



BILLET D'ÉTAT

WEDNESDAY, 24th NOVEMBER, 2021

XXIII
2021

LEGISLATIVE BUSINESS

Legislation laid before the States

The Customs and Excise (Safety and Security) (Bailiwick of Guernsey) (Amendment) (No. 2) Regulations, 2021
The Immigration (Bailiwick of Guernsey) (Amendment No. 2) Rules, 2021

Legislation for Approval

1. Committee *for* Employment & Social Security - The Social Insurance (Rates of Contributions and Benefits etc.) Ordinance, 2021, P.2021/110
2. Committee *for* Employment & Social Security - The Long-term Care Insurance (Guernsey) (Rates) Ordinance, 2021, P.2021/111

OTHER BUSINESS

3. Committee *for* Home Affairs - Legislation Relating to the Investigation of Economic Crime, P.2021/112
4. Committee *for* Home Affairs - Legislation Relating to Financial Crime and Related Matters, P.2021/113
5. Policy & Resources Committee - Schedule for Future States' Business, P.2021/114

CONTINUED OVERLEAF

APPENDIX REPORTS

1. Committee *for* Economic Development – Public Trustee Annual Report and Audited Accounts for the Year Ended 31 December 2020
2. States’ Assembly & Constitution Committee – States’ Members Induction and Ongoing Development Programme Review Report
3. Committee *for* Home Affairs – The Office of the Data Protection Authority – Annual Report 2020

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 24th November, 2021** 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

18th October, 2021

STATUTORY INSTRUMENTS LAID BEFORE THE STATES

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

No. 85 of 2021

THE CUSTOMS AND EXCISE (SAFETY AND SECURITY) (BAILIWICK OF GUERNSEY) (AMENDMENT) (NO. 2) REGULATIONS, 2021

In pursuance of sections 14D and 79 of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972, The Customs and Excise (Safety and Security) (Bailiwick of Guernsey) (Amendment) (No. 2) Regulations, 2021, made by the Committee for Home Affairs on 2nd August 2021, is laid before the States.

EXPLANATORY NOTE

These Regulations amend the Customs and Excise (Safety and Security) (Bailiwick of Guernsey) Regulations, 2020 to bring them into force on 3rd August 2021.

However, Part 1 (Imports) of those Regulations only applies to goods which are being imported into the Bailiwick from outside the Customs Territory, where they are imported directly into the Bailiwick from the European Union by air or sea, with effect from 1st January 2022.

These Regulations came into force on 3rd August 2021.

No. 106 of 2021

THE IMMIGRATION (BAILIWICK OF GUERNSEY) (AMENDMENT NO. 2) RULES, 2021

In pursuance of section 3(2) of the Immigration Act 1971 as extended to the Bailiwick by the Immigration (Guernsey) Order 1993, The Immigration (Bailiwick of Guernsey) (Amendment No. 2) Rules, 2021, made by the Committee for Home Affairs on 27th September 2021, is laid before the States.

EXPLANATORY NOTE

These Rules amend the Immigration (Bailiwick of Guernsey) Rules, 2008 to preclude the use of national identity cards as satisfactory proof of identity and nationality, except in the case of British citizens of Gibraltar, or of nationals of European Economic Area countries or Switzerland who hold or are applying for certain types of immigration status.

These Rules will come into force on the 1st October 2021.

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, 2021**

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, 2021", and to direct that the same shall have effect as an Ordinance of the States.

EXPLANATORY MEMORANDUM

Section 1 of the Ordinance amends section 8(4) of the Social Insurance (Guernsey) Law, 1978 to change the formula for calculating voluntary class 3 social insurance contributions, so that the figure is aligned with the minimum weekly amount payable by a non-employed person under pension age. This was necessary to avoid a situation where the current means of calculating the rate in section 8(4), as a result of the changes approved in 2019 to the allocations of social insurance contributions into the various funds and the proposed increases in the rates, would have resulted in an inappropriately high figure for the voluntary contribution for non-employed persons.

This Ordinance sets the percentage contribution rates of Class 1 to 3 social insurance contributions for 2022. The rates of contributions into the Guernsey Insurance Fund are increased by 0.1% for employers and employees and by 0.2% for self-employed and non-employed persons under pension age. The rates of contributions into the Long-term Care Insurance Fund are increased by 0.1% for employees, self-employed persons and non-employed persons under and over pension age.

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 set out in the First Schedule. All limits and benefits are increased by 2.4%. The Ordinance prescribes the percentages for the Guernsey Health Service Allocation and the Long-term Care Insurance Fund Allocation which have been adjusted to reflect the changes that were approved by the States in June, 2019, following the debate on health care funding, with further adjustments to reflect increases in contribution rates proposed for 2022. All provisions set rates and benefits for 2022 under the Social Insurance (Guernsey) Law, 1978.

As well as the usual repeal of last year's rates Ordinance and another Ordinance where all of the provisions are superseded or spent, the Ordinance also repeals a 2016 Ordinance as the only part of it still in force will not be required from 1st January, 2022 as it relates to the setting of the percentage by reference to which the States' grant into

the Guernsey Insurance Fund is calculated. The States resolved in June, 2019 that no grant be paid to the Guernsey Insurance Fund and the relevant section in the Social Insurance Law relating to the grant will be repealed when the Health Service Benefit (Amendment and Miscellaneous Provisions) (Guernsey) Law, 2021 comes into force which is planned to be 1st January, 2022.

The benefit rates are increased from 3rd January, 2022 and the rest of the Ordinance comes into force on the 1st January, 2022.

The Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2021

THE STATES, in pursuance of their Resolutions of the 13th June, 2019^a and the ** October, 2021^b, and in exercise of the powers conferred upon them by sections 5, 6, 8, 11A, 17(2), 19, 48(2), 49(4), 61, 101, 101A, 115A and 116 of the Social Insurance (Guernsey) Law, 1978^c, and all other powers enabling them in that behalf, hereby order:-

Amendment of the Social Insurance (Guernsey) Law, 1978.

1. (1) Section 8 (Class 3 contributions payable by non-employed persons) of the Law is amended as follows.

(2) In subsection (4), for all the words after the second reference to "a Class 3 contribution" to the end of the subsection, substitute -

^a Article VII of Billet d'État No. X of 2019.

^b Article ** of Billet d'État No. ** of 2021.

^c Ordres en Conseil Vol. XXVI, p. 292; amended by Ordres en Conseil Vol. XXVII, pp. 238, 307 and 392; Vol. XXIX, pp. 24, 148 and 422; Vol XXXI, p. 278; Vol. XXXII, p. 59; Vol. XXXIV, p. 510; Vol. XXXV(1), p. 161; Vol. XXXVI, pp. 123 and 343; Vol. XXXVIII, p. 59; Vol. XXXIX, p. 107; Order in Council No. X of 2000; No. IX of 2001; No. XXIII of 2002; No. XXIV of 2003; No. XI of 2004; No. XVIII of 2007; No. V of 2012; No. IV of 2014; No. III of 2016; No. IV of 2018 and No. XIII of 2019; Recueil d'Ordonnances Vol. XXV, p. 148; Vol XXVI, p. 177; Ordinance No. XXXIII of 2003; No. XLIV of 2007; Nos. VII and XLII of 2009; No. XVII of 2011; No. XXXVIII of 2012; No. XXX of 2013; Nos. IX, XXX and XLI of 2016; Nos. XIII and XXIII of 2017; No. XXVII of 2018; No. XXXVI of 2019; No. XVI of 2020; No. V of 2021; No. XXVII of 2021; Alderney Ordinance No. VIII of 2018; and prospectively amended by the Health Service (Amendment and Miscellaneous Provisions) (Guernsey) Law, 2021.

"of an amount equal to the minimum weekly amount payable by a non-employed person determined in accordance with the following formula:

$$A = \frac{(L - C) \times D}{52}$$

52

where –

"A" is the amount of the contribution (hereinafter called a "**voluntary Class 3 contribution**"),

"L" is such lower annual income limit for non-employed persons as is determined under subsection (6A),

"C" is the Class 3 income allowance, and

"D" is the Class 3 rate."

(3) After subsection (6) insert -

"(6A) The States shall from time to time by Ordinance determine the lower annual income limit applicable to non-employed persons."

Percentage rates of primary and secondary Class 1 contributions.

2. For the purposes of the Law -

(a) the percentage rate of a primary Class 1 contribution shall be 6.8%, and

- (b) the percentage rate of a secondary Class 1 contribution shall be 6.7%.

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

3. For the purposes of the Law -

- (a) the upper weekly earnings limit for primary and secondary Class 1 contributions shall be £3,027, and
- (b) the upper monthly earnings limit for primary and secondary Class 1 contributions shall be £13,117.

Lower income limit.

4. For the purposes of the Law, the lower income limit for Class 3 contributions shall be £19,760 per annum.

Percentage rate and amount of Class 2 contributions.

5. 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, 11.3%, 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, £114.37 per week.

Percentage rates and amount of Class 3 contributions.

6. (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, £22.34 per week,
- (b) the percentage rates of a Class 3 contribution shall be -
 - (i) in respect of a person who has attained pensionable age, 3.5%, and
 - (ii) in respect of all other persons, 10.7%, 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, £103.45 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.

7. For the purposes of the Law, the amount of the Class 3 income allowance shall be £8,904.

Rates and amounts of benefits.

8. (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.

9. 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.

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

(Amendment) Ordinance, 2007^d, the Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2016^e and the Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2020^f are repealed.

Interpretation.

11. In this Ordinance –

"**the Law**" means the Social Insurance (Guernsey) Law, 1978, and

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

Citation.

12. This Ordinance may be cited as the Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2021.

Extent.

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

Commencement.

14. (1) Section 8 of this Ordinance shall come into force on the 3rd January, 2022.

^d Ordinance No. XLIV of 2007; as amended by Ordinance No. XLVI of 2008.

^e Ordinance No. XLI of 2016; amended by Ordinance No. XXXIV of 2017.

^f Ordinance No. XXXIX of 2020.

(2) All other sections of this Ordinance shall come into force on the 1st January, 2022.

FIRST SCHEDULE

Section 8

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 | £172.13 | Nil |
| 2. Incapacity benefit | £206.78 | Nil |
| 3. Maternal health allowance | £234.29 | |
| 4. Newborn care allowance | £234.29 | |
| 5. Parental allowance | £234.29 | |
| 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 | £117.14 £233.85 | - £117.14 |
| 7. Sickness benefit | £172.13 | Nil |
| 8. Unemployment benefit | £172.13 | Nil |
| 9. Widowed parent's allowance | £245.92 | - |
| 10. Widow's pension/Bereavement allowance | £211.46 | - |

PART II

Industrial disablement benefit

| Degree of disablement | Weekly rate |
|-----------------------|-------------|
| 100% | £188.45 |
| 90% | £169.60 |
| 80% | £150.76 |
| 70% | £131.92 |
| 60% | £113.07 |
| 50% | £94.22 |
| 40% | £75.38 |
| 30% | £56.54 |
| 20% | £37.69 |

PART III

Death grant, maternity grant, adoption grant and bereavement payment

| Description of grant | Amount |
|------------------------|--------|
| 1. Death grant | £673 |
| 2. Maternity grant | £431 |
| 3. Adoption grant | £431 |
| 4. Bereavement payment | £2,124 |

SECOND SCHEDULE

Section 9

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 (6.8%) | 27.21% | 27.94% |
| Class 1 secondary contributions (6.7%) | Nil | Nil |
| Class 2 contributions paid in respect of overseas voluntary contributors | Nil | Nil |
| Class 2 contributions other than those referred to above (11.3%) | 16.37% | 16.81% |
| Class 3 contributions paid in respect of voluntary contributors (6.8%) | Nil | Nil |
| Class 3 contributions paid in respect of overseas voluntary contributors | Nil | Nil |
| Class 3 contributions paid by persons over pensionable age (3.5%) | 37.14% | 62.86% |
| Class 3 contributions other than those referred to above (10.7%) | 17.76% | 18.69% |

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

THE LONG-TERM CARE INSURANCE (GUERNSEY) (RATES) ORDINANCE, 2021

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, 2021", 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 3rd January, 2022. The long-term care benefit rates are increased by 2.3%. The weekly contribution or co-payment is increased in line with proposed six-monthly increments adjusted in accordance with the June, 2021 RPIX figure of 2.3%.

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

Ordinance, 2021

THE STATES, in pursuance of their Resolutions of the ** October 2021^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) £532.98, or
 - (ii) where also receiving EMI care, £696.64, and
 - (b) for persons resident in a nursing home or the Guernsey Cheshire Home, £961.59.
- (2) The maximum weekly rates of respite care benefit shall be -
 - (a) for persons receiving respite care in a residential home-

^a Article ** of Billet d'État No. ** of 2021.

^b Order in Council No. XXIII of 2002; amended by Order in Council No. IV of 2014; Ordinance No. XXXIII of 2003; No. XLII of 2007; No. IX of 2016; and No. XXVII of 2021.

(i) £789.81 or

(ii) where also receiving EMI care, £953.47, and

(b) for persons receiving respite care in a nursing home or the Guernsey Cheshire Home, £1,218.42.

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 £256.83.

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.

Repeal.

4. The Long-term Care Insurance (Guernsey) (Rates) Ordinance, 2020^d and the Long-term Care Insurance (Guernsey) (Rates) (Amendment) Ordinance, 2021^e are repealed.

Citation.

5. This Ordinance may be cited as the Long-term Care Insurance (Guernsey) (Rates) Ordinance, 2021.

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 3rd January, 2022.

^c Ordres en Conseil Vol. XXVI, p. 71; amended by Ordres en Conseil Vol. XXXI, p. 278; Order in Council No. VI of 2007; Ordinance No. XXXIII of 2003; and No. IX of 2016.

^d Ordinance No. XXXII of 2020.

^e Ordinance No. XXIII of 2021.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE FOR HOME AFFAIRS

LEGISLATION RELATING TO THE INVESTIGATION OF ECONOMIC CRIME

The States are asked to decide:-

Whether, after consideration of the Policy Letter entitled “Legislation Relating to the Investigation of Economic Crime”, dated 27th September 2021, they are of the opinion:-

1. To agree to introduce legislation to create a statutory office of Director of the Economic and Financial Crime Bureau as described in section 4 of the Policy Letter;

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

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE FOR HOME AFFAIRS

LEGISLATION RELATING TO THE INVESTIGATION OF ECONOMIC CRIME

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

27th September 2021

Dear Sir

1 Executive Summary

- 1.1 The purpose of this Policy letter is to recommend that legislation be introduced to create a statutory office of Director of the Economic and Financial Crime Bureau (EFCB), a new specialist investigative organisation.
- 1.2 These proposals follow recent discussions between the Bailiwick authorities about enhancing the jurisdiction's investigative capacity in respect of money laundering, terrorist financing and other forms of economic crime.

2 Background

- 2.1 The work leading up to the publication in 2020 of the Bailiwick's assessment of its money laundering and terrorist financing risks (informally known as the national risk assessment), together with other reviews of the criminal justice system, demonstrated the need for structural changes to the Bailiwick's regime for investigating economic crime and related matters such as tracing criminal proceeds. As a result, discussions took place between the Law Officers, the Head of Law Enforcement and officers from the Policy & Resources Committee and the Committee *for* Home Affairs ("the Committee"), who together form the Economic Crime Project Board, about the form that these changes should take. Following these discussions, the Committee has received advice from Her Majesty's Comptroller (HMC) as to the options for taking this forward from a legal perspective.
- 2.2 It has already been agreed that a new organisation, the EFCB, would be created to exercise specialist investigatory functions in relation to acquisitive economic

crime, tax evasion and money laundering (primarily relating to criminal proceeds generated outside the Bailiwick), terrorist financing, and the financing of the proliferation of weapons of mass destruction and other breaches of international financial sanctions. The EFCB has now been established by the Committee on an administrative basis. It has responsibility for the detection and investigation of the offences listed above (and related financial investigations to trace criminal proceeds), and for preparing cases to be taken forward as prosecutions and confiscation or as applications for civil forfeiture. The EFCB has taken over these responsibilities from the divisions of the Guernsey Border Agency (GBA) where they previously resided, namely the Economic Crime Division and the International Cooperation and Asset Recovery Team. Recruitment is ongoing but when fully staffed, the EFCB will comprise teams of financial investigators, supported by in-house lawyers and others exercising technical functions such as forensic accountants. A highly experienced investigator who previously worked at Board level at the UK's Serious Fraud Office has been appointed as its first Director. These changes have been made to enable the EFCB to become operational as quickly as possible, given the need to demonstrate that progress has been made in this area for the purposes of Moneyval's forthcoming evaluation of the Bailiwick.

3 Legal recognition of the EFCB

- 3.1 The component parts of Guernsey's Law Enforcement services, such as the Economic Crime Division, the Joint Emergency Services Control Centre, Trading Standards and the Financial Intelligence Service, are established by way of simple administrative arrangement. It would also be possible for the EFCB to continue to operate on the basis of the administrative changes that have been made to the allocation of Law Enforcement resources. However, this would be undesirable, because there would be a lack of clarity around the legal basis on which the EFCB was purporting to exercise investigatory powers and no legally enforceable way to maintain or protect its resources. These matters are perceived to affect its ability to discharge its functions effectively and its operational independence.
- 3.2 In order to alleviate any concerns in relation to the above matters, HMC has suggested that legislation should be enacted to provide a legal basis for the activities of the EFCB. This would have the additional advantage of making an unambiguous statement to parties both within and outside the jurisdiction of the Bailiwick's commitment to enhancing its capacity to investigate economic crime.
- 3.3 One way to provide this legal basis would be to establish the EFCB as a statutory agency with legal personality and its own dedicated powers and functions, along the lines of bodies such as the Guernsey Financial Services Commission. However, this would mean that the EFCB would be responsible for dealing with infrastructure matters such as premises and IT services, as well as human

resources and data protection issues. Dealing with such matters would inevitably mean a delay in the EFCB becoming operational, and it would also make considerable demands on the time and attention of the Director at the expense of operational matters.

- 3.4 A second option would be the creation of a statutory office of Director of the EFCB, the holder of which would hold the power to conduct investigations, appoint staff or take any other steps necessary to ensure the effective functioning of the EFCB. The EFCB itself would continue to be established administratively under the auspices of the Committee but would be operationally independent. The EFCB's status within the existing States of Guernsey structure would enable access to government resources for dealing with infrastructure issues. While this would be a less comprehensive way to recognise the EFCB in law than the creation of a statutory agency, it would be similar to the position of some other important bodies such as the GBA or the Revenue Service, which are non-statutory organisations whose staff are employees of the States of Guernsey but which are headed by a statutory office holder with the powers necessary for the organisations to discharge their respective functions.

4 Recommendation

- 4.1 Given the need for swift action, HMC recommends the second option outlined above, that is, the introduction of legislation to create a statutory office of Director of the EFCB, to which appointment and removal would be made by the Committee. This will allow matters to be taken forward quickly, and consideration can be given in the longer term to putting the EFCB on a full statutory footing in the future.
- 4.2 The legislation will need to ensure that the investigatory powers across the legal framework which are used for investigating economic crime, and which are currently exercisable by police and customs officers, are available to members of the EFCB. The easiest way to address this is for the legislation to specify that the Director, and persons working at the EFCB who have been designated by the Director, may exercise investigative powers under specific enactments. It should however be made clear that this would be without prejudice to the ability of police officers and customs officers to investigate economic crime or to exercise those powers. The legislation should enable the Committee to amend the list of enactments by regulation, to ensure that if any powers have been inadvertently overlooked, this can be swiftly remedied. At the same time, there should be amendments to other aspects of the legal framework (for example to the Regulation of Investigatory Powers (Bailiwick of Guernsey) Law, 2003) as necessary to ensure that all necessary powers and safeguards are applicable to the operations of the EFCB.

- 4.3 The exercise of investigatory powers by members of the EFCB would be subject to the same oversight and disciplinary measures as those applicable to other employees of the States of Guernsey (including members of the Revenue Service, who are also States' employees and exercise investigatory powers). It would however also be advisable for the avoidance of doubt to specify that a person exercising those powers does not come within the disciplinary processes applicable to a police officer or customs officer (except for persons working for the EFCB on secondment from the Guernsey police or the GBA, who will remain subject to the oversight and disciplinary measures attaching to their employment status within those organisations).
- 4.4 The legislation will also need to provide for some basic administrative and operational matters. These would include the obligation of the States to fund the operation of the office, the exclusion of liability except where the office holder is not acting in good faith, payment of a salary, delegation of functions, a power to appoint Deputy Directors, service of documents on the Director and proof of documents issued by or on behalf of the Director. The provisions of the relevant legislation would not be unlike some of those in the Public Trustee (Bailiwick of Guernsey) Law, 2002. However, the provisions related to financial provision would not need to be replicated as the office and its operations would be funded as part of the Committee's budget. To clarify, these administrative provisions will be set in accordance with States appointments and budget procedures and practices.

5 Financial Intelligence

- 5.1 The Bailiwick's Financial Intelligence Unit (FIU), i.e. the competent authority with regard to the receipt and analysis of financial intelligence as required by international standards, is the Financial Intelligence Service which is a division of the GBA. The effect of this is that, while operationally independent, the head of the FIU reports to the Head of Law Enforcement. One of the reasons for locating the FIU within the GBA was to facilitate the provision of financial intelligence to the arm of the GBA charged with investigating economic crime. With the creation of the EFCB, much of the rationale for locating the FIU within the GBA falls away, and the sharing of financial intelligence in support of investigations is likely to be more effective if the head of the FIU reports to the Director of the EFCB going forward. In order to comply with international standards, it is important however that the FIU remains operationally independent. HMC therefore recommends that the legislation creating the office of Director of the EFCB should codify the relationship between the FIU and the EFCB, while at the same time explicitly recognising the separate functions and operational independence of the FIU.

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 Proposition contributes to Priority 2 of the Government Work Plan by ensuring compliance with international agreements and standards.
- 6.3 In accordance with Rule 4(1)(b), the Committee has consulted the Policy & Resources Committee, States of Alderney, Sark Chief Pleas and the Head of Law Enforcement.
- 6.4 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.
- 6.5 In accordance with Rule 4(2)(a), the Proposition relates to the duties of the Committee to advise the States and to develop and implement policies on matters relating to its purpose including law enforcement, including policing and customs.
- 6.6 In accordance with Rule 4(2)(b), it is confirmed that the proposition above was supported unanimously by the Committee Members.

Yours faithfully

R G Prow
President

S P J Vermeulen
Vice-President

S Aldwell
M P Leadbeater
A W Taylor

P A Harwood
Non-States Member

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE FOR HOME AFFAIRS

LEGISLATION RELATING TO FINANCIAL CRIME AND RELATED MATTERS

The States are asked to decide:-

Whether, after consideration of the Policy Letter entitled “Legislation Relating to Financial Crime and Related Matters”, dated 27th September 2021, they are of the opinion:-

1. To agree to repeal and replace the Forfeiture of Money, etc in Civil Proceedings (Bailiwick of Guernsey) Law, 2007 with new legislation for civil forfeiture, and to make corresponding amendments with regard to liability to other enactments, as set out in section 3 of the Policy Letter;
2. To agree to amend the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002, the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999 and the Drug Trafficking (Bailiwick of Guernsey) Law, 2000 (“the AML/CFT Laws”) as set out in sections 3 and 4 of the Policy Letter;
3. To agree to amend the Police Property and Forfeiture (Bailiwick of Guernsey) Law, 2006 and the Cash Controls (Bailiwick of Guernsey) Law, 2007 as set out in section 3 of this Policy Letter;
4. To agree to amend the Criminal Justice (International Cooperation) (Bailiwick of Guernsey) Law, 2001 as set out in sections 3 and 6 of this Policy Letter;
5. To agree to amend the Misuse of Drugs (Bailiwick of Guernsey) Law, 1974 as set out in section 4 of this Policy Letter;
6. To agree to amend the Regulation of Investigatory Powers (Bailiwick of Guernsey) Law, 2003 as set out in sections 5 and 6 of this Policy Letter;
7. To agree to amend the Computer Misuse (Bailiwick of Guernsey) Law, 1991, the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003 and the International Cooperation Law 2001 as set out in section 6 of this Policy Letter;
8. To agree to amend the Disclosure (Bailiwick of Guernsey) Law, 2007 as set out in sections 7 and 8 of this Policy Letter

9. To agree to create legislation regarding liability for international assistance as set out in section 9 of this Policy Letter;
10. To agree to amend the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002 (Commencement, Exclusions and Exceptions) Ordinance, 2006 as set out in section 10 of this Policy Letter;
11. To direct the preparation of such legislation as may be necessary to give effect to the above decisions.

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

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE FOR HOME AFFAIRS

LEGISLATION RELATING TO FINANCIAL CRIME AND RELATED MATTERS

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

27th September 2021

Dear Sir

1 Executive Summary

- 1.1 The purpose of this Policy Letter is to recommend some amendments to the Bailiwick's criminal justice framework for addressing financial crime.
- 1.2 Following discussions with the Law Officers, the Committee *for* Home Affairs ("the Committee") has become aware of a number of technical amendments that are necessary around matters relating to money laundering, terrorist financing, cybercrime, the reporting of suspicion, the disclosure of information, the provision of international assistance and obtaining information about previous convictions.
- 1.3 Her Majesty's Comptroller (HMC) has provided advice in respect of how these matters might be addressed. The Committee fully supports HMC's conclusions as set out below.

2 Advice from Her Majesty's Comptroller

- 2.1 Her Majesty's Comptroller has advised in respect of the amendments in the following terms:
- 2.2 *"The amendments in respect of money laundering and terrorist financing primarily concern the Forfeiture of Money etc in Civil Proceedings (Bailiwick of Guernsey) Law, 2007 ("the Civil Forfeiture Law"). The Civil Forfeiture Law, which was broadly based on the civil forfeiture powers under Part 5 of the UK's Proceeds of Crime Act 2002 ("Part 5 of POCA"), enables the Royal Court to make forfeiture orders in civil proceedings in respect of certain types of seized or frozen property*

if the court is satisfied that the property is or represents the proceeds of unlawful conduct. Unlawful conduct is defined as conduct that comprises a criminal offence where it occurs (and, where it occurs outside the Bailiwick, would constitute a criminal offence in the Bailiwick if it occurred there). The powers under the Civil Forfeiture Law complement non-conviction based forfeiture powers under the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002 ("the Terrorism Law"), as well as provisions in the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999 and the Drug Trafficking (Bailiwick of Guernsey) Law, 2000 (collectively, with the Terrorism Law, "the AML/CFT Laws") which enable the Royal Court, when sentencing a person who has been convicted of a criminal offence, also to make an order confiscating assets of all kinds if satisfied that the assets in question represent the extent to which that person has benefited from criminal conduct. (The definition of criminal conduct is similar to the definition of unlawful conduct under the Civil Forfeiture Law, except that there is no requirement for conduct outside the Bailiwick to constitute a criminal offence where it occurs unless the conduct relates to drug trafficking). It was recognised at the time of its enactment that the Civil Forfeiture Law was only a first step in enabling the recovery of criminal proceeds without the need for a conviction, and that its scope would subsequently need to be widened. I advise that it would now be appropriate to do this, and to address some issues that have come to light in the course of the exercise of the powers under the Civil Forfeiture Law (primarily points of clarification) as well as to reflect amendments which have been made to Part 5 of POCA since the Civil Forfeiture Law was enacted. In the interests of clarity, the best way to do this is by repealing the Civil Forfeiture Law and replacing it with a new enactment that is more closely aligned to Part 5 of POCA. In addition, I recommend that some corresponding amendments are made to the AML/CFT Laws and to the Criminal Justice (International Cooperation) (Bailiwick of Guernsey) Law, 2001 ("the International Cooperation Law") to ensure consistency across the legal framework.

- 2.3 *Amendments are also required regarding jurisdiction for criminal asset recovery measures, as well as in respect of sentencing powers under the Misuse of Drugs (Bailiwick of Guernsey) Law, 1974 ("the Misuse of Drugs Law") and the Regulation of Investigatory Powers (Bailiwick of Guernsey) Law, 2003 (the RIPL).*
- 2.4 *I further recommend that amendments are made to the legal framework to facilitate the preservation and investigation of electronic material in domestic and international cases, and to update the offences applicable to the misuse of electronic material.*
- 2.5 *An amendment is also required to the reporting obligations in the Disclosure (Bailiwick of Guernsey) Law, 20007 ("the Disclosure Law") to bring within its scope suspicion relating to the financing of the proliferation of weapons of mass destruction, in order to reflect international developments in this area. I also recommend that the Disclosure Law is amended to facilitate information-sharing*

among domestic authorities and with their foreign counterparts, and that legislation is introduced to clarify the position with regard to exposure to liability of some Bailiwick authorities when providing assistance to other jurisdictions.

