the situation before 30th March 1936.

¹³ [Ordonnance par rapport à la Publication des Annonces Officielles, 1936](#)

¹⁴ [“States Official Gazette” Billet d’État II of 2008](#) and [Resolutions of 25th February 2008](#)

place of publishing in La Gazette Officielle, and to develop fees to be charged by the States for the publication of notices in the States' Official Gazette. However, following this decision, the Policy Council undertook further consultation with the Guernsey Press Company Limited, States' Departments and the Douzaines. Those talks highlighted improvements made by the Guernsey Press to make La Gazette Officielle notices available on its website for one year after publication in the newspaper (rather than the notices previously being only available for one week). Although the parishes had initially expressed their interest in reducing their publication costs by moving to an online model, the Guernsey Douzaine Council later indicated that the parishes unanimously wished to continue publishing notices in the Guernsey Press. Concerns were also raised about accessibility for Island residents without internet access.

- 2.2. The Policy Council returned the matter to the States in 2011, essentially seeking approval to maintain the status quo by not moving to an online model, whilst making some improvements to how La Gazette Officielle notices were presented, which had associated cost benefits. Accordingly, the 2008 Resolutions were rescinded, and the States resolved that notices could be published in La Gazette Officielle written in plain English and in an abbreviated form, but with reference to a more detailed notice which would be available on the States' website or in printed form on request. The 2011 Policy Letter noted that, as a matter of good practice, the future use of La Gazette Officielle should be monitored and that the possibility of a States' Official Gazette may need to be revisited, "if and when electronic means of communication became the preferred mechanism for receiving information amongst the general public."¹⁵

3. Update since 2011

- 3.1. The 2011 resolutions were not implemented, primarily because of other priorities taking precedence over a number of years. The work stream was included in the February 2018 policy letter "Prioritisation of Legislative Drafting"¹⁶ and the Policy & Resource Plan updates for 2018¹⁷ and 2019¹⁸. Following consideration of the legislation drafted to fulfil the 2011 resolutions and the changes in circumstances since 2011, the former Policy & Resources Committee considered that the implementation of the draft legislation would only have limited impact due to the low number of laws affected by the legislation and the requirement to continue to publish notices in the Gazette for legislation that was not included. It was considered that this approach could potentially lead to inconsistency between the different types of published notices, together with a varying style and length of published notices. The

¹⁵ At paragraph 8.1, p2363

¹⁶ ["Prioritisation of Legislative Drafting" Billet d'État X of 21st March 2018:](#)

¹⁷ [The Policy & Resource Plan -2017 Review and 2018 Update, Billet d'État XV of 5th March 2018](#)

¹⁸ [The Policy & Resource Plan -2018 Review and 2019 Update, Billet d'État IX of 25th June 2019](#)

Committee concluded, largely in a return to the 2008 position, that its preferred approach was to remove the legal requirement for official notices to be published in La Gazette Officielle and instead introduce legislation for official notices to be published in an online States' Gazette to replace La Gazette Officielle, sited on the States of Guernsey's website, with notices made available in hard copy on request. Consultation was then undertaken with stakeholders, including officers on behalf of States' Committees, the Douzaines and the Guernsey Bar regarding these proposals. Engagement was also undertaken with the management team for the Guernsey Press.

- 3.2. On 15th January 2020, the statement¹⁹ made by the Vice-President of the former Policy & Resources Committee in the States of Deliberation set out that Committee's intention to bring a Policy Letter reviewing the Gazette Officielle to the States in the first quarter of 2020. However, due to the prioritisation of work relating to the COVID-19 pandemic and Brexit, it was not possible to progress this work in this timescale. During this period, the management of the Guernsey Press also changed and, subsequently, engagement with the new management team was undertaken. In 2021, the current Policy & Resources Committee reviewed the 2011 extant resolutions as part of the Government Work Plan. The 2011 Resolutions have since been included in the prioritisation of legislation but given a low priority.
- 3.3. In 2021, the Committee concluded its review of the policy options and considered that it was now an appropriate time to modernise Guernsey's system for publishing official notices. The Committee recommended the establishment of an online States' Gazette as an alternative place to publish official notices to La Gazette Officielle but not intended as a replacement for that publication. All official notices could be published in the States' administered Gazette where there is a legal requirement to publish. It was considered that this option would be particularly useful for States Committees' notices which could be logically and pragmatically published on the States' website, with associated cost savings. The Committee recommended that the States would charge for publishing notices in order to recover the development and ongoing operational costs, while offering a competitive and cost-effective alternative to publication in La Gazette Officielle. The Committee also recommended the rescission of the 2011 Resolutions as no longer being fit for purpose.

¹⁹ [15 January 2020 Statement](#)

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 31st DECEMBER 2021

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 31st December 2021" dated 10th August 2022, they are of the opinion:-

1. To note the accounts of the Guernsey Competition and Regulatory Authority and auditors' report for the year ended 31st December 2021.

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 31st DECEMBER 2021

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

22nd September 2022

Dear Sir

1 Executive Summary

- 1.1 The 2021 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 31st December 2021.

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

N R Inder
President

Annual Report

2021



GUERNSEY
COMPETITION &
REGULATORY
AUTHORITY

About this document

This document sets out our annual report and accounts for the period 1 January 2021 to 31 December 2021. It is presented to Guernsey's Committee for Economic Development pursuant to Section 13 of The Guernsey Competition and Regulatory Authority Ordinance, 2012.

Further information about our work is available on our website www.GCRA.gg

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Overview



GUERNSEY
COMPETITION &
REGULATORY
AUTHORITY

Chairman's Foreword

I am pleased to present the 2021 Annual Report and Accounts of the Guernsey Competition and Regulatory Authority ("GCRA"). In last year's report, I said that "at the start of 2020, no-one could have predicted how the year would turn out". 2021 has been equally unpredictable, although hopefully now we are approaching a more stable position, both in terms of the external environment and our own activities.

By the second half of 2021, travel between the UK and Guernsey was beginning to ease, and I was able to visit the island on three occasions. One of these was for a Board strategy session, when we were able to stand back and take a broader view of the issues likely to face us in 2022 and beyond. We were able to reflect some of our conclusions in the work programme we published in December 2021.

Following an online meeting with the Committee for Economic Development in November, we have continued in 2022 to develop contacts with Committees and Deputies. This is very much a two-way process, giving us the opportunity to explain our approach but also enabling us to understand States priorities better and reflect this in our work programme. Without that sort of dialogue, we will not be able to deliver on our aim of promoting value and choice for Guernsey consumers, to the benefit of the Guernsey economy, taking account of the distinctive features of the Bailiwick.

As Michael Byrne sets out in his report, our work in 2021 was dominated by two major competition cases started under the aegis of the previous Channel Islands Competition and Regulatory Authority, which was disbanded

in 2020. Because of the novel and important issues these cases covered, the Authority devoted a considerable amount of time reviewing the material presented by the parties, and the analysis prepared by officers, and only reached its decisions when it was satisfied that they were robustly based. As they were the first decisions taken under the 2012 Competition Ordinance, it is perhaps not surprising that both have been appealed by the Parties. We will of course defend those appeals. But we will also want to learn and share lessons - for ourselves, for undertakings, and for legal advisers - when they are completed. Effective competition is important for a well-functioning economy, and due process must of course be followed in applying competition law, but it is not in anyone's interests for decisions to be reached only after extensive and expensive legal proceedings.

As an Authority, we have however tried to ensure that other important issues are not sidelined by these two cases. Recognising the importance of effective and efficient communication systems - made even clearer by the pandemic - the development of the broadband market both for households and businesses has been another priority. And although we were

disappointed by the decision to remove our role in respect of electricity supply pricing, we are committed to working with the States Trading and Supervisory Board to support its new role in ensuring security and value in electricity.

As last year, I pay tribute to the hard work and wise counsel of the other non-executive members of the Authority, Caroline Chan, John Curran and Philip Marsden, and to the work of our Chief Executive, Michael Byrne, and the whole of the GCRA team. We look forward to 2022 with confidence and with a renewed focus on the priorities of the Bailiwick of Guernsey's economy.

Chris Bolt
Chairman

Chief Executive's Foreword

The GCRA has four areas of focus that inform its priorities and therefore how it gauges success. It is established to promote value and choice for Guernsey consumers, protect consumers that have no direct way of making their voices heard, support States policy, and keep the operation of markets under review with the aim of promoting trust in markets. Over 2021 there were several areas the GCRA progressed with these aims to the fore.

Facilitating availability and access to technological progress and the advantages it brings is a key means of promoting choice, especially in a fast-changing sector such as telecoms. The Authority has been supporting the potential of new satellite technology, by adapting the existing regulatory framework to enable the introduction of this technology in Guernsey. Given its potential to support the delivery of advanced broadband services and complement existing undersea cable connectivity, further progress is anticipated over 2022. As well as technological progress, alternative providers are key to expanding choice and innovation. The Authority received and processed two electricity generation licences over 2021 from organisations with ambitions to contribute to the renewable energy ambitions of the Bailiwick. As the States of Guernsey develops its energy policy the contribution from such alternative providers will undoubtedly be significant.

Supporting the development and delivery of States policy is a key priority for the Authority. It has supported the States in the airline sector, where the States owned airline has been evaluating coordination options with other airlines. A facility exists internationally for cooperation between competitors that is beneficial to consumers through

exemption facilities in competition law. Since this sector is exempt from Guernsey competition law, the Authority has been able to assist by advising Aurigny's considerations given the potential for scrutiny of such arrangements by international competition bodies such as the UK's Competition and Markets Authority and the European Competition Commission.

A further key States policy priority over 2021 has been the rollout of fibre to households and businesses to deliver higher quality broadband. A pilot phase for the installation of these connections began in 2021 and to support the programme the Authority worked with the fibre network provider, Sure, to provide a bespoke licensing framework that ensured access to fixed line emergency calls by vulnerable customers through the pilot phase while allowing this rollout programme to proceed. In parallel, a longer-term regulatory framework is being developed in consultation with civil society groups and other stakeholders.

Guernsey also needs to maintain telecommunication security that meets international standards for the protection of its citizens and its reputation as a jurisdiction that is safe to do business in. The Authority played a key role in this area over 2021 following the UK passing into law a legal framework

for telecoms security standards. The need to develop an approach to implementing high standards in this area, in the context of a small island economy telecoms infrastructure, has involved the Authority supporting the States of Guernsey through close cooperation with civil servants advising the States and liaison with OFCOM, the UK telecommunications regulator.

Ensuring the market for telecommunications business connectivity services functions well has also been a priority area for the Authority over 2021, and it has been conducting a periodic review to assess the way this market functions given the strong concentration of market power that has historically existed. Business connectivity is a fundamental building block for the telecoms sector. The finance industry relies on these services to maintain the jurisdiction's competitive advantage on the world stage, the States (and therefore the taxpayer) is the largest Guernsey customer of these services, and mobile providers rely on them to link their local mast networks to users on the Island and with the outside world. The Authority's review over 2021 led to substantial reductions in the price of these connections. It also identified a discriminatory practice that potentially contravened a licensee's obligations but who stopped the practice sufficiently rapidly to

enable a lighter touch resolution through voluntary undertakings, without the need for a large-scale investigation.

