BILLET D'ÉTAT

XX
2021

WEDNESDAY, 13th OCTOBER, 2021

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BILLET D'ÉTAT

TO
THE MEMBERS OF THE STATES
OF THE ISLAND OF GUERNSEY

I hereby give notice that a Meeting of the States of Deliberation will be held at **THE ROYAL COURT HOUSE,** on **WEDNESDAY** the **13th October, 2021** immediately after the Meeting of the States of Election convened for 9.30 a.m., to consider the items listed in this Billet d'État which have been submitted for debate.

R. J. McMAHON
Bailiff and Presiding Officer

The Royal Court House
Guernsey

4th October, 2021

P.2021/115

ELECTION OF ONE NON-STATES MEMBER OF THE STATES' TRADING SUPERVISORY BOARD

The States are asked:

To elect one voting member of the States' Trading Supervisory Board who shall not be a member of the States in accordance with Rule 16 of The Rules of Procedure of the States of Deliberation and their Committees, whose term of office shall expire in accordance with the terms of Rule 37(2).

(N.B.

1. Pursuant to the Mandate of the States' Trading Supervisory Board, Members of the Board are elected on the recommendation of the Board and shall not be the President or a member of the Transport Licensing Authority.)

P.2021/105

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *FOR* EMPLOYMENT & SOCIAL SECURITY

THE APPOINTMENT OF EMPLOYMENT & DISCRIMINATION TRIBUNAL PANEL CHAIRS AND MEMBERS AND DESIGNATION OF CONVENOR AND DEPUTY CONVENOR

The States are asked to decide: -

Whether, after consideration of the Policy Letter entitled 'The Appointment of Employment & Discrimination Tribunal Panel Chairs and Members and Designation of Convenor and Deputy Convenor', dated 13th September 2021, they are of the opinion: -

1. To appoint the following people to the Employment and Discrimination Panel with effect from 1st January 2022 until 31st December 2024, subject to satisfactory checks with the Disclosure and Barring Service (DBS).

Alex Crosland*	Karen Ferneyhough
Jason Hill*	Alison Girollet
Susan Gordon-Hardy*	Rebecca Hunter
Patrick Hardy*	George Jennings
Michael Whitbread*	Christine Le Lievre
Dr Sarah Brewer	Helen Martin
Paula Brierley	Alysa Rixon
Roger Brookfield	Steve Roussel
Alan Brown	Georgette Scott
Roy Burke	Jason Shambrook
Racheal Coleman	Andrew Vernon
Joanne de Garis	Peter Woodward
Darren Etasse	

Those marked * are legally qualified and will Chair Panel hearings when the new Discrimination Ordinance and the Employment and Discrimination Tribunal (Guernsey) Order, 2022 (currently in draft form) come into force.

2. To designate Jason Hill as the Convenor of the Panel and Paula Brierley as Deputy Convenor of the Panel from 1st January 2022 until 31st December 2024.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *FOR* EMPLOYMENT & SOCIAL SECURITY

THE APPOINTMENT OF EMPLOYMENT & DISCRIMINATION TRIBUNAL PANEL CHAIRS AND MEMBERS AND DESIGNATION OF CONVENOR AND DEPUTY CONVENOR

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

13th September, 2021

Dear Sir

1. Executive Summary

1.1 Section 1 of the Employment and Discrimination Tribunal (Guernsey) Ordinance, 2005 requires the States, on the recommendation of the Committee *for* Employment & Social Security, to draw up and maintain a Panel to be called the Employment and Discrimination Tribunal Panel. The Panel is usually appointed for a three-year period.

1.2 The Law currently requires that the Panel must consist of such number of persons as in the opinion of the States, is necessary for the purpose of hearing and determining complaints under the provisions of the relevant enactments (covering Unfair Dismissal, Sex Discrimination and Minimum Wage claims in employment) and that the States shall designate one member of the Panel as Convenor of the Panel and another as Deputy Convenor.

1.3 In 2022, if the draft Ordinance is approved by the States, new legislation will be introduced that will provide protection from discrimination on the grounds of disability, carer status, race, sexual orientation and religious belief (or religion and belief). This legislation will make discrimination unlawful on these grounds in employment, the provision of goods and services, education and accommodation and the membership of clubs and associations.

1.4 It is envisaged that protection from discrimination on the grounds of age will follow in a few years' time, subject to approval of policy proposals by the States. In addition, existing protection from discrimination on the grounds of sex,

pregnancy and maternity, marital status and gender reassignment will be extended beyond employment, again, subject to approval of policy proposals by the States.

1.5 During 2022, prior to or simultaneously with, the Discrimination Ordinance coming into force, a requirement will be introduced for Tribunal Chairs to be legally qualified. On 17th July 2020 the States resolved "To amend the Employment and Discrimination Tribunal (Guernsey) Ordinance, 2005 to require Tribunal Chairs to be legally qualified, as set out in section 7.4.3 and appendix 6."

1.6 The Committee *for* Employment & Social Security is seeking to expand the Panel so that sufficient capacity exists, and wider skill sets are represented, in order to manage non-employment cases under the new Discrimination Ordinance in an appropriately expert way. It is important that the Panel is representative of society, including a diverse range of people with a mix of professional and lived experience.

1.7 The Employment and Discrimination Tribunal (Guernsey) Ordinance, 2005 stipulates that Panel Members should have: *"Experience and knowledge relevant to the hearing and determination of complaints under the relevant enactments".*

1.8 The current term of office of existing Panel members expires on 31st December 2021. This policy letter therefore recommends to the States an expanded Employment and Discrimination Tribunal Panel for a three-year term of office from 1st January 2022 until 31st December 2024. This timeframe will allow new Panel Members time to become familiar with existing legislation (covering Unfair Dismissal, Sex Discrimination and Minimum Wage claims) and for all Panel Members to undergo training on the new Discrimination Ordinance during the first half of 2022, ahead of the Ordinance coming into force later in the year.

2. The Selection Process

2.1 To ensure the States maintain a credible and appropriately skilled Panel, the Committee *for* Employment & Social Security conducted a local advertising and recruitment campaign to identify suitable candidates with the skills, knowledge, and experience to fulfil the role.

2.2 One hundred and two application packs were requested, thirty-two people submitted applications, of which twenty-three were shortlisted based on previously agreed objective criteria. Those selected then took part in an independent assessment of those skills and competencies at Assessment Centres managed by trained staff from the UK Advisory, Conciliation and Arbitration Service (ACAS). This process reduced the shortlist to thirteen candidates with the required skills and competencies for appointment. This is in addition to those

existing Panel members willing to put themselves forward for re-appointment who have previously passed the same assessment process.

2.3 Currently, a Panel of between twelve and eighteen is considered sufficient to administer the Tribunal process**.** However, as explained in the policy letter proposing a new Discrimination Ordinance, which was debated by the States in July 2020, legally qualified Chairs and additional Panel Members will be needed to manage additional cases expected under the proposed discrimination legislation.

2.4 The policy letter considered by the States in July 2020 recommended increasing the Panel size to 20 to incorporate a wider skill set (in service provision contexts as well as employment) and an appropriate balance of interests. In order to increase the legal skills of the Panel, that policy letter also explained that a requirement would be introduced for the Tribunal Panellists appointed to chair any Tribunal to be legally qualified, in line with practice in Jersey and the UK for administering this kind of legislation.

2.5 At the time, it was anticipated that at least four of the panellists would need to be legally qualified and that some of the legally qualified chairs would be recruited off-island to ensure a lower risk of conflict of interest. However, that policy letter was written pre-COVID19 and before travel restrictions. This policy letter takes a slightly different approach and recommends a slightly larger, but on-island Panel (with five legally qualified chairs) instead. The nine new and additional members selected as part of the recruitment process (plus existing Panel members proposed for reappointment) will bring the Panel to 20 plus 5 legally qualified Chairs. Having the option of a slightly larger Panel to select three members from for each hearing will reduce conflict of interest, and there will be a saving on travel costs due to all Panel members residing within the Bailiwick. In addition, should some members resign or retire over the next few years, there will not be an immediate need to repeat the costly selection process and initial training courses. The remaining costs of the Panel are largely driven by the number of, and demand for hearings, which should not change regardless of the size of the pool of Panel members available to hear those cases.

3 The Recommended Panel Members

3.1 The following candidates are recommended for appointment to the Panel, subject to satisfactory checks with the Disclosure and Barring Service (DBS). A brief career history and a short resume of relevant knowledge and experience for each candidate is included at Appendix 1 of this report. It is suggested that the appointments take effect from 1st January 2022, when the period of appointment for current members ends, until 31st December 2024.

Alex Crosland*	Karen Ferneyhough
Jason Hill*	Alison Girollet
Susan Gordon-Hardy*	Rebecca Hunter
Patrick Hardy*	George Jennings
Michael Whitbread*	Christine Le Lievre
Dr Sarah Brewer	Helen Martin
Paula Brierley	Alysa Rixon
Roger Brookfield	Steve Roussel
Alan Brown	Georgette Scott
Roy Burke	Jason Shambrook
Racheal Coleman	Andrew Vernon
Joanne de Garis	Peter Woodward
Darren Etasse	

Those marked * are legally qualified and will chair hearings when the new Discrimination Ordinance and the Employment and Discrimination Tribunal (Guernsey) Order 2022 (currently in draft form) come into force.

3.2 It is recommended that Jason Hill, who is currently the Convenor, and Paula Brierley, who is currently the Deputy Convenor of the Panel, continue in their respective roles until 31st December 2024.

4 Compliance with Rule 4 of the Rules of Procedure

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

4.2 In accordance with Rule 4(1)(a), this policy letter contributes to Priority 3 of the Government Work Plan, which is "Delivering the recovery actions". Specifically, introducing the Discrimination Ordinance falls under the area of focus on Community Investment.

4.3 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. She has advised that there is no reason in law why the Propositions should not be put into effect.

4.4 In accordance with Rule 4(1)(d), funding for the expansion of the Employment and Discrimination Tribunal Panel was included within the policy letter on the new Discrimination Ordinance which was debated by the States on 17th July 2020 and the resolutions for additional funding were approved.

4.5 In accordance with Rule 4(2)(a), the Propositions relate to the Committee's purpose: "To foster a compassionate, cohesive and aspirational society in which responsibility is encouraged and individuals and families are supported through schemes of social protection relating to pensions, other contributory and non-contributory benefits, social housing, employment, re-employment and labour market legislation." In particular, the Propositions relate to the Committee's mandated responsibilities for labour market legislation and practices and equality.

4.6 In accordance with Rule 4(2)(b), it is confirmed that the propositions in this policy letter have the unanimous support of the Committee.

4.7 Through the drafting of this Policy Letter, the Committee has considered the need to consult with other bodies. Consultation was not deemed necessary on this occasion given that the proposals to expand the Employment and Discrimination Tribunal have already been approved by the States on 17th July 2020 and that this policy letter only asks the States to approve the names of those individual Members to be appointed to the Panel.

5. Recommendation

5.1 The Committee *for* Employment & Social Security recommends the States to:

(a) appoint the candidates listed in paragraph 3.1 to the Employment and Discrimination Panel with effect from 1st January 2022 until 31st December 2024, subject to satisfactory checks with the Disclosure and Barring Service (DBS); and
(b) designate Jason Hill as the Convenor of the Panel and Paula Brierley as Deputy Convenor of the Panel from 1st January 2022 until 31st December 2024.

Yours faithfully

P J Roffey
President

H L de Sausmarez
Vice-President

T L Bury
S J Falla
J A B Gollop

M R Thompson
Non-States Member

R J Le Brun
Non-States Member

APPENDIX 1

EMPLOYMENT & DISCRIMINATION TRIBUNAL PANEL

Summary of the Career History of Candidates Proposed for appointment

LEGALLY QUALIFIED CHAIRS

Alex Crosland

Ms Crosland studied for her legal qualifications at the College of Law in Guildford and following that qualified as a Solicitor in 2004 after completing her training at London firm Peachey & Co LLP, where she continued to practice in the Corporate Department until moving to Guernsey in 2007. Once she had relocated to Guernsey, Ms Crosland worked as a Lawyer at local firm Carey Olsen in the Litigation Department but also the Corporate Department advising on employment matters. She has advised on all matters relating to employment law for both employees and employers. She took a career break in 2008 to raise her four children.

Jason Hill (Reappointment)

Mr Hill is a Crown Advocate in the Civil Litigation Directorate of the chambers of the Law Officers of the Crown and as such is part of the team of lawyers that advises and represents the States of Guernsey and other quasi-governmental organisations in civil matters. He was appointed a Crown Advocate in 2013 having been called to the Guernsey Bar in 2011 and appears regularly before the various courts in the Bailiwick. He is particularly experienced in cases involving public law, land law, financial services, commercial litigation and company law. Prior to coming to Guernsey in 2009, he was a barrister in private practice in Sheffield after being called to the English Bar in 1995 and specialized in civil and chancery practice. He is also an accredited mediator and a Member of the Chartered Institute of Arbitrators. He was appointed to the Guernsey Employment and Discrimination Panel in 2016.

Susan Gordon-Hardy

Mrs Gordon-Hardy is an experienced corporate lawyer and board level advisor. Having grown up and studied law in Scotland, she completed a postgraduate masters of law degree in the US before training as a solicitor with Linklaters in London. Mrs Gordon-Hardy then transferred to the Linklaters office in Hong Kong which led to her building her 20 plus year career there as a financial services partner and Head of the Commercial Department at Deacons, a leading Asian law firm. As Head of Department, she managed a team of 20 partners and 200 staff across three offices, handling all aspects of the business including strategy, finance, risk management, recruitment and HR. Having relocated to Guernsey, Mrs Gordon-Hardy is looking at taking up various non-executive and community roles. She is

currently a Pension scheme trustee and serves on the governing body of the University of Stirling.

Patrick Hardy

Mr Hardy is a solicitor who qualified to practise in England in 1988 and in Hong Kong in 1989. He began his career in the City of London and subsequently worked in Hong Kong and Singapore where he specialised in corporate and commercial law, whilst acting as the managing partner of the Hong Kong office of an international law firm. He is particularly experienced in transactions which involve the raising of capital from private investors and from the public capital markets. During his career, he has acted as a part-time law lecturer of what is now the Open University of Hong Kong. He was also appointed to be a member of the Hong Kong Law Society's Standing Committee On Compliance, its primary committee which oversees the regulation of Hong Kong solicitors. He has now retired from legal practice.

Michael Whitbread

Mr Whitbread is an employment lawyer by background and is currently global head of data protection at the JTC Group. He worked in the Employment team at Mourant in Guernsey in 2017-2018, led by Jessica Roland. Previously, he worked in various in-house and private practice employment law roles in London and his native Sydney, Australia, where he first qualified as a solicitor in 2007. He holds a Masters in Law from the University of Sydney, focusing on employment law and discrimination issues. His LLB is from the University of Newcastle, Australia.

PANEL MEMBERS

Dr Sarah Brewer

Dr Brewer qualified from Cambridge University with degrees in Natural Sciences, Medicine and Surgery. After working as a General Practitioner and as a hospital doctor specialising in sexual wellness, she moved into health communications. She is the author of over 60 health books and is an award-winning journalist with experience as a columnist for the Daily Mirror, Daily Telegraph, The Lady and Prima magazine. In 2004, she moved to Guernsey to take up the role of Medical Director at Healthspan which she still holds. Dr Brewer has acted as a medical advisor to the Toxic Shock Syndrome Information Service, the Diabetes Research & Wellness Foundation, and Patient Connect. She is a member of Rotary Guernesiais and is on the board of local charity, Edible Guernsey.

Paula Brierley (Reappointment)

Mrs Brierley is currently the Chief Operating Officer for EMEA HR for Northern Trust and has been employed with Northern Trust for eleven years in various HR roles.

Previously, she was employed, for 16 years, as Head of HR for HSBC Securities Services (Guernsey) Limited (formerly the Bank of Bermuda), where she was responsible for all areas of HR including teams in Isle of Man and Luxembourg. Her current role involves overseeing the operational side of HR for the EMEA region (10 countries) including HR risk and governance. She leads the HR side of acquisitions, outsourcing/insourcing, new business integrations and legal entity changes in the region. During her career, she has gained wide experience in dealing with employee relations issues from informal discussions to full formal disciplinary and grievance procedures. Mrs Brierley is a Chartered Member of the CIPD and has an MA in Strategic HR Management with the University of East London, she also has the Certificate in Company Direction from the IoD. She has been a Member of the Guernsey Employment and Discrimination Panel since 2009.

Roger Brookfield (Reappointment)

Prior to his retirement, Mr Brookfield was Fire Safety Manager with the Guernsey Fire & Rescue Service. Throughout his 31-year career, Mr Brookfield has had first-hand experience of managing staff and working closely in a team environment. His training and subsequent Fire Service examinations require a good working knowledge of sex and race discrimination and the Fire Service disciplinary regulations. In recent years his experience extended to dealing with routine staffing matters and in the application of Guernsey's Fire Laws as a qualified Fire Safety inspector. He is an experienced Fire Service Instructor with responsibility for overseeing both practical and theory examinations. He is a graduate of the Institution of Fire Engineers and currently works as a part-time Fire Safety Consultant and trainer. He has been a Member of the Guernsey Employment and Discrimination Panel since 2006.

Alan Brown

Mr Brown spent the majority of his career, over 33 years, in the field of education. He was employed as a teacher in a range of mainstream and special schools and local authority support services before becoming a headteacher in Telford in 1998. He moved to Guernsey in 2001 to take up the position of Headteacher at Oakvale School. In 2008 he was appointed as Deputy Director of Education in the States of Guernsey civil service; this position included H.R. responsibility for education services and schools. He was then appointed as Director of Education, the lead education professional for the States of Guernsey, in 2012. He retired from this position at the end of 2017. Following this Mr Brown worked as a registered civil, commercial and workplace mediator in Guernsey, Jersey and the U.K. He also provided training in conflict resolution. He is currently mainly involved in voluntary work with children and young people and is Chair of the Executive Committee of the Guernsey Eisteddfod Society.

Roy Burke

Mr Burke is a former Senior Civil Servant, having served in senior positions in the UK in the Home Office, Cabinet Office and Department for Transport. He moved to Alderney in 2010 to take up the appointment as Chief Executive of the States of Alderney. He held this post until May 2014 when he moved to St Helena. He returned to live in Alderney after retiring in 2018 following 4 years as the Chief Secretary of the St Helena Government. His other roles include Chief Executive at one of the Department for Transport's Executive Agencies and Chief Executive for the Criminal Injuries Compensation Appeal Panel. He is a member of Guernsey's Administrative Review Board and Complaints Panel, and a member of the Code of Conduct Panel for Alderney States Members.

Racheal Coleman

Ms Coleman is a Branch manager for a large U.K. and CI based retail organisation and a Director on the Guernsey Board. Recently qualified with the Institute of Directors - Diploma in Company Direction and a member of the NED Development Forum. Over 25 years' experience in retail, banking and utilities sectors managing large teams. She has a Masters of Business Administration from Stirling University and a Degree in Consumer Protection Law. She has gained experience in the process of undertaking a number of informal employee discussions and formal disciplinary and grievances procedures and stood as the appeal hearings manager.

Joanne de Garis (Reappointment)

Mrs de Garis has thirty years' practical people management experience across both public and commercial sectors gaining considerable understanding of employment relations, change management and quality of service in a number of environments. A science graduate of Cardiff University, Mrs de Garis has held the Institute of Directors Diploma in Company Direction since 2005. Returning to the public sector in 2014 after a career break to raise her sons, she is now Director of Strategy and Policy for the States of Guernsey. Mrs de Garis was appointed to the Guernsey Employment and Discrimination Panel in 2011.

Darren Etasse (Reappointment)

Mr Etasse is an independent facilities management and building services consultant. Prior to this he was Managing Director of large corporate facilities company across the Channel Islands and has over 25 years of experience in running a large organisation with a workforce of over 400 staff. He is a qualified IOD Director and a qualified building services engineer and was Chairman of the Channel Island branch of BIFM. As a long serving and practicing Director of a large organisation, he has been involved in a number of internal disciplinary investigations and hearings,

taking in a broad range of cultural and ethnic backgrounds. He was appointed to the Guernsey Employment and Discrimination Panel in 2016.

Karen Ferneyhough

Mrs Ferneyhough is a Human Resources professional with 18 years' experience spanning the private and public sector in both Guernsey and the UK. She is Head of HR at Amalgamated Facilities Management Ltd, supporting a diverse workforce of circa 350 employees across both Guernsey and Jersey, and is responsible for both strategic and operational HR delivery. Prior to this role she worked extensively within the Finance sector in Guernsey and was actively involved in a number of key strategic human resources initiatives within a corporate environment. Her experience in the UK includes work within the public sector and professional services. Mrs Ferneyhough holds the Postgraduate Diploma in Human Resources Management and a BSc Hons in Psychology and is also a trained Mental Health First Aider. She possesses a good working knowledge of Guernsey, Jersey and UK employment legislation and best practice, and has solid experience in management of employee relations casework.

Alison Girollet (Reappointment)

Ms Girollet has been employed by Specsavers Optical Group, (SOG) within the Legal Department since 1997. She is now part of SOG's UK & ROI Legal team as a Senior Employee Relations Advisor (a small team with responsibility for aspects of employment law covering the Group's interests in the UK and Republic of Ireland). The role includes advice and co-ordination of store partner issues (such as investigations, grievances, disciplinary action etc.) coordination and guidance of 'store' formal board meetings and employment litigation and regulatory compliance. Prior to working for Specsavers, Ms Girollet served eight years in the Royal Air Force. Tours of duty included Officer Commanding HR, Accounts, Facilities Management and Project Management respectively. She is an Associate Member of the Chartered Institute of Personnel and Development and has been a Member of the Guernsey Employment and Discrimination Panel since 2009.

Rebecca Hunter

Mrs Hunter is a Founder and Director of a large health and lifestyle company. She has a BA degree in Human Resource Management and has recruited and managed thousands of people over the 25 years she has grown her company from start up to international success. Mrs Hunter's experience and specialism in Human Resources has been predominantly in the UK under UK laws, she has sound understanding of the working environment and employment issues. She also works with other start-up companies focusing on Operations, Marketing and HR.

George Jennings (Reappointment)

Mr Jennings is now retired but was previously employed as Operations Director at Guernsey Post. Prior to this he held the position of Union Secretary of the Communications Union for over 20 years, where he represented over 200 postmen and women and, as a result of both positions, has been involved in a wide range of negotiations and discussions with both management and Union. Mr Jennings was a Member of the Panel set up under the Industrial Disputes and Conditions of Employment (Guernsey) Law, 1993 for two years and in June 2008 sat as a Panel Member to hear the dispute in respect of The Generation Engineers and the Control Room Operators, (represented by Prospect Union and Unite the Union) v Guernsey Electricity. He gained a BSc (Hons) in Labour Studies in 2006 through Southampton University. He has been a member of the Guernsey Employment and Discrimination Panel since 2009.

Christine Le Lievre (Reappointment)

Prior to retiring at the end of 2017 Ms Le Lièvre had twenty-seven years' experience working for Northern Trust (previously Barings). From 1997 she had been a Manager in Human Resources and was appointed Head of Human Resources in 2005 shortly after the acquisition of the Barings Guernsey Group of Companies by Northern Trust. In this role, she was responsible for the management of the HR function including recruitment, employment relations, change management, payroll, pensions and terminations (the latter including redundancies). From 2012, she worked part-time and had been primarily responsible for employee relations, pensions and various HR projects. Ms Le Lièvre has wide experience in dealing with employment relations issues including interpersonal conflict, stress related issues, absenteeism, performance and capability issues. In 2000 she achieved the post graduate Diploma in Personnel Management through Portsmouth University and the GTA and was a Chartered Member of the Chartered Institute of Personnel and Development (CIPD). Ms Le Lièvre has been a member of the Guernsey Employment and Discrimination Panel since 2009 and, until recently, held the post of Deputy Convenor.

Helen Martin (Reappointment)

Ms Martin was employed at Credit Suisse in Guernsey for over 16 years where she was a Director and Member of the local Executive Board and Senior Country Head of Human Resources with regional responsibilities. Latterly, as Group Head of Human Resources for Generali Worldwide, Ms Martin assumed global responsibility for Human Resources in multiple jurisdictions and was a member of the local executive committee. During her career in the finance sector she specialised in diversity and inclusion and employment law and led an award-winning initiative to set up Diversity and Inclusion forums internationally. She has written numerous published articlesand has spoken at the World Open Learning Conference and various

international Training Conferences. Ms Martin is a Fellow of the Chartered Institute of Personnel and Development (Chartered FCIPD) and was the Chairperson of the Guernsey branch of the CIPD for 3 years until November 2020. She has been a member of the Institute of Directors (MIoD) since 2003 and was a member of the Guernsey IOD Committee from 2019 to 2021. Ms Martin has studied employment law to a high level and holds a Master of Education (MEd.) degree (special field: Professional Studies) from the University of Exeter. Ms Martin is an accredited Mediator and has been a member of the Employment and Discrimination Panel since 2006.

Alysa Rixon

Ms Rixon has worked in the third sector managing the establishment of the independent charity Carers Guernsey since its inception in 2018. In addition, in 2020 she started working as a freelance change consultant and wellbeing coach under the trading name 'Ouro'. The greater part of her working life was a portfolio career in the Civil Service, joining as a graduate officer in 1998. Her twenty years' service included managing the Bulwer Avenue Traffic and Transport Services; a seven-year progression working for the scrutiny committees, during which time she undertook her Masters in Business Administration passing with distinction; and working in strategy and policy where her achievements include supporting the development of the Children and Young People's Plan, the revision of adoption legislation and two years as Principal Officer to the States Review Committee.

Steve Roussel

Mr Roussel is a Director of Ronez Ltd. He has worked in the quarrying and mining industries in Guernsey, UK and Africa for 34 years and has extensive experience of industrial relations and human resource management in unionised industrial environments. He is a qualified Mining Engineer and has an MBA from University of Southampton. He is a former President and current Vice President of the Guernsey Building Trades Employers Association.

Georgette Scott (Reappointment)

Ms Scott is HR Director for Sovereign Trust (Channel Islands) Limited, who she joined in April 2012. Prior to working for Sovereign, she worked as an independent HR Consultant under the name Advantage HR from 2009. Before setting up her own consultancy business she was Director of Human Resources, Channel Islands and Isle of Man for a local commercial business and held similar roles in legal, fiduciary and public sector organisations. She started her HR career in the public sector, where she worked for 12 years. Ms Scott is a graduate, and also a chartered member of the Chartered Institute of Personnel and Development and holds other professional memberships in Management and Leadership. She has been a member of the Guernsey Employment and Discrimination Panel since 2006 and prior to that served

as an Adjudicator from 2000 and is therefore, the longest serving member of the panel.

Jason Shambrook

Mr Shambrook is the Ravenscroft Group Head of Human Resources covering Guernsey, Jersey, Isle of Man and the UK. He is a member of CIPD and has worked for Ravenscroft for over 5 years starting initially in Marketing and then moving into Human Resources, a position he has held for 4 years. He works with senior management in implementing people strategies across the Group including policy, procedure and recruitment. Before working in the financial sector, Mr Shambrook spent 25 years with the Guernsey Cricket Board in Sport Development and Coaching. During this time he was involved in the implementation and development of a number of initiatives, winning International Cricket Council (ICC) awards for women's cricket and community projects. Within sport, he holds the ECB Level 3 Certificate and the UKCC Sport Tutor and Assessor qualification for Coach Education Development. Mr Shambrook also sits on the Child, Youth and Community Tribunal (CYCYT).

Andrew Vernon (Reappointment)

Mr Vernon was a bus company executive during a career in public transport of over 30 years. He moved to Guernsey on his early retirement following the sale of his Company. As Commercial Director he was responsible for all aspects of route planning, fares, trade union pay and conditions negotiations, pension schemes and budgeting. He was an Associate of the Institute of Logistics and Transport with a wide range of experience in employment issues, ranging from recruitment of staff to dealing with disciplinary matters from the initial investigations through to the appeals process. He has also represented the employer in Employment Tribunals and in dispute resolution processes, often with ACAS involvement. In addition he negotiated terms and conditions of employment with both local and paid Trade Union Officials. He is a member of the local Parole Review Committee and has been a member of the Guernsey Employment and Discrimination Panel since 2006.

Peter Woodward (Reappointment)

Mr Woodward qualified in Business Studies at Nene College of Further Education and commenced his professional career as a graduate trainee with Texas Instruments UK Ltd in 1970. By 1978 he was responsible for a high-volume electronic parts manufacturing department numbering some 200 employees, including supervisory and management staff. In 1979, after post-graduate studies at Nuffield College Oxford, sponsored by his employer, he was appointed UK Labour Relations Manager. Mr Woodward has experience in representing his former employer at Employment Tribunals. His career in Human Resources continued to progress and by 1986 he had been appointed by the Intel Corporation as Director for

European Human Resources; with HR responsibility for staff in 15 international jurisdictions. His final role at Intel was as Director of Training and Development for Europe, Africa and Middle East. He moved to Guernsey in 1997 undertaking the role of independent management consultant, providing training and coaching for a wide variety of organisations in the Channel Islands, France, Eire, Germany and Spain. He served as a member of the Jersey Employment Tribunal Panel for ten years and is a Fellow of the Chartered Institute of Personnel and Development. He was originally appointed as an Adjudicator in 2003 and has been a member of the Guernsey Employment and Discrimination Panel since 2006, previously appointed as Convenor.

P.2021/97

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE

THE TAX REVIEW

The following Propositions are laid in accordance with Rule 17(9) of the Rules of Procedure of the States of Deliberation and their Committees.

The States are asked to decide:

Whether, after consideration of the policy letter "The Tax Review" dated 20 August 2021, they are of the opinion:-

1. To reaffirm principle 5 of the Fiscal Policy Framework: *"The aggregate amount of States' revenue should not exceed 24% of GDP*".

2. To agree that the Committees of the States are collectively responsible and accountable for ensuring that States expenditure is limited to the amount necessary to fund public services proportionate to the Island's size and population, and to endorse the intention of the Policy & Resources Committee to establish a sub-committee, comprising a Member from each Principal Committee, and charged with the identification and development of options to reduce expenditure or mitigate the anticipated increase in the cost of public services as set out in Paragraph 4.6.

3. To agree that the existing Social Security contributions system should be restructured such that all contributors are assessed on the same definition of income with the same access to allowances and that the Policy & Resources Committee, in close consultation with the Committee *for* Employment & Social Security, should develop detailed proposals for the restructure to establish the rates, allowances and limits which should be applied under such a scheme.

4. To agree that any restructure to meaningfully diversify the tax system requires the introduction of a broad-based Goods and Services Tax and that the Policy & Resources Committee should develop detailed proposals including the measures necessary to mitigate its impact on lower income households in the context of a restructured Social Security contributions system.

5. To agree that, in order to secure Guernsey's long-term financial stability, it will be necessary to raise additional revenues but that no significant changes to the tax system should be implemented until the States Assembly considers, as part of the Government Work Plan debate in June 2022, a framework to co-ordinate the work streams that will achieve and fund an affordable government and public services proportionate to the Island's size and population, including the options for reductions in public expenditure and those that support growth in economic output.

6. To direct the Policy & Resources Committee to report back to the States, following a period of consultation and engagement, with detailed proposals for the restructure of the tax base and its phased implementation in line with Propositions 3 and 4, by no later than July 2022.

THE STATES OF DELIBERATION

of the

ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE

THE TAX REVIEW

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

20 August 2021

Dear Sir

1. Executive summary

1.1 Following consideration of *"The Review of the Fiscal Policy Framework and Fiscal Pressures"* in January 2020 (Billet d'État I, Jan 2020) the States resolved:

"To direct the Policy & Resources Committee, in consultation with all States Members and further to public engagement, to conduct a review to ensure that Guernsey's tax base is capable of raising sufficient revenues to meet long-term government expenditure needs in a sustainable manner within the boundaries of the Fiscal Policy Framework."

1.2 Although much has happened since January 2020, the core issues remain largely unchanged. The costs incurred as a result of the management of COVID-19 are significant, but they are also largely one-off and it is expected that the States' General Revenue position will return to surplus in 2022. However, the significant longer-term fiscal issues remain: the need to support health and care services for an increasing population of older people; the need for ongoing and sustainable investment in infrastructure; and the vulnerability of the income reliant tax base to a potential decline in the workforce as a result of the changing demographics.

1.3 The gap between the revenues received from taxation and the cost of the services and infrastructure they need to pay for is increasing and will continue to widen without action. The most recent financial analysis, as set out in the Funding & Investment Plan (Billet d'État XV, July 2021) suggests General Revenue funding gap of approximately £54m per annum by 2025, after factoring in savings in the cost of delivering public services of a further £10m per annum. In addition,

the funding gap on the Guernsey Insurance and Long-Term Care schemes, under current assumptions, totals £33m per annum. The combined total of £87m would require funding of between 24% and 25% of GDP with the likelihood of further pressure on health and care expenditure in future years. There is also the risk of other pressures arising which are currently unknown or unquantified, including those arising from climate change.

1.4 This, without any further reduction in the cost of providing public services or increase in GDP through growth in our economy or population, will place the need for revenues above the 24% of GDP limit in the Fiscal Policy Framework, in other words, require more tax than that considered in this green paper.

1.5 **Meeting the funding requirements of both General Revenue and Social Security within the 24% of GDP limit placed on government revenues may be achievable in the longer term *only if* there is success in measures to enhance economic growth and to alleviate expenditure pressures.**

1.6 **The Policy & Resources Committee considers that the limit on States' revenue agreed by previous the States and set out in the Fiscal Policy Framework remains appropriate. However, keeping the overall cost of the public sector within this limit will only be possible if the States deliver the priorities agreed as part of the Government Work Plan to achieve sustainable economic recovery and accelerate the pace of public service reform. This will require an unprecedented level of fiscal self-discipline and political co-operation.**

1.7 While many people will argue that the States should cut expenditure or grow the economy *before* considering raising taxes to fund our public services, the scale of this issue is such that all three routes to more sustainable finances (increasing revenues, reducing expenditure and facilitating growth) are necessary if we are to meet the needs of our community beyond the end of the current political term. Equally, it is not advisable to wait and see whether growth will manifest before plans are made – economic growth is dependent on many factors, including the conditions in the global economy, most of which are beyond the States' ability to control.

1.8 Significant changes to the revenue structure cannot be made quickly or without a significant amount of planning. Therefore, to ignore the reality of the situation now and fail to plan for the forecast need for more revenues only serves to magnify the problem.

1.9 Although some discussion on reductions in expenditure and economic growth is included for context, this Review addresses the following question:

If it is necessary to increase revenues to the limit of the Fiscal Policy Framework (24% of GDP) to meet the cost of public services, what is the best way to achieve this?

1.10 The Tax Review Steering Group[1] was formed to consider this question and its Report is appended (Appendix 2).

1.11 This Report outlines that there is a primary choice between the taxing of income or the taxing of consumption, with increased taxes on corporate profits also playing a role. While other supporting measures are available (such as taxing property) their revenue raising potential is limited and may be more suited to consideration as part of the annual Budget process than forming part of structural reform of the tax system. The fundamental decision presented to Members is whether to continue our heavy over reliance on income-based taxes or to broaden the tax base by adding a Goods and Services Tax (GST) to Guernsey's financial toolbox.

1.12 The Report presents three potential solutions with accompanying analysis:

- Option 1 focuses on income-based measures only in the form of a 3% Health Tax combined with increased revenues from a restructured social security contributions system;

- Option 2 focuses all revenue raising on a consumption tax applying a GST gradually increasing up to 8% over a period of several years combined with associated measures to mitigate the regressive impact on lower income households, including a reduction in direct taxation via increases in personal allowances and a revenue neutral restructure of the social security contributions system;

- Option 3 offers a hybrid solution combining a GST gradually increasing up to 5% with increased revenues from a restructured social security contributions system.

1.13 The Report also includes discussion around measures which the Steering Group considered but has not recommended for progression at this time including higher earners rates and online taxes. More details are provided in sections 8 to 10 of the Report.

1.14 The Steering Group concludes:

"Having reviewed the analysis undertaken to date, the Steering Group conclude that structural changes to the tax base are necessary. The current social security contributions system has evolved a long way from its origins and in its current

[1] Membership comprises: Deputy Helyar (Policy & Resources Committee lead on Treasury matters), Deputy Mahoney (Member, Policy & Resources Committee), Deputy Roffey (President of the Committee *for* Employment & Social Security) and Mark Thompson (Non-States Member, Committee *for* Employment & Social Security)

form is inequitable. There is an opportunity to reform it which can make it both more equitable and more progressive and this should be pursued further.

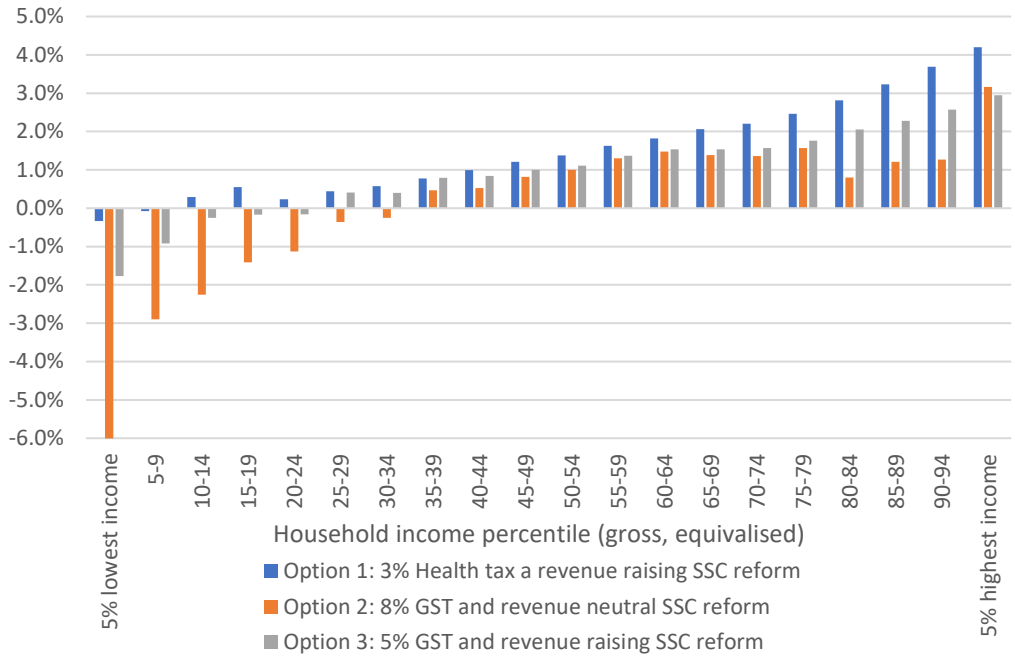
Furthermore, the current heavy reliance on income-based taxes should not be continued. If more revenues are required, it should be from a more diverse tax base and introducing a GST represents the most effective way of achieving this.

The concerns about the regressive impact of a GST on lower income households are valid. However, the analysis suggests that the inclusion of a GST within a package of measures including measures designed to mitigate the impact on lower income households can address these concerns and make the change to the tax base overall progressive. The relatively recent introduction of a GST in Jersey and other jurisdictions also provides examples of how the scheme can be designed so as to reduce the administrative burden on companies.

More engagement with stakeholders is needed before final recommendations can be made. To ensure that engagement is effective in producing a successful outcome for this project the Steering Group recommends that direction be sought from the States on these two key conclusions."

1.15 The options presented by the Steering Group include mitigations designed to address the very valid concerns expressed about the regressive features of a GST. They demonstrate that, with increases in tax allowances, the restructure of the social security contributions system and the redirection of a portion of the revenue generated, these concerns can be well addressed. Mitigation will never be perfect but, as modelled, both options 2 and 3 offer an opportunity to make a net beneficial change for the majority of low-income households in Guernsey – that is, many would actually pay **less** tax overall (see figure 1).

Figure 1: Comparison of average impact of options by household income



1.16 All three options are designed to be generally progressive.

- Those in the first 5 percentiles would be *benefited* by an average of 0.3%, 6.0% or 1.8% of their gross income under options 1, 2 and 3 respectively (or would be £70, £390 or £100 a year better off).

- A middle-income household (in the 50th to 54th percentile) would be negatively impacted by an average of 1.4%, 1.0% and 1.1% of their gross income under options 1, 2 and 3 respectively (or in monetary terms they would pay approximately £850, £550 or £650 more).

- Those in the highest 5 percentiles would pay would be negatively impacted by an average of 4.2%, 3.2% and 2.9% of their gross income under options 1, 2 and 3 respectively (or in monetary terms they would pay an average of £12,900, £10,700 or £9,400 a year more).

1.17 By laying this Policy Letter under rule 17(9)[2] the intention is to present Members with the research undertaken to date and allow debate on the *principles* of taxation before committing further resources to establish the full details of how these principles should be applied. Rule 17(9) allows a Policy Letter covering matters of general policy to be "considered by the States without amendment on the understanding that if the propositions are accepted the Committee will return with detailed proposals which could be accepted or rejected with or without amendments". In this context, the Committee wishes to seek direction from the States on the main policy recommendations reached to date in order to formally establish whether the direction of travel is, or is not, acceptable to the Assembly.

1.18 With this direction, further resources will be invested to develop these proposals to a point where there is sufficient detail to implement them. **The next proposals laid before the States will expand in detail: what changes are proposed; what mitigations need to be put in place and how these will work; and how changes should be phased. As directed by Rule 17(9) Members will then have the opportunity to amend these.**

[2] *17 (9) Where a Committee originating a matter for debate before the States is of the opinion that the proposals it is submitting to the States are of general policy, and where it is desirable that the principles of that policy should be considered, the Committee may have its propositions considered by the States without amendment on the understanding that if the propositions are accepted the Committee would return with detailed proposals which could be accepted or rejected with or without amendments. Where a Committee invokes the provisions of this paragraph it shall make express reference to it in its propositions.*

1.19 This Policy Letter therefore seeks to test and confirm the States' support in principle for the two primary policy changes recommended at this stage and included in both options 2 and 3, namely:

- The restructure of the social security contributions system to a more equitable basis; and

- The development of a GST along with mitigation measures to support those on lower income.

1.20 The opportunity to formally capture the Assembly's views and establish the key elements needing to be addressed as this work is progressed further are as important as the Propositions. The debate on this Policy Letter will inform how the next phase of work progresses.

1.21 If the Propositions are accepted, the Policy & Resources Committee would ask the Steering Group to conduct more detailed engagement with businesses and the public and develop more detailed proposals before bringing back formal recommendations.

1.22 In recommending further development of a restructure of the tax system, it is recognised that various factors will influence its progression. The success of government policy to stimulate and enable economic growth and accelerate public service reform could mean the extent of revenues required may be less or that the timing of their introduction can be delayed. Conversely, if Government spending continues to rise, further increases will become necessary.

1.23 In committing to report back with formal proposals in mid-2022, the Policy & Resources Committee undertakes to co-ordinate this work with the progress on other workstreams which will contribute to the States' long-term financial stability. This includes Public Service Reform and any other initiative intended to manage expenditure; population policy; and other policies intending to promote economic growth. The intention is to bring forward a more holistic framework of the financial landscape as part of the Government Work Plan debate in June 2022.

1.24 The Committee *for* Employment & Social Security has relayed its intention to take steps to address the known funding shortfall on the States Pension and Long-Term Care scheme, quantified through the recent valuations by the Government Actuary, without further delay. That Committee intends to include within its annual contributory uprating report proposals for a phased increase in the social security contribution rates under the existing structure which would increase contribution revenues by an estimated £34m a year by 2031. It would be that Committee's intention that such increases are halted as and when the decisions arising from the Tax Review are implemented, assuming that those decisions deliver a sustainable solution.

1.25 The increases proposed by the Committee *for* Employment & Social Security represent almost half of the total amount which could be raised within the Fiscal Policy Framework and would ensure that those schemes are fully funded. However, it is clear from the analysis undertaken that the overall cost pressures are significantly greater than the 'headroom' available within the Fiscal Policy Framework and this would therefore significantly reduce the amount available for funding General Revenue pressures and make staying within the 24% of GDP limit on revenues more difficult. This highlights the need for such matters to be considered holistically and not by Committee mandate. It is for this reason that the Policy & Resources Committee, while working closely with the Committee *for* Employment & Social Security, has taken the lead in co-ordinating this work and presenting this Policy Letter. Further co-operation across other areas, such as population policy will also be necessary.

1.26 It should further be recognised that corporate income tax rates are under global consideration. The OECD[3] is working to establish a global solution to reform the international corporate tax framework, impacting how large multi-national enterprises are taxed around the world. As technical discussions on these proposals are ongoing, how these will impact Guernsey is still far from clear. The Steering Group has included the best available estimates of additional revenue that will be raised through changes to the corporate tax system (£10m). The eventual outcome may be more or less than the estimates included and taxes in other areas will need to be adapted to this as the situation evolves.

2. Current Economic Context

2.1 The current economic conditions, and those that may prevail at the point any changes are implemented need to be considered. COVID-19 caused a significant amount of economic disruption in 2020 but, as a whole, the economy has recovered far better than expected. This has been reflected in tax receipts during 2021 which are currently ahead of that budgeted.

2.2 The level of unemployment, having reached a peak of more than 5% during May 2020, has returned to 1.4% in June 2021, compared to 1.1% immediately prior to the first lockdown. The current key issue within the workforce has shifted away from unemployment towards challenges with labour supply. While employment numbers remain lower than during 2019, this is in part because of the combined disruption COVID-19 and the changes in visa requirements for EU nationals working within the UK Common Travel Area following Brexit has caused to recruitment of staff from outside of the island. Sectors reliant on travel, primarily the Hostelry Sector are still impacted, but Construction, Information and communication, Real estate, and Professional services sectors have all expanded since 2019. The shift in the workforce distribution away from lower paid hostelry

[3] The Organisation for Economic Co-operation and Development

jobs is at least partly responsible for the real growth in median earnings reported for Q1 2021 and it is not yet clear how much of this is genuine wage growth.

2.3 COVID-19 has also created disruption in the housing market, and Guernsey, like many other jurisdictions is experiencing significant upward pressures on both purchase and rental prices. This pressure on the housing market is likely to complicate any policy development around population since the cost and availability of housing may become a barrier to attracting people to Guernsey. A Housing Action Group has been established to address the current housing supply issues, with a particular focus on the provision of affordable housing.

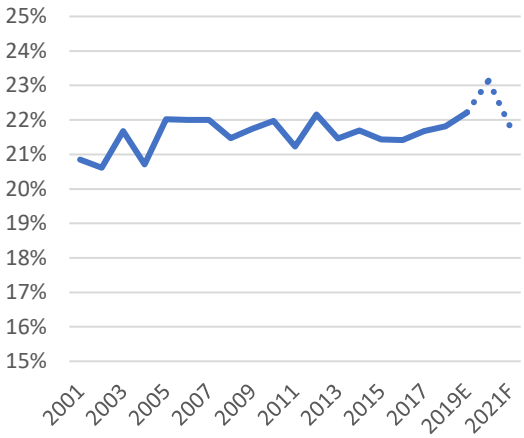
2.4 Inflation pressure is not restricted to housing. Both the UK and Guernsey inflation figures have shown an upward pressure on prices during the second quarter with RPIX rising to 2.3% in June 2021. This is likely due to a combination of the effects of Brexit on imported goods and global supply chain disruption caused by widespread lockdowns in key producing nations. The UK (who report inflation data monthly) reported a fall in CPI between June and July but the Bank of England is expecting it to rise again before the end of the year. Inflation measures in Guernsey are expected to follow a similar trend.

2.5 In the broader policy context, the planned introduction of Secondary Pensions is also expected within two years and its phasing may coincide with implementation of tax measures. This may result in some households saving for retirement for the first time which will have an impact on their disposable income. Any further progression of the Tax Review workstream will need to consider the combined impact on household income of both changes in taxation and an increase in pension saving.

3. Expenditure: Is 24% of GDP the right size of government?

3.1 The limit placed on government revenues by the Fiscal Policy Framework is set at 24% of GDP (Billet d'État I, Jan 2020). This limit is just over 2% of GDP higher than the average level of revenues generated over the three years between 2017 and 2019 (see figure 2)[4].

Figure 2: Aggregate revenue as % GDP



3.2 This limit was set reflecting what was considered to be the **minimum** amount required to meet the States' known and quantified long-term expenditure pressure. These are detailed in the January 2020 policy letter and included:

- **the demand on health services as the population ages (£5-10m over 5 years);**
- **the demand on the States Pension system as the number of pensioners increases (£8-18m per annum);**
- **The demand on the Long-Term Care Fund as the population ages (£7-23m per annum);**
- **The extension to cover NICE approved medical treatments (£5-12m per annum);**
- **A reform of primary care services to make these more accessible (£9m-20m per annum);**
- **The costs to achieve greater parity in terms and conditions across different public sector staff groups (£35-40m per annum); and**
- **The loss of revenues and administrative cost from the introduction of Secondary Pensions legislation (rising to £9m per annum in the medium term).**

[4] Note that the estimated increase in revenues in 2020 as a % of GDP is due to the forecast negative impact of COVID-19 on GDP being larger than the % impact on revenues

3.3 The anticipated long-term cost of these totalled between £80m and £130m a year.

3.4 A significant proportion of this pressure is on the cost of delivering **existing** services to an increasing number of people as a result of the ageing of the population. These pressures are not new or unique to Guernsey and most developed jurisdictions are or will face similar pressures as their populations age.

3.5 For many of these cost pressures there is little discretion available in the rising cost unless there is an appetite to make significant policy changes determining what services and benefits people are entitled to. For example, the States Pension (the States' largest single expense) costs more than £130m a year but the pensions system and eight other benefits are administered by just six members of staff. Costs have increased year on year since 2011 and will continue increasing well beyond the middle of this century as a result of the increasing numbers of people of pensionable age entitled to the benefit and the uprating policy applied by the States. With administrative costs representing less than 1% of expenditure, administrative efficiency can make little impact. To make a material change in the expenditure profile of the States' Pension would require either significantly reducing the value of the pension over the long-term or reducing the number of people entitled to claim it.

3.6 Although the States' priorities and policies are constantly evolving, the core challenges remain the same. In addition, while many of these pressures are described as long-term since their impact will grow over many years, they are now apparent in the States' financial baseline. While it is impossible to set out precise numbers, broadly the current status can be summarised as follows:

- the Fiscal Framework was amended to increase the assumed capital spend requirement from 1.5% of GDP per annum to an average of 2%, implying an additional cost of £16m a year and this assumption of a higher level of capital spending has been built into the Funding & Investment Plan;

- the demand on health services as the population ages is already manifesting and an annual upward pressure has been factored into the Funding & Investment Plan of approximately £3m each year;

- The latest actuarial review suggested that to fund the States Pension and other benefits paid from the Guernsey Insurance Fund requires additional revenue of approximately £28m per year under the current assumptions (previously estimated at £8m - £18m);

- The Government Work Plan was successfully amended to retain the extension of services to cover NICE approved medical treatments with an ICER up to £40,000. The financial information presented in figure 5 has been amended to reflect this. This is to be funded from reserves until 2025 but

there is no long-term funding source identified to date (the estimated cost remains £5-12m per annum);

- The work to develop primary care services is ongoing, and it is noted that this workstream may result in costs which may place additional pressure on tax revenues or result in charges to islanders outside the tax system;

- After the debate on Supported Living and Ageing Well Strategy: Extending the Life of the Long-Term Care Insurance Scheme (Billet d'État XVI, September 2020,) and a subsequent actuarial review, the current estimate of additional funding requirement for the scheme is £6m a year (previously estimated at £7-23m). Work to extend the coverage of the scheme to include care in a person's home may increase this;

- The loss of revenues forecast from the early stages of the implementation of Secondary Pensions and the costs associated with it are also factored into the Funding & Investment Plan from 2023 (still expected to rise to approximately £9m per annum although in the very long-term tax will be collected as pensions are in payment);

- The plans laid out in the Funding & Investment Plan, which include use of £160m of the Bond proceeds and £200m of additional borrowing to cover the States medium-term recovery and capital investment plans, with an estimated cost of £10m a year to service this debt; and

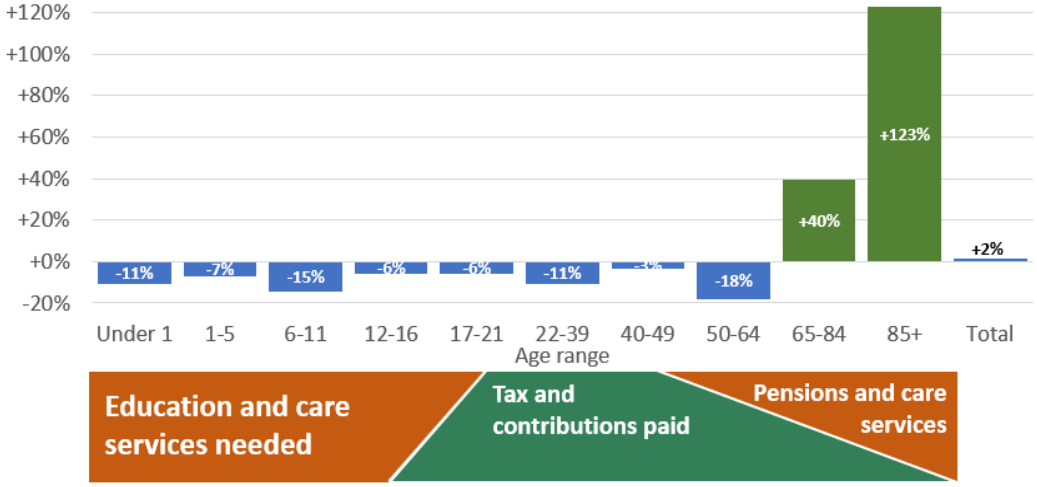
- The COVID-19 pandemic significantly reduced GDP in 2020 and any lasting impact on the economy is likely to reduce the available headroom going forward. Current estimates are that the available headroom, post recovery, has reduced slightly from £80m to between £70m-£75m (including replacing revenue lost through tax relief on secondary pensions).

3.7 It should be acknowledged that this kind of long-term forecasting is inherently difficult. Every decision the States take that has a significant financial implication or any shift in the island's economic wellbeing has the potential to change the outcome. There is also the risk of other pressures arising which are currently unknown or unquantified, including those arising from climate change. However, some of these costs are inescapable, already manifesting themselves and captured within the baseline presented in the Funding & Investment Plan. This is resulting in lower surpluses leading to pressure on the amounts available to invest in infrastructure.

3.8 These pressures will continue to grow beyond the five-year projections included in the Funding & Investment Plan. This is evidenced by the upward pressure on the baseline cost of the Committee *for* Health & Social Care and the known funding requirements to support the States Pension and the Long-Term Care

Scheme. **It will be necessary to increase the capacity of these services over time just to provide people with the same level of care they are entitled to today.**

Figure 3: Demographic change 2019-2040

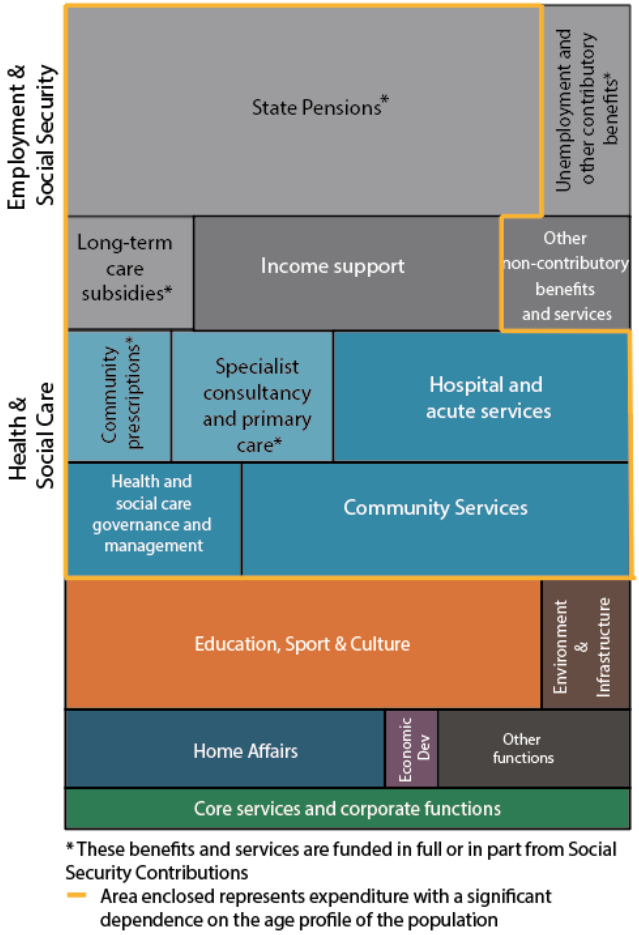


3.9 A significant proportion of States spending is in some way linked to the demographic profile. As well as more obvious elements such as the States Pension and Long-Term Care, it is estimated that about 30% of income support claims relate to pensioner households including about a third of those people in nursing or residential placements.

3.10 Within health and social care, the per capita cost of providing services for older age groups, who typically have more complex care needs, is significantly higher than for younger people. As the distribution of the population shifts towards older age groups who need this higher level of care, the cost of providing services will increase.

3.11 Overall, as much as 60% of the States' expenditure is dependent to some extent on the number of older people in the population (see Figure 4) and the extent of the pressure this is already exerting on States' spending is considerable. The number of people claiming a States Pension has increased from 15,047 in 2010 to 18,692 in 2020 (and could increase to more than 24,000 by 2040). As a result, the annual cost of providing these pensions has increased from £82m to £134m – a 63% increase in the total cost relative to a 27% increase in the rate at which the pension is paid.

Figure 4: Distribution of States Expenditure



3.12 Analysis presented in 2017 as part of the Partnership of Purpose Policy Letter suggested "health and care costs will outstrip the available funding within ten years" (Billet d'État XXIV, December 2017). The same report suggested that, without change, between 2017 and 2027 real terms spending on public health and care services could increase by more than £20m. This is now expected to be an underestimate as the cost of health and care services has already increased in real terms by £15m between 2017 and 2020 and the Funding & Investment Plan includes an estimate of an average of £3m a year further upward pressure as a result of demographic and other cost pressures on existing service levels.

3.13 The Policy Letter recommending the 24% of GDP limit on revenues described it as *"challenging but achievable"*. It is certainly no less challenging now. It can only be achieved by a significant improvement in fiscal discipline.

3.14 The States agreed proposals within the Funding & Investment Plan to invest up to £568m to support the capital requirements over the current term funded through borrowing up to £200m, using £160m of the proceeds of the Bond and depleting reserves. This is intended to enable the immediate progression of the States' priorities. However, it is a temporary solution only and a way of managing

but not removing the underlying structural deficit. Without further action, beyond 2025 the States will again have to consider how best to support their spending requirements in the face of the same pressure to provide for the increased demand for existing services and maintain an appropriate level of capital investment. A longer-term solution is required.

Figure 5: Estimated structural deficit beyond 2025

5 YEAR PLAN - Middle Case £m	Est structural deficit by 2025
Adjusted Baseline Position	**11.2**
GWP Revenue Impact	
Brexit (on-going)	(1.1)
Recovery (on-going)	(3.5)
NICE TA's	0[5]
Transformation Savings	5.8
RICE	(1.7)
Budget measures	4.0
Baseline incl. GWP	**14.8**
Net Financing income/(charge)	(2.0)
Overall Surplus	**12.8**
Capital @ 2% GDP	(66.5)
Result after Capital Provision	**(53.7)**
Revenue requirement of Guernsey Insurance and Long-Term Care Funds	**(33.7)**
Total Forecast Funding Gap Beyond 2025	**(87.4)**

3.15 Figure 5, adapted from the Funding & Investment Plan, illustrates the forecast structural deficit (after provision in full for capital spending) beyond 2025 including the ongoing cost of the priorities of the GWP and the forecast savings of Public Service Reform.

3.16 At the level of capital expenditure set out in the Fiscal Policy Framework (2% of GDP), the estimated structural deficit on General Revenue beyond the 2025 horizon is estimated at £54m per annum[6]. Based on the most recent actuarial review, the social security contributions system has a further requirement for £34m of funding under the current policy. This would bring Guernsey's funding gap to £87m with increases in health and care costs likely to continue rising beyond this. This would put the funding requirement beyond the 24% of GDP limit if met entirely from additional revenues.

3.17 While the calculation is different, the message is the same as that conveyed in January 2020**. A revenue limit set at 24% of GDP is not enough to cover everything the States may want without compromise.** Raising revenues is not the only answer and if this limit is to be retained in any meaningful way, measures to grow the economy and limit expenditure growth have a vital role to play. Expenditure restraint and economic growth will need to carry a significant part of the burden.

[6] This table has been updated to reflect the States decision to approve the amendment laid to progress the implementation of NICE drugs in line with the original timetable

4. The Role of Expenditure Reduction

4.1 Expenditure restraint delivered through operational efficiency alone cannot meet the scale of this challenge and is likely to only limit the overall growth in financial pressures. The current Funding & Investment Plan includes expenditure savings rising to £10m per annum, but the overall cost of public services is still set to increase.