- 2.6 Finally, I recommend that amendments are made to legislation governing the rehabilitation of offenders in the interests of consistency.

3 Amendments relating to civil forfeiture

Property liable to civil forfeiture

- 3.1 *The Civil Forfeiture Law applies to cash and funds in bank accounts to the value of £1,000 or more that are the proceeds of unlawful conduct or are intended for use in unlawful conduct. I advise that this now needs to be widened.*
- 3.2 *First, the type of property liable to forfeiture should be extended. Except in the context of summary civil forfeiture procedures (which are looked at below), civil forfeiture orders in the UK under Part 5 of POCA apply to any form of property where the court is satisfied that it is the proceeds of unlawful conduct or is intended for use in unlawful conduct (subject to a number of safeguards and restrictions in respect of matters such as double recovery and third party rights). This extends to associated property e.g. an interest in property and earnings from property such as profits or accrued interest. The reason for the more limited approach in the Bailiwick was that when the Civil Forfeiture Law was enacted, it was believed that extra resources would be needed before the Bailiwick authorities could deal with other types of property. However, the importance of being able to recover any property which could be shown to be the proceeds of crime was also recognised, and it was envisaged that the scope of the legislation would be widened to permit this at a later stage. Since then additional resources have been provided for civil forfeiture cases. In addition, experience to date suggests that if the scope of the legislation is widened, the type of assets most likely to be involved in civil forfeiture cases are other financial assets (e.g. assets in a collective investment fund) or non-depreciating physical property such as jewellery or bullion, which do not require active management to the same extent as other types of assets. Therefore, extending the range of property liable to forfeiture is likely be less resource – intensive than previously thought. For these reasons, I advise that it would now be appropriate to bring all types of property within the scope of civil forfeiture, in line with the position in the UK, subject to safeguards and restrictions on asset recovery along the lines of those that are in place under Part 5 of POCA. This will also mean that civil forfeiture applies to the same range of property as is now covered by criminal confiscation.*
- 3.3 *Second, the basis for forfeiture should be widened to include property that has been used in unlawful conduct or which is suspected of having been so used. Property of this kind is sometimes referred to as an instrumentality of crime.*

Forfeiture of instrumentalities is already possible in criminal cases under the Police Property and Forfeiture (Bailiwick of Guernsey) Law, 2006 ("the Police Property Law") in respect of any property seized from a convicted person or under his or her control at the time of arrest. However, there may be cases where instrumentalities are not linked to a person who has been convicted of a criminal offence, for example where they belong to a person who cannot be prosecuted in the Bailiwick courts because he or she is not within the jurisdiction. It is important that the Bailiwick authorities have the power to remove such property from the reach of criminals, both as a deterrent and ensure that the Bailiwick continues to meet international standards on money laundering and terrorist financing. Forfeiture should also be possible irrespective of whether the property in question has previously been seized or frozen. In practice, it is usually necessary to seize or freeze property at an early stage in an investigation in order to prevent its dissipation. However, I advise that this should not, as now, be a prerequisite for a forfeiture application, as otherwise there could be cases where HM Procureur would have to apply for a freezing order in cases where there was no risk of dissipation and so no substantive need for such an order.

- 3.4 *I therefore advise that the civil forfeiture regime (including the investigatory powers that underpin it – see below) should be widened to include instrumentalities and to remove the need for property to have been seized or frozen before an application for forfeiture can be made. I also advise that to avoid any doubt as to the scope of the court's powers with regard to freezing orders, the court should have an express power to vary or set aside a freezing order (for example where certain funds are needed for basic living expenses) or to stay proceedings (whether on terms or otherwise) with the consent of all relevant parties, in line with the powers to do these things that exist for the UK courts under Part 5 of POCA.*

Limitation on liability

- 3.5 *I further advise that the civil forfeiture regime should include a provision specifying that the authorities are not liable for damages or costs arising from actions or proceedings. This should be subject to an exemption for acts done in bad faith or which constitute a breach of human rights, where there would be a right to compensation. This would mirror provisions in Jersey's civil forfeiture legislation and would also make it clear that the Bailiwick position with regard to civil forfeiture is the same as the long established position in criminal cases. (At the same time, the opportunity should be taken to standardise provisions to this effect in other parts of the legal framework, for example in the legislation relating to preferred debts and the désastre process).*

Passage of time no bar to proceedings

- 3.6 *The opportunity should also be taken to make it clear for the avoidance of doubt*

that, as with criminal cases, the passage of time is not a bar to civil forfeiture proceeding. This would reflect the UK position under Part 5 of POCA, in recognition of the fact that it can take time for underlying criminality to come to light and investigations into the provenance of assets often require complex and lengthy financial investigations, particularly where the underlying criminality occurred in another jurisdiction. It would also be advisable in the interests of avoiding delay to make specific provision for the service of documents on banks and other organisations, to bring this in line with the position under the regulatory framework.

Powers to put in place by Ordinance measures governing how seized etc. assets are dealt with

- 3.7 *It is a requirement of international standards that jurisdictions have in place asset management policies and procedures. Therefore, while as indicated it is unlikely that widening the scope of the civil forfeiture regime will lead to any significant asset management issues in practice, it would be advisable to have a legal mechanism in place to facilitate the enactment of provisions to deal with this. I therefore recommend that a power is introduced for the States to put in place by Ordinance both overarching principles governing the approach that should be taken in civil forfeiture cases to asset recovery and management and measures to govern how assets of any kind that are seized, frozen or forfeited are dealt with, including by the appointment of receivers and recognition of priority interests where necessary. There should be corresponding amendments to the AML/CFT Laws, the Police Property Law and the Cash Controls (Bailiwick of Guernsey) Law, 2007, which deals with the forfeiture of undeclared cash that is brought in or out of the jurisdiction. This is to ensure that a consistent approach can be taken to dealing with all property that is subject to asset recovery measures, whether conviction based or non- conviction based.*

Unlawful conduct

- 3.8 *The Civil Forfeiture Law applies to property that is linked to unlawful conduct. Where this conduct occurs in another jurisdiction, it will only comprise unlawful conduct if it meets the dual criminality test. In other words, it must be conduct that would constitute a criminal offence in the Bailiwick if carried out there, and is also a criminal offence in the jurisdiction where it occurs. To date the dual criminality test has not presented any difficulties in practice. However, one area where it might arise as an issue in future is in respect of proceeds linked to conduct involving human rights violations. There is a considerable variance internationally in the way in which human rights are protected and in some of the countries that are particularly vulnerable to this type of abuse, the conduct in question is not criminalised. In particular, concern has arisen in connection with the persecution of individuals trying to expose illegal activity by governments or to defend human rights and fundamental freedoms. This situation has been*

addressed in the UK by an amendment to Part 5 of POCA, which specifies that in addition to conduct that meets the dual criminality test, unlawful conduct includes conduct outside the UK that constitutes or is connected with the commission of a gross human rights abuse or violation and would be an offence triable on indictment in the UK if it had occurred there. A gross human rights abuse or violation is defined as the torture or cruel, inhuman or degrading treatment or punishment by the state of a person who is trying to expose illegality by officials or to support human rights and fundamental freedoms. It would clearly be undesirable if assets relating to this type of persecution were located in the Bailiwick but no measures to recover those assets could be taken by the authorities. I therefore advise that corresponding provision should be made to the definition of unlawful conduct in the civil forfeiture regime.

- 3.9 *Part 5 of POCA also clarifies some factors that are relevant for the purposes of determining whether property is the proceeds of a person's unlawful conduct. The first is that it is immaterial whether any money, goods or services were required to put the person in question in a position to carry out the conduct. The second is that where the property in question was obtained by one of a number of kinds of conduct, it is not necessary to prove the particular conduct in question provided that all of the kinds of conduct that might have been involved meet the test for unlawful conduct. There is no corresponding clarification in the Civil Forfeiture Law. To date this has not arisen as an issue in any domestic cases, but the possibility of this happening in the future cannot be ruled out, especially if the scope of the Civil Forfeiture Law is widened in line with my recommendations and more cases are taken forward as a result. I therefore advise that clarifying language based on that in Part 5 of POCA as outlined above is included in the civil forfeiture regime.*

Jurisdiction – summary procedure

- 3.10 *At the moment only the Royal Court can make an order under the Civil Forfeiture Law. This means that even fairly minor cases have to be sent up to the Royal Court in order to recover assets that are believed to be linked to unlawful conduct (e.g. where a person has in his or her possession at the time of arrest cash that is believed to be connected to low level drug dealing). Forfeiture in the Royal Court is subject to a complex procedure under dedicated Rules of Court that were specifically designed to deal with high value domestic or international economic crime cases but which are not proportionate when applied to low value cases that are typically more straightforward. Bailiwick Law Enforcement has identified civil forfeiture, particularly where it involves cash, as a useful disruption tactic for certain types of lower end domestic criminal activity within the Bailiwick. However, running these cases in the Royal Court requires a disproportionate amount of law enforcement and legal resource when compared to the sums actually being recovered.*

- 3.11 *These difficulties would be greatly alleviated by the introduction of a summary procedure for dealing with civil forfeiture, along the lines of that available in the UK. Part 5 of POCA enables civil forfeiture in relation to cash, specific listed assets (these are items such as precious metals and stones and works of art) and funds in bank accounts and building societies to be dealt with in the Magistrate's Court. This broadly mirrors the current provisions of the Civil Forfeiture Law in respect of the seizing, freezing and forfeiture of cash and funds in bank accounts (including the same minimum threshold of £1,000). In addition, the summary procedure in Part 5 of POCA permits administrative forfeiture. Under this process, a senior law enforcement official may issue a forfeiture notice if he or she is satisfied that the assets have come from or are intended for use in unlawful conduct. The person on whom the order is served has a minimum of 30 days in which to object. If no objection is made the assets are automatically forfeited. If an objection is made then the case will move forward to a full forfeiture hearing in the Magistrates Court. This process is subject to a right to appeal after forfeiture has occurred. This has been beneficial in the UK as it has helped to avoid unnecessary court hearings in situations where forfeiture is uncontested, while ensuring that mechanisms are in place to ensure that anybody who wishes to contest it has the opportunity to do so.*
- 3.12 *I therefore recommend that the civil forfeiture regime should enable freezing and forfeiture of property (and interest or other earnings derived from that property) to be dealt with by the Magistrates Court, with a right of appeal to the Royal Court. I also recommend that this should include a regime for administrative forfeiture that is based on the UK process and subject to the same safeguards. For the reasons outlined above, the summary procedure should also apply to instrumentalities.*

Thresholds

- 3.13 *The Civil Forfeiture Law currently only applies to assets to the value of £1,000 or more. I advise that this threshold should be removed if a summary procedure is introduced, as that procedure would be expressly aimed at low value cases and there would no longer be a need to avoid very low level value cases from going before the Royal Court. This would mirror the position in Jersey. For cases that would remain to be dealt with in the Royal Court, I advise that there should be a threshold of £25,000 in the case of financial assets. This threshold would reduce both the burden on the Royal Court and the application of complex procedures in straightforward cases as described above. However, I advise that this threshold should not be applied to physical assets or other property whose value cannot be readily determined, to avoid potentially costly and time consuming arguments as to jurisdiction. For the same reason, I advise that in determining whether the threshold for financial assets is met, provision should be made to allow assets in different accounts to be counted together if they are linked. This will help to avoid situations where assets that meet the threshold are deliberately divided up and*

placed in different accounts in order to challenge the jurisdiction of the Royal Court.

Investigations and evidence

- 3.14 *I recommend making it explicit that the investigatory powers in civil forfeiture cases can be invoked before assets are seized or frozen. This is currently implicit under the Civil Forfeiture Law but it would be advisable to put the matter beyond doubt.*
- 3.15 *I further recommend that provision is made for vehicles, aircraft and ships to be stopped and searched if there is reason to suspect that property linked to unlawful conduct may be located there. This would mirror provisions to that effect in Jersey's civil forfeiture legislation with regard to vehicles.*
- 3.16 *In addition, the power for the court to make preservation orders in respect of electronic material referred to below should also be introduced into the civil forfeiture regime.*

Mutual legal assistance

- 3.17 *At present, requests for assistance from other jurisdictions can only be entertained under the Civil Forfeiture Law from countries that have been designated by the Committee for Home Affairs. In practice, this requirement has not caused any difficulties to date but it is now out of step with international expectations. Since the introduction of the legislation there has been an increased global focus on civil forfeiture, particularly with regard to the recovery of the proceeds of corruption. External assessors appointed by the United Nations have recently reported on the Bailiwick's implementation of the United Nations Convention against Corruption, and while the report was favourable overall, it recommended the removal of the designation requirement. I support this recommendation, which would mirror the position in criminal cases under the AML/CFT Laws and the International Cooperation Law and would also bring the Bailiwick's ability to provide assistance in civil forfeiture cases in line with the position in such cases in the UK and in Jersey. (This would also entail some consequential amendments to the information – sharing provisions in the Disclosure Law).*
- 3.18 *However, as now, and as with criminal cases, HM Procureur will have a discretion as to whether or not to apply to the courts for an order to assist another jurisdiction, and it is HM Procurer's long established practice that assistance will not be provided where there is doubt about the bona fides of the request, for example where it is believed to be politically motivated.*
- 3.19 *Aside from the issue of designation, there is also currently a potential ambiguity*

in the wording of the Civil Forfeiture Law as to the role of the domestic authorities in dealing with a bona fides request from another jurisdiction. I advise that it should be made clear that this role does not include making an assessment of the underlying merits of the case. This is necessary both to ensure that the legislation meets international comity principles and to remove any risk of parties seeking to use the Bailiwick courts to litigate matters that should properly be raised in the courts of the country that has made the request for assistance.

- 3.20 *Finally, some further clarifying provisions are recommended in connection with requesting or providing mutual legal assistance. Explicit provision should be made for the Bailiwick authorities to request assistance from other jurisdictions in support of civil forfeiture cases. While there is nothing under the legal framework to prevent such requests being made, an express provision in the International Cooperation Law confirming the position would bring civil forfeiture cases in line with criminal cases. It should also be made clear that other aspects of the International Cooperation Law such as service of process and taking evidence also apply to civil forfeiture cases. Similarly, the civil forfeiture regime should specify that material that has been obtained from another jurisdiction in support of a criminal case may be used in a civil forfeiture case, provided that the other jurisdiction consents. Again, there is nothing to prevent this from happening in the Bailiwick's legal framework but an express provision permitting this would put the matter beyond doubt. These amendments would bring the Bailiwick position in line with the UK position under Part 5 of POCA.*
- 3.21 *Given the comprehensive nature of the changes recommended above, implementing them by way of amendments to the Civil Forfeiture Law would make the legislation overly complex and difficult to follow. I therefore advise that it would be preferable to enact new legislation that repeals and replaces the Civil Forfeiture Law.*

4 Jurisdiction for criminal asset recovery measures

- 4.1 *Under the AML/CFT Laws, restraint orders, charging orders and confiscation orders may be made in criminal proceedings to secure and recover assets that are linked to criminality. However, these orders may only be made by the Royal Court. The effect of this is that any cases that involve or are likely to involve asset recovery measures have to be dealt with in the Royal Court at the sentencing stage (and possibly also at the trial stage in some cases), irrespective of the seriousness of the offence or the value of the relevant assets. This is plainly disproportionate for matters that involve assets of low value and which, but for the need for measures to secure or recover those assets, would be suitable for trial and sentencing in the Magistrate's Court. I therefore recommend that the AML/CFT Laws be amended to permit the Magistrate's Court to make restraint orders, charging orders and confiscation orders in respect of assets with a value of up to £25,000. This should be subject to the same restrictions and safeguards*

as the equivalent orders in the Royal Court, and there should also be a right of appeal to the Royal Court.

- 4.2 *In the event that the AML/CFT Laws are amended as suggested above, I also suggest that the sentencing powers of the Magistrate's Court for drug trafficking offending are increased. At the current time, drug trafficking offences under the Misuse of Drugs Law include maximum sentences of imprisonment which are lower than the general power to impose sentences of imprisonment under the Magistrates Court (Guernsey) Law, 2008. For example the maximum sentence of imprisonment that can be imposed by the Magistrates Court under the Misuse of Drugs Law for supplying or offering to supply a controlled drug is limited to 12 months, whilst the general maximum sentence under the Magistrates Court Law is limited to 2 years. If the powers to make restraint orders, charging orders and confiscation orders in respect of assets with a value of up to £25,000 are put in place as proposed above, there is the possibility that the Magistrates Court may decline jurisdiction in some cases because of concern that the limit of 12 months imprisonment may not be enough to enable the Court to impose an appropriate sentence of imprisonment in a matter involving the use of the enhanced powers to make restraint orders etc. If these maxima for drug trafficking offences were amended to reflect the general maximum sentence available on a single charge in the Magistrate's Court then there would be the prospect of more cases being capable of being dealt with summarily rather than having to be committed to the Royal Court.*

5 Sentencing powers under the RIPL

- 5.1 *Under the RIPL, officials such as police officers who require access to protected information in order to discharge their functions may, subject to certain criteria, serve a notice on any persons believed to possess a key to that information requiring them to disclose that key. Failure to comply with the notice is a criminal offence that is subject to a maximum term of imprisonment of two years for conviction on indictment and six months for summary conviction.*
- 5.2 *In practice, notices are most commonly served on persons suspected of involvement in criminality in order to obtain the passwords to their mobile phones or other electronic devices that may contain information relevant to the crime under investigation. This particularly arises with cases of suspected drug trafficking. However, experience to date is that because the maximum terms of imprisonment for failure to comply with a notice are lower than those for the suspected criminality, many suspects choose not to comply with the notice and to serve the resulting prison sentence, rather than to reveal information that could expose them to prosecution for the suspected criminality.*
- 5.3 *This is an increasingly common occurrence which has the potential seriously to hamper efforts to tackle proceeds –generating crime and related money*

laundering activity, as well as making it more difficult to trace and recover criminal proceeds. It would be considerably reduced if the maximum prison sentences for failure to comply with a notice were increased so as to bring them more in line with the sentence a person could expect to receive for the underlying criminality. I therefore advise that the maximum sentence should be increased to five years for conviction on indictment and two years for summary conviction.

6 Amendments relating to cybercrime

- 6.1 *Cybercrime is a rapidly changing area, and since the introduction of the Computer Misuse (Bailiwick of Guernsey) Law, 1991 ("the Computer Misuse Law") financial crime and other offences using technology have evolved and increased. This in turn has led to global initiatives in response (for example with the enactment of the 2001 Council of Europe Convention on Cybercrime). While the measures in place to address cybercrime under the Computer Misuse Law are significant and still highly relevant, there are some areas where they could be enhanced, particularly with regard to making, supplying or using articles for the purposes of cybercrime. Furthermore, investigatory powers and related measures under the criminal justice framework more generally were put in place at a time when the use of electronic communication and records was far less prevalent than it is today. As a result they do not fully take account of issues such as the possible destruction of computer records in certain circumstances, and encryption.*
- 6.2 *Jersey has introduced amendments to its legal framework to address these various matters in the Cybercrime (Jersey) Law 2019. The amendments include widening the scope of cybercrime offences to cover making, supplying or using articles for the purposes of cybercrime and carrying out unauthorized acts that may impair the operation of a computer, introducing a power for the court to order the preservation of electronic material that may be relevant to a domestic or international investigation and revising Jersey's legislation on the regulation of investigatory powers to include detailed provisions governing the investigation of electronic data protected by encryption. The effect of these amendments is to bring restrictions and protections in relation to the use of electronic material in line with those already in place in relation to physical material.*
- 6.3 *I advise that corresponding amendments are made to the equivalent legislation in the Bailiwick, namely the Computer Misuse Law, the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003, the Regulation of Investigatory Powers (Bailiwick of Guernsey) Law, 2003, the International Cooperation Law and the AML/CFT Laws.*

7 Reporting of suspicion etc. of proliferation and proliferation financing

- 7.1 *In response to global concern about the proliferation of weapons of mass destruction (proliferation) and its financing ("PF"), international standards on*

measures to address money laundering and terrorist financing have been widened to include PF. This means that the scope and strength of the Bailiwick's efforts to address PF (and by extension, proliferation) will be included in its next evaluation by Moneyval.

- 7.2 *The Bailiwick's legal framework primarily addresses proliferation and PF through the implementation of international sanctions regimes in this area, although there is also some generic weapons-related legislation that might be relevant to proliferation or PF depending on the facts of the case. However, apart from certain reporting obligations under the sanctions framework, there is currently no requirement to report knowledge or suspicion that a person is involved in activities that might be linked to proliferation or PF. This is in contrast to money laundering and terrorist financing, which are subject to comprehensive reporting obligations under the Disclosure Law and the Terrorism Law respectively.*
- 7.3 *To date this absence of a reporting obligation is unlikely to have caused any issues, as the risk to the jurisdiction of proliferation and PF is not considered to be high and in practice, many in the private sector would probably wish to report any suspected links to these activities on a voluntary basis in the interests of caution. However, without putting this on a more formal footing, it will be difficult for the Bailiwick to justify a low risk rating in this area or to demonstrate that it has an effective framework. I therefore advise that the reporting obligations in the Disclosure Law and underlying regulations are widened to include proliferation and PF.*

8 Disclosure of information by the authorities

- 8.1 *The Disclosure Law contains provisions enabling the sharing of information by various authorities in the Bailiwick for specified purposes (for example in support of criminal and civil forfeiture investigations in the Bailiwick or elsewhere, or to enable certain domestic or foreign authorities to discharge their functions). While these information-sharing powers are wide and have been used effectively for a number of years, some areas have been identified where they could be improved.*
- 8.2 *The first concerns some inconsistencies in the information-sharing powers available under the Disclosure Law, which result from amendments that have been made over time. Some of the information-sharing provisions require the person disclosing the information to be satisfied that what is requested is proportionate to what is sought to be achieved, whereas information-sharing provisions added later, such as those relating to international sanctions, are not subject to a proportionality test. The more recent approach is in line with other information-sharing provisions across the legal framework, and has been adopted for two main reasons. First, it is recognised that in practice, the party disclosing the information is unlikely to be in a position to make a proper assessment of the needs of the requesting party, particularly in complex cases*

where something that may initially appear to be unimportant turns out on further investigation to be significant. For this reason, a proportionality test is generally seen internationally as an unreasonable restriction on the ability of the requesting party to obtain the information that it needs to discharge its functions effectively. Second, conditions on the disclosure of information make it easier for those who are subject to enforcement action by an authority to make technical challenges to the use of information, on the grounds that it was unlawfully obtained as the conditions were not met. This is much less likely to arise where information-sharing powers are framed in fairly general terms (e.g. by specifying that information may be shared to enable a party to discharge its functions, or for the purposes of a criminal investigation). I therefore recommend that where the information-sharing powers in the Disclosure Law are subject to additional requirements, those requirements should be removed to bring the powers in line with the rest of the legal framework.

- 8.3 A further issue concerns disclosure by the Revenue Service. Under income tax legislation, the ability of the Revenue Service to share information is strictly limited, but it may share information with foreign tax authorities as required by international tax transparency standards. While this is intended to enable a foreign tax authority to discharge its functions, there are sometimes cases where the information provided by the Revenue Service to a foreign tax authority is also relevant to criminal or civil forfeiture proceedings in that jurisdiction. However, there is no power under the Bailiwick's legal framework for the Revenue Service to consent to the foreign tax authority sharing that information with the party conducting those proceedings. Consequently, that party has to ask its financial intelligence unit to obtain the information from the Financial Intelligence Service at the Guernsey Border Agency (FIS) if the information is required at an intelligence level, or must invoke the formal mutual legal assistance process under the criminal justice framework if it is required in evidential form. This would involve the FIS or HM Procureur, as the case may be, obtaining the information from the Revenue Service and then transmitting it to the requesting party. Where the information is already held by an authority in the foreign jurisdiction, it would plainly be more effective and a better use of resources in both jurisdictions if the need for a second, parallel international cooperation mechanism in respect of the same information could be avoided. This can be achieved by giving the Revenue Service the power to consent to the information being shared for the purposes of the related proceedings. That might also facilitate information sharing in the reverse situation, i.e. where a foreign tax authority has provided information to the Revenue Service and that information is relevant to a domestic criminal or civil forfeiture case (but only where the foreign tax authority has provided its explicit consent to the disclosure of the information). This is because in some countries, information can only be shared with certain authorities in a foreign jurisdiction if there are reciprocal information-sharing provisions in that jurisdiction. I therefore recommend that the Disclosure Law is amended to give the Revenue Service the power to consent to the sharing of information for

criminal justice purposes. In practice, information would only be shared in this way on the basis of consultation with FIS or HM Procureur as the case may be, and would be subject to the caveat that consent can only be given if the information meets statutory criteria for providing information under criminal justice mechanisms.

- 8.4 *Another issue related to the Revenue Service concerns feedback to the FIS. There are information-sharing provisions that enable the FIS to disclose to the Revenue Service tax-related information contained within the reports of suspicion that the FIS receives from the private sector. Effective use of these provisions has recently been enhanced by mechanisms to facilitate improved lines of communication between the FIS and the Revenue Service. However, the information-sharing mechanisms available to the Revenue Service arguably do not extend to the provision of feedback to the FIS on any tax enforcement cases that have used information from the FIS. Feedback on cases involving financial intelligence in this way is important to improve the effective provision and use of financial intelligence. It is also needed in order to demonstrate that there are good levels of cooperation between the authorities, as required by international standards. I therefore recommend that the Disclosure Law should be amended to put beyond doubt the ability of the Revenue Service to give feedback about domestic tax cases and international tax cases (with the explicit consent of the foreign tax authority) to the FIS.*
- 8.5 *Finally, I advise that a further amendment should be made to the Disclosure Law to change references to the FIS to references to the Financial Intelligence Unit. This is necessary to reflect a name change that is being taken forward as part of the restructuring of the Bailiwick's framework for investigating economic crime. A corresponding amendment should be made to other aspects of the legal framework where there are references to the FIS.*

9 *Legislation regarding liability for international assistance*

- 9.1 *A key factor in maintaining the Bailiwick's position as a leading international financial centre is its ability to cooperate with other jurisdictions on cross-border issues, and its longstanding policy is to provide assistance wherever possible in support of overseas proceedings. The legal framework for providing this assistance has evolved over time in line with developments in international standards and now covers many different authorities and different areas of activity, including criminal, civil, regulatory and tax investigations and proceedings.*
- 9.2 *In order to ensure that the authorities remain able to provide assistance to other jurisdictions, it is important that in doing so they are not hampered by the fear of exposing themselves to liability to third parties. While this issue is addressed in some parts of the legal framework (for example under legislation implementing*

international sanctions), the way that the framework has evolved as referred to above means that this is not done consistently.

- 9.3 *Jersey has addressed this point in the International Co-operation (Protection from Liability) (Jersey) Law 2018, which specifies that there is no liability for actions carried out in good faith by public authorities to assist other jurisdictions under certain specified enactments. I advise that similar legislation be introduced in the Bailiwick.*

10 Information about previous convictions

- 10.1 *Under the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002 ("the 2002 Law"), it is a general rule that obligations 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 is subject to an exemption under the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002 (Commencement, Exclusions and Exceptions) Ordinance, 2006 ("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.*
- 10.2 *There is an exemption for offices and employment listed at Part II of Schedule 1 to the 2006 Ordinance. The list includes some authorities with access to sensitive information linked to financial crime, such as the Law Officers Chambers, the Guernsey Police, the Customs and Immigration Service and the Guernsey Financial Services Commission ("GFSC"). Therefore, when assessing whether a person is suitable to work in those authorities, questions may be asked about any convictions the person has, irrespective of how long ago the convictions may have occurred. However, some other authorities within the Bailiwick whose functions also involve handling sensitive information linked to financial crime, such as the Revenue Service and the Registrar of Beneficial Ownership, are not on the list. It is clearly important that the legal framework on this important point is consistent in its application to all relevant authorities. I therefore recommend that the 2006 Ordinance be amended to add to the list all authorities whose functions involve handling sensitive information linked to financial crime.*
- 10.3 *In addition, there is an exemption in the 2006 Ordinance that enables the GFSC and employers in the financial services sector to ask questions about any convictions for the purposes of licensing and employment respectively. This reflects the importance of maintaining high standards in the financial services sector, given its importance to the economy and the need to continue to protect it from abuse. The same considerations apply to Alderney's eGambling sector, but there is currently no equivalent exemption applicable to the Alderney Gambling Control Commission licensing and certification process, or to employers in the*

sector. I therefore recommend a further amendment to the 2006 Ordinance to introduce an exemption for these activities that corresponds to the exemption for the GFSC and employers in the financial services sector.”