A competition law framework that is proportionate to the risks to competition using an approach that is in line with international standards provides clarity for doing business in Guernsey without compromising protection of fair competition. Working with the Guernsey Law Officers and the Committee for Economic Development, the Authority supported the enactment of the vertical exemptions law, reducing the risk to businesses that might want to enter the Guernsey market using franchise arrangements for example. Since they fall within a category of agreements that present low risks to competition and consumers in Guernsey, the Authority sought law changes to provide for such an exemption category which the Law Office and Committee supported and was enacted in 2021.

The Authority concluded the first two major competition investigations in Guernsey since the commencement of the competition law in 2012. A significant number of concerns about commercial dealings will come to the attention of the Authority over the course of a year, many of them benign or the extent of the contraventions are not of sufficient gravity that they can't be resolved through informal channels. Two forms of behaviour were however uncovered that represent serious contraventions of competition law, namely excessively restrictive covenants that prevent persons from competing when they leave a business and agreements that are collusive which unlawfully substitute cooperation between competitors for competition. The Authority prosecuted two such

cases in 2021 after comprehensive consideration of the evidence. Both these matters are under appeal and those cases will be heard by the Royal Court in 2022.

Markets can work against the interests of consumers through increased concentration when competitors merge or acquire one another. In these circumstances there is a risk of reducing the benefit and choice, that a competitive market is capable of. Over 2021 the GCRA considered eight notified mergers, all receiving approval, with the average time taken for clearance at just under 15 days which by international standards constitutes a high level of performance.

The charges by the three Guernsey mobile operators for the termination of calls to their mobile networks was reduced to 27% of their pre-price-controlled levels in 2021. This significant reduction followed a regulatory intervention finding these charges were excessive which then placed substantial downward pressure on retail mobile call costs. The charges will fall even further by 1 June 2022 to 17% of their pre-price-controlled levels putting them in line with the UK.

Finally, the above is the outcome of the work of a small team supported by a Board of individuals committed to the aims of the body and in serving the interests of Guernsey in this specialist area. I am grateful to my team and Board and in particular Chris Bolt who has provided sound leadership and sage advice throughout the year.

Michael Byrne
Chief Executive



Our Powers and Duties

We are an independent public authority, accountable to the States Assembly in Guernsey established as the Guernsey Competition and Regulatory Authority (“GCRA”) under the Guernsey Competition and Regulatory Authority Ordinance, 2012. Our functions and legal duties guide the direction of our work and are set out in legislation passed by the States, to whom we are accountable.

What we are here to do

We are responsible for administering competition law and regulating the telecoms sector and electricity sectors in Guernsey. We are one of a number of agencies that contribute to the reputation of Guernsey as a well-regulated jurisdiction.

The GCRA is focussed on four key objectives, namely to:

- **promote value and choice** for Guernsey consumers to the benefit of the Guernsey economy,
- **protect the interests of consumers** who have no direct way of making their voices heard,
- **support development and delivery of Government policy**, in particular, in the sectors subject to economic regulation, to achieve the best outcome for Guernsey consumers,
- **keep the operation of markets and regulated companies under review** to identify and address new forms of detriment and issues for potential action, and thereby to promote trust in markets.

Our priorities

We have four priorities that support our aims:

- **remaining alert to possible market failures which could require action, reviewing a range of evidence and engaging with relevant stakeholders in doing so,**
- **discussing with Government those areas for investigation we propose to initiate,**
- **responding to all complaints about anti-competitive behaviour where the complaint is supported by evidence, but only take further action where this is consistent with our prioritisation principles,**
- **in respect of telecoms and electricity, enforce licence conditions in a proportionate way.**

How we work

We recognise that a small island economy has distinctive features which influence the outcomes that are desirable and achievable; where this results in an approach different from that in a larger economy, we make clear the reasons for this.

We operate within the law and adopt best practice in our procedures but promote changes in the law where there are perceived deficiencies. We work to clear administrative timetables and are transparent about the reasons for any necessary changes, being clear about the principles we adopt in deciding whether to intervene. Where we do intervene we will be clear about the detriment resulting from inaction, and the potential improvements that our action could bring. Where different stakeholders have different objectives, we look to be clear about how we have taken those differences into account in any final decision.

Our advocacy programme targeted at local law firms and States officials is designed to develop an awareness of the law and the responsibilities of various parties in terms of compliance. These programmes also serve as a means of enabling people in key areas of contact with business to become more familiar with the sort of behaviours that are likely to harm competition or weaken the competitive process. Law firms have a unique insight into commercial practices in Guernsey and are therefore in a unique position to alert parties to risks of falling on the wrong side of competition law. States officials that run bidding procedures for States contracts make key decisions on the use of taxpayer money, so being better versed in potential illegal practices can assist them in the design of their bidding processes, protect taxpayer money by ensuring States contracts are made on their merits and deliver best value for money to our community.

Engagement with stakeholders - Consumers and Islanders

Understanding consumers' and Islanders' interests and behaviour is vital to our work.

In supporting certain workstreams we may 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 sector assists us to identify and focus our capacity and capability on those areas that matter most to consumers.

The GCRA receives calls, emails and letters directly from consumers. We are not a fair-trading consumer body and our focus is in large part on the competitive process itself, nevertheless the information that consumers provide and the issues they highlight can help us to prioritise areas of focus. Our contact details are available on our website **www.GCRA.gg**

Engagement with stakeholders - Co-regulators and other bodies

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 where appropriate we consult colleagues in the UK's Competition and Markets Authority and the European Commission to ensure we are working to high standards in terms of process and analysis.

When we regulate

Our prioritisation principles are:



Actionable.

We consider whether we have the necessary legal powers to properly assess and address the nature of the concerns that have arisen. The powers given by legislation as well as the absence of powers are all relevant in considering whether the Authority has the legal means to proceed in considering matters that may arise.



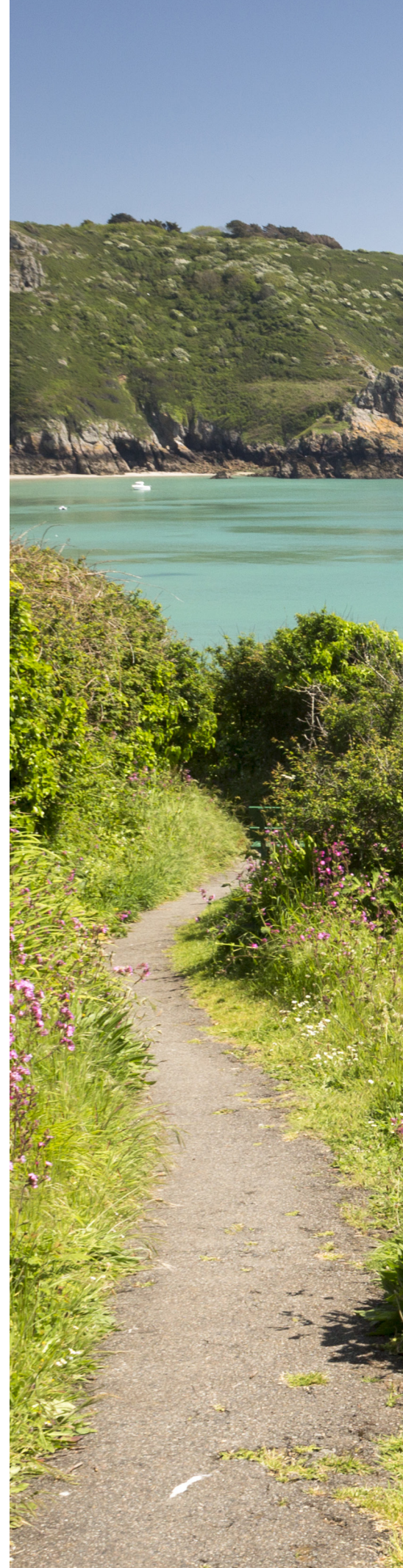
Realistic.

A small jurisdiction competition authority like the GCRA needs to carefully weigh up whether the benefits of prohibiting certain transactions are realistically achievable through enforcement action. Even where it has the legal powers to do so, the practicalities of carrying out investigations and taking action and whether our actions will have sufficient impact are factors we take into consideration in deciding whether to take a matter forward.



Meaningful.

Ultimately, we want to be as sure as we can that any action taken has a net positive benefit to the functioning of local markets, mindful of the fact that any intervention – or indeed not intervening at all - will have some cost.



When we don't regulate

There are a range of customer protection issues and assistance sought by consumers from time to time that are not within the GCRA's remit and other regulatory bodies provide the primary forum for dealing with these matters. In Guernsey, the States of Guernsey including its Trading Standards Services, the Financial Ombudsman, and the Citizens' Advice Bureau have different purposes and powers which support consumers.

As a rule, the GCRA does not deal with individual consumer issues in the sectors it regulates, for example equipment failures or contractual disputes between consumers and providers, since consumers would be expected to rely on contracts and complaints procedures to address these.

Other forms of protection can be set by the States which the GCRA is specifically tasked to monitor. The setting of health and safety standards for mobile mast emission levels are for example set by the States of Guernsey and the GCRA's role is to conduct audits to ensure mobile providers comply with such standards.

In some cases, the GCRA may act to protect consumers where it becomes apparent there is a systemic problem affecting the market, such as a pattern of issues that suggest the market is not working sufficiently well. On the other hand, certain areas of the GCRA's remit do not allow for discretion, for example, the GCRA has a duty to investigate mergers and acquisitions that meet the relevant statutory tests, to undertake market investigations requested by relevant departments, to defend its decisions where there are regulatory appeals, and to consider and respond to complaints.

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 islanders can have confidence in our actions and decision-making processes, in the management of our activities, and in the Members and staff of the GCRA
- we maintain an appropriate degree of integrity in the conduct of our affairs at all times. 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. To that end six monthly key performance reports are provided to the Committee for Economic Development under the terms of the grant agreement with the Authority.

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.

Financial Review

We are a not-for-profit organisation. Until 2020, where we received more funding (from grants or licence fees) than we required in any particular year, the surplus income was deferred to the next year. Following the separation from JCRA, the GCRA reviewed its accounting policies. Together with adopting Section 1A of FRS 102, applicable to small entities, we have changed the accounting policy relating to the deferral of income. Any aggregate surplus or deficit is carried as a reserve in the Statement of Financial Position.

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.