4.2 Should there be a desire to reduce expenditure significantly more, it will be necessary to make changes to the scope of public services and benefits provided and who is entitled to access these.

4.3 To illustrate the scale of cuts that would be required to meet the funding gap by reduced expenditure alone, £75m is the equivalent of:

- 60% of the money spent annually on the States Pension; or
- the entire combined budget of the Committees *for* Economic Development, Environment & Infrastructure, Home Affairs, the Policy & Resources Committee core services, The Scrutiny Management Committee, The Development & Planning Authority, the States' Trading Supervisory Board, the Royal Court and the Law Officers.

4.4 However, expenditure restraint does have a role to play in keeping within agreed limits. Priority 4 of the Government Work Plan includes an acceleration of the pace of public service reform and transformation and an element of the annual cost savings of this programme (£10m) are already incorporated in the baseline above. If these are not achieved the financial situation may be worse.

4.5 To achieve additional reductions in spending beyond this will require a more fundamental consideration of what level of services are provided and who is entitled to access them. This may include considerations such as the minimum contribution requirements attached to the long-term care scheme or means testing currently universal benefits. In combination, such measures have the potential to make further contributions to improving the States' long-term financial position and reduce the need to raise additional revenues, but they are unlikely to remove it entirely.

4.6 **The Policy & Resources Committee considers that it is now vital that such options are properly explored and therefore wishes to co-ordinate an exercise to identify and scope opportunities which might materially reduce expenditure or mitigate expected cost increases. It is proposed that a sub-committee, comprising a Member from each Principal Committee is formed, and charged with the identification and development of options to reduce expenditure or mitigate the anticipated increase in the cost of public services.** This should include consideration of potential opportunities for further means testing,

outsourcing or restricting the entitlement to some services on the basis of residency period or contribution record.

5. The Role of Economic Growth and the Population

5.1 The economic consequences of COVID-19 have worsened the financial position, both in respect of the largely temporary cost implications and by the potential long-term impact on the level of GDP. The assumption made in forecasting for the Funding & Investment Plan was an effective loss of up to two years of growth opportunity. This has reduced revenue forecasts and reduced the monetary value of the available headroom within the fiscal rules.

5.2 The reverse effect is also possible. It is highly unlikely that Guernsey would be able to sustain the level of economic growth required to meet the entirety of the fiscal challenge. To do so would require a full recovery of the economic activity lost in 2020 and an estimated 3% real growth (above inflation) each year for at least five years beyond that, compared to a recent average of 0.7%.

5.3 However, a more realistic increase in average economic growth levels could make a meaningful contribution to resolving the issue. Were the economic growth rate to exceed the forecast by 0.5% a year over a five-year period, this could add a total of £10m a year to States' revenues by the end of the period. Investment in economic growth, captured under GWP priority 3: Sustainable economic recovery, therefore has an important role to play.

5.4 The States have prioritised a review of the population and immigration approach, which will be co-ordinated by the Committee *for* Home Affairs with the Policy & Resources Committee and the Committee *for* Economic Development. The purpose of the work is to gain a greater understanding of the Island's population requirements for sustainable economic growth, and to inform decision-making in relation to the Island's population, housing stock, infrastructure, skills base and future trade policy. The scoping of that review has already acknowledged the interconnections between that piece of work and the Tax Review.

5.5 Across the medium-term, limiting the requirement for government revenues to 24% of GDP may be achievable *if* it is supported with investment in policies to enhance economic growth and measures to mitigate expenditure pressures. If those measures are unsuccessful it may not be sufficient longer-term.

5.6 **The Policy & Resources Committee considers that the limit on States' revenue agreed by previous States and set out in the Fiscal Policy Framework remains ambitious but appropriate. However, keeping the overall cost of the public sector within this limit will only be possible if the States deliver the priorities agreed as part of the Government Work Plan to achieve sustainable economic recovery and accelerate the pace of public service reform.**

6. Raising revenue

6.1 The decision to raise revenue is a difficult one, but one that is best taken before the financial situation reaches a critical position. The intention of this review is to ensure that discussions on how to raise revenue are done in a way that considers both the social and economic impact of such changes. The analysis presented by the Steering Group suggests that revenues could be raised up to 24% of GDP without significant long-term impacts on economic growth, albeit that within this there may be some redistribution away from sectors such as retail, wholesale and repairs toward those responsible for the provision of both public and private sector care services.

6.2 Revenue raising has the potential to create some economic impacts in the short-term[7] dependent on how revenues are raised. Taxes based on income may result in lower consumption, suppressed GDP growth and reduction in employment. A GST would generate an increase in inflation of about 60% of the headline rate.

6.3 The Steering Group concluded that of the levers available, taxes on income and taxes on consumption (e.g. a GST) offer the greatest potential for raising additional revenues. Other measures such as TRP, environmental and customs duties may contribute but are not practical options for meeting the scale of the challenge presented. The primary focus therefore should be the choice between taxing income and taxing consumption and the Steering Group concluded that a tax on consumption should be at least part of the solution.

6.4 While they are not discussed in detail in the Report this does not mean other taxes have no role to play. The Government Work Plan included a Resolution "*To direct the Policy & Resources Committee to include proposals in the annual Budget Report for each of the years 2022, 2023, 2024 and 2025 to generate an additional real-terms increase in revenues for each of these years of £1million per annum*" (Billet d'État XV, July 2021). Measures such as changes to TRP, document duty, excise duty, motor taxes or environmental taxes could be considered in the context of the annual Budget setting process.

6.5 The Steering Group presents three options for raising additional revenue up to the limits of the Fiscal Policy Framework which it considers could be workable in practice. These ultimately present a choice between continuing Guernsey's reliance on income-based taxes or diversifying the tax base with a GST, accepting that other measures will be needed to mitigate the regressive impact on low-income households.

[7] defined in this case as up to 3 years

6.6 There are some common elements to these options covered briefly in Sections 4 and 5. The options themselves are covered in Section 6. More detailed discussion of these are included in the Steering Group's Report which is appended.

7. Corporate Income Tax

7.1 Guernsey's current corporate tax system, zero-10, was introduced in 2008 following clear indication from the EU Code of Conduct Group (Business Taxation) (the 'Code Group') that the previous regime was considered harmful. It is therefore not possible to revert to the corporate regime that was in place before zero-10, as this would not meet international tax standards, a key principle of the review. Much of the revenue lost in the restructure of the corporate tax system was replaced by increases in commercial TRP rates and increases in social security contributions from employers.

7.2 Zero-10 was deemed compliant with the Code of Conduct in 2012, with the exclusion of the deemed distribution element of the system. It was reviewed again in 2017, when the EU compiled its list of non-cooperative jurisdictions at which point Guernsey committed to the introduction of legislation on economic substance to meet the required standards to be deemed a co-operative jurisdiction.

7.3 In accordance with the States Resolution from 2015[8], the Policy & Resources Committee continue to monitor the appropriateness of the corporate tax regime, having due regard for the need to retain an internationally acceptable and competitive tax environment for the islands' businesses. Officers therefore monitor developments at the OECD and also developments with regard to the EU list of non-cooperative jurisdictions for tax purposes.

7.4 Most recently the EU Economic and Financial Affairs Council (ECOFIN) has approved guidance on foreign source income exemption (FSIE) regimes, also known as territorial regimes, which acknowledge that they are a legitimate approach to prevent double taxation but identify potentially harmful elements that could be present in such regimes. It is understood that the Code Group has screened jurisdictions with FSIE regimes, and in May 2021 wrote to those jurisdictions from which it would seek commitments to repeal or amend their harmful FSIE regimes. This indicates that territorial regimes are not a paradigm

[8] Billet d'État IV, of 2015 the Personal Tax, Pensions & Benefits Review – "To direct the Treasury and Resources Department, having due regard for the need to provide a stable platform, maintain business confidence, support and encourage financial services and to retain an internationally acceptable and competitive tax environment for the islands' businesses, to continue to closely monitor the appropriateness of the corporate tax regime, and to report back to the States should it consider any changes are necessary."

or magic bullet, but remain subject to the same type of international pressure as the Zero-10 regimes employed by the Crown Dependencies.

7.5 The OECD has been working to establish a global solution to reform the international corporate tax framework, impacting how large multi-national enterprises are taxed around the world. That framework is based on two broad work streams, Pillar 1 relating to the proposal for partial re-allocation of taxing rights and Pillar 2 which proposes to introduce an agreement that large multinational enterprises (MNEs, those with group revenues of at least Euro 750m) pay a minimum effective rate of tax on their profits. These proposals seek to address issues that are linked to the increasing globalisation and digitalisation of the economy.

7.6 At the recent Inclusive Framework meeting in July, an overwhelming majority of jurisdictions (which included Guernsey) reached agreement on the proposals. Technical discussions will now continue, developing a detailed implementation plan by October.

7.7 The number of companies headquartered in Guernsey who would meet the criteria for an MNE under international rules is very limited. As technical discussions continue, it is not yet clear how these rules will be applied and therefore whether Guernsey would implement aspects of Pillar 2 that were not a minimum standard. Nor is it clear what the behavioural effects of the changes might be. As a result, the estimated revenues which might be generated from the implementation of the OECD proposals are limited and uncertain at this time.

7.8 The working assumption the Steering Group has used is that changes to the corporate income tax system may generate £10m a year of additional revenues.

7.9 In the longer term it may prove to be more or less than this figure if, for example, the rules are applied in such a way that some portion of the expected tax is paid elsewhere or if later discussions include the extension of the rules to include a wider range of companies. Any implementation plans for other tax measures will need to be flexible enough to allow for changes in the corporate landscape.

8. Reform of Social Security Contributions

8.1 As identified in the Policy Letter laid on Reform of Health Care Funding (Billet d'État X, June 2019) if the social security contributions system were to be designed today, it would not look as it currently does. The existing system, which has evolved organically through numerous changes, has some evident inequities.

8.2 The amount people are asked to contribute to social security benefits to which they have a largely uniform access is currently influenced by how an individual gains their income, their age, or their employment status.

8.3 The proposed reform of the social security contributions system (set out in the Steering Group's report, section 8), which will see it more closely aligned with income tax into a generally fairer and more progressive structure, would be difficult to achieve as a standalone change. However, as part of the wider reform of the tax structure, there is an opportunity to implement this, and a more progressive social security structure could partially offset the regressive elements of other changes such as a GST.

8.4 The restructure also addresses two extant Resolutions in relation to the social security contributions system and the inequities inherent in the current structure:

To direct the Social Security Department to review the assessment of Social Security contributions to ensure that the treatment of contributors in different contribution classes is equitable; such review to have particular regard to the upper earnings limit on contributions, the rates charged for self-employed and non-employed contributors and the definition of income used in the assessment of contributions for non-employed contributors.

(Billet d'État VI, April 2015)

To direct the Policy & Resources Committee in consultation with the Committee for Employment & Social Security to progress the second stage of the workstream, as described in section 10 of this Policy Letter, and review the structure of Social Security contributions collected for the support of health and social care services and ensure that these are appropriate, fair and sustainable, and to consider the prioritisation of this work stream for the new Assembly in the 2021-25 Policy & Resource Plan.

(Billet d'État X, June 2019).

8.5 The proposal made is that the contributions system be simplified so that all contributors are treated in the same way. The restructure would:

- Give all contributors (not employers) an allowance aligned with income tax;
- Charge all individuals below pension age the same "personal" rate on both earned and unearned income, with a reduced personal rate for those over pension age (reflecting that they no longer need to contribute to a pension but are typically the largest users of health and care services);
- Apply a reduced "employer" contribution to self-employed income; and
- Remove the upper earning limit on contributions for employers (but not for individuals).

8.6 The application of the allowance would make the system much more progressive, but costs £19m in isolation. Therefore, there needs to be an increase

in the rate charged in order to bring the system to a net neutral position. At the current value of the tax allowance and with an increase in employer contributions to 7.5% (a proposal which enables the packages presented to achieve a more even balance between the contribution of households and corporate entities to raising revenues) the personal rate needed to make this net neutral rate (that is, not to raise any additional revenues) is about 8% (compared to the current 6.6% for employees). Once restructured it is possible to raise revenues in a more progressive manner than from the existing system. However, because the current system favours some groups there are cohorts who will benefit (generally those of lower income) while others will be disadvantaged by the proposed changes.

8.7 In the absence of raising more revenues, the resulting system may change the liability of an individual with an income of £50,000 as follows:

Figure 6: Comparison of liability before and after restructure

Personal rate 8% (4% if over pension age), employer rate 7.5% (5% for self-employed), allowance aligned with personal income tax allowance

Income composition	Current liability (figures in brackets represent employer contribution)	Liability after restructure (figures in brackets represent employer contribution)
£50,000 employed income:	£3,300 (+£3,300)	£3,050 (+£3,750)
£10,000 employed, £40,000 unearned:	£660 (+£660)	£3,050 (+£750)
£50,000 unearned income:	£4,300	£3,050
£50,000 self-employed income:	£5,500	£3,050 (+£1,906)
£50,000 income over State Pension Age	£1,400	£1,525

8.8 The £50,000 example used approximates the earned income value at which a net neutral restructure is close to balance for an employed individual. The impact on a contributor will depend on their specific circumstances, but generally employed individuals with an income below £50,000 would pay less in contributions, those with a higher income would pay more.

8.9 This is not a simple change, albeit the outcome will be far simpler and more transparent than what currently exists. In unravelling such a complex scheme to replace it with something simpler those people who are most favourably treated under the current scheme may be worse off when conditions for all contributors are equalised. This is impossible to avoid whilst retaining the total revenue generated by the scheme. Nevertheless, **the restructure represents a significant improvement in terms of both the equity and progressiveness of the social**

security contributions structure and would make any further revenue raising from this source fairer. As such, it is recommended for inclusion in any final package of measures.

8.10 The Committee *for* Employment & Social Security has indicated its support for a restructure of contributions (Appendix 1). However, notwithstanding this, it has relayed its intention that the steps to address the known funding shortfall on the States Pension and Long-Term Care scheme, quantified through the recent valuations by the Government Actuary, should be taken without further delay. That Committee intends to include within its annual contributory uprating report proposals for a phased increase in the social security contribution rates under the existing structure which would increase contribution revenues by an estimated £34m a year by 2031. It would be that Committee's intention that such increases are halted as and when the decisions arising from the Tax Review are implemented, assuming that those decisions deliver a sustainable solution.

8.11 The proposals under development by the Committee *for* Employment & Social Security represent almost half of the total amount which could be raised within the Fiscal Policy Framework limit and would ensure that those schemes are fully funded. However, it is clear from the analysis undertaken that the overall cost pressures are significantly greater than the 'headroom' available within the Fiscal Policy Framework and this would therefore significantly reduce the amount available for funding General Revenue pressures and make staying within the 24% of GDP limit more difficult. This highlights the need for such matters to be considered holistically and not by Committee mandate. It is for this reason that the Policy & Resources Committee, while working closely with the Committee *for* Employment & Social Security, has taken the lead in co-ordinating this work and presenting this Policy Letter.

9. Goods and Services Tax

9.1 The addition of a GST to the tax base presents an opportunity to make a substantial move to diversify the tax base away from taxes on income. Economically, the analysis provided also shows it would be the less damaging, particularly if it can be combined with a reduction in direct taxes (See Appendix 2).

9.2 There are a range of concerns which have been raised regarding the application of a GST. The first of these relates to the potential for the tax to be regressive at low incomes. The analysis conducted suggests that, in isolation, this is true. The Steering Group particularly wished to establish that it would be possible to mitigate this impact effectively and therefore examined how this might be addressed in some detail. The suite of mitigation measures included in the options presented includes:

- reductions in tax and contributions for lower income households by way of the restructure of the social security contributions system and/or an increase in the income tax personal allowance which are most beneficial for lower and middle-income households;

- Pre-emptive adjustments to the States Pension which will bring forward the normal inflation linked increase in the pension by up to 12 months;

- Pre-emptive adjustments to Income Support at a level above the estimated impact on inflation reflecting the greater impact on lower income households; and

- Cost support schemes specifically targeted at reaching low-income households who are not eligible for Income Support.

9.3 The analysis presented shows that, if carefully designed, the overall impact of a change in the tax system to include a GST could be progressive and that lower income households might be benefited by the changes resulting in them paying **less** tax overall.

9.4 There will clearly be an additional administrative burden for businesses with the introduction of a GST. This is estimated at less than 1% of turnover on an ongoing basis although it is expected to be higher in the first year when the process is new (Deloitte LLP, July 2021), but this will depend on the type of business activity undertaken and the level of sophistication of each company's accounting processes. Measures such as a broad application with only limited exemptions, a high compulsory registration threshold (which has been modelled at £300,000) and the application of an International Services Entity scheme similar to that applied in Jersey could help limit this impact.

9.5 The potential for an increase in internet sales has also been raised as a concern. A GST would be applicable to imported goods but most jurisdictions apply a de minimis value below which the tax is not collected. This is intended to balance the revenue raised with the administrative cost of collecting the tax on personal imports. In Jersey this de minimis is set at £135 – the same level as the UK VAT de minimis. Further consideration to what level would be appropriate to apply in Guernsey, and more detail on the other features described will form part of any more detailed work.

9.6 The introduction of a new tax will also result in an additional administrative burden for the States. It is estimated that a GST would cost in the region of £800,000 a year to administer which is based on the experience of administering the scheme in Jersey. The administration of the scheme is expected to be split between the Revenue Service for the primary administration and the Border Agency in relation to the application of the tax to imports.

9.7 Further concerns raised include the possibility that, once introduced the rate of a GST could be raised beyond that initially agreed. The next phase of this workstream will include consideration of whether it might be appropriate or possible to apply mechanisms by which future increases in the rate could be restricted, if the limit placed on government revenues is not considered a strong enough measure.

10. The Options

10.1 The Steering Group presents three pragmatic solutions to the question posed. All are intended to have a net progressive structure (albeit after mitigation in the case of Options 2 and 3) and all divide revenue raising between households and corporates, with Options 2 and 3 also including revenue raised from visitors and other non-residents.

10.2 **Option 1** retains Guernsey's existing structure focussing on taxes raised against income in the form of an income-based health tax and an increase in the revenues raised through social security contributions. This meets the progressive objective and, for some, may be considered fairer, but it further exacerbates some of the existing issues with the tax base.

10.3 In 2015 the States resolved:

"To acknowledge that there are risks and challenges associated with the States' considerable reliance – by international standards – on direct personal taxes and social insurance contributions; and to agree in principle that it would be advantageous to diversify sources of States' income in ways which take account of the principle of 'ability to pay'."

Billet d'État IV, 2015, Planning a Sustainable Future: The Personal Tax, Pension and Benefits Review

10.4 And again in 2017

"To direct the Policy & Resources Committee, in developing its proposals for income measures from 2018 onwards, to consider the merits and disadvantages of any new forms of taxation, with the exception of taxes on capital; this recognises that there will be a clear presumption that over this period (in light of the island's changing demographics) the tax base will broaden and diversify consistent with the principles of seeking a greater contribution from those individuals and entities most able to bear the burden."

10.5 With two successive Assemblies recognising that the lack of diversity in the tax base is an issue, exacerbating this issue further by focussing entirely on revenue raising measures charged on income cannot be recommended.

10.6 **Option 2** places most of the revenue raising burden on a GST which would increase gradually to an 8% rate over a number of years and presents a net reduction in taxes on income due to the effect of the associated mitigation measures. As discussed in the accompanying economic analysis (Deloitte LLP, July 2021), this reduction in direct taxation could have short term economic benefits and economically this option would be the most efficient[9].

10.7 There would be a potential for significant short-term pressure on price inflation (expected to be approximately 60% of the rate implemented) leading to regressive impacts which could be costly to mitigate. Any proposal which includes a GST would need some of the revenue raised to be diverted towards the compensation of those on lower incomes and the higher the rate applied the larger the redistribution will need to be. As demonstrated in the Steering Group's report, it is possible to achieve a system in which the majority of lower income households could be benefited by the changes (that is, paying less tax overall), even at a relatively high rate of GST.

10.8 The cost of administering a GST is the same regardless of the rate and it is therefore administratively, as well as economically, more efficient to target a higher rate. It has the highest potential to diversify the tax base and the lowest potential to create short term pressure on employment and GDP.

10.9 **Option 3** presents a mix of elements from Options 1 and 2, combining a lower rate of GST (5%) with an increase in revenue from the restructured social security contributions. The lower rate of GST reduces the impact on inflation and the extent of mitigation required for lower income households, but the inclusion of increased revenues from the contributions system creates a limited degree of pressure on employment and GDP growth.

10.10 This creates a more moderate approach. It would align the Guernsey GST rate with Jersey's and may be publicly more palatable and less costly to mitigate albeit would lose some of the economic and administrative efficiency associated with focussing entirely on a GST.

10.11 The Steering Group has concluded that the tax system should include a GST. This would be consistent with the extant Resolutions listed above and offers the best

[9] Economic efficiency refers to the extent to which a tax distorts people's behaviour and impacts the economy. An efficient tax creates the least distortion.

opportunity to meaningfully diversify the tax base. **On that basis, the Policy & Resources Committee is asking the States to confirm that any restructure to diversify the tax system requires the introduction of a GST.**

10.12 The Steering Group also recognises that the details of this scheme are important and need further public consultation. The modelling has been conducted in broad alignment with the schemes applied in Jersey and New Zealand which have some attractive features:

- Jersey applies a high compulsory registration threshold to protect small businesses from administration costs. At the £300,000 turnover threshold applied in Jersey (compared to £85,000 in the UK) it is estimated that this could keep between 30% and 50%[10] of businesses from being required to register. Those businesses not required to register would be subject to GST on any taxable supplies, but they would not be obliged to charge GST on their sales, complete quarterly returns or make any remittance to the States. This removes the need for smaller businesses to conduct any administration in relation to a GST although the increased cost of supplies will still likely be passed on to customers.

- Jersey offers an optional International Services Entity Scheme designed to reduce administration for much of the finance sector. This scheme removes the need for financial services providers, whose services are largely exported and therefore zero-rated, to register and complete quarterly returns in order to reclaim any GST incurred on supplies. A fee is applied to access the scheme and based on the revenues raised in Jersey this is expected to raise £6m.

- Both Jersey and New Zealand also apply the tax to the vast majority of goods and services, with very limited exemptions. This creates a scheme significantly more efficient, economically and administratively, than a scheme like the UK's VAT which applies a complex regime of exemptions, zero-rating and reduced rates.

10.13 The further development and consultation will aim to refine this position and confirm which of these elements should form part of any final proposal, including detail on what goods and services should be subject to exemptions and zero rating.

[10] These estimates are based on the submission of claims to the Covid Business support scheme which may over represent small businesses and are therefore presented with a wide range

11. Consultation and Engagement

11.1 The Steering Group has undertaken initial engagement on the proposals presented to date, both with States Members and with industry and community representatives. This has been undertaken through a number of presentations and workshops encouraging participation and comment. However, further engagement is needed on the details of a scheme before final proposals are presented to the States for consideration. Further formal consultation, including public meetings, will be undertaken following the direction provided by the debate of this Policy Letter and further detailed modelling.

11.2 The President of the Committee *for* Employment & Social Security and a non-voting Member from that Committee are Members of the Steering Group. Communication and engagement was undertaken with the Committee *for* Employment & Social Security as this work progressed. The Committee *for* Employment & Social Security has indicated its support for the proposals to restructure social security contributions in order to address the identified issues and to make the scheme more progressive. A letter of comment from the Committee *for* Employment & Social Security on the proposals is attached at Appendix 1.

11.3 Engagement was also undertaken with Alderney States Members to ascertain any concerns raised in relation to the specific circumstances in Alderney. The primary issues raised related to the differences in the costs of goods between the two islands and the consequential potential for GST to impact Alderney residents more as a result. Work is planned for the next stage to establish the price gap between the two islands so this concern can be examined in more detail.

11.4 Another concern raised was the potential for the restructure of the social security contributions to discourage people owning property in Alderney from making these available to rent. Again, this will need to be investigated further.

12. Progression of the Workstreams

12.1 Subject to the approval of the Propositions in this Policy Letter, a substantial and detailed exercise is required to develop formal proposals to make significant structural changes to the tax base. **The next proposals laid before the States will expand in detail what changes are proposed, what mitigations need to be put in place and how these will work, how changes should be phased and how and when the operational implementation of these changes should be applied.**

12.2 It is the intention of the Committee that the next update of the Government Work Plan will also set out how the implementation of changes to the tax base can be co-ordinated with other measures needed to support the States' financial position. This will include the progression of priorities in relation to the

population, economic recovery, Public Service Reform and changes to service levels. These priorities could have a significant influence on how far and how fast changes to the tax base will need to be progressed.

12.3 A significant investment of staff time and resources will be required to bring these proposals to the point at which a final decision can be made by the States on implementing changes. It is estimated that up to £250k will be needed, including scoping the necessary IT, consultancy support on detailed development, and public engagement and communication. If necessary, the Policy & Resources Committee will use its delegated authority to make funding available from the Budget Reserve.

13. Conclusions

13.1 It is evident from the information available that the scale of the States' long-term fiscal pressures is such that it will be necessary to raise additional revenues at some point in the near future. If we are to stay within the rules that the States have set through the Fiscal Policy Framework, then this must be accompanied by a measurable and significant commitment to reduce expenditure and promote economic growth. Accepting that revenue raising may be necessary in no way reduces the importance of financial discipline, public service reform or economic investment. All will be required if we are to live within the limits set.

13.2 The Steering Group has presented pragmatic solutions to the question set. While an option that does not include a consumption tax is included, to progress in this direction would only exacerbate the risk and vulnerability created by an already heavy reliance on taxes charged against income. The Policy & Resources Committee therefore supports the conclusion that, if significant additional revenues are required and the need to diversify the tax base is accepted, then the optimal solution includes a consumption tax. However, the Committee believes that this must be accompanied with measures taken to address its regressive effects on lower income households and that further work will be required to refine such measures. Two successive Assemblies have laid resolutions to address the issue of the narrowness of the tax base and implementing a tax in place in almost every other jurisdiction in the world is the most practical way to address this.

13.3 The Steering Group has also recommended that the inequities in the social security contributions system be addressed. Again, these are issues formally recognised by two successive Assemblies (Billet d'État VI, April 2015) (Billet d'État X, June 2019). A system which presents a similar eligibility for benefits but applies liabilities that can vary enormously depending on how you gain your income cannot be equitable and should be addressed if there is a reasonable opportunity to do so.

13.4 The detail of how these options are structured is important. The Steering Group has demonstrated that there are ways to mitigate concerns about the regressive impact of a GST, and examples of good practice on its application which could maximise the efficiency of the Guernsey system while minimising the administrative burden. However, it is recognised that the details are important and that more engagement and development is required before the States can be expected to support firm proposals.

13.5 The Steering Group has committed to a six-month period of development and more detailed engagement and consultation but formal in principle endorsement from the States is sought on the key elements before this is undertaken.

14. Compliance with Rule 4

14.1 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.

14.2 In accordance with Rule 4(1)(a), the Propositions which this Policy Letter accompanies respond to Resolutions of the States made in relation to the Fiscal Policy Framework, as noted and explained throughout this Policy Letter. The review of taxation is a critical component of the action in the States' Government Work Plan (Billet d'État XV of 2021) to 'Agree a sustainable taxation policy'. This action forms part of the Priority area: 'Reshaping Government', which the States have resolved is one of the four main priorities for government at this time (Billet d'État VI of 2021).

14.3 In accordance with Rule 4(1)(b), the Propositions have been developed with consultation and engagement as explained in section 8 of this Policy Letter.

14.4 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. She has advised that there is no reason in law why the Propositions should not be put into effect.

14.5 Rule 4(1)(d) concerns the financial implications to the States of carrying into effect the proposals. As set out in paragraph 12.3 of this Policy Letter, it is estimated that £250,000 will be needed to bring these proposals to the point where the States can make a final decision on the proposals. The more fundamental implications of these proposals for government revenue and expenditure are dealt with throughout this Policy Letter and therefore not repeated in this section.

14.6 In accordance with Rule 4(2)(a), the Propositions relate to the duties of the Committee to co-ordinate policy including leading the policy planning process, the allocation and management of resources, including the States' budget and facilitating cross-committee policy development.

14.7 In accordance with Rule 4(2)(b) of the Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the Propositions above have the unanimous support of the Committee.

PTR Ferbrache
President

HJR Soulsby MBE
Vice-President

J P Le Tocq
MAJ Helyar
DJ Mahoney

Appendix 1: Committee *for* Employment & Social Security: Letter of Comment

Committee *for*
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Deputy P T R Ferbrache
President
Policy & Resources Committee
Sir Charles Frossard House
St Peter Port
Guernsey

Our Ref:
Your Ref:
Date: 20 August 2021

By email

Dear Deputy Ferbrache

Tax Review

The Committee *for* Employment & Social Security ('the Committee') considered a draft of the Tax Review Policy Letter at its meeting on 18 August 2021.

The Committee very much supports the holistic approach taken by the Policy & Resources Committee in conducting the Tax Review. The Committee recognises the pressing need to raise more revenue to support the provision of essential public services, pensions and benefits for our population in the future.

The Committee supports the restructure of the existing social security contributions system to make it more equitable, noting that more detailed work is necessary to establish the appropriate rates, allowances and limits to be applied.

The Committee welcomes the introduction of an allowance on social security contributions for all contributors (not just non-employed persons) as part of the restructure. However, the Committee notes that the consequential substantial loss in revenue will need to be replaced through other measures in order not to worsen the already unsustainable position of the Guernsey Insurance Fund and the Long-term Care Fund. Therefore, this must not be implemented in isolation.

For some time, the States has shied away from agreeing measures to secure the long-term financial sustainability of the Guernsey Insurance Fund. The Fund has been in deficit, before investment returns are taken into account, since 2009. It is estimated that the operating deficit of the Guernsey Insurance Fund will increase to £38.3m in 2022. This is ameliorated to some extent by investment returns, resulting a forecast net deficit of £19.2m in 2021, but it should be noted that as the fund declines so will the extent to which operating losses can be mitigated by investment returns.

Although we have a large buffer Fund (valued at £702.4m as at 31 December 2020), the Government Actuary's Department has calculated that the Guernsey Insurance Fund will be exhausted by 2039 unless something is done to address this matter. It is a matter of deep concern that the pension fund could be exhausted in just 18 years if no measures are taken to prevent this. The equivalent of approximately £28m per annum of additional revenue is needed to make the Fund sustainable under current assumptions.

The Government Actuary projected that the balance in the Long-term Care Fund will fall to zero in 2053. This does not take into account the decision in principle, taken by the States of Deliberation in August 2020, to extend the coverage of the Long-term Care Scheme to cover care delivered in peoples' homes. The current estimate of additional revenue required to make the Long-term Care Fund sustainable, not taking into account the cost of this significant policy change, is £6m per annum.

The operating deficit of the Guernsey Insurance Fund is increasing and every further year of inaction only makes the situation worse and the potential solution more painful for contributors. The Policy & Resources Committee is already aware that the Committee intends to propose in its forthcoming annual Policy Letter on contributory benefits and contribution rates, a gradualist approach to increasing social security contributions. I would like to reiterate that this proposition is certainly not intended to undermine the Policy & Resources Committee's aim to address the island's fiscal issues in a holistic manner. The Committee very much supports this approach.

Instead, it seeks to provide a 'Plan B' in the event that the States does not support Proposition 2 of your Committee's Policy Letter on the Tax Review. Or if they do but then don't see through on that decision in principle.

This Plan B, under which contribution rates would gradually be increased over a ten-year period, aims to secure the long-term future of the Guernsey Insurance Fund which funds the States Pension (and other social insurance benefits), and Long-term Care Insurance Fund which funds long-term care benefit that addresses the significant financial risk to individuals of requiring long-term care.

The Committee is proposing this gradualist approach for two reasons. Firstly, to avoid becoming anti-competitive through a large increase now when we know that other jurisdictions are facing similar challenges and will be forced to address them sooner rather than later. Secondly to allow the situation to be regularly revisited in the light

of changing circumstances and the required total increase in contributions to be reduced or increased as required.

Returning to the Policy & Resources Committee's Policy Letter; of the two options presented by the Policy & Resources Committee which include the introduction of a broad-based Goods and Services Tax (GST) (i.e. options 2 and 3), the Committee's preference is option 2 (8% GST). This option raises more tax from GST and provides more opportunity to implement mitigating provisions which make the overall package the most redistributive and the best for lower and lower-middle income households of the three proposed. It also leaves the island less reliant on the taxation of income than either of the other two options.

The Committee is aware that this outcome will be counter-intuitive to many as a GST in itself is widely recognised as being regressive in nature. This is why the Committee stresses the need to view the competing possible packages in the round, including the impact of all of the measures included, rather than just homing in on the GST element. We very much hope that the Policy & Resources Committee will stress this requirement in order to judge the pros and cons of all of the possible packages.

The Committee suggests that the public messaging in respect of this Policy Letter should draw attention to the results of the analysis set out in figures 15, 19 and 23, showing the average impact by household income and household composition of the three options, and figure 24, which provides a high level comparative assessment of the options.

The Committee looks forward to continuing to work closely with the Policy & Resources Committee to address the future financial challenges faced by the island.

Yours sincerely

Deputy Peter Roffey
President

Appendix 2: Tax Review Steering Group: Technical Report and Recomendations

TAX REVIEW STEERING GROUP

Technical Report and Recommendations

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1. Executive Summary

1.1. In January 2020, the States of Guernsey resolved to undertake a review of the tax system (the 'Tax Review') in light of prospective long-term pressures on government finances (Billet d'État I, Jan 2020). This preceded the COVID-19 pandemic, which has made the need to address the issue more immediate, although it is not the root cause. The purpose of the Tax Review is to ensure that the tax system has the capacity to raise revenues up to the limits on revenues set in the Fiscal Policy Framework should this be necessary.

1.2. The fiscal pressures are significant. The population is ageing, and pressure is already manifesting in the cost of health care and pension provision. This pressure will continue to grow as an increasing number of people will need to depend on these services. A sustainable solution to supporting an ongoing capital programme is also needed. The borrowing recommended in the Funding & Investment Plan can support the investment in infrastructure for this term, but we cannot borrow indefinitely, and reserves will become exhausted.

1.3. There are also two issues with the tax base recognised by previous Assemblies which should be addressed:

- The narrowness of the tax base (Billet d'État VI, April 2015) (Billet d'État XII, June 2017); and
- The inequities in the current social security contributions system (Billet d'État VI, April 2015) (Billet d'État X, June 2019).

1.4. Personal income tax and social security contributions make up 63% of revenue collected. Broad based consumption taxes, such as GST are entirely absent. This makes Guernsey heavily reliant on the workforce to support public services and vulnerable to the ageing of the population - the erosion of the working age population as more people retire could place a downward pressure on revenues to the value of as much as £30m a year by 2040. It also means that the tax system lacks the resilience that would come with a more diverse tax base.

1.5. The inequities in the social security contributions system mean that individuals with similar incomes can face quite different liabilities and, if reforms are to be considered, this should be addressed (see section 8).

1.6. A structured plan setting a roadmap for how revenues should be raised will ensure that any increase in taxation is done in a way which minimises both the economic and social implications. This Review therefore addresses the question:

If it is necessary to increase revenues to the limit of the Fiscal Policy Framework (24% of GDP) to meet the cost of public services, what is the best way to achieve this?

1.7. The limit placed on government revenues by the Fiscal Framework is set at 24% of GDP (Billet d'État I, Jan 2020), just over 2% of GDP higher than the average amount raised over the three years between 2017 and 2019. This is estimated to allow between £70m and £75m[1] of capacity to cover the requirements of both General Revenue and the Social Security Funds.

1.8. Of the levers available, taxes on income and taxes on consumption (e.g. a GST) offer the greatest potential for raising additional revenues. Other measures such as TRP, environmental and customs duties may contribute but are not practical options for meeting the scale of the challenge presented. The focus of this report is therefore the choice between taxing income and taxing consumption.

1.9. Corporate income tax rates are under global consideration and parallel work is underway to identify what the OECD's[2] work to reform the international corporate tax framework will mean for Guernsey in practice. This report includes an assumption that changes to the corporate tax system may contribute £10m a year, but this is subject to the progression of a large and complex international workstream, the timing of which is largely outside of Guernsey's control.

1.10. The identified issues with the narrowness of the tax base make the inclusion of a GST in Guernsey's toolkit of tax measures an obvious, if uncomfortable, choice for both raising revenues and diversifying the tax base. On its own, a GST is regressive for those on low incomes. However, the options presented in this report demonstrate how this might be mitigated through changes to the income tax and social security systems combined with additional support provided via the States' pension, income support and other benefit systems.

1.11. This report presents three options:

- **Option 1:** An income only approach which applies a 3% income-based health tax as well as additional revenue raising from a more progressive social security system.

- **Option 2:** A GST only approach which applies a GST gradually increasing over a number of years up to 8% combined with a net neutral progressive restructure of the social security system, an increase in the personal income tax allowance and a variety of measures targeted at providing relief to low-income households.

[1] This is lower than the value quoted in the Review of the Fiscal Policy Framework and Fiscal Pressures report in January 2020, because the economic impact of COVID-19 is expected to result in a permanent reduction in GDP equivalent to between 0.5% and 1.5%. This effectively represents the loss of one to two years of growth opportunities.

[2] The Organisation for Economic Co-operation and Development

- **Option 3:** A combined GST and income-based approach which applies a a GST gradually increasing up to 5% with additional revenue raising from a more progressive social security system and a similar selection of mitigating measures as option 2.

1.12. The economic analysis appended to this report presents a persuasive case for including a GST within Guernsey's tax base (Appendix 1). Not only does this present the best opportunity to diversify the tax base, raising revenues from a GST is likely to be less economically damaging than income-based taxes. Combined with effective mitigation, this could place Guernsey's tax based on a more sustainable footing.

1.13. Some provisional engagement has been undertaken on this matter and the Steering Group recommends that direction from the States is sought ahead of more detailed engagement and the development of a complete and detailed proposal.

1.14. **The Steering Group therefore recommend that the Policy & Resources Committee seek direction from the States on the following:**

- **That in order to address the inequity of the existing social security contribuions system it should be restructured such that all contributors are subject to a personal assessment on the same definition of income and with the same access to allowances.**

- **That any restructure of the Tax system should include the introduction of a GST and that this should be a broad-based system similar to that applied in Jersey and New Zealand.**

- **That the impact of any GST should be mitigated by a range of measures targeted at those households considered most at risk of adverse consequences of a GST, including but not limited to consideration of;**

    - **an increase in the personal tax allowance;**
    - **a pre-emptive increase in the States' pension at a rate consistent with the anticipated impact on inflation;**
    - **a pre-emptive increase in Income Support, at a rate consistent with anticipated impact on inflation or higher; and,**
    - **The provision of additional cost support measures, such as a low-income pension supplement and a cost support scheme to reach low-income individuals not supported via income support.**

1.15. **Subject to the States approval of the above direction, the Steering Group proposes to undertake a period of detailed consultation and development before returning firm proposals to the Policy & Resources Committee.**

2. Review Terms of Reference

2.1. The terms of reference of this project, as agreed in January 2020 are as follows:

- To present options for restructuring the tax base so that it has the capacity to raise revenues up to the limits of aggregate revenues agreed in the Fiscal Policy Framework.
    - To investigate mechanisms for raising additional revenues including;
    - The taxation of company profits with due regard to the need to maintain a tax system which is competitive, internationally acceptable and maintains tax neutrality[3];
    - Extension or modification of the existing income tax and social security contributions system;
    - A health tax; and,
    - The addition of general or limited consumption taxes to the tax base.
- To investigate options for the implementation of these measures in such a way as to minimise the economic impact of changes to the tax structure.
- To provide analysis of the financial, economic, and social implications of any options presented.

2.2. Subsequently the following direction has been added:

To direct the Policy & Resources Committee to include consideration of the impact of duty free on its review of the tax base (amendment to 2021 budget)

2.3. The following Resolutions also have high priority within the consideration of this workstream:

To acknowledge that there are risks and challenges associated with the States' considerable reliance – by international standards – on direct personal taxes and social insurance contributions; and to agree in principle that it would be advantageous to diversify sources of States' income in ways which take account of the principle of 'ability to pay'.

Billet d'État IV, 2015, Planning a Sustainable Future: The Personal Tax Pensions & Benefits Review.

[3] Tax neutrality is important for the continuing operation of the finance sector in Guernsey, enabling Guernsey to competitively facilitate the movement of international capital flows in the absence of the extensive network of double tax agreements available to larger jurisdictions. Tax neutrality ensures that the products and clients of the finance sector are taxed appropriately in the jurisdictions of origin, residence or investment, as appropriate, without any additional tax cost being imposed in Guernsey. Tax neutrality does not generally impede the taxation of profits on the regulated providers of services in the finance sector as is currently the case under the 0/10 regime.

To direct the Policy & Resources Committee, in developing its proposals for income measures from 2018 onwards, to consider the merits and disadvantages of any new forms of taxation, with the exception of taxes on capital; this recognises that there will be a clear presumption that over this period (in light of the island's changing demographics) the tax base will broaden and diversify consistent with the principles of seeking a greater contribution from those individuals and entities most able to bear the burden.

Billet d'État XII, 2017, Policy & Resource Plan – Phase 2.

2.4. It should be noted that work to review the corporate income tax regime is underway but this is tied to the OECD's work to reform the international corporate tax framework. This is likely to require changes to the tax system but the outcome is not yet clear. This is a large and complex international workstream, the timing of which is largely outside of Guernsey's control. This report includes an assumption that changes to the corporate tax system may contribute £10m a year. Because this work is still ongoing this value is still uncertain. Corporate taxes are discussed in more detail in section 7.

3. Review Principles

3.1. It was agreed by the Policy & Resources Committee that the review be conducted in accordance with the following principles.

The tax system should:

- be capable of raising revenues of up to 24% of GDP in a way that is economically and socially sustainable;
- be diversified between different forms of taxation;
- be transparent, simple and credible;
- be resilient to demographic change and economic shocks;
- support and facilitate sustainable economic growth and employment;
- comply with international tax standards;
- maintain alignment on corporate tax policy with Jersey and the Isle of Man;
- overall, reflect people's ability to pay and be generally progressive, while accepting that a balanced tax system will include some elements (such as excise taxes) which are considered regressive in nature;
- not discriminate on the basis of age, gender, marital status or employment status in assessing or determining the amount an individual must pay; and,
- support the delivery of environmental and social objectives if there are opportunities to do so without breaching the previous principles.

4. Supporting Analysis

4.1. This report is presented with supporting financial and economic analysis. Appended to this document is an "Economic Impact Study of the States of Guernsey Tax Review" (Deloitte LLP, August 2021), which examines the potential impact of changes to the tax system on the Islands' economy and a comparison of the options presented by the Steering Group (see Appendix 1).

4.2. This analysis also includes comparisons with key benchmark jurisdictions. These were selected as having some general similarities with Guernsey's economy in that they are small jurisdictions with economies heavily focused on the financial services sector. Broadly, this group includes those jurisdictions which might be considered Guernsey's closest competitors. The benchmark jurisdictions selected were:

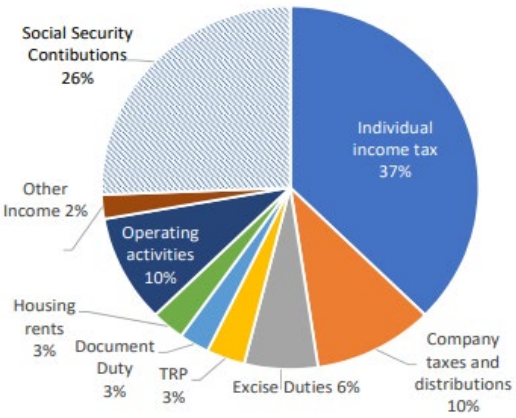
- Jersey
- Isle of Man
- Luxembourg
- Singapore

5. Sources of Revenues

5.1. In 2019 (the latest point at which States revenues might be considered uninterrupted due to the pandemic), Guernsey raised £622m in tax and contribution revenues equal to approximately 19% of GDP. A further £100m was raised from other revenue streams such as fees and charges and rent on States owned properties. The average total amount of revenue raised in Guernsey over a three-year period equated to 21.9% of GDP.

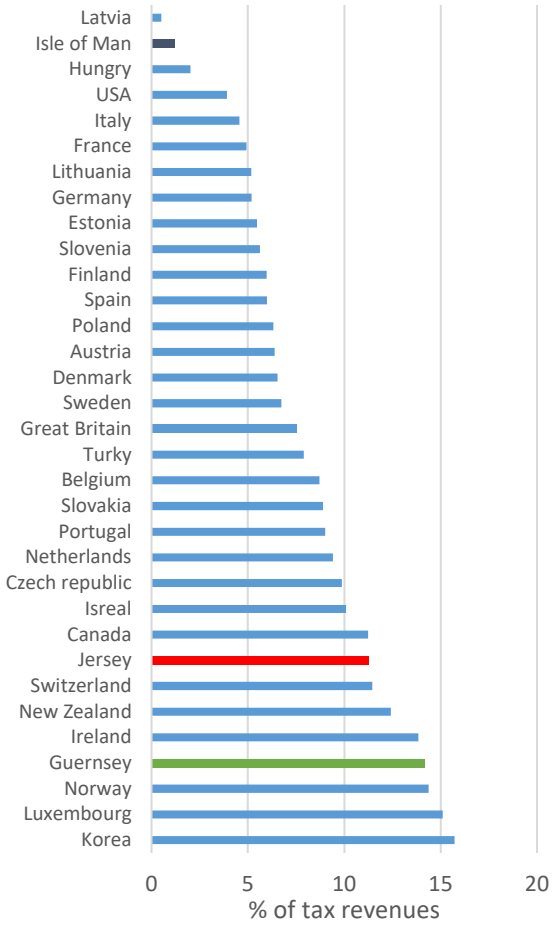
5.2. Income tax charged on individuals' income is the largest component of revenues comprising 37% of the total, closely followed by social security contributions at 26%. This means that almost two thirds of Guernsey's total revenue or 72% of tax revenue is derived from people's income. This is less than it has been in the past, but Guernsey remains unusually heavily reliant on income-based charges and earned income in particular. On average income taxes and contributions comprise 58% of tax revenue in the OECD countries (data.oecd.org) and 67% and 49% of tax revenues in Jersey and the Isle of Man respectively.

Figure 1: Sources of Government Revenues



5.3. Corporate income taxes (and distributions from companies) account for approximately 10% of total revenues or 14% of tax revenues. Corporate income tax receipts are typically highly cyclical, increasing while the economy is performing well and decreasing in times of economic stress to a much greater extent than personal income tax. These taxes are an important part of most countries' tax base. However, because of their potential volatility and competitive nature, most countries gain more revenues from personal taxes and consumption taxes, which are more stable and less economically sensitive. Even though Guernsey applies a 0% headline rate, the proportion of taxes generated from corporate income tax in Guernsey is above the OECD average of 10% (data.oecd.org).

Figure 2: Corporate tax revenues (% of total tax revenues)



5.4. In most jurisdictions a broad-based consumption tax such as a GST, VAT or sales tax (collectively referred to as GST for simplicity) makes up a significant proportion of revenues - the OECD average is for approximately a third of a jurisdiction's tax revenue to be generated from a GST (data.oecd.org). Guernsey is almost unique in not applying these taxes and among the benchmark jurisdictions used in the analysis of this project they comprised between 8% (Jersey) and 40% (Isle of Man) of tax revenues (see Appendix 1).

5.5. Other taxes, both in Guernsey and elsewhere, tend to make up a minority of tax revenues. In total TRP, document duty and excise duties raise just over 10% of the States total revenues. They are not considered able to offer significant enough revenues to be considered as part of the structural reforms discussed in this report. To raise £10m from TRP for example, it would be necessary to increase both commercial and domestic TRP rates by a further 50%.

5.6. While they are not included in this report in detail this does not mean they have no role to play. The Government Work Plan included a Resolution "*To direct the Policy & Resources Committee to include proposals in the annual Budget Report for each of the years 2022, 2023, 2024 and 2025 to generate an additional real-terms increase in revenues for each of these years of £1million per annum*" (Billet d'État XV, July 2021). Measures such as changes to TRP, document duty, excise duty or motor taxes could be considered in the context of the annual Budget setting process.

5.7. Motor taxes, which in Guernsey currently consists of excise duty on fuel with a small amount of revenue from first registration duty, are reducing because of a move to more fuel-efficient vehicles and, more recently, the acceleration of the move towards electric vehicles. This is the subject of an extant Resolution to investigate whether a distance charging model might offer a more sustainable alternative and to conduct a pilot to provide a proof of concept (Billet d'État XII, July 2019). The original direction was given to the Policy & Resources Committee, but discussions are underway for the Committee *for the* Environment & Infrastructure to progress this.

6. Economic Implications of Raising Additional Revenues

6.1. The working assumption used in compiling this report is that it may be necessary to raise revenues to the full extent allowed within the Fiscal Policy Framework. Based on current forecasts and allowing for the expected reduction in income tax revenue as a result of the launch of the Secondary Pension project in 2023, the available headroom is estimated at between £70m and £75m. This would place the aggregate amount of revenues raised from the economy at a level broadly similar to Jersey.

6.2. The economic impact analysis supporting this report (see Appendix 1) suggests that, assuming the additional revenues are spent providing public services and the raising of revenue is timed to match increases in expenditure, the aggregate effect on the economy from an increase in taxation to 24% of GDP should be negligible in the medium- to long-term. However, it may result in a shift in economic activity from the private to public sector.

6.3. The structural changes may include a reduction in the size of sectors such as wholesale, retail, and repair. These currently make up about 8% of total GVA, implying that their impacts on the overall economy are unlikely to be very large. Sectors which provide health and care provision are likely to expand as demand for services increases and an expansion of capital investment beyond what has been achieved in recent years may benefit the construction sector.

6.4. There will inevitably be some timing differences between the raising and spending of revenues. For example, the intention to borrow to support the current capital portfolio may bring forward economic growth, but the economic loss arising from the repayment will be spread over a number of years. The provision of funding for the States Pensions and Long-Term care services is also planned over an extended period, diverting revenues in the short-term to provide for benefits payable over several decades. This implies a small economic cost now to support greater levels of consumption in the future.

6.5. There is potential for short term impacts from changes to the tax structure, but how these manifest will depend on what changes are made.

6.6. Taxes on income, which reduce the amount of money an individual might take home in recompense for their labour, are more likely to have an impact on employment decisions and consumption than a GST. This means they have the potential to create a short-term suppression of employment and GDP growth. However, they are unlikely to impact inflation.

6.7. By contrast a GST is not expected to influence employment or GDP growth in the short term but may bring forward some consumption and will have a temporary impact on inflation.

7. Corporate Income Tax

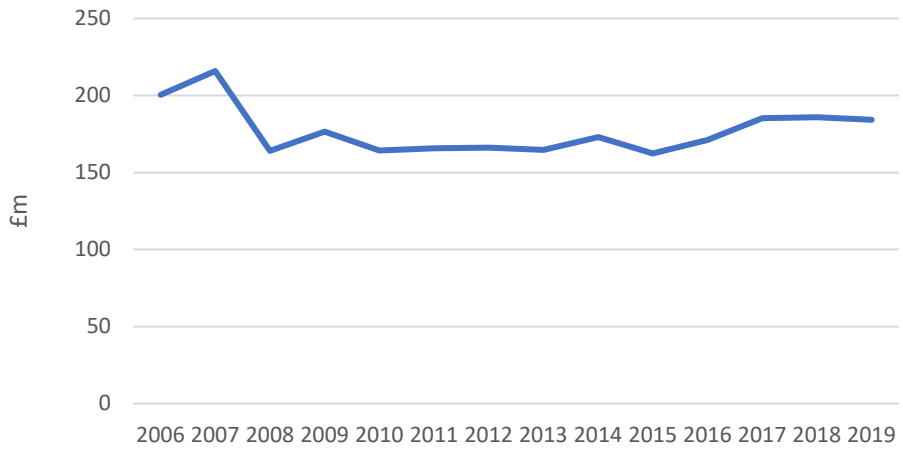
7.1. The standard rate of tax for companies is 0%, with an intermediate 10% rate applying predominantly to income from regulated financial services business and a higher 20% rate applying predominantly to income from land and property in Guernsey (both rental income and income from property development). This regime is known locally as "Zero-10".

7.2. The regime is under-pinned by strong general anti-avoidance rules (GAAR) and is based on (i) the principle of non-discrimination between resident and non-resident owned companies; and (ii) the principle of tax neutrality combined with transparency. As an international finance centre, Guernsey facilitates the investment of funds drawn from around the world into European and other financial markets. The return to the investors should be taxed in their home country and the business activity generated by the investment should be taxed in the jurisdiction where that activity takes place. That is why Guernsey has given its full support for the transparency principles central to the current G20, OECD and EU tax initiatives.

7.3. Corporate income tax receipts are typically highly cyclical, increasing while the economy is performing well and decreasing in times of economic stress to a much greater extent than personal income tax. These taxes are an important part of most countries tax base but, because of their potential volatility and competitive nature, most countries gain more revenues from personal taxes and consumption taxes, which are more stable and less economically sensitive.

7.4. Prior to the introduction of Zero-10, corporate income tax accounted for approximately 23% of government revenues and up to 33% of tax revenues. Currently, corporate income tax (and distributions from companies) account for approximately 10% of total revenues and up to 13% of tax revenues. This is comparable to the OECD average of 10% of tax revenues being generated by corporate income taxes (data.oecd.org). Much of this lost revenue was replaced by increases in commercial TRP rates and increases in social security contributions from employers. Figure 3 shows the changes in total revenue collection from corporates over this period.

Figure 3: Total contribution from corporates at 2019 prices (incl corporate income tax, commercial TRP and employer contributions to social security)



7.5. Guernsey introduced Zero-10 in 2008 following the EU Code of Conduct Group (Business Taxation) (the 'Code Group') finding aspects of the previous regime harmful. It is therefore not possible to revert to the corporate regime that was in place before Zero-10, as this would not meet international tax standards, a key principle of the review.

7.6. Zero-10 was deemed compliant with the Code of Conduct in 2012, following the repeal of the deemed distribution element of the system with effect from January 2013. It was reviewed again in 2017, when the EU compiled its list of non-cooperative jurisdictions at which point Guernsey committed to the introduction of legislation on economic substance to meet the required standards to be deemed a co-operative jurisdiction. This was concluded in March 2019. As a third country in scope of this EU process, Guernsey's corporate tax regime is under ongoing monitoring requirements against these standards. In July 2019, the OECD's Forum for Harmful Tax Practices confirmed that, following its own review, it concurred with the EU's assessment that Guernsey's corporate income tax regime including the new economic substance regime, was not harmful.

7.7. In accordance with the States Resolution from 2015[4], the Policy & Resources Committee continues to monitor the appropriateness of the corporate tax regime, having due regard for the need to retain an internationally acceptable and competitive tax environment for the islands' businesses. Officers therefore monitor developments at the OECD and also developments with regard to the EU list of non-cooperative jurisdictions for tax purposes.

7.8. Most recently the EU Economic and Financial Affairs Council (ECOFIN has approved guidance on foreign source income exemption (FSIE) regimes, also known as territorial

[4] Billet d'État IV, of 2015 the Personal Tax, Pensions & Benefits Review – "To direct the Treasury and Resources Department, having due regard for the need to provide a stable platform, maintain business confidence, support and encourage financial services and to retain an internationally acceptable and competitive tax environment for the islands' businesses, to continue to closely monitor the appropriateness of the corporate tax regime, and to report back to the States should it consider any changes are necessary."

regimes, which acknowledge that they are a legitimate approach to prevent double taxation but identify potentially harmful elements that could be present in such regimes. It is understood that the Code Group has screened jurisdictions with FSIE regimes, and in May 2021 wrote to those jurisdictions from which it would seek commitments to repeal or amend their harmful FSIE regimes. This indicates that territorial regimes are subject to the same type of international pressure as the Zero-10 regimes employed by the Crown Dependencies.

7.9. The Code Group also concluded that Guernsey (along with Anguilla, Barbados, Bermuda, British Virgin Islands, Cayman Islands, Isle of Man and Jersey) should extend their economic substance requirements to all relevant partnerships that were identified to fall out of the scope of existing legislation. Guernsey, together with Jersey and the Isle of Man, introduced relevant legislation that took effect from 30 June 2021.

7.10. Corporate income tax rates are under global consideration. The OECD has been working to establish a global solution to reform the international corporate tax framework, impacting how large multi-national enterprises (MNEs) are taxed around the world[5]. That framework is based on two broad work streams which seek to address issues that are linked to the increasing globalisation and digitalisation of the economy:

7.11. Pillar 1 aims to ensure a fairer distribution of profits and taxing rights among countries with respect to the largest 100 (or so) MNEs which are the largest beneficiaries of globalisation. This will be achieved through the partial re-allocation of taxing rights to the market or user jurisdiction, broadly ensuring profits are taxed where the customers are based.

7.12. Pillar 2 aims to ensure that MNEs, those with group revenues of at least Euro 750m, pay a minimum effective rate of tax on their profits. This will be achieved through the imposition of a "top-up tax" on a parent company in respect of any of its subsidiaries where the jurisdictional minimum effective tax rate paid is not at least 15%, or an equivalent adjustment if the jurisdiction the parent company is in does not implement the Pillar 2 rules.

7.13. At the recent Inclusive Framework meeting in July, an overwhelming majority of jurisdictions (which included Guernsey) reached agreement on the proposals. Technical discussions will now continue, developing a detailed implementation plan by October. Guernsey continues to work closely with Jersey and the Isle of Man on this.

[5] Highlights brochure: Addressing the tax challenges arising from the digitalisation of the economy, July 2021 (oecd.org)

7.14. The number of companies headquartered in Guernsey who would meet the criteria for an MNE under international rules is very limited. As technical discussions continue, it is not yet clear how these rules will be applied and therefore whether Guernsey would implement aspects of Pillar 2 that were not a minimum standard. Nor is it clear what the behavioural effects of the changes might be. As a result, the revenues which might be generated from the implementation of the OECD proposals are uncertain but they will be limited due to the scope of the OECD rules.

7.15. **The working assumption the Steering Group has used is that changes to the corporate income tax system may generate £10m a year of additional revenues.** Each option presented therefore assumes that £10m of the net gain in revenues, will be raised from changes to the corporate tax system.

7.16. In the longer term it may prove to be more or less than this figure if, for example, the rules are applied in such a way that some portion of the expected tax is paid elsewhere or if later discussions include the extension of the rules to include a wider range of companies. **It is therefore recommended that any implementation plans for other tax measures are flexible enough to allow for changes in the corporate landscape.**

8. Taxing Income

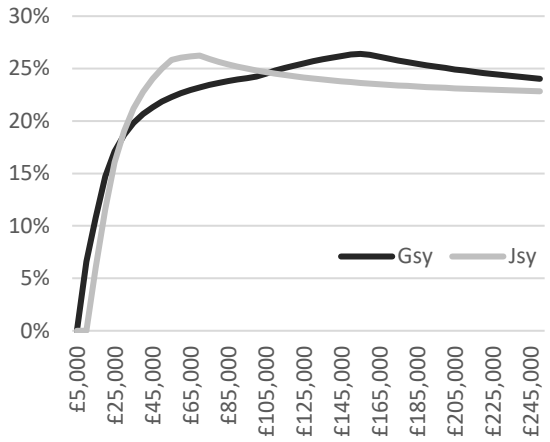
8.1. Income taxes are generally made progressive because of the availability of a personal allowance, which means people on lower incomes tend to pay less tax as a proportion of their gross income than those with higher incomes. In Guernsey, the phased withdrawal of allowances for those with an income over £100,000 makes it more so. However, as it does not have higher rates for higher earners, Guernsey's income tax system is less progressive than those applied in some other jurisdictions.

8.2. The structure of the social security contributions system is complex and discussed in more detail in section 8. At its inception it began as a broadly "insurance" based scheme with contributions liability capped at a level which approximated to the eventual benefit an individual might be expected to receive in the form of income replacement benefits (primarily a pension). The contributions for those not reaching this upper earnings limit were then "topped-up" by way of a grant from General Revenue.

8.3. The link between the upper earnings limit place on contribution and the value of expected benefits was broken when the upper earnings limit placed on contributions for both individuals and employers was increased between 2006 and 2013 from £36,000 to £132,000 (now £153,000). The grant from general revenue was then reduced which compensated for some of the revenues lost due to the changes to the corporate income tax structure. As a result, higher income individuals pay more into the scheme than they might be expected to receive in benefits from it and the insurance principle has been lost.

8.4. In general, for the majority of working age households, the system is proportional (that is people pay the same proportion of their gross income). Because contributions are subject to an upper earnings limit, above which you are no longer liable for contributions, the total tax and contributions liability for the top 2% of earners falls. However, because the upper limit on contributions in Guernsey is applied at £153,000 - much higher than in other jurisdictions (UK: £50,000; JSY £55,000) – this feature is less pronounced than similar schemes in the UK and Jersey. Overall, this means that Guernsey's current income tax and social security system is progressive to a higher level of income than in Jersey.