11 Compliance with Rule 4

- 11.1 Rule 4 of the Rules of Procedure of the States of Deliberation and their Committees sets out the information which must be included in, or appended to, motions laid before the States.
- 11.2 In accordance with Rule 4(1)(a), the Propositions contribute to Priority 2 of the Government Work Plan by ensuring compliance with international agreements and standards.
- 11.3 In accordance with Rule 4(1)(b), the Committee has consulted Her Majesty’s Procureur, the Policy & Resources Committee, the Head of Law Enforcement, the States of Alderney, Sark Chief Pleas, and the Alderney Gambling Control Commission.
- 11.4 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.
- 11.5 In accordance with Rule 4(2)(a), the Propositions relate to the duties of the Committee to advise the States and to develop and implement policies on matters relating to its purpose including law enforcement, including policing and customs.
- 11.6 In accordance with Rule 4(2)(b) the propositions were supported unanimously by the Committee.

Yours faithfully

R G Prow
President

S P J Vermeulen
Vice-President

S Aldwell
M P Leadbeater
A W Taylor

P A Harwood
Non-States Member

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *FOR* ECONOMIC DEVELOPMENT

PUBLIC TRUSTEE ANNUAL REPORT AND AUDITED ACCOUNTS FOR THE YEAR ENDED
31 DECEMBER 2020

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

7th October 2021

Dear Sir/Madam,

The Public Trustee (Bailiwick of Guernsey) Law, 2002 sets out in Section 6(1) that the Committee *for* Economic Development is required to submit the report and accounts on the exercise of the Public Trustee's functions for the preceding year to the States of Deliberation. I am pleased to enclose a copy of the Public Trustee's report and audited accounts for the year ended 31 December 2020.

I should be grateful if you would arrange to publish this submission as an Appendix to the next available Billet d'Etat.

Yours sincerely,



Deputy Neil Inder
President



REPORT OF THE PUBLIC TRUSTEE TO THE COMMITTEE *for* ECONOMIC DEVELOPMENT

YEAR ENDED 31 DECEMBER 2020

Introduction

1. Under Section 6(1)(a) of The Public Trustee (Bailiwick of Guernsey) Law, 2002 (the 'Law') (Appendix 1), the Public Trustee ('PT' or 'I' as context admits) is required in each calendar year to submit to the Committee *for* Economic Development (the 'Committee') a report on the exercise of her/his functions in the preceding year together with audited accounts of the Office of the Public Trustee ('OPT').

Functions and Activity

2. As previously reported, matters relating to the IXG Schemes have continued to constitute the vast majority of the case management activities of the OPT.
3. In accordance with my prior report, further IXG court proceedings were issued by the Public Trustee in the Royal Court of Guernsey (referred to generically as the 'Account Application') in June 2020. The Account Application encompasses a number of distinct stages and seeks orders necessary for eventual resolution of the Schemes and discharge of the Public Trustee from her/his obligations as previously ordered by the court.
4. Following various hearings during the second part of the year, decisions of the Royal Court were received in relation to a number of counter-applications made by the former trustees of the Schemes and individuals associated with them (not forming part of the Account Application and in essence seeking to oppose it or its progress). None of these counter-applications were successful.

5. Judgments of the court are awaited in relation to orders sought as to provision and release of information relating to the Schemes while under the trusteeship of the former trustees.
6. It is anticipated that further court proceedings in the Account Application (and elsewhere) will continue in 2021 (and beyond) and that the OPT will therefore continue to require and receive funding from the Committee (under the provisions of the Law) in respect of the costs and expenses arising in relation to the IXG Schemes (in particular, legal expenses).
7. A costs order obtained in Guernsey against an individual connected with the former trustees (in amount exceeding £300,000) was as requisite the subject of further application in the High Court of England and Wales and successfully registered in order to permit future enforcement action as and when appropriate.
8. Recoveries of costs and expenses arising to the Public Trustee in connection with the IXG Schemes (in amount exceeding £100,000) were made and subsequently paid to the States of Guernsey from the OPT.
9. The OPT continued to provide trusteeships as reported in prior years.
10. One trust was concluded during the course of the year, including the making of payments to charities totalling in excess of £1m.
11. Several enquiries relating to potential appointments of the OPT were received during the course of the year. Advice and assistance was provided to various parties in connection therewith. Meanwhile, no new appointments as trustee (nor other cases) were undertaken on the part of the OPT.

Office of the Public Trustee

12. No changes arose during the course of the year to the appointment or functions of the Deputy Public Trustee ('DPT').
13. Inevitably, the primary external matter affecting the OPT was the incidence of the coronavirus pandemic and all associated governmental measures and requirements. The OPT was able to continue operating, albeit at some reduction in immediate efficiencies, throughout the periods of lockdown and other restrictions imposed.

Organisation, Reporting and Oversight

14. The DPT and PT continued to develop the functions and operations of the OPT (the 'operational framework').
15. As previously reported, the operational framework focuses on the following:-
 - a. definition of the OPT's statement of purpose;
 - b. identification of fiduciary and operational risks and their management and mitigation;
 - c. governance, including audit; and
 - d. quarterly management and financial reporting.
16. Relevant responses of the Public Trustee Working (now Liaison) Group ('PTLG') have been incorporated in the operational framework.
17. In accordance with usual practice, all significant operational matters relating to the OPT were reported to and discussed with the PTLG. To the best of the PT's understanding, no matters of concern were raised or remain outstanding in these respects.

Accounts and Auditors' Report

18. The accounts of the OPT for the year ended 31 December 2020 together with the Auditor's report thereon accompany this report (Appendix 2).

Other Matters

19. The PT is aware that the Committee is required to submit this report and the audited accounts and auditors' report to the States pursuant to Section 6(2) of the Law (Appendix 1) and may at the same time submit their own report to the States, and I remain at the disposal of the Committee in respect of anything it may require for this purpose.

Luis Gonzalez

Public Trustee

August 2021

Appendix 1 – Section 6 of the Law

Annual reports.

6. (1) The Public Trustee shall, as soon as practicable in each calendar year, submit to the Committee –
 - (a) a report on the exercise of his functions in the preceding year, and
 - (b) the audited accounts of the Office of the Public Trustee together with the auditors' report thereon.
- (2) The Committee –
 - (a) shall submit –
 - (i) the Public Trustee's report made under subsection (1)(a), and
 - (ii) the audited accounts and auditors' report thereon referred to in subsection (1)(b),
to the States, and
 - (b) may at the same time submit their own report to the States –
 - (i) covering the period of the Public Trustee's report,
 - (ii) covering the matters described in subsection (1)(a), and
 - (iii) containing the Committee's comments (if any) on the audited accounts and auditors' report thereon referred to in subsection (1)(b).

Appendix 2 – Accounts and Auditor's Report

[Please see attached]

OFFICE OF THE PUBLIC TRUSTEE

STATEMENT OF ACCOUNT

31ST DECEMBER 2020

LINCE SALISBURY

Chartered Accountants

Avenue House

St. Julian's Avenue

St. Peter Port

GUERNSEY

OFFICE OF THE PUBLIC TRUSTEE

Office holder

The position of Public Trustee ("PT") throughout the period, at the year end and subsequent to the year end was held by:

Mr L. Gonzalez

Statement of responsibilities for the preparation of financial statements

In accordance with The Public Trustee (Bailiwick of Guernsey) Law, 2002 the PT is responsible for the preparation of a statement of account for each financial year which gives a true and fair view of the state of affairs of The Office of the Public Trustee. To ensure a true and fair view is reported the PT has continued to:

- apply suitable accounting policies on a consistent basis;
- make judgements and estimates that are reasonable and prudent;
- state whether applicable accounting standards have been followed subject to any material departures disclosed and explained in the accounts; and
- prepare the statement of account on a going concern basis, unless it is inappropriate to do so.

The PT acknowledges responsibility for keeping proper accounting records which disclose with reasonable accuracy the financial position of The Office of the Public Trustee.

It is the responsibility of The Office of the Public Trustee to identify and install a system of internal controls, including financial controls, which is adequate for its own purposes. Thus The Office of the Public Trustee is responsible for safeguarding the assets in its care and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

The PT reports that so far as the PT is aware there is no relevant audit information of which the auditors are unaware and that the PT has taken all steps to make himself aware of such audit information and to establish that the auditors are aware of that information.

INDEPENDENT AUDITOR'S REPORT TO THE OFFICE OF THE PUBLIC TRUSTEE**Opinion**

We have audited the financial statements of The Office of the Public Trustee (the 'Office') for the year ended 31 December 2020 which comprise the Statement of Income, the Statement of Financial Position, and notes to the financial statements, including a summary of significant accounting policies. The financial reporting framework that has been applied in their preparation is applicable law and United Kingdom Accounting Standards, including Financial Reporting Standard 102 The Financial Reporting Standard applicable in the UK and Republic of Ireland (United Kingdom Generally Accepted Accounting Practice).

In our opinion, the financial statements:

- give a true and fair view of the state of the Office's affairs as at 31 December 2020 and of its loss for the year then ended;
- have been properly prepared in accordance with United Kingdom Generally Accepted Accounting Practice applicable to Small Entities; and
- have been prepared in accordance with the requirements of the Companies (Guernsey) Law, 2008.

Basis for opinion

We conducted our audit in accordance with International Standards on Auditing (UK) (ISAs (UK)) and applicable law. Our responsibilities under those standards are further described in the Auditor's responsibilities for the audit of financial statements section of our report. We are independent of the Office in accordance with the ethical requirements that are relevant to our audit of the financial statements, including the Financial Reporting Council's Ethical Standard, and we have fulfilled our other ethical responsibilities in accordance with these requirements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

Conclusions relating to going concern

In auditing the financial statements, we have concluded that the Public Trustee's 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 entity'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 Public Trustee with respect to going concern are described in the relevant sections of this report.

Other information

The Public Trustee is responsible for the other information. The other information comprises the Office of the Public Trustee Report. Our opinion on the financial statements does not cover the other information and, except to the extent otherwise explicitly stated in our report, we do not express any form of assurance conclusion thereon. In connection with our audit of the financial statements, our responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or our knowledge obtained in the audit or otherwise appears to be materially misstated. If we identify such material inconsistencies or apparent material misstatements, we are required to determine whether there is a material misstatement in the financial statements or a material misstatement of the other information. If, based on the work we have performed, we conclude that there is a material misstatement of this other information, we are required to report that fact.

We have nothing to report in this regard.

Matters on which we are required to report by exception

In the light of the knowledge and understanding of the Office and its environment obtained in the course of the audit, we have not identified material misstatements in the Office of the Public Trustee Report.

We have nothing to report in respect of the following matter where The Companies (Guernsey) Law, 2008 requires us to report to you if, in our opinion:

- Adequate accounting records have not been kept; or
- The financial statements are not in agreement with the accounting records; or
- We have not received all the information and explanations we require for our audit.

Responsibilities of The Public Trustee

As explained more fully in the Office of the Public Trustee report, the Public Trustee is responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view, and for such internal control as the Public Trustee determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

INDEPENDENT AUDITOR'S REPORT TO THE OFFICE OF THE PUBLIC TRUSTEE

In preparing the financial statements, the Public Trustee is responsible for assessing the Office'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 Public Trustee either intends to liquidate the Office or to cease operations, or has 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.

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:

- As part of the audit we gained an understanding of the legal and regulatory framework applicable to the Office and the industry in which it operates, by reviewing relevant legislation, including The Companies (Guernsey) Law, 2008, The Public Trustee (Bailiwick of Guernsey) Law 2002 and considered the risk of acts by the Office that were contrary to applicable laws and regulations, including fraud, 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 or intentional misrepresentations, or through collusion.
- We tailored our audit programmes to include:
 - A review of the Office's documents and records to obtain sufficient and appropriate audit evidence to support our opinion.
 - Obtaining confirmation of the Office's assets and liabilities
 - A review of the Office's accounting ledgers and recalculating the allocation of the Office's overheads and other expenses
- The engagement partner assessed the appropriateness of the engagement team to identify or recognise non-compliance with laws and regulations, and details of those matters about non-compliance with laws and regulations and fraud that were communicated to the engagement team.
- We performed our audit work within a reasonable timeframe of the year end, in line with the regulation to file financial statements with the regulator.
- There are inherent limitations in the audit procedures described above 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 would become aware of it. We did not identify any material misstatements relating to irregularities, including fraud. As in all of our audits, we also addressed the risk of management override of internal controls, including testing journals and evaluating whether there was evidence of bias by the Board that represented a risk of material misstatement due to fraud.

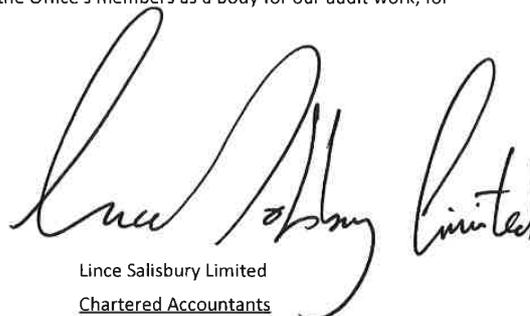
A further description of our responsibilities for the audit of the financial statements is located on the Financial Reporting Council's website. This description forms part of our auditor's report.

Use of Our Report

This report is made solely to the Office's members as a body, in accordance with Section 262 of The Companies (Guernsey) Law, 2008. Our audit work has been undertaken so that we might state to the Office'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 Office and the Office's members as a body for our audit work, for this report, or for the opinions we have formed.

8th July 2021

Avenue House, St Julian's Avenue,
St Peter Port, Guernsey


Lince Salisbury Limited
Chartered Accountants

OFFICE OF THE PUBLIC TRUSTEE**STATEMENT OF INCOME****FOR THE YEAR ENDED 31ST DECEMBER 2020**

| | Note | 2020 £ | 2019 £ |
|--|------|-----------|-----------|
| Receipts | | | |
| Grant from States of Guernsey | 1(b) | 20,917 | 103,974 |
| Public Trustee Cost Recoveries | 1(c) | 191,615 | 74,025 |
| | | <hr/> | <hr/> |
| | | 212,532 | 177,999 |
| | | <hr/> | <hr/> |
| Expenditure | | | |
| | 1(d) | | |
| Audit fees | | 4,500 | 4,500 |
| Bank charges | | 82 | 31 |
| Office administration | | 3,329 | 1,654 |
| Contracts for services | | 203,103 | 142,499 |
| Legal fees | | 1,500 | 27,747 |
| | | <hr/> | <hr/> |
| | | 212,514 | 176,431 |
| | | <hr/> | <hr/> |
| Operating surplus/(deficit) before tax | | 18 | 1,568 |
| Tax | 2 | - | - |
| | | <hr/> | <hr/> |
| Surplus/(Deficit) for the year | | 18 | 1,568 |

OFFICE OF THE PUBLIC TRUSTEESTATEMENT OF FINANCIAL POSITIONAT 31ST DECEMBER 2020

| | Note | 2020 £ | 2019 £ |
|--------------------------------|------|-----------|-----------|
| Current Assets | | | |
| Debtors | | 3,490,267 | 2,402,121 |
| Bank | | 9,848 | 11,871 |
| | | <hr/> | <hr/> |
| | | 3,500,115 | 2,413,992 |
| | | <hr/> | <hr/> |
| Current liabilities | | | |
| Potential liability - grants | 3 | 3,415,233 | 2,306,115 |
| Accruals | 3 | 30,528 | 20,057 |
| Creditors | 3 | 40,541 | 74,025 |
| | | <hr/> | <hr/> |
| | | 3,486,302 | 2,400,197 |
| | | <hr/> | <hr/> |
| Net assets | | 13,813 | 13,795 |
| | | <hr/> | <hr/> |
| Funded by: | | | |
| The Public Trustee Fund | 2, 4 | | |
| Opening | | 13,795 | 12,227 |
| Surplus/(Deficit) for the year | | 18 | 1,568 |
| | | <hr/> | <hr/> |
| Closing | | 13,813 | 13,795 |
| | | <hr/> | <hr/> |

The statement of account was approved on *8th July* 2021.



 L. Gonzalez
 Public Trustee

OFFICE OF THE PUBLIC TRUSTEE

NOTES TO THE FINANCIAL STATEMENTS

YEAR ENDED 31ST DECEMBER 2020

1. ACCOUNTING POLICIES

(a) Basis of Preparation

The financial statements have been prepared in accordance with United Kingdom Generally Accepted Accounting Practice including FRS 102 The Financial Reporting Standard applicable in the United Kingdom and Republic of Ireland ('FRS102') Section 1A for small entities issued by the Financial Reporting Council in September, 2015 and with The Public Trustee (Bailiwick of Guernsey) Law, 2002.

(b) Grants

Grants from the States of Guernsey Committee for Economic Development are included on a received basis. Grants have been recognised as revenue items where they are not expected to become repayable. Where grants have been received and a corresponding amount is considered recoverable in respect of the underlying transfers to which they relate the potential liability has been recognised.

(c) Public Trustee Cost Recoveries

Costs are recognised when services are delivered by the Office of Public Trustee in its capacity as trustee. Excluded from the statement of income are any costs for services provided by third party administrators or other parties including professional advisors appointed by the Public Trustee.

(d) Other income and expenditure

Other income and expenditure is included on an accruals basis.

(e) Financial Instruments

The Office of Public Trustee only enters into basic financial instruments that result in the recognition of financial assets and liabilities such as accounts receivable and creditors, and loans from or to banks and related parties. Debt instruments that are payable or receivable within one year (typically loans, accounts receivable and creditors) or that bear a commercial rate of interest and are payable or receivable after more than one year are measured, initially and subsequently, at the undiscounted amount of the cash or other consideration expected to be paid.

Bank balances are repayable on demand.

2. TAXATION

The Public Trustee fund was established for the purposes of:

- a) Paying fees or remuneration to the Public Trustee and his officers and servants; and
- b) meeting all other costs, fees, expenditure and liabilities properly incurred.

The fund and income thereof is not subject to Income Tax.

OFFICE OF THE PUBLIC TRUSTEE**NOTES TO THE FINANCIAL STATEMENTS****YEAR ENDED 31ST DECEMBER 2020****3. CREDITORS AND ACCRUALS**

| <u>Creditors</u> | 2020 | 2019 |
|---------------------------------------|--------------------|--------------------|
| Other creditors | <u>£</u> 40,541 | <u>£</u> 74,025 |
| | | |
| <u>Accruals</u> | | |
| Audit fee | 9,000 | 4,500 |
| Contracts for Services | 15,528 | 12,557 |
| Other accruals | <u>6,000</u> | <u>3,000</u> |
| | <u>30,528</u> | <u>20,057</u> |
| | | |
| <u>Potential Liabilities - Grants</u> | | |
| Grants from States of Guernsey | <u>3,415,233</u> | <u>2,306,115</u> |

Grants (or loans) from the Committee for Economic Development of the States of Guernsey are made in accordance with section 8 of The Public Trustee (Bailiwick of Guernsey) Law, 2002. Any amounts paid to cover expenditure and liabilities that are subsequently recouped from trust structures within the responsibility of the Public Trustee become repayable. The potential liability due represents the disbursements the Public Trustee expects to be recoverable from those structures. Disclosing this amount separately on the balance sheet reflects the understanding of the contingent nature of the corresponding debtor.

4. THE PUBLIC TRUSTEE FUND

| | 2020 | 2019 |
|-------------------------|---------------|---------------|
| | <u>£</u> | <u>£</u> |
| Balance brought forward | 13,795 | 12,227 |
| Surplus for year | 18 | 1,568 |
| Balance carried forward | <u>13,813</u> | <u>13,795</u> |

5. GENERAL INFORMATION

The Office of Public Trustee is an unincorporated entity established under The Public Trustee (Bailiwick of Guernsey) Law, 2002. Its address is Raymond Falla House, Longue Rue, St Martin, Guernsey, GY1 6AF.

6. NUMBER OF EMPLOYEES

The Office of the Public Trustee was created by The Public Trustee (Bailiwick of Guernsey) Law, 2002. The holder of that office is known as the Public Trustee. During the year there were no employees (2019: nil).

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

STATES' ASSEMBLY & CONSTITUTION COMMITTEE

STATES' MEMBERS INDUCTION AND ONGOING DEVELOPMENT PROGRAMME
REVIEW REPORT

APPENDIX REPORT

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

7th October, 2021

Dear Sir

1 Introduction

1.1 The States' Assembly & Constitution Committee is submitting this report for inclusion as an appendix to a Billet d'État pursuant to Rule 3.(3) of the Rules of Procedure for the States of Deliberation and their Committees.

1.2 This report and the appendix report have been produced in accordance with the resolution from March 2012, where the States resolved¹:

In every States term, the States Assembly and Constitution Committee should publish within nine months of the General Election, after consultation with States members, a report to include;

i. A review of the induction programme incorporating an analysis of the success or otherwise of each part of that programme and any changes to the programme which it would be considered desirable to put into effect for the following States term; and

ii. Details of a programme of ongoing training which shall be offered to all States members during that States term (6.18);

1.3 The report was not published within nine months of the General Election as directed however its publication was delayed to allow further time to consult with Members of the States on the programme.

¹ Billet d'État V of 2012 – Volume 3: 16. Public Accounts Committee, Scrutiny Committee, States Assembly and Constitution Committee - Improving Governance in The States of Guernsey, p. 1449 ([Resolutions from 7th March, 2012](#))

1.4 The Committee agreed the review report should be prepared by the Induction Working Group and this is attached as Appendix 1. The Induction Working Group is an officer-level group set up in 2020 to organise the induction and ongoing development programme and is populated by the:

- Strategic Lead for Supporting Government
- States' Greffier
- Principal Officer, States' Assembly & Constitution Committee
- Committee Secretary to the Policy & Resources Committee
- Policy Support Officer

The Terms of Reference for the group and the roles of its Members are set out in Appendix I of the attached report.

1.5 The Committee considered the review report from the Induction Working Group ('the IWG Report') and has produced this brief covering report reflecting on the report.

2 The induction and ongoing development programme: 2020 – 21

2.1 The professional development of elected Members is important. As highlighted in the IWG Report, the Commonwealth Parliamentary Association's ['Recommended Benchmarks for Democratic Legislature'](#) contains two benchmarks relating to professional development. However, given the varied role a Deputy undertakes, it is important that any development programme covers not only a Deputy's role as a Parliamentarian, but also covers their roles on Committees and when undertaking constituency work. The programme held from 2020 – 2021 sought to offer a wide range of sessions that would cover the different aspects of the role.

2.2 It is clear from the feedback from Deputies that the induction and ongoing development programme has been well-received and, from those who have experienced States' Deputies inductions in the past, is an improvement on the support Deputies have received in previous terms. However, as acknowledged in the attached report, a number of lessons have been learnt from practical experience and feedback from Deputies which will assist in improving the programme over the remainder of the term, and in preparing the programme for the new political term commencing in 2025.

2.3 The overview of the programme contained in Section 2A of the IWG Report shows the variety of sessions offered to Deputies in the first year of the political term. As well as in-person sessions open to all Members, each Committee Secretary or Principal Officer was tasked with holding 'in-house' Committee inductions for the Members on their Committee between October to December 2020. Support was also offered online with Deputies offered 'Cyber Training' and there is also online, video IT training on the Intranet. In 2021, the CPA launched its new [Parliamentary Academy](#) which provides a number of courses relevant to Members.

- 2.4 The Committee would like to thank the various Civil Servants who provided sessions on a variety of subjects throughout the year and also the third-party providers for the sessions they provided.

3 The review of the induction and ongoing development programme: 2020 – 21

- 3.1 As highlighted in the IWG Report, Member participation and feedback is an essential part of reviewing the success of individual sessions and the programme as a whole, to understand the extent to which the programme is meeting Member's needs.

- 3.2 The Committee noted that 19 Deputies completed the survey issued which equates to 50% of the Members elected in the 2020 General Election. It would encourage **all** Members in future to complete and return such surveys as Member feedback is vital in ensuring the programme is shaped in accordance with Members' needs.

- 3.3 The IWG Report highlights the challenges in creating a programme which will meet the needs of both newly elected Deputies and those who have served previously. It also details other challenges e.g. attendance at sessions as Deputies' workloads increase.

- 3.4 An area of particular interest to the Committee was the preparation newly elected Deputies had undertaken prior to becoming a Deputy, and what they found helpful. As stated in the IWG Report:

"The survey results demonstrated that there was an appetite for further information about the role of Deputy and the States of Deliberation, including the time commitment of the role, advance sessions for prospective candidate and the potential for mentoring from sitting or former Deputies".

- 3.5 This is an area already identified as a key workstream for the Committee, and it had included a proposition in its 'General Election 2020: Reports from the CPA BMR Election Expert Mission and the Registrar-General of Electors' policy letter, published on 10th May, as follows:

To agree the following workstreams should be undertaken by the States' Assembly & Constitution Committee:

...

- i) increasing the information provided regarding the role of a States' Member, the States of Guernsey and the election process by the end of 2023.*

- 3.6 Paragraphs 13.6 and 13.7 of that report read as follows:

Whilst acknowledging the improvements made to the support for candidates in advance of the 2020 General Election, the Committee is keen that work is undertaken providing information to the public about the work of Deputies and the work of the States, to demystify what being a Deputy entails in reality, for

both the public and potential candidates. This will be aimed at all sectors of society but will look at some of the perceived barriers that may exist for those currently underrepresented in the States e.g. women, persons with disabilities etc.

The Committee will be working with Members, organisations and the public to ascertain what information should be produced and will be working with the Parliamentary Team to ensure this is provided as part of its outreach work. It will also seek to provide information on the General Election well in advance of it taking place (rather than just in the months immediately prior to the Election) to assist individuals who might consider standing.

- 3.7 The Committee will be working throughout this political term to identify the information it would be useful for prospective candidates and the public to have regarding the work of Deputies and the States and to ensure this is produced in a timely manner. It will begin consultation on this in 2022.

4 Lessons learnt and next steps

- 4.1 The Committee notes the ‘lessons learnt’ gathered from Member feedback and the experience of the Induction Working Group from organising sessions. Its focus in producing this report has been the ‘next steps’ set out in Section 4 of the attached and the extent to which these will improve the programme.
- 4.2 The Committee fully supports the production of a timetable and brochure of the induction and ongoing development sessions to be held being published in advance of the General Election. It believes this will be an important tool in showing prospective candidates the support that will be made available to those elected. It also believes that advance notice should assist in ensuring maximum attendance from Members interested in attending and ensure Members are appropriately targeted for such sessions.
- 4.3 The Committee will ensure that that prior to the 2025 General Election, a programme is developed, with sessions organised prior to and after the Election, which will support both prospective candidates and elected Deputies to fully understand the role they will be undertaking and the organisation they will operate within.
- 4.4 As highlighted in paragraphs 3.5 to 3.7, the Committee intends to ensure there is more information regarding the States of Guernsey, Committee mandates and operational functions to ‘demystify the work’ of the States.
- 4.5 One area to which the Committee will give further consideration is the support that can be given to Deputies when undertaking “constituency work”. Whilst it endorses the plan to have a Graduate Intern assisting Members as detailed in the IWG Report, it will also look at what peer to peer support and mentoring could be offered to assist Members in this area.

4.6 The Committee agrees with the report that setting a programme of ongoing training for the remainder of the term (in line with the resolution) is unhelpful and that the programme should be developed on a quarterly basis taking into account Members’ needs at that time.

5 Costs to date and budget

5.1 The Committee has been advised that the programme to date has cost:

| | |
|--------------|-----------------|
| 2020 | £ 8,516 |
| 2021 | £ 8,524 |
| Total | £ 17,040 |

5.2 A budget has been requested for 2022 of £20,000 to support not just the costs of continuing the ongoing development programme but to support the production of information for the public about the work of Deputies, the States of Deliberation and the work of the States more generally.

6 Conclusion

6.1 The Committee endorses the findings and next steps set out in the IWG report. It would, however, wish to highlight that, more often than not, the success of sessions has often relied on Member participation and feedback. On a number of occasions, Members have accepted invitations to sessions and then subsequently failed to turn up and it hopes that Members will ensure that they attend – or give their apologies – to invitations they have accepted.

6.2 Members will be consulted throughout the term regarding any areas they wish to cover, and the Committee is open to suggestions from any Members, future potential candidates or other third parties on any sessions they believe would be useful.