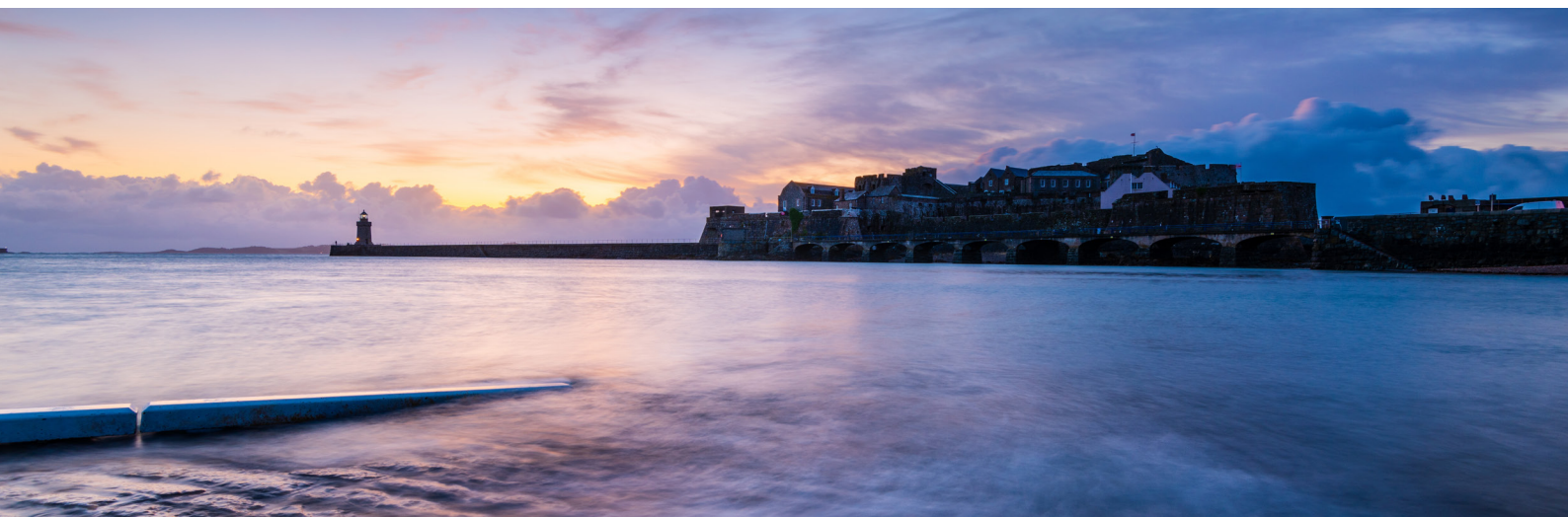
We set a budget for the GCRA of £1,254k for 2021 to cover the expected costs of our regulatory and competition law activities in the Bailiwick of Guernsey.

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 2021, the income needed to cover our costs was £1,114k, 11.2% below budget. The shortfall of the grants and licence fees we received will be offset against the surpluses accumulated in past years which were retained for future use. The remaining surplus will be retained 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 the GCRA 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 to cover the costs of administering and enforcing the competition laws. Basic funding for this area has remained at £140k per annum in Guernsey since 2013.

We recognise the financial constraints faced by government 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 2021, these fees amounted to £80k. 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 cost for all competition law activity during 2021 was £408k. Grant income in excess of costs is, with the agreement of the States department, either voluntarily 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 island's competition body. We will continue engagement with government officials in this regard.

Licence fees

Sector-specific regulation is funded through licence fees paid by licensed operators in each of the regulated sectors. 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		Postal		Electricity	
	2021	2020	2021	2020	2021	2020
Licence and application fees - charged in year	634	614	-	-	183	120
Costs	(557)	(576)	-	-	(149)	(150)
Surplus/(loss) for the year	77	38	-	-	34	(30)
Returned to licensees	-	-	-	-	-	-

¹ 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 the GCRA.

Accountability Report



GUERNSEY
COMPETITION &
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AUTHORITY

The GCRA Board



Chris Bolt - Chairman

Chris Bolt is an economist who has worked in the field of economic regulation in the UK for more than thirty years, holding senior roles in both the public and private sectors. His experience has included senior roles in Ofwat, the Office of the Rail Regulator, where he was for a short period interim Rail Regulator, and Transco plc. He was the first statutory Arbiter for the London Underground Public-Private Partnership Agreements (2002-2011), and the first Chairman of the Office of Rail Regulation (2004-2009). He was a member, and subsequently chairman, of the UK Regulators Network Expert Advisor Panel from 2014 to 2018. He was regulation adviser to the London law firm Bryan Cave Leighton Paisner for ten years and was an independent non-executive director of Affinity Water Ltd from 2015 to 2019.

Chris was made a Companion of the Order of the Bath (CB) in the New Year Honours 2010. Chris was appointed as Treasurer and a Trustee of the Kennet and Avon Canal Trust in January 2019.



Michael Byrne - Chief Executive

Michael has extensive experience in the UK and Channel Islands of applied economic regulation in the energy, ports and telecoms sectors. He has over 25 years of experience in the field of competition law across a range of industries in the UK, and the Channel Islands.

He holds a diploma in Company Direction from the Institute of Directors, an MBA from the University of Warwick, a post-graduate qualification in UK and European Competition Law, as well as undergraduate and postgraduate Bachelor of Science degrees in Mathematical Statistics.

Before moving to Guernsey Michael's roles included, Head of Economic Assessment at the macro-economic statistics division of the Office for National Statistics, leading regulatory reviews and competition investigations in the UK's public and commercial television sectors at the Independent Television Commission, and he was Head of Retail Energy Markets at the UK's energy regulator, Ofgem.



Caroline Chan - Non-Executive Director

Caroline is a Guernsey Advocate and has practised as a corporate lawyer for over 30 years. She has particular experience in advising on corporate and commercial transactions, financings, investment funds and stock exchange listings.

Caroline joined the GCRA Board in May 2020 after her retirement as a Partner at Mourant Ozannes. She was a Partner in the corporate team at Ogier from 2008 to 2015.

Having grown up in Guernsey, Caroline attended The Ladies' College, before studying law at St Anne's College, Oxford. She spent nearly 9 years with Allen & Overy, working in their corporate finance teams in London and Hong Kong after qualifying with them as a solicitor in both jurisdictions (now both non-practising). She returned to the Island in 1998 and was admitted to the Guernsey Bar in 2003.

Caroline is currently a non-executive Director of Round Hill Music Royalty Fund Limited, a London listed Guernsey investment fund, and Chair of the Board of Governors of The Ladies' College.

The GCRA Board



John Curran - Non-Executive Director

John is a former Chief Executive of GCRA 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 Guernsey Data Protection Authority and Chairman of the Guernsey Employment Trust.

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.



Philip Marsden - Non-Executive Director

Dr Philip Marsden has over 30 years of experience enforcing financial services and competition law and devising new frameworks of regulation. His current portfolio includes academic, government and private sector roles. Philip is Deputy Chair of the Bank of England's Enforcement Decision Making Committee and case decision maker at the Financial Conduct Authority, the Payment Systems Regulator and OFGEM.

He is also Professor of Law and Economics at the College of Europe, Bruges, teaching the core Masters in Law.



The GCRA Team



Sarah Livestro - Legal Director

Sarah joined GCRA in November 2015. She is an experienced competition lawyer, having practised exclusively in this field since qualifying in 2000.

Following qualification, Sarah spent 4 years working as a competition lawyer with Lovells' Antitrust and Competition Team, based in Brussels. Subsequently, and until joining GCRA, she was a Senior Associate with Shoosmiths. Sarah has extensive experience advising on the full range of competition law matters, including EU and UK merger control rules, competition authority investigations, cooperation agreements, supply and distribution arrangements, franchising, R&D agreements and the competition rules relating to online selling. Her practice covered a wide variety of industry sectors including automotive, oil and gas, building materials, white goods and groceries. She is also an experienced State Aid practitioner and for a number of years ran the Shoosmiths' State Aid practice.

Sarah has first class degrees in Law (MA and LLM) from the University of Cambridge. She holds a professional certificate in Mediation Skills and is an Associate Member of the Chartered Institute of Arbitrators.



Fergus Reid - In-House Counsel

Fergus joined the GCRA in September 2020. He is an experienced competition lawyer and has practised extensively in both litigious and non-litigious roles, in a wide variety of legal fields including public law (constitutional, administrative and regulatory), property, pensions, contract and criminal law.

Fergus is a former solicitor of England and Wales as well as a former South African attorney, notary and conveyancer and is currently a non-practising South African Advocate/Barrister. He was formerly a Principle Analyst at the South African Competition Commission where he investigated both mergers and abuses of dominance across a wide variety of financial, industrial, wholesale and retail, property, packaging and other sectors. Fergus has managed a team of analysts and advised on finding for premature implementation of mergers. Thereafter, in private practice both as an attorney and advocate, he continued to advise with regard to a wide variety of competition issues including anti-competitive contractual restraints, predation, cartel and price-fixing matters, merger notifications, joint ventures, abusers of dominance, Competition Tribunal remedial powers, complaint and referral procedures and administrative penalties.

Fergus practised at a number of South African and British law firms before joining the Cape Bar of Advocates and has lectured at the University of Cape Town from time to time. Fergus holds Bachelor of Arts (BA), Bachelor of Laws (LLB), Master of Laws (Corporate Law Specialisation) and Post-Graduate Diploma in EU Competition Law (Kings College, London) qualifications.



Richard Harrington - In-House Counsel

Richard is an experienced dispute resolution lawyer and joined GCRA in December 2019. He previously worked in private practice in London and Guernsey, dealing with a wide range of contractual disputes, partnership disputes, insolvency cases, contentious trusts, matters involving fraud, and professional negligence disputes.

At GCRA, he advises the team on pre-litigation and litigation matters across the full range of supervisory areas and supports competition law enforcement investigations and interventions. He also advises on economic regulatory matters in Guernsey and assists the Legal Director with assessments of mergers and acquisitions notifications.

Prior to training as a lawyer, Richard enjoyed a broad and varied career, initially working in the construction industry and a number of charities before a period in local government. He studied International Politics at university and was called to the Bar before cross qualifying as a solicitor. He happily cycles to work in all weather conditions and longs for the day that people return to bicycles as a form of public transport. He has a young family to enjoy outside of work and in the little spare time left, he plays veterans football for Rovers AC, and likes to read widely on matters of history, politics, and economics.



Ian Hayes - Regulatory Economist

Ian is an economist with extensive experience in the economic regulation of water, waste water and electricity utilities.

Prior to joining the GCRA, IAN was an industry economist for the Ministry of Finance and Economic Management in the Cook Islands, working on a wide variety of matters. This followed a stint as principle regulatory economist for ActewAGL Distribution, the local electricity distributor in Canberra, Australia and before that a role as senior regulatory advisor for the ACT Independent Competition and Regulatory Commission. As a regulator, Ian was mainly engaged in price investigations and tariff reviews, setting retail water, waste water and electricity prices for the local utility service providers.

Ian holds BSc Economics (City University), MSc Agricultural Economics (Wye College, University of London) and Doctor of Philosophy (Wye College, University of London) qualifications.



Lin Gallienne - Executive Assistant

Lin has extensive experience as Executive Assistant in many sectors, including assisting Doctors and specialist Consultants both inside and outside of the HSSD.

Guernsey-born and raised, Lin has a particular interest in information technology, holds numerous IT and secretarial qualifications, and in 20210 launched her own IT Training and Consultancy company. Her company still offers certification tracks for technical and non-technical IT users throughout the Channel Islands, Great Britain and the EU.

Accountability Report

Governance Statement

The Governance Structure

Whilst the GCRA 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.

GCRA

The GCRA is a statutory body corporate, the Guernsey Competition and Regulatory Authority, under Section 1 of the Guernsey Competition and Regulatory Authority Ordinance, 2012.