Figure 4: Income tax and social security contributions for a single adult (Guernsey and Jersey)



8.5. Approximately 75% of income taxes and contributions are paid by working age households. This means that Guernsey's revenues are particularly vulnerable to the ageing of the population**.** With the central projection, the reduction of the working age population as more people retire could place a downward pressure on revenues of as much as £30m a year by 2040. Increasing revenues from direct taxes on income increases this risk and may make Guernsey's finances more vulnerable to the ageing of the population and more reliant on maintaining (or increasing) the size of the working age population to sustain revenues.

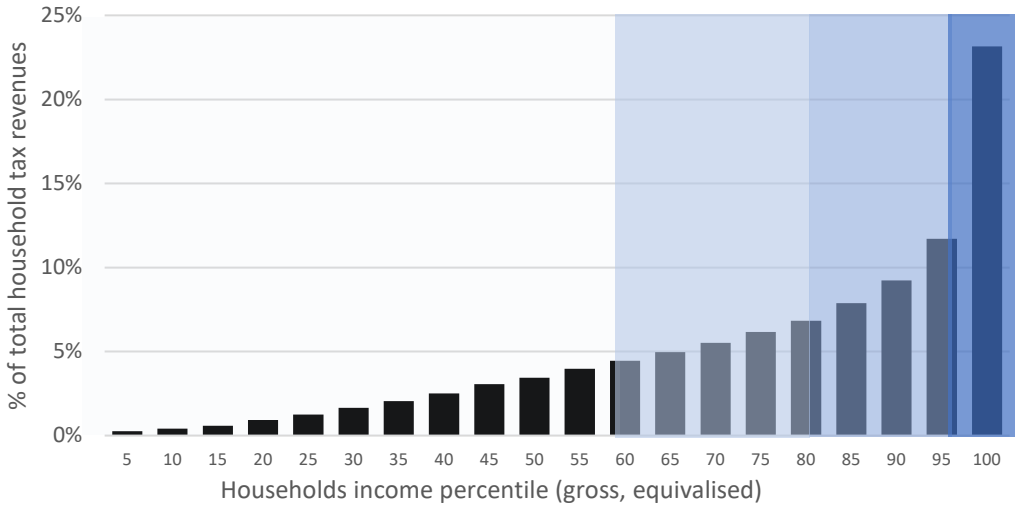
8.6. Solutions which focus solely on income (and particularly earned income) will rest more heavily on the younger members of the community. With cost pressures focused on provision of services for older people, this means a lot of the cost of providing services is transferred to younger generations. While generations are of equal size this is not a significant problem but, since the 1970s each generation has been progressively smaller than the one before. This means the tax burden can become increasingly focused on a younger household supporting a larger number of older people. This shift between generations, known as intergenerational equity, is a common theme in discussion around issues of ageing populations. This means that while income-based solutions may meet the principles of simplicity, transparency and progressiveness, their resilience to economic and demographic changes is less than other taxes.

8.7. The analysis provided in the appended report (Appendix 1) also suggests that income-based taxes are more likely to have a negative impact on employment and GDP in the short term, although the aggregate economic effects are expected to be temporary. The sectors most reliant on domestic consumption, primarily retail activity, are most likely to experience short term negative impact resulting from a loss of consumption as people have less money to spend.

8.8. Guernsey is also heavily reliant on the income from the top 5% of households (for a couple without children this means an income in excess of £150,000) who provide almost a quarter of household tax revenues.

8.9. The majority of households in the top 5% have been resident in Guernsey for at least 10 years. They are well established, employed largely in the Finance and Professional sectors and unlikely to choose to leave Guernsey if faced with moderate increases in their tax liability. However, there are a small group of households at the upper end of this group but without an income large enough to be protected by the tax cap who may be particularly sensitive to their tax liability. These households are highly mobile, tend to own businesses and employ staff which means that they have a significant economic value beyond their direct contribution to the tax base. Changes which increase the focus of the tax liability on this group increase the risk that it will be difficult to attract or retain the households in this group.

Figure 5: Distribution of tax revenues by Household income



Shaded areas each represent 25% of total houshold tax revenues

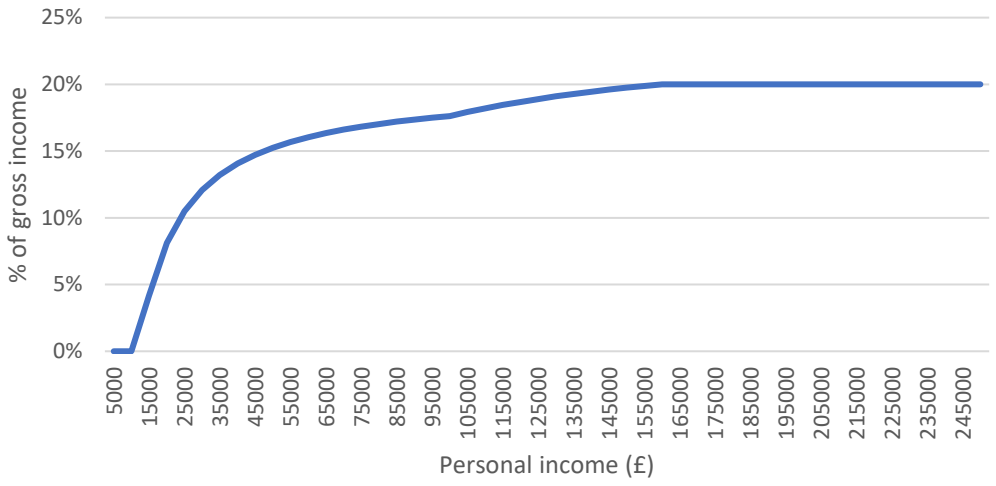
Income tax

8.10. Tax on personal income is Guernsey's primary source of revenues. Guernsey's existing system is very simple. It applies a single 20% rate to all income above an individual's allowances. These allowances are relatively few, and all are withdrawn at a rate of £1 for every £5 of income above £100,000 and primarily include:

- A personal allowance of £11,875.
  - This is transferable between married couples or couples with children.
- A charge of child allowance of £8,075.
  - Primarily available to single parents
- Mortgage interest relief.
  - In the process of a phased removal by 2025.
- Relief on pension contributions.
  - Provided up to a maximum of £35,000 of contributions per year

8.11. Tax liability in Guernsey is capped for very high-income individuals at £130,000 for non-Guernsey income and £260,000 for all income including that arising in Guernsey (excluding income from land and property in Guernsey which is taxed at 20% even when the tax cap is reached)[6]. A lower £50,000 cap is applied to qualifying individuals in Alderney between 2016 and 2025 and for individuals purchasing a qualifying Open Market property[7]. Between 30 and 45 individuals are subject to one of these tax caps in any given year.

Figure 6: Income tax liability by income for a single adult (% of gross income)



[6] Note that unlike the upper limit on social security contributions, which applies at a set level of earnings or income, the tax cap is applied at a set level of tax liability. For example, an individual subject to the £130,000 cap on their non-Guernsey income would be expected to have an income of at least £650,000

[7] Tax Cap - States of Guernsey (https://gov.gg/taxcap)

8.12. The application of allowances and their withdrawal for higher earners makes the system progressive (those with higher incomes paying a larger percentage of their income), although the absence of higher rates for those with higher incomes mean it is less progressive than systems applied in some other jurisdictions.

Increasing headline rates

8.13. The headline rate of tax is one of the most well understood and transparent elements of Guernsey's tax system. Each 1% increase in the headline rate of income tax could raise up to £13m per year of additional revenues. As an approach to raising revenues an increase in the headline rate would perform well against the principles of simplicity and transparency and would retain the same progressive profile of the current tax structure.

8.14. It performs less well against the principle that the tax base should be resilient to demographic change and economic shocks, given that it further focuses revenue raising in Guernsey on to income-based taxes and intensifies Guernsey's reliance on its working age population. It also has greater potential to create larger short-term impacts on employment and GDP growth than other measures (Deloitte LLP, August 2021). The loss of some take home pay by employees, and the resulting reduction in consumption implies this has the potential to impact the retail sector.

8.15. The loss of the 20% headline rate, which would place Guernsey out of step with its closest comparators, also has the potential to impact Guernsey's ability to attract employees with key skills from outside the jurisdiction.

8.16. These impacts are less obvious than the impact that a consumption tax may have on inflation and more difficult to mitigate.

Higher rate tax banding

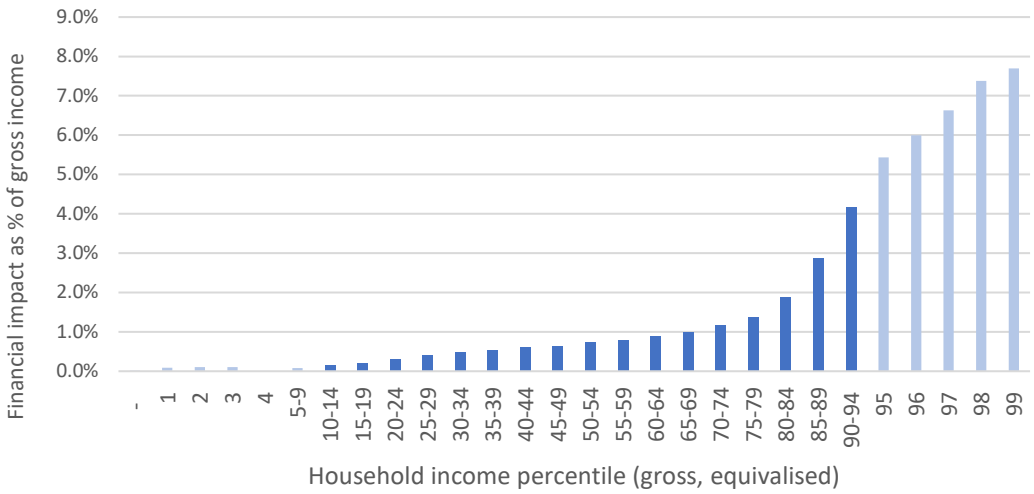
8.17. Higher rates of tax for income above a threshold level are common in larger jurisdiction but are not currently applied in Guernsey or Jersey. In the Isle of Man, the headline rate of tax is 10% with a 20% rate applied as a higher rate. The two other benchmark jurisdictions examined in the appended report both apply higher rates. In Luxembourg rates range from 0% to 42% in a series of narrow tax bands, the highest being applied to income above €200,004 (about £170,000). In Singapore rates scale to a maximum marginal rate of 22%, on income above 320,000 SGD (about £170,000).

8.18. Higher rates on income above a threshold level would make Guernsey's tax system more progressive. However, because such increases exclude a significant proportion of income the capacity to raise revenue from such structures is much lower than increases in the headline taxes. This means that to raise the same revenues the increased rate applied would need to be three or more times as large.

Figure 7: Estimated revenue raised by each 1% of tax on income above threshold value

Higher rate threshold	Revenue generated by 1% additional tax rate
£50,000	£5.0m
£60,000	£4.0m
£70,000	£3.5m
£80,000	£3.1m
£90,000	£2.7m
£100,000	£2.4m
Increase in headline rate	£13m

Figure 8: Impact of higher earners rate: 30% above £60,000 (raising approximately £40m)



8.19. As a result, to raise significant revenues from a higher tax band would require higher marginal rates than the Steering Group believe would be appropriate for Guernsey when combined with the high limit on social security contributions and the withdrawal of allowances for higher earners. For illustration a 30% rate on income above £60,000 would raise about £40m. Such a structure would focus more than half of the additional revenue raised into the top 5% of earners, making Guernsey increasingly dependent on this group while potentially undermining Guernsey's ability to attract or retain employees to senior positions. **Based on the above factors, the Steering Group does not propose the introduction of higher earners rates.**

Tax allowances

8.20. As a mechanism for raising revenues tax allowances are a poor option. Guernsey could raise significant revenues from removing or lowering the personal income tax allowance, but to do so would be a highly regressive step. Tax allowances have a better role in increasing the progressiveness of the system and acting as part of a package of measures to balance the distribution of impacts across the community.

8.21. Increases in income tax allowances are generally most beneficial for middle and lower middle-income earners, with sufficient income to be liable for taxes, but whose income is low enough that the reduction in their tax liability represents a meaningful portion of their income.

8.22. Changes to the scheme to withdraw tax allowances from those with an income above £100,000 has some limited capacity to raise additional revenues either by changing the threshold or rate (currently £1 in £5) at which these are withdrawn, but the scale of available revenues from this area is not sufficient to be considered as part of the structural reforms discussed in this report. Reducing the threshold to £90,000 or £80,000 is estimated to raise £0.7m or £1.6m respectively. This may be an option Members may wish to consider as part of the annual budget process.

Social Security Contributions

8.23. The social security contributions system as it exists today has evolved over time as a result of successive changes, each independently justifiable, but which in succession have resulted in some marked inequities.

8.24. At present people with different employment classifications and income sources are assessed differently for contributions. Some people are assessed on only their earned income, while others are assessed on all income and some benefit from an allowance (like the personal income tax allowance), but most do not.

Figure 9: Overview of current Social Security Contributions structure

	Employee	Self-employed	Non-employed	Over SPA
Initial payment threshold	£7,696	£7,696	£19,240	£19,240
Allowance	-	-	£8,695	£8,695
Tax on employed/SE income	6.6% (plus 6.6% from employer)	11.0% (part of which represents a contribution as their own employer)	n/a	3.4%
Tax on unearned income	0%	0%	10.4%	3.4%

8.25. The result is a system where people with the same income can pay markedly different amounts depending on their personal circumstances. For example, if an individual has £50,000 of income, the following social security would be payable depending on the type of income:

- All of it is employed income: £3,300 (+£3,300 from employer)
- £10,000 employed, £40,000 unearned: £660 (+£660 from employer)
- All of it is unearned: £4,300
- All of it is self-employed: £5,500
- Over State Pension Age: £1,400

8.26. These differences had a basis in differing entitlements and had justification when the basic insurance principle was still in place. However, subsequent changes, including the increase in the upper limits on contributions and the addition of more universal benefits, mean the justification for such significant variances has been largely lost. Benefits for which entitlement might vary based on someone assigned contributions class cover about 12% of the total annual cost of benefits and services supported by contributions. The potential discrepancy in liability is far greater than this.

8.27. The lack of an allowance also creates very high marginal rates as individuals pass the initial payment threshold. For example, an employed person earning £641 a month would have no contributions liability. However, just £2 more and they would face a 6.6% liability on their entire earnings of more than £40 for that month. The number of people this affects is limited but it can be an issue for those in part time or casual employment if their income tips over the threshold in a given pay period.

8.28. Furthermore, the difference in the treatment of employed and non-employed, people means that those living off a private income (such as rental income) are able to protect their private income from liability by engaging in just enough employed work to qualify as an employed individual. This is believed to be relatively common practice among people who choose to retire (or semi-retire) before they reach the State pension age.

8.29. There are two extant resolutions to look at issues around equity of the system (Billet d'État VI, April 2015) (Billet d'État X, June 2019). Resolving these issues is expensive, but there is a unique opportunity to address them as part of a wholesale restructure of the tax system making it fairer and easier to administer. The actuarial reviews of the Guernsey Insurance and Long-Term Care Funds suggest that if funded in full an additional £34m of revenue is required to make these sustainable. To raise further revenues from a scheme known to have such inequities only exacerbates these issues. **The Steering Group is recommending that all options being put forward include a restructure of the contributions system.**

8.30. The restructure could:

- Give all contributors (not employers) an allowance aligned with income tax.

- Charge all individuals below pension age the same "personal" rate on both earned and unearned income, with a reduced personal rate for those over pension age (reflecting that they no longer need to contribute to a pension but are typically the largest users of health and care services).

- Apply a reduced "employer" contribution to self-employed income[8].

[8] This is necessary to reduce attempts to avoid contributions by making employees self-employed contractors to reduce liability

8.31. Employers' contributions make up 43% of social security contribution revenues. Increases in the contribution rates charged for employers from 6.6% to 7.5% has been included in the options presented. This is in line with a general policy applied in relation to social security system that where appropriate the cost should be split between employers and employees. It also contributes to a more even balance of the revenue raised between households and corporate entities.

8.32. The application of the allowance would make the system more progressive, but costs £19m in isolation – so an increase in the rate charged is needed to bring the system to a net neutral position. At the current value of the tax allowance the personal rate needed to make this net neutral rate is about 8% (compared to the current 6.6% for employees), if combined with the increase in the employers rate to 7.5. Once restructured it is possible to raise revenues in a more progressive manner than from the existing system. However, because the current system favours some groups, there are cohorts who will benefit while others will be disadvantaged by the proposed changes.

8.33. In the absence of raising more revenues, the resulting system may change the liability of the individual used in the example as follows[9]:

Figure 10: Comparison of liability before and after restructure

Personal rate 8% (4% if over pension age), employer rate 7.5% (5% for self-employed), allowance alligned with personal income tax allowance

Income composition	Current liability (figures in brackets represent employer contribution)	Liability after restructure (figures in brackets represent employer contribution)
£50,000 employed income:	£3,300 (+£3,300)	£3,050 (+£3,750)
£10,000 employed, £40,000 unearned:	£660 (+£660)	£3,050 (+£750)
£50,000 unearned income:	£4,300	£3,050
£50,000 self-employed income:	£5,500	£3,050 (+£1,906)
£50,000 income over State Pension Age	£1,400	£1,525

8.34. In general, the following groups will be benefited:

- Low- and middle-income employed and self-employed individuals without any significant other sources of income.
- Non-employed individuals below State Pension Age with an income of more than £19,240.

[9] This example assumes: an 8% personal rate, a £7.5% employer rate (5% if self-employed), an allowance aligned with the current personal income tax allowance (not applicable for employers)

8.35. The following may pay more:

- Higher income individuals of all classes.
- Pensioners with an income between the proposed Personal Income Tax Allowance and the current £19,240 threshold for liability.
- Middle- and higher-income pensioners.
- People who have significant non-earned income but have sufficient employed or self-employed income to meet these definitions (usually semi-retired).

8.36. **All three options presented include restructured contributions. These either maintain or increase the total net revenue from contributions.**

8.37. The Steering Group considered whether it would be appropriate to apply a reduced rate charge (up to 2%) to individuals' income above the upper earnings limit, as is done in the UK. Given that Guernsey's upper earning limit (£153k) is already high relative to similar schemes this would impact only the top 2% of earners raising approximately £2-3m.

8.38. This would be similar to the UK approach where a reduced Employee National Insurance rate of 2% is applied to earning above the upper earnings limit of £4,189 a month (£50,270 a year). **However, given that the extension of contributions to cover all income and the increase in the rate will impact the liability of this group, the Steering Group is not recommending this.**

8.39. In relation to employer contributions, it is noted that in both the UK and Jersey employers are liable for contributions above the UEL. In Jersey employers pay a 2.5% rate on earnings between approximately £50k and £250k. In the UK no limit is placed on employer contributions. In doing so the overall contribution from higher value employment is increased without placing this liability on individuals directly.

8.40. Removing the UEL on employer contributions in Guernsey (potentially transitioned through reduced rates above the UEL) is an option, although because the UEL is already high its potential to raise revenues is limited to £2-3m. This would create a moderate increase in the cost of employment for those employers with very high salaried posts (in the top 2%). These are expected to be concentrated in the finance sector and professional, business, scientific and technical activities.

8.41. There is limited justification for restricting the contribution from employers for only the top 2% of employees and **the Steering Group is recommending that a removal of the UEL for employers be included within the restructure of contributions.**

Health Taxes

8.42. Health taxes, as presented in the context of this report, are another form of tax on income but issued with a specified purpose. They are not common, but Jersey opted to fund their long-term care scheme in this way which allowed them to create benefit from the progressive nature of their income tax system, while enabling the charge to be hypothecated in the same way their social security contributions are.

8.43. Guernsey already operates a long-term care scheme and provides part of its health funding through the social security system. However, these are collected as part of the total social security contributions and subject to the weaknesses of that system describe previously.

8.44. Given the extent to which the immediate and longer-term pressures arise from the provision of health services, the presentation of additional income-based taxes as a health tax might be appropriate. However, health and care services in Guernsey cost more than £200m a year, any health tax applied would only fund the incremental costs of services – most of the cost of the services would continue to be funded through general taxation.

9. Taxing Consumption

9.1. GST revenues are generally relatively stable and more so if they are applied with a broad base and low rate as they are in more modern schemes such as that in Jersey. In Jersey GST receipts for 2020 proved more resilient to the economic stress caused by COVID-19 than personal income tax receipts (States of Jersey; Annual Report, 2020). The reverse was true in the UK (www.statista.com) although to some extent this may reflect the UK's decision to reduce VAT rates on hospitality services to 5%. Jersey offered the option for firms to defer payment during 2020 and issued stimulus vouchers but these appear not to have impaired receipts significantly.

9.2. Because the tax is applied when money is spent, it applies equally to those who support their spending with savings or capital (typically those close to or above pension age) and those who are spending income as they earn it (typically younger people). As a result, the distribution of the tax across the generations is more even than taxes on income. It also raises revenues from the spending of visiting tourists and other non-residents.

9.3. However, a GST will create a short-term pressure on the inflation rate because it will increase prices. As modelled, the overall impact on the headline RPIX is estimated to be approximately 60% of the headline rate charged (about 5% for a GST at 8% or 3% for a GST at 5%).

9.4. Because those with lower incomes tend to save less and spend more of their income on taxable products within the jurisdiction than wealthier people, this inflation effect tends to rest more heavily on lower income households. This means a GST would tend to be regressive at low incomes. That is, as a percentage of gross income, low-income households would tend to pay more in tax. As a result, those jurisdictions who have introduced a GST in recent years, including Jersey (2008), Singapore (1994) and India (2017 GST replacing a raft of other taxes), have done so with a range of mitigating measures to protect low-income households.

9.5. GST also requires additional administration by both government and businesses. This can be limited by careful design: a high registration threshold, limited exemptions and Zero rating and a single rate.

9.6. The various design elements considered are covered below. These are important because they can significantly change how the application of the tax affects different households and businesses. The full details of what these would look like will be a key part of any further development stages.

Taxable Goods

9.7. The GST modelled in this report is based on that applied in Jersey (which itself was based on that applied in New Zealand). Unlike VAT applied in the UK and most European regimes, this works on a low-rate/broad base principle. The system has very few exemptions or zero-rated items, the primary of which are rents and mortgages and financial services (exempt) and exports (zero-rated). This creates a highly efficient system which creates limited distortions in people's purchasing decisions, which is economically desirable. The literature review presents evidence that the New Zealand GST, on which Jersey's system is based, is twice as efficient as the VAT system in place in the UK (Appendix 1).

9.8. The broad base reduces the complexity of accounting, removing the need for most businesses to identify what portion of their supplies need to be allocated to taxable and non-taxable goods. It also generates less appeals because the boundaries between what is and is not taxable is clearer. This creates a system which is simpler for both government and businesses to administer and less open for challenge.

9.9. The exclusion of items such as food from the tax is generally considered to make it less regressive because low-income households tend to spend a larger proportion of their income on food. The exclusion of food from a GST at 8% (as presented in option 2) could reduce the impact on low-income households by between 1% and 1.5% (or between 0.6% and 0.9% for a 5% GST) compared to 0.3% to 0.6% for higher income households.

9.10. However, excluding food would reduce the expected revenues by about 13%. The rate on everything else would therefore need to increase to recover the lost revenues (to 9.2% from an 8% GST or to 5.7% from a 5% GST). Once this increase in the tax on other items is incorporated the net benefit to the lowest income households is estimated at less than 0.2%.

9.11. The gain for low-income households is therefore limited relative to the added complexity of administering a greater number of exemptions and the loss of economic efficiency. Increases in tax allowances, the restructure of the social security contributions system, increases in benefits and other measures specifically targeted at low-income households are more effective at reaching lower income households and could do so without complicating the administration of the system.

9.12. A suite of mitigation measures is included in the options presented in this report including;

- reductions in tax and contributions for lower income households by way of the restructure of the social security contributions system and/or an increase in personal allowance which are most beneficial for lower and middle-income households;
- Pre-emptive adjustments to the States pension which will bring forward the normal inflation linked increase in the pension by up to 12 months;
- Pre-emptive adjustments to Income Support at a level above the estimated impact on inflation reflecting the greater impact on lower income households; and
- Cost support schemes specifically targeted at reaching low-income households who are not eligible for Income Support.

9.13. In consultation with representatives in Alderney, concern was raised that because goods are believed to be more expensive in Alderney than in Guernsey, any consumption tax would have a greater impact in the smaller island. Work is planned for the next stage to establish the price gap between the two islands so this concern can be examined in more detail.

Registration Thresholds

9.14. One of the key criticisms of GST schemes is that some of the cost of collection falls on businesses. The literature review conducted suggests that this is higher in the first year, when new processes are needed to administer the GST (estimated at up to 3% of turnover) but should reduce to an average of less than 1% of business turnover after the first year.

9.15. Inevitably the complexity and burden of administration is different for different businesses. For smaller companies, without internal accounting functions and sophisticated systems it is likely to be more challenging than it may be for larger companies. A compulsory registration threshold can be applied to manage this, removing smaller businesses from the need to collect GST on their sales (although they would still need to pay GST on their supplies). As well as benefiting small businesses a higher threshold can make the government administration simpler by reducing the number of returns.

9.16. In the UK the registration threshold is set at £85,000. Jersey opted to introduce a much higher threshold at £300,000 to limit the administrative impact on smaller businesses. It is estimated that a similar threshold applied in Guernsey might exclude between 30% and 50%[10] of businesses from being required to register. Those businesses not required to register would be subject to GST on any taxable supplies, but they would not be obliged to charge GST on their sales, complete quarterly returns or make any remittance to the States. This removes any administration requirements for smaller businesses although the increase in supply cost is likely to impact their prices.

[10] These estimates are based on the submission of claims to the Covid Business support scheme which may over represent small businesses and are therefore presented with a wide range

Import De Minimis and Taxing Online Purchases

9.17. Another concern with a GST is the potential for people to evade the tax by purchasing online. The application of the tax to personal imports is therefore important.

9.18. The collection of tax on personal imports is relatively labour intensive. As a result, there is a tipping point at which the tax costs more to collect than the amount it generates. Jersey originally introduced a relatively high de minimis value (the value below which the payment of GST on imports is not compulsory) at £240. This caused issues with the importation of white goods and electronics and the value has subsequently been reduced to £135 in line with the UK VAT de minimis.

9.19. The feedback in Jersey is that the tax is still cost effective to collect at this level and there may be potential to opt for a lower level than this in the design stage when the administrative cost of collection is clearer.

International Services Entity (ISE) Fee

9.20. The International Services Entity Fee is an unusual feature of Jersey's GST. Financial services are exempt from almost all GST and similar systems because the transactional nature of the business makes it too complex to administer efficiently[11].

9.21. In a finance sector like Guernsey's this is of greater consideration because most financial services are exports provided to non-resident beneficiaries. Exports are almost always Zero-rated. This means businesses charge 0% GST on their services, although are still required to register and file quarterly GST returns if their turnover of taxable goods exceeds the registration threshold. They would then claim back any GST paid on their inputs in their quarterly return. For financial service providers administering many separate entities, completing quarterly return and reclaiming GST on their inputs could be time consuming and costly.

9.22. To simplify matters, Jersey offers an optional scheme in which an ISE can pay a fixed fee to be issued with an End User Relief Certificate (EURC). Suppliers providing goods and services to a company or other entity with a valid EURC would not charge GST. Registered ISE's are then not required to register for GST in the normal way, relieving them of the administrative burden of completing quarterly returns[12].

9.23. As well as providing a significant reduction in administration costs for financial service providers this reduces the number of quarterly returns to be processed by the administering body. Further details of Jersey's scheme are available at About International Service Entities (gov.je)

[11] For example, a large proportion of retail banking profits are not made directly from the provision of services to their consumers, but from the interest rate differential between deposits and loans. A service has been provided, turnover is generated, but no "sale" has taken place which would be easily taxed.

[12] A light touch portal for ISE's to reclaim any GST that they do incur is provided online

9.24. Applied in a similar manner to Jersey it is estimated that an ISE scheme of this nature would raise approximately £6m.

10. Other Taxes and Considerations

TRP

Domestic

10.1. In 2015 a decision was taken to apply a policy of above inflation increases in domestic TRP which would seek to double TRP rates in real terms over 10 years (Billet d'État VI, April 2015). At the time TRP rates were exceptionally low relative to the UK and Jersey. This would have reached completion in 2025, but the decision was made in the 2021 budget to pause this policy given the economic conditions at the time.

10.2. In the 2019 budget, proposals were agreed to introduce a tiered system of TRP which would apply higher rates on larger properties. These changes were implemented in two stages in 2018 (on the largest properties with a TRP above 400) and 2019 (on properties with a TRP above 200). The introduction of these tiers has made the TRP system more progressive (to the extent that the size of a property owned is related to someone's income) but also means that for those in the higher tiers the increase in their rate may significantly exceed the targeted two-fold increase over 10 years.

10.3. Despite the stability of TRP revenues (which are among the most predictable in the current suite of revenues raised), as a measure to raise very significant level of revenues, domestic TRP is not considered an appropriate option. To raise £10m it would be necessary to raise rates by as much as 100%, which is not palatable given the increases already made. Any potential revenue raised from domestic TRP is therefore of a scale more appropriate for consideration in the annual budget process.

Commercial

10.4. Commercial TRP rates have also undergone significant changes in recent years. Commercial rates were increased very significantly between 2007 and 2010 as one of the measures employed to recoup some of the revenue lost in the move to Zero-10.

10.5. Subsequently further changes have been made, the most significant of which is the transition to move all office accommodation to the same rate as regulated finance begun in 2019. Once complete this will have increased the rates for this group by approximately 200% raising a total of approximately £4m.

10.6. Again, this quite clearly illustrates the scale of increases required to raise significant amounts of revenues, which make it an inappropriate choice for a primary revenue raising measure, although it may be appropriate to consider as a budget measure.

Excise Duties and Duty Free

10.7. Excise duties present challenges as a revenue raising measure, since (regardless of their original intent) their modern application is a way of discouraging damaging consumption behaviours and recognising the cost of these to the community or environment. Environmental taxes, more broadly present similar challenges when considered solely for revenue raising.

10.8. Like other taxes the potential gains available are limited - excluding motor fuels, excise duties raised a total of £24m in 2019[13]. They are further limited because increasing them to any significant extent may reduce consumption and erode the financial gain. This means that while they may be an effective lever in helping to manage negative behaviours, and may be appropriate if considered in that context, they offer little sustainability as revenue raising measures.

10.9. An amendment was laid to the 2021 Budget: "To direct the Policy & Resources Committee to include consideration of the impact of duty free on its review of the tax base."

10.10. 2020 was an exceptional year for excise duty receipts, with revenue driven upwards by a combination of some known and significant stockpiling of goods (tobacco products) ahead of the end of the Brexit transition period in January 2021, the lack of access to duty free products because of the travel restrictions in place and an apparent increase in alcohol consumption among the local community when under lockdown restrictions.

10.11. These effects are difficult to disaggregate, and the effects seem to be different across different excise streams. This makes any accurate estimation of the impact of the lack of access to duty free difficult, but it is likely that there has been some positive impact on excise revenues in 2020. Estimates suggest a maximum of £5m but in reality, it is likely to be considerably less.

10.12. The impact on excise revenue for beers and ciders appears very limited. The impact on wines and spirits appears greater, with a combined maximum impact of £1.7m and the largest impact may be on tobacco products with a maximum impact of £3m.

10.13. This implies there may be some limited potential for raising additional revenues by reviewing access to duty free, and there are potentially public health grounds to support this approach.

10.14. Guernsey is subject to a treaty obligation under the Kyoto Convention and this forms the basis for Guernsey's current allowances. World Customs Organisation's Revised Kyoto Convention contains a series of standards which all contracting parties must

[13] Revenues in 2020 were distorted by a combination of stockpiling ahead of the close of the Brexit transition period and the disruption to travel and spending habits caused by COVID-19

incorporate into their National Customs legislation. The Convention standards are further supported with recommended practices.

10.15. Annex J of the Kyoto Convention concerns standards and practices relating to travellers. Chapter 1, paragraphs 16 and 17 cover recommended practices concerning Duty Free Goods which sets out the minimum recommended allowances:

Recommended Practice:

The quantities of tobacco goods, wine, spirits and perfume allowed to be imported free of import duties and taxes by travellers should be not less than:

- *200 cigarettes or 50 cigars or 250 grams of tobacco, or an assortment of these products of a total weight not exceeding 250 grams;*
- *2 litres of wine or 1 litre of spirits;*
- *¼ litre of toilet water and 50 grams of perfume.*

10.16. These are recommended practices, not requirements so there is some freedom for jurisdictions to vary from these. With regards to wines and spirits these recommendations are applied consistently in the majority of OECD countries at or above the recommended levels. There are a small number of exceptions where lower limits are applied including Canada (1.5ltr wine or 1.14ltr spirits) and some island jurisdictions such as St Lucia, Barbados and BVI.

10.17. There is greater precedent for lower allowances (or no allowance) to be applied on tobacco products on public health grounds, but generally not on the grounds of raising revenue. Examples include Singapore (no allowance), Australia (25 cigarettes) and New Zealand (50 cigarettes).

10.18. The Committee *for* Health & Social Care has previously noted the potential to review the allowance on tobacco products for public health grounds although this is not prioritised in the Combined Substance Use Strategy 2021-2026. There may be some scope to revise duty free allowances, however further investigation is required to ensure that moving to a position where duty free allowances are set below the levels recommended by the Kyoto convention is compatible with Guernsey's Customs Arrangement with the UK Government and its inclusion in the UK's WTO membership.

10.19. It should also be noted that any changes to duty free allowances will also need to consider the potential impact on the commercial carriers, who sell much of the duty-free goods brought into Guernsey.

10.20. This could be progressed further, but it is not a priority for the Tax Review. If there is a desire to progress this, engagement should be sought with the Committee *for* Health & Social Care, the Committee *for* Home Affairs, the States' Trading Supervisory Body, and the relevant UK government agencies.

Motor Taxes and Distance Charging

10.21. The States is under the following Resolutions in relation to motor taxes:

> *1. To agree, in principle, that a distance charging mechanism should be introduced as soon as possible and direct the Policy & Resources Committee to report back to the States with detailed proposals to introduce a distance charging mechanism.*
>
> *2. To note that the Policy & Resources Committee intends to use its existing delegated authority to approve funding from the Budget Reserve to carry out further detailed research and a pilot exercise / trial to collect comprehensive data which could be used to calculate and model an appropriate charging structure for a distance charging mechanism, together with an assessment of the effect of any potential changes in behaviour.*
>
> Billet D'État XIII, July 2019

10.22. The pilot project to look at suitable mechanisms for applying distance charging was deferred at the outbreak of COVID-19 . The original direction was given to the Policy & Resources Committee, discussions are underway but discussions are underway for the Committee *for the* Environment & Infrastructure to progress this.

10.23. The need for an alternative to fuel duty has increased. Previously the gradual decline in motor fuel sales has been primarily been driven by advances in the fuel efficiency of internal combustion engines (ICEs), but globally the sale of Electric Vehicles (EVs) has accelerated, and Guernsey would appear to be no exception. Without any form of tax on motoring other than that on motor fuel the tax contributions from such vehicles is currently limited to their first import duty.

10.24. At present the direction for this workstream is to design a net neutral solution which raises a similar amount to the current structure in a more sustainable way. As that policy is advanced it may be appropriate to consider whether that position is still supported.

Online Taxes

10.25. The issue of an online tax was raised with Steering Group members by external parties and some investigation has been undertaken to test its feasibility. It was raised in response to the UK call for evidence on Business rates which suggested that such a tax might be used to balance the perceived unfairness between the business rates payable by those operating from prime retail outlets relative to those providing online retail based in less expensive locations. Alternative suggestions include a fee chargeable on parcel delivery which could support the cost of disposing of packaging.

10.26. For Guernsey the idea is superficially attractive in that it provides an opportunity to address competition from online retailers, but in reality that in itself poses an issue.

10.27. In November 2018, the State of Guernsey signed a Customs Arrangement with the UK Government (here). The Customs arrangement was agreed to ensure that at the point the UK left the EU, the customs arrangements between Guernsey and the UK were protected. The agreement primarily ensures the Bailiwicks customs arrangement is correspondent with the UK scheme and avoids a hard border between the UK and Guernsey for the trade in goods. Paragraph 4 of the Agreement ensures that no arbitrary import duty, or other levy, (having equivalent effect relating to the movement of goods between the UK and Guernsey) shall be applied. It could be considered that a levy on online purchases or on certain postal packages destined from the UK to Guernsey and applied to domestic/personal packages at the border would be considered as a customs duty and therefore the Islands would not be compliant with the Islands customs arrangements which forms the basis of both our domestic and international trading relationships. Without such an agreement, the islands would potentially face a 'hard' border for all goods trade between UK-Guernsey.

10.28. Further, The UK's World Trade Organisation (WTO) Membership was extended to the Bailiwick on 1st Jan 2021. There are 164 countries that make up the WTO, whose primary functions include negotiating international trade negotiations, and administering and presiding over international trade disputes and reviewing countries compliance with WTO rules. It is the international trade rules developed at the WTO which form the basis of global Free Trade Agreements (FTA). As part of the Bailiwicks WTO obligations, the Island is required, amongst other international trade principles, to adhere to the Most-Favoured-Nation (MFN) and National Treatment (NT) commitments. The NT Principle applies to goods movements and in particular market access and cross border movement of goods. The MFN obligation requires that where countries agree to provide preferential market access provision or reduced barriers to trade, these concessions and privileges will be granted to all other WTO member countries and denotes equal access to all countries.

10.29. The NT and MFN obligations do not stop countries from applying taxes as they see fit, but they have to align with appropriate policies and must be applied in an open, fair and transparent manner. Failure to meet these obligations would be internationally challengeable at the WTO through either a trade review or directly by a partner country. Therefore, should Guernsey consider that a taxation at the border be applied either as an "online" tax or to postal or Express Delivery Services (EDS) packages destined for personal customers/consumption, this would be discriminatory and non-compliant with the MFN/NT principles. To achieve compliance, any taxation would have to be applied to all goods, including those destined for personal or commercial use irrespective of their origin (including domestic goods) or destination and aligned to appropriate policies which meet both our International and UK obligations.

10.30. If the States of Guernsey did apply taxation on Postal services and EDS, for domestic/personal packages, this would be considered a technical barrier to trade, and trade distorting. The result would be that Guernsey would have to declare this non-compliance to trade partners, which could put Guernsey inclusion in the UKs FTAs

at risk, potentially leaving Guernsey subject to unfair and restrictive trade barriers on export which are applied to non-FTA countries.

10.31. While such charges could be considered quasi-environmental charges, relating to the potential cost of disposal of packaging, this would be less likely to be a cause of concern if it was applied at the point of disposal rather than at the point of import.

10.32. The UK introduced a Digital Services Tax (DST) in April 2020 which is turnover tax of 2% tax on the revenues of search engines, social media services and online marketplaces which derive value from UK users. However, the longer-term future of the DST is subject to international agreements within the context of the OECD/G20 work to reform the international corporate tax framework and will need to be removed as part of the unified approach. The UK have delayed any further discussion around the potential introduction of an Online Sales Tax (OST), which would be based on revenues like the DST model, until the Autumn in anticipation of further information on the international position being made available.

10.33. If the UK were to introduce an online tax and create a precedent for it this may change but given that Guernsey does not have the same domestic drivers to address a perceived imbalance in the internal application of business rates, it would still be difficult to argue that the intent of such a tax is not to discriminate in favour of local businesses at the expense of external trade partners.

10.34. Administratively, such a tax also comes with some of the same administrative challenges as a GST- in particular the need to increase the resources dedicated to the Border Agency, who would be responsible for collecting taxes on imported goods. The much narrower application of the tax means that revenues are likely to be much smaller than a GST, making its collection expensive and inefficient.

10.35. **The Steering Group cannot recommend progressing this idea further. If the UK do opt to move in this direction it may be appropriate to reconsider.**

Other Matters Discussed

10.36. In the course of discussions, the Steering Group also discussed options beyond public service reforms which might mitigate the need to raise revenues to some extent. These included discussions about whether there may be flexibility in some of the benefits provided via the Social Security Funds to reduce the required revenues. Possibilities raised by the President of the Committee *for* Employment & Social Security include a review of the eligibility criteria for the Long-Term Care Scheme to require a greater period of residency (already being progressed by that Committee), and investigation of whether a supplementary pension for lower income households might be a mechanism by which the uprating policy of the scheme as a whole might be reduced, lessening the pressure on the Guernsey Insurance Fund.

10.37. The Steering Group supports these investigations as contributing to the overall financial wellbeing of the island.

11. Options to be Considered

11.1. Having considered the available options, the Steering Group is presenting three options for consideration. These options comprise a suite of proposals, combining various elements into what the Steering Group feel could be a workable way to address the issues presented. They are not, and could not be, exhaustive, but they present a range of approaches which could form a target model for ongoing fiscal policy to work towards.

Notes on the data: The analysis presented in this section is based on the Rolling Electronic Census which includes real data about households' incomes and other circumstances. The full data set covers all households in Guernsey, but the impact analysis is based on households whose circumstances have been consistent for the reported tax year. Other exclusions have been made where it is evident that income data is missing or otherwise doesn't represent a household's real circumstances.

The final data set used for impact analysis covers more than 17,000 households and has been used to support the design of both tax and mitigation measures. A selection of real example of the application of the three options is presented in appendix 2. Appendix 3 provides a definition and explanation of income equivalisation and a translation of income percentiles into household incomes for different household compositions

11.2. Each option presented would result in a similar net gain in revenue (between £70 and £75m). Each assumes that £10m of this will be raised from changes to the Corporate tax system. Furthermore, the restructure of contributions included in all three options incorporates increases in employer contributions and the removal of the UEL for employers which distributes the burden of additional revenue raising between the corporate sector and households.

Option 1: an income only approach

- Focuses on revenue raising from income based sources and incorporates a 3% income-based health tax.
- Raises £20m with a 9% personal rate within a reformed social security contributions system; an allowance aligned with the personal income tax system; an increase in the employer's rate to 7.5%; and, removes the UEL for employers.
- Assumes that £10m of revenue might be generated from changes to the corporate tax structure.

Option 2: A GST approach

- Focuses primarily on a GST increasing over a number of years to 8%.
- Increases personal income tax allowance to £14,000.
- Includes a broadly net neutral restructure of the contributions system with an 8% personal rate; an allowance aligned with the personal income tax system; an increase in the employer's rate to 7.5%; removes the UEL for employers; and, assumes that £10m of revenue might be generated from changes to the corporate tax structure.

- Diverts up to £4m of the revenue raised to further measures to mitigate the regressive impact of the GST including a pre-emptive increase in the States Pension at the expected rate of inflation (up to 12 months ahead of normal policy); a pre-emptive increase in income support rates above the expected rate of inflation; and, a cost support grant intended to reach low-income households who do not benefit from Income Support.

Option 3: A combined GST and income approach

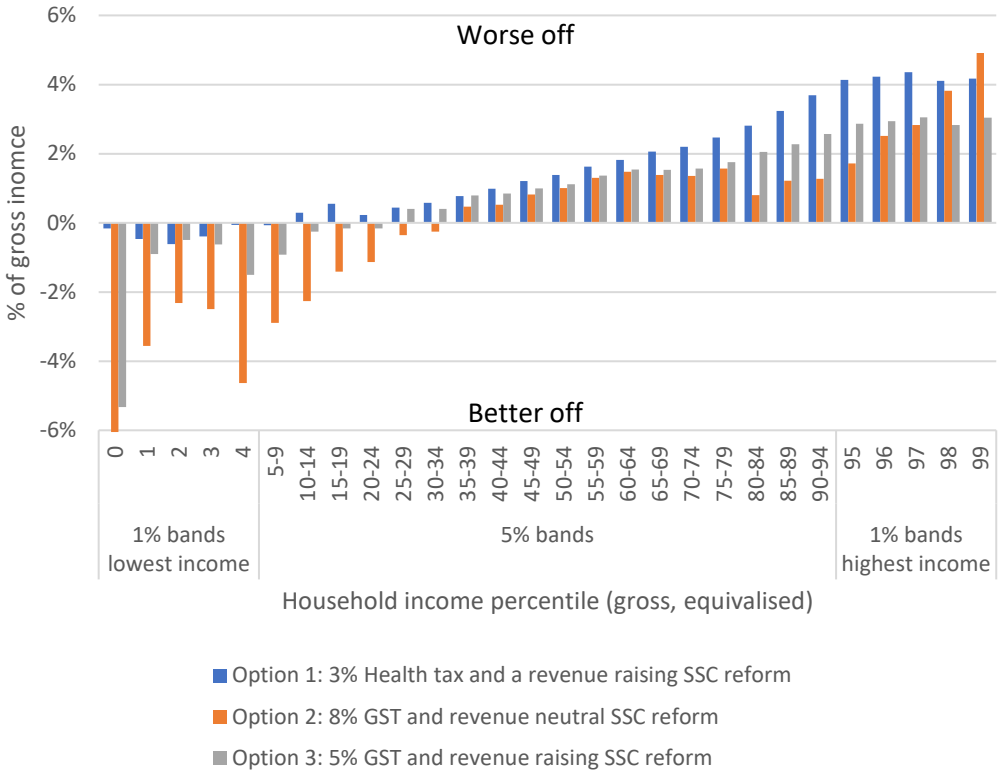
- Applies GST increasing over a number of years to 5%.
- Increase in the personal income tax allowance to £12,700.
- Raises £17m with a 9% personal rate within a reformed social security contributions system; an allowance aligned with the personal income tax system; an increase in the employer's rate to 7.5%; and, removes the UEL for employers.
- Diverts up to £4m of the revenue raised to further measures to mitigate the regressive impact of the GST including a pre-emptive increase in the States Pension at the expected rate of inflation (up to 12 months ahead of normal policy); a pre-emptive increase in Income support rates above the expected rate of inflation; and, a cost support grant intended to reach low-income households who do not benefit from Income Support.

11.3. Figures 11 and 12 provides a high-level comparison of how revenues are raised under each of these options and how they are expected to impact households. each is discussed in more detail in the following sections.

Figure 11: Financial comparison of options

Revenue Element	Option 1	Option 2	Option 3
Health/income tax	£39m	-	-
GST	-	£87m	£57m
PITA	-	(£20m)	(£9m)
Social security contributions	£20m	£2m	£17m
CIT	£10m	£10m	£10m
Total revenue raised	**£69m**	**£79m**	**£74m**
Administration and mitigation cost (on going only)	(<£1m)	(£4m)	(£2m)
Net Revenue Raised	**£69m**	**£75m**	**£72m**
From Households	£45m	£39m	£37m
From Tourists	-	£10m	£6m
From Corporates	£25m	£31m	£31m

Figure 12: Comparison of average impact of options by household income



Option 1: an income only approach

3% income-based health tax	£39m
A restructured social security contribution system	
• Personal rate: 9% for working age adults; 4.5% for pensioners • Employer's rate: 7.5% (5% for self-employed) • Remove limit for Employer contributions	£20m
Corporate income tax:	£10m
Total Revenue Raised:	**£69m**
Corporate Income Tax Administration	-£0.3m
Income Support ***reduction*** on net assessments	£0.5m
Net change	**£69m**

Revenue from households: £45m

Revenue from corporates: £25m

Figure 13: Option 1: High level assessment

Impact area	Provisional assessment
Household consumption	Short term decrease
GDP growth	Short term decrease
Employment	Short term decrease
Inflation	No impact
Annual cost implication	<0.5m pa

11.4. This option is arguably the simplest of the options presented. Revenue raising is split between a 3% health tax modelled to align with Income tax and a £30m increase in the revenue generated from the contributions system.

11.5. While the restructure of the contributions system requires some explanation, it has the advantage of offering a slight reduction in liability for the lowest income households. Revenue raising from this source also recognises that a significant portion of the emerging pressures are arising from the pension, long-term care and health provision.

11.6. The presentation of the revenue raising within General revenue as a health tax also recognises the provision of health services as a primary driver of expenditure. However, health and care services in Guernsey cost more than £200m a year, any health tax applied would only fund the incremental costs of services – most of the cost of the services would continue to be funded through general taxation.

11.7. As demonstrated by Figures 14 and 15 below, this option is generally progressive without mitigation, with lower income households being on average better off (thanks to the availability of an allowance on social security contributions) with households in highest income groups paying on average approximately 4% more.

11.8. The more detailed analysis presented in Figure 16 shows that pensioner households of low and middle income on average benefit less from the changes than working age households with similar incomes (a breakdown of the approximate incomes represented by household income percentiles is included in Appendix 3). This is because pensioner households are, in general more favourably treated in the existing social security set up, and therefore gain little benefit from the restructure. The allowance they have access to may be slightly larger if aligned with income tax, but the benefit is limited.

11.9. Under this model a middle-income household would be on average, just over 1% worse off relative to their income, equivalent to about £850 a year (about £16 a week).

11.10. However, this model is the least economically efficient of the options presented. The analysis presented in Appendix 1 show that this option is most likely to have short term (up to 3 years) effects on employment and GDP levels and the retail sector is likely to be impacted by a reduction in household consumption. This is expected to dissipate over time, as the tax raised is spent by the public sector and longer term the overall impact is expected to be minimal.

11.11. It is the weakest of the options presented in terms of Guernsey's competitive position, with taxes on income playing a much larger role in location decisions for potential employees than taxes like a GST. This is particularly true for higher income individual who pay a significant proportion of both the current tax take and the anticipated revenues. Given that at the very top end of the income profile, such individuals also generate employment opportunities and economic growth, a strategy which may discourage such individuals from locating or remaining in Guernsey is not without risk.

11.12. It also perpetuates the existing weaknesses in the current tax base, amplifying the reliance on earned income. This does little to mitigate the risk that shocks to the labour market, either through short term disruption or the ongoing ageing of the population. A significant restructure of the tax base without addressing these risk factors would be a lost opportunity.

11.13. As a result, while the Steering Group accepts that many in the community feel that taxing income is fairer than a GST, it recommends that any restructure of the tax base should include a diversification away from revenues to mitigate some of the existing issues.

Figure 14: Option 1- Average impact by household income (% of gross income)

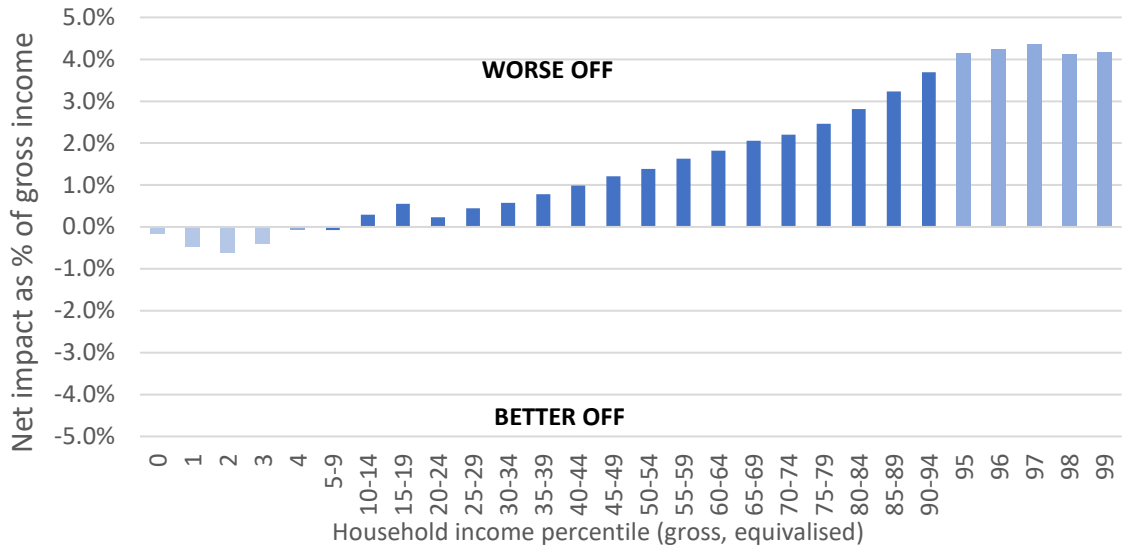


Figure 15: Option 1- Average impact by household income (£)

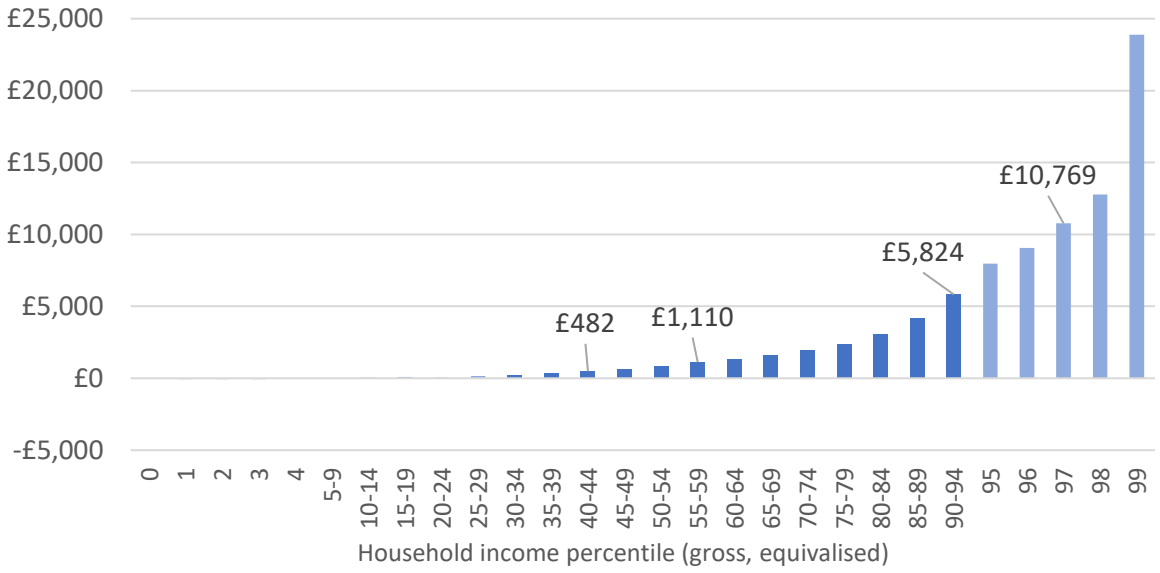


Figure 16: Option 1- Average impact by household income and household composition (as % of gross income)

	Household income percentile (gross, equivalised)																										
	0	1	2	3	4	5-9	10-14	15-19	20-24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-64	65-69	70-74	75-79	80-84	85-89	90-94	95	96	97	98	99
One adult (16-64)	0%	-2%	-3%	-3%	-6%	-1%	-2%	-1%	-1%	-1%	0%	0%	1%	1%	1%	2%	2%	2%	3%	3%	3%	3%	4%	5%	5%	5%	5%	5%
One adult (16-64 with children)	-1%	-1%	-1%	0%	0%	0%	-1%	-1%	0%	0%	1%	1%	1%	2%	2%	2%	2%	3%	3%	3%	3%	4%	4%		4%	4%	4%	
One adult (65 and over)	0%	0%	0%	0%	0%	0%	1%	2%	1%	1%	2%	2%	2%	2%	2%	3%	3%	3%	3%	3%	3%	3%	3%	4%	4%	4%	4%	3%
Two adults (16-64 with children)	0%	-1%	0%	-2%		0%	0%	0%	0%	0%	0%	1%	1%	1%	2%	2%	2%	2%	3%	3%	3%	4%	4%	4%	5%	4%	4%	5%
Two adults (16-64)	0%	0%	-1%	-1%	0%	-1%	-1%	-2%	-1%	-1%	0%	0%	0%	0%	1%	1%	1%	2%	2%	2%	2%	3%	3%	4%	4%	5%	4%	5%
Two adults (65 and over)	0%	0%	0%	0%		0%	0%	1%	1%	1%	1%	2%	2%	2%	2%	2%	2%	3%	3%	3%	3%	3%	3%	4%	4%	4%	3%	3%

Option 2: GST Option

GST 8%	£87m
PITA increased to £14,000:	-£20m

• A restructured social security contribution system
  • Personal rate: 8% for working age adults; 4.0% for pensioners
  • Employer's rate: 7.5% (5% for self-employed)
  • Remove limit for Employer contributions
	£2m

CIT:	£10m
Total revenue raised	**£79m**
• CIT administration	-£0.3m
• GST administration	-£0.8m
• Income support reduction on net assessments	£2.3m
• Above inflation increase in income support	-£2.4m
• Additional low-income support measures	-£2.5m
Net change	**£75m**

Revenue from households: £39m
Revenue from non-residents: £10m
Revenue from corporates: £31m

Figure 17: Option 1- High level assessment

Impact area	Provisional assessment
Household consumption	Some consumption brought forward
GDP growth	No significant impact
Employment	No significant impact
Inflation	5% for 1 year
Annual cost implication	Est £4m pa

11.14. Option 2 makes a GST the primary focus of revenue raising applying a rate of 8%. In this context the restructure of the social security system to a more progressive structure is designed to be largely net neutral (other than the removal of the employer's UEL) and serves largely to mitigate the impact of the GST on lower- and middle-income earners.

11.15. Of the options presented this is the most economically efficient. It is expected to have very limited short-term impact on GDP or employment, although some very limited impact may arise from the 0.9% increase in the employer contribution proposed.

11.16. For households this option creates the most limited distortion in behaviours. GST plays little part in people's location decisions and this option carries less risk in competitive terms than the other options presented.

11.17. It also presents the largest diversification of the tax base allowing a net reduction in tax on income. Different taxes respond in economic conditions in different ways and diversifying the tax base can help limit the impact these shifts in revenues have on States finances. This could reduce Guernsey's susceptibility to labour market shocks and the ageing of the population. A GST also adjusts automatically to changes in inflation (something that can take some months for income-based revenues) which also provides some mitigation against inflation risk within the States revenues.

11.18. A GST will cause a one-off increase in prices. This will be evident in headline inflation rates for a period of 12 months from first introduction (or any increase in the rate). As modelled, it is estimated that a GST at 8%, if introduced in a single stage, would increase inflation by approximately 4.5%. This increase in prices will not be felt equally by all households. Those who spend a significant proportion of their income on exempt or Zero-rated items such as rents, mortgages and financial services or who spend money outside Guernsey will face less tax on their total expenses than those who face tax on a greater proportion of their consumption.

11.19. Generally, but not universally, the result is that low-income households are more impacted by inflation than higher income households. This option applies a number of measures to mitigate this;

- increasing the tax allowance and restructuring the contributions system which tends to benefit lower and middle-income households;
- bringing forward the normal inflation uprating of pensions and benefits to match the timing of introduction, so households are not subject to a 12-month delay in the adaptation of their income;
- applying above inflation increases to income support benefits recognising the larger impact on these households; and,
- recommending an additional support grant (modelled at £800 a year) targeted at households with an income below £25,000 (bottom 15%[14]) who are not in receipt of income support.

11.20. With sufficient resources dedicated to mitigation the overall impact of this option could be progressive, providing a benefit to low-income households. However, they come at a cost, requiring a net additional spend (in addition to administration costs) of more than £2m per annum.

11.21. While every effort has been made to design mitigations which reach those most likely to be vulnerable to these changes, it is impossible to design a system that covers every eventuality. As shown in Figures 18 to 20 while overall the scheme is beneficial to low-income households in general, there are some pockets of low-income households who may still pay slightly more. These cluster around households in specific circumstances. For example, households who own their home without a mortgage and support a

[14] The 15% threshold (approximately £25,000) was chosen on examination of detailed households' data which showed that the households who appeared to require additional support were primarily below this threshold. Households above this threshold are more likely to benefit from changes in the social security structure and increases in the tax allowance

significant proportion of their spending with capital or savings. Relative to their income (but not their expenditure, and not necessarily their wealth) such households may have a higher exposure to a GST than others, and the mitigation for such groups may be incomplete.

11.22. At the opposite end of the income scale this option places slightly more burden on the very highest income households than option 1. However, generally GST and similar taxes play a lesser role than taxes on income in the location decisions of higher income households so the impact of these decision may be less.

11.23. Of the three options presented this is the only one which does not incorporate revenue raising via the social security system to any significant extent.