Yours faithfully

Deputy C.P. Meerveld
President

Deputy L.C. Queripel
Vice-President

Deputy S.P. Fairclough
Deputy J.A.B. Gollop
Deputy L.J. McKenna



States' Members Induction and Ongoing Development Programme October 2020 to July 2021

Review report from the Induction Working Group

7th October 2021

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1 Introduction

- 1.1 The States' Assembly & Constitution Committee is responsible for advising the States and developing and implementing policies in relation to the induction, on-going support and provisions of facilities and equipment for States' Members. In March 2012, the States resolved:

In every States term, the States Assembly and Constitution Committee should publish within nine months of the General Election, after consultation with States members, a report to include;

- i. A review of the induction programme incorporating an analysis of the success or otherwise of each part of that programme and any changes to the programme which it would be considered desirable to put into effect for the following States term; and*
- ii. Details of a programme of ongoing training which shall be offered to all States members during that States term (6.18);*

- 1.2 A two-page report was produced and circulated to States' Members after the 2012 General Election. It does not appear that a report was produced after the 2016 General Election. It was agreed by the Committee that the 2021 report would be produced by the Induction Working Group in line with the above resolution, submitted as an Appendix Report to a Billet d'État with a covering report from the Committee and also published separately online to increase awareness of the induction and ongoing development opportunities offered to States' Members.

- 1.3 The ['Recommended Benchmarks for Democratic Legislature'](#) produced by the Commonwealth Parliamentary Association provides a minimum standard and a guide on how a Parliament should be constituted and how it should function. It contains two benchmarks relating to professional development:

- The Legislature shall take measures to ensure that newly elected Members are assisted in understanding how the Legislature works and its rules of procedure.
- The Legislature shall take measures to assist legislators increase their knowledge and skills in the performance of their parliamentary duties.

- 1.4 As well as being Parliamentarians, Deputies will generally serve on one or more Committees during a political term and undertake 'constituency work' throughout. Their induction and ongoing development needs to be targeted at the different roles Deputies will undertake during their term of office.

- 1.5 States' Members' inductions previously consisted of an intense period of presentations and workshops immediately following their swearing-in. An annual budget to support the induction and on-going support of Members did not exist; there was no programme of ongoing development or refresher courses for Members.

A. Planning for 2020

1.6 It was becoming apparent that the previous approach to induction was no longer adequate, given the complexity and pressures of the role of Deputy. Therefore, in 2019, the Committee submitted a budget request to support a revamped programme in 2020 and £55,000 was agreed by the States. It organised a workshop in September 2019 as the first step in identifying Members' induction and development needs. The 26 Members who attended were asked to consider what key tasks they undertook as a Deputy and the skills they needed in the following areas:

- As a **Parliamentarian**
- As a **Committee Member**
- Assisting **Parishioners** ("constituency work")

1.7 Members were then asked to identify the areas where support and development were required and asked to indicate whether this support should be given when first elected or as part of an ongoing development programme. The Committee circulated notes of the outcomes of the workshop and a survey was issued to Members in early 2020. A further workshop was held with Members in February 2020 to consider the draft timetable for the programme, which was developed from the results of the workshop and the survey.

1.8 The 2020 survey showed that almost 50% of respondents were dissatisfied with the 2016 induction. There was an appetite for a new approach and for an ongoing development programme to be created, responsive to Members' needs and actively collating and analysing feedback from Members to inform a process of continual development.

1.9 This led to the creation of the staff-level Induction Working Group (the "IWG") who were tasked with prioritising and planning the induction of Deputies elected in October 2020 and delivering an ongoing programme of development. The terms of reference and membership of the IWG is attached as **Appendix I**.

1.10 The delay in holding the General Election meant that much of the programme planned for July to December 2020 had to be rescheduled for 2021. This meant that a surplus budget of £46K was carried forward into 2021 and no additional budget was requested for 2021.

B. Reviewing the programme to date and planning for the future

1.11 This report will outline the induction programme offered to date, the take-up of the various sessions and detail the response from Members to the sessions and the survey issued to Members in July 2021. In line with the States' resolution, the following sections of the report will include an analysis of the success or otherwise of each part of the programme and any changes which it would be considered desirable to put into effect for the next States' term.

1.12 Whilst the States' resolution directed that the report should include details of a programme of ongoing training which shall be offered to all Members during the entire term, it is suggested a different approach is taken in future to be more responsive to Members' needs. This is covered in more detail in section 4.

2 2020 – 2021: Ongoing Development Programme

A. An overview of the programme

- 2.1 The induction programme commenced on the 15th October following the first Island-wide election on 7th October 2020. Sessions were organised for Members before they were formally sworn in to ensure they were equipped with certain knowledge and tools prior to the political term starting. This included:
- The provision of IT equipment and an introduction to States networks and websites.
 - A States' Committee Exhibition with senior staff attending to meet with Deputies.
 - Data Protection and Information Security.
 - The Rules of Procedure of the States of Deliberation for Elections.
 - The Code of Conduct for Members of the States of Deliberation.
- 2.2 Further to Deputies being sworn in, the initial programme continued in October with sessions such as the Presiding Officer's presentation on being a Member of the States of Deliberation, a workshop on 'Parliamentary tools' from the Parliamentary Team and a session on 'understanding legislation' from the Law Officers of the Crown.
- 2.3 From November, the ongoing development programme began in earnest, with a wide variety of subject matters and session delivery styles on offer. Owing to the pandemic, a mix of in-person and virtual presentations were offered, using Microsoft Teams where necessary. In-house presenters were used when possible and appropriate, which facilitated efficient use of resources both in cost and use of the abundance of knowledge held within the States. An outline of the programme from October 2020 to July 2021 can be found at **Appendix II**.
- 2.4 Separate to the programme outlined in Appendix II were the 'in-house' Committee inductions which took place between October to December 2020. Each Committee Secretary or Principal Officer was tasked with ensuring that Members of that Committee were inducted on the following:
- The Rules of Procedure for Committees
 - The Committee's mandate and operational functions
 - The role of Committee Members
 - The Committee's Budget and Accounts
 - The extant resolutions of the Committee
- 2.5 The States of Guernsey also offers online, video IT training for Members, through its intranet. As well as video sessions on Microsoft Office (Word, Excel, Outlook, PowerPoint), it also has training on Microsoft Teams, SharePoint, OneDrive and OneNote. This is a helpful resource for Members to be able to familiarise themselves at their own pace with software in regular use by the States.
- 2.6 There is also the ongoing States of Guernsey 'Cyber Training' which provides eLearning (including videos and quizzes) on a variety of subjects including cyber security training, data protection awareness, social media dangers, phishing, scams and data handling.

These courses are regularly e-mailed to States' Members throughout the year.

2.7 In addition to sessions provided on-Island through the programme, a selection of free online courses provided by the Commonwealth Parliamentary Association (CPA) were offered to Members. The CPA launched its new [Parliamentary Academy](#) in May 2021, which acts as a 'Centre of Excellence for Commonwealth Parliamentarians'. Courses include:

- Induction for New Parliamentarians
- Legislative Process
- Scrutiny, Accountability and Oversight
- Representation, Advocacy and Education

2.8 The learning portal provides online training and professional development through its new accessible website, including video and online resources. The CPA aims to support and equip Parliamentarians and parliamentary staff in their mission to adhere to the highest standard of democracy and strengthen their capacity to fulfil constitutional and statutory obligations. Members were actively encouraged to undertake these online courses, as a useful supplement to the existing sessions provided through the on-Island programme.

2.9 Opportunities for off-Island engagement, an important aspect of parliamentary life, have now become possible once more. Delegations to other parliaments particularly for the CPA regional and plenary conferences are learning opportunities in themselves and these will be supplemented by seminars and workshops hosted by CPA UK at Westminster and by CPA HQ further afield. In addition, it is hoped that the Crown Dependency Network will resume meeting in November 2021. In the future Guernsey will also be hosting visits from other parliaments both as individuals and as delegations.

2.10 Information about the programme is available to Members via the States Intranet, 'The Bridge', which has a States' Member's 'Hub' which holds general information, induction information and copies of all the presentations given to date. This section of the Intranet has been enhanced this political term to provide an appointments calendar, a contacts page showing useful contacts for various areas of the States and quick links to individual Committee home pages.

B. Review of the programme from 2020 to 2021

2.11 Member participation and feedback is an essential part of reviewing the success of individual sessions and the programme as a whole. Feedback forms are available to Members after every session held.

2.12 In April 2021, six months after the start of the political term, a short survey was circulated to all Members seeking initial feedback on the overall programme to date. Only three responses were received to this survey which provided limited insight into the effectiveness of the programme from Members' perspective.

2.13 In July 2021, a more comprehensive survey was issued with Members advised that the results would inform this report and reminded that their engagement with the survey was vital to ensure the ongoing programme is shaped by Members' input and responsive to their needs. The survey sought feedback on:

- The preparation undertaken by individuals in the lead up to the General Election
- The sessions held to date
- Whether the sessions were meeting Members' expectations in preparing and supporting them in their roles as Parliamentarians, Committee Members and Constituency Deputies
- Sessions they would like to see in the next year of the political term

i) Attendance at the sessions held

2.14 At the 2020 General Election, the make-up of the States significantly changed from the previous political term:

- 19 Deputies who had served in the 2016 – 2020 political term were re-elected
- 1 Deputy who had served in the 2012 - 2016 political term was elected
- 18 Deputies were newly elected to the States of Deliberation

2.15 One of the challenges in creating an induction and ongoing development programme is scheduling sessions that will meet the needs of newly elected Deputies who may be unfamiliar with States' rules, procedures and processes and also providing sessions which will be relevant for Deputies who have served previously.

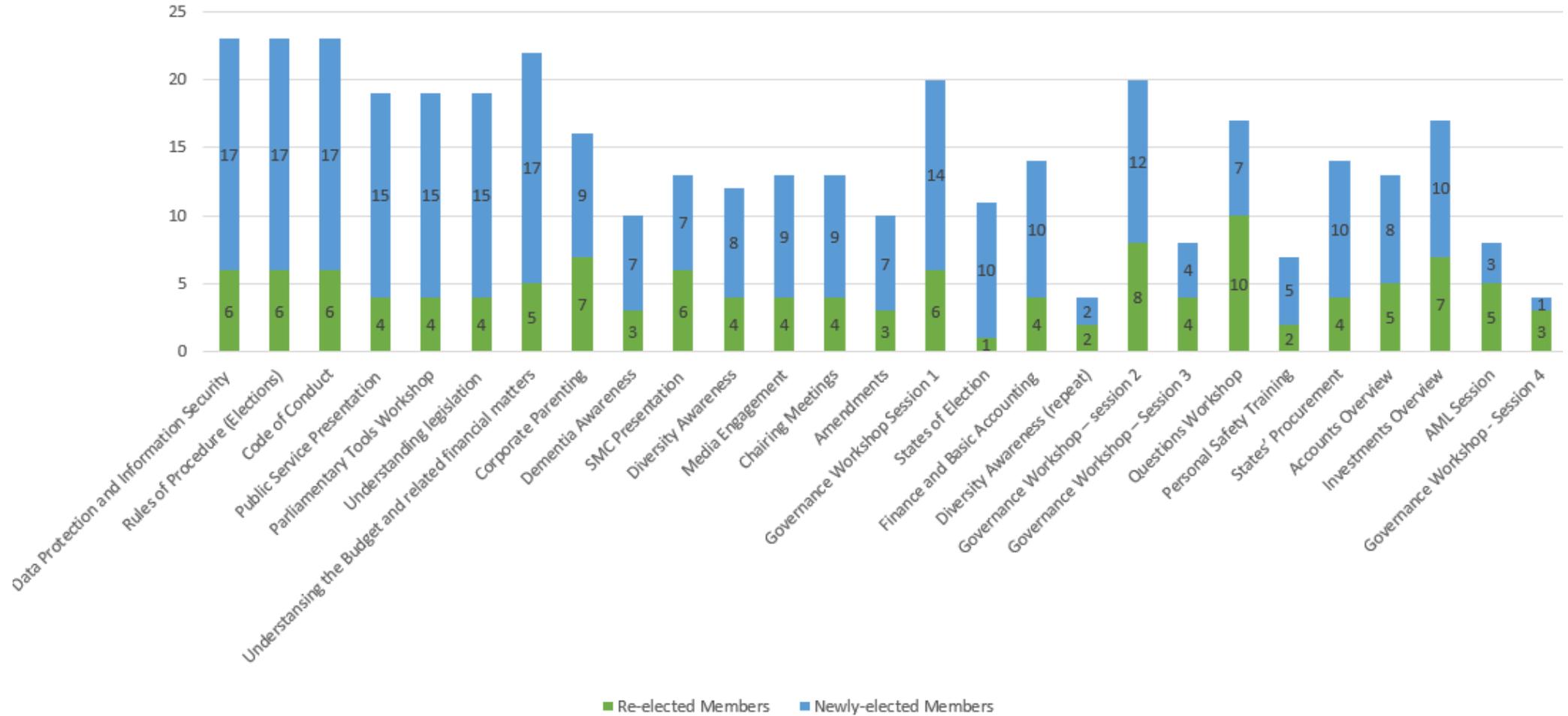
2.16 Some of the initial sessions held in October were targeted at new Members but the programme has sought to ensure that ongoing development sessions are beneficial to all, either as a development or refresher session. There are subjects relevant to **all** Members to support them in ensuring they are fully apprised of the current requirements upon them e.g. Data Protection and Information Security, the Code of Conduct for States' Members, good governance etc.

2.17 The graph on the following page shows the attendance levels for the sessions held up to July 2021. It also shows the breakdown of re-elected and newly elected members who attended each session. Staff attending the sessions did not consistently note all the names of the Members who attended, or their gender, so no further analysis of the data is available.

2.18 When considering the graph on the following page against the courses listed in Appendix II, it is clear that there was a high level of engagement from newly elected Members for the initial sessions held in October with an average of 16 out of the 18 new Members attending each session. There was a reduction in attendance of Members at sessions held from November onwards, with Members having to balance competing priorities e.g. attendance at other meetings, constituency appointments etc. This is considered in more depth in the 'lessons learnt' reflections later in this report.

Attendance levels of re-elected and newly elected Members from October 2020 to July 2021

Onboarding and Development Programme



ii) Feedback forms: information gathered

- 2.19 For each session, it was requested that Members fill out a feedback form, which would help the IWG to understand:
- the success or otherwise of the session
 - whether a further session was required
 - whether any action was needed as a result of the session (e.g. circulation of further information, addressing questions raised, different training etc.)
- 2.20 All feedback, including anything reported verbally or via email, was collated and reported back to the IWG, and next steps were decided based largely on this. An analysis of the feedback showed that on average, the sessions were rated ‘excellent’ to ‘good’. However, there were some sessions that were rated as ‘poor’. The IWG has shared this feedback with the presenters to learn from the feedback and make changes for future sessions.
- 2.21 Several key themes were identified from the feedback forms, summarised below:
- The quality of the sessions overall is very good
 - There is some demand for repeat sessions which could facilitate a more detailed look at certain topics
 - Attendance can be difficult at times because of other prior commitments
 - Sessions which allowed for group discussion and time for questions were useful
 - The programme has provided a platform for newly elected deputies to learn from the existing knowledge of those who have been re-elected

iii) Survey of States’ Members: information gathered

- 2.22 The survey of States’ Members was issued in July with a deadline for responses of 31st August. The covering e-mail to Members also asked if any would be prepared to participate in a small focus group to provide further feedback to help the IWG to improve the offering to Members:
- 19 Members responded to the survey
 - 1 Member agreed to participate in a small focus group

The survey feedback from Members is summarised in Appendix 3 to this report

- 2.23 The attendance levels of re-elected and newly elected Members from October 2020 to July 2021 detailed in the graph on page 7 shows that there was good attendance at the sessions offered in the first fortnight of the political term but that this decreased as Members’ commitments increased. The survey feedback also reflected this.
- 2.24 The results of the survey confirmed the findings from the feedback forms, with the vast majority of respondents rating the quality of the overall programme as good, with no-one rating the programme as poor. There was a number of comments that while the dates and timings of sessions worked well at the start of the programme, understandably, the busier it got, the more clashes there were. Some suggested that it might be useful to have a monthly allocated day/time slot which may help Members’

attendance and help with diary planning.

- 2.25 Members provided useful feedback in the survey regarding what they liked most and least about the programme. This is summarised in paragraphs 4.3 and 4.4 of Appendix III and has fed into the 'Lessons Learnt' and 'Next Steps' sections later in this report.
- 2.26 The IWG sought to understand what preparations newly-elected candidates had undertaken before standing, to understand the level of research undertaken prior to becoming a Deputy, and how useful they had found this in preparing for the role. They were also asked to consider whether – in hindsight – there was anything else that would have been useful to them in preparing for the role. The results are listed in paragraph 5.11 of Appendix III.
- 2.27 The survey results demonstrated that there was an appetite for further information about the role of Deputy and the States of Deliberation, including the time commitment of the role, advance sessions for prospective candidate and the potential for mentoring from sitting or former Deputies.
- 2.28 Members were asked whether there were any topics they would like to see in their second year that had not been covered during the first year (up to when the survey was released). The feedback received will be considered by the IWG, in consultation with the States' Assembly & Constitution Committee.
- 2.29 A key area the IWG was keen for feedback on was the extent to which the following objective was met:

To plan an ongoing programme of development for Deputies, taking into account their requirements as: Parliamentarians; Committee Members; and "constituency" Deputies;

- 2.30 Section 7 of Appendix III shows that Members found the sessions relating to their role as "Parliamentarians" useful and there was an overall positive response to the support of Members in their role as a Committee Member. The area where feedback suggests the sessions did not meet Member expectations in preparing and supporting them in their role related to constituency work.

3 Lessons Learnt

3.1 In 2020-21, the feedback forms provided after each session have proved a useful ongoing tool in identifying potential improvements. The IWG has also identified areas where improvements can be made and the survey responses from States' Members have all helped develop the 'lessons learnt' listed in this section. Suggestions on how each 'lesson learnt' can be addressed are detailed in section 4 of this report.

(a) Induction timetable and information to be available before the General Election

3.2 In advance of the 2020 General Election, it had been intended to produce a brochure of the induction and ongoing development sessions that would be organised that would be available to Members upon their swearing-in. The rescheduling of the General Election meant that those tasked with this were diverted to dealing with the postponement and reorganisation of the Election. It is suggested that, in advance of the General Election in 2025, this brochure is produced.

(b) Increased number of sessions for prospective candidates in the lead up to the General Election

3.3 In 2020, the States of Guernsey held two sessions with prospective candidates to explain the rules and processes around the General Election. However, it has generally not, historically, provided sessions for prospective candidates and the public on what the States does and what being a People's Deputy means in reality. Whilst the WEA Guernsey provides an excellent service in providing information to prospective candidates through the course it runs in advance of General Elections, there is clearly an appetite for more information to be provided by the States of Guernsey. There are also areas covered by the initial induction for Deputies which would benefit prospective candidates.

(c) Timing and scheduling of sessions

3.4 Sessions clashing with other commitments was a consistent point of feedback from Members, with the challenges of attending sessions whilst managing a busy workload highlighted. In future it is intended that the workshops will be held on a regular day and time (when possible to do so), and that there are no more than two sessions a month, after the initial month of the induction.

3.5 It is also agreed that in respect of the ongoing programme, a quarterly programme of sessions should be organised and circulated well in advance of that quarter to ensure Members are informed in a timely basis and to seek to encourage a higher level of engagement.

(d) Increasing knowledge of the practical application of the Rules of Procedure of the States of Deliberation

3.6 Whilst a number of sessions were held in the first year relating to how the States of

Deliberation functions, including refresher sessions, it has been clear from feedback from Members that more could be done in this area to support Members undertaking their roles as Parliamentarians, particularly as the term progresses and Members become more familiar with the workings of Parliament.

(e) Increased information regarding Committee mandates and operational functions

3.7 Each Committee Secretary or Principal Officer was tasked with ensuring the Committee they support was properly inducted on the work of the Committee, but it is clear that further work is required to ensure Members are familiar with **all** Committee mandates and operational functions, rather than just those on which they serve. Whilst a States' Committees' Exhibition took place on 15th October which gave Members the opportunity to find out more about the mandates and workings of each States' Committee, and to meet with senior staff, it is clear that more information should be provided at an earlier point.

3.8 More information should be provided in advance of the General Election to prospective candidates, and the public, on the mandates and functions of the Committees. This will assist in ensuring newly elected Members are well-informed of the Committees they may wish to serve on. This will also assist Members in knowing which Committees and service areas to contact on areas of interest e.g. policy areas, assisting constituents etc.

(f) More information and support provided to Deputies in undertaking "constituency work"

3.9 Whilst feedback regarding the induction and ongoing development opportunities was generally positive in relation to sessions provided to Deputies in their roles as "Parliamentarians" and "Committee Members", it is clear from the feedback from Members that more needs to be done to support Members when undertaking "constituency work", including access to expertise, information and support from officers.

(g) Refresher Sessions

3.10 The appetite for certain sessions to be held again but with further time to get into the detail of the topic was evident. As a result of this, a list of 'refresher sessions' have been identified, and this will help to inform the programme for the second session in the current term.

(h) Need for ongoing Member feedback and suggestions

3.11 This political term has been the first time the States has sought to provide a programme of induction and support running throughout the term, rather than focussed on the initial month. Members are encouraged to contact the group with any areas they identify – as the term progresses – where they believe there would be benefit from sessions and to be proactive in requesting these.

(i) Delivery of sessions

3.12 Beau Sejour and Les Cotils were the primary venues used, with some sessions also being held at the Royal Court. These have worked well, both in terms of location, facilities and technology provided, and the IWG will continue to make use of them following positive feedback from Members.

3.13 Virtual workshops were also a success, with one session being touted as ‘the best presentation I’ve been to’ by a Member. Having originally moved to a virtual set up as a result of the Covid-19 pandemic, it has now been established that this has been successful, so going forward this will be an option considered when employing external speakers or scheduling other sessions.

4 Next Steps

4.1 It is clear from looking at the lessons learnt from the programme so far, a great deal has been learnt which will inform changes made ahead of planning for the 2025 General Election. The IWG will continue to adapt and learn from experience, and from feedback provided by Members and attendees.

4.2 In order to maintain this forward progression, a list has been compiled which shows the changes that will be brought in this term and in advance of the 2025 General Election:

(a) Induction timetable and information to be available before the General Election

4.3 As highlighted at paragraph 4.2, it is suggested, in advance of the General Election in 2025, a brochure of the induction and ongoing development sessions to be held is published. It is suggested that for each session, the following information would be provided:

- The title of the session
- The purpose of the session
- How the session will be delivered (e.g. workshop, presentation, online etc.)
- Who will deliver the session
- The duration of the session
- Who the session is targeted at (e.g. all Deputies; newly-elected Deputies; candidates)

4.4 Producing an induction timetable and brochure available prior to the General Election will enable candidates to block out sessions of interest to them well in advance.

4.5 As highlighted earlier in this report, one of the challenges in creating an induction and ongoing development programme is scheduling sessions that will meet the needs of newly elected Deputies who may be unfamiliar with States’ rules, procedures and processes and also providing sessions which will be relevant for Deputies who have served previously. Identifying who the session is targeted should assist with this albeit

it would not preclude any longer-serving Deputy from attending any courses targeted at newly elected Deputies if they wanted a “refresher” session.

4.6 Work has commenced on the production of the brochure and Members will be consulted on its contents prior to its being finalised.

(b) Increased number of sessions for prospective candidates in the year leading up to the General Election

4.7 The IWG has identified a number of sessions covered in the initial induction for Deputies which would benefit prospective candidates. These include, but are not limited to:

- The Code of Conduct for Members of the States of Deliberation
- Being a People’s Deputy: the role and potential time commitments
- Committee mandates and operational functions
- Preparing for and participating in States’ Meetings
- Data Protection and Information Security

(c) Increasing the information available regarding the Rules of Procedure of the States of Deliberation, the States of Guernsey, Committee mandates and operational functions

4.8 The Parliamentary Team suggests there is benefit in more practical sessions being scheduled for Members on the operation of the States of Deliberation in the first six months of the political term as Members familiarise themselves with States’ Meetings. It is suggested that small ‘wash-up/preparing’ sessions with the Parliamentary Team are held between States’ Meeting to provide Members the opportunity to raise any matters relating to the previous or forthcoming meetings.

4.9 The States’ Assembly & Constitution Committee included a proposition in its ‘General Election 2020: Reports from the CPA BIMR Election Expert Mission and the Registrar-General of Electors’ as follows:

To agree the following workstreams should be undertaken by the States’ Assembly & Constitution Committee:

...

- i) increasing the information provided regarding the role of a States’ Member, the States of Guernsey and the election process by the end of 2023.*

4.10 Paragraphs 13.6 and 13.7 of that report read as follows:

Whilst acknowledging the improvements made to the support for candidates in advance of the 2020 General Election, the Committee is keen that work is undertaken providing information to the public about the work of Deputies and the work of the States, to demystify what being a Deputy entails in reality, for both the public and potential candidates. This will be aimed at all sectors of society but will look at some

of the perceived barriers that may exist for those currently underrepresented in the States e.g. women, persons with disabilities etc.

The Committee will be working with Members, organisations and the public to ascertain what information should be produced and will be working with the Parliamentary Team to ensure this is provided as part of its outreach work. It will also seek to provide information on the General Election well in advance of it taking place (rather than just in the months immediately prior to the Election) to assist individuals who might consider standing.

- 4.11 There are workstreams already in train by the Parliamentary Team to seek to contribute to this aim in respect of Deputies as “Parliamentarians” and the IWG is looking into a number of ways that further information can be provided regarding the States of Guernsey more generally e.g. through the production of videos, audio and written information, to meet the Committee’s aims.

(d) Support to Deputies when undertaking “constituency work”

- 4.12 In direct response to feedback received about the need for a dedicated person for Deputies’ queries, the current plan is for a Graduate Intern to act as the first point of contact for Members seeking information or support. For the avoidance of doubt, this does not replace the Parliamentary support provided by the Parliamentary Team, who remain the appropriate contact for such matters. Rather it is envisaged that the Graduate Intern will be able to provide an initial contact for Deputies seeking help in particular with constituency work as well as with any other non-Parliamentary matters where it may not be possible or appropriate for Deputies to access support via the Committee structures.

- 4.13 The Graduate Intern will be supported by other, more senior, colleagues with greater experience but it needs to be understood that, with limited resources, there is a finite amount of assistance that can be given by one person. At present, this will be a pilot that will help to establish whether there is a case for further investment in this service.

- 4.14 Assistance can be provided by the Graduate Intern in the form of supporting the resolution of enquiries from constituents, undertaking research and assisting in drafting correspondence.

5 2021 – 2025: Ongoing Development Programme

- 5.1 Having reflected on the lessons learnt and the review of the first nine months of the current term, the remaining 2021 programme has been scheduled to include one or two sessions a month, which have been booked and circulated to Members well in advance in order to seek to facilitate good levels of attendance from Members.

5.2 The programme for October to December is as follows:

| Date | Session | Delivered by |
|-------------------------|--|----------------------------|
| October | Questions Workshop: Part II | Parliamentary Team |
| Every Friday in October | Parliamentary Website: Drop-in sessions Group or 1:2:1 sessions | Parliamentary Team |
| November | Mental Health Awareness | Guernsey Mind |
| November | Crown Dependency Network Meeting | Parliamentary Team, Jersey |
| November | Bilateral Visit from the States of Deliberation to the Houses of Parliament Delegation of up to 10 New Deputies | CPA UK |
| December | Media Engagement Workshop | Communications Team |

5.3 In future, the programme will be set quarterly and circulated ahead of time. The programme for the first quarter of 2022 will be circulated to Members by the 30th November 2021. Whilst the 2012 resolution directing the production of this report directed the report to include:

“details of a programme of ongoing training which shall be offered to all States’ Members during that States’ term”,

the IWG, endorsed by the States’ Assembly & Constitution Committee, does not believe setting a programme of ongoing training for the remainder of the term is helpful. The programme aims to be responsive to Members’ needs and therefore will continue to be developed on a quarterly basis in consultation with Members and reflecting matters that arise throughout the term.

5.4 There will also be annual refresher courses on certain subjects, further to Members’ requests, and Members are encouraged to request training on areas which have not yet been identified, and any repeat sessions they would like to take place in 2022. The IWG ask that these requests are submitted by 31st October 2021.