The Board

The GCRA is led by a Board. Legislation requires the GCRA to comprise, as a minimum, three Members, with one as Chairman. As at 31 December 2021 the Board consisted of a Chairman, three non-executive Members and one executive Member. The Board leads the organisation. Its core activities include.

- Establishing and maintaining GCRA's vision, mission & 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 GCRA's appetite for risk

- Obtaining assurance that material risks to GCRA 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 the GCRA. The non-executive Members comprise a majority of the Board.

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 Chairman is appointed by the States of Deliberation in Guernsey on the recommendation of the Committee for Economic Development. Members are appointed to the Board of the GCRA after consultation with the Chairman. 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 Chairman

The Board is led by the Chairman, who manages the Board to ensure that:

- GCRA 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
- Oversight of risk is properly established, composed and operated

- Procedures are in place to inform the Board of performance against the strategic objectives and forward work programme
- GCRA is operating in accordance with the highest standards of corporate governance

Meetings

The Board meets regularly. Customarily, there are eight scheduled meetings each year with additional meetings when circumstances require it. During 2021, the GCRA board met on 11 occasions. The table below details meetings and attendances for 2021.

	Board	Audit and Risk
Chris Bolt	11/11	2*/2
Caroline Chan	11/11	4/4
John Curran	11/11	4/4
Philip Marsden	11/11	4/4
Michael Byrne	11/11	4*/4

*In attendance only

Accountability Report

Remuneration

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 the GCRA should, within the constraints of being a public body, provide rewards that will attract and retain the high-calibre management necessary for the GCRA 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 for Economic Development in Guernsey.

Components of remuneration

Executive Member are members of the Authority and officers of the GCRA; their remuneration is confined to salary which encompasses the entirety of the remuneration package and receive no fees as members of the Authority.

The basic salary for the Executive Member 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.

Non-executive Members' remuneration

Fees are determined by the Committee for Economic Development in Guernsey.

Audited Financial Statements



GUERNSEY
COMPETITION &
REGULATORY
AUTHORITY

Members' Report to the Financial Statements

For the Year Ended 31 December 2021

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.

Members

The Members in office during the year are shown on pages 15 to 16.

Events during the reporting period

2021 was the first full year as a separate Authority after the governments of Jersey and Guernsey enacted a decision to revert back to separate independent insular island authorities.

Operationally this had little impact on the GCRA given the seniority of Officers that were already based in Guernsey at the time of the reversion to two separate Authorities and the body recruited to return to full staffing complement. Financially, the income streams of both entities were already separate, but they no longer share costs or a Board in the way that they had since 2012.

Terms of the Members extended during 2021:

John Curran – term extended to 31st December 2023,

Caroline Chan – term extended to 12th March 2023,

Michael Byrne – term extended to 23rd July 2025

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.

Members' disclosure

As far as each Member is aware, there is no relevant audit information of which the auditor has not been made aware. All reasonable steps have been taken by each Member 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, requires 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 transactions and disclose with reasonable accuracy, at any time, the financial position of the GCRA and which enable them to ensure that these financial statements comply with the Ordinance. They also consider that they are responsible for safeguarding the assets of the GCRA 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 Members have elected to prepare the financial statements in accordance with Section 1A of Financial Reporting Standard 102, The Financial Reporting Standard applicable in the UK and Republic of Ireland, as applicable to small entities ("FRS 102").

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; and
- prepare the financial statements on the going concern basis unless it is inappropriate to presume that the GCRA will continue in operation.

The Members confirm that these financial statements comply with these requirements.





Change of Accounting Policy

As a result of the dissolution of CICRA, the Board has taken the opportunity to review the accounting policies adopted by the Authority. The Board has decided to adopt Section 1A of FRS 102 which is applicable to small entities (small being defined by the UK Companies Act 2006) and remove the Statement of Cash Flows from the financial statements.

Furthermore, the accounting policy relating to the recognition of income has been amended to reflect that the fees charged to licensees are no longer deferred. The change in accounting policy has been applied retrospectively and the comparatives have been restated. Refer to note 10 to the financial statements for details of the effect on the financial statements.

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, had indicated its willingness to continue in office as auditor. However subsequent to the publication of the 2020 financial statements BDO found that it had a conflict and needed to resign. Lince Salisbury Limited has been appointed as the auditor with immediate effect.

Approval

This report was approved by the Members and signed on their behalf by:

Chris Bolt
Chairman

INDEPENDENT AUDITOR'S REPORT TO THE MEMBERS OF THE GUERNSEY COMPETITION AND REGULATORY AUTHORITY

Opinion on the financial statements

In our opinion, the financial statements of the Guernsey Competition and Regulatory Authority ("the Authority"):

- give a true and fair view of the state of the Authority's affairs as at 31 December 2021 and of its surplus for the year then ended;
- have been properly prepared in accordance with Section 1 A of Financial Reporting Standard 102, The Financial Reporting Standard in the UK and Republic of Ireland ("FRS 102"); and
- have been properly prepared in accordance with the requirements of the Guernsey Competition and Regulatory Authority Ordinance, 2012.

We have audited the financial statements of the Authority for the year ended 31 December 2021 which comprise the Statement of Comprehensive Income, the Statement of Financial Position and notes to the financial statements, including a summary of significant accounting policies. The financial reporting framework that has been applied in their preparation is applicable law and FRS 102.

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 that are relevant to our audit of the financial statements in the UK, including the Financial Reporting Council's ("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

In auditing the financial statements, we have concluded that the Members' use of the going concern basis of accounting in the preparation of the financial statements is appropriate.

Based on the work we have performed, we have not identified any material uncertainties relating to events or conditions that, individually or collectively, may cast significant doubt on the Authority's ability to continue as a going concern for a period of at least twelve months from when the financial statements are authorised for issue. Our responsibilities and the responsibilities of the Members with respect to going concern are described in the relevant sections of this report.

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. 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 course of 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 this gives rise to a material misstatement in the financial statements themselves. 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 Members' responsibilities statement within the Members' Report, 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.

Extent to which the audit was capable of detecting irregularities, including fraud

Irregularities, including fraud, are instances of non-compliance with laws and regulations. We design procedures in line with our responsibilities, outlined above, to detect material misstatements in respect of irregularities, including fraud. The extent to which our procedures are capable of detecting irregularities, including fraud is detailed below:

We have held discussions with those charged with governance regarding their knowledge or awareness of any fraud or any instances of non-compliance with the Ordinance. This has been communicated via the planning and the final report.

We have also reviewed and evaluated the effectiveness of the controls in place which are designed to prevent and mitigate irregularities. We have conducted this via discussion with the appropriate personnel, documentation of these procedures, and obtaining supporting evidence of the control effectiveness.

We have reviewed journal entries posted within the financial year to identify any potential characteristics of any potential fraud which may have occurred. We have reviewed the published board and audit committee meetings to identify any instances of irregularities which management may have been aware of.

Our audit procedures were designed to respond to risks of material misstatement in the financial statements, recognising that the risk of not detecting a material misstatement due to fraud is higher than the risk of not detecting one resulting from error, as fraud may involve deliberate concealment by, for example, forgery, misrepresentations or through collusion. There are inherent limitations in the audit procedures performed and the further removed non-compliance with laws and regulations is from the events and transactions reflected in the financial statements, the less likely we are to become aware of it.

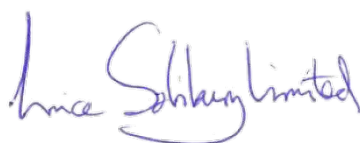
A further description of our responsibilities is available at the FRC's website at: <https://www.frc.org.uk/auditorsresponsibilities>

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.

Lince Salisbury Limited
Chartered Accountants
Avenue House
St Julian's Avenue
St Peter Port
Guernsey
GY1 3PN



Date: 7 June 2022

STATEMENT OF COMPREHENSIVE INCOME FOR THE YEAR ENDED 31 DECEMBER 2021

	Notes	2021 £	2021 £
Income			
Telecommunications licence and application fees		633,419	613,828
Electricity licence and application fees		182,500	120,500
Competition law grant		343,153	286,407
Mergers and acquisitions fees		80,000	20,000
		1,239,072	1,040,735
Expenditure			
Salaries and staff costs		640,067	423,601
Board Members' fees and expenses		66,986	58,300
Consultancy fees		139,822	251,400
Operating lease rentals		62,248	63,838
Travel and entertainment		4,901	5,692
Conference and course fees		19,497	27,155
Depreciation	4	14,590	14,206
Administration expenses		16,308	12,125
Legal and professional fees		34,005	44,601
Audit and accountancy fees		18,725	26,736
Advertising and publicity		14,509	12,165
Repairs and maintenance		53,353	59,340
Heat, light and water		3,172	2,138
Recruitment		3,609	28,587
General expenses		22,123	19,604
		1,113,915	1,049,488
Surplus/(loss) for the Financial Year	7	125,157	(8,753)

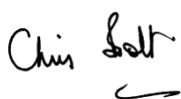
The notes on pages 30 to 37 form an integral part of these financial statements.

STATEMENT OF FINANCIAL POSITION

AS AT 31 DECEMBER 2021

	Notes	2021 £	2021 £
Fixed Assets			
Tangible assets	4	33,750	16,559
Current Assets			
Debtors	5	120,854	263,763
Cash at bank		441,285	268,727
		562,139	532,490
Current Liabilities			
Creditors: amounts falling due within one year	6	41,682	119,999
Net Current Assets		520,457	412,491
Net Assets		554,207	429,050
Retained Reserve	7	554,207	429,050

The financial statements on pages 22 to 29 were approved on 7 June 2022 and authorised for issue by the Members, and signed on their behalf by:



Chris Bolt
Chairman



John Curran
Member

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 DECEMBER 2021

1. GENERAL INFORMATION

The Guernsey Competition and Regulatory Authority (“GCRA”) is a statutory body corporate, the Guernsey Competition and Regulatory Authority under Section 1 of the Guernsey Competition and Regulatory Authority Ordinance, 2012. The principal activity of the GCRA is administering competition law and sector-specific regulation in Guernsey. The registered address of the GCRA is Suite 4, 1st Floor, La Plaiderie Chambers, La Plaiderie, St Peter Port, Guernsey, GY1 1WG.

2. ACCOUNTING POLICIES

a) Basis of preparation of financial statements

The financial statements have been prepared under the historical cost convention unless specifically stated in the accounting policies, and in accordance with Section 1A of Financial Reporting Standard 102, The Financial Reporting Standard applicable in the UK and Republic of Ireland, applicable to small entities (“FRS 102”).

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:

b) Going concern

The Board confirms its assumption that the GCRA is a going concern, and that no significant uncertainty exists in this respect. The assumption is based on its incorporation and relation with Government which is established in law.

c) Income

Income is received from a government grant and other fees 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 fees

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 annual grant received for 2021 was £140,000 (2020:£140,000) and additional grants of £203,153 (2020: £146,407) were received for specific cases in the year.

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 DECEMBER 2021

'Mergers and acquisitions fees' comprise 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 2021 were £80,000 (2020: £20,000).