Figure 18: Option 2- Average impact by household income (% of gross income)

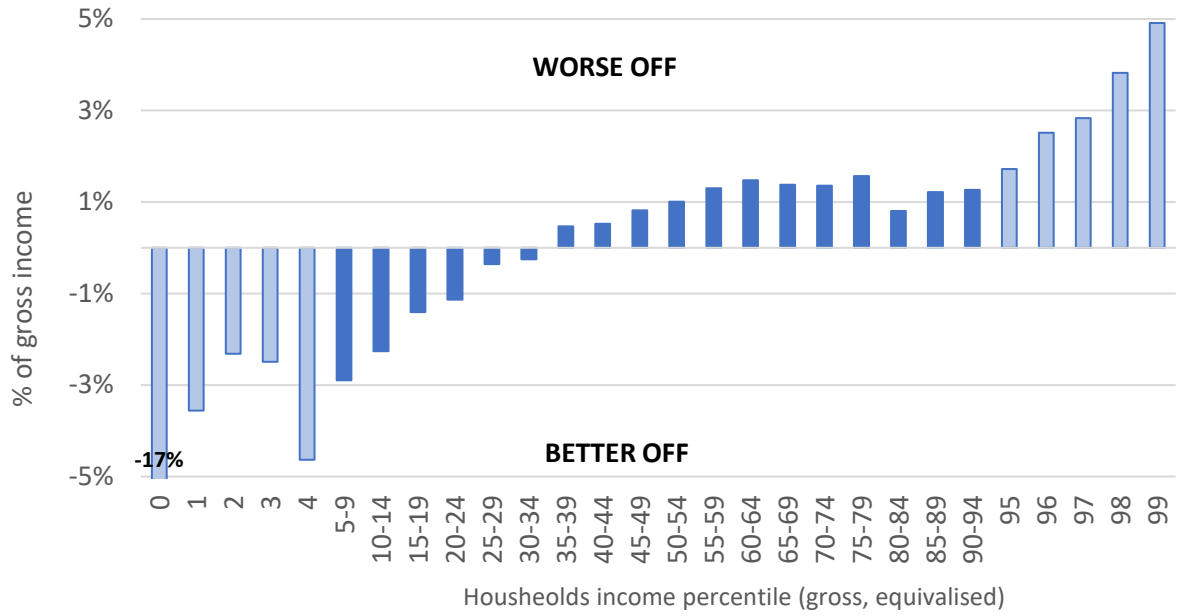


Figure 19: Option 2- Average impact by household income (£ per annum)

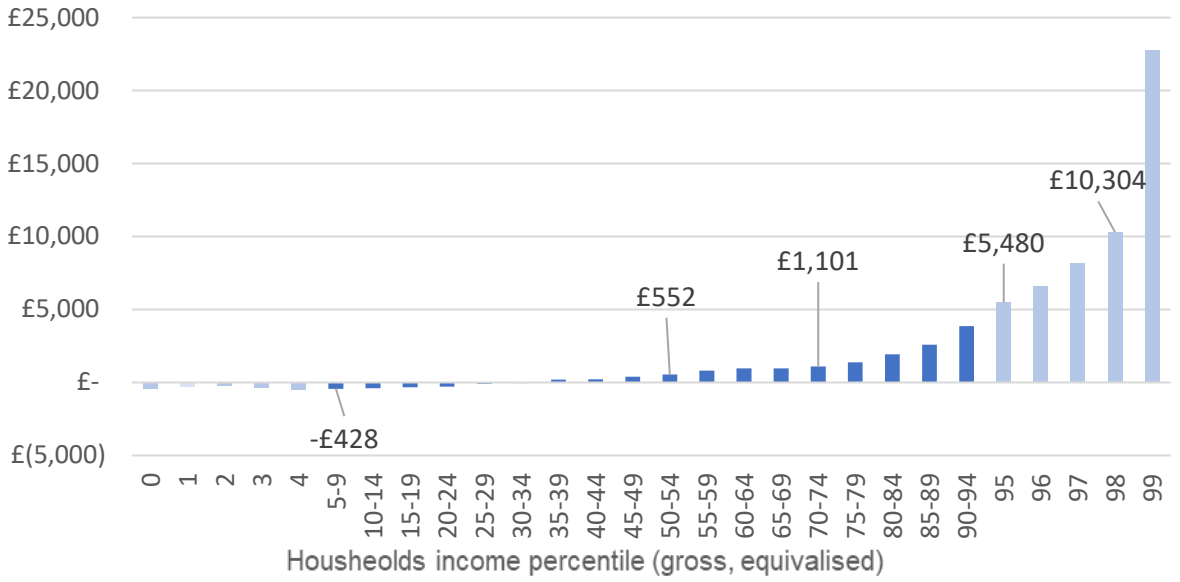


Figure 20: Option 2- Average impact by household income and household composition (% of gross income)

	Household income percentile (gross, equivalised)																									
	0	1	2	3	4	5-9	10-14	15-19	20-24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-64	65-69	70-74	75-79	80-84	85-89	90-94	95	96	97	98	99
One adult (16-64)	-24%	-4%	-3%	-3%	-4%	-2%	-3%	-3%	-2%	-1%	-2%	-1%	0%	1%	1%	2%	2%	2%	2%	3%	3%	2%	2%	3%	3%	3%	3%	3%
One adult (16-64) with children)	-15%	-1%	-1%	0%	-1%	0%	-1%	-1%	-1%	-1%	1%	2%	2%	3%	2%	2%	3%	3%	3%	3%	3%	4%	3%		3%	3%	3%	
One adult (65 and over)	-20%	-6%	-5%	-4%	-5%	-5%	-4%	-2%	-3%	-1%	-2%	0%	1%	1%	2%	2%	2%	2%	3%	3%	4%	4%	4%	3%	3%	3%	3%	3%
Two adults (16-64 with children)	-1%	0%	-1%	-2%		-2%	-2%	-1%	-1%	0%	0%	0%	1%	1%	1%	2%	2%	2%	2%	2%	2%	3%	3%	3%	4%	4%	4%	4%
Two adults (16-64)	-11%	0%	2%	0%	-1%	2%	1%	-2%	-1%	0%	0%	0%	0%	0%	0%	1%	1%	1%	1%	1%	2%	2%	2%	3%	3%	3%	3%	4%
Two adults (65 and over)	-11%	-7%	-5%	-4%		-3%	-1%	-1%	0%	1%	1%	2%	2%	2%	2%	3%	3%	2%	2%	2%	2%	2%	3%	3%	3%	3%	3%	3%

Option 3: GST/income combination

GST 5%	£57m
PITA increased to £12,700:	-£9m
A restructured social security contribution system	
Personal rate: 9% for working age adults; 4.5% for pensioners	
Employer's rate: 7.5% (5% for self-employed)	
Remove limit for Employer contributions	£17m
CIT:	£10m
Total revenue raise	**£74m**
CIT administration	-£0.3m
GST administration	-£0.8m
Income Support reduction on net assessments	£1.5m
Above inflation increase in income support	-£1.3m
Additional low-income support measures	-£1.2m
Net change	**£72m**

Revenue from households: £37m
Revenue from tourists: £6m
Revenue from corporates: £31m

Figure 21: Option 3- High level assessment

Impact area	Provisional assessment
Household consumption	Some consumption brought forward, some reduced consumption
GDP growth	Limited short-term decrease
Employment	Limited short-term decrease
Inflation	3% for 1 year
Annual cost implication	Est £2m pa

11.24. Option 3 presents a hybrid between options 1 and 2. It offers the same benefits as option 3 but to a lesser extent. It provides some diversification of revenues away from the reliance on income which could improve Guernsey's resilience to economic shock and the ageing of the population. The short-term economic cost of this option may be greater than option 2 (but less than option 1) but with a lower impact on inflation.

11.25. The lower impact on inflation means that the measures needed to mitigate the effect on low-income households is also lower. The resulting system (as modelled) is generally progressive but arguably less so than option 2 because the measures required to address the more moderate impact on low-income households results in more moderate positive impacts as well.

11.26. The mitigating measure proposed under option 2 are applied here with but to a more moderate extent, including:

- increasing the tax allowance and restructuring the contributions system which tends to benefit lower and middle-income households (noting that the inclusion of revenue raising applied through the social security contributions system shift the point at which this is beneficial to a lower income);
- Bringing forward the normal inflation uprating of pensions and benefits to match the timing of introduction, so households are not subject to a 12-month delay in the adaptation of their income (which represents a one-off real cost);
- applying above inflation increases to income support benefits recognising the larger impact on these households; and
- recommending an additional support grant (modelled at £500 a year) targeted at households with an income below £25,000 (bottom 15%[15]) who are not in receipt of income support.

11.27. This offers a scheme which could provide a net benefit to, low-income households in general, with the distribution of the impact more evenly spread across middle- and high-income households.

11.28. As with option 2, the mitigation for the impact of GST is beneficial for most low-income households, but it is not perfect. Some low-income households in specific circumstances might be worse-off although the majority would benefit.

[15] The 15% threshold (approximately £25,000) was chosen on examination of detailed households' data which showed that the households who appeared to require additional support were primarily below this threshold. Households above this threshold are more likely to benefit from changes in the social security structure and increases in the tax allowance

Figure 22:Option 3- Average impact by household income (% of gross income)

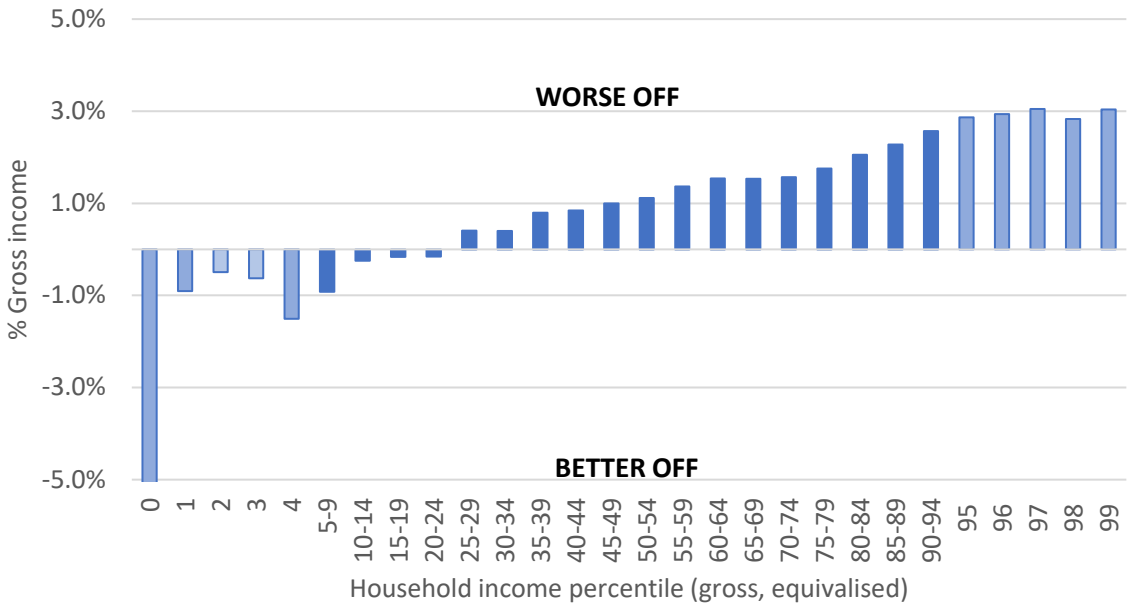


Figure 23: Option 3- Average impact by household income (£)

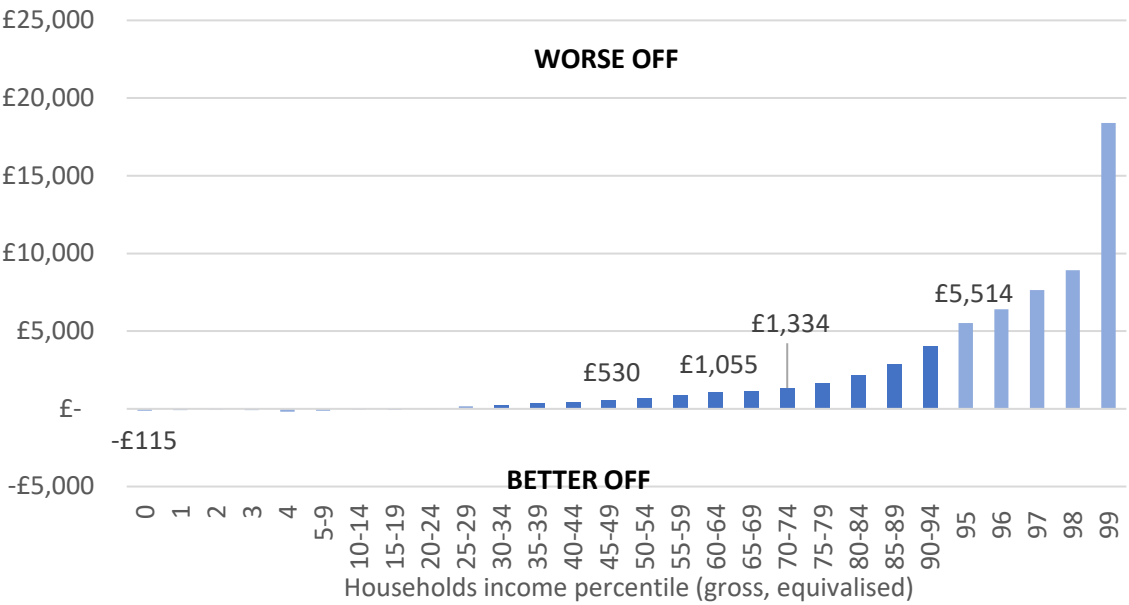


Figure 24: Option 3- Average impact by household income and household composition (% of gross income)

	Household income percentile (gross, equivalised)																										
	0	1	2	3	4	5-9	10-14	15-19	20-24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-64	65-69	70-74	75-79	80-84	85-89	90-94	95	96	97	98	99
One adult (16-64)	-7%	-1%	-1%	-2%	-3%	-2%	-2%	-1%	-1%	0%	-1%	0%	0%	1%	1%	2%	2%	2%	2%	3%	3%	3%	3%	3%	3%	3%	3%	3%
One adult (16-64) with child(ren))	-5%	-1%	-1%	0%	0%	0%	-1%	-1%	0%	0%	1%	2%	2%	3%	2%	2%	3%	3%	3%	3%	3%	3%	3%		3%	3%	3%	
One adult (65 and over)	-7%	-2%	-1%	-1%	-2%	-2%	-1%	0%	0%	1%	0%	1%	1%	1%	2%	2%	2%	2%	2%	3%	3%	3%	3%	2%	2%	2%	2%	2%
Two adults (16-64 with child(ren))	1%	0%	-1%	-2%		-1%	-1%	-1%	-1%	0%	0%	1%	1%	1%	1%	2%	2%	2%	2%	2%	2%	3%	3%	3%	4%	3%	3%	4%
Two adults (16-64)	-2%	1%	2%	0%	0%	2%	1%	-2%	-1%	0%	0%	0%	0%	0%	0%	1%	1%	1%	1%	1%	2%	2%	2%	3%	3%	3%	3%	3%
Two adults (65 and over)	-3%	-1%	0%	0%		0%	1%	0%	1%	1%	1%	2%	2%	2%	2%	3%	3%	2%	2%	2%	2%	2%	2%	3%	2%	3%	2%	2%

12. Assessment of Options

12.1. Figure 25 presents a comparison of the three options and the Steering Group's assessment of these against the stated principles of the Review.

12.2. It should be noted that the three options brought forward were chosen because the Steering Group felt they offered a reasonable fit with these principles. Analysis was undertaken on other options (including options which included a higher tax rate for higher earners), but these were not progressed because it was felt they did not sufficiently meet the principles of the review.

12.3. Of the options presented the Steering Group is of the view that option 1 (the income-based approach), performs less well than the other two options. To further concentrate revenues into taxes on income would place an unnecessary competitive pressure on Guernsey's economy and miss an opportunity to address some of the fundamental weaknesses in our tax base.

12.4. It is possible to mitigate the primary concerns raise against a GST. The regressive impacts can be successfully addressed for most low-income households if the package as a whole is designed to do so. It is possible to design a change in the tax system which would include a GST and benefit most low-income households. Given that such systems are applied in almost all other jurisdictions, including our nearest neighbour, examples of good practice are widely available.

12.5. The accounting and Point of Sale systems needed to minimise the administrative burden on business are widely available and, in many cases, already in use by local businesses. Measures like high registration threshold and the ISE scheme could mitigate this further.

12.6. The distinction between options 2 (GST approach) and option 3 (the GST /income combination) is less clear. Were the decision to be made on economic grounds only, the efficiency of option 2 would be preferable, but other considerations, including the higher cost of mitigation apparent in option 2 may influence the outcome.

12.7. The Steering Group concluded that to intensify the reliance on income-based taxes by following an approach like option 1 is unsustainable. As a result, the Steering Group's recommendation at this stage is that the way forward should include a GST. While a higher rate of GST is economically the strongest option and has the potential to be the most progressive if it is combined with significant levels of mitigation, it is acknowledged that this may not reflect the preference of the community.

12.8. More engagement is required to establish which of these options, or variations on them might be implemented in practice.

Figure 25: Assessment of options

Review principle	Option 1: Health tax/ SSC		Option 2: 8% GST		Option 3: 5% GST and contributions	
Capable of raising revenues of up to 24% of GDP...	Pass/fail criteria	Y	Pass/fail criteria	Y	Pass/fail criteria	Y
…in a way that is economically sustainable;	Long term economic impact minimal but with potential to create competitive issues in attracting higher income individuals to live in Guernsey. This may also create some recruitment issues for more senior posts	3	Long term economic impact minimal with very limited competitive issues	5	Long term economic impact minimal with limited competitive issues. Some limited potential to make attracting higher income individuals more difficult via increase in social security liability	4
…and socially sustainable	Progressive, with income-based taxes likely to be less controversial than GST	5	Overall, impact progressive with significant mitigation. Potential for net gain for lower income in general with some exceptions who may remain vulnerable. Higher rate of GST likely to be controversial and unpopular	3	Progressive with moderate mitigation. Potential for net gain for lower income in general with some exceptions who may remain vulnerable. Moderate rate of GST likely to be controversial but less so than higher rate	4
Be diversified between different forms of taxation	No diversification	0	Maximum diversification	10	Some diversification	5
Transparent, simple and credible	Social security restructure is complex but creates a simpler system. Income based taxes well understood by the public	4	Social security restructure is complex but creates a simpler system. Broad based consumption tax is simple, transparent, and applied widely in almost all jurisdictions	4	Social security restructure is complex but creates a simpler system. Broad based consumption tax is simple, transparent, and applied widely in almost all jurisdictions	4
Resilient to demographic change and economic shocks	Exaggerates existing reliance on income bases taxes and does not diversify risk to economic shocks or demographic change	1	Diversification spreads revenue risk between a wider range of revenue streams	5	Some diversification to spread revenue risk but with ongoing reliance on income-based tax	4
Support and facilitate sustainable economic growth and employment	Potential for short term impact on employment and economic growth which	3	Least potential for short term impact on employment and economic growth	5	Some potential for short term impact on employment and economic growth via increase in contribution revenues	4

	should recede in the medium term				which should recede in the medium term	
Comply with international tax standards	Subject to outcome of corporate tax workstreams	na	Subject to outcome of corporate tax workstreams	n	Subject to outcome of corporate tax workstreams	na
Maintain alignment on corporate tax policy with Jersey and the Isle of Man	Subject to outcome of corporate tax workstreams	na	Subject to outcome of corporate tax workstreams	na	Subject to outcome of corporate tax workstreams	na
Overall, reflect people's ability to pay and be generally progressive, while accepting that a balanced tax system will include some elements (such as excise taxes) which are considered regressive in nature	Progressive, although some elements of social security restructure will impact some groups more than others	4	Overall, most progressive outcome with mitigation. Low-income households may overall be better off than in income-based scenario but the impact of a higher rate of GST is difficult to mitigate for some low-income groups	4	Overall, moderately progressive outcome with mitigation. Low-income households may overall be better off than in income-based scenario but the impact of a higher rate of GST is difficult to mitigate for some low-income groups	4
Not discriminate and factors such as age, gender, marital status or employment status should not affect the way in which you are assessed or the amount you pay	Discrimination via the social security contributions system removed	5	Discrimination via the social security contributions system removed	5	Discrimination via the social security contributions system removed	5
Support the delivery of environmental and social objectives if there are opportunities to do so without breaching the previous principles	Reform of the social security contributions system benefits low income working households which supports objectives in relation to in work poverty	3	Reform of the social security contributions system benefits low income working households which supports objectives in relation to in work poverty	3	Reform of the social security contributions system benefits low income working households which supports objectives in relation to in work poverty	3
Total		**28**		**43**		**37**

13. Development Transition and Phasing

13.1. This Review is intended to inform plans to meet long-term revenue requirements. It may not be necessary to make an immediate jump to raise revenues to the full extent implied by the options discussed, particularly if other priorities to mitigate expenditure and grow the economy are successful.

13.2. The introduction of any major structural changes is likely to need at least 2 years of development. This means implementation of larger elements is not likely to take place until 2024 at the earliest, although some elements might be progressed sooner. During this time, it will be necessary to confirm finer points of detail, such as the exact application of any GST, and the relative timing of changes if there is a desire for these changes to be phased.

14. Consultation and Engagement

14.1. The Steering Group has undertaken some engagement on the proposals presented to date, both with States Members and with industry and community representatives. However, further engagement is needed on the details of a scheme before final proposals are presented to the States for consideration.

14.2. Developing the level of detail required to progress this analysis to full and detailed proposals will require a further investment of staff resources and require the public discussion of topics on which there is likely to be significant political debate.

14.3. **The Steering Group recommends that the States be asked to confirm the direction outlined in this first report. Subject to this confirmation, the Steering Group proposes to undertake a six-month period of detailed engagement and development before returning with firm proposals to the Policy & Resources Committee.**

15. Conclusions

15.1. Having reviewed the analysis undertaken to date, the Steering Group concludes that structural changes to the tax base are necessary. The current social security contributions System has evolved a long way from its origins and in its current form is inequitable. There is an opportunity to reform it which can make it both more equitable and more progressive and this should be pursued further.

15.2. Furthermore, the current heavy reliance on income-based taxes should not be continued. If more revenues are required, it should be from a more diverse tax base and introducing a GST represents the most effective way of achieving this.

15.3. The concerns about the regressive impact of a GST on lower income households are valid. However, the analysis suggests that the inclusion of a GST within a package including measures designed to mitigate the impact on lower income households can address these concerns and make the change to the tax base overall progressive. The relatively recent introduction of a GST in Jersey and other jurisdictions also provides examples of how the scheme can be designed so as to reduce the administrative burden on companies.

15.4. More engagement with stakeholders is needed before final recommendations can be made. To ensure that engagement is effective in producing a successful outcome for this project the Steering Group recommends in principle endorsement from the States is sought about the key elements before this is undertaken.

15.5. With direction from the States the Steering Group offers to conduct a period of more detailed engagement and development before presenting formal proposals for consideration.

MAJ Helyar

DJ Mahoney

PJ Roffey

M Thompson (Non-States Member, Committee *for* Employment & Social Security)

Appendix 1: Economic Impact Analysis Report (Deloitte LLP)

Deloitte.

Economic Impact Study of the States of Guernsey Tax Review

Final Report

10 August 2021

Important Notice from Deloitte

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We have conducted options analysis based on projections provided by the States (these comprise the options outlined and analysed in the report). The results produced by the options under different assumptions are dependent upon the information with which we have been provided. Actual results are likely to be different from those projected by the options due to unforeseen events and accordingly we can give no assurance as to whether or how closely the actual results ultimately achieved will correspond to the outcomes projected in the options. The scenarios are intended only to provide an illustrative analysis of the implications of the States' projections.

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1 Executive Summary

Guernsey is facing increasing fiscal pressures. These pressures are driven by Guernsey's ageing population and the requirement for financial resources to fund the increasing costs associated with meeting its existing service commitments and infrastructure requirements. As part of the measures under consideration to combat these pressures, the States are reviewing the possibility of several tax policy options. This Report compares Guernsey's tax structure to those of a set of benchmark jurisdictions and outlines the economic impacts of a set of tax policy options proposed by the States.

As with several other advanced economies, the population in Guernsey is ageing and this means that a greater level of expenditure is required to maintain current service levels. This pressure is accompanied by the fiscal demand for infrastructure investment to keep pace with the expanding scope of medical care services and to meet international commitments on areas such as climate change. Furthermore, the economic impacts of COVID-19 have resulted in the States operating at a deficit of £64 million, equivalent to 2.1% of the 2020 GDP estimate.[1]

To fund upcoming expenditure, the States must either raise additional revenues, increase their deficit or reduce spending elsewhere. The States view increasing their deficit to fund future costs as an unsustainable long-term option. The States are separately considering efforts to control expenditure. Approximately 63% of the States' expenditure is on health and community services, old age pensions and social welfare benefits. Each of these elements of expenditure is expected to increase and the States do not consider expenditure restraint alone to be a viable solution. Therefore, the States have stated that they will need a system capable of raising revenue within the 24% of GDP limit on government revenues set out in the States' Fiscal Policy Framework published in 2019. To this end, the States have identified three tax policy options that are under consideration.

Each of these policy options involves the restructure of social security contributions (SSCs). The exact rates of SSCs vary across the policy options. As well as changes in the rates, the policy options involve the introduction of an SSC allowance that is aligned with the personal income tax (PIT) allowance. Finally, across all policy options the nature of income treatment for SSC purposes is changed for all employed and self-employed persons, with contributions being made based on income from all sources as opposed to gross income from employment, which is currently the case. The key elements are provided below in Table 1 with the full details provided in Table 2. It can be seen that Option 1 is based predominantly on the introduction of a Health Tax of 3%, administered in a similar way to PIT. Options 2 and 3 are predominantly based on the introduction of a GST at rates of 8% and 5% respectively.

[1] The States of Guernsey Accounts 2020.

Table 1: Policy options overview

	Current	Option 1	Option 2	Option 3
GST	-	-	8%[2]	5%[3]
Health Tax	-	3% levied in a similar manner to PIT	-	-
PIT allowance	£11,875	£11,875	£14,000	£12,700
SSC allowance	-	£11,875	£14,000	£12,700
SSC employee rate	6.6%	9%	8%	9%
SSC employer rate	6.6%	7.5%[4]	7.5%[5]	7.5%[6]
Income treatment	Employee SSC contributions charged on earnings from employment[7]	Employee SSC contributions charged on all income	Employee SSC contributions charged on all income	Employee SSC contributions charged on all income

This Report includes analysis of the impacts associated with each of these options, which were selected by the States.[8] More broadly, other tax reforms, such as changes in corporate taxation, are being considered separately but are out of scope for the purposes of this Report. An assumption has been provided by the States as to the revenue that any change in CIT may generate.

Benchmarking analysis

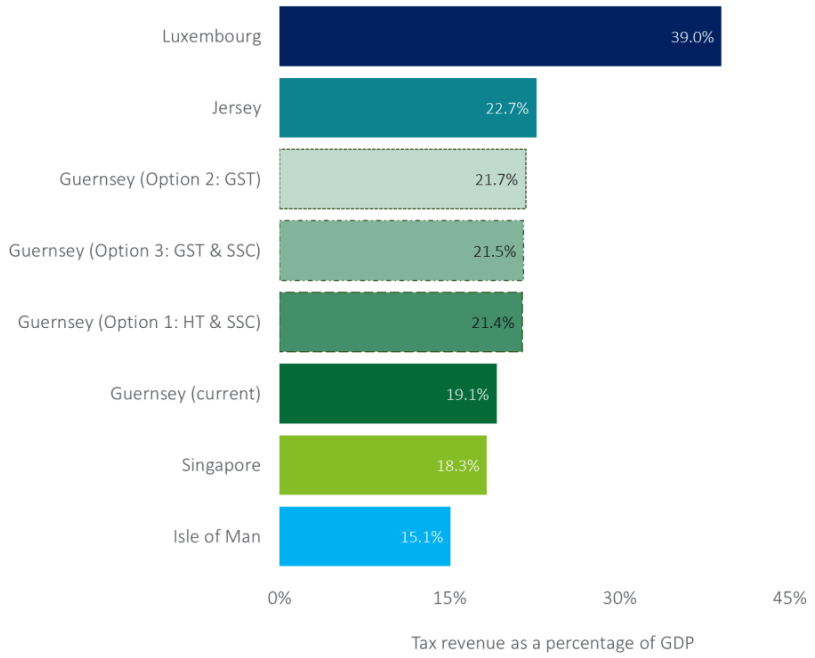
This Report considers the impacts of the tax changes described above in relation to the tax systems of some of Guernsey's benchmark jurisdictions. The benchmarking study considers differences in the economic and financial context of four jurisdictions. These benchmark jurisdictions, as agreed with the States, are Jersey, the Isle of Man, Luxembourg, and Singapore. These jurisdictions have been chosen because they are broadly as economically developed as Guernsey and have dominant financial service sectors. These jurisdictions may also be considered as alternatives to Guernsey if businesses or high net worth individuals choose to relocate as a result of changes in local tax policy. The benchmarking analysis considers total tax revenue as a share of GDP, Income Taxation (Personal Income Taxation (PIT), the Health Tax and Social Security Contributions (SSCs)) and Goods and Services Taxation (GST). The analysis concludes by discussing the relative reliance of Guernsey on direct and indirect taxation and how this may change under each of the options.

Total tax revenue as a share of GDP

Figure 1 shows how in comparison to some benchmark jurisdictions, the States currently raise less tax as a share of GDP, at 19%.[9] This is the ratio of tax revenue to GDP rather than the ratio of total government revenues to GDP. The latter is higher and includes other sources of revenue such as charges for services and rental incomes. Under each policy option the ratio of tax revenue to GDP would increase. Even under Option 2, which is associated with the largest increase in the ratio of tax revenue to GDP, Guernsey's ranking relative to the benchmark jurisdictions is unchanged.

[2] Applied on a broad basis with limited exceptions in line with application in Jersey (https://www.gov.je/TaxesMoney/GST/GSTCustomers/Pages/PayingGSTJersey.aspx). Primary exemptions include financial services and some health-related expenditure. All exports including financial services are assumed to be zero-rated.
[3] Applied on a broad basis with limited exceptions in line with application in Jersey (https://www.gov.je/TaxesMoney/GST/GSTCustomers/Pages/PayingGSTJersey.aspx). Primary exemptions include financial services and some health-related expenditure. All exports including financial services are assumed to be zero-rated.
[4] Self-employed are currently subject to 11% charge on income from self-employment (SE) up to the upper earnings limit (UEL). This would change to a 9% personal rate on all income up to the UEL less an allowance, plus a 5% reduced employers rate on income from SE. The non-employed rate for those under State Pension Age (SPA) would fall from 10.4% to 9.0% and the non-employed rate for those of SPA and older would increase from 3.4% to 4.5%.
[5] Self-employed are currently subject to 11% charge on income from SE up to the UEL. This would change to a 9% personal rate on all income up to the UEL less an allowance, plus a 5% reduced employers rate on income from SE. The non-employed rate for those under SPA would fall from 10.4% to 8% and the non-employed rate for those of SPA and older would increase from 3.4% to 3.5%.
[6] Self-employed are currently subject to 11% charge on income from SE up to the UEL. This would change to a 9% personal rate on all income up to the UEL less an allowance, plus a 5% reduced employers rate on income from SE. The non-employed rate for those under SPA would fall from 10.4% to 9.0% and the non-employed rate for those of SPA and older would increase from 3.4% to 4.5%.
[7] Note that those over State Pension Age (SPA) already get charged SSC on all income
[8] The precise scope of this report is set out in Section 2.4.

Figure 1: Tax revenue as a percentage of GDP, 2019



Source: See Appendix A2, Options revenue data as provided by the States

Income Taxation (PIT, Health Tax and SSCs)

In general, comparisons across both personal income tax rates and social security contribution rates show that Guernsey's rates are broadly comparable to those of its benchmark jurisdictions. For example, Guernsey's current headline PIT rate (20%) is much less than Luxembourg's highest marginal tax rate (42%), slightly less than Singapore's (22%) and identical to those of Jersey and the Isle of Man.

While no policy option under consideration in this report proposes a higher headline rate of PIT, Option 1 involves an increase in the rate of income taxation through the introduction of a Health Tax of 3%. The impact of the Health Tax is very similar to the impact of increasing PIT by 3 percentage points. Jersey is the only benchmark jurisdiction that currently has a Health Tax. The Jersey Health Tax, known as the long-term care charge, has a headline rate of 1.5% and a marginal rate of 1.95%[10], which is lower than the Health tax under consideration for Guernsey in Option 1.

As well as differences in the rate of PIT, the allowance for which no tax is charged also differs. Guernsey's current allowance is only higher than those of Singapore and Luxembourg but lower than the allowances in the Isle of Man and Jersey. Under Option 1 there would be no change in this allowance and thus no change in Guernsey's position. Under Options 2 and 3, Guernsey's personal allowance would increase to £14,000 and £12,700 respectively. The increase in the allowance under Options 2 and 3 would not be sufficient to change Guernsey's position relative to the benchmark jurisdictions. As well as the tax-free allowance, another key dimension of income taxation amongst some benchmark jurisdictions is the tax cap. The policy options under consideration by the States do not include any change in the levels of these tax caps.

In this report, the term SSC is used to cover all national insurance schemes. In Guernsey, SSCs are currently payable at a rate of 6.6% for employees and employers. This rate is lower than in the Isle of Man and Singapore, where rates of 11%

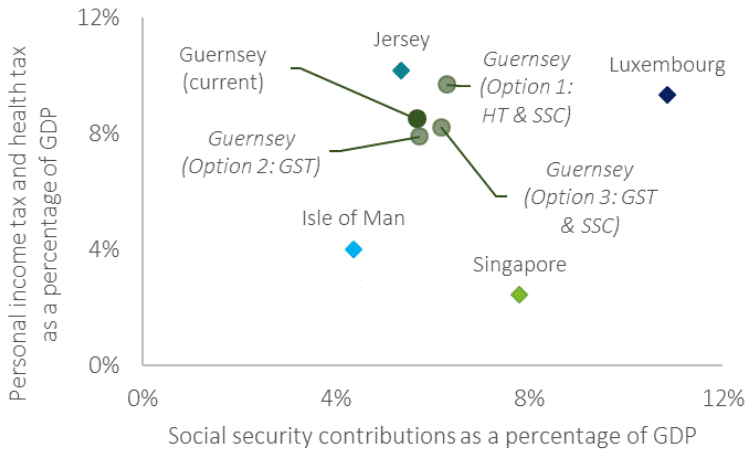
[10] Marginal rates are applied in line with Jersey's PIT

and 20% respectively are charged above lower thresholds.[11] Jersey's social security contribution rate is more comparable to Guernsey's, at 6% for employees and 6.5% for employers.[12] Employers in Jersey are charged at a rate of 2.5% for income between £55,320 and £252,360. By comparison, Guernsey currently charges a rate of 6.6% capped at the same level for both employees and employers. All policy options under consideration involve an increase in the headline rate of SSCs for employees and employers. Under Options 1 and 3 the employee rate is increased to 9% and the employer rate is increased to 7.5%. Under Option 2 the employee rate is increased to 8% and the employer rate to 7.5%. The increases under these options do mean a greater divergence from Jersey but the rates remain lower than in the Isle of Man and Singapore.

All policy options under consideration for Guernsey involve the adoption of the PIT allowance as an SSC allowance, meaning that individuals with income below the allowance threshold will not pay SSCs. The introduction of the allowance, which decreases SSC revenues, and the increased rates, which increase SSC revenues, mean that the change in the level of revenue raised through SSCs under each option is unclear in advance. When the revenue lost from the increased allowance is compared to the revenue gained from the increase in rates, Option 1 sees an increase in SSC revenue, Option 2 sees an increase but to a lesser extent than under Option 1 due to the higher personal allowance, and Option 3 sees an increase greater than under Option 2 but less than Option 1.

Figure 2 compares how the different options under consideration would affect Guernsey's position relative to its peers in terms of the ratio of PIT and Health Tax to GDP and the ratio of SSCs to GDP. Guernsey currently sits below Jersey and Luxembourg in terms of PIT and Health Tax and below Luxembourg and Singapore in terms of SSCs. Options 2 and 3, which are GST based, do not produce a material change in Guernsey's relative position. By contrast, Option 1 significantly increases the ratio of PIT and Health Tax to GDP to a level above that observed in Luxembourg and approaching the higher level found in Jersey.

Figure 2: Personal income tax (PIT) and social security contributions as a percentage of GDP



Source: As in Appendix A2 Figure 7

GST

Guernsey is the only jurisdiction in the benchmarking analysis that does not currently have a GST; in this report the term GST is used to include all forms of consumption tax. The Isle of Man follows the UK's GST regime and thus has a 20% standard rate, Luxembourg's GST is set at 17% and Singapore applies a broad-based, low rate GST at 7%. Jersey introduced

[11] Singapore has an allowance of £4,891 (SGD 9,000) and the Isle of Man has a primary threshold of £7,176. In Luxembourg, however, the minimum annual earnings used to calculate contributions are the legal monthly social minimum wage – at £22,977 (€26,423).
[12] However, Jersey has a much lower upper earnings limit of £55,320 at the 6% rate, compared to Guernsey's limit of £153,660.

a GST at 3% in 2009 and has now increased this to 5%.[13] The current lack of a GST in Guernsey is atypical in the sense that such taxes are common internationally. Across the 37 OECD countries, 36 have some form of GST.[14]

Under Options 2 and 3, a GST would be introduced in Guernsey at rates of 8% and 5% respectively. This level of GST remains at the lower end of the distribution of GSTs, but importantly the 8% GST would be higher than the 5% level currently charged in Jersey. Options 2 and 3 include exemptions for financial services, although many financial services organisations would be liable to pay international services exemption fees. These exemptions closely align to those found in Jersey, which are detailed in Table 10 in Appendix A3, alongside other benchmark jurisdictions' exemptions, all of which include financial services.

Reliance on direct tax revenue

Tax revenue can be delineated by that which is directly paid to the government, such as PIT, SSCs, Corporate Income Tax and the Health Tax, and that which is indirectly paid to the government such as GST. Of the benchmark jurisdictions, Guernsey is currently most reliant on direct taxation, with only 10% of its tax revenue coming from indirect taxation. Option 1 would further increase this reliance, as the level of revenue raised through indirect taxation would fall to 9%. By contrast, under Options 2 and 3, which would see the introduction of a GST at 8% or 5% respectively, the share of tax revenue raised through indirect taxation would increase to 21%, which is greater than the rates for Jersey and Singapore under Option 2, and 17% under Option 3, which is greater than that of Jersey.

Economic impacts

This Report considers the potential economic impacts of the tax policy options proposed by the States. To assess these impacts, we examine the expected changes in the size of the economy and the potential distributional consequences of the policies under consideration.

To maintain current service levels in the face of fiscal pressures arising from an ageing population requires a non-trivial expansion in the size of the state; this issue has been compounded by the impacts of COVID-19. Assuming the States' current working target is achieved, this would see total government revenue as a share of GDP increase from 21.9%, the estimate before 2020 and the resulting COVID-19 impact, to the target of 24%. The States estimate that under Policy Option 1 this increase would be to 23.8% by 2026, under Option 2 the increase would be to 24.1%, and under Option 3 it would be to 24.0%.

Under the options considered in this report, the overall impacts on GDP are unlikely to be large and likely to be short-term in nature; the structure of Guernsey's economy will change as a result of the increase in spending on health and aged care necessary to maintain current service levels. However, it is important to note that the macroeconomic impacts may be exacerbated if there is a disconnect between when the tax revenue is raised and when the revenue is spent. The structural changes may include a reduction in the size of sectors such as wholesale, retail, and repairs. These industries currently make up only about 8% of total GVA, implying that their impacts on the overall economy are unlikely to be very large. The changes proposed will likely include an expansion of the healthcare and government sectors, at 12% of GVA, in order to maintain current service levels in the face of increasing pressure.[15]

As the States have posited that this increase in tax revenue will ultimately be matched by an increase in spending as fiscal pressures manifest, this change will have a relatively small impact on the size of the economy in the long run. There may be a disconnect between when the tax revenue is raised and when it is ultimately spent as the spending is smoothed to keep pace with changes in the demographic profile of Guernsey. This difference in timing will have an impact on GDP up until the point that the accrued revenue is spent. Whilst the overall lasting impact on the economy may be small, the changes will have important distributional consequences and heterogeneous impacts across sectors. Empirical studies

[13] Note that both GST and VAT are taxes on goods and services and thus input/output taxes on consumption. The Isle of Man (alongside the UK) and the EU refer to Value Added Tax (VAT). Others refer to Goods and Services Tax (GST). For simplicity, we will refer to either as a GST throughout this report.
[14] OECD report, "Consumption Tax Trends 2020" available at: https://www.oecd-ilibrary.org/sites/152def2d-en/index.html?itemId=/content/publication/152def2d-en
[15] Guernsey Facts and Figures, 2020, States, available at: https://www.gov.gg/CHttpHandler.ashx?id=131184&p=0

have shown that increases in taxes accompanied by largely unchanged fiscal positions may have temporary impacts on the economy.[16]

Empirical evidence finds that income tax changes have a larger impact than GST on output, private consumption and investment in the short run. The GST is a more efficient tax than income taxation because of its base, which does not include mobile capital income. Further, it can be argued that the ageing population in Guernsey means that PIT revenues are on a downward trajectory, all else being equal, whereas GST revenues are likely to be less affected by this. The GST would help to reduce the States' reliance on direct tax revenue, diversifying their revenue base. GST also causes fewer market distortions as it does not impact the cost of labour or capital directly. Furthermore, the GST decreases in efficiency as rates and the number of exemptions increase. Finally, through increasing the cost of consumption, the GST has a general equilibrium impact via an increase in the savings ratio, which may lead to higher levels of investment that could be beneficial for the economy in the long run. The main drawback of the GST is that it can be regressive, but this may be mitigated through interventions for lower income households, as is proposed in the options outlined by the States. It is also worth noting that the administration and adjustment costs associated with the GST are somewhat independent of the rate selected.

Policy Option 1 is predominantly based on an increase in income taxation and thus there are likely to be transitory impacts on household consumption, GDP growth and employment. Policy Option 2 is based on a GST and is thus most likely to have an impact on inflation in the short term with impacts dissipating after one year. Under Policy Option 3 a lower rate GST is introduced, which will have a more moderate impact on price levels. Option 3 also includes the raising of more revenue through income taxation via SSCs, but this is likely to have a smaller impact on consumption, GDP growth and employment than Option 1.

An increase in the tax to GDP ratio, compliance and administrative costs and changes in incentives will lead to significant short-term transitory impacts as businesses, individuals and the government learn to navigate the new systems and the new structure of the economy. In this context, the short term could refer to a period of around 1 to 3 years. The adjustment costs will be more pronounced where new systems are being introduced, such as in the case of the introduction of a GST. Based on the effect of the GST introduction and subsequent increase in Jersey, a 1 percentage point increase in the GST rate was associated with an increase in price levels of approximately 0.65 percentage points. Given the similar level of proposed exemptions, it is reasonable to assume a similar level of impact for Guernsey; the introduction of a 5% GST will therefore lead to an increase in price levels by approximately 3 percentage points. The impact would likely be greater under Option 2, which includes a GST of 8%. However, after a year this would be expected to have no ongoing impact on inflation as prices settle to a new level.

Given the expenditure drivers and Guernsey's ageing population, the health and aged care sector will benefit most from the increase in government expenditure. The States will need to ensure that the labour market is able to keep up with the changing structure of the economy and the demand for new jobs in sectors such as healthcare. As the economy transitions to a new state, this may require investment in upskilling the labour force or the need to bring in skilled labour from abroad. The described increase in government expenditure may be complicated by the States' ability to expand the healthcare sector and increase health expenditure given the availability of skilled labour.

The economic impacts will not be felt equally across the income distribution. The progressivity of each of the taxes considered is different. The introduction of a broad-based, low-rate GST is a relatively efficient means of raising tax revenues in comparison to an income tax, as it has less impact on people's incentives to work. However, it can be regressive and impact lower income households more as these households tend to spend a larger proportion of their income on essentials. The States have outlined a suite of offsetting measures, such as increasing the tax-free allowance, restructuring social security contributions to make them more progressive, and allocating funding for a compensating increase in income support and an allowance for additional mitigation. This approach is in line with those of other

[16] Guajardo, Leigh & Pescatori (2014) "Expansion Austerity? International Evidence", available at: https://onlinelibrary.wiley.com/doi/abs/10.1111/jeea.12083, Romer & Romer (2007) "The Macroeconomic Effects of Tax Changes: Estimates Based on a New Measure of Fiscal Shocks", available at: https://www.nber.org/system/files/working_papers/w13264/w13264.pdf

countries or jurisdictions increasing government expenditure alongside such tax changes. The resulting impact is that all policy options are progressive when tax impacts are expressed as a share of household income, after taking the States' proposed mitigations into account. In absolute terms, under each policy option the majority of additional tax revenues are raised from those in the highest income quintile. Under Option 1, 73% of revenue is raised from the top 20% of earners; under Options 2 and 3 the figures are 62% and 63% respectively.

The higher earners, defined as individuals with a high income in the top 5% of households,[17] are likely to be impacted most by the changes in personal income tax relative to the impact from the other considered tax changes. They differ from high net worth individuals (HNWIs), who are much smaller in number, are more mobile and would be most influenced by the tax cap and any taxes on capital. The analysis suggests that the proposed changes may not have a material impact on the attractiveness of Guernsey for the higher earners. These individuals are unlikely to see an impact on their employment status as they are employed in high-skilled industries, such as the financial services industry, where changes in marginal income tax rates are one element of a broader list of factors that influence where a business chooses to locate. Aside from these tax changes being comparable to the taxes levied in other benchmark jurisdictions, Guernsey also has an attractive capital taxes policy (with no tax on capital gains and no inheritance tax), along with a corporate tax structure that moves in broad alignment with the other Crown Dependencies'.

A summary of the impacts associated with the policy options is provided below. Short-term impacts are likely to be felt for approximately 1 to 3 years following the introduction of the policies. Macroeconomic impacts are likely to be felt for at least the duration of the disconnect between when revenue is raised and when spending increases. One exception to this is the impact of the GST on inflation, which can be expected to dissipate after one year as suggested by empirical studies.

[17] Appendix A1 sets out the criteria for identifying these higher earners from the data on the top 5% in Guernsey.

	Policy Option 1 (income tax based)	Policy Option 2 (GST based)	Policy Option 3 (GST & income)
Tax revenue as a share of GDP	↗ 21.4%	↗ 21.7%	↗ 21.5%
	Tax revenue currently 19.1% of GDP Guernsey's ranking relative to benchmark jurisdictions would not change		
PIT + Health Tax revenue as a share of GDP	↑ 9.7%	↓ 7.9%	↘ 8.2%
	PIT + Health Tax revenue currently 8.5% of GDP Guernsey's ranking relative to benchmark jurisdictions would increase by 1 under Option 1		
SSC revenue as a share of GDP	↑ 6.3%	↔ 5.7%	↑ 6.2%
	SSC revenue currently 5.7% of GDP Guernsey's ranking relative to benchmark jurisdictions would not change		
GST revenue as a share of GDP	↔ 0.0%	↑ 2.7%	↗ 1.7%
	GST revenue as a share of GDP currently 0% in Guernsey as there is no GST Guernsey would have the 3rd highest GST revenue relative to GDP amongst benchmark jurisdictions under Option 2 but would remain lowest under Option 3		
Short-term impact on household consumption	↓	↗ due to decreased income taxation	↘
Short-term impact on GDP growth	↓	↗ due to decreased income taxation	↘
Short-term impact on employment	↓	↗ due to decreased income taxation	↘
Short-term impact on Inflation	↔	↑	↗
Progressivity	✓	✓	✓
Most impacted household type	2 working age adults and children by 2.7%	2 working age adults with children by 2.2%	2 working age adults with children by 2.2%
Impact on higher earners income	↓ 3 to 4%	↘ 2 to 3%	↘ 2 to 3%

Key Findings

- In comparison to those of other OECD countries, and the benchmark jurisdictions considered in this report, the States' tax revenues as a percentage of GDP are on the lower end. If Guernsey were to raise its PIT or SSC rates, or introduce a Health Tax, the illustrative tax rates considered in this report and the reliance on direct taxes would **still be broadly comparable to those of the benchmark jurisdictions**. Though it is worth noting that Guernsey is currently reliant on direct taxation for the majority of its tax revenue and Option 1 (the introduction of a Health Tax along with a restructuring of SSCs) would compound this reliance.
- In the context of other OECD countries and the benchmark jurisdictions considered here, Guernsey is **atypical in that it does not currently have a GST in place**. While the GST rates under consideration of 8% in Option 2 and 5% in Option 3 are within the range of benchmark jurisdictions, a rate of 8% would be higher than the level currently in place in Jersey.
- **Overall impacts on GDP are likely to be limited over time,** given that tax increases will be approximately matched by an increase in spending to maintain current service levels given an ageing population. However, there will be **transitory impacts on the economy** as the structure of the economy changes. **Short-term impacts will also be felt to the extent that there is a disconnect in the timing of when the tax revenues are raised and when they are spent.**
- An introduction of a GST at a rate of 5%, as in Option 3, could be expected to lead to a **short-term increase in price levels** of approximately 3 percentage points and this impact would likely be greater if a GST was introduced at 8%, as would be the case under Option 2. There will also be upfront compliance and administrative costs as businesses learn to navigate the new legislation as well as ongoing compliance costs.
- As the structure of the economy changes, the impacts on sectors will differ. An increase in taxes on income will adversely impact household consumption and therefore **impact sectors such as wholesale, retail, and transport**. On the other hand, the increase in expenditure on healthcare driven by **increasing demand for healthcare will expand these sectors**.
- The **introduction of a GST is less progressive than other core tax levers**. When a broad-based GST has been introduced in other jurisdictions, it has often been accompanied by other changes to support lower income households in an effort to redress some of the regressivity; this approach has also been suggested within the options proposed by the States. **These mitigating interventions help to offset the regressive impacts of the GST under Options 2 and 3 such that each option under consideration is progressive in terms both of absolute revenues raised and of revenues raised as a share of income or expenditure.**
- Of the tax changes proposed, higher earners (part of the top 5% of households) are most likely to be adversely impacted by increases in income taxation. Given the nature of the industries they work in (high-skilled), it is **unlikely that their employment status will be adversely impacted given that changes in the marginal personal income tax rate may not be a significant factor when companies choose where to locate**. Furthermore, given that there are currently no capital gains taxes in Guernsey, and that a majority of the higher earners have lived in Guernsey for over 10 years, it is **unlikely that the tax changes illustrated here will lead to a material change in factors that make Guernsey an attractive location for some of these higher earners**.

2 Introduction

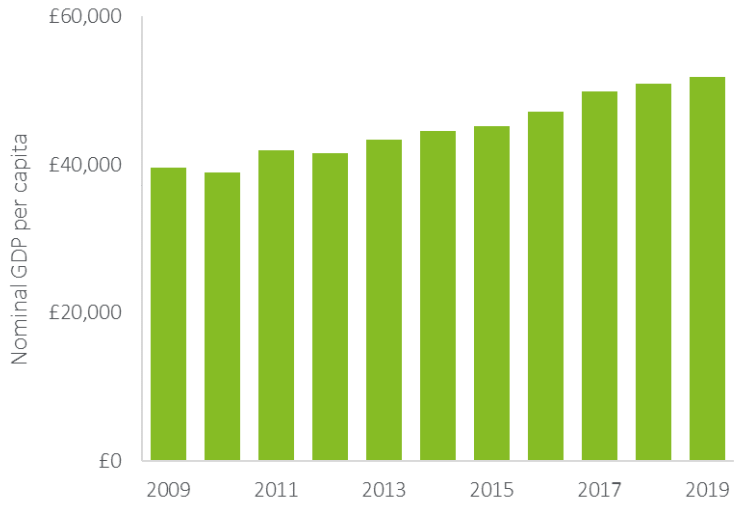
Guernsey's economy has grown considerably over the last decade, but an ageing population and the fiscal impacts of the Covid-19 pandemic have led to a need to increase spending to maintain current service levels

2.1. Background and context

This Report discusses the impact of certain tax policy changes in Guernsey, which includes Herm, and Alderney, where residents and businesses are subject to Guernsey's tax regime. For the purposes of this Report all references to Guernsey apply to both Guernsey and Alderney. The impact of any selected tax reform is contingent on the economic conditions which prevail in Guernsey at the time, and to that end it is important to understand the current economic context in Guernsey.

Guernsey's economy has flourished over the last 10 years. We measure the size of the economy using Gross Domestic Product (GDP) and Gross Value Added (GVA). GDP is a monetary measure of the value of goods and services in the economy, measured in Guernsey using the income approach. The components include employees' compensation, gross operating surplus of companies and government, mixed income from sole traders, household income, and taxes less subsidies. GVA is GDP before including taxes less subsidies. Guernsey's nominal GDP per capita has increased from £39,555 in 2009 to £51,868 in 2019.[18] Figure 3 shows the increase in Guernsey's nominal GDP per capita from 2009 to 2019.

Figure 3: Guernsey's nominal GDP per capita (2009 – 2019)



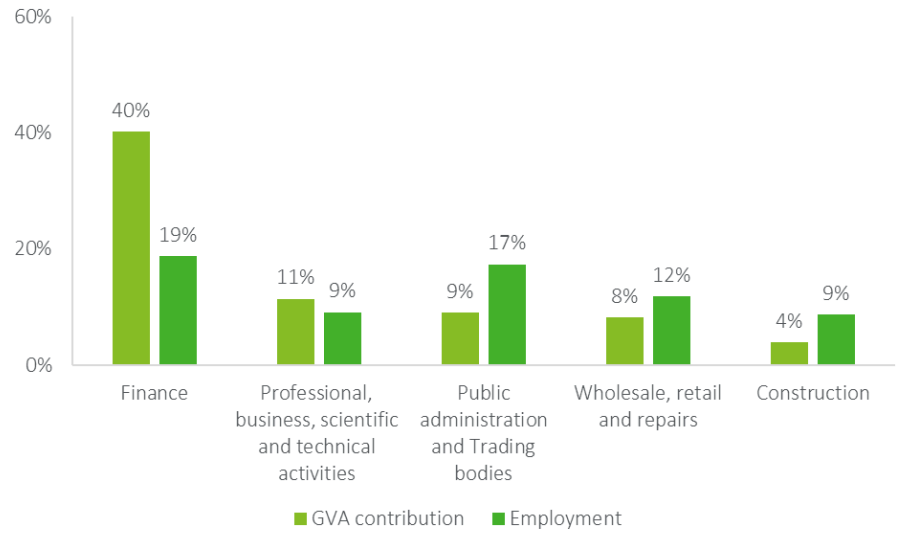
Source: The States government website, 'Supplementary GVA and GDP Data 2019' for 2009- 2019 data, available at https://www.gov.gg/gdp.

The finance sector has long been important to Guernsey's economy and has been one of the prime drivers of growth. Indeed, the finance sector has remained the largest single sector by Gross Value Added (GVA) in the last 20 years. In 2019, this sector comprised 40% of Guernsey's GVA. In the last 20 years, the finance sector has grown by approximately 225%, with its GVA increasing from £0.4 billion to £1.3 billion. In comparison, overall GVA has grown by 164%. The finance sector

[18] The methodology used to estimate GDP was updated in 2017 and series were backdated to 2009. Guernsey Facts and Figures Supplementary Data, 2020, States, available at: https://www.gov.gg/CHttpHandler.ashx?id=131185&p=0

also continues to be the largest sector by employment. Figure 4 shows the five largest sectors by GVA contribution and employment in Guernsey.

Figure 4: Largest sectors by GVA contribution (2019) and employment (March 2020)



Source: The States government website, 'Supplementary *GVA and GDP Data 2019', available at https://www.gov.gg/gdp & 'Facts and Figures 2020 Supplementary Data: T 2.16, F 2.16 – Employment by economic sector', available at https://www.gov.gg/ff*

2.2. Fiscal context

The States published a Fiscal Policy Framework in 2019 that sets out the key principles on which their fiscal policy should be based.[19] One of the key elements of the States' fiscal policy is that it should operate on a principle of long-term permanent balance – any increases in government spending should be offset with an increase in government revenues. This framework clearly sets the limits on the annual net deficit such that, in any given year, Guernsey's net deficit should not exceed 15% of its operating revenues. As of 2020, Guernsey's expected deficit is £64 million, 2.1% of the 2020 GDP estimate, which has been achieved by limiting capital spending.[20]

Guernsey's current tax base and levels are relatively low compared to those of other countries or jurisdictions. For example, the States currently collect 19% of annual GDP in tax revenues (with a further 2-3% from other revenue sources) compared to 23% in Jersey and 33% in the United Kingdom.[21] As of 2018, 29% of public expenditure was spent on health and community services, 20% on old age pensions, and 14% on social welfare benefits.[22] Given the fiscal pressures of an ageing population identified in their Fiscal Policy Framework Report, the States believe these costs will increase in the future, and, as a result of the growing demand for services, will present critical challenges to the sustainability of existing services.[23]

This increased demand on public finances was estimated to require between £79 million and £132 million per annum in additional revenue in the Fiscal Policy Framework published in 2019.[24] While government priorities are currently under review, the impacts of COVID-19 have intensified Guernsey's pre-existing financial pressures. In order to meet this demand, the overall revenue working target, to be considered as a working assumption for the purposes of this Report, as provided to us by the States, is 24% of GDP per annum over five years. To meet the needs of their ageing population,

[19] The Review of the Fiscal Policy Framework and Fiscal Pressures, available at: https://www.gov.gg/CHttpHandler.ashx?id=122178&p=0
[20] The States of Guernsey Accounts 2020 as provided by the States
[21] Revenue Statistics 2020 – the United Kingdom, available at https://www.oecd.org/tax/revenue-statistics-united-kingdom.pdf
[22] Guernsey Facts and Figures, 2020, States, available at: https://www.gov.gg/CHttpHandler.ashx?id=131184&p=0
[23] The Review of the Fiscal Policy Framework and Fiscal Pressures, available at: https://www.gov.gg/CHttpHandler.ashx?id=122178&p=0
[24] The Review of the Fiscal Policy Framework and Fiscal Pressures, available at: https://www.gov.gg/CHttpHandler.ashx?id=122178&p=0

the States can either reduce costs from other parts of their expenditure, increase their overall deficit and debt, or raise additional revenues. Given the predicted increase in expenditure as mentioned above, the States do not consider that greater expenditure control alone can provide a solution. Furthermore, the States also have to fund their capital programme, which ensures that investment in key infrastructure is undertaken in the Bailiwick.

Funding costs through a higher deficit is not viewed by the States as a sustainable long-term solution, especially since the States' costs are likely to continue to increase with an ageing population. Furthermore, tax revenues, which are currently highly dependent on personal income tax (PIT), social security contributions and corporate income tax, are also determined by the proportion of the population that is of working age, which is likely to reduce with time.

It is in this context that the States are reviewing potential changes to Guernsey's tax structures so that they are capable of raising revenues up to the 24% of GDP limit.

2.3. Tax Options

To raise the finances needed to meet the future demand of public provision, the States have provided us with three tax policy options for analysis and further consideration. Option 1 would raise revenue through a Health Tax of 3% levied on income and increased social security contributions. Option 2 would raise revenue through a GST of 8% and increased social security contributions, while offsetting this would be a reduction in tax revenues due to an increase in the PIT allowance from £11,875 to £14,000. Option 3 would raise revenue through a GST of 5% and increased social security contributions, while offsetting a reduction in tax revenues due to the PIT allowance increasing from £11,875 to £12,700.

While an assumption is made about changes in corporate taxation, as outlined below, a specific discussion of this policy and its broader impacts is beyond the scope of this report. Other tax changes such as tax on real property, road pricing and excise taxes are under consideration by the States of Guernsey, but these are unlikely to make a significant contribution and, as such, will only be briefly described in comparison to the other benchmark jurisdictions in Section 3.

Corporate Income Tax (CIT)

According to the OECD*, on 1 July 2021 "130 countries and jurisdictions joined a two-pillar plan to reform international taxation rules to ensure that multinational enterprises pay a fair share of tax wherever they operate." "Pillar One will ensure a fairer distribution of profits and taxing rights among countries with respect to the largest MNEs (multinational enterprises with a global turnover above 20 billion euros and profitability above 10%), including digital companies. It would re-allocate some taxing rights over MNEs from their home countries to the markets where they have business activities and earn profits, regardless of whether firms have a physical presence there." "Pillar Two seeks to put a floor on competition over corporate income tax, through the introduction of a global minimum corporate tax rate (for MNEs with global revenues of more than 750 million euros) that countries can use to protect their tax bases." The minimum rate under Pillar Two will be at least equal to the 15% assumption used in this report. The 130 countries and jurisdictions referenced in the OECD publication include Guernsey and all benchmark jurisdictions analysed in this report: Jersey, the Isle of Man, Singapore and Luxembourg.

For the purposes of this report, The States of Guernsey have used a working assumption that the impact of the Pillar One and Pillar Two proposals would raise an additional £10m in revenue. The States of Guernsey have stated that this change is independent of the policy options under consideration.

*https://www.oecd.org/newsroom/130-countries-and-jurisdictions-join-bold-new-framework-for-international-tax-reform.htm

The tax policy options under consideration each make use of different core levers. Option 1 raises revenue through a tax on income whereas Option 2 raises revenue through a tax on consumption. Option 3 also raises revenue through a tax on consumption; however, through the restructuring of social security contributions, it will also raise revenue through income taxation to a greater extent than Option 2.

The following section sets out what each of the main tax levers is and their theoretical impacts.