States' Members' Induction Working Group

Terms of Reference

Purpose

The States' Members' Induction Working Group is an officer-level group set up to achieve the following objectives:

- To prioritise and plan the on boarding of the Deputies elected in October 2020, ensuring that equipment and knowledge that they will need in the initial period (up to one month) post swearing-in is provided;
- To plan an ongoing programme of development for Deputies, taking into account their requirements as: Parliamentarians; Committee Members; and "constituency" Deputies;
- To identify and liaise with suitable providers of equipment, training and information and to ensure that they are available to deliver whatever is required;
- To ensure that certain key information is imparted to election candidates and would-be candidates, although detailed planning in this respect is the responsibility of the Election 2020 Project Board.
- To promote a consistent approach to the format and use of 'Committee' specific induction material

In discharging its responsibilities, the Working Group will:

- Take account of feedback from existing Deputies, in particular the most recent Deputies' survey;
- Consider the extent to which development for Deputies needs to be mirrored for civil servants and liaise with Learning & Development, and others, as necessary;
- Ensure that the programme is shared with stakeholders (e.g. Committee Secretaries, Directors of Ops, etc.) to encourage a consistent approach across the organisation.
- Conduct an evaluation of the programme in Q4, to include data capture relating to un-met needs, then plan to address these.

Roles

The Working Group will collaborate on all work streams, whilst each retaining specific responsibilities and accountabilities as follows:

- The **Strategic Lead for Supporting Government** is accountable for the successful achievement of the Working Group's objectives and will provide strategic direction and sign off on the programme. She will also provide a link with the SLT.

- The **States' Greffier** is responsible for advising on Deputies' needs as Parliamentarians and for developing and delivering suitable support. He will provide a link to the Bailiff and Law Officers.
- The **Principal Officer, States' Assembly & Constitution Committee (SACC)** is responsible for ensuring that any directions issued by SACC, as the Committee with political responsibility for Deputies' induction, are reflected in the programme. She will also convey the Committee's views as necessary and will provide regular updates to, and feedback from, the Committee.
- The **Committee Secretary to the Policy & Resources Committee** is responsible for ensuring that Committee inductions are developed to a high standard and that there is consistency across all Committees. She will also provide a link to the Committee Secretaries.
- The **Policy Support Officer** is responsible for providing support as needed, including logging and tracking actions; researching options; and liaising with service providers on behalf of the Working Group.

**INDUCTION AND ONGOING DEVELOPMENT PROGRAMME
OCTOBER 2020 - JULY 2021**

| Date | Time | Venue | Session | Delivered by |
|--------------------------------------|-------------------|-------------------|---|---|
| Thursday 15 th October | 09:00 – 12:00 | Beau Sejour | Provision of IT equipment to Members and an introduction to States' Networks and Systems | Agilisys |
| Thursday 15 th October | 09:00 – 12:00 | Beau Sejour | States' Committees' Exhibition Information about the mandates and workings of States' Committees and meeting senior staff | Staff from each Committee |
| Thursday 15 th October | 13:00 | Beau Sejour | Data Protection and Information Security | Head of Data Protection Head of Information Assurance |
| Thursday 15 th October | 14:00 | Beau Sejour | Rules of Procedure of the States of Deliberation for Elections | Presiding Officer (the Bailiff) |
| Thursday 15 th October | 15:00 | Beau Sejour | The Code of Conduct for Members of the States of Deliberation | Secretary to the States Members' Conduct Panel Principal Officer, SACC |
| Friday 16 th October | 9:30 a.m. | Royal Court House | Swearing in of People's Deputies | |
| Friday 16 th October | After Swearing In | Royal Court House | Introduction to Parliamentary Officials | Presiding Officer (the Bailiff) States' Greffier |
| Tuesday 20 th October | 11:00 | Beau Sejour | Being a Member of the States of Deliberation | Presiding Officer (the Bailiff) |
| Friday 23 rd October | 09:30 | Beau Sejour | Public Service | Chief Executive Strategic Leadership Team |

| Date | Time | Venue | Session | Delivered by |
|---|-------------|--------------|--|--|
| Friday 23 rd October | 11:00 | Beau Sejour | Understanding Legislation | Law Officers of the Crown |
| Friday 23 rd October | 12:00 | Beau Sejour | Parliamentary Tools Workshop | States' Greffier |
| From Monday 26 th October through to December 2020 | Ongoing | Various | Committee Inductions All Principal and Other Committee Members inducted on the following matters as part of their Committee induction: <ul style="list-style-type: none"> • Rules of Procedure for Committees • Role of Committee Members • Understanding the Committee's Budget and Accounts • Committees acting in a quasi-judicial capacity | Committee Secretaries and Principal Officers Director of Strategy and Policy Finance Business Partners |
| Wednesday 28 th October | 11:00 | Beau Sejour | Understanding the Budget Report and related financial matters. | States Treasurer/Treasury team |
| Monday 2 nd November | 10:00 | Beau Sejour | Corporate Parenting | Head of Inclusion and Services for Children & Schools; Head of Service at Children and Family Community Services |
| Monday 2 nd November | 11:30 | Beau Sejour | States' Meeting: Preparing for the first Meeting | States' Greffier Principal Officer, SACC |
| Tuesday 10 th November | 10:00 | Beau Sejour | Dementia Awareness | Dementia Friendly Guernsey |
| Thursday 12 th November | 11:00 | Beau Sejour | Scrutiny Management Committee | Principal Officer, Scrutiny Management Committee |
| Friday 13 th November | 10:00 | Les Cotils | Diversity Awareness Workshop | Equality Guernsey |

| Date | Time | Venue | Session | Delivered by |
|--|-------------------------|-------------------------------|--|---|
| Monday 16 th November | 11:00 | Beau Sejour | States of Guernsey Annual Budget for 2021 | States Treasurer/Treasury team |
| Friday 20 th November | 10:00 | Beau Sejour | Media Engagement | States' Media and Communications Officers |
| Monday 23 rd November | 10:00 | Beau Sejour | Chairing Meetings | Chief Executive Officer, Guernsey Post |
| Friday 4 th December | 09:00 – 11:00 | Sir Charles Frossard House | 1:1 IT Drop-in Sessions for States Members | Service Performance and Training Officer |
| Wednesday 9 th December | 09:00 – 11:00 | Sir Charles Frossard House | 1:1 IT Drop-in Sessions for States Members | Service Performance and Training Officer |
| Wednesday 9 th December | 14:00 – 17:00 | St James | Governance Workshop – Session One | TheValueCircle |
| Friday 11 th December | 09:00 – 11:00 | Sir Charles Frossard House | 1:1 IT Drop-in Sessions for States Members | Service Performance and Training Officer |
| Friday 11 th December | 14:00 | Royal Court House | States of Election | Secretary to the Bailiff |
| 2021 | | | | |
| Monday 11 th January | 10:00 | Guernsey Training Agency | Finance and Basic Accounting | Guernsey Training Agency |
| Friday 15 th January | 10:00 | Beau Sejour | Diversity Awareness Workshop (repeat session) | Equality Guernsey |
| Friday 22 nd January | A.M. or P.M. Session | Beau Sejour | Governance Workshop: Session Two | TheValueCircle |

| Date | Time | Venue | Session | Delivered by |
|---|-------------------------|----------------------|---|---|
| <p>The Bailiwick of Guernsey went into a second lockdown as a result of COVID-19 on Saturday 23 January 2021. A number of sessions planned for February and March had to be run via MS Teams or rescheduled for when the Island exited lockdown in late March 2021. Some sessions were held via MS Teams in the interim e.g. a repeat session on the Parliamentary Tools Workshop.</p> | | | | |
| Friday 9 th April | A.M. or P.M. Session | Beau Sejour | Governance Workshop: Session Three | TheValueCircle |
| Wednesday 21 st April | 14:00 – 15:30 | Les Cotils | Parliamentary Questions Workshop | States' Greffier Principal Officer, SACC |
| Wednesday 12 th May | 14:00 - 15:00 | Royal Court House | Personal Safety Training | Head of Operations, Royal Court Principal Officer, SACC and Guernsey Police |
| Friday 14 th May | 10:00 | Beau Sejour | States' Procurement | States' Treasury team |
| Friday 21 st May | 09:00 | Beau Sejour | The States of Guernsey Accounts: Introduction and overview | States' Treasury team |
| Friday 11 th June | 10:00 | Beau Sejour | States' Investment Funds | States' Treasury team |
| Friday 9 th July | 09:30 | Les Cotils | Anti-Money Laundering (AML)/Combating the Financing of Terrorism | Director of Financial Crime Policy Chief Investigator, Committee <i>for</i> Home Affairs Thinking About Crime Ltd |



Ongoing Development Programme - End of First Session Survey

1 Introduction

- 1.1 On 30th July 2020, a survey was circulated to all People's Deputies to provide them with the opportunity to provide anonymous feedback on the States' Members' Induction and Ongoing Development Programme to help the Induction Working Group shape it in the future and ensure it meets Deputies' needs. It was requested that the survey be completed by 31st August.
- 1.2 Deputies were informed that the results of the survey would inform the report that would be published by the States' Assembly & Constitution Committee which would include a review of the programme, considering the success or otherwise of each part of it, the lessons learnt and any changes that could be made.
- 1.3 It was highlighted that it was vital to have Deputy engagement with the survey to ensure the programme was shaped by their input and responsive to their needs. Deputies were also asked if they would be prepared to participate in a small focus group to provide further feedback to help the Group improve the offering.

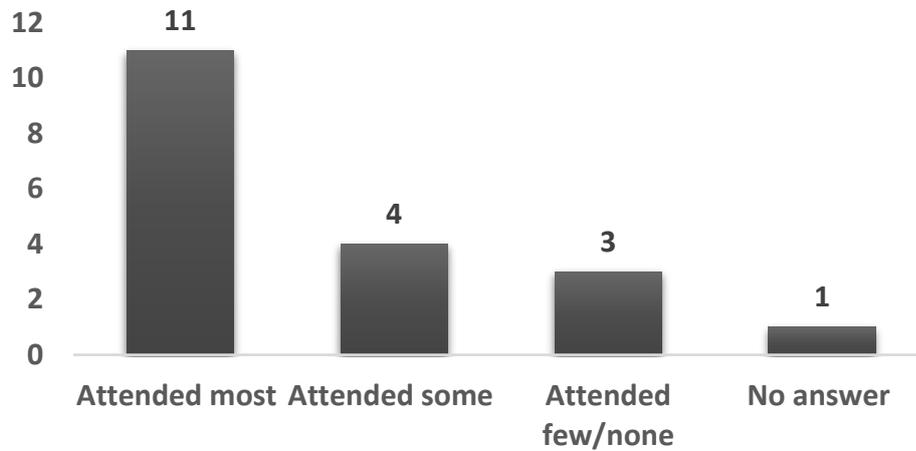
2 Responses received

- 2.1 19 Deputies completed the survey (i.e. 50% of Deputies). One Deputy volunteered to participate in a small focus group. This report provides a summary of the information collected from this survey which in turns informs some of the findings and changes for the future suggested in the main report from the Induction Working Group.

3 Engagement with the Programme

- 3.1 Deputies were asked whether they attended most, some or few/no sessions. They were also asked the reasons for their level of engagement.

Attendance at sessions offered



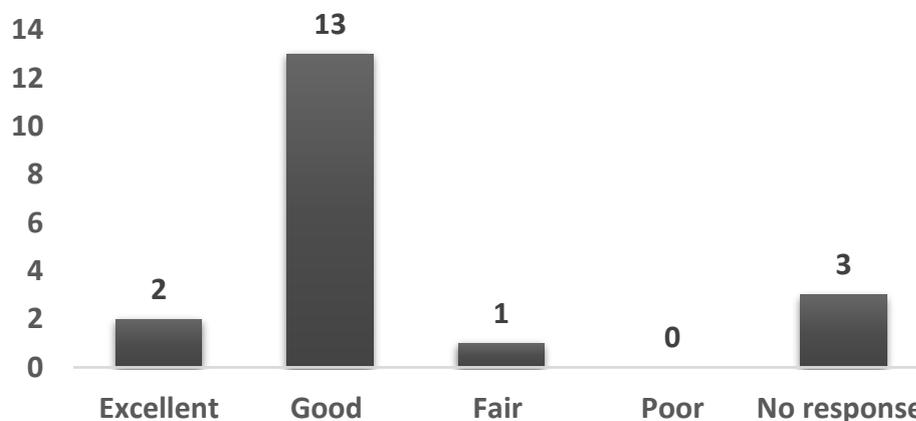
- 3.2 Deputies who responded stating they attended most of the sessions said it was to increase their knowledge, learn more about their role and the role of the Civil Service, the workings of Committees, and States' processes and procedures.

“Whatever you think you know about being a People’s Deputy there is more to learn – and it’s a steep learning curve!”

- 3.3 Those who attended some sessions cited appointment clashes hindering attendance as the term progressed. Some longstanding Deputies stated that as well as clashes, their previous knowledge and experience made attendance at all sessions unnecessary. These reasons were also given by those who attended few/no sessions.

4 Quality of the Programme

Quality of the Programme



- 4.1 Deputies were asked to rate the quality of the programme from ‘Excellent’ to ‘Poor’. It is encouraging to note that the vast majority of respondents rated the

quality of the programme as 'good' which accords with the feedback forms provided after each session, with no Deputy rating the programme as 'poor'.

4.2 Deputies were asked whether they felt well supported in the induction (the initial phase up to one month post swearing-in). Of the 13 respondents, 11 stated they felt well supported with 2 feeling somewhat supported.

4.3 Deputies were asked what they had liked **most** about the programme to date. The feedback can be summarised as follows:

- The breadth and variety of topics offered, with no assumptions made regarding knowledge to ensure all levels were covered.
- The opportunity to meet and engage with other Deputies outside of Parliamentary or Committee settings.
- Information regarding the functions and rules of the Parliament.
- The opportunity to meet and engage with responsible officers and ask questions during sessions.
- Many sessions were informative and well-delivered by staff.

4.4 The survey also asked what Deputies liked **least** about the programme to date. The feedback can be summarised as follows:

- Sessions clashing with other commitments was a consistent point of feedback from Deputies, with the challenges of attending sessions whilst managing a busy workload highlighted. Some sessions were also scheduled at too short notice.
- The decreasing level of attendance of sessions as the programme progressed.
- The variation in quality of sessions was highlighted, with some criticism of 'chalk and talk' PowerPoint presentations.
- Some presenters, whilst knowledgeable, did not have a full insight into the mechanics of the States.
- Not all the sessions were relevant to long-standing Deputies.

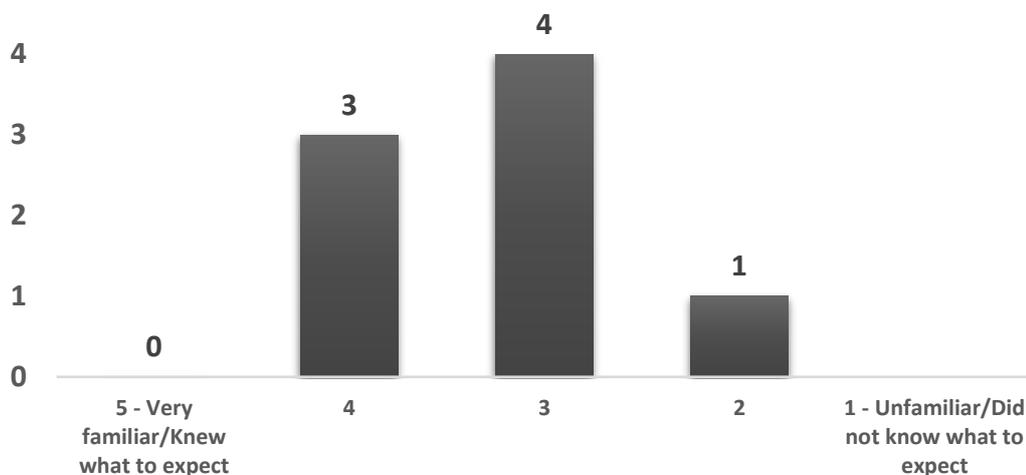
5 Preparations undertaken by newly elected Deputies in the lead up to the Election

5.1 Information was specifically sought from newly elected Deputies regarding:

- How familiar they were with the role of Deputy and what would be expected of them in the role.
- The preparation they had undertaken before standing as a Deputy, looking at whether they had:
 - Attended the course put on by the WEA Guernsey
 - Read Billets d'État
 - Attended States' Meetings
 - Listened to States' debates (e.g. online or on the radio)
 - Spoken to incumbent or former Members

and how useful this preparation had been in preparing them for reality of the role.

Newly-Elected Deputies: Familiarity with the role



5.2 The eight responses to this question demonstrate that whilst all newly elected Deputies had some knowledge of the role of a Deputy and what it would entail, further work is required, and more information needs to be provided, to prospective candidates regarding the various aspects of the role.

5.3 The newly elected Deputies were then asked what preparation they carried out before standing and asked to rank how useful this had been.

(a) Course run by the WEA Guernsey

5.4 The WEA Guernsey is an adult education association. Many people who considered standing as a People’s Deputy in 2020 attended the course run by the WEA Guernsey at Les Cotils, entitled ‘Do you want to be a States Deputy in 2020?’. It ran for six weekly evening sessions and information about the course was available on www.wea.org.gg/.

5.5 Three of the Deputies who responded to the question confirmed that they had attended this course and found it to be one of the more useful activities to undertake in preparing for the role.

(b) Reading Billets d’État

5.6 A Billet d’État is produced for each States’ Meeting, containing the items that will be discussed at the States’ Meeting. Six of the Deputies confirmed that they had read Billets as part of their preparation. This was ranked as either an average or less useful activity in preparing for the role.

(c) Attending States’ Meetings

5.7 Members of the public are welcome to attend States’ Meetings by sitting in the public gallery. Four respondents attended meetings as part of their preparation, with two ranking it as the most useful activity they undertook in preparation, one

ranking it as the second most useful activity and one ranking it as one of the least useful.

(d) Listening to States' Meetings

- 5.8 Members of the public can listen to States' Meetings via the States of Guernsey website or BBC Radio Guernsey (online, on 1116 Medium Wave or DAB). Five respondents listened to debates as part of their preparations. This was seen as a generally useful resource.

(e) Speaking to incumbent or former Deputies

- 5.9 Six of the respondents advised that they had spoken to incumbent or former Deputies as part of their preparations. This was ranked overall as the most useful part of the preparation undertaken. One respondent commented that they had also spoken to a non-voting Member of a Committee.

- 5.10 Two respondents also flagged up the benefits of working in the parish system in preparing for the role, and the assistance and support provided by [Women in Public Life](#), a voluntary group launched in January 2020 to inspire and support the women of Guernsey to stand for public office.

- 5.11 Newly-elected respondents were also asked to reflect what else would have been useful in preparing for the role in advance of standing. The following suggestions were made:

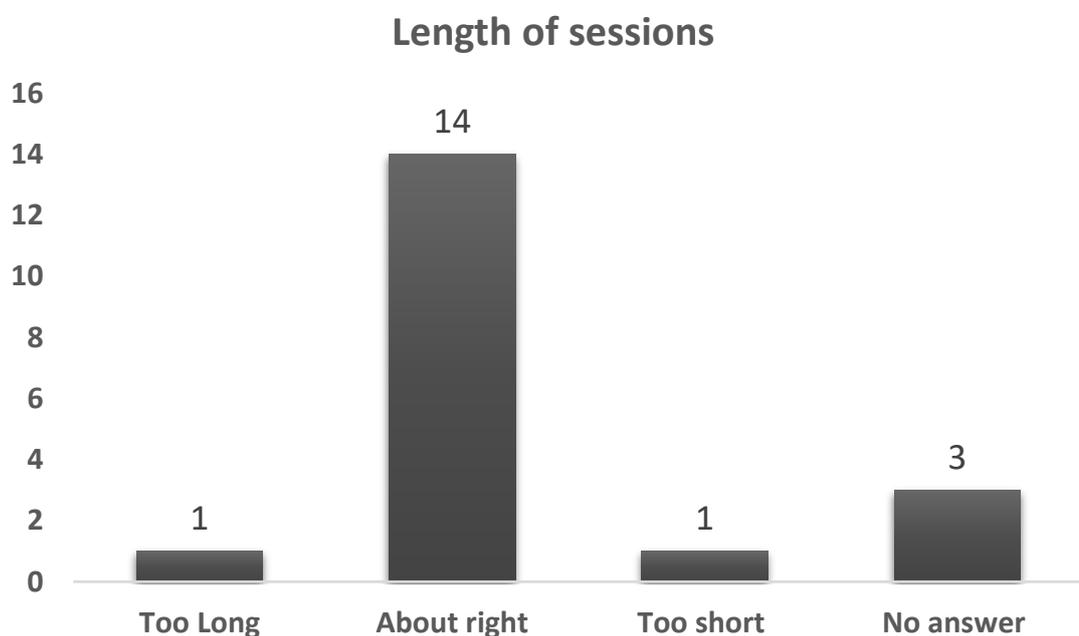
- Inform prospective candidates of the time and work commitment, including how being a member of different committees etc. will increase this, including the work that will need to be undertaken individually in advance of States' Meetings etc.
- Mentoring by a sitting or former Deputy and speaking to a variety of Deputies.
- A number of the induction sessions being provided to prospective candidates well in advance of the General Election to provide focus on what the role entails.
- Training sessions in the States' Chamber to explain how the States of Deliberation works, including an overview of the Rules of Procedure
- Clear indication of the planned induction and ongoing development programme and other presentations from various external groups which Members will be expected to attend.
- Further information on Committee mandates and operational functions, including the type of work Deputies undertake, with the possibility of shadow Committee Meetings.
- A contact to provide advice on manifestos and social media.
- The opportunity to network with other candidates

6 Structure, length and variety of the sessions held

6.1 Deputies were asked to comment on the frequency, timing and length of sessions and whether there were any gaps in the first year. Their most common response was that the dates and timings of sessions worked well overall, although some noted that as individual workloads increased, clashes understandably occurred.

6.2 Some suggested that it might be useful to have a monthly allocated day/time slot - e.g. Friday mornings - which may help Members' attendance and help with diary planning and sessions booked well in advance.

6.3 In response to a question regarding the general length of sessions, Deputies confirmed it was 'about right'.



6.4 Deputies were also asked whether there were any topics they would like to see in their second year that had not been covered during the first year (up to when the survey was released). The following suggestions were made:

Sessions on:

- Dealing with members of the public and constituency cases, including how to contact the right Committees and people to seek advice.
- Letter and e-mail management and other practical skills to assist in improving the performance in the role of Deputy
- Handling the media
- Debate techniques including speech writing
- The role of the Policy & Resources Committee
- States-specific systems
- HR and employment for the public sector

'Refresher' sessions on:

- The Rules of Procedure, including practical sessions
- The Code of Conduct for Members of the States
- Preparing amendments
- Anti-Money Laundering (AML)/Combating the Financing of Terrorism Accounting, tax and finance matters
- Property services

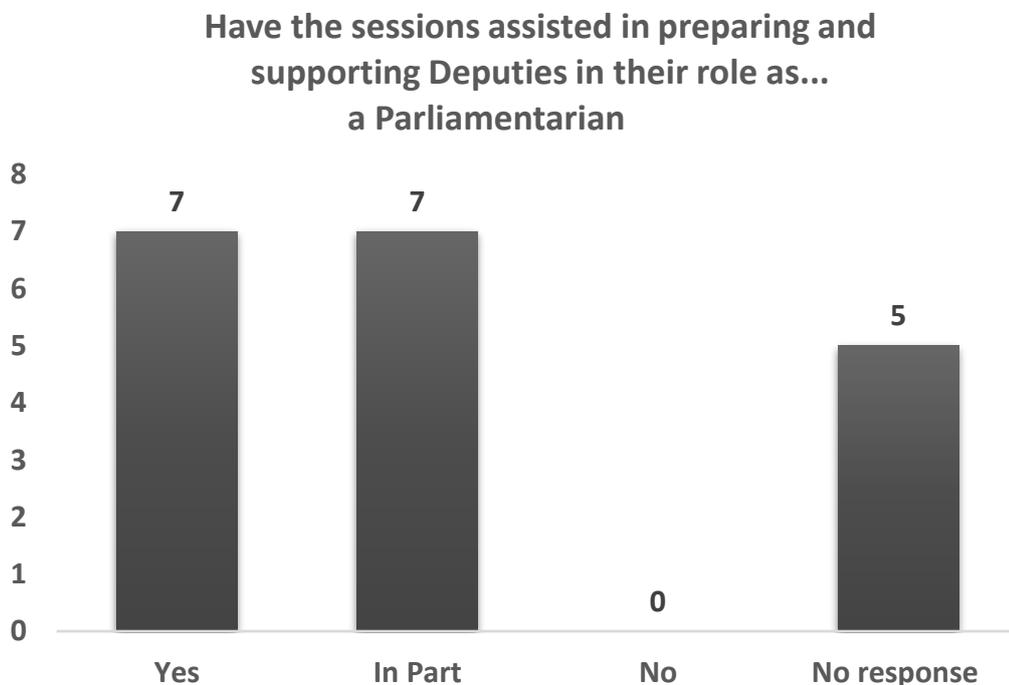
One respondent wanted to see more information regarding the States’ sectors including organograms and detail of the organisational design. They also suggested individual sessions with Committees would be beneficial to understand their mandates, ongoing workstreams and how the Committee operated.

7 Relevance of sessions to the varied role of a Deputy

7.1 One of the objectives of the Induction Working Group was to plan an ongoing programme of development for Deputies, considering their requirements as (a) Parliamentarians; (b) Committee Members; and (c) in their “constituency” role. Deputies were asked whether the sessions to date had met their expectations in preparing and supporting them in these roles.

(a) As a Parliamentarian

7.2 There was an overall positive response to the sessions provided in support of Deputies in their role as Parliamentarian:

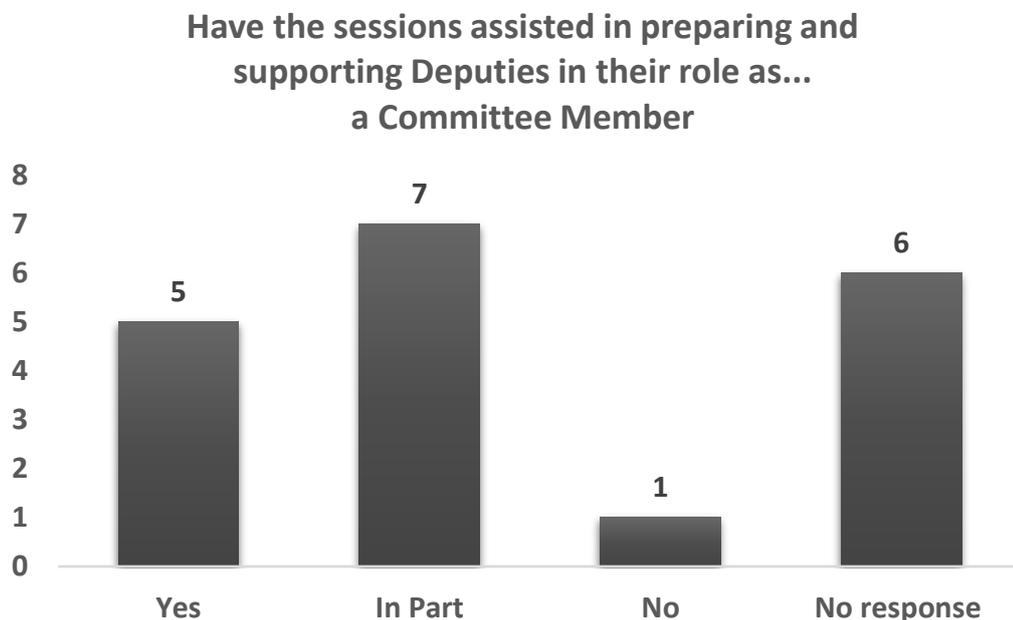


7.3 Feedback was provided that the sessions were useful and most areas were covered. It was commented that the Parliamentary Team operated an ‘open door’ policy which assisted Members. There was a request for information regarding the parliamentary systems in other, relevant jurisdictions and how these worked in comparison to Guernsey.

7.4 One Member commented that they had learnt the most from engaging and working with various colleagues in advance of States' Meetings e.g. through Committee work or through the preparation of secondary propositions. It was further suggested that the induction sessions could be recorded or developed in an online format so they could be viewed by Members unable to attend or in their own time.