Any unused funds at the financial year end are either retained or repaid to the Committee for Economic Development ("CfED"). Any deficits are funded from agreed releases of reserves or recovered from future grants. The deficit of grant income for the year amounted to £16,980 (2020: deficit £12,829).

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 retained reserve but segregated by class. Licence fee percentages / charges and reserve balances are set out below:

	2021	2020
	Licence fee % / charge	Licence fee % / charge
Telecoms	1.2% of relevant turnover	1.2% of relevant turnover
Post	-	-
Electricity	£180,500	£120,500

d) Expenditure

Expenditure is accounted for on an accruals basis and is measured at its transaction price.

e) Lease 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.

f) Taxation

Under section 12 of The Guernsey Competition and Regulatory Authority Ordinance, 2012, the GCRA is exempt from Guernsey income tax.

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 DECEMBER 2021

g) Tangible assets

Tangible assets are stated at cost less depreciation and any impairment. 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.

h) Debtors

Short term debtors are measured at transaction price, less any impairment.

i) Cash at bank

Cash at bank include current bank accounts and deposits with original maturity dates of no more than three months and are readily convertible to known amounts of cash with insignificant risk of change in value.

j) Creditors

Short term creditors are measured at transaction price.

k) Retained reserve

The retained reserve represents cumulative surpluses and losses.

3. SIGNIFICANT 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 2, 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:

- (comparatives only) Determine the split of general expenses incurred for work undertaken under the aegis of the Channel Islands Competition and Regulatory Authorities ("CICRA"). These decisions depend on an assessment of resource allocation, including that of staff time.
- Legal costs relating to decision appeals are carried by the Authority as an expense in the period incurred as the outcome of any appeal is uncertain until judgement is received. Dependent on the outcome of the appeal the Authority may seek to recover these from the appellant in whole or in part in the period when judgement is received.

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 DECEMBER 2021

4. TANGIBLE ASSETS

	Leasehold improvements £	Computer equipment £	Website £	Fixtures & fittings £	Office equipment £	Total £
<i>Cost</i>						
As at 1 January 2021	34,761	22,935	17,001	21,112	605	96,414
Additions	18,963	9,943	-	1,537	1,338	31,781
Disposals	(10,219)	(6,869)	-	(5,395)	(180)	(22,663)
As at 31 December 2021	43,505	26,009	17,001	17,254	1,763	105,532
<i>Depreciation</i>						
As at 1 January 2021	31,383	11,549	17,001	19,400	522	79,855
Charge for the year	6,538	6,538	-	1,196	318	14,590
Disposals	(10,219)	(6,869)	-	(5,395)	(180)	(22,663)
As at 31 December 2021	27,702	11,218	17,001	15,201	660	71,782
<i>Net book value</i>						
As at 31 December 2021	15,803	14,791	-	2,053	1,103	33,750
As at 31 December 2020	3,378	11,386	-	1,712	83	16,559

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 DECEMBER 2021

5. DEBTORS

	2021 £	2020 £
Licence fee and other debtors	95,069	240,640
Prepayments	25,785	23,123
	120,854	263,763

6. CREDITORS: AMOUNTS FALLING DUE WITHIN ONE YEAR

	2021 £	2020 £
Bank overdraft	-	3,708
Trade creditors	20,323	54,964
Accruals	20,900	58,825
Amounts due to the Jersey Competition and Regulatory Authority	459	2,502
	41,682	119,999

7. MOVEMENT ON RETAINED RESERVE

	General £	Electricity £	Grant £	M & A £	Post £	Telecoms £	Total £
At 1 January 2020	200,002	22,187	85,171	(4,813)	20,912	114,344	437,803
(Loss)/surplus for the year	-	(30,022)	(12,829)	(4,167)	-	38,265	(8,753)
At 31 December 2020	200,002	(7,835)	72,342	(8,980)	20,912	152,609	429,050
(Loss)/surplus for the year	-	33,617	(16,980)	31,866	-	76,654	125,157
At 31 December 2021	200,002	25,782	55,362	22,886	20,912	229,263	554,207

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 DECEMBER 2021

8. COMMITMENTS UNDER OPERATING LEASES

At 31 December 2021, the GCRA had commitments under non-cancellable operating leases as set out below:

	Buildings	
	2021 £	2020 £
Amounts payable under operating leases:		
Not later than one year	52,000	27,880
In more than one year but less than five years	78,000	-
	130,000	27,880

In June 2021, with the consent of the CfED, the GCRA entered into a six year lease at a cost of £52,000 per annum, including service charge and parking for office accommodation at La Plaiderie Chambers, La Plaiderie, St Peter Port, Guernsey. The rental amount is £52,000 per annum subject to review effective 24 June 2024. The GCRA may determine the lease at 24 June 2024 having given six months notice if it so wishes. The lease comes to an end on 24 June 2027.

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 DECEMBER 2021

9. 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 2021, the CfED provided £343,153 (2020: £286,407) 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 fixed grant of £140,000 was enhanced by pre-agreed additional funding which could be drawn upon if certain specific work needed to be done. At 31 December 2021 £203,153 (2020: £146,407) had been invoiced of which £79,568 (2020: £120,535) was outstanding. The funding deficit for the year ended 31 December 2021, which has been notified to CfED as required under the service level agreement, amounted to £16,980 (2020: deficit £12,829). The accumulated reserve attributed to grant income at the year-end was £55,362 (2020: £72,342).

b) The GCRA and the Jersey Competition Regulatory Authority (“JCRA”)

The GCRA and the JCRA worked together until 30 June 2020 under the aegis of CICRA, sharing a board, resources and expertise between the islands, whilst retaining their own separate legal identities. Recharges were made for expenses incurred (including staff costs) on a no gain no loss basis.

During 2021, £nil (2020: £128,012) was invoiced by the GCRA to the JCRA and £4,392 (2020: £168,250) 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 £459 (2020: £2,502) and the amount owed by the JCRA to the GCRA was £nil (2020: £nil). Subsequent to the year end any outstanding amounts have been settled.

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 £195,166 (2020: £183,337).

d) Controlling party

Throughout the year, the GCRA was under the control of the Members acting in concert. In the opinion of the Members there is no controlling party as no party has the ability to direct the financial and operating policies of the GCRA with a view to gaining economic benefit from their direction.

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 DECEMBER 2021

10. CHANGE IN ACCOUNTING POLICY

As a result of the dissolution of CICRA in June 2020 the Board took the opportunity to review the accounting policies adopted by the Authority. The Board decided to change the accounting policy relating to the deferral of income.

Previously, fee income was recognised in the same period as the related expenditure and any income that was in excess of expenditure was deferred to the next financial period. Due to the change in accounting policy, the fees are no longer deferred and are recognised in the financial period to which they relate. The change in accounting policy has been applied retrospectively. A summary of the impact of the changes is included in note 7 and in the tables below:

Reconciliation of retained reserve	At 1 January 2021 £	At 31 December 2021 £
Retained reserve (as previously stated)	200,002	200,003
Reversal of deferred income	221,059	237,800
Retained reserve (as restated)	421,061	437,803

Reconciliation of surplus or loss	Year ended 31 December 2021 £
Surplus for the year (as previously stated)	1
Reversal of deferred income	16,741
Surplus for the year (as restated)	16,742



GUERNSEY
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Guernsey Legal Aid Service – 2021 Annual Report



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St Peter Port GY1 3WH

This Report covers the period 1st January 2021 to 31st December 2021

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GUERNSEY LEGAL AID SERVICE ANNUAL REPORT 2021

Introduction

The principal purpose of the Legal Aid (Bailiwick of Guernsey) Law 2003 is: -

“For the efficient provision (at reasonable cost to the States, the States of Alderney, the Chief Pleas of Sark, and any other provider of financial assistance under this law) of legal assistance throughout the Bailiwick with a view, when the interests of justice so require, to helping persons who might otherwise be unable to obtain that assistance on account of their means.”

Legal Aid provides access to free or reduced cost legal advice in criminal and civil cases arising in the Bailiwick of Guernsey (i.e. the Islands of Guernsey, Alderney, Herm and Sark) for those who cannot otherwise afford an Advocate.

The Guernsey Legal Aid Service is the office that administers the Legal Aid schemes under the direction of the Legal Aid Administrator.

The Legal Aid Administrator is an independent statutory official appointed by the States of Guernsey on a five year term basis. She has full discretion to grant or refuse Legal Aid within the terms of the scheme which the States prescribes.

Background and Governance

The Guernsey Legal Aid Service (“GLAS”) came into existence on 1st September 2001, at first offering assistance in criminal matters only, broadly modelled on the voluntary scheme already in operation.

The Legal Aid Administrator (“the Administrator”) was appointed by the then Advisory and Finance Committee to bring the schemes into effect on an extra-statutory basis.

The scheme for assistance with civil matters commenced on 1st January 2002. There had been no previous voluntary scheme in place.

It was recognised from the outset that it would take some time to develop this new and potentially complex service, to establish and refine procedures, set up an office, negotiate arrangements with the Guernsey Bar and, in particular, to take account of constantly evolving legislation which would have an impact on the service and its scope. Accordingly, it was decided to initially operate the schemes for civil and criminal legal aid on an extra-statutory basis, pending development and review of the schemes and the subsequent drafting and States’ approval of the Ordinance.

The Legal Aid (Bailiwick of Guernsey) Law 2003 (“The Legal Aid Law”) was brought into effect in 2005 and the Legal Aid (Guernsey and Alderney) (Schemes and Miscellaneous Provisions) Ordinance 2018 (“the Ordinance”) on 1st January 2019 which set up the various Statutory Schemes. As Sark was undertaking a general review, it was decided that the Ordinance should not extend to Sark at that time which, as a consequence remains extra –statutory.

Since May 2016, the responsibility for political oversight of legal aid has fallen within the mandate of the Committee for Employment and Social Security, having transferred from the Policy Council.

The Ordinance also created the Office of the Legal Aid Commissioner who, when requested, reviews the decisions of the Administrator.

There is a legislative requirement to produce an annual report since the Legal Aid Law came into effect but in practice it was accepted that these would not be prepared as the Administrator had no schemes to administer until the Ordinance was implemented on 1st January 2019.

The Legal Aid Office and Staffing

In 2021, the Legal Aid Office was located at New Jetty, White Rock, St Peter Port, Guernsey.

There were 5 full time members of Staff:

Legal Aid Administrator

Deputy Legal Aid Administrator

Administration & Finance Manager

Senior Executive Officer

Executive Assistant

The Deputy Legal Aid Administrator took maternity leave from March to November 2021, but a replacement Deputy covered for this period limited to working 20 hours a week as opposed to full time.

Legal Aid Schemes

Under the Ordinance, three main Legal Aid Schemes were established, each specified by Rules of the Committee which came into effect on 1st November 2019:

- **The Legal Aid, Advice and Assistance Scheme – “the Green Form Scheme”**
- **The Criminal Legal Aid Scheme**
- **The Civil Legal Aid Scheme**

The legal matters that are funded by GLAS are categorised into two areas: Civil and Criminal.