2.3.1. Personal Income Tax (PIT) and the Health Tax

PIT is a direct tax charged on individuals' earnings that is usually applied on income earned above a tax-free allowance. The States' current headline tax rate of 20% is charged on earnings above the 2021 allowance of £11,875, with no other rates applied, but there are a number of other allowances and benefits granted.[25] Currently, the personal allowance in Guernsey is withdrawn at a rate of £1 for every £5 of income earned in excess of £100,000.[26] Consequently, very high earners do not benefit from the personal allowance and other allowances and deductions available in Guernsey.

The current cap on personal income tax for worldwide income is £260,000 or £130,000 for non-Guernsey sources of income.[27] There are other tax caps charged in Guernsey, including a £50,000 cap for Alderney residents.[28] In addition, an open market cap of £50,000 is applicable to newly resident individuals for the first four years of their residence subject to certain requirements.[29] Certain Guernsey residents can also elect to pay a standard charge, which is set at the higher of £40,000 or the tax on the individual's Guernsey source income.[30]

The States have proposed some changes to PIT and Health Tax under the three tax policy options. Option 1 involves the introduction of a 3% Health Tax which would be administered in the same way as PIT, Option 2 involves an increase in the PIT allowance to £14,000, and Option 3 involves an increase in the PIT allowance to £12,700. No option under consideration includes a change in the level of the tax caps.

Income taxation rates vary significantly across countries, often accompanied by intra-country variation in the marginal tax rate as income increases. In OECD countries, the revenue from PIT makes up a significant proportion of collected tax revenue, at an average level of 24% in 2018.[31] Furthermore, over 60% of OECD countries report a PIT share of more than 20% of overall tax income.[32]

Theoretically, PIT is considered the main method of redistributing income from higher income to lower income households. However, this depends on the structure and progressivity of the tax.[33] PIT reduces the value of labour, as an individual earns less take-home income for the same amount of work. Therefore, any decision to change the rate of PIT, or the rate of income taxation more broadly, has the potential to theoretically affect labour supply decisions. Furthermore, the decrease in disposable income that results from a higher level of taxation may also reduce household expenditure, which in turn has an impact on the economy.

The overall impact of a PIT increase or the introduction of a Health Tax will depend on whether the government uses this revenue to reduce the deficit or whether it redistributes this revenue. If the revenue collected from this increase in tax is spent by the government, this could counteract the adverse effect that lower household spending has on economic growth. The nature of this government spending could also improve redistribution if focused on welfare provisions.

2.3.2. Social Security Contributions (SSC)

The social security contributions (SSC), as discussed in this report, covers all national insurance schemes. Guernsey's employed persons' social security contributions are currently based on the earnings of employees and is usually split into

[25] A single parent's annual "Charge of Children" allowance is £8,075 and the mortgage interest cap on tax relief is £5,000. A detailed list is available at: https://www.gov.gg/CHttpHandler.ashx?id=135587&p=0. A carer gets an annual allowance of £4,671 as in: https://www.gov.gg/CHttpHandler.ashx?id=102818&p=0

[26] See details on the limit for withdrawal, allowances and deductions withdrawn as well as the way withdrawal is phased in: https://www.gov.gg/wopa

[27] See "Tax cap for individuals" in: https://www.gov.gg/CHttpHandler.ashx?id=135587&p

[28] All States tax caps summarised here: https://gov.gg/taxcap

[29] "This cap can only be claimed if the individual that has paid £50,000 or more in document duty on the purchase of a property, that is on Part A of the Open Market Register, and that property is purchased within 12 months (either before or after) they take up permanent residence in Guernsey." See: https://gov.gg/taxcap

[30] Residency and tax liability information is summarised in: https://gov.gg/residency

[31] OECD e-book, "Revenue Statistics 2020", available at: https://www.oecd-ilibrary.org/sites/8625f8e5-en/index.html?itemId=/content/publication/8625f8e5-en

[32] OECD data on tax and personal income, available at: https://data.oecd.org/tax/tax-on-personal-income.htm

[33] Analysis of UK data shows that a reduction in average direct tax rate – which includes income tax – and an increase in progressivity have had a positive impact on redistribution. See ONS website, "The effects of taxes and benefits on income inequality", available at: https://www.ons.gov.uk/peoplepopulationandcommunity/personalandhouseholdfinances/incomeandwealth/bulletins/theeffectsoftaxesandbenefitsonincomeinequality/1977tofinancialyearending2015#what-impact-do-taxes-and-benefits-have-on-income-inequality

two parts, with the employer and the employee both making contributions. Contributions are also made by self-employed persons and by non-employed persons.

The current rate for both employees and employers in Guernsey is 6.6%, the self-employed rate is 11% and the non-employed rate is 10.4% (the non-employed rate applies to all types of income, not just income from labour). A lower non-employed rate of 3.4% is applied to those over state pension age. The social security contributions are charged up to an upper earnings limit of £153,660.

Currently, Guernsey has a lower threshold for SSCs above which contributions are paid on all employed or self-employed income. As proposed by the States, an allowance for social security contributions would be introduced and aligned with the allowance for income tax for all options. Under the allowance SSCs are payable on the first pound above the threshold, with the lower earnings limit SSCs become payable on income below the threshold and for the first pound above the threshold, creating a spike in the effective marginal tax rate. Further, under all tax policy options considered in this report, employee SSCs would be charged on all income less the allowance and up to the upper earnings limit rather than on gross earnings as is currently the case. The employer rate would be charged on all earnings but would no longer be subject to an upper earnings limit.

For Option 1, the current SSC lower earnings limit of £7,696 would be superseded by the allowance of £11,875.[34] The employee rate would increase from 6.6% to 9.0% and the employer rate would increase from 6.6% to 7.5%. For Option 2, the SSC allowance (given its alignment with the PIT allowance) is increased from £11,875 to £14,000. The employee rate would increase from 6.6% to 8% and the employer rate would increase from 6.6% to 7.5. For Option 3, there would be an increase in the SSC allowance from £11,875 to £12,700. The employee rate of SSCs would increase from 6.6% to 9.0% and the employer rate would increase from 6.6% to 7.5%. The self-employed rates and non-employed rates would also change, as is shown by option in Table 2.

The report focuses on the impact of the change in the level of total SSCs. In the case of Policy Option 1, the net effect of the changes outlined above is an increase in the level of SSCs by £21m. For Policy Option 2, the net effect of the changes outlined above is an increase in SSCs by £2m. For Policy Option 3, the net effect of the changes outlined above is an increase in SSCs by £17m.

OECD countries have an average social security to total tax revenue ratio of 26%, higher than the average for PIT.[35] It is also the most important source of tax revenue for countries like France, Germany and the Netherlands.[36]

The impact of a social security tax on individuals is similar to that of a PIT. It reduces the value of labour, as an individual earns less after-tax income for the same amount of work. When employer contribution rates increase, research suggests that employees shoulder approximately two thirds of the burden of an increase in social security contributions through a wage reduction.[37] There is some evidence which shows that individuals perceive social security and PIT differently if their social security contributions are directly linked to some future benefits they will receive (for example, pensions). In this case, individuals perceive it as a price rather than a tax.[38] This helps to mitigate the adverse impacts on labour supply as this perception leads to individuals not associating a rise in social security rate with a devaluation of labour. Such reasoning may also exist for the Health Tax relative to an equivalent change in the headline rate of PIT.

[34] In addition, class 2 contributions, which are currently not subject to any lower earnings limit or allowance, would also benefit from this allowance.
[35] OECD data on tax and social security, available at: https://data.oecd.org/tax/social-security-contributions.htm#indicator-chart & https://data.oecd.org/tax/tax-on-personal-income.htm#indicator-chart
[36] OECD data on tax and social security, available at: https://data.oecd.org/tax/social-security-contributions.htm#indicator-chart
[37] "Who really pays social security contributions and labour taxes?" available at: https://voxeu.org/article/who-really-pays-social-security-contributions-and-labour-taxes
[38] Goudswaard & Caminada (2016) "Social security contributions: Economic and public finance considerations" available at https://www.researchgate.net/publication/297713926_Social_security_contributions_Economic_and_public_finance_considerations

Social security contributions levied on employers will have a greater impact on sectors that depend more on labour compared to capital. Therefore, sectors such as hospitality, that are labour intensive but have lower profit margins, could be relatively more impacted by social security increases.

2.3.3. Goods and Services Tax (GST)

As discussed in this report, the GST covers all types of consumption tax and there is currently no GST in place in Guernsey. Under Policy Option 2 and Option 3 a broad-based low rate GST would be introduced at the point of sale on goods and services at a rate of 8% in the case of Policy Option 2 and 5% under Policy Option 3. The scheme considered in this report is broadly equivalent to that applied in Jersey[39], which has a low rate and broad-based GST. Exemptions are limited and apply primarily to financial services and some health-related services. Zero-rating is applied to the buying, selling and renting of accommodation and exported goods and services (including exported financial services). As in Jersey, while domestic financial services would be exempt, an International Services Entities (ISE) scheme would be available for international financial services organisations to opt into. At a fee, this would entitle the beneficiaries to GST exempt supplies and involve a simplified GST charge reclamation process.

The term Goods and Services Tax is analogous to Value Added Tax (VAT). While such taxes are referred to as VAT in the EU, UK, and the Isle of Man, for consistency, all taxes of this variety will be referred to as GST in this Report. Guernsey is fairly atypical in the sense that it does not currently have a GST; 36 of the 37 countries in the OECD charge GST. On average, their GST rates are 19.3%.[40] This tax raises 20% or more of total tax revenue in most of the countries, ranging from 15.4% of total taxes in the United States to 49.5% in Chile.

An increase in the GST rate essentially increases the price of the relevant goods or services by that rate, resulting in lower real income for consumers. A GST without any adjustments can be regressive, since lower income households typically spend a larger percentage of their income on essential items such as food, where the demand elasticity is low.[41] This is often the reason for lower rates or zero-rating of essential items. Recently, an alternative approach has been adopted in some countries where a broad-based GST is introduced at a lower rate, and compensation is provided by other means to minimise the regressive impacts.[42] There is evidence to suggest that, in OECD countries, fewer exemptions and zero ratings are better for long-term growth than an increase in the standard rate of the GST.[43] This is because the former broadens the GST base and in turn improves the efficiency of the tax. The added intricacy of GST administration due to the inclusion of multiple exemptions and zero ratings is another reason why countries may adopt a simple GST structure.

A GST also has an effect on businesses via the costs of compliance. Based on a study evaluating the impact of a GST on Australian small businesses during the introductory period of the tax, these compliance costs can be as high as approximately 3% of annual turnover.[44] The burden of ongoing compliance is lower, the highest estimate being 1% of annual turnover.[45] The complexity of the tax reclamation process could also require time commitments and specific know-how in addition to the financial costs of compliance. This has been highlighted as a point of improvement in a European Commission study.[46]

Empirical evidence finds that income tax changes have a larger impact than the GST on output, private consumption and investment in the short run. The GST is a more efficient tax relative to income taxation because its base does not include mobile capital income. Further, it can be argued that the ageing population in Guernsey means that PIT revenues are on

[39] Jersey's GST is fully outlined Table 10.
[40] OECD report, "Consumption Tax 2020" available at: https://www.oecd-ilibrary.org/sites/152def2d-en/index.html?itemId=/content/publication/152def2d-en
[41] IMF eLibrary, "Value-Added Tax: Administrative and Policy Issues", available at: https://asean.elibrary.imf.org/view/IMF084/07774-9781557751843/07774-9781557751843/ch01.xml
[42] For example, the UK zero-rates most food items and levies a lower rate of 5% on domestic fuel, while its standard rate is 20%. Most EU countries charge a reduced rate on food items, except Malta and Ireland where zero ratings apply to some foodstuff: https://www.avalara.com/vatlive/en/vat-rates/european-vat-rates.html
[43] IMF working paper, "The Value Added Tax and Growth: Design Matters", available at: https://www.imf.org/~/media/Files/Publications/WP/2019/WPIEA2019096.ashx
[44] "The Impact of the Introduction of the GST on Small Business in Australia", available at: https://www.emerald.com/insight/content/doi/10.1108/eb060751/full/html
[45] Ibid
[46] European Commission report, "VAT refunds and reimbursements: A quantitative and qualitative study ", available at: https://ec.europa.eu/taxation_customs/sites/taxation/files/20190620_final_report_vat_reimbursements.pdf

a downward trajectory, all else being equal, whereas GST revenues are likely to be less affected by this. GST also causes fewer market distortions as it does not impact the cost of labour or capital directly. Furthermore, the GST decreases in efficiency as rates and the number of exemptions increase. Finally, through increasing the cost of consumption, the GST has a general equilibrium impact through an increase in the savings ratio, which may lead to higher levels of investment which could be beneficial for the economy in the long run. The main drawback of the GST is that it can be regressive, but this can be mitigated through interventions for lower income households as is proposed in the options outlined by the States.

In general, countries and jurisdictions zero-rate exports for the purposes of the GST. This is because a GST will generally be applied to exports at their point of sale in the country where they are consumed (at the rates of the destination country). This is to ensure that world prices are not distorted as a result of a GST. As outlined previously, the tax is usually levied on imports at the point of sale.

Table 2, which summarises the changes relative to the current tax regime in Guernsey under the three policy options, is provided below for reference. The table also shows the allowances for additional mitigations under each scenario and the accompanying changes in income support.

Income support payments would fall under all options as a result of the introduction of the SSC allowance, and the increased PIT allowance for Options 2 and 3. As well as these automatic fiscal stabilisers, the States have allocated funds to offset the regressive impacts of the GST in Options 2 and 3. £6m to £9m has been allocated to combat the regressivity of the 8% GST in Option 2, while £4m to £5m has been allocated for this in Option 3 where a 5% GST would be introduced. Some of this will be temporary, such as pre-empting the inflationary uprating of pensions and benefits which would otherwise not occur for up to 12 months. Others, such as the above inflation increase in income support or the provision of additional cost support grants will be on-going costs. As well as these increases in income supports, the States have also allocated £0.5m and £0.3m as allowances for further mitigation in options 2 and 3 respectively.

The final row in Table 2 includes the States' estimates of the administration costs associated with managing the GST, which would be set at £0.8m regardless of the rate.

Table 2: Current Guernsey Tax Regime and Tax Options

Lever	Approach	Current	Option 1: 3% Health Tax + SSC	Option 2: 8% GST, higher PIT allowance & small SSC increase	Option 3: 5% GST, higher PIT allowance + SSC
GST	Rate	0%	No change	8%[47]	5%[48]
PIT/Health Tax	Rate	20% PIT	3% Health Tax	No change	No change
	Allowance	£11,875[49]	No change	£14,000	£12,700
Social Security Contributions	Class 1 – employed persons				
	C1 allowance	£7,696[50]	£11,875	£14,000	£12,700
	C1 Employee <65	6.6%	9%	8%	9%
	C1 Employee <65 income treatment	Gross earnings <UEL once LEL exceeded	All income less allowance <UEL	All income less allowance <UEL	All income less allowance <UEL
	C1 Employer rate	6.6%	7.5%	7.5%	7.5%
	C1 Employer income treatment	Gross earnings <UEL	All earnings	All earnings	All earnings

[47] Applied on a broad basis with limited exceptions in line with application in Jersey (https://www.gov.je/TaxesMoney/GST/GSTCustomers/Pages/PayingGSTJersey.aspx). Primary exemptions include financial services and some health-related expenditure. All exports including financial services are assumed to be zero-rated.
[48] Applied on a broad basis with limited exceptions in line with application in Jersey (https://www.gov.je/TaxesMoney/GST/GSTCustomers/Pages/PayingGSTJersey.aspx). Primary exemptions include financial services and some health-related expenditure. All exports including financial services are assumed to be zero-rated.
[49] Withdrawn at £1 for every £5 of income above £100k.
[50] This SSC lower earnings limit (LEL) differs from the SSC allowances. When income crosses the lower earnings limit, tax becomes payable on all income up to this point. By contrast with an allowance set at the same rate the tax would only be payable on income in excess of the allowance.

	Class 2 – self-employed persons				
	C2 allowance	-	£11,875	£14,000	£12,700
	C2 <UEL rate	11%	9%	8%	9%
	C2 <UEL income treatment	Gross earnings <UEL once LEL exceeded	All income less allowance <UEL	All income less allowance <UEL	All income less allowance <UEL
	C2 SE employer / above UEL rate	11%	5%	5%	5%
	C2 employer / above UEL income treatment	No charge	All earnings	All earnings	All earnings
	Class 3 – non-employed				
	C3 non-employed <65 allowance	£8,695	£11,875	£14,000	£12,700
	C3 non-employed <65 rate	10.4%	9%	8%	9%
	C3 non-employed <65 income treatment	All income	No change	No change	No change
	C3 non-employed >64 allowance	£8,695	£11,875	£14,000	£12,700
	C3 non-employed >64 rate	3.4%	4.5%	4%	4.5%
	C3 non-employed >64 income treatment	All income	No change	No change	No change
Income support	Reduction due to higher income	-	-£0.4m	-£1.8m to -£2.3m	£1m to -£1.5m
	Pre-emptive inflation increase (includes pension and income support)	-	-	£6m to £9m	£4m to £5m
	Above inflation increase			£1.4m to £2.4m	£0.8m to £1.2m
	Additional mitigation allowance	-	-	£0.5m to £2.5m	£0.3m to £0.7m
Admin costs	Ongoing GST admin cost	-	-	£0.8m	£0.8m

Source: The States of Guernsey

The GST introduction means that a tax is levied on goods and services at the point of sale. Understanding the consequences for the total level of income taxation is more complicated given the number of affected elements of income taxation that are included in the options. For example, this includes the Health Tax, the PIT allowance, the SSC allowance and the rate of SSCs.

Figure 5 compares how the marginal tax rate varies across the income distribution currently in Guernsey and subsequently under each policy option under consideration. The marginal tax rate shows the percentage rate of tax paid on income for the next pound earned. The final chart in Figure 5 shows the difference in rate for each income level relative to the current level for each policy option.

Guernsey's current income tax schedule has 6 points of inflection for those with incomes from £0 to £200,000.[51] The first is the SSC lower earnings limit, which means that income between £0 and £7,696 is subject to no tax. However, the first pound of income in excess of £7,696 results in all income up to this level becoming eligible for SSCs, resulting in exceptionally high marginal rates as the threshold is passed. After this initial spike in SSCs, income between £7,696 and the PIT allowance of £11,875 is subject to Class 1 SSCs at a rate of 6.6%. Income between £11,875 and £100,000 is subject to both PIT and SSCs, meaning that the effective marginal tax rate for income in this range is 26.6%. At an income level of £100,000 the tax-free PIT allowance is reduced at a rate of £1 for every £5 the income is above the £100,000 threshold. The withdrawal of the allowance increases the effective marginal tax rate to 30.6%. This marginal rate of taxation falls to 24.0% for income in excess of £153,660 as the SSC upper earnings limit is reached. This rate is charged only up to an income level of £159,375, when the withdrawal of the tax-free allowance is complete[52]; for income in excess of this level only PIT is charged at a rate of 20% and this rate holds for income levels up to the level of the tax cap.

Under tax Policy Option 1 the PIT allowance and SSC allowance are aligned, meaning that in Guernsey no-one would pay any tax or SSC on their income below £11,875. The other changes to the rate of tax on income for Option 1 are the 3% Health Tax and the increase in SSCs, such that the effective marginal rate is 5.4 percentage points higher when compared to the current system.

Under Policy Options 2 and 3, the PIT and SSC allowance are aligned and increased to £14,000 or £12,700 respectively. This means that in Guernsey no one would pay any form of tax on their income below £14,000 under Option 2 or £12,700 under Option 3. There is no Health Tax in Policy Options 2 or 3 but there is some increase in marginal rates from SSCs, as seen in Figure 5 below. The final change is that given the higher tax-free allowance value, the income level at which this withdrawal is complete is higher (currently the withdrawal is complete by £159,375; under Option 2 this would not be complete until an income level of £170,000 and under Option 3 £163,500[53]). A visual summary of these changes relative to the current situation is provided in the final chart.

[51] The tax caps are discussed elsewhere in this report.

[52] Other allowances and deductions such as pension contributions and mortgage interest relief are also withdrawn. Therefore, this is indicative of a situation where an individual only receives a PIT allowance. There is a myriad of thresholds at which the marginal rate falls when other withdrawals are considered.

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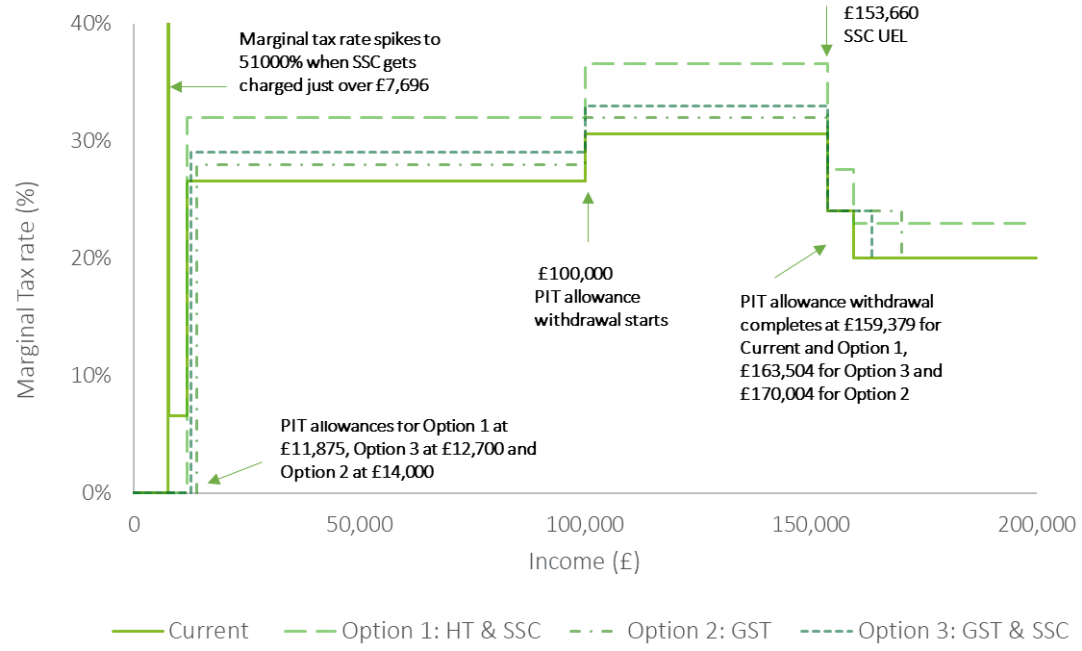
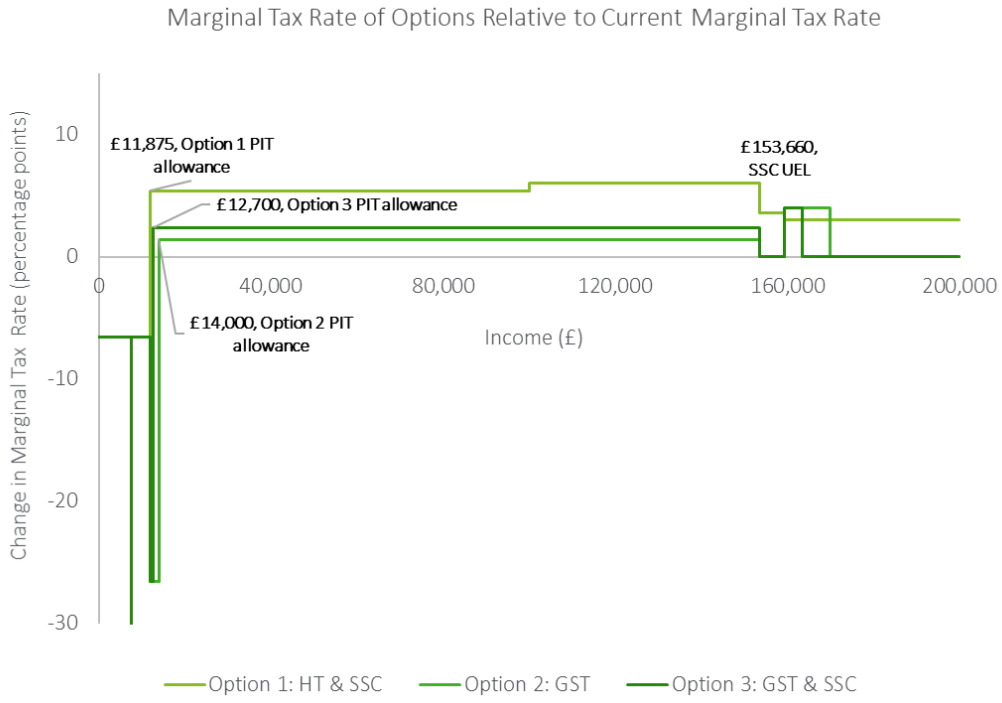
Figure 5: Marginal Tax Rates for Current Regime and Options (PIT, Class 1 employee SSCs and Health Tax)





Source: See Table 2 above for current rates; options data as provided by the States

Key Insights

Guernsey's economy has flourished over the past 10 years with significant growth in per capita GDP between 2009 and 2019. The finance sector is Guernsey's largest contributor to GVA and employment.

The States collect 19% of GDP as tax revenue, and 2-3% of GDP as revenue from other sources. Due to growing demographic pressures and the impact of COVID-19, there is an increasing demand on public finances. To meet these needs, the States can either reduce expenditure, increase overall deficit and debt, or raise revenues. Expenditure restraint alone, which is being examined separately by the States, is not deemed a solution. Similarly, deficit funding is not sustainable, as the ageing population is increasing. Thus, the States are reviewing potential changes to Guernsey's tax structures so that they are capable of raising revenues up to the 24% of GDP limit.

This report considers three tax reforms that may help to achieve this. The tax policies considered are: Option 1 (3% Health Tax + significantly increased SSCs), Option 2 (8% GST + PIT decrease due to higher allowance + modestly increased SSCs) and Option 3 (5% GST + modest PIT decrease due to higher allowance + moderately increased SSCs).

Changes in personal income taxation through the introduction of a Health Tax may distort the labour market, as it changes the value of labour. The wider economic impacts of changes in income taxation are contingent on whether and when the revenues are spent. If revenues are spent instantaneously, the adverse economic impacts of the tax increase are approximately offset by the benefits of increased government spending. The impacts of social security contributions and a Health Tax are similar to that of PIT. However, social security contributions and the Health Tax may be less distortionary than PIT since they are perceived as a price for the consumption of public goods.

GST is a more efficient tax relative to PIT, especially at low rates. However, GST has a direct price impact and can be less progressive than the income taxation described above if it is not complemented with offsetting policies for lower income households. Evidence from the OECD suggests that fewer exemptions and zero ratings are better for economic growth in the long run. The introduction of a GST is likely to be accompanied by significant friction costs associated with implementation.

2.4. Scope of this Report

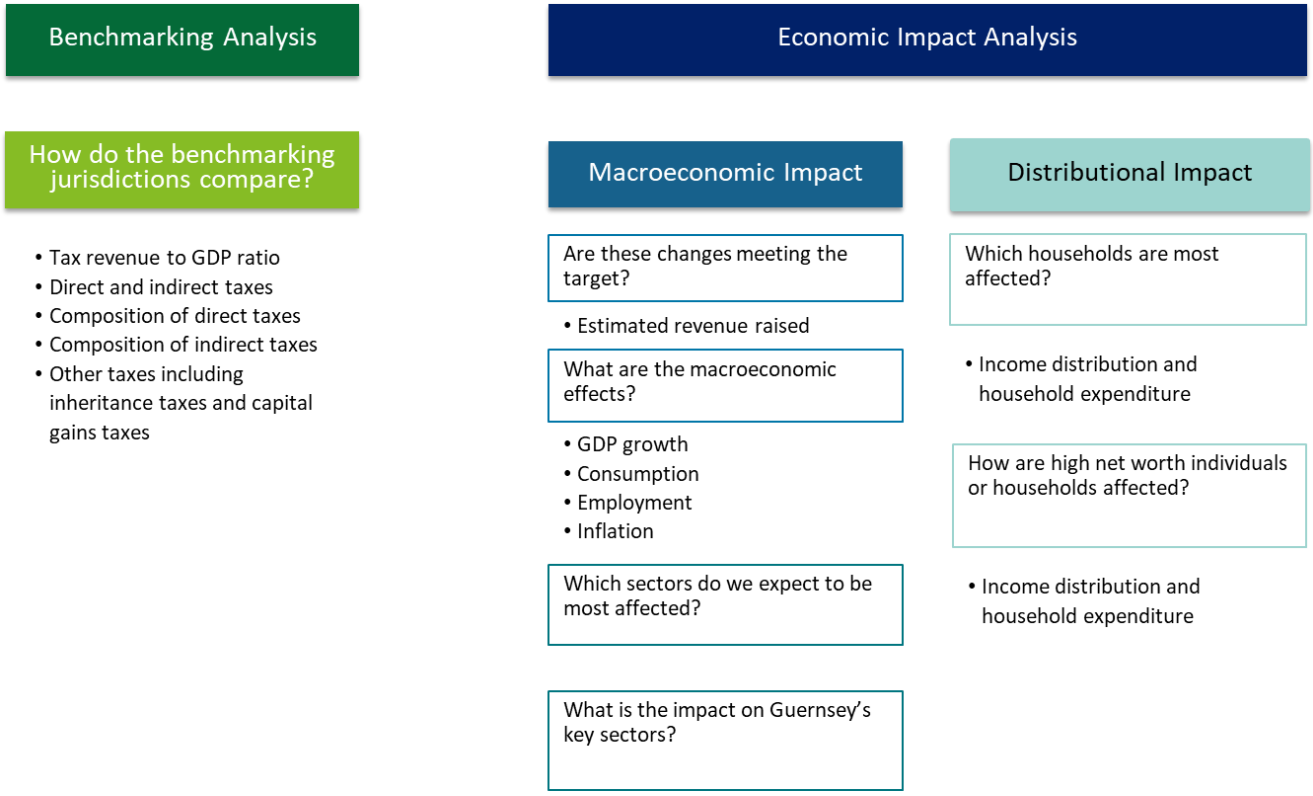
Given the wider context and the levers under consideration, the States have contracted Deloitte LLP to provide economic analysis to support the delivery of the Tax Review. As outlined in the Request for Proposal, the States' Tax Review is to ensure that Guernsey's tax base can raise necessary revenues. To guide this, the States are seeking to understand the economic implications of potential tax policy options.

The States initially provided us with a set of broad potential tax levers which included: PIT, SSCs, Health Tax and GST. In a predecessor report to this we considered Guernsey's position relative to benchmark jurisdictions and the potential economic impacts of illustrative changes in the broad tax levers listed above. The States subsequently selected the three policy options that are analysed in this report. The analysis carried out in the Interim Report forms the basis of this Final Report. The Final Report adds to the Interim Report by considering in detail how the three options under consideration change Guernsey's position relative to its benchmark jurisdictions and by specifically analysing the economic impacts of the three policy options under consideration.

This Final Report reviews the tax structures and policies in comparable benchmark jurisdictions and the expected economic impacts of a set of tax policy options provided by the States. This Report does not conclude or opine on the suitability of the tax policies being considered, nor does it provide advice or recommendation on the policy design, implementation of the chosen option(s) or legislation required.

Figure 6 provides an overview of the framework adopted in this Report. Overall, each tax revenue-raising option is considered in the context of the revenue it raises with respect to the overall revenue-raising goal as set out by the States.

Figure 6: Benchmark and economic impact analysis overview



This Report is appended with a Policy Letter and presented to the States of Deliberation.

The rest of this Report is structured as follows:

- Section 3 sets out the results of the benchmarking analysis;
- Section 4 sets out the economic impacts; and
- Section 5 concludes.

3 Benchmarking analysis

Guernsey is currently reliant on direct taxation and is unique amongst its benchmark jurisdictions in that it currently has no GST in place. Option 1, which relies on income taxation, increases Guernsey's reliance on direct taxation and makes its income tax schedule less competitive. Options 2 and 3 involve the introduction of a GST, which reduces the reliance on direct taxation. The GST is typically a more efficient means of taxation but can be regressive.

Before undertaking the economic impact study, this section of the Report compares Guernsey's current tax structure to those of other chosen jurisdictions. This forms a picture of how Guernsey measures up to other jurisdictions in terms of the amounts of tax revenues raised as a percentage of GDP, and the types of tax revenues that are relied on in these jurisdictions. The Report goes on to consider how Guernsey's tax structure would compare to the other jurisdictions' following the implementation of each of the policy options under consideration.

The jurisdictions that Guernsey's tax regime is benchmarked against have been chosen and agreed by the States considering their comparability to Guernsey along four dimensions: the structure of their economies, specific tax structures, overall tax as a share of GDP, and size of the economy. In particular, the chosen jurisdictions are those whose economies tend to rely on the financial services industry and that would be potential alternatives for individuals and businesses to relocate to in the case of material domestic tax policy changes.

Each of these jurisdictions is compared to Guernsey across a range of dimensions:

- Tax revenue as a percentage of GDP: the economy's overall reliance on tax revenue is compared across each of the jurisdictions.
- Core tax levers: the core tax levers (PIT, social security, Health Tax, and GST) are compared across the benchmark jurisdictions to determine whether the proposed illustrative changes are in line with the current tax structures in these comparable jurisdictions.
- Direct and indirect tax revenue: the relative reliance on direct and indirect taxes is considered.
- Other taxes: a high-level review of the structure of taxes such as inheritance taxes or capital gains taxes is also undertaken.

This analysis highlights where Guernsey is placed in comparison to each of these jurisdictions to ensure that an overall picture can be built that outlines whether there is scope for the States to raise revenues through different types of taxes whilst remaining comparable to the benchmark jurisdictions.

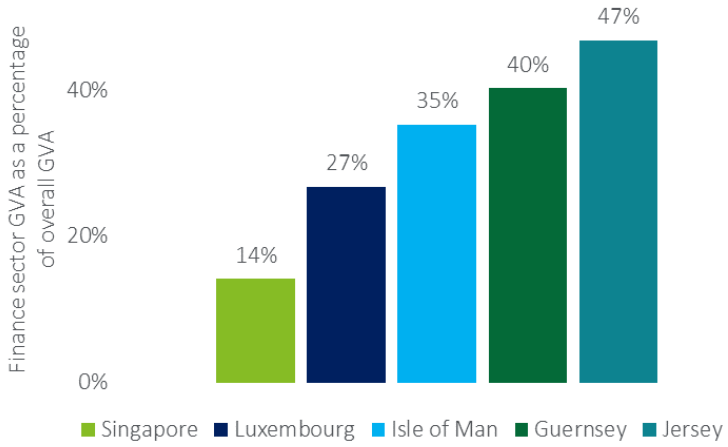
3.1. Economic rationale for chosen jurisdictions

The four comparable jurisdictions chosen for this benchmarking analysis, as agreed upon with the States are: Jersey, the Isle of Man, Luxembourg and Singapore. In addition, New Zealand is considered with respect to its GST. These jurisdictions have been chosen as they either have similar tax regimes and are directly comparable or are similarly developed, with an emphasis on the financial services sector. It is worth noting that given that Jersey and the Isle of Man are English speaking jurisdictions that use British pound sterling, they are particularly important comparators for higher earners, HNWIs and businesses that prioritise these features in comparison to the other benchmark jurisdictions that have been chosen.

The size of the economy amongst benchmark jurisdictions varies, ranging from £4.89 billion in Jersey and £3.25 billion in Guernsey to £276 billion in Singapore. Each of these jurisdictions is highly developed, with Luxembourg leading at GDP per capita of about £87,892, followed by the Isle of Man with GDP per capita of £64,173. Guernsey, Singapore and Jersey follow with GDP per capita of £51,868, £48,355 and £46,120, respectively.

As in Guernsey, the finance sectors in Jersey and the Isle of Man contribute the most of all sectors to GVA. Guernsey's finance sector contributes 40% to its GVA, Jersey's contributes 47% and the Isle of Man's 35%.[54] The other two benchmark jurisdictions, Singapore and Luxembourg, are chosen with a view to comparing the competitiveness of Guernsey to Europe and beyond, given the importance that these countries or jurisdictions place on their financial services sectors. Luxembourg's financial sector contributes 26% to its overall GVA and the country has a reputation as an international financial hub, with 94% of its banks being foreign.[55] Singapore is also a leading world financial centre, but with a highly developed economy overall such that its financial sector only contributes 14% to GVA.[56] Figure 7 shows the financial services sector's GVA as a share of total GVA in 2019 for each of the benchmark jurisdictions.

Figure 7: Finance Sector GVA as a percentage of overall GVA, 2019



Source: See Appendix A2

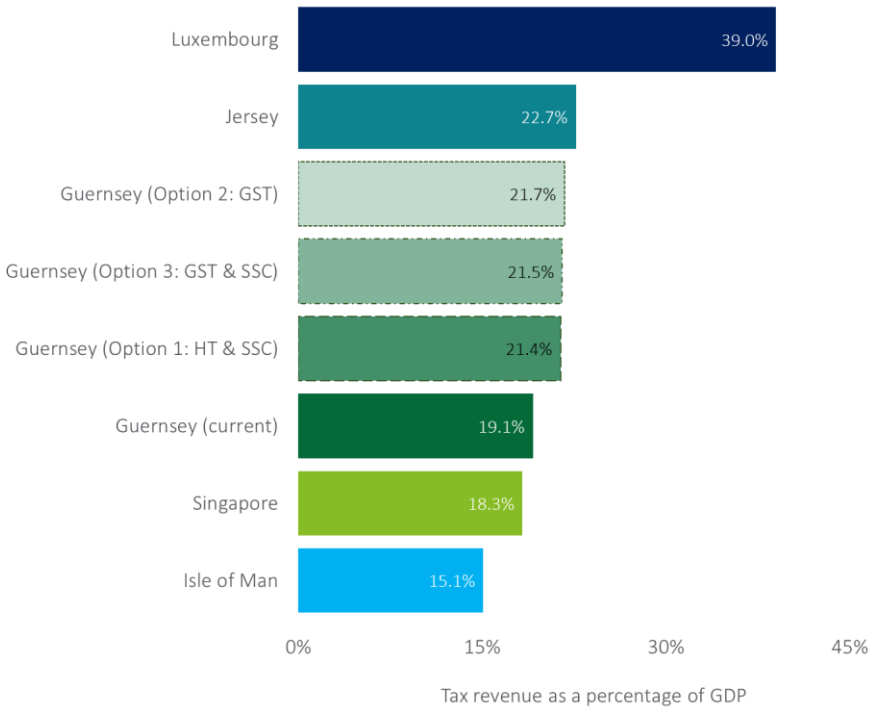
3.2. Comparison of tax components across jurisdictions

3.2.1. Tax revenue as a percentage of GDP

Guernsey sits in the middle of its benchmark jurisdictions in terms of its tax revenue to GDP ratio and would continue to do so under the different options. Luxembourg is most reliant on revenues from tax, as its tax to GDP ratio is 39%, whereas the Isle of Man is at the other end of the spectrum with a ratio of 15%. The other jurisdictions fall in between these two extremes, as seen below. Singapore's highly stable economy and consistent surplus explain the relatively low tax to GDP ratio of 18%. Figure 8 shows the tax revenue as a percentage of GDP ratio for these jurisdictions, with Guernsey's 19% solely reflecting income from taxation for comparability purposes. This suggests that if Guernsey were to increase its tax revenue as a share of GDP it could do so and remain broadly in line with its benchmark jurisdictions; by way of example, in Jersey tax revenue as a percentage of GDP is 4 percentage points higher at 23%. Figure 8 also shows that under each policy option under consideration, Guernsey would retain its position in terms of having the third highest level of tax revenue as a percentage of GDP.

[54] Guernsey - https://www.gov.gg/CHttpHandler.ashx?id=133038&p=0 ; Jersey - https://opendata.gov.je/dataset/national-accounts
Isle of Man - Banking, Insurance and Other Finance and Business Services computed to make up the Finance Sector https://www.gov.im/about-the-government/departments/cabinet-office/economic-affairs-division/national-income/
[55] Luxembourg – National accounts, Annual aggregates https://statistiques.public.lu/en/economy-finances/index.html
[56] Singapore - https://www.tablebuilder.singstat.gov.sg/

Figure 8: Tax revenue as a percentage of GDP, 2019



Source: See Appendix A2, options revenue data as provided by the States

3.2.2. Core tax levers

To provide context when comparing the level of tax revenue raised as a share of GDP, Table 3 shows a summary of tax rates across the jurisdictions.

Personal Income Taxation (PIT) & Health Tax

Guernsey's current headline rate of PIT is identical to those in Jersey and the Isle of Man but higher than the levels in Singapore and Luxembourg. Jersey is the only jurisdiction with a Health Tax; under Option 1 where a Health Tax of 3% would be introduced, Guernsey and Jersey would be aligned in terms of the headline PIT rate but income taxation would be higher in Guernsey due to the higher Health Tax. Guernsey and Jersey have a headline PIT rate of 20% for income in excess of their respective personal allowances. However, in Jersey, low-income individuals liable to pay income tax are charged at whichever of the following two rates gives the lower tax amount: (i) marginal rate of 26% above the tax allowance, or (ii) flat rate of 20% on total income. The Isle of Man charges a 10% rate above the tax allowance, but also has a top average rate of 20%. Of these three jurisdictions, Guernsey currently has the lowest personal allowance threshold and would continue to do so even under Policy Option 3 where the allowance was increased to £14,000. Singapore and Luxembourg charge the top tax rates at high incomes.

In addition, the personal income tax caps and treatment for high earners vary, with Guernsey and the Isle of Man charging specific amounts of tax set at £260,000/£130,000 and £200,000 respectively as tax caps. Instead, Jersey charges 20% on income up to £725,000 and then 1% on income above £725,000. The result of this is that personal income tax in Jersey is lower than Guernsey's cap for individuals with annual worldwide income below £12,225,000.

Jersey alone levies a long-term care charge separate to either their PIT or SSC regimes, which is shown as a Health Tax in Table 3 below. This was implemented due to an increasing pensioner population and as a way of reducing the burden of

funding long-term care.[57] It is set at a very low headline rate of 1.5% (with a marginal rate of 1.95%), which makes the impact at an individual level relatively small. Guernsey currently internally allocates some of its social security fund to a long-term care insurance fund.[58] However, from the perspective of the taxpayer, the social security contribution is consolidated. The form of Health Tax under consideration in this Report is similar to Jersey's long-term care charge, which is separate from SSCs and in form more aligned with the PIT system, though it should be noted that it is higher at a rate of 3% in Policy Option 1.

Social Security Contributions (SSC)

The rate of employee SSCs is 6.6% in Guernsey, which is higher than the level in Jersey (6%) but much lower than the headline level in the Isle of Man (11%). All policy options under consideration involve an increase in the employee rates of SSCs but none of these changes are sufficient to change Guernsey's position relative to the benchmark jurisdictions. The social security rates in Singapore are much higher in comparison to rates in the other jurisdictions. The rate of employee SSCs in Jersey is 6%, which is slightly lower than the current level in Guernsey of 6.6%. Further, in Jersey SSCs are charged up to £55,320, whereas the upper limit in Guernsey is much higher at £153,660. In both cases, the rate is lower than the 11% employee rate that exists in the Isle of Man; however, this drops to 1% for income in excess of £40,768. Each policy option under consideration by the States would see an increase in employee and employer rates in Guernsey but would also see the introduction of an SSC allowance that is aligned with the PIT allowance.

GST

Guernsey is unique amongst the benchmark jurisdictions in that it does not currently charge a GST. Options 2 and 3 involve the introduction of a GST at 8% and 5% respectively. A 5% GST would be aligned with Jersey, which is the lowest level amongst the benchmark jurisdictions that charge a GST. An 8% GST would be higher than the levels in Jersey and Singapore. The Isle of Man charges a relatively high standard GST rate of 20%. The Isle of Man and the UK pool these revenues and their common duties, and then share them in line with their Customs and Excise Agreement, which was updated in 2018.[59] Luxembourg's standard GST rate is 17%, with three other reduced rates. Jersey charges a standard GST rate of 5%, but with far fewer exemptions than the UK/Isle of Man system.

There are GST exemptions included with Policy Options 2 and 3 which will mean financial services organisations may be liable to pay exemption fees. These exemptions are modelled closely on Jersey's, which are detailed in Appendix A3 Table 10, alongside the other jurisdictions' exemptions. All benchmark jurisdictions exempt financial services from their respective GST rates. In addition to this, Singapore only exempts the sale and lease of residential land in addition to financial services. Isle of Man also exempts property transactions. Luxembourg and Jersey both exempt education and some medical and health services.

In sum, Guernsey currently relies on income taxation for the purpose of revenue raising. Option 1 would deepen this reliance whereas Options 2 and 3 would diversify the States of Guernsey's revenue base. Option 1 would see the sum of PIT and Health tax rates eclipse the level of Jersey. Option 3 would see an alignment with Jersey in the GST rate, whereas Option 2 would see the rate of GST exceed those of both Jersey and Singapore.

[57] "Long-term care for older people in Jersey" available at: https://statesassembly.gov.je/scrutinyreviewresearches/2008/s-31498-29419-10122008.pdf
[58] Actuarial Review of Guernsey Long-term Care Insurance Fund, available at: https://www.gov.gg/CHttpHandler.ashx?id=135486&p=0
[59] Agreement between the Government of the UK and the Isle of Man on Customs and Excise and associated matters, available at: https://www.gov.im/media/80147/cande-agreement-consolidated-v2018.pdf

Table 3: Tax rates across jurisdictions

	Guernsey	Jersey	Isle of Man	Luxembourg	Singapore
Tax revenue as a % of GDP	Current - 19%[60] Option 1 – 21.4% Option 2 – 21.7% Option 3 – 21.5%	23%	15%	39%	18%
Personal Income Tax (PIT) and Health Tax[61] (thresholds for individuals)	Current: 20% from £11,875 Option 1: 20% PIT + 3% Health Tax from £11,875 Option 2: 20% from £14k Option 3: 20% from £12.7k	Lower of 20% with no lower threshold & 26% from £16k 1% on income >£725k Health tax: 1.95% marginal rate (1.5% headline rate) with a £252,360 limit	10% from £14,250 20% above £20,750 Cap of £200k	8% from €11,265[62] (£9,796) & 42% from €200,005 (£173,917) on a progressive schedule 7% employment fund rate up to €150k (£130,435), 9% over	2% from SGD20k[63] (£10,870), 22% from SGD320k (£173,913) on a progressive schedule
Social Security Contributions	Current: Employee & employer 6.6% to £153,660 Option 1: Employee 9% & employer 7.5% from £11,875 up to £153,660 Option 2: Employee 8% & employer 7.5% from £14k up to £153,660 Option 3: Employee 9% & employer 7.5% from £12.7k up to £153,660	Employee - 6% up to £55,320 annually Employer - 6.5% up to £55,320, then 2.5% between £55,320 and £252,360	11% for employee (1% above £40,768 annually) 12.8% for employer	Maximum of: 12.45% for employee (11.05% up to €128,520 (£111,757)) 14.61% for employer (up to €128,520 (£111,757))	20% for employee 17% for employer
Goods and Services Tax (GST)	Current: No GST Option 1: No GST Option 2: 8% 0 ratings and exemptions as in Section 2.3.3 Option 3: 5% 0 ratings and exemptions as in Section 2.3.3	5% standard Limited 0 ratings & exemptions (financial & international services)	20% standard 5% reduced Wider 0 ratings & exemptions (financial & international services)	17% standard 14%, 8% & 3% reduced rates 0 ratings & exemptions (financial & international services)	7% standard 0 ratings & exemptions (financial & international services)
Company Tax	0% standard 10%/20% for specific income streams	0% standard 10%/20% for specific companies	0% standard 10%/20% for specific companies	15% up to €175k (£152,174), 17% above €200,001 (£173,914) Extra 7% for employment fund Net wealth tax of 0.5% - financial companies liable to a minimum of €4,815 (£4,186)[64]	17% flat rate

Source: See Appendix A2 (Figure 7 for row 1 and Table 3 for all else)

[60] This is Guernsey's 2019 tax revenue as a percentage of GDP, which differs from the total revenue as percentage of GDP working target of 24% as in the Fiscal Policy Framework. The 2019 total revenue as a percentage of GDP is 22%.
[61] Maximum tax paid capped at £260,000 for worldwide income (or £130,000 for non-Guernsey income). Other caps: £50,000 for Alderney residents; £50,000 open market cap for new residents and £40,000 standard charge for resident only individuals.
[62] The exchange rate used was £1 = €1.15, calculated on the 28th April 2021
[63] The exchange rate used was £1 = SGD 1.84, calculated on the 28th April 2021
[64] Other companies' minimum ranges from €535 to €32,100 depending on their balance sheet total as in https://www.parfigroup.eu/luxembourg-corporate-tax-guide/#_ftn1

3.2.3. Direct and indirect tax revenue

Countries usually raise revenues through a mixture of direct and indirect taxation. Direct taxes are taxes paid directly to the government and are applied to income, profits and wealth. Indirect taxes are collected by a third party (like a producer for production taxes and retailer for GST) and then paid to the government. Direct taxation includes personal income tax (PIT), corporate income tax (CIT), social security contributions (SSCs) and would include the Health Tax if introduced. Indirect taxes include taxes on production, consumption and imports such as GST, excise taxes and custom duties.

Consistent with the trend in OECD averages, Guernsey, Jersey, Luxembourg and Singapore have higher direct tax revenues than indirect tax revenues.[65] In the Isle of Man, more revenue is gained via indirect tax. These values are shown as a percentage of total tax revenue in Table 4. In addition, social security as a percentage of total tax revenue is expressed separately due to its high individual contribution. This is especially relevant because the social security scheme in Singapore, the Central Provident Fund (CPF), contributes the most to its tax revenue. The figure provided as part of Table 4 shows that the indirect share of total tax revenue is smallest in Guernsey at 10% compared to 14% in Jersey and 45% in the Isle of Man, which is higher due to its remittance agreement with HMRC in the UK on its GST. Guernsey's low indirect share of total tax revenue is as a result of not currently having a GST. This shows that with a GST, the extent of Guernsey's reliance on indirect tax revenues would remain in line with those of its benchmark jurisdictions.

Table 4: Tax components as a percentage of total tax revenue, 2019

	Direct tax (excluding social security) as a percentage of total tax revenue	Indirect tax as a percentage of total tax revenue	Social security as a percentage of total tax revenue
Isle of Man	29%	45%	26%
Singapore	38%	19%	43%
Luxembourg	43%	29%	28%
Jersey	57%	14%	24%
Guernsey (current)	60%	10%	30%
Guernsey – Option 1: HT & SSC	61%	9%	30%
Guernsey – Option 2: GST	52%	21%	27%
Guernsey – Option 3: GST & SSC	54%	17%	29%

Note: Remaining 5% of Jersey's tax revenue classified as 'Other income'

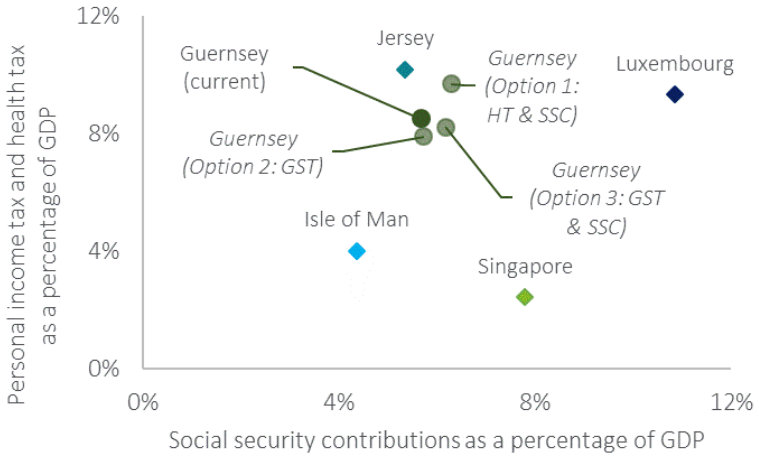
Source: As in Appendix A2 Figure 7

Of the benchmark jurisdictions, Guernsey is currently most reliant on direct taxation; Policy Option 1 would further increase this reliance as the level of revenue raised through indirect taxation would fall from 10% to 9%. By contrast, under Policy Options 2 and 3, which would see the introduction of a GST at 8% and 5% respectively, the share of tax revenue raised through indirect taxation would increase to 21% under Option 2 and 17% under Option 3.

Direct tax revenue is driven by PIT revenue for two of the above jurisdictions, at 9% relative to GDP for Guernsey and 10% relative to GDP for Jersey. In Luxembourg, the contributions of PIT and social security are quite similar and high, as seen in Figure 9. This figure also further illustrates the importance of social security in Singapore and the Isle of Man's overall lower reliance on direct tax revenue because of its inclusion in the UK's VAT regime. Importantly, it also shows that Guernsey's PIT and SSC revenues relative to GDP are within the range of the benchmark jurisdictions'. Policy Options 2 and 3 only have a modest impact on Guernsey's position in terms of PIT and SSCs relative to the benchmark jurisdictions. By contrast, Policy Option 1 increases the level of revenue raised from PIT as a share of GDP to a similar level as observed in Jersey while also increasing SSCs as a share of GDP further beyond that of Jersey.

[65] OECD e-book, "Revenue Statistics 2020", available at: https://www.oecd-ilibrary.org/sites/8625f8e5-en/index.html?itemId=/content/publication/8625f8e5-en

Figure 9: Personal income tax (PIT) and social security contributions as a percentage of GDP



Source: As in Appendix A2 Figure 7

Consistent with the other main direct taxes, Luxembourg has the highest CIT relative to GDP, at 6%. Singapore is the only jurisdiction where CIT revenue is higher than PIT revenue, at 3% of GDP. Guernsey and Jersey follow at 2% each and the Isle of Man has the lowest CIT relative to GDP of 1% as it only applies a 10% rate to income received by banking business and to large retailers with taxable income over £500,000.[66] In Guernsey, larger retailers fall in the 20% tax band and the financial services income streams charged at 10% do not only include banking business (income from various other regulated financial services activities is taxable at 10%). This difference in design and application explains why the Isle of Man's CIT contribution is lower than those of Jersey and Guernsey despite their similar approaches on the zero-10 corporate tax regime. Thus, the Crown Dependencies are on the lower end of CIT relative to GDP but are not exceedingly different to the other two jurisdictions. The States are considering changes to CIT to comply with the OECD work-stream on corporate taxes, but this is not within the scope of analysis in this Report. While not in the scope of the Report, an assumption has been provided by the States for analytical purposes and this assumption is set out in more detail in section 2.3.

The dominance of indirect tax revenue in the Isle of Man is mainly a consequence of its GST. This is because of the GST revenue sharing agreement between the Isle of Man and the UK as described in 3.2.2. Indirect tax revenue is also driven by GST for the other benchmark jurisdictions, as shown in Table 5. **The exception is Guernsey, which is atypical in that no GST is charged. In comparison, GST accounts for between 8% and 40% of total tax revenue across the benchmark jurisdictions. Under Policy Options 2 and 3, which would see the introduction of a GST, the relative contribution of the GST to indirect and total tax revenue in Guernsey would be comparable to those of other benchmark jurisdictions.** Under Policy Option 2, where a GST of 8% would be introduced, the contribution of the GST to indirect tax revenue would be 58%, which is equal to Jersey's. The share is only greater than for one other jurisdiction, Luxembourg; however, GST revenue as a share of total tax revenue would be higher than in Jersey but lower than in Luxembourg, Singapore and the Isle of Man. Under Policy Option 3, where a lower rate GST is introduced, the contribution of the GST to indirect taxation

[66] Business and Corporations tax information, Isle of Man Government website, available at: https://www.gov.im/categories/tax-vat-and-your-money/income-tax-and-national-insurance/business-and-corporations/

would be lower than in any other benchmark jurisdiction at 47%, and the share of total tax revenue would be joint lowest with Jersey at 8%.

Table 5: GST as a percentage of indirect tax revenue and total tax revenue

	GST as a percentage of indirect tax revenue	GST as a percentage of total tax revenue
Isle of Man	89%	40%
Singapore	62%	12%
Luxembourg	53%	15%
Jersey	58%	8%
Guernsey (current)	No GST	
Guernsey (Option 1: HT & SSC)	No GST	
Guernsey (Option 2: GST)	58%	12%
Guernsey (Option 3: GST & SSC)	47%	8%

Source: As in Appendix A2 Figure 7 & Isle of Man Government Accounts for VAT data, 'Detailed Government Accounts – year ended 31 March 2020', available at https://www.gov.im/categories/tax-vat-and-your-money/government-accounts/

3.2.3.1. Low rate and broad-based GST

In addition to the benchmark jurisdictions', New Zealand's GST system is also considered in this Report. This is because New Zealand's low-rate, broad-based GST is similar to the one being considered by the States.[67] Studies have shown that a broader based, lower-rate GST (as opposed to the higher rate European style with GST rates in excess of 20%), due to its more efficient nature, is considered more conducive to growth in the long run than a higher standard rate.[68]

New Zealand's GST was introduced in 1986 at a level of 10% and has since increased to 15%. It has minimal exemptions, and financial services, residential accommodation and exports are zero-rated. This is similar to the GST structure applied in Jersey and that being considered for Guernsey under Options 2 and 3. New Zealand's GST was revenue neutral at the time of introduction, as income tax was redesigned to have two rates and the company tax rate was lowered.[69] Taking the regressive nature of this structure of tax into account, a one-off benefit adjustment was provided to pensioners, low paid workers and social security beneficiaries. For the last two groups, a compensatory income supplement was also provided.[70]

Having few exemptions was a deliberate policy choice made at the time New Zealand's GST was introduced.[71] It's C-efficiency (the most widely used indicator of GST efficiency) is double that of the UK's and is much higher than the OECD average.[72] In the year that the GST was introduced, New Zealand's price levels were impacted significantly; however, this was already a period when New Zealand was experiencing high inflation. The positive impact of the GST on price levels dropped out a year after introduction, over 1987 to 1988 – a 5 percentage point drop, which was the second largest factor driving the year's fall in CPI.[73]

Jersey and Singapore's GST systems are modelled after New Zealand's. The Isle of Man and Luxembourg follow the European style of GST, which is characterised by one or more reduced rates and a relatively high standard rate, given the

[67] "The New Zealand GST and its Global Impact 30 Years On", available at: https://www.researchgate.net/publication/315782694_The_New_Zealand_GST_and_its_Global_Impact_30_Years_On

[68] IMF working paper, "The Value Added Tax and Growth: Design Matters", available at: https://www.imf.org/en/Publications/WP/Issues/2019/05/07/The-Value-Added-Tax-and-Growth-Design-Matters-46836

[69] "An International Perspective on VAT", available at: https://www.oecd.org/ctp/consumption/46073502.pdf

[70] "Tax Design Insights from the New Zealand Goods and Services Tax (GST)) Model", available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2046352

[71] "The Macroeconomic Effects of Tax Changes: Estimates Based on a New Measure of Fiscal Shocks", available at: https://www.nber.org/system/files/working_papers/w13264/w13264.pdf

[72] OECD e-book, "Consumption Tax 2020: VAT/GST and Excise Rates, Trends and Policy Issues", https://www.oecd-ilibrary.org/sites/152def2d-en/index.html?itemId=/content/publication/152def2d-en

[73] Reserve Bank of New Zealand bulletin, "Causes of the Fall in Inflation: 1985-88", available at: https://www.rbnz.govt.nz/-/media/ReserveBank/Files/Publications/Bulletins/1989/1989sep52-3hodgettsclements.pdf?revision=949a0e34-7253-41e1-90c6-642d15bdd24e

EU directive of at least 15%. Table 10 in Appendix A3 fully highlights the GST details of all the benchmark jurisdictions and New Zealand.

Singapore's GST was introduced in 1994 and, like New Zealand's, is a broad-based, low rate GST. Its introduction was accompanied by a permanent decrease in headline PIT and ongoing compensatory payments to low-income households and individuals.[74] It was initially set at a 3% rate and has increased steadily over the years to the current 7% rate.

3.2.4. Other taxes

In addition to the main taxes discussed above, other taxes charged in Guernsey and in the benchmark jurisdictions include property tax and excise taxes. Of all the benchmark jurisdictions, only Luxembourg charges an inheritance tax and capital gains tax. These taxes are not currently charged in Guernsey and are not included in the illustrative tax levers provided by the States. Therefore, they are only briefly described and compared across benchmark jurisdictions in this section.

CIT

Guernsey, Jersey and the Isle of Man have encountered equivalent scrutiny from outside organisations such as the OECD and the EU Code of Conduct Group. They all introduced new corporate tax regimes, zero-10, which took effect in the Isle of Man in April 2006, in January 2008 for Guernsey and January 2009 for Jersey. The standard rate of 0% is applicable to companies that are tax resident in Guernsey. The '10' refers to an intermediate 10% rate levied on specific financial services income streams.[75] Under the CIT scenario used in this report it is assumed that Guernsey's CIT system would remain broadly aligned with those of Jersey and the Isle of Man; more details of the specific assumptions made regarding CIT are provided in section 2.3.