(b) As a Committee Member

7.5 There was an overall positive response to the sessions provided in support of Deputies in their role as a Committee Member although one Member felt it had not met their expectations:



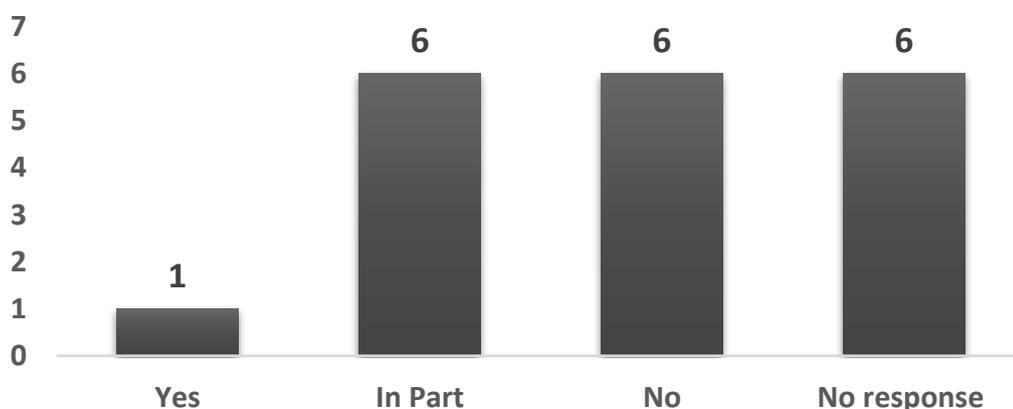
7.6 It was generally felt most areas were covered but the time commitment of serving on different committees could be better explained. Further information regarding how Committees operate, their structure and mandates was requested, along with introductions to staff. It was felt more 'committee specific' details of the role would have been useful.

7.7 It was noted that the breadth of responsibilities on a Committee Member would depend on the Committee they served on and the scope of its mandate and operational functions.

(c) As a "Constituency" Deputy

7.8 It is clear from the response to this question that Members felt the sessions offered did not adequately assist in relation to preparing and supporting Deputies in their role as a "constituency" Deputy:

Have the sessions assisted in preparing and supporting Deputies in their role as... a "Constituency" Deputy



- 7.9 Feedback received was that there was not enough support offered in this area of a Deputy's role. It was noted that the work that Deputies undertake for and with constituents is different to any other job that a Deputy will undertake.
- 7.10 A key area of feedback was the support required to access key people and service providers within the States to assist constituents. One Member highlighted that some constituents would raise issues that would touch upon a number of Committee and service areas, and that seeking to co-ordinate and address a large number of areas as an individual Deputy was extremely challenging. More than one Deputy suggested that having a civil service resource who could be contacted for guidance and advice would be beneficial.
- 7.11 It was also highlighted that skills in this area had been accrued by longer serving Members through experience.

8 Other matters raised

- 8.1 Members were given the opportunity to provide suggestions or comments which would help the future development of the programme. Where relevant, this has been incorporated in the previous sections.
- 8.2 There was generally positive feedback on the sessions offered to Members albeit it was noted by one respondent that a few new Deputies had attended few or no sessions. Again, it was highlighted that minimising diary clashes was key to maximising attendance.
- 8.3 The benefits of sessions being organised in advance of the General Election for candidates, rather than targeted just at elected Members, was again highlighted.
- 8.4 It was also suggested that the sessions could be targeted according to experience level e.g. newly elected Members, re-elected Members etc.

Annual Report

2020

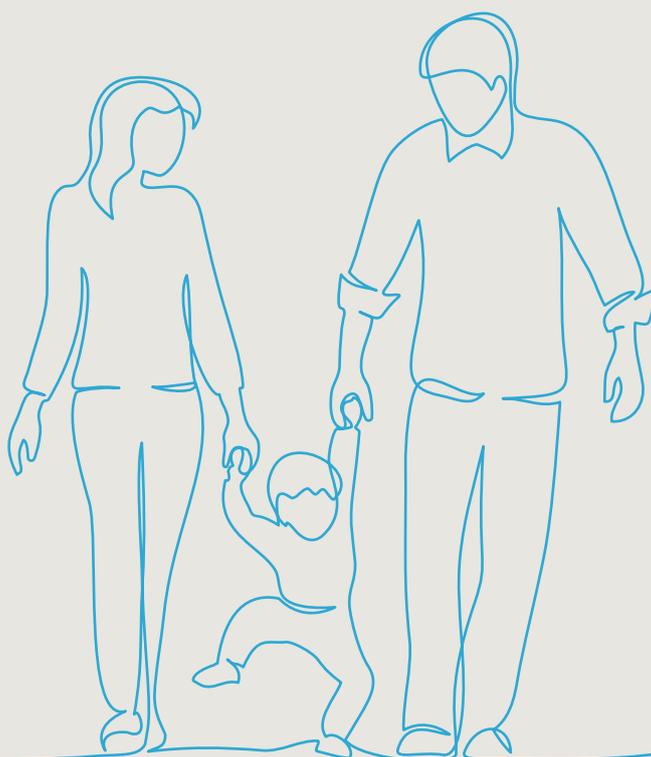
FOR THE PERIOD

1 Jan 2020 – 31 Dec 2020



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Foreword



Richard Thomas CBE

**Chairman, The Data Protection Authority
(Bailiwick of Guernsey)**

June 2021

With so many statutory duties and powers, it is vital that Guernsey's Data Protection Authority is - and is seen to be - effective. We have to achieve the right balance across functions which require us to help organisations get it right, to help individuals understand their rights, to take enforcement action where that is needed and to handle complaints. Simultaneously, we have to be Teacher, Police-officer and Ombudsman. Overall effectiveness means clear priorities, set out in a clear Strategy. More important, it means achieving the results which deliver those priorities.

This Annual Report demonstrates our effectiveness. It records, in some detail, what we have been doing to fulfil each element of our Strategy. The scene is set by the panoramic Introduction from Emma Martins, our Commissioner, which summarises the issues and challenges we face and the progress we have made.

Here, I will highlight just three features:

- protecting people and their data is primarily a **cultural activity** focusing on behaviours which make good sense, not legal box-ticking;
- we maximise our impact and our effectiveness by being as **transparent** as possible, not least through our excellent new website;
- our **independence** from those we regulate - both the commercial community and the States of Guernsey and the wider public sector - is fundamental.

It was not just the global pandemic which meant that 2020 was a tough year. Novel ways of remote working had to be swiftly adopted. We had to be pragmatic as organisations struggled with their own challenges. At the same time, it was a year of learning from early-years' experience, building up towards full strength and moving towards financial stability.

Our achievements – and our effectiveness – are due solely to the efforts of Emma Martins, the Senior Leadership Team and the staff. The ODPA may be a small organisation – one of the smallest Data Protection Authorities in the world – but it must have one of the most committed, well-trained and well-motivated teams to be found anywhere. I pay tribute also to my fellow Authority members who have made many invaluable contributions without interfering with operational performance.

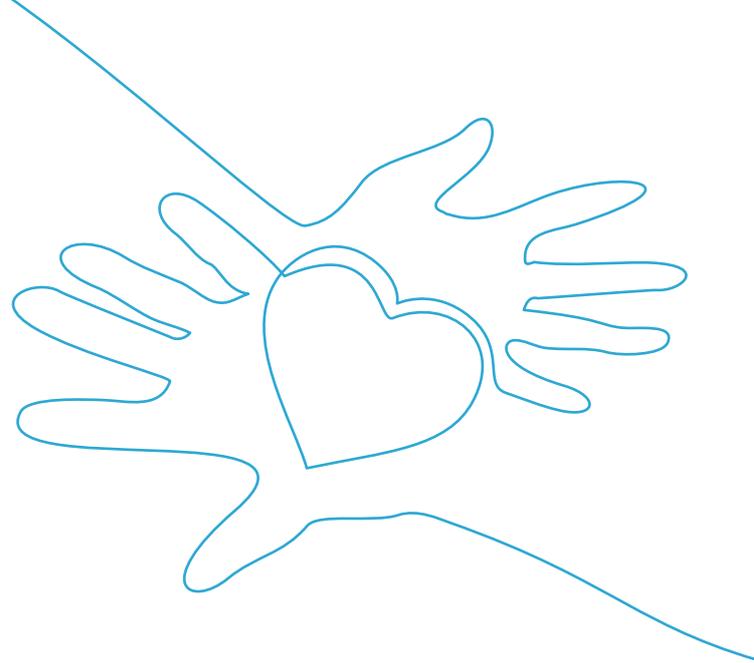
We can all be very proud of the results we are achieving.



Introduction



Emma Martins
Data Protection Commissioner
(Bailiwick of Guernsey)
June 2021



I am pleased to present this Annual Report for the Office of the Data Protection Authority for 2020 in accordance with the requirements of Schedule 6, para.13 of *The Data Protection (Bailiwick of Guernsey) Law, 2017 (the Law)*.

It is probably fair to say that we have had our fill of hyperbole this year, with so much talk of ‘unprecedented times’, ‘new normal’ and other vernacular which flourished during the pandemic. But, in reflecting on 2020, it is impossible to avoid stating the obvious, which is that it was as far from normal a year as I have ever experienced, both professionally and personally.

So, the first thing I want to acknowledge is the hard work and professionalism of the whole team at the ODPA who responded so fast and so efficiently when the pandemic first hit. As was the case across the whole community, every one of us faced different personal challenges whether having to spend long periods of time alone, care for others, or juggle the day job with home-schooling young children. I am enormously proud and grateful to each and every one of the team as well as our Authority Chairman and Members who have supported us all so well.

The public health crisis also shone a light on the role data plays in our lives. It became clear quite quickly that collection and use of data would form an essential part of the pandemic response for governments across the world, including our own. From contact tracing to vaccine passports, what underpins all these activities is the need for timely, accurate data and how that data are collected and used is crucial in determining how much trust and confidence we all have in the process and how good the outcomes will be.

Early on in lockdown, I heard Tristan Harris (from the Centre for Humane Technology¹) refer to the opportunity it presented for a ‘global sabbatical’, a sense that the pausing of certain areas of

our lives which we had previously been so busy with provided the chance for a bit more thought and reflection.

We have worked hard, since the setup of the office, to be purposeful in all that we do and to reflect on our role and how we can best deliver meaningful outcomes. So for us, this ‘sabbatical’ consisted of developing some of those earlier thoughts and this report contains details about how those thoughts have now translated into actions.

Publishing this report is a statutory duty for the Authority. The Law also requires us to include observations on whether the object of the law is being attained and, if not, to make recommendations for amendments to ensure it better meets its objectives.

But what is the objective of the Law? It is, of course, an important piece of legislation which provides for the free flow of data across borders meaning it has tangible economic benefits. But first and foremost both the GDPR and our own Law talk about the protection of people. So how do we go about assessing whether it has met that objective?

It is interesting to note that if the Authority is of the view that the Law is not meeting its objective, the Law itself points us to making recommendations for it to be amended. Of course, there are often administrative and technical amendments required with any legislation but we also need to be alive to the fact that if a law is not meeting its objective, there may be other things worth considering. One of those other things is, I firmly believe, the way in which data protection is generally viewed; looking at it though a cultural as well as a legal lens.



If we all understand better where the problems are, we can predict them and we can prevent them.

To explain what I mean, I want to highlight a quote from the Hampton Report², a UK review of regulation from 2005 - “our regulatory system has the pivotal role in resolving the regular conflict between prosperity and protection.”

In one short sentence, this sums up what I consider one of the biggest challenges we face in the area of data protection - that it is seen as being in **conflict** with innovation, progress, prosperity. I can (and do) rail against the misleading perception that data protection stands in the way of such important goals, but railing won't help. A better use of my time and energy is to ask the question - how can we present a more meaningful and accurate picture of why the protection of our data matters and the benefits it can bring? If, as the 2005 Report argues, there is conflict, we, as regulators, need to do more than look to changing the law in response. If our community does not appreciate the need for good protection of data, no amount of law changes will help. What we need to do is reflect seriously on how we can better deliver those objectives by positively engaging organisations and individuals. There are lots of ways we can do this, including clearly articulating why data protection is an enabler, both economically and socially; helping organisations to recognise the commercial imperative to respect people's rights; and building a culture of respect as a jurisdiction which embeds data governance into everything that it does. If we do all that well, then we move beyond the sense that regulation is in **conflict** with prosperity and start to see it as a **precondition** of it.

Since the new Law came into effect, we have gained valuable experience about its workings across our community. We have seen the very real impact of data breaches on individuals, the details of which rarely enter the public domain. This has helped cement our aim to do all we can to **predict** and **prevent** harms from happening in the first place. We have also seen our regulated community embrace the new duties in respect of

reporting data breaches to us. This is not an easy thing to do, and I very much hope that this reflects the trust and confidence they are learning to have in this Authority. We are very grateful to them and are clear that the information we receive about breaches enables us to focus our support and guidance where it is most needed. One tangible example of which is the role of human error in breaches. In understanding how much of a part it plays, we can help raise awareness and encourage organisations to take steps to reduce risks.

This year has also seen a number of significant enforcement actions taken by the Authority as a result of complaints made to us. Understandably this has led to a degree of media interest and we have taken the deliberate decision to be as open and transparent as possible in all our activities, including regulatory action. That has probably been uncomfortable for those organisations. But the principle of openness in dealing with breaches of the Law is an important one because an environment of transparency and accountability encourages trust and confidence in us by those that make complaints. It also helps the regulated community understand the sorts of issues that may lead to regulatory action and, crucially, then work to prevent them from happening. If we all understand better where the problems are, we can **predict** them and we can **prevent** them.

As a relatively new office, we have deliberately taken each step in building an independent regulatory authority carefully. We recruit staff only when we can evidence a need and we invest in new IT and equipment only where we can evidence that they will help deliver better outcomes. We have limited resources and we are acutely aware that post-2020 our funding comes from our regulated community. We work to ensure that those resources are directed to where they will do the most good, mindful too of the significant challenges faced by all sectors throughout this difficult year.

² https://www.regulation.org.uk/library/2005_hampton_report.pdf

Introduction *continued*

Building a regulatory office which is absolutely independent from both governmental and commercial bodies is extremely important. Independence from government is crucial, not least because of the volumes and sensitivity of data held about citizens, often gathered on a mandatory basis. It is perhaps not surprising that the majority of complaints we receive relate to public sector bodies. We cannot be beholden, either financially or operationally, to anyone we regulate. Whilst we know that we fulfil our role without fear or favour, the public perception also matters. This means we need to be independent as well as being seen to be independent. Moving to a fully self-funded status may be strategically desirable but it is also logistically challenging. In building a fees regime for the Authority, (coming into effect post-2020) we have tried to be as fair as possible, seeking to avoid a complex fees regime which would be more costly and which risks distracting organisations from their important compliance duties. Much like getting a driving licence, it is the first administrative step in the process, but what really matters is how well you drive!

We recognise that additional financial obligations for our regulated community are largely unwelcome, especially at this difficult time, but we cannot do our job without being funded. Our government made the decision to bring this Law into force and this office has the duty to fulfil the functions set out in that Law. Our aim is to do so with the principles of integrity and accountability at the heart of everything we do.

In building an enlightened culture of compliance for our Bailiwick, we know that organisations will benefit, and people will benefit. That objective of culture change needs a good law to sit at its core, but it also needs a community around it that recognises and supports it. Our strategic plan sets the course for how we want to encourage that to happen, including an exciting and innovative social change initiative launching in 2021 and I very much look forward to updating further on that project. This is a long term vision for the Bailiwick and one which will ensure we remain a respected and trusted jurisdiction for data now and in the future.

“

This is a long term vision for the Bailiwick and one which will ensure we remain a respected and trusted jurisdiction for data now and in the future.



About the Authority

The Office of the Data Protection Authority is the independent regulatory authority for the purposes of *The Data Protection (Bailiwick of Guernsey) Law, 2017* and associated legislation.

The Law creates the independent Data Protection Authority which is tasked with the development and implementation of the regulatory regime necessary to oversee the requirements of the Law. Comprising a Chairman and between four and eight Members, the Authority provides governance to the Office of the Data Protection Authority (ODPA).

The ODPA is the operational body that carries out the regulatory functions of the Law delegated by the Authority. These include recording data breaches, investigating complaints, running education programmes and examining proposed legislation and how it may affect individual privacy. The ODPA strives to empower individuals to exercise their rights as well as to support organisations to meet their compliance requirements and take action where they fall short.

The Office of the Data Protection Authority:



Empowers individuals and protects their rights



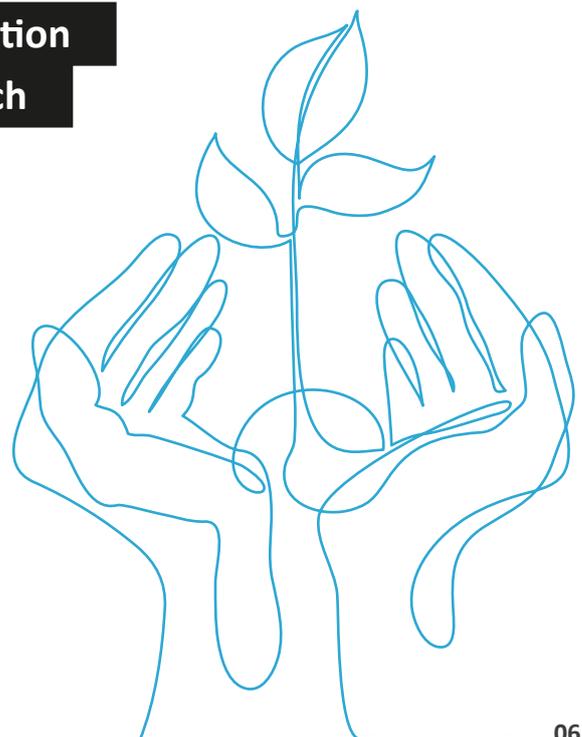
Promotes excellence in data protection



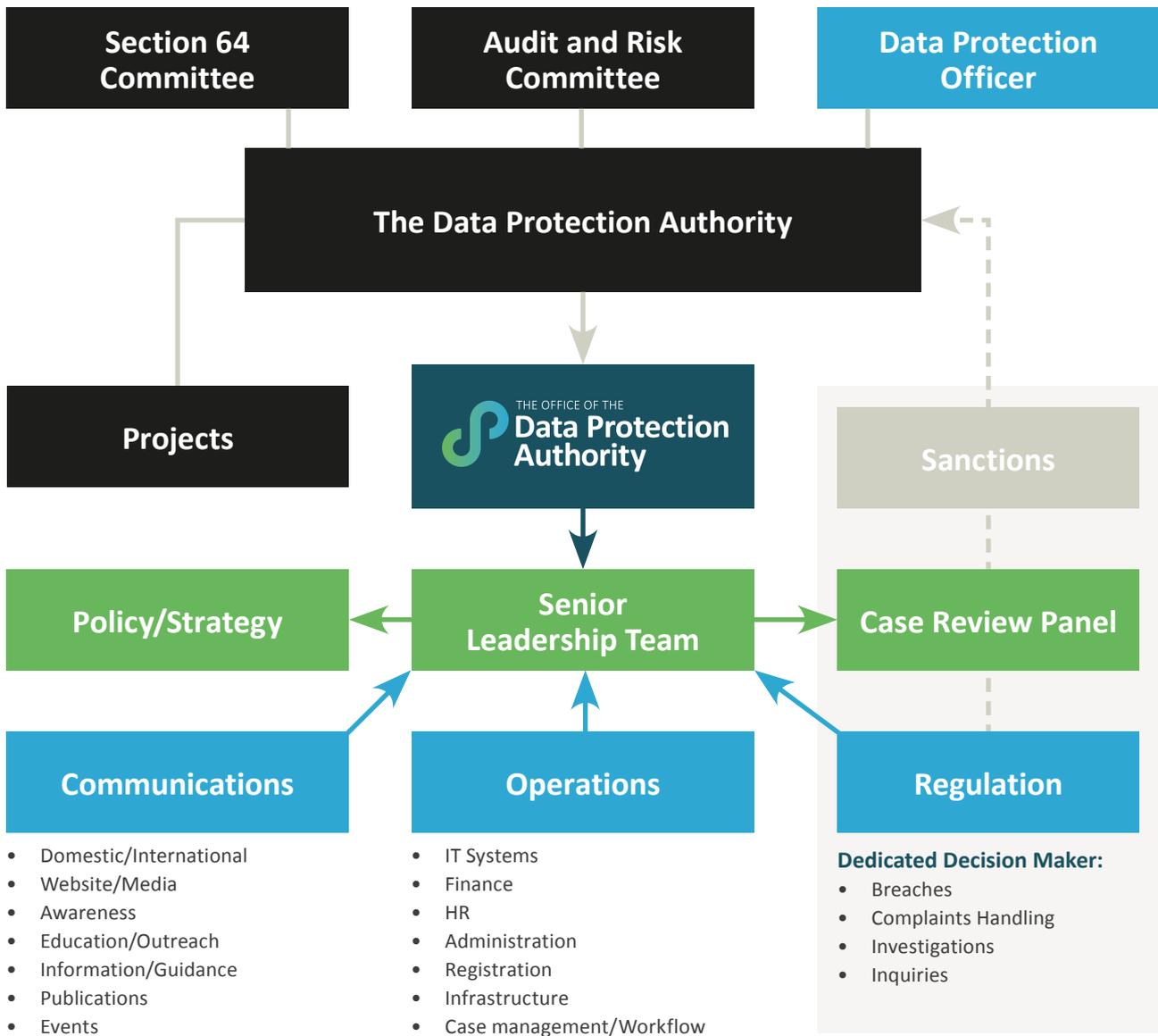
Supports the data economy to embrace innovation



Regulates data protection legislation through an ethics-based approach



Organisational chart



The Data Protection Authority

- Chairman – Richard Thomas CBE
- Voting Member – John Curran
- Voting Member – Christopher Docksey
- Voting Member – Simon Entwisle
- Voting Member – Mark Lempriere
- Voting Member – Jennifer Strachan
- Commissioner as *ex-officio* and non-voting Member – Emma Martins

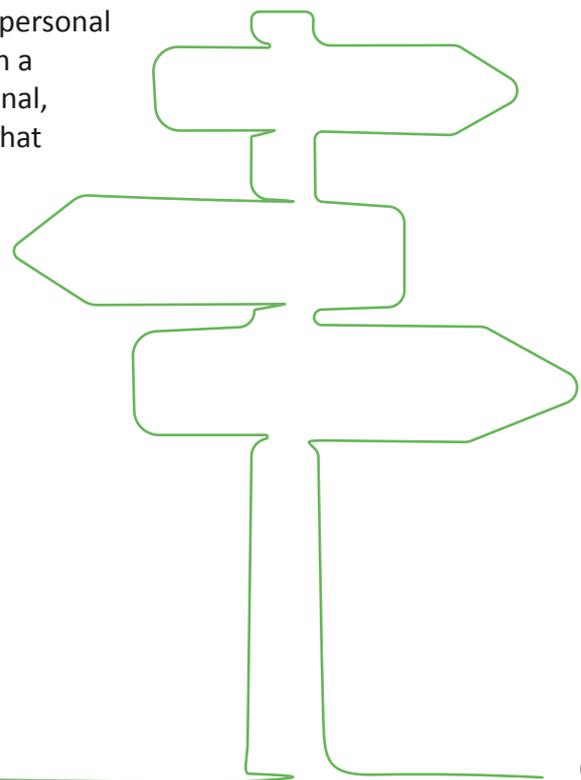
Strategic plan and activities

2020 was the first full year of operation under the ODPA Strategic Plan (2019-2022). The Plan sets out the ODPA's purpose and how it intends to deliver its regulatory objectives effectively and independently.

The ODPA's key strategic objectives below set out how it seeks to predict and prevent harms to individuals from poor handling of their personal data and ensure that detection and enforcement activities are proportionate and effective.

Key strategic objectives:

- 1** To develop the ODPA's capabilities to deliver on its enhanced statutory duties.
- 2** To be a relevant, responsive and effective regulator.
- 3** To support organisations in delivering their obligations and empower individuals to exercise their rights.
- 4** To develop and maintain effective relationships.
- 5** To elevate discussions around the protection of personal data to engage the community and individuals in a relevant and positive way, recognising the personal, social and economic opportunities and threats that the data economy poses.



Much thought and hard work has gone in to how to deliver tangible and positive outcomes for the Bailiwick and its citizens. Presented below is the Strategic Plan and progress against specific action points detailed against the unique backdrop of challenges present in 2020:

1. To develop the ODPa's capabilities to deliver on its enhanced statutory duties

1.1. Develop and adopt an explicit risk control strategy to manage and prioritise workload by end 2019

All ODPa work streams flow from the 4 pillars of regulation detailed in the Strategic Plan (Predict | Prevent | Detect | Enforce) and inform decisions around resources allocation and prioritisation. Within those pillars, the ODPa continues to maximise the experience gained since 2018 to better understand and manage its legal and administrative activities.

During 2020 The Fandango Project was successfully completed on-time, and under-budget. This allows the ODPa to collect, analyse and use information about the nature of enquiries and complaints which in turn provides the opportunity to manage risks, assess performance and prioritise certain areas of activities.

1.2. Implement new internal policies and procedures to ensure consistent operational and administrative standards as well as appropriate governance by end 2019

During 2020, seven Board Meetings were held (up from the usual four). The Section 64 Committee and its activities (the section of the Law that covers the Authority's public statements) were established via internal policy documents and agreement on process.

The Fandango Project, an internal ODPa project, began in quarter 1 2020, and completed on-time and under-budget in quarter 4 2020. This project created a fit-for-purpose technology stack (from public-facing website through to back-office systems) allowing the ODPa to work efficiently and effectively.

On staffing matters, the ODPa focused on wellbeing, and recruited two additional members of staff to ensure sufficient resources were available for the incoming changes to the registration regime due in January 2021.

In addition to these internal activities the ODPa also maintained support for office staff via outsourced IT, PR, HR, financial oversight, project management and legal advice. On the latter, to drive down costs, the ODPa is working to reduce its future use of external legal resource.

1.3. Complete implementation of the structuring, resourcing and governance plan by end 2019

By the end of 2020 the office employed 9 full-time equivalent staff. This resourcing was informed by the Strategic Plan, to ensure the ODPa had the right mix of skills in the right areas to enable effective delivery of its strategy.

Careful planning for the second phase of recruitment continued throughout 2020 as the ODPa looks to grow its staff to reduce its reliance, and spending, on outsourced support whilst continuing to be an effective and responsive regulatory office.

1.4. Project management and delivery of the new funding model by 1st quarter of 2020

The ODPa brought in a Project Manager on a contract basis to aid delivery of Project Pretium (the internal name for the new funding model). Project Pretium was combined with the wider Fandango Project and following the States of Guernsey agreeing at a late stage (March 2020) to loan the necessary funds the work to deliver these projects commenced. Despite the challenges this presented and this considerable piece of work commencing during lockdown, the work was completed successfully, on-time and under budget in December 2020 and the new fees regime was fully operational on 1 January 2021.

1.5. Develop a Regulatory and Enforcement Action Policy that will set out our approach covering detection and enforcement by 1st quarter 2020

This work is ongoing and related to the activity described in 1.1 above. Completion of this work was affected by the delays in approving the ODPa's self-funding model. Work has continued on developing robust governance structures around all the ODPa's regulatory activities which feed into this ongoing work-stream.

Project Querelis, which began in 2019, also falls into this activity and work on this progressed, driven in a large part by the Fandango Project and the system changes therein.

1.6. Play a key role in the Bailiwick's ongoing adequacy review by the European Commission

The Bailiwick is currently recognised as an adequate jurisdiction for the purposes of the General Data Protection Regulation (GDPR). In accordance with Article 45 of the GDPR,

the European Commission began its assessment the Bailiwick's new legislative framework in April 2019. The Authority continues to work with the States of Guernsey to respond to the European Commission's enquiries.

2. To be a relevant, responsive and effective regulator

During 2020 the Authority took its first significant enforcement actions by issuing two administrative fine orders:

The first was issued to **Sure (Guernsey) Limited** in September 2020 over inaccuracies in *The Bailiwick of Guernsey Telephone Directory 2019/2020*. They were fined £80,000 for a lack of transparency as to how personal data was to be processed and for publishing personal data which contained inaccuracies and in some cases was contrary to subscribers' wishes.

The second fine was issued to **Trinity Chambers LLP** in November 2020 for unauthorised disclosure of highly sensitive and private information about a person and their family. They were fined £10,000 to reflect the serious nature and impact of failing to look after the data in question, which resulted from sending files via email and by post without appropriate security.