Civil matters: The civil scheme covers such areas as:

- private law family matters such as the future arrangements for the children where parents have separated – primarily applications made under Section 17 of The Children (Guernsey and Alderney) Law 2008 - divorce and ancillary relief proceedings
- public law proceedings (children being removed from the care of their parents)
- affiliation & maintenance proceedings when supported by Employment and Social Security
- personal injury and medical negligence claims
- confiscation proceedings relating to proceeds of crime and drug trafficking
- appeals to the Mental Health Review Tribunal
- evidential hearings arising from the Child Youth and Community Tribunal (“CYCT”) and in exceptional circumstances legal representation at the CYCT.

Criminal matters: The criminal scheme provides free legal advice from a Duty Advocate for anyone who has been detained by the Guernsey Police or Guernsey Border Agency or any person attending the police/border agency as a volunteer in respect of a matter for which they could otherwise be arrested. Apart from in the Royal Court and the Traffic Court, the Duty Advocate is also available at Court to provide assistance and representation for defendants who have been charged and who have not yet instructed their own Advocate.

The scheme also provides funding under a full legal aid certificate for certain criminal proceedings that meet the legal merits criteria. Some matters (e.g. minor motoring offences) are excluded from receiving legal aid for representation in court unless the applicant is unable to conduct their own defence due to language difficulties, mental/physical disability or other.

The Green Form Scheme: This provides applicants up to 2 hours advice and assistance for both criminal and civil matters. The Legal Aid Rules set out those legal matters that are generally included and excluded from the Scheme.

Eligibility for Green Form and other legal aid services is subject to the financial eligibility criteria. Financial eligibility is assessed by the Advocate at their office. There are no such criteria for the Duty Advocate advice, public law proceedings and appeals to the Mental Health Tribunal, which are provided at no charge to the individual.

For the services where the financial eligibility criteria applies, some applicants may be required to pay a contribution towards their costs and should any applicant recover or preserve assets in proceedings, they are required to reimburse GLAS all their costs in full.

In terms of Alderney, there are special arrangements with specific Guernsey Law Firms for the provision of legally aided services in Alderney including a Duty Advocate.

How the Legal Aid Process Works

An applicant who requires legal advice and assistance will initially see their Advocate under a 2 hour Green Form. The Advocate's office assesses whether the applicant is financially eligible for Green Form advice. If the Advocate is of the opinion that an application for a full legal aid certificate (which most commonly funds court proceedings) they will submit an application to GLAS.

When an application for a legal aid certificate is submitted to GLAS via the applicant's Advocate, the financial eligibility of the applicant is firstly assessed by the Senior Executive Officer or Executive Assistant. Financial assessment is undertaken over a period of 13 weeks prior to the date of the application. The applicant is required to produce evidence of all sources of income, capital, bank statements and evidence of rent/mortgage payments. If an applicant is in receipt of Income Support, they are automatically financially eligible for legal aid. The file is then passed onto the Administrator or Deputy Administrator to check the financial eligibility assessment and to determine whether the application meets the legal merits criteria. If both criteria are met a Legal Aid Certificate is granted. Some applications involve very complex issues. Others do not meet the legal merits criteria (or the applicant is financially ineligible) and are refused.

If an application is refused because it does not meet the legal merits criteria, an Applicant can request the matter be referred to the Legal Aid Commissioner for a review of that decision.

Once a Legal Aid Certificate is granted, it continues to be monitored by GLAS. Should an applicant's financial circumstances change, they are reassessed to determine continued eligibility. In addition, for civil legal aid certificates, an Advocate can only undertake work within the limit authorised by GLAS. Any request for additional time needs to be justified by the Advocate and approved by GLAS. Any intended disbursements over £100 also require prior approval by GLAS.

At the conclusion of the case that is being funded under a legal aid certificate, the Advocate submits their files to GLAS to undertake the process of taxation. This is an assessment of the reasonableness of the costs claimed by the Advocate throughout the court proceedings (or matter that is being funded) to ensure they are correctly claimed and in accordance with the costs criteria laid down. Most cases are taxed by GLAS but large cases are sent to the UK to be assessed by a Costs Draftsman.

An agreement/compromise is usually reached with the Advocate as to the level of reductions but in the event the matter cannot be agreed, it is referred to the Costs

Judge for Taxation on the Papers. If matters are still not agreed, an Oral Taxation Hearing is requested.

Administrator's Comments

This is the third annual report of the Guernsey Legal Aid Service which covers the period 1st January 2021 to 31st December 2021.

GLAS expenditure comprises a fixed Administration budget and a formula led budget. Formula led means that, whilst there is a budget based on reasonable predictions and other criteria, legal aid continues to be granted even if that budget has been exceeded, as is consistent with the interests of justice.

As with 2020 there continued to be an overall underspend in 2021, amounting to £847,000 for formula led expenditure compared to the budget. This is broken down to an underspend of £654,000 for civil expenditure (as opposed to a £322,000 underspend in 2020) and £193,000 for criminal expenditure (as opposed to a £127,000 underspend in 2020).

Whilst it is difficult to pinpoint all reasons for the underspend, the main cause is the covid pandemic over a 2 year period involving periods of lockdown. This impacted on the progression of court proceedings which had an effect on reducing the level of Advocate's and expert's costs. The main areas to note are:

Criminal matters – as previously reported in 2020, we received an increase in applications to fund drug related proceedings. Compared with 2019, when we processed 37 applications, these increased in 2020 to 56 and in 2021 this level was maintained at 53. Whilst our overall expenditure was under budget, our expenditure for drugs related matters was overspent at £214K for Guernsey matters against a budget of £178,000 whereas our expenditure for non- drug related matters remained static.

Civil matters – historically the areas that have resulted in the highest demand on civil expenditure have been family law proceedings in the Domestic Proceedings Magistrates Court (DPMC) and Royal Court and Public Law Children proceedings in the Juvenile Court.

Whilst in previous years, these areas have been consistently over budget, for both 2020 and 2021 they were under budget:

- a) DPMC matters - 2021 expenditure (i.e. legal costs plus disbursements) of £580,000 against a budget of £776,000 resulting in an underspend of £196,000. This is compared with 2020 expenditure of £632,000 against a budget of £646,000 resulting in an underspend of £14,000.
- b) Royal Court matters – 2021 expenditure of £237,000 against a budget of £325,000 resulting in an underspend of £88,000 compared with 2020 expenditure of £245,000 against a budget of £315,000 resulting in an underspend of £70,000.
- c) Children Public Law matters – 2021 expenditure of £128,000 against a budget of £300,000 resulting in an underspend of £172,000 compared with 2020

expenditure of £319,000 against a budget of £330,000 resulting in an underspend of £11,000.

The numbers of applications processed in 2021 for DPMC and Royal Court matters dropped from 2020 which would explain the reduced expenditure for 2021 but in addition, because these court proceedings usually continue into the following year or longer, the reduction in applications received in 2020 and the fact that court proceedings could not progress during the 2 year pandemic as quickly as before has had a knock on effect on 2021 expenditure, hence the large underspend in 2021.

Experts – a large majority of expenditure on disbursements is made up of UK experts fees i.e. their professional fees plus travel and accommodation costs. As with 2020, very few experts could or were willing to travel to Guernsey to undertake assessments during the pandemic and consequently, we were not funding their travel and accommodation costs, only professional fees if assessments could be undertaken remotely. It was only towards the end of 2021 that we began to see them visiting the Island again.

Commissioner's Review of Legal Aid Administrator's decision - One matter was referred to the Legal Aid Commissioner for a review in 2021 who upheld our initial decision to refuse legal aid funding in those particular circumstances.

Taxation of Advocate's costs - whilst this continues to be personnel intensive, it remains an important process and helps to ensure the taxpayer receives value for money. All costs and disbursements incurred by Advocates under Legal Aid Certificates are taxed by us. This process is usually undertaken by the Deputy Legal Aid Administrator. In 2021, the net reductions in costs claimed by Advocates overall amounted to approximately £59,087.00. This figure is less than in previous years owing to the Deputy Legal Aid Administrator taking maternity leave and her replacement working reduced hours which resulted in less matters taxed overall in 2021. This does not mean that any matters missed the taxation process but resulted instead in a larger than usual backlog of matters for taxation at the beginning of 2022.

Costs Judge/Taxation on the Papers - No taxations disputes were referred to the Costs Judge in 2021.

Generally in 2021:

Covid -As with the 2020 lockdown period the 2021 lockdown continued to bring its various challenges, but the Legal Aid office at the New Jetty remained open throughout with staff on a rota so as to ensure social distancing requirements were met.

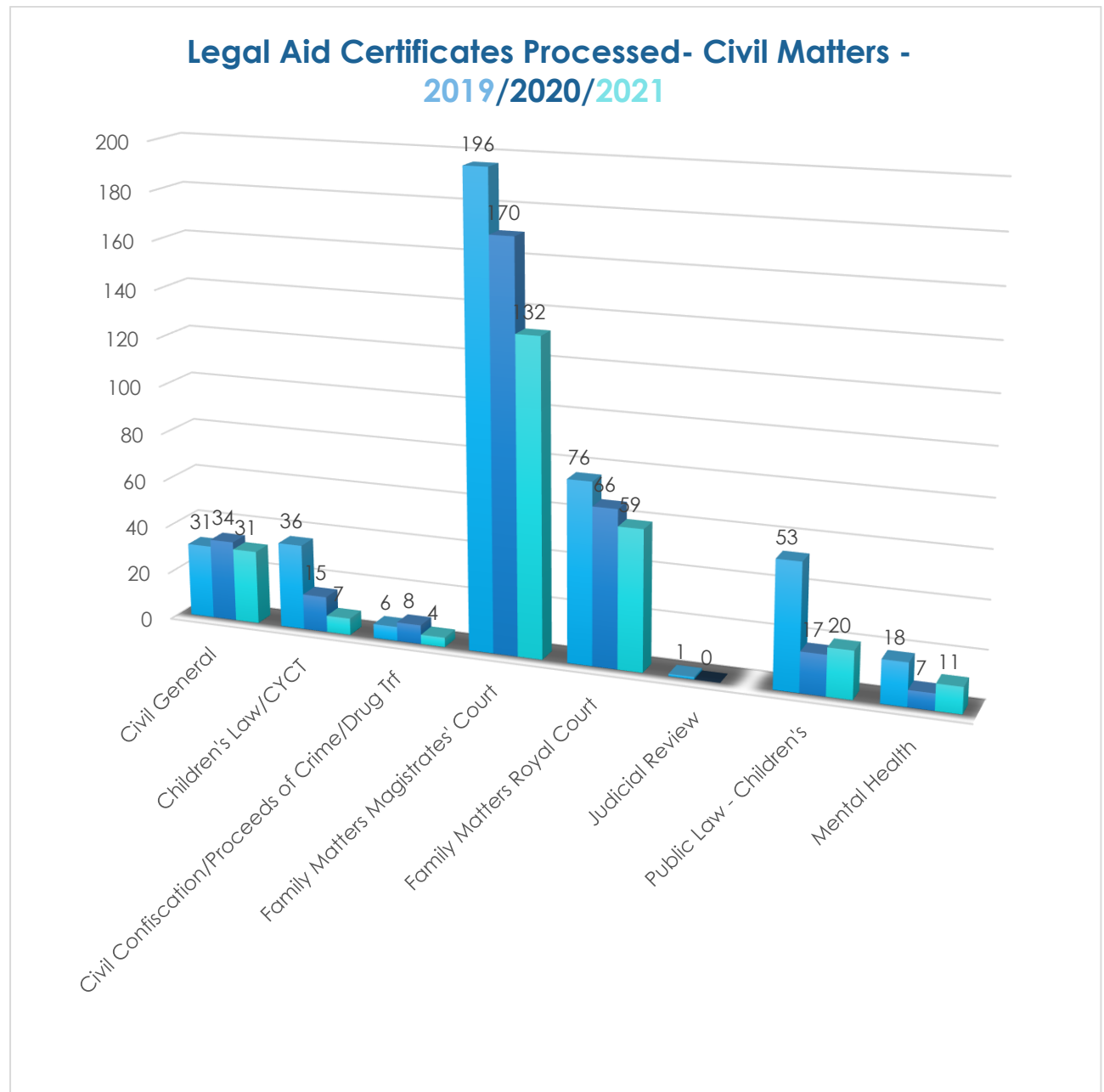
Website – the covid pandemic and other matters taking priority has continued to a delay our website going live but we expect this now to be up and running in the Autumn of 2022.