Other Taxes

All five jurisdictions charge excise duties on alcohol, tobacco and fuel with variation in the respective rates.[76] For example, Luxembourg charges a rate of approximately 31p per litre on automotive diesel, the Isle of Man charges 57.95p per litre and Guernsey charges 73.4p per litre on road diesel.[77] Guernsey stopped charging annual motor tax fees from 2008, when a relatively high rate of excise duty on road diesel was introduced to recover the lost revenue.[78] Guernsey is currently considering road pricing in addition to its motor fuel duties, but this is driven by environmental factors and the erosion of revenues as people transition to increasingly efficient or electric cars. It is not centred around raising tax revenue and is thus not considered here.

Taxes on property are also charged differently. Jersey charges 'Rates' of 0.74p per rateable value or quarter for domestic land and 1.05p per rateable value or quarter for non-domestic land.[79] The rateable unit is assessed based on size, location, accommodation, condition, land use and the quality of any building on the land. Guernsey charges a maximum of £2.98 per square metre of domestic buildings and a maximum of £48.55 per square metre of non-domestic buildings owned by utilities providers.[80] Luxembourg property tax rates range from 0.7% to 1% of the property value depending on property use and location.[81] At a higher level, revenue generated from property taxes is 9.7% of tax revenue for Luxembourg (the

[74] "Value Added Tax Policy and Implementation in Singapore", available at: https://cri-world.com/publications/qed_dp_128.pdf

[75] Furthermore, the States also charge a higher tax rate of 20% on company income arising from telecommunications, ownership of local land and buildings, large retail operations with taxable profits over £500,000, the business of the cultivation or use of the cannabis plant, the business of the prescribed production or prescribed use of controlled drugs, and the importation and supply of gas or hydrocarbon oil, Fifth Schedule of The Income Tax (Guernsey) Law, 1975, available at: https://www.guernseylegalresources.gg/CHttpHandler.ashx?documentid=80761

[76] The aim of these taxes is to incentivise behaviour, such as a reduction in consumption of alcohol and tobacco. As such, many OECD countries take fuel efficiency levels into consideration whilst taxing cars, to encourage the use of vehicles that have lower emissions.

[77] Luxembourg - https://www.fuelseurope.eu/knowledge/refining-in-europe/economics-of-refining/fuel-price-breakdown/, Isle of Man - https://www.gov.im/categories/tax-vat-and-your-money/customs-and-excise/technical-information-vat-duty-and-interest-rates/, Guernsey - https://www.gov.gg/CHttpHandler.ashx?id=134733&p=0

[78] Resolutions, Billet XVII, Made On 25th, 26th And 27th October 2006: https://www.gov.gg/CHttpHandler.ashx?id=5698&p=0

[79] Jersey government Rates website, available at: https://parish.gov.je/pages/rates.aspx

[80] States Tax on Real Property (TRP) System and States Tax on Real Property Tariffs for 2021, available at: https://www.gov.gg/cadastre & https://www.gov.gg/CHttpHandler.ashx?id=135987&p=0

[81] PWC worldwide tax summaries, available at: https://taxsummaries.pwc.com/luxembourg/individual/other-taxes

highest amongst the benchmark jurisdictions) in comparison to Guernsey where the figure is 4%, while Jersey generates just 1% of revenue from property taxes (the lowest amongst benchmark jurisdictions).[82]

With regards to the capital gains tax in Luxembourg, individuals are subject to personal income base rates ranging from 8% to 42%.[83] Capital gains from the sale of a main residence are exempt.[84] Likewise, companies are subject to corporate income tax rates on gains, ranging from base rates of 15% to 17% depending on the company's taxable income. Gains from company holdings, where an individual has over 10% of the company's share capital, are taxed at half of the average rate.[85] Dividends received may be tax exempt in Luxembourg, according to the participation exemption regime, if certain conditions are met. The other jurisdictions do not charge a capital gains tax, as previously highlighted, and this could be as a result of the distortions this tax could cause. Taxes on capital gains discourage savings and investment while also encouraging tax evasion and capital flight.[86] Thus, it can have a negative effect on the economy while lowering the jurisdiction's appeal to high net worth individuals and the financial sector, as they would be more likely to own assets that generate capital gains.[87] A recent study has shown that in terms of efficient redistribution, taxing labour and capital is better than taxing labour alone.[88]

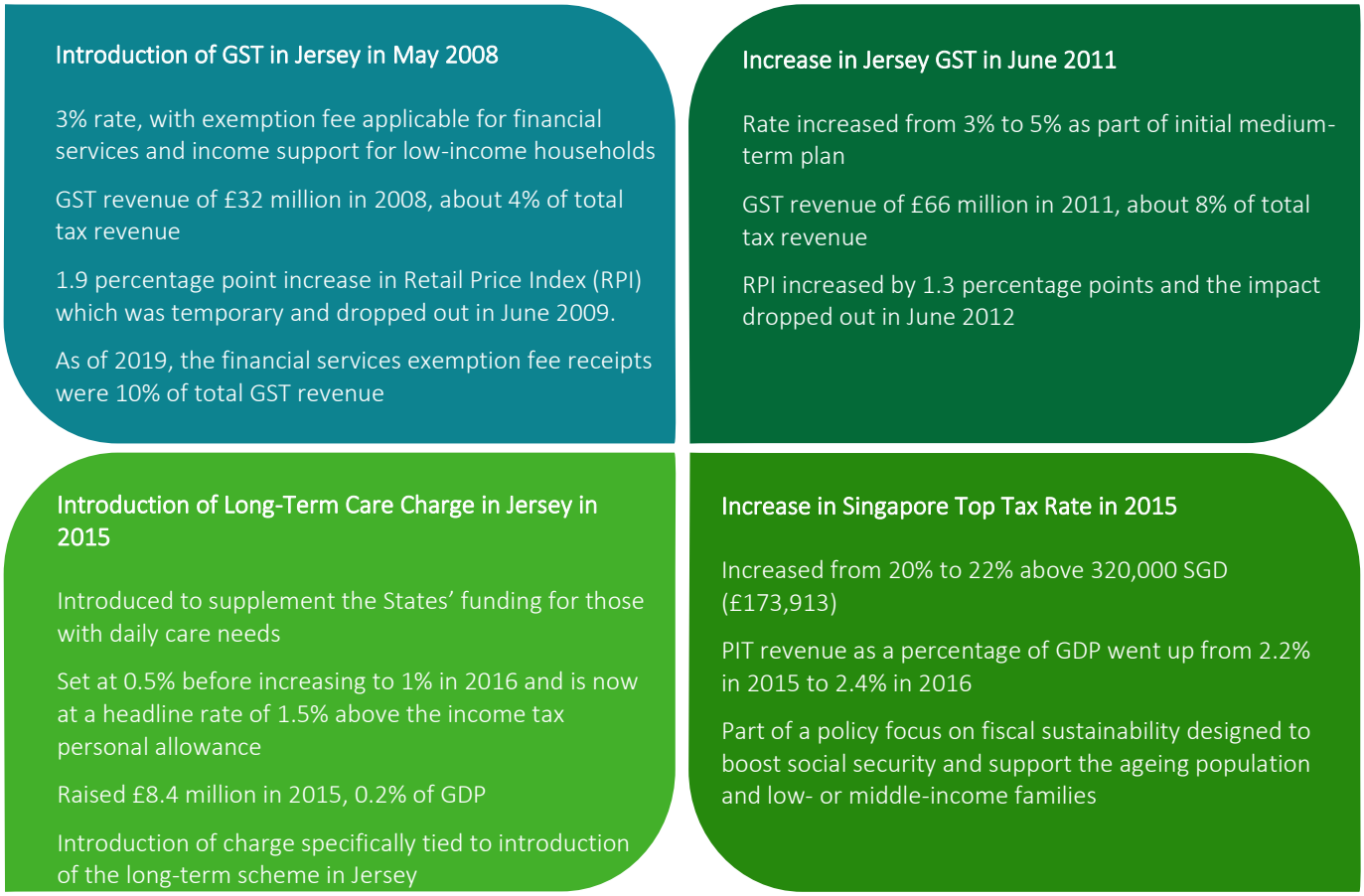
Luxembourg's inheritance tax is levied on the entire estate at variable rates depending on the relationship between the beneficiary and the deceased.[89] The maximum base rate is 15% and the maximum total incremental rate due to the value of the estate share received is 48%.[90] There is a tax-free allowance of €1,250 on small estates and €38,000 for spouses without children.[90] In addition, any acquisitions made with a partner at least 3 years before death are exempt. As the inheritance tax is a tax on wealth, maintaining attraction to HNWIs could be a reason why the other jurisdictions do not charge an inheritance tax.

[82] Luxembourg - https://data.oecd.org/tax/tax-on-property.htm, Guernsey - property tax revenue provided by the States, Jersey – Island rates https://opendata.gov.je/dataset/government-of-jersey-accounts/resource/b9bc6bb3-a74a-4c6e-bd20-b5e6a9464b1f
[83] PWC worldwide tax summaries, available at: https://taxsummaries.pwc.com/luxembourg/individual/other-taxes
[84] IBFD note on Luxembourg Individual taxation, available at: https://www.ibfd.org/sites/ibfd.org/files/content/pdf/European%20Tax%20Handbooks%202015_Indiv.pdf
[85] IBFD note on Luxembourg Individual taxation, available at: https://www.ibfd.org/sites/ibfd.org/files/content/pdf/European%20Tax%20Handbooks%202015_Indiv.pdf
[86] "Taxing Wealth and Capital Income", available at: https://www.cato.org/tax-budget-bulletin/taxing-wealth-capital-income
[87] "The economic effects of capital gains taxation", available at: https://www.researchgate.net/publication/293267376_The_economic_effects_of_capital_gains_taxation
[88] "Capital taxation: A survey of evidence", available at: https://voxeu.org/article/capital-taxation-survey-evidence
[89] PWC worldwide tax summaries, available at: https://taxsummaries.pwc.com/luxembourg/individual/other-taxes
[90] Estate and inheritance tax in Luxembourg, available at: https://www.expatica.com/lu/finance/taxes/luxembourg-inheritance-tax-1024768/

3.3. Key changes in comparators taxation and impacts overview

This section summarises some key changes in the core tax levers in some of the benchmark jurisdictions and the impacts of these changes on key economic indicators.

Figure 10: Overview of relevant tax changes in benchmark jurisdictions



Source: See Appendix A2

Key Insights

The four benchmark jurisdictions chosen and agreed with the States were: Jersey, the Isle of Man, Luxembourg and Singapore; New Zealand is also analysed with regard to its GST due to the similarities with the GST under consideration in this report. These jurisdictions were selected according to economic structure, tax structure, tax as a share of GDP and the size of the economies, with a focus on the financial sector.

Guernsey sits in the middle of its comparators in terms of the size of the economy and is second only to Jersey in terms of the importance of the financial sector. Guernsey's tax as a share of GDP is 19%, higher than the lowest value, which is the Isle of Man (15%), but considerably lower than the highest value, which is Luxembourg (39%). The tax policy options under consideration in this report would increase the ratio of tax revenue to GDP to more than 21% in each case but in none of these scenarios is the change sufficient to alter Guernsey's position relative to the benchmark jurisdictions. When combined with other revenues Policy Options 2 and 3 are capable of raising the States' working target of total government revenues relative to GDP, 24%, while Option 1 would raise 23.8%.

Guernsey currently has a lower tax-free allowance for PIT than both Jersey and the Isle of Man. Under Options 2 and 3 this tax-free allowance would increase but it would not exceed the level in these jurisdictions. While the PIT rate is unchanged under all policy options, Option 1 includes the introduction of a Health Tax of 3% which is higher than in Jersey where there is a 1.5% headline rate. Of all jurisdictions considered, Guernsey has the lowest share of tax revenue raised through indirect taxation. Option 1 would further increase this reliance. Option 2 would significantly reduce this reliance moving Guernsey above Jersey and Singapore in terms of tax revenue raised through indirect sources. Option 3 sits as an intermediate case, raising the indirect revenue share but not above the level in Singapore.

The restructures in social security contributions considered in Options 1, 2 and 3 increase social security contributions as a share of GDP but not by a sufficient amount to change the position of Guernsey relative to its peers (above the Isle of Man and Jersey but below Singapore and Luxembourg). Options 2 and 3 *reduce* the level of PIT revenue raised as a share of GDP slightly but not by enough to change Guernsey's position relative to the benchmark jurisdictions. Policy Option 1, by contrast, would see a more notable increase in the level of tax revenue raised from income taxation bringing Guernsey above Luxembourg and near to parity with Jersey.

The GST rates amongst the comparators range from 5% in Jersey to 20% in the Isle of Man. Consequently, GST accounts for between 8% and 40% of total tax revenue across the benchmark jurisdictions that charge a GST. Of all the benchmark jurisdictions, Guernsey alone does not charge a GST. As a result, Guernsey's indirect tax share is the lowest, at 10%. The GST rates of 8% under Option 2 and 5% under Option 3 sit at the bottom end of the range amongst benchmark jurisdictions, with the 8% GST being higher than the 5% rate currently in place in Jersey. Under Policy Options 2 and 3 GST tax revenue as a share of total tax revenue would be 12% or 8% respectively which is at the bottom end of the range found amongst benchmark jurisdictions. In Jersey, a 5% GST accounts for 8% of total tax revenue.

In Jersey, a GST was introduced at 3% in 2008 and then increased to the current 5% in 2011. The effects of both GST changes on price levels, 1.9 percentage points and 1.3 percentage points increase respectively, dissipated after one year. New Zealand's 1986 broad-based GST with minimal exemptions and few zero ratings is a model followed by Jersey and Singapore. The illustrative GST option in this report is also similar to this. New Zealand's GST is reported to have a high level of efficiency.

Overall, the States' reliance on tax revenues is less than some of its benchmark jurisdictions'. However, it is heavily reliant on its income tax structure, which is less progressive than that of other benchmark jurisdictions considered here. Guernsey does not levy a capital gains tax or inheritance tax, providing an attractive tax environment for higher earners and high net worth individuals (HNWIs). This, along with changes to the PIT regime, could ensure that Guernsey remains competitive and continues to attract highly skilled individuals. Furthermore, the States have stated that any changes to CIT will consider how Guernsey compares to jurisdictions such as Jersey and the Isle of Man. Finally, introducing a low rate GST is unlikely to impact Guernsey's overall competitiveness considering that it is currently the only one of the jurisdictions considered that does not have a GST.

4 Economic impacts

Option 1, which is based on income taxation, is likely to have short-term impacts on the economy through household consumption, output and employment but is more progressive than a GST. Options 2 and 3, which are based on consumption taxation, lead to a short-term increase in inflation; GST is typically less distortionary to labour markets and is empirically found to be a more efficient tax.

The tax policy options under consideration within this Report can be categorised as changes to income taxation (either through changes in the tax-free allowance, the introduction of a Health Tax or changes in the structure of social security contributions) and tax on consumption through a GST. These tax changes may have impacts on the economy of Guernsey that can be split into two dimensions. First, macroeconomic impacts such as through a change in GDP growth, the level of employment or the rate of inflation, which also include sectoral impacts on key sectors of focus for Guernsey. Second, distributional impacts on individuals across the income distribution.

Impacts of tax changes are highly dependent on the specific structure of the economy. The revenue raised through the potential tax increases considered in this Report would be used to fund increased government spending in Guernsey. The States have posited that this spending is necessary to maintain current service levels given the demographic and fiscal challenges the States are facing. The net impact of the taxation on economic activity can be expected to be relatively small as a result of the increase in expenditure. However, it must be noted that the introduction of some of the tax changes may cause short term impacts, as spending to boost economic activity may not follow immediately. Furthermore, the introduction of a new tax such as a GST will involve extra administration and compliance costs both initially and over time.

The impacts of tax increases can be both direct and indirect. Direct impacts include, for example, a reduction in disposable income as a result of a PIT increase, which leads to households consuming less. Conversely, indirect impacts include effects on investment and employment in sectors as a result of a reduced level of demand for their goods and services. Indirect impacts also include the boost to the economy provided as a result of additional government expenditure funded by the tax revenues raised through each of the tax policy options.

This section outlines the economic impacts of the tax policy options being considered by the States of Guernsey, in the context of Guernsey's fiscal needs and its economy. A key measure reported for all tax policy options is the tax revenue impact, showing how much revenue each scenario could raise towards the working target. The overall revenue target, provided as a working assumption by the States, is 24% of GDP within the next five years.[91]

4.1.1. Macroeconomic Impact

The macroeconomic impact analysis of the tax changes focuses on three key economic indicators: GDP growth, employment and inflation. The analysis also considers any sectoral impacts, particularly in relation to the financial sector and those sectors which are more labour intensive or would be most impacted.

The approach in this report is to use empirical studies that estimate the effect of the policy options outlined above. These estimated impacts are discussed in the specific context of Guernsey's economy. The absence of an economic model outlining the details of Guernsey's economy (for example, using input output tables) means that the results from this analysis should be considered as directional, rather than precise impacts on the economy. For GST, studies on the impact

[91] The overall revenue itself is made up of a combination of streams on which tax revenue is the largest, but also includes revenue from fees and departmental revenues.

of its introduction in New Zealand and Jersey are analysed given their relevance to the GST structure being proposed by the States.

In the case of employer social security contribution increases, the direct impact is estimated using the most recent data on employee remuneration by sector in Guernsey as provided by the States. The impact on different sectors is considered in the context of each sector's contribution to GVA and overall labour productivity.

4.1.2. Distributional Impact

The distributional impact analysis examines the effect of each tax policy option on households across the income distribution. For each of the tax policy options, the impact on each household is estimated by the States.[92] Using the same household income data,[93] household gross unequivalised income ranges for each quintile can be established as listed below. By estimating the impact of each policy option on average within these quintiles,[94] this report assesses the distributional consequences of each policy option:[95]

- Q1: 0 - £23,953
- Q2: £23,954 - £44,328
- Q3: £44,329 - £69,909
- Q4: £69,910 - £108,890
- Q5: £108,891 and above

The analysis of tax impacts and the tax burden on household income, is performed for each income quintile. The magnitude of the impact is assessed relative to household income and household expenditure. The impact relative to expenditure is estimated using data from the latest Household Expenditure Survey Report.[96] The expenditure items are split into essential and non-essential expenditure with food and non-alcoholic drinks and housing, fuel and power classified as essential. As a result, the average expenditure by quintile on essentials relative to total expenditure, shown in Figure 20.

The GST tax burden on each household by category of expenditure has been provided to us by the States. By categorising expenditure into essential and non-essential items, the differences in tax burdens are studied across household quintiles and compositions.

4.1.2.1. Impact on Higher Earners

To analyse the impact of PIT changes on the income of higher earners, we use data provided by the States for the top 5% of households in terms of household income. As individual income is not available, household income is used as a proxy. This is declared household income as individuals who pay the PIT cap are not obliged to declare their full income. Thus, the impacts calculated as a proportion of overall household income may be an overestimation for these higher earners. We contextualise these results using insights contained in this dataset, including information on employment sector and the length of time resident in Guernsey.

4.2. Impacts on revenue

Guernsey currently raises approximately 19% of its GDP as tax revenues. The breakdown of this is shown in Table 6.

[92] Household composition broadly includes single adult households, one or more pensioner households, multiple adult households and multiple adult households with children. These are included in the household data as well.
[93] The income distribution data used is as observed by the States and does not include capital income or any measure of household wealth. As a result, it (and by extension, the distributional analysis) does not accurately reflect the spending power of households that are reliant on these other means which are not captured.
[94] Impact within each quintile is calculated by dividing the average change in tax liability as a result of the policy option by the average level of gross household income.
[95] The household income and ranges do not take into account differences between household composition (e.g. number of children, adults, pensioners) at this stage.
[96] Guernsey Household Expenditure Survey Report, available at: https://www.gov.gg/CHttpHandler.ashx?id=133968&p=0

Table 6: Types of taxes and the revenues raised through each of them

Tax	Tax revenues raised as a % of GDP (2021 forecast)
Personal Income Tax (PIT)	8.6%
Corporate Tax	2.2%
Social Security	5.7%
Other taxes	2.8%
Miscellaneous and operating income	3.1%

Source: Tax revenue data and 2021 GDP forecast provided by the States

As discussed in Section 3, this is less than in some of Guernsey's benchmark jurisdictions. In addition to tax revenue, Guernsey also generates revenue from operating income and other sources,[97] the value of which is in the region of 2 to 3% of GDP. Total revenue relative to GDP was 21.9% prior to COVID-19. The States have requested a working assumption that they may seek to raise revenues of up to 24% of GDP by 2026. Each of the considered tax policy options may raise between 1.9% and 2.2% of GDP according to the revenue analysis provided by the States.

Policy Option 1 relies on changes in personal income taxation through a Health Tax and SSCs for revenue raising. Policy Option 2 relies on the introduction of a GST with a reduction in PIT and a marginal increase in SSCs also present. Policy Option 3 is chiefly based on a GST but is accompanied by a smaller reduction in PIT and a greater increase in SSCs than under Option 2.

Given that CIT changes will consider how Guernsey compares to jurisdictions such as Jersey and the Isle of Man, it is not included in the scope of this Report. For analytical purposes the States have provided an assumption regarding CIT, which is presented in section 2.3. The assumption involves broad alignment between comparators and estimated revenues from introducing the OECD Pillar 1 and 2 proposals.

Table 7 shows the additional tax revenues raised as a percentage of GDP as forecast for 2021 for each tax policy option (and core elements).

Table 7: Additional tax revenues raised as a percentage of GDP from proposed tax measures

Proposed Tax	Option elements	Additional tax revenues raised as a % of GDP (2021 forecast)
Option 1	SSC restructure - *rates increased to 9% for employees and 7.5% for employers*	0.63%
	Health Tax - *administered in a similar way to PIT of 3%*	1.20%
	Corporate income tax	0.31%
	Peak forecast revenue lost from secondary pensions	-0.25%
	Option 1 Total	**1.9%**
Option 2	SSC restructure - *rates increased to 8% for employees and 7.5% for employers*	0.06%
	8% GST	2.68%
	PIT allowance increase to £14,000	-0.60%
	Corporate income tax	0.31%
	Peak forecast revenue lost from secondary pensions	-0.25%
	Option 2 Total	**2.2%**
Option 3	SSC restructure - *rates increased to 9% for employee and 7.5% for employers*	0.51%
	5% GST	1.75%
	PIT allowance increase to £12,700	-0.29%
	Corporate income tax	0.31%
	Peak forecast revenue lost from secondary pensions	-0.25%
	Option 3 Total	**2.1%**

Source: Based on tax impact data provided by the States

[97] These include housing rental income, company fees, dividend income from States Trading, court fines and rental income on commercial property.

The SSC restructure present in all options under consideration involves an increase in the SSC rates, although this is to a greater extent for Options 1 and 3 than for Option 2. The SSC restructure also includes a move away from an equal rate for both employers and employees, with employees' rates higher in all options. Despite this shift, SSC revenue from employers remains higher than that from employees. Currently, employers' revenue share is 51% while employees' share is 49% for Class 1 contributions. For Option 1, employers' SSC revenue share is 59% while employees' is 41%. With Option 2, employers' SSC revenue share is lower than for Option 1 at 55% while employees' is higher at 45%. Option 3 has employers' and employees' revenue shares between Option 1 & 2 at 56% and 44% respectively. This increase is as a result of the changes in income treatment for both employers and employees.

As GDP grows over the next few years, the levels of tax revenues raised will also increase. Studies have shown that in developed countries, tax buoyancy is approximately equal to unity, in both the short and long term.[98] This means that in general, for a 1% increase in GDP, revenues from taxes will also increase by 1%, implying that the tax to GDP ratio will not change.

To estimate overall growth in the economy up to the end of 2026, the GDP growth forecast as provided by the States is used. This forecasts that GDP will contract by 4.2% in 2020, increase by 4.1% in 2021 and then increase by less than 1% annually. Using this growth forecast, the overall growth expected in Guernsey by the end of 2026 is 1.03%. This would imply an approximate increase of 1.03% in tax revenues as well.

By design, each of the policy options under consideration produces a similar increase in tax revenue as a share of GDP in 2021. The impact of Policy Option 2 is greatest at 2.2% of GDP, the next largest impact arises from Option 3 at 2.1% and the smallest impact would be under Option 1 at 1.9%. Under Option 1, total revenues as a percentage of GDP in 2026 would be 23.8%, which is marginally lower than the working target of 24% while it would be 24.1% under Option 2 and 24.0% under Option 3.

A small portion of the increase in tax revenues comes from the CIT change, which is constant across each of the policy options at 0.31% of GDP. Each tax policy option incorporates a variant of an SSC restructure. The most impactful restructure to SSCs is under Option 1, which would raise an additional 0.63% of GDP in tax revenue; Option 2 is smallest with a minimal impact of 0.06% and then Option 3 is similar to Option 1 in terms of impact on SSC revenue at 0.51%.

Policy Option 1 involves the introduction of a 3% Health Tax, which is estimated to raise an additional 1.2% of tax revenue as a share of GDP (equal to £38.9m), the largest contributor to the additionally raised revenue under Option 1. While Options 2 and 3 do not involve a Health Tax, both incorporate an increase in the tax-free allowance for PIT – which results in a reduction in tax revenue from PIT. Under Policy Option 1, there are a variety of changes to the level of social security contributions (SSCs). The net impact of these changes is an increase in the level of revenue generated through SSCs to the tune of £20.4m. In sum, the impact of Policy Option 1 is to increase the level of revenue raised from taxes on income by approximately £59.3m.

The tax revenue increases from Options 2 and 3 are chiefly based on the introduction of a GST. The impact of the GST is greater for Option 2 where a GST of 8% is introduced, which results in an increase in tax revenue raised as a share of GDP of 2.68%. Option 3 involves the introduction of a GST at a lower level of 5%, which produces a smaller increase in tax revenues from GST equal to 1.75% of GDP.

Policy Option 2 involves an increase in the PIT tax-free allowance, which will reduce the level of revenue raised through PIT by £19.5m or 0.6% of GDP. The restructure of SSCs that forms part of Policy Option 2 would result in an increase in the level of revenue generated through SSCs to the tune of £2.1m. In sum, the impact of Policy Option 2 is to decrease

[98] Tax buoyancy is the relationship between the percentage change in tax revenues and the percentage change in GDP. If tax buoyancy is not different from unity, this implies that a 1% growth in GDP is linked to a 1% increase in tax revenues, leaving the tax revenues to GDP ratio constant. See IMF working paper, "How Buoyant is the Tax System? New Evidence from a Large Heterogeneous Panel", available at: https://www.imf.org/~/media/Files/Publications/WP/wp1704.ashx

the level of revenue raised from taxes on income by £17.4m. In addition, Policy Option 2 involves the introduction of a GST at 8%, meaning that **£86.9m would be raised by consumption taxation under Option 2**.

Policy Option 3 involves an increase in the PIT tax-free allowance, which will reduce the level of revenue raised through PIT by £9.2m or 0.29% of GDP. The restructure to SSCs that forms part of Policy Option 3 would result in an increase in the level of revenue generated through SSCs to the tune of £16.7m. **In sum, the impact of Policy Option 3 is to increase the level of revenue raised from taxes on income by £7.5m.** In addition, Policy Option 3 involves the introduction of a GST at 5%, meaning that **£56.5m would be raised by consumption taxation under Option 3.**

4.3. Macroeconomic impact

As discussed in Section 2, the impacts of the tax changes considered are discussed in the context of changes in the taxation of individual income (changes in the PIT tax-free allowance, increased social security contributions and a Health Tax) and the introduction of a GST.

4.3.1. Impact of Individual Income Tax Increase

4.3.1.1. GDP Growth

While an increase in individual taxation, as would result from the implementation of Policy Options 1 or 3, may impact disposable income and consumption, it is important to consider that the overall impacts on GDP growth in this scenario depend on how the government decides to use the additional revenue raised. Since it is anticipated that the States will use the raised revenue to increase spending in order to maintain current service levels, this may offset the reduction in household consumption, ensuring that the overall impacts on the economy are limited. For Policy Option 2, under which there would be a reduction in the level of revenue raised through income taxation, all impacts discussed in this section would be reversed.

A study by the OECD considers the impact of increasing tax revenues on GDP growth using both a top-down cross-country regression approach and a bottom-up simulation approach.[99] Based on the top-down approach, this study estimates that for developed countries a 10 percentage point increase in tax revenues as a percentage of GDP could reduce growth by about 0.5 percentage points, all else being equal.[100]

Furthermore, studies that do show a negative impact on GDP growth tend to show that this impact is transitory and that it is absorbed in around two years.[101] A study using US data shows that for a 1 percentage point increase in the tax to GDP ratio, the impact on growth is not significantly different from zero, three years after the change is implemented.[102] Similarly, a study based on 18 OECD countries showed that there are no significant impacts on growth if tax increases are applied to higher earners, as the level of consumption by these households does not vary much as a result of changes in personal income taxation.[103]

Following the empirical evidence, and the decision that government expenditure will increase alongside the tax changes, the overall impacts on GDP growth will be limited and transitory in nature. However, there will be significant short-term transitory impacts associated with compliance costs, behavioural impacts and administration costs as businesses, individuals and the government learn to navigate the new systems. Furthermore, there will be impacts if there are delays to the government increasing expenditure.

[99] OECD working paper, "Taxation and Economic Performance", available at: https://www.oecd-ilibrary.org/economics/taxation-and-economic-performance_668811115745
[100] The same paper conducts a bottom up simulation approach which finds that a reduction in tax to GDP ratio of 10 percentage points is estimated to increase growth by 0.5-1 percentage points
[101] "The Macroeconomic Effects of Tax Changes: Estimates Based on a New Measure of Fiscal Shocks", available at: https://www.nber.org/system/files/working_papers/w13264/w13264.pdf
[102] "How Large Are the Effects of Tax Changes", available at: https://www.researchgate.net/publication/46474949_How_Large_Are_the_Effects_of_Tax_Changes
[103] "Optimal Taxation of Top Labour Incomes: A Tale of Three Elasticities", available at: https://www.nber.org/system/files/working_papers/w17616/w17616.pdf

These impacts would be largest for Policy Option 1, given that it raises an additional £59.3m through taxes on income. In the case of Policy Option 3, only £7.5m would be raised through taxes on income meaning any impacts on GDP growth would be significantly reduced. Under Policy Option 2 there would actually be a decrease in the level of revenue generated through income taxation by £17.4m, which would have the opposite impact and potentially provide an increase in growth.

4.3.1.2. Sectoral impacts

Whilst the increase in the level of individual income taxation under Policy Options 1 and 3 (and the decrease under Policy Option 2) are unlikely to impact the overall levels of economic activity in Guernsey, the overall structure of the economy may be impacted. As a result of households potentially reducing consumption in response to increased taxation, sectors such as wholesale, retail and repairs, and transport and storage may shrink. However, these sectors currently comprise 10% of total GVA, meaning that overall impacts on the economy may be limited. In addition, some of the more labour-intensive sectors like education, hostelry, and transport and storage will also be negatively impacted given the increased cost of labour.

40% of Guernsey's economy is derived from the financial services industry. This activity is almost entirely driven by services provided to off-island beneficiaries.[104] This implies that the demand for services in this industry is not adversely impacted even in the scenario where household disposable income reduces as a result of increases in individual taxes on income. In addition, professional, business, scientific and technical activities comprise 13% of the overall economy in Guernsey. This sector is also unlikely to be adversely impacted, as its services generally have inelastic demand as they are consumed by higher earners or the finance sector, which is unlikely to be impacted.

A further 9% of Guernsey's GVA results from the activities of the government and public administration sector, which is likely to expand given the anticipated increase in government expenditure for which tax revenues are being raised and that is required in order to maintain current service levels in light of the ageing population and other fiscal pressures. The health and care sectors[105] are also likely to expand for the same reason. This expansion is, however, likely to be influenced by the availability of health and care professionals. To a lesser extent, the capital investment in infrastructure may also positively impact the construction sector.

It is also worth noting that the public administration sector relies less on imports than sectors such as wholesale, retail and repairs, real estate, etc. This implies that as public administration expands, while more import driven sectors shrink, Guernsey will rely more strongly on its own assets and less on imports.

4.3.1.3. Employment

Theoretically, there is both a labour supply and a labour demand response following an increase in individual taxation. Impacts on labour demand come through the indirect effects of income tax. As a result of a reduction in consumption of certain goods and services, firms begin producing less and therefore demand less labour. On the supply side, taxing income disincentivises work as the value of work post-tax falls (income effect) and incentivises work more as a result of a reduction in post-tax income (substitution effect). For lower income earners, low wages may often make labour supply inelastic. This is because at very low wages, individuals do not have the choice to work less as their essential expenses often equate to a significant part of their income.

The downward pressure on GDP in Guernsey in the short term may also impact employment. In general, the largest sectors by employment are finance and the professional, business, scientific and technical sectors. Together, they employ approximately 28% of Guernsey's labour force. As discussed above, these sectors are unlikely to see a large impact on economic activity and therefore on employment. Furthermore, at 17%, the government and public administration sector

[104] The Channel Islands and the EU – Financial Services, available at: https://www.channelislands.eu/wp-content/uploads/2011/12/FS-background-note-September-2016.pdf

[105] In Guernsey, healthcare provided directly by the States is captured under "public administrative". Private health and care providers such as GP practices and care homes are captured as in the health and care sector even where their activity is heavily subsided.

also employs a large percentage of the labour force. Considering the increases in expenditure and services, employment within the public sector, and to a larger extent within the health sector, may increase.

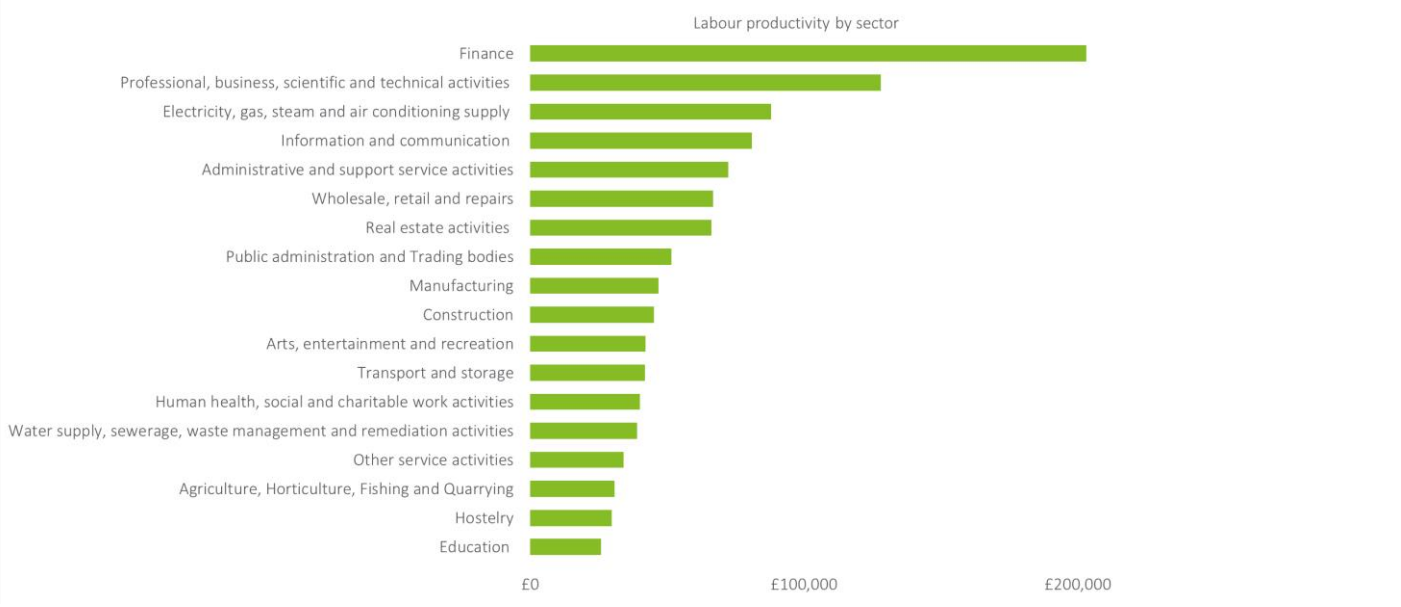
Adverse impacts on employment are most likely to be felt in the sectors that may have larger decreases in GVA. Some of the largest sectors (by employment) that are likely to be more adversely impacted are construction, wholesale, retail and repairs, hostelry, transport and storage, and administrative and support service activities. These sectors together comprise 35% of the labour force and contribute 19% of GVA.[106]

However, given that a portion of the revenue from tax increases will be spent on capital infrastructure,[107] some of the adverse impacts on sectors such as construction may be negated. In comparison to industries such as wholesale, retail and repairs, real estate, administrative and support services, sectors such as public administration, healthcare and construction rely more on labour than capital. This implies that as the economy structurally changes to expand sectors such as public administration, healthcare and construction, the overall impact on jobs may be positive as the loss in jobs from reduced consumption may be offset by the creation of new jobs in labour intensive sectors.

4.3.2. Impact of social security increases on employers in different sectors

An increase in the level of social security contributions, which occurs in each policy option though to a much lesser extent under Policy Option 2, will impact employers in different sectors to a varying extent. Social security contributions will impact sectors that rely more on labour than capital, as they increase the cost of labour. This includes sectors such as hospitality, which often work on low margins and have lower labour productivity. Figure 11 shows the labour productivity, calculated as GVA divided by the number of employees by sector. This figure shows that sectors such as finance, and professional, business, scientific and technical activities have high labour productivities whilst those such as agriculture, sewage and waste management, and hostelry have lower labour productivity.

Figure 11: Labour productivity by sector (£)



Source: The States government website, 'Supplementary GVA and GDP Data 2019', available at https://www.gov.gg/gdp & 'Facts and Figures 2020 Supplementary Data: T 2.16, F 2.16 - Employment by economic sector', available at https://www.gov.gg/ff

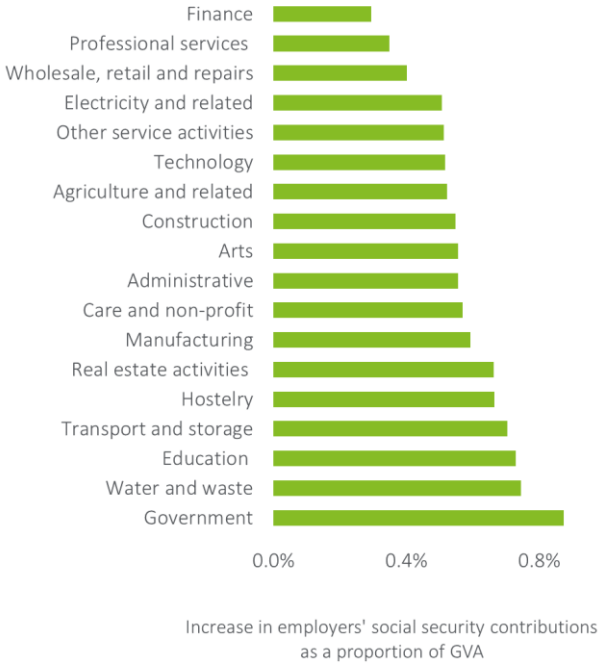
By applying the considered SSC restructure to the data provided on remuneration by sector, we can estimate the change in the social security burden on sectors. As overall remuneration is highest in sectors such as finance and professional,

[106] Guernsey Facts and Figures, 2020, States, Nominal GVA All Sectors - available at: https://www.gov.gg/CHttpHandler.ashx?id=131184&p=0
[107] Guernsey 2019 report, "The Review of the Fiscal Policy Framework and Fiscal Pressures", available at: https://www.gov.gg/CHttpHandler.ashx?id=122178&p=0

business, scientific and technical activities, these sectors bear the largest impact of social security increases in absolute terms. However, when this is compared to their GVA, the sectors that rely more on labour than capital are seen to be impacted more. Figure 12 shows the social security impact as a proportion of GVA for each sector.

As expected, key sectors of focus including the financial services sector are largely not adversely impacted as a percentage of their GVA (at 0.29% for all options). In comparison, sectors such as hostelry, transport and storage, education, and water management are impacted by as much as 0.6% to 0.8% of their GVA for all options. While these impacts are on the higher end of the range relative to GVA, as stated in section 2.3.2, there is evidence to suggest that about two thirds of this burden may be passed on to employees. This may imply a more limited impact on sectors than is provided by these estimates.

Figure 12: Increase in social security contributions for employers as a proportion of GVA



Source: Latest sectoral renumeration data provided by the States

4.3.3. Impact of GST

The GST (which would be introduced at 8% in Option 2 and 5% in Option 3) is a relatively more efficient tax in comparison to PIT because its base does not include mobile capital income. The GST causes fewer distortions as it does not directly impact the cost of capital or labour.[108] Furthermore, the GST decreases in efficiency with higher rates and the addition of exemptions.[109]

Empirical evidence shows that income tax changes have a larger impact than GST on output, private consumption and investment in the short run.[110] As a result, the impact of a GST on the economy is expected to be more limited. To this end, this section reviews the potential impacts that a GST could have on Guernsey's price levels and sectoral performance.

[108] OECD working paper, "Taxation and Economic Growth", available at: https://www.oecd-ilibrary.org/economics/taxation-and-economic-growth_241216205486
[109] IMF working paper, "The Value Added Tax and Growth: Design Matters", available at: https://www.imf.org/en/Publications/WP/Issues/2019/05/07/The-Value-Added-Tax-and-Growth-Design-Matters-46836
[110] "The Macroeconomic Effects of Income and Consumption Tax Changes", available at: https://ideas.repec.org/p/shf/wpaper/2017008.html

Given the relative reliance of the different policy options on the GST for revenue raising and the relative efficiency of the GST, Policy Option 1, which relies solely on income taxation to raise revenue, is likely to be less efficient than Option 3, which incorporates a 5% GST. Option 3 is in turn likely to be less efficient than Option 2, which relies exclusively on GST for revenue raising and is accompanied by a *decrease* in income taxation.

There are a number of empirical studies in the literature that estimate the impact of introducing a GST. An analysis of 53 GST changes in 14 developed countries suggests that aggregate consumption and economic growth increases just before GST is raised, decreases as it is raised and then increases again afterwards.[111] These findings are consistent with a temporal substitution effect of a GST increase, as consumption is brought forward in response. The findings are also consistent with the impact of a GST increase on inflation being temporary in nature.[112] In the long term, a GST increase is not found to adversely impact economic growth.[113] This result is in part driven by countries also increasing government expenditure alongside these tax changes (e.g. compensating low-income households or funding social welfare), which matches the options under consideration for Guernsey.[114]

4.3.3.1. Impact of GST introduction on price levels

In general, the introduction of a GST leads to higher price levels in the short-term as a result of the direct impact on the prices faced by consumers. Empirically, it has been noted that this effect is usually temporary and dissipates after around 4 quarters. A study of the macroeconomic effects of GST introduction in New Zealand, Australia and Canada reported a temporary effect on inflation for all three countries.[115] A separate analysis of the GST effect on inflation in Australia confirms this transitory impact. Australia introduced the tax at a 10% rate in July 2000, thus simplifying its existing sales tax system.[116] It had a higher number of exemptions than New Zealand and was slightly revenue expansionary.[117] A one-off national effect of this GST introduction is reported on price levels at 2.8%, this impact was observed only in the September quarter with no lasting impacts observed beyond this point.[118]

The study of the macroeconomic effects of the GST introduction in New Zealand, Australia and Canada also reviewed the percentage change in GDP arising as a result and reported no common GDP impacts.[119] This result is supported by findings in a paper comparing the effect of the income tax rate and GST rate cuts, showing that a reduction in the GST rate had no significant impact on GDP and its components.[120]

As Guernsey and Jersey have several similarities in their economic structures, the impacts of Jersey introducing a GST are also considered. In Jersey, both the introduction of a GST at 3% and then a subsequent increase to 5% had similar impacts, whereby 1% of GST was associated with an increase in price levels of approximately 0.65% but did not impact inflation beyond the span of one year. Considering Jersey as a close comparator, the introduction of a GST of 5% in Guernsey, as under Policy Option 3, may therefore lead to an increase in price levels of approximately 3.25 percentage points. However, following the Jersey case study, as well as evidence from other countries, the impact this has on inflation can be expected

[111] "The Effect of the VAT Rate Change on Aggregate Consumption and Economic Growth", available at: https://academiccommons.columbia.edu/doi/10.7916/D86W9JX0/download
[112] "Quantifying the Effect of GST on Inflation in Australia's Capital Cities: An Intervention Analysis", available at: http://eprints.qut.edu.au/423/1/Valadkhani_153.pdf
[113] "The Effect of the VAT Rate Change on Aggregate Consumption and Economic Growth", available at: https://academiccommons.columbia.edu/doi/10.7916/D86W9JX0/download
[114] Examples of countries mentioned in the paper and details of the changes: Canada's 1991 introduction of a 15% GST also involved a GST credit scheme for low-income households, Japan's 3% GST introduction in 1989 was used to fund social welfare spending and the Netherlands' 2001 GST increase by 1.5% was accompanied by a 8% drop in PIT rate
[115] "An Empirical Note on the Comparative Macroeconomic Effects of the GST in Australia, Canada and New Zealand", available at: https://www.une.edu.au/__data/assets/pdf_file/0006/67947/econ-2004-17.pdf
[116] "The New Zealand GST and its Global Impact: 30 Years On", available at: https://www.researchgate.net/publication/315782694_The_New_Zealand_GST_and_its_Global_Impact_30_Years_On
[117] "An Empirical Note on the Comparative Macroeconomic Effects of the GST in Australia, Canada and New Zealand", available at: https://www.une.edu.au/__data/assets/pdf_file/0006/67947/econ-2004-17.pdf
[118] "Quantifying the Effect of GST on Inflation in Australia's Capital Cities: An Intervention Analysis", available at: http://eprints.qut.edu.au/423/1/Valadkhani_153.pdf
[119] "An Empirical Note on the Comparative Macroeconomic Effects of the GST in Australia, Canada and New Zealand", available at: https://www.une.edu.au/__data/assets/pdf_file/0006/67947/econ-2004-17.pdf
[120] "The Macroeconomic Effects of Income and consumption tax Changes", available at: https://ideas.repec.org/p/shf/wpaper/2017008.html

to dissipate after one year as prices adjust to a new base level. Under Policy Option 2, where a GST of 8% would be introduced, it is reasonable to expect a greater price effect than in the 5% case.

With the introduction of a GST, compliance costs are worth considering. Several countries, especially in the EU, have GST rates with several exemptions and zero-rated sectors. Whilst zero-rated or exempt sectors can help reduce the regressivity of the tax, they lead to higher compliance costs and erode revenues. Furthermore, these costs especially impact smaller businesses. A study commissioned by New Zealand's Inland Revenue Department after the GST was introduced estimated compliance costs of 7.3% relative to GST revenue.[121] However, when split by the size of the firm, it showed that for smaller firms (less than $30,000) compliance costs were as high as 2.6% of turnover, whilst for larger firms with turnover between $1 and $2 million, the estimate was only 0.2%.

In this respect, the GST under consideration with minimal zero-rating and an exemption for small firms at a threshold similar to Jersey's of less than £300,000 would be beneficial for a reduction in overall compliance costs. In general, compliance costs are also transitory as businesses get used to new systems and develop the know-how to register and comply with new legislation. The States of Guernsey have posited that the annual administration costs associated with the introduction of the GST would be equal to approximately £0.8m.

4.3.3.2. Impact of GST introduction on sectors

The impact of GST on specific sectors in Guernsey will depend on the GST treatment applied, and whether the sectors are exempted or zero-rated, or other mitigating strategies are employed. Whilst zero-rating helps alleviate any adverse effects on consumption, it imposes an administrative or, even more complex, some compliance burden as businesses need to register for GST and then apply to reclaim any GST paid on all their inputs.

Given that a GST will raise the prices of goods consumed by households by the tax rate, it is reasonable to expect that a concentrated effect of the introduction will be felt in the wholesale, retail and repairs sector. As will be highlighted within the distributional analysis in Section 4.4, the percentage of household expenditure spent on essentials is relatively high for lower-income households. This reduces the avenues through which expenditure can be reduced and for these households may prompt a shift towards lower price items.

The medium- and high-income households spend a smaller share of their income on essentials, as is seen in Figure 20, and are likely to find this GST cost minimal in comparison to their total expenditure. Hence, they are less likely to reduce their expenditure in response. On balance, this may shift the expenditure components around but not materially impact the sector's output.

4.3.4. Overall macroeconomic impacts

Overall, based on the empirical evidence in the literature and the fact that the tax changes proposed by the States are expected to be accompanied by equivalent expenditure increases, this implies that **overall impacts to GDP growth will be limited and transitory** in nature as the economy restructures. Therefore, while GDP growth may not be impacted significantly in the long term, **there will be short-term transitory impacts associated with compliance costs, behavioural impacts and administration costs as businesses, individuals and government learn to navigate the new systems.** Furthermore, there may also be impacts associated with government expenditure being delayed, for example as a result of a labour shortage for healthcare professionals to fulfil the increased capacity resulting from greater expenditure. The **introduction of a GST at 5% is likely to impact price levels by approximately 3 percentage points**; however, it is expected that this will not have any long-term impact on inflation as price levels settle to a new base level after a year.

Whilst the overall level of economic activity in the jurisdiction is unlikely to be impacted significantly, the structure of the economy will likely change as a result of the tax changes and increased government expenditure. This may include a

[121] "Reflections on the introduction of Value Added Tax in the United Kingdom and Goods and Services Tax in New Zealand", available at: https://core.ac.uk/download/pdf/12824616.pdf

reduction in the size of sectors such as wholesale, retail, and repair, hostelry and transport and storage, and an expansion in the size of the health and care, and public administration sectors. Key industries such as financial services, and other professional, technical, business and scientific activities are unlikely to be adversely impacted.

With respect to employment, the key industries including **financial services, and other professional, technical, business and scientific activities are unlikely to be adversely impacted**. The **recessionary impact may be felt in the short term in industries such as construction, wholesale retail and repair, hostelry, and transport and storage**. However, even within some of these industries, some of the negative impacts may be counteracted considering that the government aims to spend some of the extra revenues raised from taxes on providing physical infrastructure in the jurisdiction. Furthermore, the structural changes in the economy may lead to an expansion in jobs, especially in the healthcare and public administration sector. These estimated impacts are summarised in Table 8 below, this is then mapped onto the policy options under consideration in Table 9.

Table 8: Overall impacts of individual tax increases and GST introduction

	Overall expected impacts of increases to individual tax	Introduction of a GST
Household consumption	short-term ⇩	Consumption brought forward, but no significant impact ⇔
GDP growth	short-term ⇩	No significant impact ⇔
Employment	short-term ⇩	No significant impact ⇔
Inflation	No significant impact ⇔	short-term ⇧

Table 9: Impacts of tax policy options

	Policy Option 1 (income tax based)	Policy Option 2 (GST based)	Policy Option 3 (GST and income based)
Household consumption	short-term ⇩	short-term ⇗ due to decreased level of income taxation	short-term ⇘
GDP growth	short-term ⇩	short-term ⇗ due to decreased level of income taxation	short-term ⇘
Employment	short-term ⇩	short-term ⇗ due to decreased level of income taxation	short-term ⇘
Inflation	⇔	short-term ⇧	short-term ⇗

4.4. Distributional Impact

4.4.1. Impact by quintile and household composition

Each of the potential illustrative tax changes considered will have varying impacts on different types of households. This section discusses the impacts of each of the proposed tax increases by quintile and household composition (as set out in Section 4.2). When examining the impact by income quintile, we consider impacts relative to total expenditure, essential expenditure and gross household income. As highlighted in Figure 20 in the Appendix, the lower quintiles spend a higher proportion of their expenditure on essential items. Given that such expenditure is less income elastic, seeing how the tax impact relative to essential expenditure is reflected across the quintiles is an indicator of progressivity. In addition, some

elements of essential expenditure may be exempt in the policy options which include a GST thus making the view of tax impact relative to essential expenditure of interest.

4.4.1.1. Policy Option 1: 3% Health Tax and SSC restructure

Policy Option 1 involves the introduction of a 3% Health Tax administered in a similar fashion to PIT, along with an SSC restructure. The 3% Health Tax will impact all households whose taxable income is above the personal allowance threshold. The introduction of an SSC allowance will reduce the tax burden for those with lower incomes. The increased rates for employees will lead to greater tax payments as will the change in the nature of income treatment, which sees SSCs levied on all income rather than earnings from employment alone. Policy Option 1 also involves an automatic reduction in the level of income support as a result of the increase in income due to the introduction of a tax-free SSC allowance.

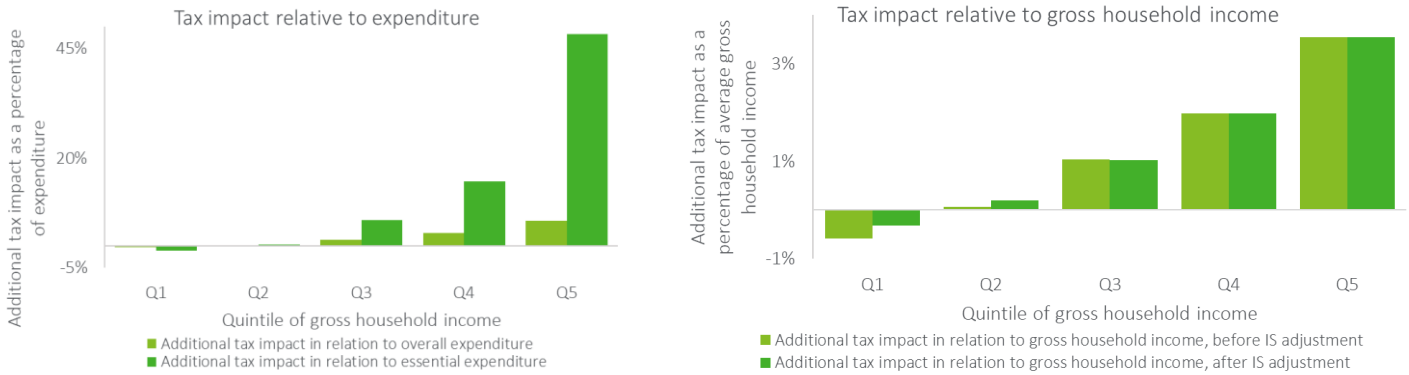
Figure 13 shows the impact of Policy Option 1 by income quintile relative to expenditure in the leftmost panel and relative to gross household income in the rightmost panel. The lighter bars in the left panel shows the impact by quintile relative to *overall* expenditure, the darker bars illustrate the impact relative to *essential* expenditure. The items classified as essential are food and non-alcoholic drinks and housing, fuel and power.

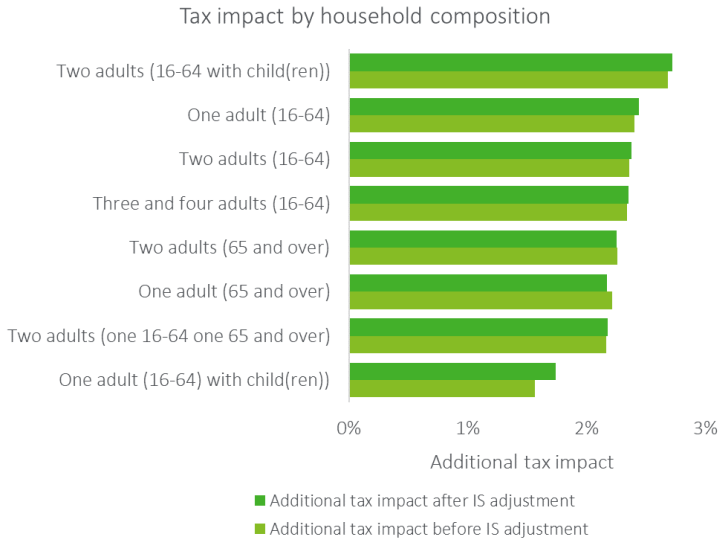
The lighter bars in the right panel show the impact as a share of gross household income before the adjustment in income support whereas the darker bar shows the impact after this adjustment. While residents only observe the impacts after the income support adjustment, it is useful to understand the impact of the tax levers themselves before the States' mitigating interventions.

In the left panel the y-axis shows the additional tax impact as a share of expenditure whereas the y-axis on the right panel shows the additional tax impact as a share of gross household income.

The final chart in Figure 13 shows the impacts by household composition before and after the income support adjustment.

Figure 13: Analysis of the additional tax impact of Policy Option 1





Source: Expenditure data from Guernsey Household Expenditure Survey Report, available at: https://www.gov.gg/CHttpHandler.ashx?id=133968&p=0. Household income data and tax impact data as provided by the States

Policy Option 1 is associated with a decrease in the tax take from those in the first quintile of the income distribution because of the benefit gained from the allowance on SSCs. For those in the second income quintile there is a marginal increase in their tax burden. **Policy Option 1 is therefore progressive as the proportionate tax impact relative to both income and expenditure is increasing with income.** For quintile 1, the tax impact after income support adjustment is -0.32% compared to 3.54% for quintile 5. The impact relative to essential expenditure is significantly greater than when compared to overall expenditure for those in the third, fourth and fifth income quintiles as a result of essential expenditure constituting a smaller share of total expenditure for these higher income households.

Under Option 1 there are no additional income support mitigations. As a result of the introduction of the SSC allowance the take-home income of lower income households is increased. This increase in take-home income results in the States making a lower level of income support payments, which offsets the impact of the SSC reduction. The impact of this automatic fiscal stabiliser from the income support adjustment is felt entirely by those in the first and second quintiles of income (as illustrated in the rightmost panel where the dark green bars pertain to greater values than the light green bars).

When the impact of Policy Option 1 is compared across the different household composition types, on a proportionate basis the greatest share of the burden is borne by two working age adult households with children, with the smallest impact coming for a household with one working age adult and children. Further, the automatic income support adjustment compounds this impact. The income support adjustment is only beneficial for households with one or two adults aged 65 and over.

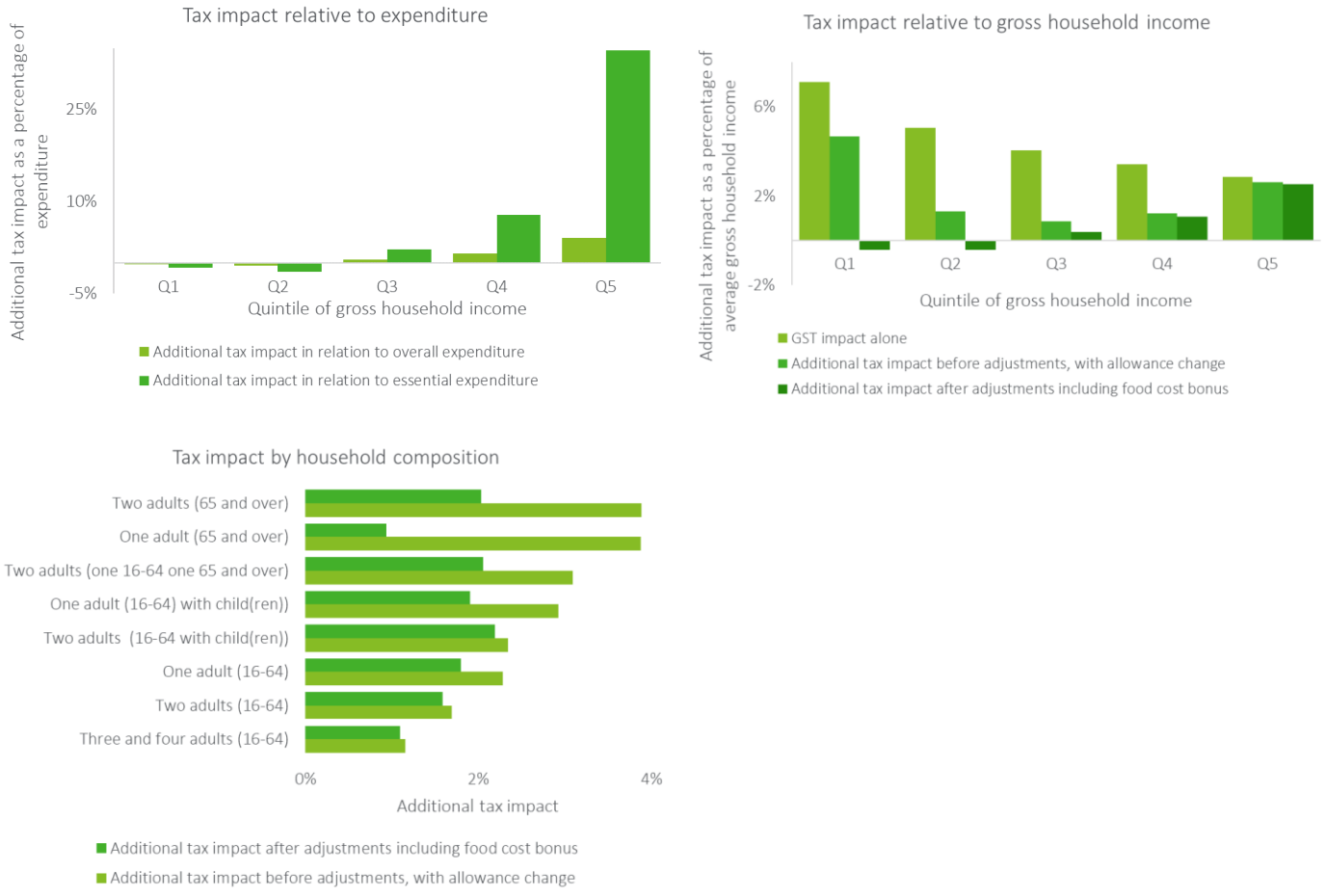
4.4.1.2. Policy Option 2: 8% GST, PIT allowance increase and SSC restructure

Policy Option 2 involves the introduction of a GST at 8% administered in a similar fashion to the GST in Jersey, along with an SSC restructure and an increase in the PIT allowance. The 8% GST will impact all households through its application to all eligible expenditure. The SSC restructure involves the introduction of an allowance in alignment with the PIT allowance and an increase in SSC rates.