Both of the above fines were upheld and paid. All fine monies collected by the ODPa are passed to the general revenue account of the States of Guernsey, in accordance with section 74 (8) of *The Data Protection (Bailiwick of Guernsey) Law, 2017*.

2.1. Draft a paper setting out our overall approach to regulation and how we seek to reduce harms by 1st quarter 2020

The ODPa's senior leadership team are committed to building a regulatory office that is relevant and effective and whose strategic priorities are clear. It is recognised that in delivering on the regulatory duties of the office, it is important to openly and honestly assess how the objectives can be delivered. Development of this paper is ongoing and will be reviewed alongside the work being done on 1.1 (see above).

2.2. Develop effective mechanisms to resolve and learn from complaints

This activity is where Project Querelis sits. Querelis' aim is to ensure that the ODPa has robust and effective processes which enable it to meet its statutory requirements, and that there is consistent and accountable decision making around how inquiries, complaints, and casework completion are handled.

The system changes brought about by the Fandango Project automated some of the back-end case handling processes meaning some time previously spent dealing with administrative activities can now be better spent on

case progression and decision-making. Furthermore, the data collected from both complainants and those reporting breaches is more comprehensive leading to better informed case handling and more robust management information.

The ODPa also feeds any lessons learned from this area of its work into its communications activity as it is a rich source of real-world examples the whole regulated community can learn from, where appropriate.

2.3. Operate the deployment of resources and staff flexibly and responsively in light of identified compliance and enforcement objectives keeping this under continuous review

The ODPa has a small team of 11 people who were recruited due to their specific attitudes, experience, and talents. Staff are deployed appropriately according to operational and strategic priorities and workloads. This flexible approach, which has been in place since 2019, gives the ODPa practical experience on which to make informed, and well-thought through decisions on where additional resources may be needed in future.

2.4. Prioritise oversight and engagement with the public sector for all processing but specifically in the delivery of Future Digital Services

Communications with States of Guernsey remain ongoing in this area. The ODPa recognises the huge importance of all personal data processing within the public sector for the whole community, therefore it is essential that open and timely discussion between the States of Guernsey and the ODPa is maintained as the States progress through their digital transformation programme. The ODPa notes the potential for power imbalance that can exist between the citizen and the state, and the potential harms that can arise for individuals as a result of this, seeking to encourage openness and accountability in all related areas of activity. During 2020, a number of questions arose regarding the manner in which data relating to the public health response to the pandemic were processed. These issues highlighted the critical importance of the role of the Data Protection Officer for all government departments which allowed the ODPa to communicate on these issues in a direct and timely manner.

2.5. Lead by example in our commitment to data protection and the ethical approach to data governance in everything that we do

The ODPA continues to work hard to embed the highest standards of legal and ethical data handling practices into all its external and internal activities. The standards expected of the regulated community also apply to all areas of the ODPA's work. For example: the ODPA's Data Processing Notice is regularly reviewed and updated as its activities evolve, and careful decisions were made about what third party services were selected for the ODPA's social media presence and its event ticketing provider.

2.6. Ensure availability of appropriate legal, technical and communications support through the development of trusted partnerships

Whilst the Bailiwick has had data protection legislation for many years, it was inevitably difficult to be specific about the operational requirements of the new office once the new legislation was implemented in 2018. For those areas of ODPA activity where there was uncertainty about the level of demand, a decision was made to provide support through the use of professional contracted partnerships. These areas are legal, human resources, IT, PR, finance, project management and technical support.

Working with these trusted partnerships has allowed the ODPA to be flexible and rapidly scale-up to meet demand without committing to long-term employment contracts until such time as these can be justified through further analysis as the organisation develops. These contracts are kept under constant review to ensure best value and to inform decision-making.

2.7. Keep international data protection and associated developments under continuous review

The ODPA's senior team ensures awareness of relevant national and international developments and continues to participate in European and International conferences of Data Protection Authorities. Despite the disruption caused to in-person conferences during 2020, ODPA staff did attend virtual sessions of the Global Privacy Alliance, the Common Thread Network and the British, Irish and Islands Data Protection Authorities (BIIDPA).

2.8. Provide support to employees for continuous learning around developments in data protection, privacy and associated issues

ODPA staff have been on structured courses with a view to achieving formal qualifications. Where appropriate staff also maintain contact with regulatory staff in other jurisdictions to share best practice.

To ensure technical knowledge is shared effectively across the ODPA team, staff take part in regular 'knowledge sharing'

sessions where certain issues/subjects are explored in depth either through sessions delivered by senior staff, or via external bodies (e.g. webinars).

During 2020, all ODPA staff were involved in delivery of its events programme, which was an opportunity for new starters to increase their knowledge and awareness of the Law and longer serving staff to develop their presentation skills. More informally, the ODPA staff room includes a well-stocked library where staff are encouraged to take time each week to focus on reading the Law, and educating themselves on the wider issues that surround it.

2.9. Utilise the skills and experience of The Data Protection Authority Members to improve the knowledge of ODPA staff

During 2020, the ODPA was very grateful to all Authority Members for providing additional support to the whole ODPA team during what was a very challenging year both professionally and personally.

2.10. Ensure all ODPA staff are supported and valued allowing them to contribute to the overall aims and success of the organisation

The individuals who make up the ODPA team and the Authority Members themselves remain the most valuable asset, and they are treated as such. All staff are valued for the unique talents they each have and the important part they each play in ensuring the ODPA remains an effective regulator.

The ODPA's work culture is supportive and inclusive, and encourages each team member to be themselves. Due to the uniquely challenging set of circumstances presented during 2020 (namely heavy workload pressures, complex and time-critical project work, combined with significant periods of working in physical isolation because of the pandemic and, for some team members, the demands of home-schooling small children in their care) the ODPA focussed on supporting all staff and encouraging self-care. It is a testament to the team's loyalty, professionalism and effectiveness in the face of such difficulties that they were able to collectively achieve so much, and to such a high standard.

2.11. Be open to constructive exploration of innovative practices and activities within the regulated community

This specific activity was added to the Strategic Plan in December 2019 in response to conversations between the ODPA and industry. It reflects the ODPA's huge appetite for supporting innovation in the local economy, by working constructively with local organisations who may need support whilst exploring new ways of doing things that involve people's data. The public health crisis highlighted the critical importance of building legal and ethical standards into all new and innovative data handling activities to ensure public trust and confidence as well as effective delivery of objectives.

3. To support organisations in delivering their obligations and empower individuals to exercise their rights

3.1. Complete the website and CRM project to improve the user experience as well as the internal administrative processes by 1st quarter 2020

The States of Guernsey approved loan funding for this critical project (known as The Fandango Project) in late March 2020 and work was completed by mid-December 2020 in time for the opening of the registration window on 1 January 2021. As stated above, the ODPA delivered this project on-time and under-budget.

3.2. Explore the targeting of regulatory support and response to different sectors by end 2020

In 2020 the ODPA held a pilot 'thematic review' focussing on recruitment agencies. This was a resource-hungry initiative, and some lessons were learned about how best to engage in this type of work in future. The review resulted in predominantly good engagement from the agencies themselves, and raised-awareness of the sensitivity of their operations and the potential impacts on candidates.

This exercise allowed the ODPA to test the efficacy of its approach and inform future similar compliance initiatives.

3.3. Explore alternative dispute resolution mechanisms for complaint handling by 2nd quarter 2020

The ODPA acknowledge that this is a very difficult area which continues to be explored. As defined in the ODPA's *Strategic Plan*, this activity falls in the 'Prevent' category – in this case, preventing the circumstances arising that would lead someone to lodge a formal complaint against a local organisation due to the way they might be handling personal data.

A key aspect of this activity is about empowering individuals who are disputing a local organisation's use of their personal data. To this end the ODPA, under The Fandango Project work, specifically focused on developing strong content for the new ODPA website and to ensure its prominence with the new site's structure. In addition, individuals are encouraged to make reasonable attempts to resolve the issue with the relevant organisation before making a formal complaint to the ODPA.

Giving individuals the knowledge, power, and support to exercise their rights in this way is an effective tool in preventing those individuals being harmed due to their data being misused. It also serves to encourage organisations who are processing personal data to respond to this increasing awareness and demands for higher standards by individuals.

3.4. Deliver on our Communications Strategy, keeping it under continuous review and exploring effective communication tools and methods for all audiences

Following the successful launch of the ODPA's events, drop-ins, and study visits in 2019, this work was built on during 2020. Following disruption to the events programme caused by the Bailiwick's lockdown, the ODPA rescheduled all planned events and delivered all seven sessions during a short space of time once restrictions were lifted.

During 2020, 26 drop-in sessions were held, and during quarter 4 the sessions increased from fortnightly to weekly to ensure small businesses had sufficient support during the run-up to the fees regime changes that were due to commence in January 2021. A smaller number of study visits were held.

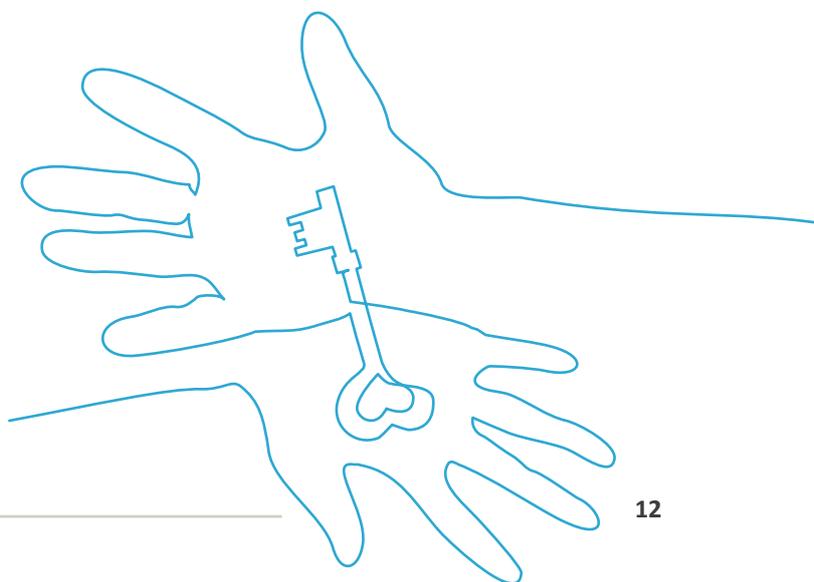
Four podcasts were produced during 2020, and the monthly newsletter subscribers increased to over 500 people. The ODPA's LinkedIn page continued to grow, reaching 3,285 followers by the end of the year (up from 1,183 in previous year).

The ODPA also launched its Schools Programme in November 2020, reaching 170 children by the end of the year.

3.5. Provide clear, meaningful and inspiring communications, guidance and engagement

The ODPA's communications focus during 2020 was split between two tasks: development of the new website, and helping the regulated community to understand the changes to the fees regime coming in 2021.

During development of the website, the ODPA concentrated its efforts on ensuring the content was clear, helpful, and searchable. The website was built with a strong visual focus on people – to reinforce that data protection is all about people. During re-development of the website several focus groups were held to ensure the design, layout, and navigation worked well for everyone.



3.5 Continued

The second focus in 2020 was ensuring the communication objectives around Project Pretium (the new ODPa fees regime post-2020) were met. These were to assist the majority of the regulated community to:

- be aware of the change to the ODPa's funding model and how it affects them
- be aware that the Law applies to them even if they are a smaller business
- know what action they need to take regarding registration with the ODPa
- be positively engaged in meeting their legal obligations under local data protection legislation
- be aware of the ODPa's role as an independent regulator
- understand why the Bailiwick must retain its 'adequacy' decision from the European Commission and the part that industry funding plays in safeguarding it
- know that they are supported in delivering on their administrative obligations.

To achieve the above objectives an extensive programme of awareness, education and support was put in place during 2020. This included, but was not limited to:

- Proactive and sustained direct communication with ~60 Groups & Associations, via email/phone and in-person asking them to share details of changes with their audiences.
- Free drop-in sessions increased from fortnightly, to weekly
- Press releases summarising changes
- Ongoing social media content
- Speaking engagements with key groups/organisations
- Production of detailed plain-English guidance on all aspects of registration
- Production of *The Feel-Good Guide to Data Protection* for newcomers
- Engagement with: States of Guernsey Communication Team and Guernsey Registry
- Direct contact with pre-2021 registered entities via email
- Production of short 'advert' for use on Island FM – pointing people to odpa.gg/2021
- Running free events
- Working in partnership with The Digital Greenhouse and Guernsey Chamber of Commerce.

3.6. Encourage industry compliance through enlightened self-interest and cultural change

The ODPa has been focusing on this issue for some time, to move data protection compliance away from a one-off box-ticking exercise and more towards an ongoing human-centric activity built on cultural engagement and influence.

This focus manifested itself into a culture change project which seeks to encourage everyone in the Bailiwick to share

knowledge, ideas and stories about why data matters as a way of building understanding, engagement, and compliance within the field of data protection. Project Bijou, as it is known, was due for launch in 2020 but was delayed by the need for staff resources to be focused on delivering The Fandango Project. Project Bijou is planned to launch in May 2021 to coincide with the 3-year anniversary of the Bailiwick's data protection law coming into effect.

In October 2020, as part of Project Pretium activities, the ODPa published 'The Feel-Good Guide to Data Protection'. The guide was written to aid positive engagement with data protection, to help its readers see: its value to individuals; its benefits to business; and its place in human society.

3.7. Raise data protection awareness in school-age children

This activity forms part of the ODPa's commitment and statutory obligation to promote public awareness of data protection risks, rules, rights and safeguards, particularly in relation to children. Building children's awareness in this area has several benefits including: they will be less likely to fall victim to harms that may arise from misuse of their personal data; they may share their new awareness with adults in their lives, so the message is spread wider; when these engaged and informed young people enter the workforce their awareness, attitudes, and actions could serve to strengthen overall compliance.

As mentioned above, the ODPa launched its Schools Programme in November 2020. This delay was caused by the closure of all island schools during the lockdown and prevented the ODPa working with local schools to complete development of the sessions.

In February 2020 the ODPa again sponsored and exhibited at 'Digital ACE', a popular public event attended by families with young children.

Throughout 2020, the Deputy Commissioner continued to sit on the Bailiwick's Online Safety Committee which meets bi-monthly to share experiences and develop methods of promoting safe online behaviour to children and their parents, teachers and carers supporting the Digital Citizenship strand of the Big Picture Curriculum. Other members of this multi-disciplinary committee include teachers, telecoms providers, law enforcement representatives, and representatives of safeguarding agencies. A sub-group of the Online Safety Committee is responsible for the organisation of the Digital ACE event and the Deputy Commissioner played a role in this.

3.8. Engage with and support the Bailiwick's data protection association (BGDPA)

In January 2020 the ODPa initiated a regular meet-up between their outreach officer and the Chairman of BGDPA to ensure formal support for the association and its members. The ODPa also encouraged knowledge-sharing on the post-2020 changes to the fees regime, as well as continuing to offer free use of its boardroom to BGDPA.

3.9. Engage with and support representative organisations to improve industry and public awareness and understanding

The ODPA Commissioner and Deputy Commissioner are regularly invited to speak at local industry events. In 2020, the ODPA also accepted invitations to speak either in-person or remotely to local schools and at industry events. Details of all these speaking engagements are listed below.

In addition to providing speakers, the ODPA also made regular contact with many local industry associations and groups to ensure that key messages were reaching their audiences.

1. 'Where are you leaving your data footprint?' (Digital ACE) 8 February 2020
2. Emma Martins' video message for members (as requested by Chamber of Commerce) 20 April 2020
3. 2020 Human Resources in Financial Services Forum 2 July 2020
4. Youth Commission: remote processing of children's data 1 July 2020

5. Data Matters at Privacy Culture (Fireside Chat) 24th July 2020
6. Guernsey Association of Trustees Lunchtime update to GAT members on registration changes 20 October 2020
7. Regulators event' addressing new States members (GFSC) 16 November 2020
8. Global Entrepreneurs Week event (Digital Greenhouse) 'Data considerations for small businesses' 16 November 2020
9. GACO lunch 27 November 2020
10. Practical guidance on managing a data breach (BPP) 3 December 2020
11. APS Data Management & Governance Conference (The Hatchery) Keynote: The future of data ethics 8 December 2020

The ODPA continued to be represented on the local Caldicott Committee during 2019 with the Deputy Commissioner attending. The Caldicott Committee comprises representatives of local healthcare organisations and is a forum to discuss the governance of clinical information.

4. To develop and maintain effective relationships

4.1. Work with industry, key bodies, representatives, associations and professionals, recognising the important role they play in shaping the regulatory environment for regulatees whilst being constantly vigilant to protect against regulatory capture

In the context of personal data, the regulatory environment is horizontal across the whole community and the ODPA recognise the need to engage with representative bodies to assist in communicating information and guidance to as wide an audience as possible.

Communications from the regulated community to the regulator are as important as communication from the regulator to the regulated community.

The ODPA works to identify all such bodies in the Bailiwick and proactively communicate where that is appropriate. This communication helps the ODPA understand the needs of specific groups within the regulated community and how best to create and present relevant information to them about their statutory duties. In 2020, the ODPA proactively targeted considerable communications effort towards ~60 local groups and associations to support their understanding of the post-2020 fees regime. Every ODPA staff member was involved in this effort which was sustained throughout the latter part of the year and took the form of email updates, phone-call follow-ups and in some cases in-person events as requested by the group/association themselves.

4.2. Ensure open and constructive engagement with the States of Guernsey in discussions around legislative and policy areas involving the processing of personal data

The ODPA continues to communicate regularly with key officers of the States of Guernsey to develop open and constructive relationships which enable timely discussions around proposed legislative and policy changes which involve personal data. Where prior consultation is required under section 46, the ODPA endeavours to engage and respond promptly and comprehensively.

4.3. Explore the use of Memorandums of Understanding with other bodies to ensure a consistent and coherent regulatory and enforcement environment for regulatees

Given business activities are reliant on an increasing volume and variety of personal data, there are necessarily overlaps between the ODPA's functions and other local regulators. The ODPA will continue to explore opportunities for MoUs between these organisations where that will assist in underpinning a robust regulatory regime locally.

The global nature of the data economy means that there will be occasions when the data processing activities the ODPA is looking at will stretch beyond the Bailiwick's borders. To assist in such cases, and build upon the international obligations laid down in the Law, work has commenced to draw up MoUs with data protection regulators in other jurisdictions, so that the regulatory mechanism more closely reflects the international nature of data use.

4.4. Continue to work with other regulators across the EU and beyond in strategic and operational matters

The ODPa is an active member of BIIDPA – a collective of British, Irish and Islands’ Data Protection Authorities of the UK, Ireland, Cyprus, Jersey, Guernsey, Isle of Man, Malta, Gibraltar and Bermuda. Whilst the proposed in-person BIIDPA meeting was unable to go ahead, the various member authorities met remotely to discuss their experiences of the challenges of balancing public health priorities with data protection requirements.

Additionally, the Commissioner and Deputy Commissioner met with the new Commissioner from Bermuda to share their lessons learnt from the setting up of the ODPa and the change in the way data protection was viewed locally that the new Law and the GDPR had brought about.

The ODPa continue to participate in the European and International conferences for Data Protection Authorities which provide a forum for the exchange of ideas and learning experiences. It is anticipated that the expectations regarding cooperation and consistency as set out in the GDPR will emerge for all Data Protection Authorities in the next few years.

4.5. Continue to work with the European Commission during and beyond formal assessment of adequacy

The GDPR’s ‘adequacy’ requirements will likely require ongoing assessment and review to ensure that approved jurisdictions continue to provide robust and independent regulatory oversight. It is expected that such reviews will take the form of regular updates to the European Commission, as well as responding to questions from them.

Prior to 2020, the ODPa provided a substantial contribution to the States of Guernsey’s submission to the European Commission, and will continue to provide support to the States of Guernsey and engage directly with the European Commission where that is appropriate.

4.6. Where most effective, seek representation and attendance at key industry and regulator events

The Commissioner and other senior ODPa staff attended the following regulatory events:

1. BIIDPA (Dublin – virtual event), 18 June 2020)
2. GPA (formerly ICDDPC) (UK – virtual event), 9 October 2020)

See also related activities detailed in 3.9 above.

5. To elevate discussions around the protection of personal data to engage the community and individuals in a relevant and positive way, recognising the personal, social and economic opportunities and threats that the data economy poses

5.1. Explore the feasibility of holding a conference to encourage learning and discussion for the wider community by end 2019

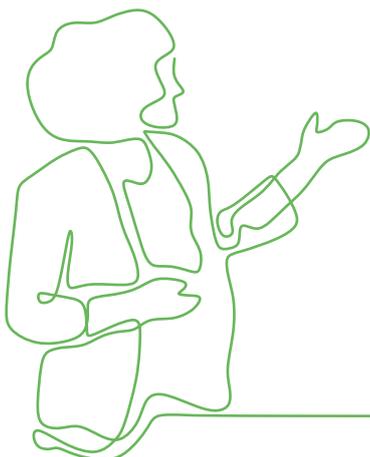
Due to the considerable disruption to in-person events during 2020, it was agreed that exploring the feasibility of a conference would recommence during 2021.

5.2. Regularly publish comment and thought pieces on data related matters

The ODPa is fortunate to have a positive relationship with local journalists, and as such it is regularly approached to comment on data-related news stories.

The ODPa works with local journalists and editors to provide factual information, build awareness of the Law, and how data harms affect people. Throughout 2020, the ODPa continued supplying local media with bi-monthly statistics and supporting commentary around self-reported data breaches. This proactive media engagement, together with other activities resulted in 129 news articles, 17 broadcast media segments, and 9 magazine/editorial pieces.

The Commissioner also publishes regular blogs and letters, either via the ODPa’s website or directly in magazines/newspapers.



5.3. Provide relevant comment to the media where this advances our aims and encourages broader discussion and awareness

Where appropriate, and whenever possible, the ODPA will provide commentary to local media either proactively (e.g. via the bi-monthly breach statistics press releases) or reactively in response to a journalist making contact on a specific issue.

During 2020, the ODPA published six Public Statements (as defined in section 64 of the Law) which were approved and issued by the Authority's Section 64 Committee regarding enforcement and related activities. All public statements are detailed in the 'Actions we've taken' area of the new ODPA website.

5.4. Provide a supportive and stimulating environment for staff to allow them to be exemplars of their professions

The aim is for each employee to work for the ODPA because it is rewarding for them as individuals and they are empowered to support the wider Bailiwick community to aspire to excellence in data protection awareness by businesses and individuals alike. Much effort is put in to involve and engage all staff members in issues the ODPA is dealing with and to encourage a broader intellectual engagement with data-related issues locally and internationally. Each member of staff understands the importance of their role in delivering on the four pillars of ODPA activities as well as the interdependence of all related activities.

5.5. Connect with industry and community representative organisations to encourage their engagement in supporting the data rights and obligations of those they represent

Much of this activity in 2020 is detailed in 3.9 above, as a result of the ODPA's drop-in sessions, events, study visits, and invited speaking engagements.

As detailed in section 3.2 above the ODPA held a pilot 'thematic review' with local recruitment agencies during 2020 which resulted in a clearer picture of how resource-intensive bespoke compliance-based interventions can be. In addition to this sector-focused intervention, the ODPA also looked broader at positively engaging with people who do not see the value of looking after people's data – as disengagement and/or ignorance can often present a high risk to people's data. With this disengaged group in mind, The Feel-Good Guide to Data Protection was written.

The ODPA recognises that you cannot connect people with their rights as individuals, or their obligations as part of an organisation, if they see the Law as merely a prompt for a once-a-year box ticking paper exercise. Instead the ODPA seeks to elevate and embed data protection as a human-centric ongoing activity that evolves, that is never 'done' and underpins good governance practices with trust and confidence. This recognition is the backdrop to why Project Bijou (detailed in section 3.6 above) is needed.



Case studies

The Authority has a statutory duty to promote awareness of data protection issues. Detailed below are anonymous case studies of individual's complaints, and what the wider regulated community can learn from them.

The case studies include some use of the following legal terms:

Legal terms

Plain English



'Complainant'

The **person** who lodged the complaint with the ODPa about how their personal data was being (or had been) used.



'Controller'

The **organisation/business** that decided how personal data was to be used, and in the context below who the complaint was about.



'Self-reported breach'

This is the act of **completing the ODPa's breach report form** in order to fulfil a controller's legal obligation to let the ODPa know their organisation/business has experienced a personal data breach.



'Data subject'

The **person** that the data in question relates to.



'Subject access request'

This is when a person **uses their legal right** to ask an organisation/business what data is held about them and to seek access to that data.



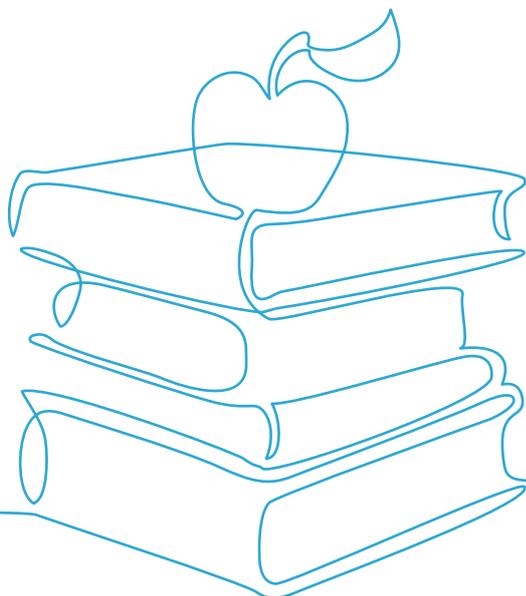
'Operative provision'

This means **any part of the Law** that a controller must comply with.



'Lawful processing condition'

Before an organisation/business starts collecting or using people's data, they must identify and document a 'lawful processing condition' (or 'lawful basis') that can be relied on. Failing to do this makes the activity unlawful. 'Consent' is the most well-known example, but there are many others.



Case study #1

Background

An organisation posted photographs of young children on its social media account. The parents of one of the children featured had been asked to consent to this use of their child's image, but had specifically not provided this consent.

The parent in question happened to see two photographs of their child on the social media feed of a senior member of the organisation's staff from previous years. The parent messaged the member of staff immediately and was told the images would be removed. But the staff member did not remove them.

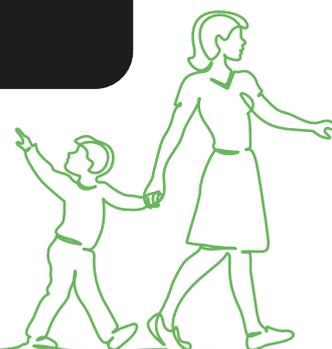
The parent then found many more photographs of their child posted on the organisation's social media feed in the previous 18 months. The parent messaged the member of staff again which led to only one of the photographs being taken down. Compounding the parent's concerns, at least two photographs were originally shared by a member of staff – and then re-shared by the organisation. The parent formally complained. It took several days and the involvement of multiple senior members of the organisation's staff to ensure all the photographs were removed.

Learning points

This shows the importance of ensuring that a 'lawful processing condition' applies before processing commences, the processing in this case being the posting of photographs on a social media site.

The organisation was relying on the lawful processing condition of 'consent' and they should have checked all consent forms to ensure that parents had actually provided consent – and should have not included images of children whose parents had not agreed to the images being shared publicly.

There are many legitimate reasons why parents do not give consent for photographs of their children to be shared, often for security concerns. Regardless of the reasons behind a parent not wanting photos of their child being shared, if you have asked for permission (consent) to do so and consent has either not been provided or you've specifically been told no then, for ethical as well as legal reasons, that choice must be respected. When a breach of such importance is raised, it is imperative that action is taken immediately. Strict staff procedures must be in place and staff fully trained. This should include reminding staff of the serious consequences of personal data falling into the wrong hands, especially that of young children.