Legal Aid Review – The Committee for Employment & Social Security intends to commission a review of Legal Aid. The review is expected to get underway in Q4 2022.

Summary of applications in 2021

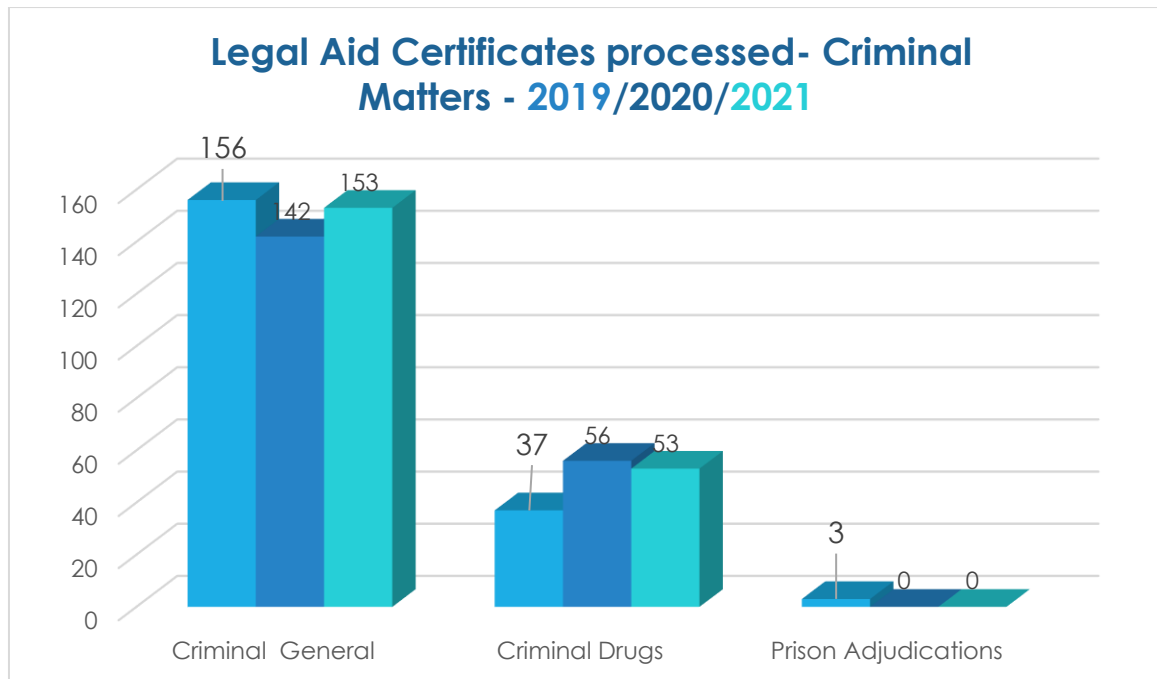
Civil Matters

During 2021 the Guernsey Legal Aid Service processed 264 Civil applications, compared with 417 in 2019 and 317 in 2020. The graph below breakdowns the various types of applications that were processed.



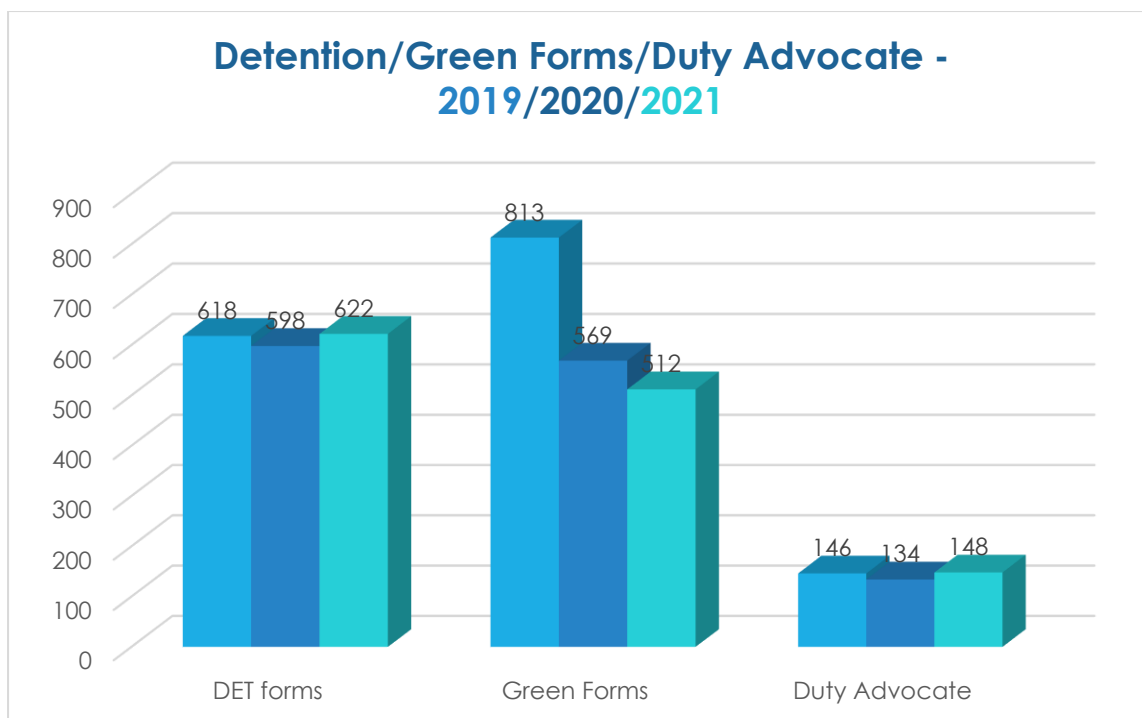
Criminal Matters

During 2021, 206 Criminal applications were processed, compared with 196 in 2019 and 198 in 2020.



Green Forms/Detention Forms and Duty Advocate Invoices

Funding was also provided for 622 Detention forms (where an individual has been detained by the Police or Border Agency and receives free legal advice from the Duty Advocate) in 2021 compared to 618 in 2019 and 598 in 2020. In addition, 512 Green Form cases (in respect of both civil and criminal matters) and 148 Duty Advocate invoices for representation at Court (an individual appearing in court unrepresented in most cases can use the Duty Advocate to assist them) were funded in 2021 compared with 813 in 2019 and 569 in 2020 Green Forms and 146 in 2019 and 134 in 2020 Duty Advocate invoices.



Alderney and Sark

The Guernsey Legal Aid Service covers all the Bailiwick. The numbers of certificates approved in Alderney and Sark in 2019/2020 and 2021 were as follows:

	2019		2020		2021	
	Civil	Criminal	Civil	Criminal	Civil	Criminal
Alderney	0	6	6	9	4	3
Sark	0	0	3	0	2	1

Summary of Legal Aid Expenditure in 2021

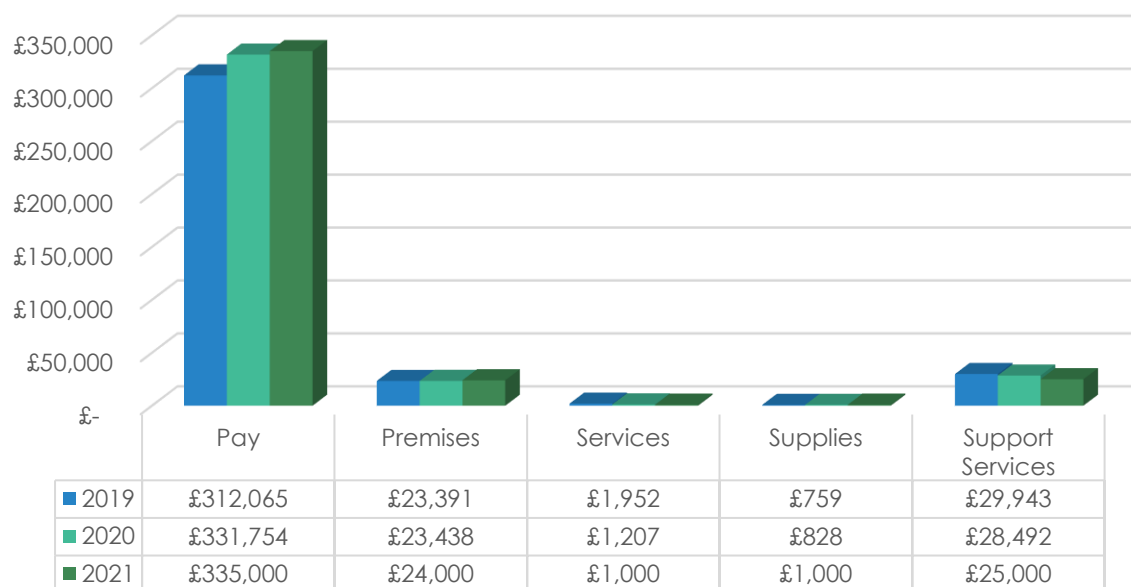
The cost of the Legal Aid Service in 2021 was £1,989,000 which was an **£853,000 underspend** against the budget of £2,842,000.