Policy Option 2 also involves an automatic reduction in the level of income support as a result of the increase in income due to the introduction of a tax-free SSC allowance. The fact that the GST applies to all eligible expenditure means that it is potentially regressive. To alleviate this, the States of Guernsey have allocated £6m to £9m to increase income support for affected individuals and households and an additional allowance of £0.5m to £2.5m for further mitigation.

Figure 14 shows the impact of Policy Option 2 by income quintile relative to expenditure in the leftmost panel and relative to gross household income in the rightmost panel. The lighter bars in the left panel show the impact by quintile relative to *overall* expenditure, the darker bars illustrate the impact relative to *essential* expenditure. The lighter bars in the right panel show the impact as a share of gross household income for GST alone, the intermediately coloured bars also include the impact of the allowance change and change in the structure of SSCs and finally the darkest bars add to this the impact of offsetting adjustments. The final chart in Figure 14 shows the tax impacts by household composition before and after the income support adjustment.

Figure 14: Analysis of the additional tax impact of Policy Option 2



Source: Household income data and tax impact data as provided by the States & Expenditure data from Guernsey Household Expenditure Survey Report, available at: https://www.gov.gg/CHttpHandler.ashx?id=133968&p=0. Household income data and tax impact data as provided by the States

Policy Option 2 is associated with an increase in the tax take in income quintiles 3 to 5; however, those in income quintiles 1 and 2 would see a decrease in their tax burden. The tax impact as a share of both overall and essential expenditure is increasing along the income distribution. When the tax impact is assessed relative to essential spending, the proportionate impact increases more substantially for those in the fourth and particularly fifth quintiles. This occurs because essential expenditure is a smaller proportion of total expenditure for those in the upper echelons of the income distribution.

Policy Option 2 is progressive when analysed relative to gross household income and considered after the inclusion of mitigating measures. Quintile 1 has tax impact of -0.42% while the tax impact for quintile 5 is 2.54%. For those in income quintiles 1 and 2, the net effect of Option 2 is a decrease in their net tax burden. The GST in isolation (the lightest bar) is regressive such that the tax impact relative to gross household income is higher for those at the lower end of the income distribution. The other elements of Option 2, which include the increased PIT allowance and SSC allowance, help to

alleviate the regressivity of Option 2. The main contributing factors to this are the increased PIT allowance, which reduces the tax burden for those in income quintiles two to four, and the offsetting measures for GST cost, which especially alleviate quintile one's tax burden. Those in income quintile five are less affected by the other elements of tax Policy Option 2. This is because of the tax cap and the proportionately smaller role that the withdrawal of tax allowances plays in their tax affairs.

The final bar in the rightmost graph shows the tax impact as a share of gross household income after also adjusting for the offsetting interventions by the States of Guernsey. On a proportionate basis, the impact of these offsetting interventions would be greatest for those in the lowest income quintile. The net effect of Policy Option 2 after mitigations is therefore that the tax impact as a proportion of gross household income increases along the income distribution.

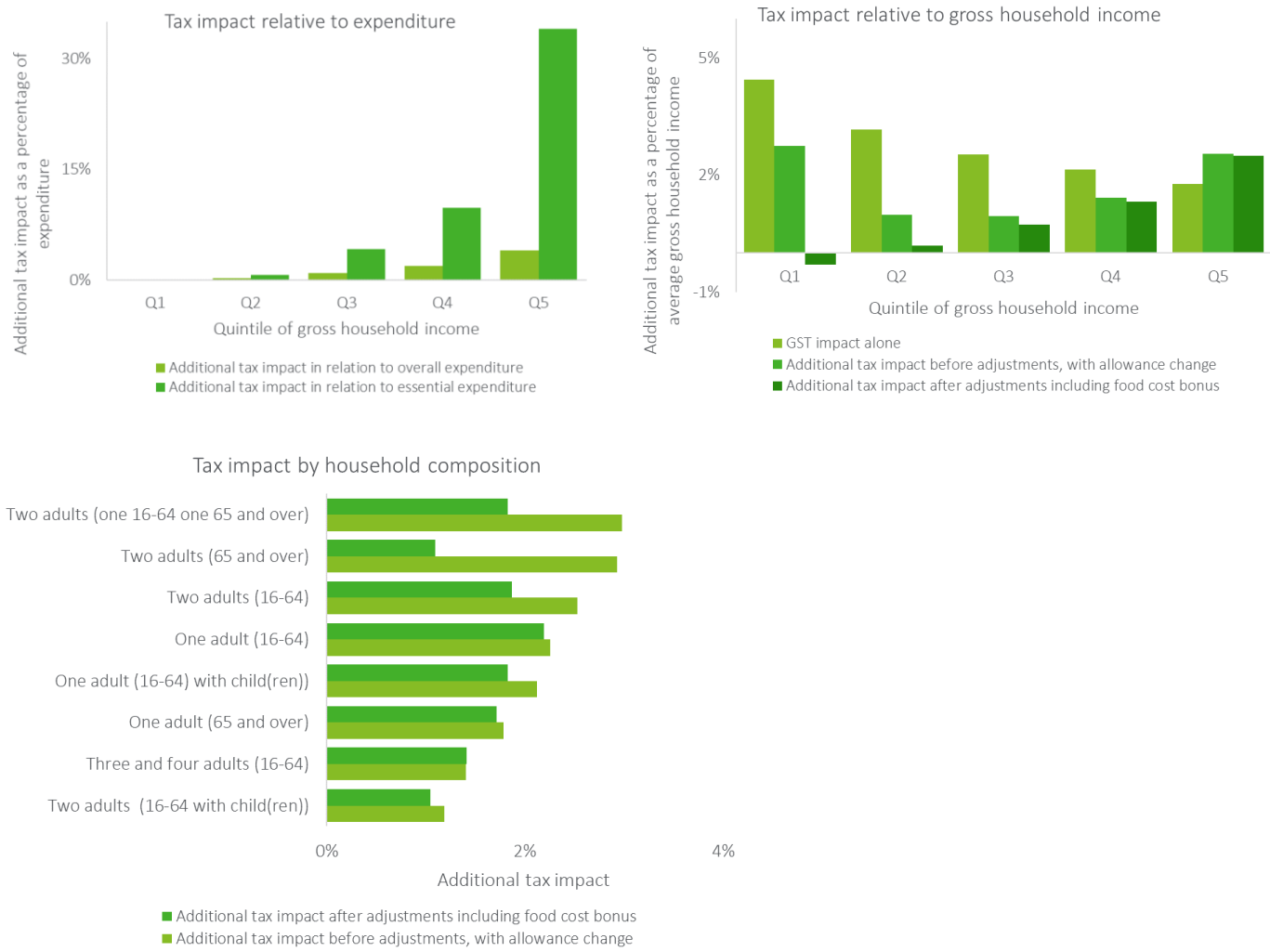
The final chart in Figure 14 shows the impact of Policy Option 2 across household types before adjustments (lighter bar) and post-adjustment (darker bar). The tax impacts before the adjustments are greatest for households containing adults aged 65 and over. However, these households benefit most from the adjustments bringing the impact to a level comparable to other household types. Households with one adult aged over 65 benefit particularly significantly from the adjustments. Prior to the adjustments they rank 2nd amongst household types in terms of impact magnitude and after the adjustments, the tax impact is smallest for this group.

4.4.1.3. Policy Option 3: 5% GST, PIT allowance increase and SSC restructure

Policy Option 3 involves the introduction of a GST at 5% administered in a similar fashion to the GST in Jersey, along with an SSC restructure and an increase in the PIT allowance. The 5% GST will impact all households through its application to all eligible expenditure. The introduction of an SSC allowance and increase in the PIT allowance will reduce the tax burden for those with lower incomes and the increased SSC rates for employees will lead to greater tax payments for these individuals as will the change in the nature of income treatment. Policy Option 3 also involves an automatic reduction in the level of income support as a result of the increase in income due to the introduction of a tax-free SSC allowance. The fact that the GST applies to all eligible expenditure means that it is potentially regressive. To alleviate this, the States of Guernsey have allocated £4m to £5m to increase income support for affected individuals and households and an allowance of £0.3m to £0.7m for additional mitigations.

Figure 15 shows the impact of Policy Option 3 by income quintile relative to expenditure in the leftmost panel and relative to gross household income in the rightmost panel. The lighter bars in the left panel show the impact by quintile relative to *overall* expenditure; the darker bars illustrate the impact relative to *essential* expenditure. The lighter bars in the right panel show the impact as a share of gross household income for GST alone, the intermediately coloured bar also includes the impact of the allowance change and change in the structure of SSCs and finally the darkest bar adds to this the offsetting adjustments. The final chart in Figure 15 shows the impacts by household composition before and after the income support adjustment.

Figure 15: Analysis of the additional tax impact of Policy Option 3



Source: Expenditure data from Guernsey Household Expenditure Survey Report, available at: https://www.gov.gg/CHttpHandler.ashx?id=133968&p=0. Household income data and tax impact data as provided by the States

Policy Option 3 is associated with an increase in the tax take from those in income quintiles 2 to 5; however, those in the lowest income quintile would see a decrease in their tax burden. The tax impact as a share of both overall and essential expenditure is increasing along the income distribution. When the tax impact is assessed relative to essential income the proportionate impact increases more substantially for those in the fourth and particularly fifth quintiles. This occurs because essential expenditure is a smaller proportion of total expenditure for those in the upper echelons of the income distribution.

The final (darkest) bar in the rightmost graph shows the tax impact as a share of gross household income after also adjusting for the offsetting interventions by the States of Guernsey. On a proportionate basis, the impact of these offsetting interventions would be greatest for those in the lowest income quintile. **After accounting for the adjustments, Policy Option 3 is progressive and for those in the lowest income quintile the tax burden would actually be *reduced*. The tax impact for quintile 1 is -0.30% while the tax impact for quintile 5 is 2.49%.**

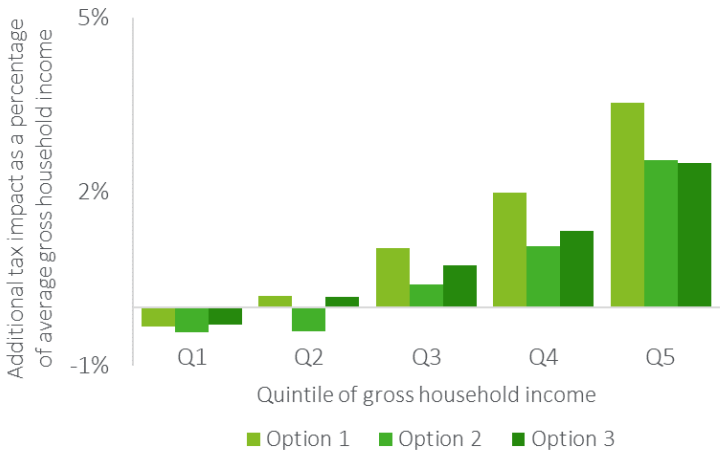
When the tax impact of Policy Option 3 is assessed relative to gross household income, the GST in isolation (the lightest bar) is regressive. This regressivity means that on a proportionate basis those in the first income quintile are more affected than those in the second, who are more affected by those in the third and so on. When the other changes included as part of Policy Option 3 are accounted for, the regressivity of the tax is reduced slightly for the fourth quintile but, in contrast, increased for the fifth quintile since the tax allowance change and mitigations such as income support have much less of an impact on their tax liability. Those in income quintiles one to three are most affected by the other elements of tax Policy Option 3 as they benefit from the change in allowance (more so in the case of second and third quintiles) and the additional mitigations (particularly the case of the first quintile).

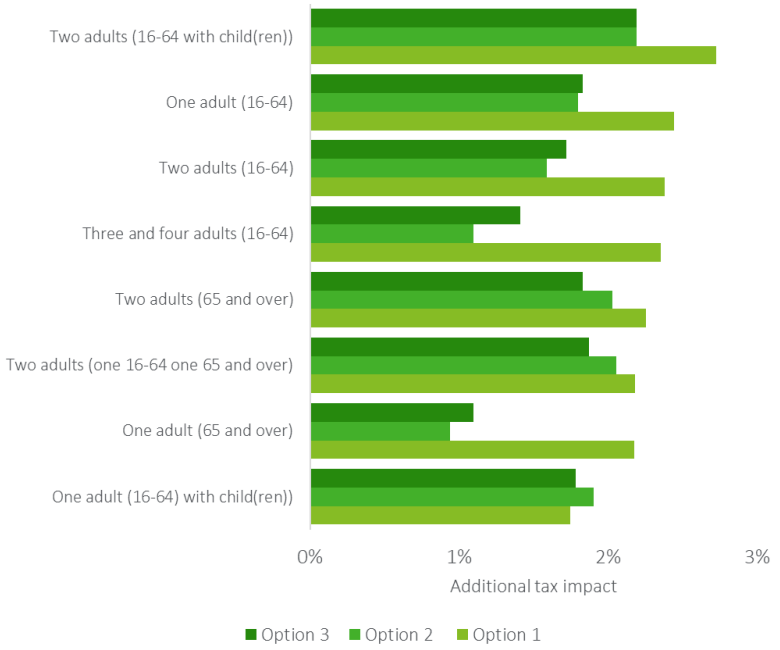
The final chart in Figure 15 shows the impact of Policy Option 3 across household types before adjustments (lighter bar) and post-adjustment (darker bar). The impact before the adjustments is greatest for multi-adult households containing individuals aged 65 and over. Two working-age adult households with children and households with three to four working-age adults are least affected. The adjustments have the largest impacts for the most affected households. In particular, households with two adults aged 65 and over benefit significantly from the adjustments, taking them from being the second most affected household group to the second least affected group. After adjustments, the most impacted household type is a household with only one working age adult.

4.4.1.4. Overall impacts of policy option, by income quintile

The purpose of this section is to facilitate easy comparison of the distributional consequences of the different policy options under consideration. The first chart in Figure 16 shows the tax impact across the income distribution relative to gross household income. The second chart in Figure 16 shows the tax impacts for the different types of household.

Figure 16: Impacts of policy options relative to gross household income





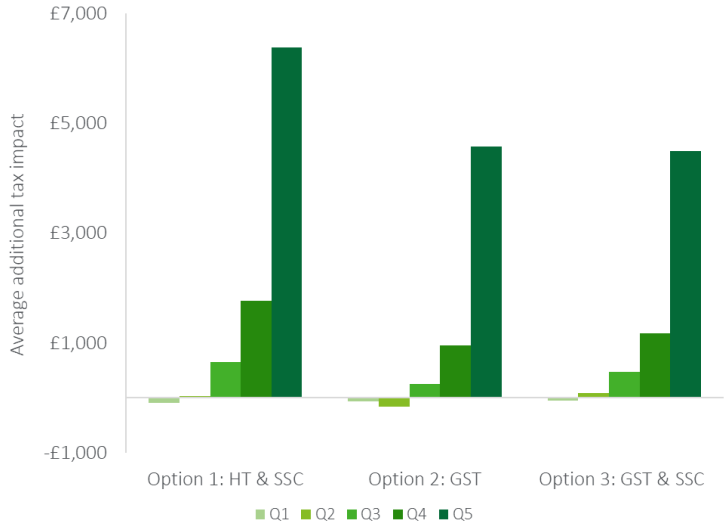
Source: Household income data and tax impact data as provided by the States

All three tax policy options are progressive, with Option 1 being the most progressive. Under all options, the most affected household type is a household with two working age adults with children.[122] There are numerous examples of notable changes in the magnitude of the tax impacts across the different household types. The impact for households containing a single adult aged 65 and over is significantly higher under Option 1, and this is also true for households with multiple working age adults without children. For the single pensioner households, this is because Options 2 and 3 include old age pension adjustments and pension support scheme along with the introduction of GST rates. The impact for single parent households is slightly greater under Option 2 compared to Options 1 and 3. Across the households, Option 1 has a higher tax impact than Options 2 and 3 as some of the revenue raised from the latter options are from tourist spend and the ISE scheme.

An additional view of the distributional impact of each tax policy option is shown in Figure 17 below, which illustrates the additional tax impact from each option by income quintile. For all options, the largest impact is seen in the fifth quintile, which includes those with the highest income levels. Each preceding quintile for Options 1 and 3 has less of a tax impact, meaning less tax liability. This is partly the same for Option 2, except in the case of the first and second quintiles; on average, quintile 2 results in less of a tax liability than quintile 1.

[122] These households have higher incomes on average across the household compositions.

Figure 17: Additional tax impact from each policy option by income quintile



Source: Household income data and tax impact data as provided by the States

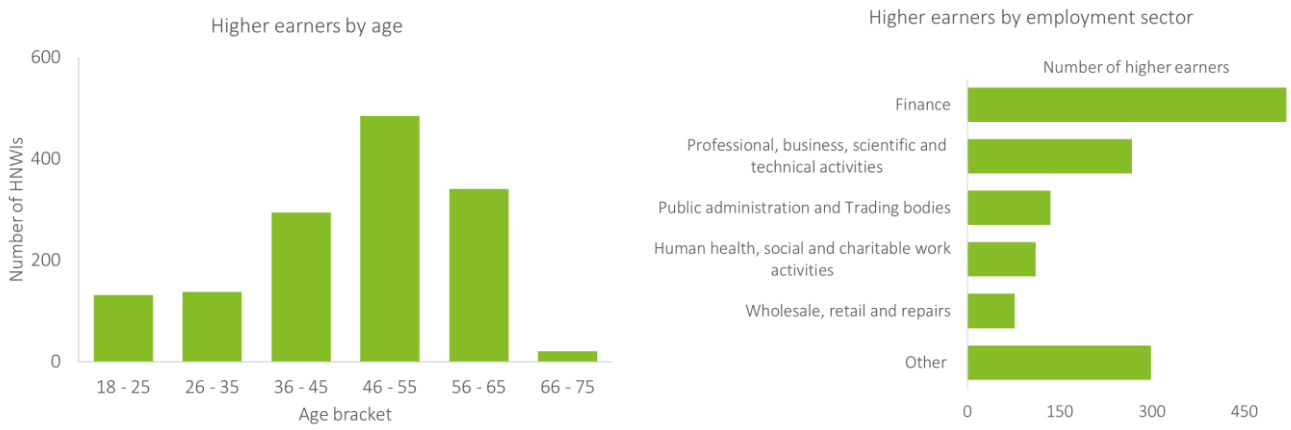
4.4.2. Higher Earners (Part of Top 5%)

Of the illustrative tax changes being considered, the PIT changes would be most likely to impact higher earners. Impacts on higher earners are therefore considered in the context of the different policy options under consideration. Furthermore, the demographics of these higher earners are studied to discuss impacts to specific sectors in the scenario that these individuals move out of Guernsey.

4.4.2.1. Demographics of Higher Earners

Overall, a total of 1,406 higher earners have been identified from data on the top 5% of households in the income distribution, as provided by the States. These higher earners are employed and self-employed individuals in 1 to 4 person households and employed and self-employed individuals chosen from 5 to 6 person households based on aggregate household income reflecting a high number of higher earners. Almost 80% of these individuals are between 45 and 65 years of age. Furthermore, 56% of these higher earners are employed either in the finance sector or in the professional, business, scientific, and technical activities sectors. Their distribution by age and employment sectors is shown in Figure 18.

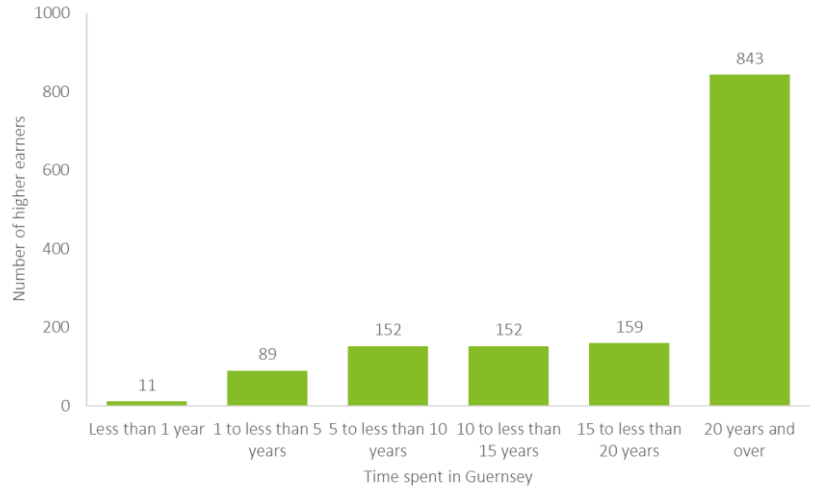
Figure 18: Distribution of higher earners by age and employment sectors (five largest)



Source: Household income data for the top 5% of households as provided by the States

When looking at time spent resident in Guernsey, 60% of higher earners have spent over 20 years in Guernsey, and 82% of higher earners have spent over 10 years in Guernsey. Figure 19 shows the distribution by the amount of time spent in Guernsey.

Figure 19: Higher earners by time spent in Guernsey



Source: Household income data for the top 5% of households as provided by the States

4.4.2.2. Impact on income of higher earners as a result of proposed changes in income taxation

Overall, it is seen that the largest proportion of those individuals who are categorised as higher earners would see an **impact of 3% to 4% on their household income under Option 1 and impact of between 2% and 3% of household income under both Option 2 and Option 3**.[123] For the small number of individuals who make use of the States' tax cap this impact will be zero. Under each policy option the impact on higher earners is 5% or less for at least 80% of households. In the event that these tax changes are large enough to incentivise higher earners to relocate to minimise their income tax

[123] As individual income is not available, household income is used as a proxy. This is declared household income as individuals who pay the personal income tax (PIT) cap are not obligated to declare their full income. Thus, the impacts calculated may be an overestimation.

burden, the finance and professional activities sectors may be adversely impacted as they employ over 50% of the higher earners.

However, given the PIT ranges seen in comparable jurisdictions in the benchmarking analysis in Section 3, it is unlikely that the tax changes illustrated here will lead to a material change in factors that make Guernsey an attractive location for some higher earners. For the few high net worth individuals who make use of the tax cap, their location choice is more likely to be sensitive to changes in the tax cap and capital taxes, which are unchanged for each of the options under consideration in this report. Further, higher earners generally tend to be more adversely impacted by increases in capital gains taxes, which are not currently applied in Guernsey.

Considering the distribution of time spent in Guernsey, this may suggest that about 82% of higher earners have ties to the island which could make them less sensitive to tax reform. On this basis, the improvement of the health and care sector, as a result of the planned expenditure, relative to the counterfactual where the spending does not take place, will help to retain Guernsey's attractiveness as a jurisdiction of residence. This still leaves 18% of this group who may have a more limited local connection and could be fairly mobile and sensitive to their direct tax burden. Given their large contribution to the tax base, the loss of even a small number could be significant for the States. This also does not consider whether the changes in direct taxation may impact Guernsey's ability to attract such individuals in the first place. Higher earners differ from the high net worth individuals (HNWIs), which are much smaller in number, more mobile and would be most influenced by the tax cap and any taxes on capital.

Key Insights

Government revenue in Guernsey, before 2020 and the impacts of COVID-19, was 21.9% of GDP, which is lower than the States' target of 24%. The first element of the economic impact study presented in this report is to consider whether the illustrative tax reforms considered in this Interim Report would lead to a sufficient increase in government revenue.

The three tax reforms under consideration include changes to existing tax policy as well as the introduction of new forms of taxation. The first option involves the introduction of a 3% Health Tax administered in a similar fashion to PIT along with restructured (increased) SSC rates. The second option involves the introduction of an 8% GST administered in a manner similar to the GST in place in Jersey, along with a marked increase in the PIT allowance and restructured (increased) SSC rates. The third option involves the introduction of a 5% GST administered in a manner similar to the GST in place in Jersey, along with an increase in the PIT allowance and restructured (increased) SSC rates.

Implementing Policy Option 1, which is based on the Health Tax, would increase the ratio of tax revenue to GDP to 23.8% by 2026. If Policy Option 2, which is based on the GST, were implemented, it would increase the ratio of tax revenue to GDP to 24.1% by 2026. If Policy Option 3, which is a balance between relying on the GST and changes in SSCs, were implemented, it would increase the ratio of tax revenue to GDP to 24.0% by 2026. While the analysis presented in this report suggests that the policy options under consideration may be sufficient to lead to an increase in government revenue, there are also likely to be wider economic impacts associated with their introduction.

Increases in individual taxation (PIT, social security and Health Tax) will lead to a short-term decrease in household consumption, a short-term decrease in GDP growth, a short-term decrease in employment and have no impact on price levels. The introduction of a GST will lead to household consumption being brought forward but not with any significant total impact, no significant impact on GDP growth, no significant impact on employment and a short-term increase in inflation.

While the aggregate impacts of changes in taxation may be somewhat limited, the impacts for individual sectors and the distributional consequences of reform may be greater. Changing the higher rate of PIT is most progressive, while the impact of changing social security contributions and introducing a Health Tax is limited for those in the top income quintile as a result of the tax cap.

The GST is least progressive as the burden falls predominantly on lower income households; this impact has been mitigated in other jurisdictions by introducing accompanying compensatory policies. When the impact of mitigations is included all policy options under consideration are found to be progressive in terms of expenditure or income and in absolute terms.

82% of higher earners have spent more than 10 years in Guernsey, which, when combined with the position of Guernsey's tax regime relative to its benchmark jurisdictions, suggests that the reforms considered in this report are unlikely to be sufficient to result in a material change in the incentives of such higher earners. However, it could be the case that some individuals who are more mobile and have less significant ties or time spent in Guernsey may consider their position, and this would have wider consequences for the people that such individuals employ as well as their overall contributions to Guernsey's tax base.

5 Conclusion and next steps

Guernsey's current tax regime is broadly comparable to those of its benchmark jurisdictions and would continue to be so after accounting for the tax policy options considered in this report. Nevertheless, the options analysed will cause changes to Guernsey's tax regime across the different dimensions considered. The direction of these changes is specific to each option. The economic impacts of the tax policy options are likely to be transitory but may have important repercussions for certain sectors.

The States currently have an expected operating deficit of £64 million in 2020. The States are considering three tax policy options to increase revenues such that the States meet the future needs of their ageing population and are capable of the 24% of revenue to GDP target. This Report analyses the options put forward by the States, which include changes to their key tax levers. It does so by first benchmarking Guernsey's current tax regime and the tax regime that would prevail under each of the three options, relative to comparable jurisdictions, and second considering the economic impact of implementing these options to increase revenues.

The first tax policy option involves the introduction of a 3% Health Tax and a restructured social security contribution system with rate increases. The second option involves the introduction of a GST at a rate of 8% along with a social security contributions restructure. The third option involves the introduction of a GST at a rate of 5%, a social security contribution system restructure with rate increases. Outside the tax policy options analysed in this report, the States have provided the assumption applicable to MNEs in line with the OECD work-stream on corporate taxes, that changes to the CIT would raise an additional £10m in revenue. Importantly, with regard to Jersey and the Isle of Man, the States are likely to seek to maintain alignment and the comparative position would remain broadly the same.

The States have posited that the revenue raised by any one of the options chosen will be reinvested in the economy as a result of increasing demand for health and aged care. Based on this and the empirical evidence, **the considered tax levers' overall impacts on GDP growth may be limited and transitory in nature.** However, there may be impacts in the short term that are associated with government expenditure being delayed, for example as a result of a labour shortage for healthcare professionals required to increase capacity in the sector. It is also likely that the **economy will experience structural change** resulting from both changes to the tax system and increased government expenditure. Sectors such as **wholesale, retail, and repairs, and transport and storage may be negatively affected**, as household consumption is adversely impacted. By contrast, sectors such as **health and care and public administration may expand in line with increased spending necessary to maintain existing service levels.** Consideration may need to be given to investing in upskilling labour to support the labour market in transitioning to a restructured economy.

Any tax reforms are likely to be accompanied by adjustment costs, these costs will be more pronounced where new systems are being introduced, such as a GST in the case of Guernsey. Furthermore, the introduction of a GST itself **may increase price levels in the short-term** increasing prices by approximately 3 percentage points for Option 3 and even more so for Option 2, based on impacts observed in Jersey. However, this is expected to **not have any long-term impacts on inflation** as prices settle to a new baseline after a year.

As discussed in Section 3, **Guernsey currently raises less tax as a proportion of its GDP relative to some of the benchmark jurisdictions**. **Guernsey's position remains the same when all three options are considered**. Amongst the benchmark jurisdictions, **Guernsey is the only one that does not currently have a GST in place. However, Options 2 & 3 present a**

change to this as a result of introducing GST at different rates. Guernsey's GST contribution to total revenue would increase with both options, bringing Guernsey to the lower end of the benchmark range.

Guernsey's share of direct tax as a proportion of total tax revenue is currently the highest amongst the benchmark jurisdictions considered in this report. Option 1 would increase Guernsey's direct tax reliance, maintaining its position across the range. This is largely driven by the introduction of a 3% Health Tax charged in the same way as PIT but also by the increase in SSC rates and the broader SSC restructure. Options 2 & 3 would reduce Guernsey's direct tax reliance as a result of introducing a GST, with Option 2 causing change of a higher magnitude due to its higher GST rate.

Furthermore, depending on the taxes implemented, the impacts on different parts of the income distribution will vary. Option 1 with the 3% Health Tax is the most progressive of the three tax policy options, with impact increasing from the first to fifth quintile. This is a result of Guernsey's current PIT structure and the SSC restructure as part of Option 1 to match the current PIT structure.

The introduction of a GST could be regressive in nature without any accompanying mitigations, particularly as no essentials are being zero-rated or taxed at a lower rate. Attempts to mitigate this regressivity in other jurisdictions have been made by providing means-tested benefits to lower income households. The States have included a change in the PIT and SSC allowance as well as mitigation measures such as a food cost support bonus to Options 2 and 3. As a result, the options involving a GST as presented by the states are progressive after making these adjustments.

The impacts on higher earners have been studied in the context of each individual option. It is seen that higher earners are mostly employed in high-skilled sectors such as finance and that a large majority of them have spent over 10 years in Guernsey. Given the nature of their high-skilled employment, it is unlikely that the employment status of these individuals will be adversely impacted as a result of the structural changes in the economy given that changes in the marginal personal income tax rate are unlikely to be a significant factor when companies choose where to locate. Furthermore, given that Guernsey's structures for capital gains tax, inheritance tax, and corporate tax are comparable to those of its benchmark jurisdictions, it is unlikely that the tax changes illustrated here will lead to a material change in factors which make Guernsey an attractive location for some higher earners. For some of the more mobile higher earners who may have weaker ties to the Island, the changes under consideration may cause them to reconsider their residence in Guernsey. For the few high net worth individuals who make use of the tax cap, their location choice is more likely to be sensitive to changes in the tax cap and any taxes on capital.

Appendix

A1. Identification of higher earners

The States have provided us with household-level data for the top 5% of households by household income. To further classify these individuals as higher earners:

- The household income data provided by the States is first filtered by quintile 5 households only.
- This subset is then filtered by large household sizes and these households are examined to determine the validity of their inclusion in this sample.
- For the 7 to 11 person households in the distribution, when income per working individual was calculated, the values were quite small. These households therefore have a large household income as a result of several adults living in one household. These individuals from these households were all removed from the sample.
- For 5 and 6 person households, all individuals with employment status "Full Time Education", "Incapacitated", "Non-Employed", "Other", or "Unemployed" were removed. The remaining individuals were then manually categorised as higher earners or not based on household income.
- For 1 to 4 person households, all individuals with employment status "Full Time Education", "Incapacitated", "Non-Employed", "Other", or "Unemployed" were removed. The rest were all classified as higher earners as the remaining dataset was too large to manually sort.

A2. Figures and source data

- Figure 7:
    1. Department of Statistics Singapore, 'Gross Domestic Product at Current Prices, By Industry (SSIC 2015 Version 2018), Annual', available at: https://www.tablebuilder.singstat.gov.sg/
    2. Statistics Portal Luxembourg, 'National Accounts: Annual Accounts - Aggregates by branch: Gross value added by activity', available at: https://statistiques.public.lu/en/economy-finances/index.html
    3. Isle of Man's National Income, 'National Income Report 2018-19' - Banking, Insurance and Other Finance and Business Services computed to make up the Finance Sector, available at: https://www.gov.im/about-the-government/departments/cabinet-office/economic-affairs-division/national-income/
    4. The States government website, 'Supplementary GVA and GDP Data 2019', available at: https://www.gov.gg/gdp
    5. Jersey's Open Data Website, 'GVA in real terms in constant 2019 values', available at: https://opendata.gov.je/dataset/national-accounts

- Figure 8:
    1. Department of Statistics Singapore, 'Gross Domestic Product at Current Prices, By Industry (SSIC 2015 Version 2018), Annual', available at: https://www.tablebuilder.singstat.gov.sg/ & Singapore Public Data, 'IRAS' Collection by Tax Type Annual' and Singapore CPF website, 'CPF Statistics', available at: https://data.gov.sg/dataset/iras-collection-by-tax-type-annual & https://www.cpf.gov.sg/Members/AboutUs/about-us-info/cpf-statistics
    2. Statistics Portal Luxembourg, 'National Accounts: Annual Accounts- Main aggregates: three approaches (filter by production approach)' & 'Economy and finance: Public finances: Taxes and social benefits – Total General Government, available at: https://statistiques.public.lu/en/economy-finances/index.html
    3. Isle of Man National Income webpage, available at: https://www.gov.im/about-the-government/departments/cabinet-office/economic-affairs-division/national-income/ & Isle of Man in Numbers, 'Isle of Man in Numbers 2020: Treasury Receipts', available at: https://www.gov.im/about-the-government/government/open-data/economy/

4. The States of Guernsey Annual GVA And GDP Bulletin 2019, available at: https://www.gov.gg/gdp & tax data from the States
5. States Jersey's Open Data Website, 'Annual income, expenditure and reserves', 'Contributions and the States Grant to the Social Security Fund' & 'GDP in real terms in constant 2019 values', available at: https://opendata.gov.je/organization/statistics

- Figure 10:
  1. Introduction of GST in Jersey in May 2008 : Jersey 2005 Fiscal Strategy, available at: https://statesassembly.gov.je/AssemblyPropositions/2005/14968-27446-832005.pdf, Jersey 2008 Financial Report and Accounts, available at: https://www.gov.je/SiteCollectionDocuments/Government%20and%20administration/FD%20SOJAccounts2008%2020090529%20TR.pdf, Jersey September 2008 Retail Prices Index Report, available at: https://www.gov.je/SiteCollectionDocuments/Government%20and%20administration/FD%20SOJAccounts2008%2020090529%20TR.pdf, Jersey June 2009 Retail Prices Index Report, available at: https://www.gov.je/SiteCollectionDocuments/Government and administration/R RetailPricesIndexJun09 20090715 SU.pdf, Jersey government website ISE information, available at: https://www.gov.je/TaxesMoney/GST/InternationalServiceEntities/Pages/Registration.aspx
  2. Increase in Jersey's GST in June 2011: Jersey government website tax receipts, available at: https://www.gov.je/Government/JerseyInFigures/GovernmentAccounts/Pages/TaxReceipts.aspx#anchor-1 , Jersey June 2012 Retail Prices Index Report, available at: https://www.gov.je/SiteCollectionDocuments/Government%20and%20administration/R%20RPIJune2012%20120720%20SU.pdf
  3. Introduction of Long-Term Care Charge in Jersey in 2015: Jersey government website long-term care scheme page, available at: https://www.gov.je/Benefits/LongTermCare/Pages/LongTermCareAbout.aspx, General information on Jersey's long-term care scheme, available at: https://www.gov.je/SiteCollectionDocuments/Benefits%20and%20financial%20support/LTC%20General%20Information%20Booklet%2020170417%20JJ.pdf, Combination of Long-Term Care Fund data from States of Jersey Financial Report and Accounts 2015, States of Jersey Annual Report and Accounts for 2017, and 2019 Annual Report and Accounts, available at https://www.gov.je/Government/PlanningPerformance/BudgetAccounts/Pages/StatesofJerseyAccounts.aspx, Jersey 2018 review of the long-term care scheme, available at: https://statesassembly.gov.je/scrutinyreports/2018/report%20-%20long-term%20care%20scheme%20-%2028%20march%202018.pdf
  4. Increase in Singapore Top Tax Rate in 2015: National Archives of Singapore - 2015 budget, available at: https://www.nas.gov.sg/archivesonline/data/pdfdoc/20150302005/fy2015_budget__statement_(20150223_2000hrs).pdf, Singapore Public Data, 'IRAS' Collection by Tax Type Annual' and Singapore CPF website, 'CPF Statistics', available at https://data.gov.sg/dataset/iras-collection-by-tax-type-annual & https://www.cpf.gov.sg/Members/AboutUs/about-us-info/cpf-statistics

- Table 3:
  1. The States: PIT rate https://www.gov.gg/tax, social security rate https://www.gov.gg/SScontributions, CIT rate https://www.locateguernsey.com/your-business/tax/
  2. Jersey: PIT rate https://www.gov.je/TaxesMoney/IncomeTax/Individuals/PayingTaxEarnings/Pages/CalculatingTaxAssessment.aspx , social security https://www.gov.je/Working/Contributions/Pages/ContributionLevels.aspx, Health Tax (long-term care charge) https://www.gov.je/Benefits/LongTermCare/Pages/LongTermCareContributions.aspx, GST rate https://www.gov.je/TaxesMoney/GST/GSTCustomers/Pages/GSTQuickGuide.aspx & https://www.gov.je/TaxesMoney/GST/InternationalServiceEntities/Pages/Understanding.aspx, CIT rate https://www.gov.je/taxesmoney/incometax/companies/historiccompanyguidancenotes/pages/2018companytaxreturnguidancenotes.aspx
  3. Isle of Man: PIT rate and social security (national insurance) https://www.gov.im/categories/tax-vat-and-your-money/income-tax-and-national-insurance/individuals/residents/rates-and-allowances/, GST rate

https://www.gov.im/categories/tax-vat-and-your-money/customs-and-excise/technical-information-vat-duty-and-interest-rates/vat-rates/, **CIT rate** https://www.gov.im/categories/tax-vat-and-your-money/income-tax-and-national-insurance/business-and-corporations/

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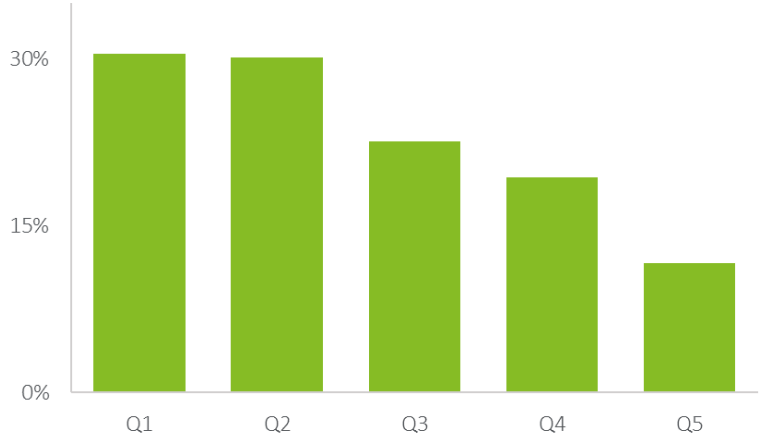
5. **Luxembourg: PIT rate and social security** https://www2.deloitte.com/content/dam/Deloitte/lu/Documents/tax/lu-individual-pocket-tax-guide.pdf, **GST rate** https://guichet.public.lu/en/entreprises/fiscalite/tva/notions/tva.html, **CIT rate** https://guichet.public.lu/en/entreprises/fiscalite/impots-benefices/benefices-soc-capitaux/impot-revenu-collectivites.html & **net wealth tax** https://www.parfigroup.eu/luxembourg-corporate-tax-guide/#_ftn1

- Table 10:
    1. **Jersey government website**, 'GST taxed on goods and services' & 'Registering your business for GST', available at: https://www.gov.je/TaxesMoney/GST/GSTCustomers/Pages/GSTQuickGuide.aspx & https://www.gov.je/TaxesMoney/GST/Businesses/Registration/Pages/ShouldIBe.aspx
    2. **Isle of Man government website** 'VAT rates' and 'Registering for VAT', available at: https://www.gov.im/categories/tax-vat-and-your-money/customs-and-excise/technical-information-vat-duty-and-interest-rates/vat-rates/
    3. **Luxembourg government website and VAT details**, available at: https://guichet.public.lu/en/entreprises/fiscalite/tva.html & https://www.taxexpense.com/luxembourg-taxes/luxembourg-vat-gst-sales-tax
    4. **Singapore government agency website**, available at: https://www.iras.gov.sg/IRASHome/GST/Non-GST-registered-businesses/Learning-the-basics/How-GST-Works/
    5. **New Zealand Inland Revenue website,** available at: https://www.ird.govt.nz/-/media/project/ir/home/documents/forms-and-guides/ir300---ir399/ir375/ir375-2021.pdf

A3. Other Figures and Tables

Figure 20: Proportion of total expenditure spent on essentials



Source: Expenditure data from Guernsey Household Expenditure Survey Report, available at: https://www.gov.gg/CHttpHandler.ashx?id=133968&p=0.

Table 10 below details the GST rates applied to each jurisdiction alongside a summary of some other GST treatments. It also highlights the exemption of financial services, which is important to each of these jurisdictions' economies.

Table 10: GST rates, zero ratings, exemptions and business threshold for each jurisdiction

	Jersey	Isle of Man	Luxembourg	Singapore	New Zealand
Standard Rate	5%	20%	17%	7%	15%
Other Rates	-	5% Children's car seats, home energy, domestic property repairs and accommodation provided by hotels	14% - Certain wines, solid mineral fuels, washing and cleaning products 8% - shoes and leather goods, clothing, household linen and hairdressing; 3% - Foodstuffs, soft drinks, children's clothing and footwear		-
Zero rated items	Exports of goods, housing, international services	Exports, most food and children's clothes, books and newspapers	Intra-community supplies, international transport and exports	Exports of goods and provision of international services	Exports, sales of ongoing business, sale of land
Exemptions	Financial services, insurance, postal services, medical and paramedical supplies made by registered professionals or institutions, registered childcare, school fees, supplies by charities, some burial and cremation services	Postage stamps, financial and property transactions	Medical services, health services, supplies of postage, welfare services, education and financial services	Sale and lease of residential land and financial services	Financial services, donations, private rent sale of private property and penalty interest
Business threshold	£300,000	£85,000	€35,000 (£30,435)	SGD 1 million (£543,478)	NZD 60,000 (£31234)

Source: See Appendix A2 Table 10, the exchange rates used for business threshold values were £1 = €1.15, £1 = SGD 1.84, and £1 = NZD 1.92, all calculated on the 28th April 2021

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Appendix 2: Samples of Household Analysis

The following analysis covers real examples extracted from the data set and assessed against all three options presented. They are intended to demonstrate in more detail how the options would be applied.

Note that the analysis presented in the body of the report are averages, and that a household's individual circumstances will affect the extent to which they are impacted by the changes. The examples presented in this appendix are not necessarily representative of all other households with similar incomes and household compositions.

To illustrate Figures A2.1 and A2.2 show a single employed or self-employed adult respectively, each of approximately median earning to illustrate the different outcomes. Figure A2.13 also shows a comparison between two pensioner couples with similar incomes but whose personal circumstances, including their housing status and the amount of their income derived from the States' pension are different.

Single adults no children

Figure A2.1

Gross income (incl benefits)	£38,110	(employed)
Income support recipient	No	
Equivalised income percentile	50-54	
Housing	Owner occupier with mortgage	

	Current	Option 1	Option 2	Option 3
Income tax/social security/health tax liability	£7,222	£7,800	£6,149	£6,766
Est TRP and excise liability	£977	£977	£977	£977
Est GST liability	£-	£-	£1,836	£1,147
Adjust Income Support for direct tax changes	£-	£-	£-	£-
Adjust IS for GST	£-	£-	£-	£-
Adjust pensions for GST	£-	£-	£-	£-
Cost support (max modelled)	£-	£-	£-	£-
Net change in circumstances	**£-**	**£578**	**£763**	**£691**
		1.5%	**2.0%**	**1.8%**
		worse off	**worse off**	**worse off**

Figure A2.2

Gross income	£35,639	(self-employed)
Children	-	
Income support recipient	No	
Equivalised income percentile	50-54	
Housing	Private renter	

	Current	Option 1	Option 2	Option 3
Income tax/social security/health tax liability	£7,858	£7,895	£6,263	£6,919
Est TRP and excise liability	£555	£555	£555	£555
Est GST liability	£-	£-	£1,342	£839
Adjusted Income Support for direct tax changes	£-	£-	£-	£-
Adjusted IS for GST	£-	£-	£-	£-
Adjusted pensions for GST	£-	£-	£-	£-
Cost support	£-	£-	£-	£-
Net change in circumstances	**£-**	**£37**	**-£253**	**-£100**
		0.1%	**-0.7%**	**-0.3%**
		worse off	**better off**	**better off**

Single adults no children (cont)

Figure A2.3

Gross income (incl benefits)	£16,816
Income support recipient	No
Equivalised income percentile	15-19
Housing	Private renter

	Current	Option 1	Option 2	Option 3
Total income tax/social security/health tax liability	£2,158	£1,677	£788	£1,194
Est TRP and excise liability	£572	£572	£572	£572
Est GST liability	£-	£-	£1,123	£702
Adjust Income Support for direct tax changes	£-	£-	£-	£-
Adjust Income Support for GST	£-	£-	£-	£-
Adjust pensions for GST	£-	£-	£-	£-
Cost support (max modelled)	£-	£-	£800	£500
Net change in circumstances	**£-**	**-£481**	**-£1,047**	**-£262**
		-2.9%	**-6.2%**	**-1.6%**
		better off	**better off**	**better off**

Figure A2.4

Gross income (incl benefits)	£63,508
Income support recipient	No
Equivalised income percentile	80-85
Housing	Owner occupier with mortgage

	Current	Option 1	Option 2	Option 3
Total income tax/social security/health tax liability	£12,632	£14,349	£11,889	£12,761
Est TRP and excise liability	£1,378	£1,378	£1,378	£1,378
Est GST liability	£-	£-	£2,764	£1,727
Adjust Income Support for direct tax changes	£-	£-	£-	£-
Adjust IS for GST	£-	£-	£-	£-
Adjust pensions for GST	£-	£-	£-	£-
Cost support (max modelled)	£-	£-	£-	£-
Net change in circumstances	**£-**	**£1,717**	**£2,021**	**£1,856**
		2.7%	**3.2%**	**2.9%**
		worse off	**worse off**	**worse off**

Couples with 1 child

Figure A2.5

Gross income (incl benefits)	£65,958
Income support recipient	No
Equivalised income percentile	50-54
Housing	Private renter

	Current	Option 1	Option 2	Option 3
Total income tax/social security/health tax liability	£12,634	£13,360	£10,332	£11,455
Est TRP and excise liability	£927	£927	£927	£927
Est GST liability	£-	£-	£2,356	£1,473
Adjust Income Support for direct tax changes	£-	£-	£-	£-
Adjust Income Support for GST	£-	£-	£-	£-
Adjust pensions for GST	£-	£-	£-	£-
Cost support	£-	£-	£-	£-
Net change in circumstances	**£-**	**£726**	**£54**	**£294**
		1.1%	**0.1%**	**0.4%**
		worse off	**worse off**	**worse off**

Figure A2.6

Gross income (incl benefits)	£31,019
Income support recipient	Yes
Equivalised income percentile	15-19
Housing	Affordable

	Current	Option 1	Option 2	Option 3
Total income tax/social security/health tax liability	£3,288	£2,157	£724	£1,411
Est TRP and excise liability	£483	£483	£483	£483
Est GST liability	0	0	£1,511	£944
Adjust Income Support for direct tax changes	0	-£1,131	-£2,564	-£1877
Adjust Income Support for GST	0	0	£2,218	£1,387
Adjust pensions for GST	0	0	0	0
Cost support	0	0	0	0
Net change in circumstances	**0**	**0**	**-£707**	**-£443**
		0.0%	**-2.3%**	**-1.4%**
		no change	**better off**	**better off**

Couples with 1 Child (cont)

Figure A2.7

Gross income (incl benefits)	£113,345
Income support recipient	no
Equivalised income percentile	80-85
Housing	Owner occupier with mortgage

	Current	Option 1	Option 2	Option 3
Total income tax/social security/health tax liability	£23,042	£26,945	£22,227	£23,822
Est TRP and excise liability	£1,840	£1,840	£1,840	£1,840
Est GST liability	0	0	£3,645	£2,278
Adjusted Income Support for direct tax changes	0	0	0	0
Adjust Income Support for GST	0	0	0	0
Adjust pensions for GST	0	0	0	0
Cost support	0	0	0	0
Net change in circumstances	**0**	**£3,903**	**£2,830**	**£3,058**
		3.4%	**2.5%**	**2.7%**
		worse off	**worse off**	**worse off**

Single Pensioners

Figure A2.8

Gross income (incl benefits)	£38,242
Income support recipient	No
Equivalised income percentile	50-54
Housing	Owner occupier without mortgage

	Current	Option 1	Option 2	Option 3
Total income tax/social security/health tax liability	£6,336	£7,322	£5,808	£6,248
Est TRP and excise liability	£995	£995	£995	£995
Est GST liability	£-	£-	£1,549	£968
Adjust Income Support for direct tax change	£-	£-	£-	£-
Adjust IS for GST	£-	£-	£-	£-
Adjust pensions for GST	£-	£-	£556	£347
Cost support (max modelled)	£-	£-	£-	£-
Net change in circumstances	**£-**	**£986**	**£465**	**£533**
		2.6%	**1.2%**	**1.4%**
		worse off	**worse off**	**worse off**

Single Pensioners (cont)

Figure A2.9

Gross income (incl benefits)	£16,603
Income support recipient	No
Equivalised income percentile	15-19
Housing	Private renter

	Current	Option 1	Option 2	Option 3
Total income tax/social security/health tax liability	£1,000	£1,076	£619	£950
Est TRP and excise liability	£458	£458	£458	£458
Est GST liability	£-	£-	£1,081	£676
Adjust Income Support for direct tax changes	£-	£-	£-	£-
Adjust Income Support for GST	£-	£-	£-	£-
Adjust pensions for GST	£-	£-	£556	£347
Cost support (max modelled)	£-	£-	£800	£500
Net change in circumstances (per year)	**0**	**76**	**-£656**	**-£221**
		0.5%	**-4.0%**	**-1.3%**
		worse off	**better off**	**better off**

Figure A2.10

Gross income (incl benefits)	£63,069
Income support recipient	No
Equivalised income percentile	80-85
Housing	Owner occupier without mortgage

	Current	Option 1	Option 2	Option 3
Total income tax/social security/health tax liability	£12,146	£14,150	£11,767	£12,331
Est TRP and excise liability	£1,893	£1,893	£1,893	£1,893
Est GST liability	£-	£-	£2,822	£1,764
Adjusted Income Support for direct tax changes	£-	£-	£-	£-
Adjusted IS for GST	£-	£-	£-	£-
Adjusted pensions for GST	£-	£-	£556	£347
Cost support	£-	£-	£-	£-
Net change in circumstances	**£-**	**£2,004**	**£1,887**	**£1,602**
		3.2%	**3.0%**	**2.5%**
		worse off	**worse off**	**worse off**

Pensioner couples

Figure A2.11

Gross income (incl benefits)	£57,573
Income support recipient	No
Equivalised income percentile	50-54
Housing	Owner occupier without mortgage

	Current	Option 1	Option 2	Option 3
Total income tax/social security/health tax liability	£8,188	£9,503	£7,227	£7,971
Est TRP and excise liability	£1,913	£1,913	£1,913	£1,913
Est GST liability	£-	£-	£3,301	£2,063
Adjust Income Support for direct tax changes	£-	£-	£-	£-
Adjust Income Support for GST	£-	£-	£-	£-
Adjust pensions for GST	£-	£-	£971	£607
Cost support (max modelled)	£-	£-	£-	£-
Net change in circumstances	**£-**	**£1,315**	**£1,369**	**£1,239**
		2.3%	**2.4%**	**2.2%**
		worse off	**worse off**	**worse off**

Figure A2.12

Gross income (incl benefits)	£96,304
Income support recipient	no
Equivalised income percentile	80-85
Housing	Owner occupier without mortgage

	Current	Option 1	Option 2	Option 3
Total income tax/social security/health tax liability	£17,310	£20,094	£16,373	£17,351
Est TRP and excise liability	£1,750	£1,750	£1,750	£1,750
Est GST liability	£-	£-	£3,704	£2,315
Adjust Income Support for direct tax changes	£-	£-	£-	£-
Adjust Income Support for GST	£-	£-	£-	£-
Adjust pensions for GST	£-	£-	£210	£131
Cost support (max modelled)	£-	£-	£-	£-
Net change in circumstances	**£-**	**£2,784**	**£2,767**	**£2,356**
		2.9%	**2.9%**	**2.4%**
		worse off	**worse off**	**worse off**

Figure A2.13
Comparison of low-income pensioner couple examples

Couple 1

Gross income (incl benefits)	£26,978
Income support recipient	no
Equivalised income percentile	15-19
Housing	Owner Occupier without mortgage

	Current	Option 1	Option 2	Option 3
Total income tax/social security/health tax liability	£1,110	£1,198	£196	£584
Est TRP and excise liability	£913	£913	£913	£913
Est GST liability	£-	£-	£1,707	£1,067
Adjust Income Support for direct tax changes	£-	£-	£-	£-
Adjust Income Support for GST	£-	£-	£-	£-
Adjust pensions for GST	£-	£-	£644	£403
Cost support (max modelled)	£-	£-	£-	£-
Net change in circumstances	£-	£88	£149	£138
		0.3%	0.6%	0.5%
		worse off	worse off	worse off

Couple 2

Gross income (incl benefits)	£27,477
Income support recipient	no
Equivalised income percentile	15-19
Housing	Private renter

	Current	Option 1	Option 2	Option 3
Total income tax/social security/health tax liability	£1,282	£1,407	£270	£777
Est TRP and excise liability	£712	£712	£712	£712
Est GST liability	£-	£-	£1,668	£1,042
Adjust Income Support for direct tax changes	£-	£-	£-	£-
Adjust Income Support for GST	£-	£-	£-	£-
Adjust pensions for GST	£-	£-	£878	£549
Cost support (max modelled)	£-	£-	£-	£-
Net change in circumstances	£-	£297	-£222	-£12
		1.1%	-0.8%	0.0%
		worse off	better off	better off

Appendix 3: Contextual and supporting data

Throughout this report data is presented in equivalised gross households income percentiles. These are not adjusted for housing costs.

A percentile represents 1% of households when arranged in order from lowest income to highest income. Those in the percentiles 1 to 5 are therefore the lowest income households; those in percentiles 95 to 100 are the highest income households.

Equivalisation is a standard methodology that adjusts household income to account for the different financial resource requirements of different household types. Household size is an important factor to consider because larger households usually need a higher income than smaller households to achieve a comparable standard of living. The composition of a household also affects resource needs, for example, living costs for adults are normally higher than for children. After equivalisation has been applied, households with the same equivalised income can be said to have a comparable standard of living.

For example:

A single adult has an income of £50,000

For a couple to achieve the same standard of living they are assumed to need £50,000 *1.5 = £75,000

A single parent with on child is assumed to need £50,000*1.3 = £65,000

Figure A3.1 provides a table which translates household income percentiles into estimates of actual households' incomes for different households compositions. These are drawn specifically from the data set as analysed in this report.

Figure A3.1: Approximate value of income percentiles (£)

Equivalised income percentile	Single Adult	Couple	1 adult 1 child	2 adults 1 child	2 adults 2 children
1	7,360	11,039	9,567	13,247	15,455
2	9,300	13,950	12,090	16,740	19,530
3	10,570	15,855	13,741	19,026	22,197
4	11,538	17,307	15,000	20,769	24,230
5	11,582	17,373	15,056	20,847	24,322
10	13,574	20,361	17,646	24,433	28,505
20	18,076	27,114	23,499	32,537	37,960
30	23,292	34,938	30,280	41,926	48,913
40	28,910	43,366	37,584	52,038	60,711
50	34,777	52,165	45,210	62,599	73,032
60	40,993	61,489	53,291	73,787	86,085
70	48,110	72,165	62,543	86,598	101,031
80	57,927	86,891	75,305	104,269	121,647
90	76,319	114,478	99,214	137,374	160,270
95	102,094	153,142	132,723	183,769	214,397
96	113,801	170,701	147,941	204,842	238,982
97	130,086	195,129	169,112	234,155	273,181
98	156,942	235,414	204,025	282,496	329,578
99	218,495	327,742	284,043	393,291	458,840

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THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *FOR* ECONOMIC DEVELOPMENT

THE GUERNSEY COMPETITION AND REGULATORY AUTHORITY:
ACCOUNTS AND AUDITORS' REPORT FOR THE YEAR ENDING 31st DECEMBER 2020

The States are asked to decide:-

Whether, after consideration of the Policy Letter entitled "The Guernsey Competition and Regulatory Authority: Accounts and Auditors' Report for the year ending 31st December 2020" dated 15th July 2021, they are of the opinion:-

1. To note the accounts of the Guernsey Competition and Regulatory Authority and auditors' report for the ended 31st December 2020.

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

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *FOR* ECONOMIC DEVELOPMENT

THE GUERNSEY COMPETITION AND REGULATORY AUTHORITY:
ACCOUNTS AND AUDITORS' REPORT FOR THE YEAR ENDING 31st DECEMBER 2020

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

15th July 2021

Dear Sir

1 Executive Summary

1.1 The 2020 annual accounts of the Guernsey Competition and Regulatory Authority ("**GCRA**") and auditors' report are hereby presented to the States in accordance with section 13(5) of the Guernsey Competition and Regulatory Authority Ordinance, 2012.

2 Proposition

2.1 The States are asked to note the accounts of the GCRA and auditors' report for the year ending 31st December 2020.

3 Compliance with Rule 4

3.1 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.

3.2 In accordance with Rule 4(1), the Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications.

3.3 In accordance with Rule 4(4) of the Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the proposition above has the unanimous support of the Committee *for* Economic Development.

Yours faithfully

N R Inder
President

S J Falla
Vice-President

A Kazantseva-Miller
N G Moakes
S P J Vermeulen

A Niles
A Mancini
Non-States Members

ANNUAL REPORT 2020

ABOUT THIS DOCUMENT

This document sets out our annual report and accounts for the period 1 January 2020 to 31 December 2020. It is presented to Guernsey's Committee *for* Economic Development pursuant to Section 13 of The Guernsey Competition and Regulatory Authority Ordinance, 2012.

Further information about our work is available on our website www.GCRA.gg.

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OVERVIEW

CHAIRMAN'S MESSAGE

I am pleased to present the Annual Report and Accounts of the Guernsey Competition and Regulatory Authority ("GCRA").

At the start of 2020, no-one could have predicted how the year would turn out. Obviously the Covid pandemic has been the biggest change, affecting all countries. Although the experience in Guernsey has been very different from that in the UK, with considerably greater freedom benefitting many local businesses, this has been achieved through stricter controls on movement to and from the Bailiwick which have had an inevitable impact on the Guernsey economy and on the operation of organisations such as GCRA.

For GCRA itself, 2020 was also a year of great change. After eight years as part of the pan-island Channel Islands Competition and Regulatory Authority ("CICRA"), the Jersey Government announced in February that it was withdrawing from this arrangement. As a consequence, GCRA was re-established as an independent authority on 1 July, with its own Board and staff, and I was appointed as Chairman. Recognising that a number of issues are common to Jersey and Guernsey, we have entered into a Memorandum of Understanding with the Jersey Competition Regulatory Authority ("JCRA") which includes regular dialogue between the respective Chairs, without of course compromising the independence of either authority.

My own background is mainly in utility regulation in the UK, both as a regulator and as a director of a regulated company. But I have had some involvement with regulatory issues in Guernsey in the past and I am well aware of the importance of the need for a different approach in a small island compared with the UK - and indeed potentially a different approach from that taken by CICRA.