Case study #2

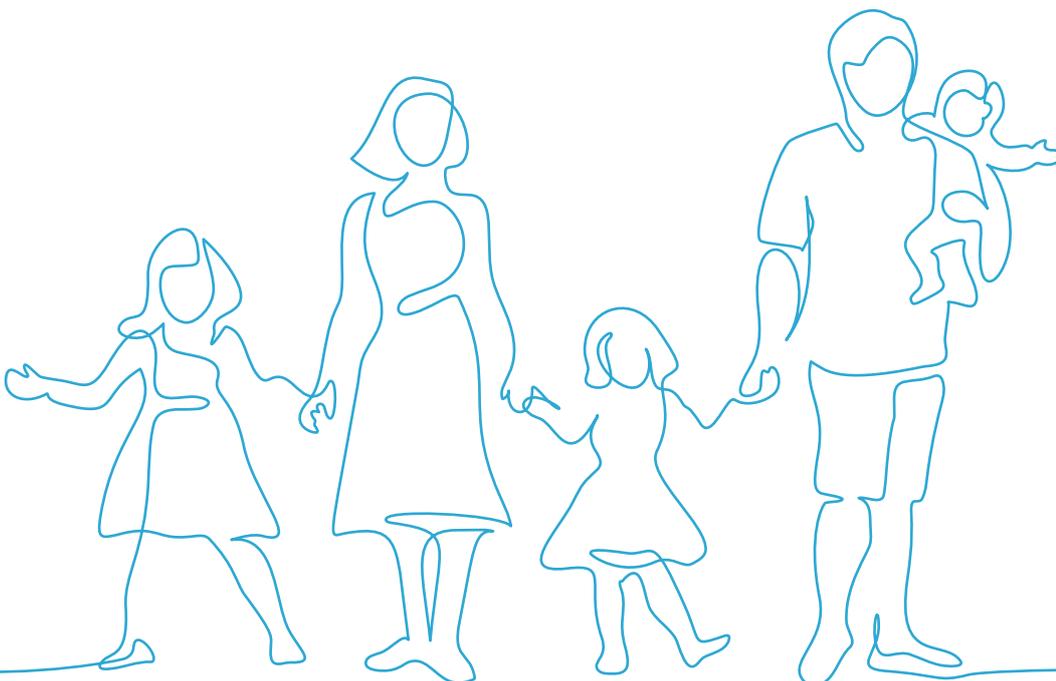
Background

A legal firm were helping a client with debt recovery proceedings regarding outstanding school fees. The firm had been in correspondence with the debtors but engaged a third-party tracing agent to assist with the debt recovery. The third party tracing agent advised that one of the debtors had a home address in another jurisdiction. As a result, correspondence pursuing the debt, including detailed private and confidential information relating to the family and children, was sent to that address. It transpired that the recipient in the other jurisdiction, despite being linked to the family, was not involved and the firm became aware of the error when the recipient contacted them by telephone to let them know.

Learning points

The consequences of this case show that it is imperative that organisations take proactive and robust steps to ensure appropriate integrity and confidentiality of personal data. In addition, and especially when communicating sensitive information, steps must be taken to ensure the correct person is corresponded with using up to date and accurate contact information.

The tracing agent had identified the wrong person i.e. a “mis-trace” but should have processes in place to ensure additional verification, particularly when disclosing very private information. The instructing firm should have taken steps to check with the agent as to what tracing activity took place to confirm they were pursuing the correct person for the debt.



Case study #3

Background

An organisation was responsible for managing a number of different client databases all of which related to confidential financial relationships. An employee of the organisation was asked to send an email attaching details of one of the clients to another organisation.

When sending the email, the employee attached the details of a number of other clients in error, thus compromising the personal data and confidentiality of all those other individuals.

The error was noticed when the recipient of the email opened the message to discover the extraneous data within the attachment and notified the sender immediately.

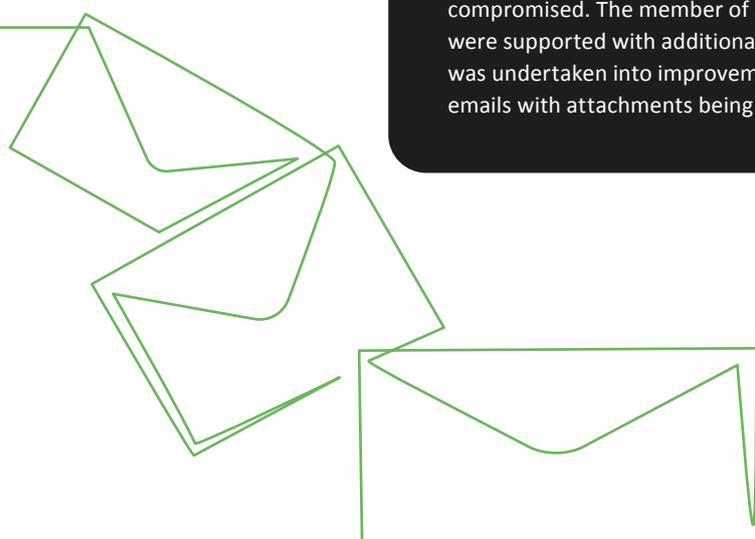
The organisation acted swiftly to request the deletion of the email and notify the ODPA of the personal data breach. Once the scope of the incident became clear, they also took steps to notify those individuals whose personal data had been compromised.

Learning point

The ODPA has consistently reported on the incidence of personal data breaches involving human error and this case highlights how easy it is for any organisation to suffer from a breach of this nature.

It is unrealistic to expect staff to never make mistakes but effective and engaging data protection awareness and training within an organisation is a powerful preventative measure. It is also important for all organisations to have a breach response plan in place which is regularly reviewed and tested.

In this case, the organisation responded immediately, putting into effect their well-planned breach response plan. They engaged early with the ODPA and quickly recognised the potential impact on those individuals whose data had been compromised. The member of staff who had sent the email were supported with additional awareness training and a review was undertaken into improvements that could be made to emails with attachments being sent outside of the organisation.



Key statistics

For the period 1 Jan 2020 – 31 Dec 2020

909

Number of **additional local organisations** who fulfilled their legal obligation to register with the ODPA

£1,234,514

The ODPA's **2020 expenditure**

£1,277,277

The ODPA's **operating budget**

38

Number of data protection **complaints** received

24

Number of **investigations** conducted by the Authority

1

Number of **inquiries** conducted by the Authority

11

Number of **investigations and inquiries resulting in a determination** that an operative provision has been or is likely to be breached

11

Number of **sanctions** imposed by the Authority under section 73. 9 controllers issued with: 7 reprimands, 1 warning, 2 fines, 1 order

63

Number of representatives from organisations who attended ODPA fortnightly **drop-in sessions**

9

Number of **free public/industry events** held at ODPA premises

175

Number of **people registered to attend** ODPA public/industry events

11

Number of **invited speaking engagements** taken by the Commissioner and Deputy Commissioner

170

Number of children/young people attending **ODPA Schools Programme sessions**

Members' Report and Audited Financial

Period Ended 31 December 2020

The Data Protection Authority

Authority Information

| | |
|--------------------------|--|
| Members | Richard Thomas CBE (Chairman) John Curran Christopher Docksey Simon Entwisle Mark Lempriere Jennifer Strachan Emma Martins (Non-voting member) |
| Registered office | St Martin's House Le Bordage St Peter Port Guernsey GY1 1BR |
| Auditor | Grant Thornton Limited Lefebvre House Lefebvre Street St Peter Port Guernsey GY1 3TF |

The Data Protection Authority

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| Balance Sheet | 8 |
| Statement of Changes in Reserves | 9 |
| Notes to the Financial Statements | 10 - 15 |
| Detailed income and expenditure account (unaudited) | 16 |

The Data Protection Authority

Members' Report For the Year Ended 31 December 2020

The members present their report and the financial statements for the year ended 31 December 2020.

Members' responsibilities statement

The members are responsible for preparing the Members' Report and the financial statements in accordance with the requirements of The Data Protection (Bailiwick of Guernsey) Law, 2017 ("the Law") and generally accepted accounting practice.

The members are responsible for keeping proper financial accounts and adequate accounting records that are sufficient to show and explain the Authority's transactions to enable them to ensure that the financial statements comply with the Law and associated legislation. They are also responsible for safeguarding the assets of the Authority and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

Principal activity

The Data Protection Authority is the independent regulatory authority for the purposes of the Data Protection (Bailiwick of Guernsey) Law, 2017 and associated legislation.

Results

The deficit for the year is set out in detail on page 6 and 7.

Members

The members who served during the year were:

Richard Thomas CBE
Simon Entwisle
John Curran
Christopher Docksey
Mark Lempriere
Jennifer Strachan
Emma Martins (Non-voting member)

Disclosure of information to auditor

Each of the persons who are members at the time when this Members' Report is approved has confirmed that:

- so far as the member is aware, there is no relevant audit information of which the Authority's auditor is unaware, and
- the member has taken all the steps that ought to have been taken as a member in order to be aware of any relevant audit information and to establish that the Authority's auditor is aware of that information.

The Data Protection Authority

**Members' Report (continued)
For the Year Ended 31 December 2020**

Independent auditor

The auditor, Grant Thornton Limited, has expressed a willingness to continue in office.

Going concern

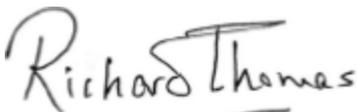
The Data Protection Authority made an operating loss for the financial year ended 31 December 2020 of £1,087,495 and had net liabilities at that date of £989,435. During the 2020 financial year the ODPa increased its borrowings from the States of Guernsey by £1,240,750. The borrowing was required for the following reasons:

- 1) £1,040,750 was borrowed to finance the operating activities of the ODPa for the financial year 2020, prior to a new funding model being introduced in 2021.
- 2) £200,000 was borrowed to fund the acquisition of intangible asset purchases included within note 5 and to finance certain project costs related to enhancing the robustness of the entity's IT environment.

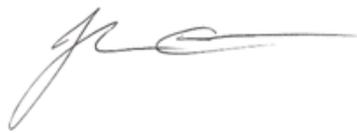
As explained in note 8 the terms of the loan with The States of Guernsey have not been finalised. However it is expected that the loan will be interest free, unsecured and repayable over a period of six years. This would be subject to the income of the ODPa exceeding its operating costs over this six year period.

Cash flow forecasts have been prepared and approved by the Members of the ODPa covering a period extending beyond twelve months from the date of approval of these financial statements. After reviewing these cash flow forecasts and given the assurances provided by The States of Guernsey in relation to the loan repayment the members of the ODPa have reasonable confidence that the ODPa will be in a position to meet its liabilities as they fall due for at least twelve months from the date of approval of the financial statements. As such the financial statements continue to be prepared on the going concern basis.

This report was approved by the members on **20 July 2021** and signed on its behalf.



.....
Richard Thomas CBE (Chairman)



.....
John Curran

The Data Protection Authority

Independent Auditor's Report to the Members of The Office of the Data Protection Authority

Opinion

We have audited the financial statements of The Data Protection Authority (the 'Authority') for the year ended 31 December 2020 which comprise the Income and expenditure account, the Statement of Other Comprehensive Income, the Balance Sheet, the Statement of Changes in Reserves and the notes to the financial statements, including a summary of significant accounting policies. The financial reporting framework that has been applied in their preparation is applicable law and United Kingdom Accounting Standards, including FRS 102 'The Financial Reporting Standard applicable in the United Kingdom and the Republic of Ireland' ("FRS 102"), Section 1A 'Small Entities'.

In our opinion, the financial statements:

- give a true and fair view of the state of the Authority's affairs as at 31 December 2020 and of its deficit for the year then ended;
- are in accordance with United Kingdom Generally Accepted Accounting Practice;

Basis for opinion

We conducted our audit in accordance with International Standards on Auditing (ISAs) 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 Guernsey, including the International Code of Ethics for Professional Accountants (including International Independence Standards) issued by the International Ethics Standards Board for Accountants, 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.

Other information

The members are responsible for the other information. The other information comprises the information included in the Members' report set out on pages 1 to 2, other than the financial statements and our auditor's report thereon. Our opinion on the financial statements does not cover the other information and, except to the extent otherwise explicitly stated in our report, we do not express any form of assurance conclusion thereon.

In connection with our audit of the financial statements, our responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or our knowledge obtained in the audit or otherwise appears to be materially misstated. If we identify such material inconsistencies or apparent material misstatements, we are required to determine whether there is a material misstatement in the financial statements or a material misstatement of the other information. If, based on the work we have performed, we conclude that there is a material misstatement of this other information, we are required to report that fact.

We have nothing to report in this regard.

The Data Protection Authority

Independent Auditor's Report to the Members of The Office of the Data Protection Authority (continued)

Responsibilities of members for the financial statements

As explained more fully in the members' responsibilities statement set out on page 1, the members are responsible for the preparation of the financial statements which give a true and fair view in accordance with United Kingdom Generally Accepted Accounting Practice, 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 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.

As part of an audit in accordance with ISAs, we exercise professional judgment and maintain professional scepticism throughout the audit. We also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Authority's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.
- Conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Authority's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the Authority to cease to continue as a going concern.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

We communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.

We also provide those charged with governance with a statement that we have complied with relevant ethical requirements regarding independence, and to communicate with them all relationships and other matters that may reasonably be thought to bear on our independence, and where applicable, related safeguards.

The Data Protection Authority

Independent Auditor's Report to the Members of The Office of the Data Protection Authority (continued)

Use of our report

This report is made solely to the Authority's members as a body, in accordance with Paragraph 12 of Schedule 6 of The Data Protection (Bailiwick of Guernsey) Law, 2017. Our audit work has been undertaken so that we might state to the Authority's members those matters we are required to state in an auditor's report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the Authority and the Authority's members as a body, for our audit work, for this report, or for the opinions we have formed.



Grant Thornton Limited
Chartered Accountants
St Peter Port
Guernsey

Date: 23 July 2021

The Data Protection Authority

Income and expenditure account For the Year Ended 31 December 2020

| | £ | 2019 £ |
|---|--------------------|---------------|
| Income | 155,550 | 1,217,501 |
| Administrative expenses | (1,243,045) | (1,164,773) |
| Operating (loss)/profit | (1,087,495) | 52,728 |
| Effective interest | (35,237) | - |
| (Deficit)/surplus for the financial year | (1,122,732) | 52,728 |

The results above derive from continuing activities.

The notes on pages 10 to 15 form part of these financial statements.

The Data Protection Authority

Statement of Other Comprehensive Income
For the Year Ended 31 December 2020

| | £ | 2019 £ |
|--|------------------|---------------|
| (Deficit)/surplus for the financial year | (1,122,732) | 52,728 |
| Other comprehensive income | | |
| Loan amortisation | 219,639 | - |
| Total comprehensive (deficit)/income for the year | <u>(903,093)</u> | <u>52,728</u> |

The notes on pages 10 to 15 form part of these financial statements.

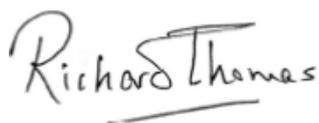
The Data Protection Authority

Balance Sheet
As at 31 December 2020

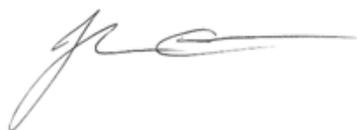
| | Note | £ | 2019 £ |
|---|------|------------------|------------------|
| Fixed assets | | | |
| Intangible assets | 5 | 148,873 | - |
| Tangible fixed assets | 6 | 98,225 | 123,722 |
| | | <u>247,098</u> | <u>123,722</u> |
| Current assets | | | |
| Prepayments | | 48,439 | 12,856 |
| Cash at bank | | 105,771 | 162,506 |
| | | <u>154,210</u> | <u>175,362</u> |
| Current liabilities | | | |
| Creditors: amounts falling due within one year | 7 | (441,085) | (385,426) |
| | | <u>(286,875)</u> | <u>(210,064)</u> |
| Net current liabilities | | | |
| | | <u>(286,875)</u> | <u>(210,064)</u> |
| Total assets less current liabilities | | | |
| | | <u>(39,777)</u> | <u>(86,342)</u> |
| Creditors: amounts falling due after more than one year | 8 | (949,658) | - |
| | | <u>(989,435)</u> | <u>(86,342)</u> |
| Net liabilities | | | |
| | | <u>(989,435)</u> | <u>(86,342)</u> |
| Reserves | | | |
| Deficit | | (989,435) | (86,342) |
| | | <u>(989,435)</u> | <u>(86,342)</u> |
| Total reserves | | | |
| | | <u>(989,435)</u> | <u>(86,342)</u> |

The financial statements have been prepared in accordance with the provisions of FRS 102 Section 102 1A - Small Entities.

The financial statements were approved and authorised for issue by the members and were signed on the members' behalf by by:



Richard Thomas CBE (Chairman)
20 July 2021



John Curran
20 July 2021

The Data Protection Authority

Statement of Changes in Reserves For the Year Ended 31 December 2020

| | Other comprehensive income £ | Income and expenditure account £ | Total reserves £ |
|--------------------------------|---------------------------------------|---|------------------------|
| At 1 January 2019 | - | (139,070) | (139,070) |
| Surplus for the financial year | - | 52,728 | 52,728 |
| At 1 January 2020 | - | (86,342) | (86,342) |
| Deficit for the financial year | - | (1,122,732) | (1,122,732) |
| Loan amortisation | 219,639 | - | 219,639 |
| At 31 December 2020 | 219,639 | (1,209,074) | (989,435) |

The notes on pages 10 to 15 form part of these financial statements.

The Data Protection Authority

Notes to the Financial Statements For the Year Ended 31 December 2020

1. Accounting policies

1.1 Basis of preparation of financial statements

The financial statements have been prepared under the historical cost convention and in accordance with Section 1A of Financial Reporting Standard 102, the Financial Reporting Standard applicable in the UK and the Republic of Ireland.

The presentation currency of these financial statements is sterling with all amounts rounded to the nearest whole pound.

The preparation of financial statements in compliance with FRS 102 requires the use of certain critical accounting estimates. It also requires management to exercise judgment in applying the Authority's accounting policies. These judgments are set out in more detail in note 2.

The following principal accounting policies have been applied:

1.2 Income

Annual notification fees are recognised to the extent that it is probable that the economic benefits will flow to the Authority and the income can be reliably measured. Income from annual notification fees is measured at the fair value of the consideration received or receivable. Income from annual notification fees is recognised upon receipt.

1.3 Intangible assets

Intangible assets are initially recognised at cost. After recognition, under the cost model, intangible assets are measured at cost less any accumulated amortisation and any accumulated impairment losses.

All intangible assets are considered to have a finite useful life. If a reliable estimate of the useful life cannot be made, the useful life shall not exceed ten years.

Website development costs are amortised over their useful economic life which is estimated as four years.

1.4 Tangible fixed assets

Tangible fixed assets under the cost model are stated at historical cost less accumulated depreciation and any accumulated impairment losses. Historical cost includes expenditure that is directly attributable to bringing the asset to the location and condition necessary for it to be capable of operating in the manner intended by management.

Depreciation is charged so as to allocate the cost of assets less their residual value over their estimated useful lives.

The estimated useful lives range as follows:

| | |
|------------------------|--|
| Leasehold improvements | - Over the remaining period of the lease |
| Furniture and fittings | - 20% straight line |
| Office equipment | - 20% straight line |

The Data Protection Authority

Notes to the Financial Statements For the Year Ended 31 December 2020

1. Accounting policies (continued)

1.5 Debtors

Short term debtors are measured at transaction price, less any impairment.

1.6 Cash at bank

Cash at bank is represented by current bank accounts and deposits with financial institutions repayable without penalty on notice of not more than three months.

1.7 Financial instruments

The Authority only enters into basic financial instruments transactions that result in the recognition of financial assets and liabilities like trade and other debtors and creditors, loans from banks and other third parties.

Debt instruments (other than those wholly repayable or receivable within one year), including loans and other accounts receivable and payable, are initially measured at the present value of the future cash flows and subsequently at amortised cost using the effective interest method. Debt instruments that are payable or receivable within one year, typically trade debtors and creditors, are measured, initially and subsequently, at the undiscounted amount of the cash or other consideration expected to be paid or received. However, if the arrangements of a short-term instrument constitute a financing transaction, like the payment of a trade debt deferred beyond normal business terms or financed at a rate of interest that is not a market rate or in case of an out-right short-term loan not at market rate, the financial asset or liability is measured, initially, at the present value of the future cash flow discounted at a market rate of interest for a similar debt instrument and subsequently at amortised cost.

Financial assets that are measured at cost and amortised cost are assessed at the end of each reporting period for objective evidence of impairment. If objective evidence of impairment is found, an impairment loss is recognised in the Income and expenditure account.

For financial assets measured at cost less impairment, the impairment loss is measured as the difference between an asset's carrying amount and best estimate of the recoverable amount, which is an approximation of the amount that the Authority would receive for the asset if it were to be sold at the Balance Sheet date.

1.8 Operating leases

Rentals paid under operating leases are charged to the Income and expenditure account on a straight line basis over the lease term.

1.9 Administrative expenses

Administrative expenses are measured at transaction price and accounted for on an accruals basis.

1.10 Finance costs

Finance costs are charged to the Income and expenditure account over the term of the debt using the effective interest method so that the amount charged is at a constant rate on the carrying amount. Issue costs are initially recognised as a reduction in the proceeds of the associated capital instrument.

The Data Protection Authority

Notes to the Financial Statements For the Year Ended 31 December 2020

2. **Significant judgments in applying accounting policies and key sources of estimation uncertainty**

In the application of the entity's accounting policies, which are set out in note 1, the members have made judgements, estimates and assumptions about the carrying amounts of assets and liabilities that are not readily apparent from other sources. The estimates and associated assumptions are based on historical experience and other factors that are considered to be relevant. The resulting accounting estimates will, by definition, seldom equal the related actual results.

The estimates and assumptions that have a significant risk of causing a material adjustment to the carrying amounts of assets and liabilities within the next financial year are addressed below:

Notional interest rate

The loan from the States of Guernsey has been advanced on an interest free basis. In line with the requirements of FRS 102 the liability is measured at the present value of the future payments discounted at a market rate of interest for a similar debt instrument. The members have therefore had to consider what the appropriate market rate of interest would be. The members consider that if they had borrowed the funds from a bank then a market rate of interest would be 4% above base. This rate has been used to calculate the notional interest charge on the loan which is included in the income and expenditure account of £35,237 for year ended 31 December 2020.

As the loan has been provided on an interest free basis, any change to this notional rate will impact on the amortisation period, but does not have any impact on the total repayment amount.

Loan repayment terms

As disclosed in note 8 the terms of the loan repayment with the States of Guernsey have not yet been finalised. Providing that the ODPa generates sufficient cash flow it is anticipated that the loan will be repaid over a six year period. A cash flow forecast has been prepared covering this period which has required consideration of both future income and expenditure. The DPA have received assurances from the States of Guernsey to the effect that flexibility will be given in relation to the loan repayments should the cash flows of the ODPa be lower than the forecast amount.

It is a requirement of FRS 102 that when calculating the effective interest rate, an entity shall estimate cash flows considering all contractual terms of the financial instrument. As the terms of the loan with the States of Guernsey have not been finalised the members have estimated both the expected repayment dates and repayment amounts, following discussion with the States of Guernsey.

If the repayment dates / amounts change in future then the loan will be repaid over a different time period. However as the loan has been extended on an interest free basis then the total loan repayment amount will not change.

3. **Employees**

The average monthly number of employees during the year was 10 (2019: 10).

4. **Taxation**

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

The Data Protection Authority

Notes to the Financial Statements
For the Year Ended 31 December 2020

5. Intangible assets

| | Website construction £ |
|---|------------------------------|
| Cost | |
| Additions and at 31 December 2020 | 150,289 |
| Amortisation | |
| Charge for the year and at 31 December 2020 | 1,416 |
| Net book value | |
| At 31 December 2020 | 148,873 |

6. Tangible fixed assets

| | Leasehold improvements £ | Furniture and fittings £ | Office equipment £ | Total £ |
|-----------------------|--------------------------------|--------------------------------|--------------------------|------------|
| Cost | | | | |
| At 1 January 2020 | 65,731 | 1,762 | 93,245 | 160,738 |
| Additions | - | - | 4,684 | 4,684 |
| At 31 December 2020 | 65,731 | 1,762 | 97,929 | 165,422 |
| Depreciation | | | | |
| At 1 January 2020 | 13,456 | 310 | 23,250 | 37,016 |
| Charge for the year | 10,959 | 352 | 18,870 | 30,181 |
| At 31 December 2020 | 24,415 | 662 | 42,120 | 67,197 |
| Net book value | | | | |
| At 31 December 2020 | 41,316 | 1,100 | 55,809 | 98,225 |
| At 31 December 2019 | 52,275 | 1,452 | 69,995 | 123,722 |

The Data Protection Authority

Notes to the Financial Statements For the Year Ended 31 December 2020

7. Creditors

| | £ | 2019 £ |
|--|----------------|-------------------|
| Trade creditors | 42,994 | 17,325 |
| Deferred rent | 28,017 | 36,022 |
| Sundry creditors and accruals | 19,596 | 88,291 |
| Amounts payable to the States of Guernsey (note 9) | 106,690 | - |
| Amount payable to the States of Guernsey - transitional loan | 243,788 | 243,788 |
| | 441,085 | 385,426 |
| | 441,085 | 385,426 |

The amount due to the States of Guernsey in relation to the transitional loan is interest free and unsecured. The transitional loan was advanced in 2018 to help fund the creation of The Data Protection Authority. Post year end the States of Guernsey agreed to waive the amount due. This will be accounted for as other income of £243,788 in the 2021 financial statements.

8. Creditors: Amounts falling due after more than one year

| | £ | 2019 £ |
|--|----------------|-------------------|
| Amounts payable to the States of Guernsey (note 9) | 949,658 | - |
| | 949,658 | - |

As at the date of signing these financial statements the terms of the loan between The Data Protection Authority and The States of Guernsey have not been finalised. It is anticipated however that the loan will be unsecured, interest free and repayable in installments up to 31 December 2026.

As the loan has been advanced on an interest free basis then in accordance with the requirements of FRS102 it has been accounted for as a financing transaction. Financing transactions are measured at the present value of the future payments discounted at a market rate of interest. The members consider that the market rate of interest for this loan would be 4% over the Bank of England base rate. The difference between the present value of the future payments and the actual loan advanced has been accounted for within other comprehensive income for the year. The present value of the future loan repayments are disclosed in note 9.

9. Amounts payable to the States of Guernsey

Analysis of the maturity of loans is given below:

| | £ | 2019 £ |
|---|------------------|-------------------|
| Amounts falling due within one year | 106,690 | - |
| Amounts falling due between 1 and 2 years | 111,064 | - |
| Amounts falling due between 2 and 5 years | 838,594 | - |
| | 1,056,348 | - |
| | 1,056,348 | - |

The Data Protection Authority

Notes to the Financial Statements For the Year Ended 31 December 2020

10. Commitments under operating leases

At 31 December 2020 the Authority had future minimum lease payments under non-cancellable operating leases as follows:

| | £ | 2019 £ |
|--------------------------|----------------|----------------|
| Within one year | 76,848 | 76,848 |
| Within one to two years | 76,848 | 76,848 |
| Within two to five years | 115,272 | 192,120 |
| Total | 268,968 | 345,816 |

11. Post balance sheet events

The COVID-19 pandemic continues to cause challenges for the Guernsey economy which are likely to continue for an indeterminate period of time. Guernsey entered a second period of lockdown on 23 January 2021 with a phased exit strategy over the ensuing months. Whilst the lockdown caused certain operational challenges for the entity, given the nature of its activities, the financial implications were limited.

As disclosed in note 7 of these financial statements the States of Guernsey have agreed to waive the transitional loan due amounting to £243,788. This will be accounted for as other income in the 2021 financial statements.

12. Controlling party

The members are of the opinion that there is no ultimate controlling party.

The Data Protection Authority

Detailed Statement of Income and expenditure account (unaudited)
For the Year Ended 31 December 2020

| | £ | 2019 £ |
|---------------------------------------|--------------------|------------------|
| Income | 155,550 | 1,217,501 |
| Administrative expenses | (1,243,045) | (1,164,773) |
| Effective interest | (35,237) | - |
| (Deficit)/surplus for the year | (1,122,732) | 52,728 |
| | | |
| Income | | |
| Annual notification fees | 155,550 | 214,100 |
| States of Guernsey grant | - | 998,000 |
| Other income | - | 5,401 |
| | 155,550 | 1,217,501 |
| | | |
| Administrative expenses | | |
| Salaries and other staff costs | 659,481 | 655,957 |
| Members fees | 15,225 | 26,833 |
| Project costs | 83,903 | - |
| Rent, rates and premises expenses | 100,974 | 101,691 |
| Legal and professional fees | 218,250 | 168,637 |
| Communication costs | 19,983 | 29,219 |
| Travel | 8,652 | 57,755 |
| IT costs | 69,136 | 63,189 |
| Amortisation | 1,416 | - |
| Depreciation | 30,181 | 28,547 |
| Office and sundry expenses | 25,165 | 25,005 |
| Insurances | 10,679 | 7,940 |
| | 1,243,045 | 1,164,773 |

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