2021 Original Budget £'000s	2021 Total Authorised £'000s		2021 Actual £'000s	2020 Actual £'000s
		Formula-Led Expenditure:		
		Legal Aid		
		<i>Civil</i>		
1,630	1,630	<i>Legal</i>	976	1,299
		<i>Aid</i>		
		<i>Criminal</i>		
820	820	<i>Legal</i>	627	693
		<i>Aid</i>		
2,450	2,450		1,603	1,992
		Non-Formula-Led		
		Expenditure:		
386	392	Administration	386	386
2,836	2,842	Total Net Expenditure	1,989	2,378

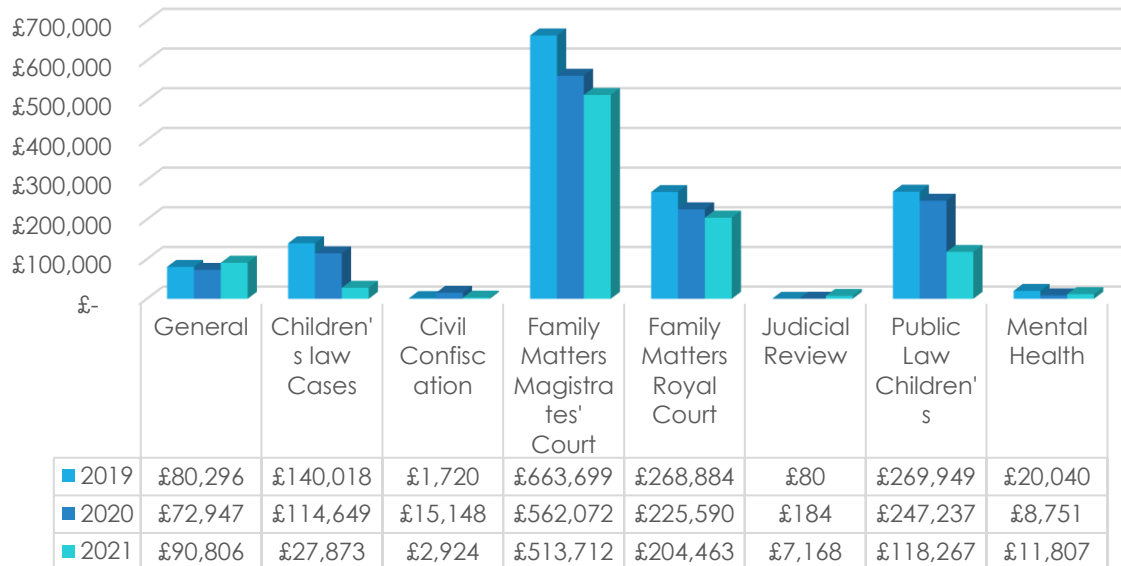
The budget is split into two discrete parts:

1. £392,000 covers the costs of running the Legal Aid office. Expenditure for 2021 was £386,000.
2. £2,450,000 relates to demand led expenditure i.e. the funding of legal fees for advocates (including disbursements such as court and experts fees) divided into:
 - a) 2021 Civil expenditure - £976,000 against a budget of £1,630,000.
 - b) 2021 Criminal expenditure - £627,000 against a budget of £820,000.

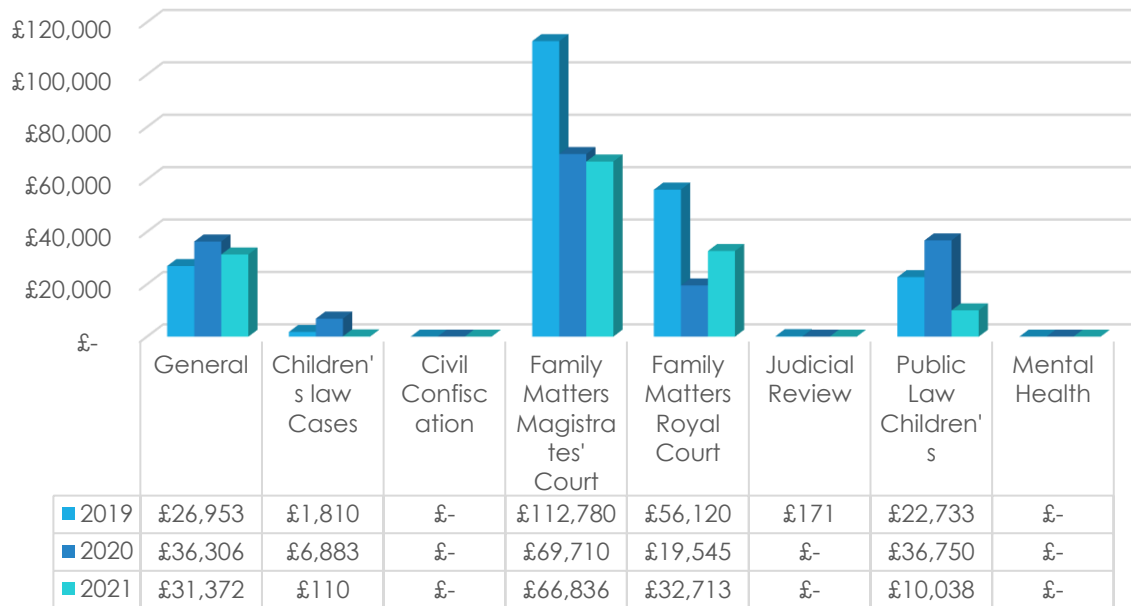
Administration Costs 2019/2020/2021



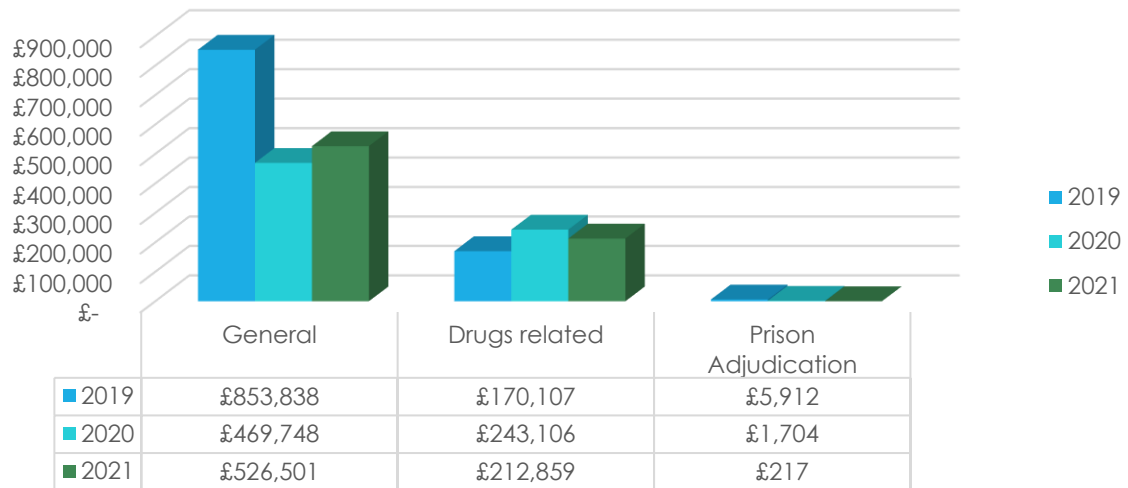
Civil Matters - Legal costs paid in 2019/2020/2021



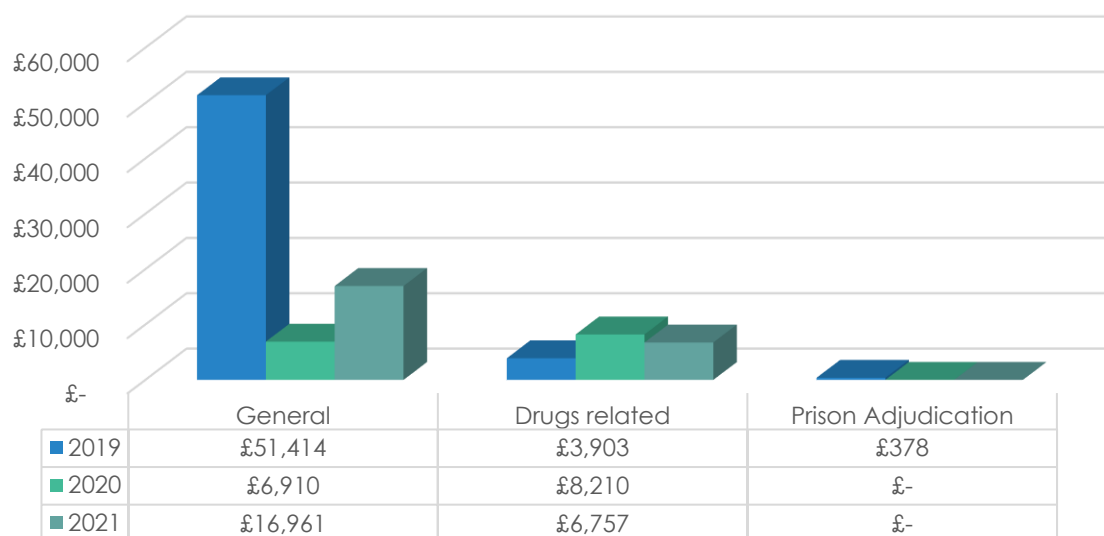
Civil Matters - Disbursements paid in 2019/2020/2021



Criminal Matters - Legal Costs paid in 2019/2020/2021



Criminal Matters - Disbursements paid in 2019/2020/2021



Due to the length of time it can take for court proceedings to conclude there is no particular correlation between the costs paid in 2021 and the number of Certificates granted in 2021. Some court proceedings last a few months, others a few years.

Debtors' balances across the Bailiwick

The net values of civil and criminal debtors as at 31 December 2021 are shown in the table below:

Legal Aid Debtors as at 31 December 2021		
	O/s Debt £'000s	no of Debtors
Civil		
Guernsey	181	71
Alderney	4	2
Sark	6	1
Criminal		
Guernsey	286	145
Alderney*	1	1
Sark	0	0
Total	478	220
* less than £1k		

Criminal – The majority of debtors make regular weekly or monthly payments towards their debt.

Civil - The majority of the civil debtors relate to civil Recover and Preserve matters i.e. where the assisted person has recovered or preserved assets at the conclusion of the court proceedings that have been funded by GLAS e.g. damages in personal injury cases or more commonly assets such as a share in the matrimonial home/a lump sum payment in Divorce cases. The assisted person is invoiced for the amount GLAS has paid under the Certificate and GLAS is either repaid soon afterwards from any share of the net proceeds of sale of the matrimonial home or a lump sum payment. However, if the only asset recovered is the matrimonial home and this is made subject to a Court Order requiring it to be sold once any children of the marriage reach 18 years or finish full time education, GLAS has to wait for the house to be sold, which may be some years ahead. In these circumstances, we expect the Debtor to commence reasonable monthly payments in order to reduce the debt leaving the balance to be repaid in full when the home is sold.

In terms of the reimbursement of legal aid costs from assets recovered/preserved in court proceedings – we received approximately £116,000 in 2021. These payments negated the requirement of invoicing the assisted person (hence they did not become debtors) and are reflected in the overall annual civil expenditure figure.

Our oldest criminal debts date from 2011 and our oldest civil debts date from 2007.

The net values of civil and criminal debtors as at 31 December 2020 and 2019 are shown in the tables below:

Legal Aid Debtors as at 31 December 2020		
	O/s Debt £'000s	no of Debtors
Civil		
Guernsey	187	74
Alderney	5	2
Sark	7	1
Criminal		
Guernsey	181	159
Alderney*	1	1
Sark	2	1
Total	383	238
* less than £1k		

Legal Aid Debtors as at 31 December 2019

	O/s Debt £'000s	no of Debtors
Civil		
Guernsey	235	79
Alderney	6	2
Sark	7	2
Criminal		
Guernsey	174	165
Alderney*	0	1
Sark	6	2
Total	428	251

* less than £1k

Lucy Haywood

Legal Aid Administrator

August 2022