One of our early tasks, therefore, was to review our approach and priorities. We are clear that our focus should be working to promote value and choice for Guernsey consumers, to the benefit of the Guernsey economy, taking account of the distinctive features of the Bailiwick. Starting of course from the powers and duties given to us in law, we will approach this task in an open and flexible way, intervening only where we believe that this will bring a tangible benefit and doing so in a proportionate way. The work of a competition and regulatory authority is an enabling one - a means to achieving the end of better outcomes for consumers - not an end in itself.

To achieve this, it is important that we engage with all our stakeholders, including Government and the States of Guernsey, businesses and individual consumers to understand their concerns, and at the same time to ensure that there is proper understanding of our role and approach. Engagement with Government, for example, is all the more important given the change in approach and priorities following the general election in October. Given travel restrictions, I have only been able to meet officials face to (socially distanced) face once, and I have not been able to meet businesses and other stakeholders in person. I regret that. Video-conferencing, which we have also had to use for our Board meetings, does not have the same immediacy as meeting in person. I very much hope that, later in 2021, I will be able to visit the island more regularly.

Most of GCRA's current workload has been inherited from CICRA, and the Board regularly reviews progress to ensure that issues are brought to an effective and timely conclusion. We will also make sure that our approach reflects regulatory good practice, so we maintain dialogue both with UK regulators and with JCRA. With two of the non-executive Board members living on Guernsey, and two (including me) living in Southern England - within easy reach of Southampton airport once travel restrictions are lifted - the Board is well placed to achieve our objective of taking proper account of the particular circumstances in Guernsey while operating to international standards of good regulatory practice.

CHAIRMAN'S MESSAGE (continued)

I would like to pay tribute in particular to Paul Masterton, who chaired CICRA until it split, and to John Curran who led the work to separate GCRA from CICRA and remains as a non-executive member of the GCRA Board. But the success of GCRA is a real team effort, and also depends on the expertise and dedication of our other two non-executives, Caroline Chan and Philip Marsden, and our Chief Executive, Michael Byrne, and the whole of the GCRA team. We look forward to 2021 with confidence and with a renewed focus on the priorities of the Bailiwick of Guernsey's economy.

Chris Bolt - Chairman

CHIEF EXECUTIVE'S REPORT

Working to promote value and choice for Guernsey consumers, to the benefit of the Guernsey economy describes the GCRA's remit and informs its priorities. Over 2020 the Authority sought to promote these objectives, having regard to the challenges and opportunities of a small- scale market economy in the context of two significant events, namely the reversion to a separate independent Authority for Guernsey and the Covid-19 pandemic. Those events have brought into sharp focus the wider role of a body such as ours, which as the Chairman refers to above, includes being an enabler - a means to achieving the end of better outcomes for Guernsey consumers.

On that theme, the reversion to a single Guernsey Authority saw a renewed exclusive strategic focus on Guernsey in support of the States' policy priorities, in particular the Revive and Thrive vision. The disbanding of the channel island approach, while significant at a strategic level, was achieved relatively quickly without any significant operational impact and considerable credit must go to the teams in Guernsey and Jersey for accomplishing that in such short timescales.

Since many of our areas of work require the engagement of parties whose core activities are fundamental to the continuity of key services, a reassessment of our areas of work for 2020 was carried out at an early stage given the pressures they faced. Following a re-evaluation of the Authority's priorities, some planned initiatives were suspended to reduce the regulatory burden on those businesses. In support of government decision making during the crisis our role as an advisor on competition and policy matters took on a greater urgency, and in parallel the Authority continued to progress several significant regulatory and competition law matters.

The telecommunications and electricity sectors, where the Authority has an economic regulatory role, were especially critical in supporting continuity of business as well as other functions that society depended on through the challenges of 2020, giving a glimpse of the demands on future infrastructure capability the island will need to cater for in future. Reliance on fixed and mobile broadband to support homeworking was particularly acute, where for example online education provision and the continuation of the functioning of government through the crisis were able to benefit from different forms of access and choice of provider that the regulatory framework facilitated and oversaw.

The connectivity between Guernsey and its key markets relied on its off-island telecoms infrastructure while the electricity cable link to the continent provided key access to electricity supply. The ongoing importance of reliable, resilient core infrastructure on and off island was certainly underlined by the events of 2020 and the experience will inform policy decisions and the priorities of the Authority going forward. The Authority's focus on business connectivity over 2020 and its future work programme certainly reflect this.

It is worth noting at this point that the ability and commitment of our licensees and their people operating these key infrastructures and services was vital to the ability of the economy and society to continue with minimal disruption, as it did, and they deserve considerable credit for the role they played.

The Authority made a significant intervention in the telecoms market in 2020, with a decision to reduce the level of charges to a fraction of their existing level that mobile network operators charge to terminate voice calls. This is a cost that consumers ultimately pay and where there is little incentive for the industry to reduce charges absent intervention. Ensuring that such charges are fair and reducing distortions to competition were key reasons for the Authority's intervention which will support better outcomes for consumers.

CHIEF EXECUTIVE'S REPORT (continued)

Guernsey's electricity sector was exposed to unfavourable exchange rate movements and suboptimal despatch decisions given the failure of the interconnector over 2019, requiring recovery of those costs over 2020. An allowance to recover those costs was agreed with Guernsey Electricity following an application for additional revenues funded by tariff increases. The final decision was delayed out of consideration for the financial stress that many businesses and households experienced in the first half of 2020 but in July after the island came out of lockdown the Authority confirmed the increase to allow Guernsey Electricity to recover these costs.

Two significant competition law investigations, in the medical and mobile sectors, proceeded over 2020. These investigations required a careful analysis of a considerable body of evidence given the issues under investigation and the right of reply of parties under investigation. The conclusion of those matters is expected in the first half of 2021.

The ability of the Authority to deliver against its remit depends on expert and committed individuals, both at Officer level and the Members of the Authority, and I am grateful for their support, expertise and commitment over 2020 in meeting the challenges of the year. The Authority has also been able to build on the body of regulatory work developed by its predecessors who made decisions in the past that enabled healthier market conditions with greater resilience, reliability and where appropriate, choice, in the provision of key infrastructure and services. The foresight, prioritisation and planning evident in regulatory decisions made several years ago in no small way contributed to the positive position the island finds itself in. We intend to build on their legacy in achieving even better outcomes for consumers in future.

Michael Byrne - Chief Executive

OUR POWERS AND DUTIES

We are an independent public authority, accountable to the States Assembly in Guernsey established as the Guernsey Competition and Regulatory Authority ("GCRA") under the Guernsey Competition and Regulatory Authority Ordinance, 2012. Our functions and legal duties guide the direction of our work and are set out in legislation passed by the States, to whom we are accountable.

What we are here to do

We are responsible for administering competition law and regulating the telecoms sector and electricity sectors in Guernsey. We are one of a number of agencies that contribute to the reputation of Guernsey as a well-regulated jurisdiction. The GCRA is focussed on four key objectives, namely:

- Promote value and choice for Guernsey consumers to the benefit of the Guernsey economy;
- To protect the interests of consumers who have no direct way of making their voices heard;
- To support development and delivery of Government policy, in particular, in the sectors subject to economic regulation, to achieve the best outcome for Guernsey consumers;
- To keep the operation of markets and regulated companies under review to identify and address new forms of detriment and issues for potential action, and thereby to promote trust in markets.

Our priorities

We have four key areas that we prioritise in achieving our aims.

- We will remain alert to possible market failures which could require action, reviewing a range of evidence and engaging with relevant stakeholders in doing so.
- We will discuss with Government areas for investigation we propose to initiate.
- We will respond to all complaints about anti-competitive behaviour where the complaint is supported by evidence, but only take further action where this is consistent with our prioritisation principles.
- In respect of telecoms and electricity, we will enforce licence conditions in a proportionate way.

HOW WE WORK

We recognise that a small island economy has distinctive features which influence the outcomes which are desirable and achievable; where this results in an approach different from that in a larger economy, we make clear the reasons for this. We operate within the law and adopt best practice in our procedures but promote changes in the law where there are perceived deficiencies. We work to clear administrative timetables and be transparent about the reasons for any necessary changes, being clear about the principles we adopt in deciding whether to take action in a particular case. Where we take action, we will be clear about the detriment resulting from inaction, and the potential improvements that our action could bring. Where different stakeholders have different objectives, we look to be clear about how we have taken those differences into account in any final decision.

Our advocacy programme targeted at local law firms and States officials is designed to develop an awareness of the law and the responsibilities of various parties in terms of compliance. These programmes also serve as a means of enabling people in key areas of contact with business to become more familiar with the sort of behaviours that are likely to harm competition or weaken the competitive process. Law firms have a unique insight into commercial practices in Guernsey and therefore in a position to alert parties to risks of falling on the wrong side of competition law. States officials that run bidding procedures for States contracts make key decisions on the use of taxpayer money, being better versed in potential illegal practices can assist them in the design of their bidding processes, protecting taxpayer money by ensuring States contracts are made on their merits and deliver best value for money to our community.

Engagement with stakeholders - Consumers and Islanders

Understanding consumers' and Islanders' interests and behaviour is vital to our work.

In supporting certain workstreams we may undertake research to better understand what matters to consumers and tailor our work accordingly. Our annual Telecommunication Statistics Market Report provides specific insight into the trends in the telecoms sector. And our oversight of quality of service in the telecoms sector assists us in identifying and focussing our capacity and capabilities on those areas that matter most to consumers.

As a result of our intervention, local telecoms operators have voluntarily published details of their retail service standards and compensation and have met the UK standard for dispute resolution.

The GCRA receives calls, emails and letters directly from consumers. While we are not a consumer body in the sense that fair trading standards protects consumers and our focus is in large part on the competitive process itself, the information that consumers provide and the issues they highlight help us to prioritise our work. Our contact details are available on our website www.gcra.gg.

Engagement with stakeholders - Co-regulators and other bodies

We work alongside Ofcom (the UK telecoms regulator) to support our work in regulating the telecoms sector. This includes collaborative working on cross-border issues and making recommendations for the effective allocation of spectrum, through issuance of wireless telegraphy licences.

When assessing applications for the approval of certain mergers and acquisitions where appropriate we consult colleagues in the UK's Competition and Markets Authority and the European Commission to ensure we are working to high standards in terms of process and analysis.

HOW WE WORK (continued)

When we regulate

Our prioritisation principles are:

- ✓ **Actionable.** We consider whether we have the necessary legal powers to properly assess and address the nature of the concerns that have arisen. The powers given by legislation as well as the absence of powers are all relevant in considering whether the Authority has the legal means to proceed in considering matters that may arise.
- ✓ **Realistic.** A small jurisdiction competition authority like the GCRA needs to carefully weigh up whether the benefits of prohibiting certain transactions are realistically achievable through enforcement action. Even where it has the legal powers to do so, the practicalities of carrying out investigations and taking action and whether our actions will have sufficient impact are factors we take into consideration in deciding whether to take a matter forward.
- ✓ **Meaningful.** Ultimately, we want to be as sure as we can that any action taken has a net positive benefit to the functioning of local markets, mindful of the fact that any intervention – or indeed not intervening at all - will have some cost.

There are a range of customer protection issues and assistance sought by consumers from time to time that are not within the GCRA's remit and other bodies provide the primary forum for dealing with these matters. In Guernsey, the States of Guernsey's Trading Standards Services, the Financial Ombudsman, and the Citizens' Advice Bureau have different purposes and powers which support consumers. The GCRA does not as a general rule deal with individual consumer issues in the sectors it regulates, such as equipment failures or contractual disputes between consumers and providers. The setting of health and safety standards for mobile mast emission levels are for example set by the States of Guernsey and the GCRA's role is to conduct audits to ensure mobile providers comply with such standards. In some cases, the GCRA may act to protect consumers where it becomes apparent there is a systemic problem affecting the market, such as a pattern of issues that suggest the market is not working sufficiently well. On the other hand, certain areas of the GCRA's remit do not allow for discretion, for example, GCRA has a duty to investigate mergers and acquisitions that meet the relevant statutory tests, to undertake market investigations requested by relevant departments, to defend its decisions where there are regulatory appeals, and to consider and respond to complaints.

Openness, Integrity and Accountability

We abide by the principles of openness, integrity and accountability – and those standards which are widely recognised as being applicable to public service, and to the conduct of all involved in public life. In the discharge of our duties, we will ensure that:

- subject to the appropriate level of confidentiality, we maintain an openness in our public affairs, in order that islanders can have confidence in our actions and decision-making processes, in the management of our activities, and in the Members and staff of GCRA itself;
- we maintain, at all times, an appropriate degree of integrity in the conduct of our affairs. Integrity comprises both straightforward dealing and completeness. We base our integrity upon honesty, selflessness and objectivity, and high standards of propriety and probity in the stewardship of our funds and management of our affairs;
- we are fully accountable in the application of the fees and grant monies entrusted to us and that these are properly safeguarded, and are used economically, efficiently and effectively.

HOW WE WORK (continued)

Openness, Integrity and Accountability (continued)

The three fundamental principles have been refined to include the findings and recommendations of the Nolan Committee on Standards in Public Life. We will make our best efforts to abide by Nolan's seven general principles that underpin public life, namely: selflessness, integrity, objectivity, accountability, openness, honesty, and leadership.

FINANCIAL REVIEW

Summary

We are a not-for-profit organisation. Until 2020, where we received more funding (from grants or licence fees) than we required in any particular year, the surplus income was deferred to the next year. Following the separation from JCRA, GCRA has taken the opportunity to review its accounting policies. Together with adopting Section 1A of FRS 102, applicable to small entities, we have changed the accounting policy relating to the deferral of income. Any aggregate surplus or deficit is carried as a reserve in the Statement of Financial Position. All of the activities we undertake are separately funded, by island and by sector: cross-subsidisation is not permitted, and common costs are shared between sectors. A working capital balance and an appropriate level of reserves are maintained at all times.

We set a budget for GCRA of £1,194k for 2020 to cover the expected costs of our regulatory and competition law activities in the Bailiwick of Guernsey.

Delivering our duties and value for money

The work we undertake each year varies significantly and is dependent on a range of factors, but we always aim to ensure that we work efficiently both in time and expenditure.

For 2020, the income needed to cover our costs was £1,016k, 14.8% below budget. The shortfall of the grants and licence fees we received will be offset against the surpluses accumulated in past years which were retained for future use. The remaining surplus will be retained in order to allow us to maintain appropriate working capital and reserves.

Expenditure is closely controlled through maintaining strict internal guidelines for purchasing including tendering for services which, combined with appropriate best practice corporate governance, helps to ensure that GCRA is run as an effective and efficient organisation. Independent internal auditors audit policies and procedures annually, to ensure that high standards are maintained and that appropriate processes are in place.

Grant funding

Grant funding is received from the Committee *for* Economic Development in Guernsey to cover the costs of administering and enforcing the competition laws. Basic funding has remained at £140k per annum in Guernsey since 2013.

We recognise the financial constraints faced by government and have continued to take active measures to reduce our fixed and administrative overheads, rather than restrict our work administering and enforcing competition law.

In addition to grant funding, we receive fees from parties making applications for approval of notifiable mergers and acquisitions. During 2020, these fees amounted to £20k in Guernsey. These applications and costs are by their nature unpredictable. Any costs in excess of fees received are funded through the competition law grant.

FINANCIAL REVIEW (continued)

Grant funding (continued)

In total, the cost for all competition law activity during 2020 was £322k. Grant income in excess of costs is, with the agreement of the States department, either voluntarily returned to that department after the year end or held to fund future work.

While we will continue to seek further efficiencies, in the near term, when faced with continued grant freezes, there will be a direct impact on our effectiveness and the impact we can have as the island's competition body. We will continue engagement with government officials in this regard.

Licence fees

Sector-specific regulation is funded through licence fees paid by licensed operators in each of the telecoms, postal and ports sectors.[1] The licence fees are calculated based on the forecasted cost of regulating the sector for the year in question.

Any surplus licence fees above costs are either returned to operators after the year end or held to fund future work.

A breakdown of the licence fees charged, the cost of regulating the sector and the surplus for the year is provided below. Amounts returned to licensees are also shown.

£'000	Telecoms		Postal		Electricity	
	2020	2019 (restated)	2020	2019 (restated)	2020	2019 (restated)
Licence and application fees - charged in year	614	585	-	-	120	11
Costs	(576)	(532)	-	-	(150)	(39)
Surplus/(loss) for the year	38	53	-	-	(30)	(28)
Returned to licensees	-	-	-	-	-	-

[1] The electricity sector in Guernsey has also required some work recently, notwithstanding an extant decision of the States of Deliberation to remove electricity from regulation by GCRA.

ACCOUNTABILITY REPORT

ACCOUNTABILITY REPORT – THE GCRA BOARD

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1. Chris Bolt - Chairman

Chris Bolt is an economist who has worked in the field of economic regulation in the UK for more than thirty years, holding senior roles in both the public and private sectors. His experience has included senior roles in Ofwat, the Office of the Rail Regulator, where he was for a short period interim Rail Regulator, and Transco plc. He was the first statutory Arbiter for the London Underground Public-Private Partnership Agreements (2002-2011), and the first Chairman of the Office of Rail Regulation (2004-2009).

He was a member, and subsequently chairman, of the UK Regulators Network Expert Advisor Panel from 2014 to 2018. He was regulation adviser to the London law firm Bryan Cave Leighton Paisner for ten years and was an independent non-executive director of Affinity Water Ltd from 2015 to 2019.

Chris was made a Companion of the Order of the Bath (CB) in the New Year Honours 2010.

Chris was appointed as Treasurer and a Trustee of the Kennet and Avon Canal Trust in January 2019.

3. Caroline Chan – Non-Executive Director

Caroline is a Guernsey Advocate and has practised as a corporate lawyer for over 30 years. She has particular experience in advising on corporate and commercial transactions, financings, investment funds and stock exchange listings.

Caroline joined the GCRA Board in May 2020 after her retirement as a Partner at Mourant Ozannes. She was a Partner in the corporate team at Ogier from 2008 to 2015.

Having grown up in Guernsey, Caroline attended The Ladies' College, before studying law at St Anne's College, Oxford. She spent nearly 9 years with Allen & Overy, working in their corporate finance teams in London and Hong Kong after qualifying with them as a solicitor in both jurisdictions (now both non-practising). She returned to the Island in 1998 and was admitted to the Guernsey Bar in 2003.

Caroline is currently a non-executive Director of Round Hill Music Royalty Fund Limited, a London listed Guernsey investment fund, and Chair of the Board of Governors of The Ladies' College.

2. Michael Byrne - Chief Executive

Michael has extensive experience in the UK and Channel Islands of applied economic regulation in the energy, ports and telecoms sectors. He has over 25 years of experience in the field of competition law across a range of industries in the UK, and the Channel Islands.

He holds a diploma in Company Direction from the IoD, an MBA from the University of Warwick, a post-graduate qualification in UK and European Competition Law, and a Bachelor of Science postgraduate degree in Mathematical Statistics.

Before moving to Guernsey Michael's roles included, Head of Economic Assessment at the macro economic statistics division of the Office for National Statistics, leading regulatory reviews and competition investigations in the UK's public and commercial television sectors at the Independent Television Commission, and prior to coming to Guernsey he was Head of Retail Energy Markets at the UK's energy regulator, Ofgem.

4. John Curran – Non-Executive Director

John is a former Chief Executive of GCRA and led the integration of the Guernsey and Jersey regulators in 2010. He was Director General of the Guernsey Office of Utility Regulation from January 2005 before being asked to also head up the JCRA in 2010.

John is currently a Non-Executive Director of the Channel Islands Financial Ombudsman and of the Guernsey Data Protection Authority. He is Chairman of Guernsey Employment Trust.

Before moving to Guernsey in 2003, John worked with the largest telecoms provider in Australia, Telstra, and the Irish telecoms regulator, Comreg, where he was involved with the introduction of competition to the communications market there.

5. Philip Marsden – Non-Executive Director

Dr Philip Marsden has over 30 years of experience enforcing financial services and competition law and devising new frameworks of regulation. His current portfolio includes academic, government and private sector roles. Philip is Deputy Chair of the Bank of England's Enforcement Decision Making Committee and case decision maker at the Financial Conduct Authority, the Payment Systems Regulator and OFGEM. He is also Professor of Law and Economics at the College of Europe, Bruges, teaching the core Masters in Law.

ACCOUNTABILITY REPORT – THE GCRA TEAM

Sarah Livestro – Legal Director

Competition

Jill Perkins – Office Manager

Administration

Richard Harrington – In-House Counsel

Competition and regulatory laws, legal practice and procedure

Fergus Reid – In-House Counsel

Competition and regulatory laws, legal practice and procedure

ACCOUNTABILITY REPORT – GOVERNANCE STATEMENT

The Governance Structure

Whilst GCRA is not subject to the UK Corporate Governance Code, the Board is committed to maintaining a high standard of Corporate Governance. The Board follows the Corporate Governance Handbook which is based on the best practice principles of the UK Corporate Governance Code, issued by the Financial Reporting Council, where it is appropriate and practical to do so.

GCRA

GCRA is a statutory body corporate, the Guernsey Competition and Regulatory Authority, under Section 1 of the Guernsey Competition and Regulatory Authority Ordinance, 2012.

The Board

GCRA is led by a Board. Legislation requires GCRA to comprise, as a minimum, three Members, with one as Chair. As at 31 December 2020 the Board consisted of a Chair, three non-executive Members and one executive Member. The Board leads the organisation. Its core activities include:

- Establishing and maintaining GCRA's vision, mission and values
- Setting and monitoring the overall strategy and structure
- Acting as the decision-making Authority as established in law
- Board and executive management and succession planning
- Defining GCRA's appetite for risk
- Obtaining assurance that material risks to GCRA are identified and that appropriate systems of risk management and control exist to mitigate such risks

The Board believes that Members have, between them, a wide range of experience which ensures an effective Board to lead and control GCRA.

The non-executive Members comprise a majority of the Board.

The Board considers all the non-executive Members to be independent of management and free of any business or other relationship which could materially interfere with the exercise of their judgment. However, should circumstances arise which suggest an actual or perceived conflict of interest, appropriate action is taken to ensure that independence is maintained.

Appointments to the Board

The Chair is appointed as Chair of the GCRA by the States of Deliberation in Guernsey on the recommendation of the Committee *for* Economic Development. Members are appointed to the Board of the GCRA after consultation with the Chair. Customarily, appointments are for periods of three years although periods of up to five years are provided for in legislation and shorter appointments may be made when appropriate.

ACCOUNTABILITY REPORT – GOVERNANCE STATEMENT (continued)

The Chair

The Board is led by the Chair, who manages the Board to ensure that:

- GCRA has appropriate strategic objectives and an effective forward work programme
- The Executive Directors and senior management are able to deliver against the strategic objectives and forward work programme
- Procedures are in place to inform the Board of performance against the strategic objectives and forward work programme
- A structure is in place to allow the effective contribution of all Members
- The Audit and Risk Committee is properly established, composed and operated
- GCRA is operating in accordance with the highest standards of corporate governance

Meetings

The Board meets regularly. Customarily, there are eight scheduled meetings each year with additional meetings when circumstances require it. During 2020, the GCRA board met on 9 occasions. The table below details meetings and attendances for 2020.

	BOARD	AUDIT AND RISK
Chris Bolt	4/4	
Caroline Chan	5/5	
John Curran	9/9	2/2
Philip Marsden	6/6	
Paul Masterton	1/1	2/2
Hannah Nixon	4/4	1/2
Michael Byrne	9/9	2*/2

*In attendance only

Board Committees

Legislation allows GCRA to establish committees, which it has done through the establishment of an Audit and Risk Committee. The Members of this Committee are the non-executive members, excluding the Chair; they are appointed by the Board. John Curran succeeded Hannah Nixon as committee Chair in August 2020. Executive Members attend Committee meetings in an advisory capacity. The key duties of the Committee are to:

- consider certain matters relating to the external audit, including reviewing the financial statements prior to their consideration by the board.
- review the mechanisms for ensuring the effectiveness of internal controls
- review and agree the internal auditor's work plan, monitor and review the effectiveness of internal audit work, and review all reports produced, monitoring the response to the findings and recommendations
- meet with the internal and external auditors at least once per year without the presence of the Executive.
- review annually the application of corporate governance best practice

ACCOUNTABILITY REPORT – REMUNERATION REPORT

In preparing the remuneration report the Board has given consideration to, and adopts the provisions of, the UK Corporate Governance Code where it considers it is appropriate, proportionate and applicable.

General policy

The Board believes that GCRA should, within the constraints of being a public body, provide rewards that will attract and retain the high-calibre management necessary for GCRA to fulfil its statutory remit and responsibilities. This overall approach is not expected to change in the coming year.

The remuneration paid to Executive Members and the fees paid to non-executive Members are set with the agreement of the Committee *for* Economic Development in Guernsey.

Components of remuneration

The main components of Executive Members' remuneration are salary and other benefits.

Executive Members are members of the Authority and employees of GCRA.

Executive Members receive no fees as members of the Authority.

The basic salary for Executive Members is determined by taking into account each individual's responsibilities, performance and experience together with market trends. All basic salaries are reviewed annually, effective 1 January, by the non-executive members. Recommended changes are notified to the Committee *for* Economic Development in Guernsey for approval.

Non-executive Members' remuneration

Fees are determined by the Committee *for* Economic Development in Guernsey. Until 30 June 2020, each Member's fees were split equally between the GCRA and JCRA.

AUDITED FINANCIAL STATEMENTS

Members' Report to the Financial Statements For the Year Ended 31 December 2020

The Members present their report and the audited annual financial statements for the Guernsey Competition and Regulatory Authority ("GCRA") for the year ended 31 December 2020.

Members

The Members in office during the year are shown on pages 16 to 17.

Events during the reporting period

As at 30 June 2020 the governments of Jersey and Guernsey enacted a decision to revert back to separate independent insular island authorities.

Operationally there has been little impact on GCRA with the basic work of the GCRA remaining unchanged. Financially, the income streams of both entities were already separate, but they no longer share costs or a Board in the way that they have since 2012.

John Curran assumed the interim Chairmanship and Paul Masterton and Hannah Nixon resigned from the Board. Philip Marsden was reappointed as a non-executive Board member and new non-executive; Caroline Chan was also appointed. Chris Bolt has been appointed as permanent Chairman.

There have been no events between the statement of financial position date and the date when the financial statements were authorised for issue that need to be disclosed or recognised in the financial statements.

Members' disclosure

As far as each Member is aware, there is no relevant audit information of which the auditor has not been made aware. All reasonable steps have been taken by each Member in order to make themselves aware of any relevant audit information to establish that the auditor is aware of this information.

Members' responsibilities

The Members are responsible for preparing the Members' Report and the financial statements in accordance with applicable law and regulations.

The Guernsey Competition and Regulatory Authority Ordinance, 2012, requires Members to keep proper accounts and proper records in relation to those accounts. The Members therefore consider themselves responsible for keeping adequate accounting records that are sufficient to show and explain the GCRA's transactions and disclose with reasonable accuracy, at any time, the financial position of the GCRA and which enable them to ensure that these financial statements comply with the Ordinance. They also consider that they are responsible for safeguarding the assets of the GCRA and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

The Ordinance also requires Members to prepare accounts in respect of each financial year, and once audited by auditors appointed by the States of Guernsey on the recommendation of the Public Accounts Committee, to submit to the Committee for Economic Development a statement of account giving a true and fair review of the state of the GCRA's affairs together with the auditor's report. The Committee for Economic Development, in turn, must submit the accounts and the auditor's report thereon to the States of Guernsey.

Members' Report to the Financial Statements
For the Year Ended 31 December 2020

Members' responsibilities (continued)

The Members have elected to prepare the financial statements in accordance with Section 1A of Financial Reporting Standard 102, The Financial Reporting Standard applicable in the UK and Republic of Ireland, as applicable to small entities ("FRS 102").

In preparing the financial statements the Members are required to:

- select suitable accounting policies and then apply them consistently;
- make judgements and estimates that are reasonable and prudent; and
- prepare the financial statements on the going concern basis unless it is inappropriate to presume that the GCRA will continue in operation.

The Members confirm that these financial statements comply with these requirements.

Change of Accounting Policy

As a result of the dissolution of CICRA, the Board has taken the opportunity to review the accounting policies adopted by the Authority. The Board has decided to adopt Section 1A of FRS 102 which is applicable to small entities (small being defined by the UK Companies Act 2006) and remove the Statement of Cash Flows from the financial statements.

Furthermore, the accounting policy relating to the recognition of income has been amended to reflect that the fees charged to licensees are no longer deferred. The change in accounting policy has been applied retrospectively and the comparatives have been restated. Refer to note 10 to the financial statements for details of the effect on the financial statements.

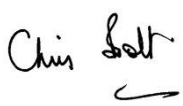
Independent auditor

The auditor, BDO Limited, which was appointed in accordance with Section 13(4)(a) of The Guernsey Competition and Regulatory Authority Ordinance, 2012, has indicated its willingness to continue in office as auditor.

Approval

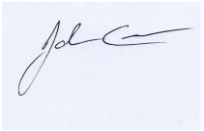
This report was approved by the Members and signed on their behalf by:

Chris Bolt



Chairman

John Curran



Chairman - ARC

INDEPENDENT AUDITOR'S REPORT TO THE MEMBERS OF THE GUERNSEY COMPETITION AND REGULATORY AUTHORITY

Opinion on the financial statements

In our opinion, the financial statements of the Guernsey Competition and Regulatory Authority ("the Authority"):

- give a true and fair view of the state of the Authority's affairs as at 31 December 2020 and of its surplus for the year then ended;
- have been properly prepared in accordance with Section 1 A of Financial Reporting Standard 102, The Financial Reporting Standard in the UK and Republic of Ireland ("FRS 102"); and
- have been properly prepared in accordance with the requirements of the Guernsey Competition and Regulatory Authority Ordinance, 2012.

We have audited the financial statements of the Authority for the year ended 31 December 2020 which comprise the Statement of Comprehensive Income, the Statement of Financial Position and notes to the financial statements, including a summary of significant accounting policies. The financial reporting framework that has been applied in their preparation is applicable law and FRS 102.

Basis for opinion

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

Conclusions relating to going concern

In auditing the financial statements, we have concluded that the Members' use of the going concern basis of accounting in the preparation of the financial statements is appropriate.

Based on the work we have performed, we have not identified any material uncertainties relating to events or conditions that, individually or collectively, may cast significant doubt on the Authority's ability to continue as a going concern for a period of at least twelve months from when the financial statements are authorised for issue. Our responsibilities and the responsibilities of the Members with respect to going concern are described in the relevant sections of this report.

Other information

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

We have nothing to report in this regard.

INDEPENDENT AUDITOR'S REPORT TO THE MEMBERS OF THE GUERNSEY COMPETITION AND REGULATORY AUTHORITY (continued)

Responsibilities of Members

As explained more fully in the Members' responsibilities statement within the Members' Report, the Members are responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view, and for such internal control as the Members determine is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Members are responsible for assessing the Authority's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless the Members either intend to liquidate the Authority or to cease operations, or have no realistic alternative but to do so.

Auditor's responsibilities for the audit of the financial statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not a guarantee that an audit conducted in accordance with ISAs (UK) will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

Extent to which the audit was capable of detecting irregularities, including fraud

Irregularities, including fraud, are instances of non-compliance with laws and regulations. We design procedures in line with our responsibilities, outlined above, to detect material misstatements in respect of irregularities, including fraud. The extent to which our procedures are capable of detecting irregularities, including fraud is detailed below:

We have held discussions with the board regarding their knowledge or awareness of any fraud or any instances of non-compliance with the Ordinance. This has been communicated via the planning and the final report issued to those charged with governance.

We have also reviewed and evaluating the effectiveness of the controls in place which are designed to prevent and mitigate irregularities. We have conducted this via conducting control walkthroughs with the appropriate personnel and obtained supporting evidence of the control effectiveness.

We have reviewed journal entries posted within the financial year to identify any potential characteristics of any potential fraud which may have occurred. We have reviewed the board and audit committee meetings to identify any instances of irregularities which management may have been aware of.

Our audit procedures were designed to respond to risks of material misstatement in the financial statements, recognising that the risk of not detecting a material misstatement due to fraud is higher than the risk of not detecting one resulting from error, as fraud may involve deliberate concealment by, for example, forgery, misrepresentations or through collusion. There are inherent limitations in the audit procedures performed and the further removed non-compliance with laws and regulations is from the events and transactions reflected in the financial statements, the less likely we are to become aware of it.

A further description of our responsibilities is available at the FRC's website at: https://www.frc.org.uk/auditorsresponsibilities. This description forms part of our auditor's report.

INDEPENDENT AUDITOR'S REPORT TO THE MEMBERS OF THE GUERNSEY COMPETITION AND REGULATORY AUTHORITY (continued)

Use of our report

This report is made solely to the Authority's Members, as a body, in accordance with Section 13 of The Guernsey Competition and Regulatory Authority Ordinance, 2012. Our audit work has been undertaken so that we might state to the Authority's Members those matters we are required to state to them in an auditor's report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the Authority and the Authority's Members, as a body, for our audit work, for this report, or for the opinions we have formed.

BDO Limited

BDO Limited
Chartered Accountants
Place du Pré
Rue du Pré
St Peter Port
Guernsey

Date: 1 June 2021

Statement of Comprehensive Income
For the Year Ended 31 December 2020

	Notes	2020 £	2019 (restated) £
INCOME			
Telecommunications licence and application fees		613,828	582,734
Electricity licence and application fees		120,500	10,500
Competition law grant		286,407	140,000
Mergers and acquisitions fees		20,000	11,000
		1,040,735	744,234
EXPENDITURE			
Salaries and staff costs		423,601	369,214
Board Members' fees and expenses		58,300	63,367
Consultancy fees		251,400	88,568
Operating lease rentals		63,838	62,033
Travel and entertainment		5,692	19,895
Conference and course fees		27,155	17,904
Depreciation	4	14,206	17,067
Administration expenses		12,125	9,577
Legal and professional fees		44,601	(1,500)
Audit and accountancy fees		26,736	8,653
Advertising and publicity		12,165	11,849
Repairs and maintenance		59,340	22,800
Heat, light and water		2,138	2,501
Recruitment		28,587	21,094
General expenses		19,604	14,470
		1,049,488	727,492
(LOSS)/SURPLUS FOR THE FINANCIAL YEAR	7	(8,753)	16,742

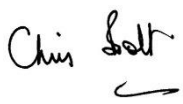
The notes on pages 30 to 37 form an integral part of these financial statements.

Statement of Financial Position
As at 31 December 2020

	Notes	2020 £		2019 (restated) £
FIXED ASSETS				
Tangible assets	4	16,559		29,746
CURRENT ASSETS				
Debtors	5	263,763		129,725
Cash at bank		268,727		393,304
		532,490		523,029
CURRENT LIABILITIES				
Creditors: amounts falling due within one year	6	119,999		114,972
Net current assets		412,491		408,057
NET ASSETS		429,050		437,803
RETAINED RESERVE	7	429,050		437,803

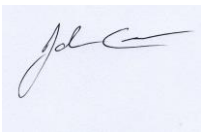
The financial statements on pages 28 to 37 were approved on 26 May 2021 and authorised for issue by the Members, and signed on their behalf by:

Chris Bolt



Chairman

John Curran



Chairman - ARC

The notes on pages 30 to 37 form an integral part of these financial statements.

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

1. GENERAL INFORMATION

Guernsey Competition and Regulatory Authority ("GCRA") is a statutory body corporate, the Guernsey Competition and Regulatory Authority under Section 1 of the Guernsey Competition and Regulatory Authority Ordinance, 2012. The principal activity of the GCRA is administering competition law and sector-specific regulation in Guernsey. The registered address of the GCRA is Suite 4, 1St Floor, La Plaiderie Chambers, La Plaiderie, St Peter Port, Guernsey, GY1 1WG.

2. ACCOUNTING POLICIES

a) Basis of preparation of financial statements

The financial statements have been prepared under the historical cost convention unless specifically stated in the accounting policies, and in accordance with Section 1A of Financial Reporting Standard 102, The Financial Reporting Standard applicable in the UK and Republic of Ireland, applicable to small entities ("FRS 102").

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

The preparation of financial statements in compliance with FRS 102 requires the use of certain critical accounting estimates. It also requires Members to exercise judgement in applying the accounting policies.

The following principal accounting policies have been consistently applied:

b) Going concern

The Board confirms its assumption that GCRA is a going concern, and that no significant uncertainty exists in this respect. The assumption is based on its incorporation and relation with Government which is established in law.

c) Income

Income is received from a government grant and other fees raised in respect of the GCRA's responsibilities as the administrator and enforcer of Guernsey's competition law, as well as through fees raised through the licensing regime in place for certain sectors.

Further details are given below:

i) Grants and other fees

Grants received are of a revenue nature and are recognised in the Statement of Comprehensive Income in the same period as the related expenditure. The annual grant received for 2020 was £140,000 (2019:£140,000) and additional grants of £146,407 (2019: £nil) were received for specific cases in the year.

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

2. ACCOUNTING POLICIES (CONTINUED)

c) Income (continued)

i) Grants and other fees (continued)

'Mergers and acquisitions fees' comprise fees received for the assessment of certain notifiable mergers and acquisitions. These fees are recognised in the Statement of Comprehensive Income once the proposed transaction has been formally registered with the GCRA. Fees received in 2020 were £20,000 (2019: £11,000).

Any unused funds at the financial year end are either retained or repaid to the Committee *for* Economic Development ("C*f*ED"). Any deficits are funded from agreed releases of reserves or recovered from future grants. The deficit of grant income for the year amounted to £12,829 (2019: £3,407).

ii) Licence fees

Licence fees across regulated sectors are set on the basis of cost recovery in accordance with sector-specific legislation and are recognised in the period to which they relate.

The GCRA's costs are estimated on an annual basis and these are recovered either by applying a percentage to the licensed revenue of each licensed operator (in the case of telecoms) or through charging an annual fee (in the cases of post and electricity).

If fee income exceeds costs the balance is transferred to retained reserve but segregated by class. License fee percentages / charges and reserve balances are set out below:

	2020	2019
	Licence fee % / charge	*Licence fee % / charge*
Telecoms	1.2% of relevant turnover	1.2% of relevant turnover
Post	-	-
Electricity	£120,500	£10,500

d) Expenditure

Expenditure is accounted for on an accruals basis and is measured at its transaction price.

e) Lease commitments

All leases entered into by the GCRA are operating leases. Rentals payable under operating leases are charged in the statement of comprehensive income on a straight-line basis over the lease term.

f) Taxation

Under section 12 of The Guernsey Competition and Regulatory Authority Ordinance, 2012, the GCRA is exempt from Guernsey income tax.

Notes to the Financial Statements (Continued)
For the Year Ended 31 December 2020

2. ACCOUNTING POLICIES (CONTINUED)

g) Tangible assets

Tangible assets are stated at cost less depreciation and any impairment. Depreciation is provided on all fixed assets at rates calculated to write down their cost on a straight-line basis to their estimated residual values over their expected useful economic lives. The depreciation rates used are as follows:

Office equipment	20% per annum
Fixtures and fittings	20% per annum
Computer equipment	20% per annum
Website costs	33% per annum
Leasehold improvements	shorter of remaining length of lease or expected useful life

Assets' residual values, useful lives and depreciation methods are reviewed, and adjusted prospectively if appropriate, if there is an indication of a significant change since the last reporting date.

Gains and losses on disposals are determined by comparing the proceeds with the carrying amount and are recognised within 'other operating income' in the statement of comprehensive income.

h) Debtors

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

i) Cash at bank

Cash at bank include current bank accounts and deposits with original maturity dates of no more than three months and are readily convertible to known amounts of cash with insignificant risk of change in value.

j) Creditors

Short term creditors are measured at transaction price.

k) Retained reserve

The retained reserve represents cumulative surpluses and losses.

Notes to the Financial Statements (continued)
For the Year Ended 31 December 2020

3. SIGNIFICANT JUDGEMENTS IN APPLYING ACCOUNTING POLICIES AND KEY SOURCES OF ESTIMATION UNCERTAINTY

In the application of the GCRA's accounting policies, which are described in note 2, the Members are required to make judgements, estimates and assumptions about the carrying values of assets and liabilities that are not readily apparent from other sources. The estimates and underlying assumptions are based on historical experience and other factors that are considered to be relevant. The estimates and underlying assumptions are reviewed on an ongoing basis. The critical judgements made by management that have a significant effect on the amounts recognised in the financial statements are described below:

- Determine the split of general expenses incurred for work undertaken under the aegis of the Channel Islands Competition and Regulatory Authorities ("CICRA"). These decisions depend on an assessment of resource allocation, including that of staff time.
- Legal costs relating to decision appeals are carried by the Authority as an expense in the period incurred as the outcome of any appeal is uncertain until judgement is received. Dependent on the outcome of the appeal the Authority may seek to recover these from the appellant in whole or in part in the period when judgement is received.

4. TANGIBLE ASSETS

	Leasehold improvements £	Computer equipment £	Website £	Fixtures & fittings £	Office equipment £	Total £
Cost						
As at 1 January 2020	34,761	22,935	17,001	20,093	605	95,395
Additions	-	-	-	1,019	-	1,019
As at 31 December 2020	34,761	22,935	17,001	21,112	605	96,414
Depreciation						
As at 1 January 2020	25,277	7,856	13,576	18,440	500	65,649
Charge for the year	6,106	3,693	3,425	960	22	14,206
As at 31 December 2020	31,383	11,549	17,001	19,400	522	79,855
Net book value						
As at 31 December 2020	3,378	11,386	-	1,712	83	16,559
As at 31 December 2019	9,484	15,079	3,425	1,653	105	29,746

Notes to the Financial Statements (continued)
For the Year Ended 31 December 2020

5. DEBTORS

	2020 £	2019 £
Licence fee and other debtors	240,640	51,963
Prepayments	23,123	15,706
Amount due from the Jersey Competition Regulatory Authority	-	62,056
	263,763	129,725

6. CREDITORS: AMOUNTS FALLING DUE WITHIN ONE YEAR

	2020 £	2019 (restated) £
Bank overdraft	3,708	-
Trade creditors	54,964	1,843
Accruals	58,825	20,600
Amounts due to the Jersey Competition and Regulatory Authority	2,502	92,529
	119,999	114,972

7. MOVEMENT ON RETAINED RESERVE

	General £	Electricity £	Grant £	M & A £	Post £	Telecoms £	Total £
At 1 January 2019 (as previously stated)	**200,002**	**-**	**-**	**-**	**-**	**-**	**200,002**
Change in accounting policy (note 10)	-	50,120	88,578	-	20,989	61,372	221,059
At 1 January 2019 (as restated)	**200,002**	**50,120**	**88,578**	**-**	**20,989**	**61,372**	**421,061**
(Loss)/surplus for the year (as restated)	-	(27,933)	(3,407)	(4,813)	(77)	52,972	16,742
At 31 December 2019 (as restated)	**200,002**	**22,187**	**85,171**	**(4,813)**	**20,912**	**114,344**	**437,803**
(Loss)/surplus for the year	-	(30,022)	(12,829)	(4,167)	-	38,265	(8,753)
At 31 December 2020	**200,002**	**(7,835)**	**72,342**	**(8,980)**	**20,912**	**152,609**	**429,050**

Notes to the Financial Statements (continued)
For the Year Ended 31 December 2020

8. COMMITMENTS UNDER OPERATING LEASES

At 31 December 2020, the GCRA had commitments under non-cancellable operating leases as set out below:

	Buildings 2020 £		2019 £
Amounts payable under operating leases:			
Not later than one year	27,880		58,150
In more than one year but less than five years	-		27,880
	27,880		86,030

In February 2015, with the consent of the CfED, the GCRA entered into a six and a half-year lease at a cost of £54,000 per annum, including service charge and parking for office accommodation at La Plaiderie Chambers, La Plaiderie, St Peter Port, Guernsey. The rental amount increased to £58,150 per annum in February 2018. The lease comes to an end on 24 June 2021. As at 31 December 2020 the GCRA has agreed to renew the lease but the terms had yet to be agreed. Subsequent to the year-end terms have been agreed for a new six-year lease ending 24 June 2027 which has a break clause at 24 June 2024 and a starting rent of £52,000pa.

9. RELATED PARTY DISCLOSURES

a) The GCRA and the Committee for Economic Development ("CfED")

The GCRA acts independently of the States of Guernsey but is accountable to the States of Guernsey through the CfED for funding received to administer and enforce Guernsey's competition law, which is also covered by a service level agreement. The CfED acts as a conduit for requests from other States departments which may request the GCRA to carry out projects. The GCRA reports formally to the States of Guernsey through the CfED on an annual basis.

In 2020, the CfED provided £286,407 (2019: £140,000) in funding to the GCRA to finance the administration and enforcement of The Competition (Guernsey) Ordinance, 2012, under the provisions contained within that legislation. The fixed grant of £140,000 was enhanced by pre-agreed additional funding which could be drawn upon if certain specific work needed to be done. At 31 December 2020 £146,407 had been invoiced of which £120,535 was outstanding. The funding deficit for the year ended 31 December 2020, which has been notified to CfED as required under the service level agreement, amounted to £12,829 (2019: deficit £3,407). The accumulated reserve attributed to grant income at the year-end was £72,342 (2019: £85,171).

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

9. RELATED PARTY DISCLOSURES (CONTINUED)

b) The GCRA and the Jersey Competition Regulatory Authority ("JCRA")

The GCRA and the JCRA worked together until 30 June 2020 under the aegis of CICRA, sharing a board, resources and expertise between the islands, whilst retaining their own separate legal identities. Recharges were made for expenses incurred (including staff costs) on a no gain no loss basis.

During 2020, £128,012 (2019: £43,830) was invoiced by the GCRA to the JCRA and £168,250 (2019: £224,806) was invoiced by the JCRA to the GCRA. At the statement of financial position date, the amount owed by the GCRA to the JCRA was £2,502 (2019: £92,529) and the amount owed by the JCRA to the GCRA was £Nil (2019: £62,056). Subsequent to the year end this amount has been settled.

c) Key management personnel

Key management personnel include all members of the GCRA who together have authority and responsibility for planning, directing and controlling the Authority's activities. The total compensation paid to key management personnel for services provided to the GCRA was £183,337 (2019: £181,201).

d) Controlling party

Throughout the year, the GCRA was under the control of the Members acting in concert. In the opinion of the Members there is no controlling party as no party has the ability to direct the financial and operating policies of the GCRA with a view to gaining economic benefit from their direction.

10. CHANGE IN ACCOUNTING POLICY

As a result of the dissolution of CICRA the Board has taken the opportunity to review the accounting policies adopted by the Authority. The Board has decided to change the accounting policy relating to the deferral of income.

Previously, fee income was recognised in the same period as the related expenditure and any income that was in excess of expenditure was deferred to the next financial period. Due to the change in accounting policy, the fees are no longer deferred and are recognised in the financial period to which they relate. The change in accounting policy has been applied retrospectively. A summary of the impact of the changes is included in note 7 and in the tables below:

Reconciliation of retained reserve	At 1 January 2019 £	At 31 December 2019 £
Retained reserve (as previously stated)	**200,003**	**200,002**
Reversal of deferred income	237,800	221,059
Retained reserve (as restated)	**437,803**	**421,061**

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

10. CHANGE IN ACCOUNTING POLICY (continued)

Reconciliation of surplus or loss	Year ended 31 December 2019 £
Surplus for the year (as previously stated)	**1**
Reversal of deferred income	16,741
Surplus for the year (as restated)	**16,742**

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THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE

INTERNATIONAL CRIMINAL COURT
– EXTENSION OF RELEVANT PROVISIONS OF UK ACT OF PARLIAMENT

The States are asked to decide:-

Whether, after consideration of the Policy Letter entitled 'International Criminal Court – Extension of relevant provisions of UK Act of Parliament', dated 28th July, 2021, they are of the opinion:-

1. to agree that an Order in Council be made to extend to the Bailiwick, to such extent, and with such modifications, as appear to Her Majesty in Council to be appropriate following consultation with the Committee *for* Home Affairs, Sections 23(5), 44, 45 and 83 of and Schedule 10 to the International Criminal Court Act, 2001, and

2. to signify their agreement to the substance of the proposed Order in Council (a copy of the latest draft of which is attached as an Appendix to the Policy Letter) for the purposes of Article 72A of the Reform (Guernsey) Law, 1948, as amended.

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

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE

INTERNATIONAL CRIMINAL COURT
– EXTENSION OF RELEVANT PROVISIONS OF UK ACT OF PARLIAMENT

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

28th July, 2021

Dear Sir

1 Executive Summary

1.1 In 2013, the States of Deliberation approved the principles of giving effect to requests for assistance from the International Criminal Court and extending the Rome Statute to the Bailiwick; having considered a Policy Letter from the then Home Department. The States then approved the International Criminal Court (Bailiwick of Guernsey) Law ('the ICC Law') in 2019. The ICC Law was then sent to the Ministry of Justice for onward transmission to the Privy Council, using the usual procedures. A draft Order in Council ('ICC Order') intended to extend certain provisions of the UK's International Criminal Court Act 2001 ('the Act') to the Bailiwick was also sent to the Ministry of Justice at that time. It was intended that, together, the ICC Law and the ICC Order would form a package of legislative measures necessary to implement the States' decisions.

1.2 Soon after those documents were sent to the Ministry of Justice, an additional section of the Reform Guernsey Law, 1948, came into force ('Article 72A'). Consequently, the legislative process was paused. One of the effects of Article 72A is that, when an Order in Council is to be made extending a provision of a UK Act of Parliament to Guernsey, the States of Deliberation must agree to the substance of that Order before the Order is registered in the Royal Court; unless the Policy & Resources Committee ('the Committee') is of the view that such consideration by the States is unnecessary.

1.3 The Committee is referring the matter to the States to fulfil the requirements of Article 72A of the Reform Law and the States is recommended to approve that the relevant parts of the Act be extended to the Bailiwick and to signify its agreement to the corresponding Order in Council.

2 Background

The International Criminal Court and the Rome Statute

2.1 "The International Criminal Court is a permanent supranational court based in The Hague, which tries individuals for genocide, crimes against humanity and war crimes. … At a United Nations conference in Rome in 1998, a statute creating an international court was approved ('the Rome Statute'). … The [International Criminal Court] was established with the coming into force of the Rome Statute on 1st July, 2002. It exists to create a powerful deterrent to potential perpetrators of atrocities, to end accusations of selective justice, and to ensure a swift response to alleged crimes by removing the need to establish a new tribunal every time a court hearing is required."[1]

2.2 "The [International Criminal Court] is intended to be complementary to national courts. Under the terms of the Rome Statute, if states have jurisdiction in respect of particular crimes under their domestic laws, they will retain such jurisdiction unless they are unable or unwilling genuinely to investigate and prosecute those crimes."

2.3 The UK enacted the International Criminal Court Act 2001 to implement the provisions of the Rome Statute into its domestic law.

Previous States of Deliberation decisions regarding the International Criminal Court

2.4 In 2013[2], the States of Deliberation approved the principles of giving effect to requests for assistance from the International Criminal Court and extending the Rome Statute to the Bailiwick. The States then approved the ICC Law in 2019[3]. The ICC Law is intended to make provisions for the Bailiwick corresponding to the Act, so that the Rome Statute can be implemented in the Bailiwick.

2.5 The ICC Law was drafted following Resolutions made by the States of Deliberation in 2013[4]. Those Resolutions were:

[1] Paragraphs 2.1-2.2 taken from, and Paragraph 2.3 adapted from, advice from HM Procureur published in section 2 of the Home Department's Policy Letter 'Criminal Justice Legislation International Criminal Court' as in Billet d'État XV of 2013 (Volume 2)
[2] Billet d'État XV of 2013 (Volume 2) and Resolutions of 24th September, 2013
[3] Billet d'État XVIII of 2019 (Volume 1) and Resolutions of 26th September, 2019
[4] Billet d'État XV of 2013 (Volume 2) and Resolutions of 24th September, 2013

"1. To approve the drafting of legislation to implement the Rome Statute, as described in paragraph 2 of that Report [dated 15th April 2013, of the Home Department], in the Bailiwick.

2. To direct the preparation of such legislation as may be necessary to give effect to the above decision."

2.6 Paragraph 2 of the Report, on which Resolution 1 was based, (a copy of advice from HM Procureur) set out various requirements needed to give effect to the Rome Statute. In that paragraph, HM Procureur recommended that Bailiwick legislation similar to the Act be enacted to implement the Rome Statute within the Bailiwick. That paragraph does not explicitly refer to the necessity to extend sections of the UK Act to the Bailiwick by way of a UK statutory instrument (the draft ICC Order). However, Resolution 2 directs the preparation of such legislation as may be necessary to give effect to the States' decision to implement the Rome Statute in the Bailiwick.

2.7 The Law Officers of the Crown have advised that it is necessary to extend certain parts of the Act to the Bailiwick as part of the package of legislative measures to implement the Rome Statute in the Bailiwick. The International Criminal Court Act 2001 (Guernsey) Order 2021 ('the ICC Order') was drafted accordingly (a copy of the draft Order is attached in the Appendix to this Policy Letter). The ICC Order makes provision so that the relevant UK Secretary of State can exercise powers (with the Bailiwick's consent) to enable certain actions required for the functioning of the Rome Statute. These powers relate to the overriding of any state or diplomatic immunity attaching to any person in the context of an International Criminal Court investigation and to the movement of prisoners between the Bailiwick and the United Kingdom. The ICC Order would extend certain provisions of the UK Act (specifically Sections 23(5), 44, 45 and 83 and Schedule 10) to the Bailiwick and has been proposed at the request of the Bailiwick. The same provisions of the Act have already been extended to the Isle of Man and to Jersey.

2.8 The provisions of the Act to be extended to the Bailiwick (with any necessary modifications) are summarised in Section 3 below.

<u>The legislative process</u>

2.9 In accordance with usual procedures, following approval by the States, the ICC Law was sent to the Ministry of Justice for onward transmission to the Privy Council. A draft Order in Council (the ICC Order) intended to extend certain provisions of the Act to the Bailiwick was also sent to the Ministry of Justice at that time.

2.10 However, soon after those documents had been sent to the Ministry of Justice, the Reform (Guernsey) (Amendment) Law, 2019 was registered and immediately came into force in Guernsey; it introduced a new provision amending the Reform Law (Article 72A, as in Section 4 below). One of the effects of Article 72A is that, when an Order in Council is to be made extending a provision of a UK Act to Guernsey, the States of Deliberation must agree to the substance of that Order before it is registered in the Royal Court, unless the Policy & Resources Committee is of the view that such consideration by the States is unnecessary.

2.11 After Article 72A of the Reform Law came into force in Guernsey (on 4th November, 2019), the Ministry of Justice was requested to pause the process towards Royal Sanction of the ICC Law and approval of the Order in Council to allow consideration about how to fulfil the requirements of the Reform Law.

2.12 Following due consideration, the Committee decided to refer the making of the International Criminal Court Act 2001 (Guernsey) Order, 2021 to the States of Deliberation, to fulfil the requirements of Article 72A of the Reform Law.

3 Sections of the UK's International Criminal Court Act, 2001 to be extended to the Bailiwick by an Order in Council

3.1 Section 23(5) of the 2001 Act facilitates the implementation of any resolution of the United Nations Security Council which has the effect of overriding any state or diplomatic immunity attaching to any person in the context of an International Criminal Court investigation. This is achieved by modifying a power in the United Nations Act 1946 which is itself exercisable by the Secretary of State by Order in Council. It is therefore necessary to extend the statutory modification to the Bailiwick by Order in Council.

3.2 Sections 44 and 45 enable the transfer of International Criminal Court prisoners between different parts of the UK which is effected by order of the relevant UK Minister. As applied to Guernsey, the provisions will enable the Secretary of State to order such transfers between the Bailiwick and the United Kingdom (hence the necessity for an Order in Council) but no such order will be made without the agreement of the Committee *for* Home Affairs.

3.3 Section 83 and Schedule 10 are extended in so far as they repeal certain provisions of the specified United Kingdom Acts in their application to the Bailiwick. This is to ensure consistency with the effects of the 2001 Act and could not be achieved by Bailiwick domestic legislation.

3.4 The legislation makes provision for any privileges and immunities to be extended to the International Criminal Court, as required.

4 Article 72A of the Reform (Guernsey) Law, 1948

4.1 Article 72A (1) and (2) of the Reform (Guernsey) Law, 1948 provide:

"**Duty to refer certain matters to the States of Deliberation.**

72A. (1) Where it is proposed that -

(a) a provision of a draft Act of the Parliament of the United Kingdom should apply directly to Guernsey, or

(b) an Order in Council should be made -

(i) extending to Guernsey a provision of an Act of the Parliament of the United Kingdom,

(ii) extending to Guernsey a Measure, pursuant to the Channel Islands (Church Legislation) Measures 1931 and 1957, or

(iii) that is otherwise expressed to have effect in, or to be applicable to or otherwise binding upon, Guernsey,

the Policy and Resources Committee shall, unless that Committee considers it unnecessary, submit the proposal to the States of Deliberation, in order that the States may signify their views on it.

(2) Where, upon transmission of -

(a) an Act of the Parliament of the United Kingdom containing a provision described in paragraph (1)(a), or

(b) an Order in Council described in paragraph (1)(b),

to the Royal Court for registration, it appears to the Royal Court that the States of Deliberation have not signified their agreement to the substance of the provision or Order in Council -

(i) the Royal Court shall refer the provision or Order in Council, as the case may be, to the Policy and Resources Committee, and

(ii) the Policy and Resources Committee shall, unless that Committee considers it unnecessary, submit it to the States in accordance with paragraph (1)."

4.2 Article 72A(1)(b)(i) requires the Policy & Resources Committee to submit to the States of Deliberation any proposal for an Order in Council to be made to extend to Guernsey provisions of Acts of Parliament of the UK, in order that the States can signify their views on it. The Policy & Resources Committee is submitting this Policy Letter to fulfil that obligation.

4.3 The Committee recommends that the States signify their agreement to the proposed ICC Order, so that when the Order in Council is made and transmitted to the Royal Court for registration in due course, the Royal Court can register that ICC Order without delay and without further reference to the Policy & Resources Committee, in accordance with Article 72A(2)(b).

4.4 Following this, the Bailiwick will seek the extension of the Rome Statute Treaty

once the legislation is in place to ensure compliance.

5 Consultation with Alderney and Sark

5.1 The ICC Law is a Bailiwick-wide law. Consequently, as explained in the 2013 Policy Letter, the States of Alderney and Chief Pleas of Sark were consulted and were supportive of the proposals. Similarly, Alderney and Sark's governments have been advised about the intention to extend the relevant provisions of the Act to the Bailiwick to complete the relevant package of legislative measures (as in Paragraph 2.7) and to bring the matter to the attention of the States of Deliberation to fulfil the obligations of Article 72A.

5.2 Alderney's authorities had no comment on the proposal to refer the matter to Guernsey's parliament. There is currently no equivalent legislation in Alderney to Article 72A of the Reform (Guernsey) Law and, therefore, no need for similar consideration there.

5.3 Sark has recently enacted the Reform (Sark) (Amendment) Law, 2020, and introduced S63A, a provision which is similar in effect to Article 72A, when UK legislation is extended. On 18th May 2021, in anticipation of S63A coming into force, Sark's Policy & Finance Committee decided that it was not necessary to refer the ICC legislation to Chief Pleas and agreed for the ICC legislation to be extended to Sark.

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), the Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications.

6.3 In regard to Rule 4(3) of the Rules of Procedure of the States of Deliberation and their Committees, no additional resources will be required to fulfil the Propositions of this Policy Letter.

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

6.5 In accordance with Rule 4(5) of the Rules of Procedure of the States of Deliberation and their Committees, the Propositions relate to the duties of the Policy & Resources Committee because its mandate includes exercising powers

and performing duties conferred on it by extant legislation (in this case, those in Article 72A of the Reform (Guernsey) Law).

6.6 The Committee *for* Home Affairs' ('C*f*HA') mandate includes responsibilities to advise the States and develop and implement policies on matters including crime prevention, law enforcement and justice policy. The Home Department (C*f*HA's predecessor) brought the original Policy Letter entitled 'Criminal Justice Legislation International Criminal Court' to the States of Deliberation in 2013. C*f*HA brought the ICC Law to the States for approval in 2019. C*f*HA was advised that the Policy & Resources Committee was drafting a Policy Letter to fulfil the requirements of Article 72A and was consulted on this Policy Letter.

6.7 Except for the engagement with Alderney and Sark outlined in Section 5, it has not been necessary for the Policy & Resources Committee to consult with other parties within the Bailiwick before this Policy Letter is published, as the Reform (Guernsey) Law only applies to Guernsey and the requirements of Article 72A are to bring the proposed extension of the relevant provisions of the International Criminal Court Act, 2001 (and the substance of the proposed Order in Council) to the States for consideration.

Yours faithfully

Policy & Resources Committee

P T R Ferbrache
President

H J Soulsby
Vice-President

M A J Helyar
J P Le Tocq
D J Mahoney

2021 No. *

INTERNATIONAL CRIMINAL COURT

International Criminal Court Act 2001

(Guernsey) Order 2021

Made

Coming into force in accordance with Article 1

At the Court at Buckingham Palace, the * day of *

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by section 79(3) of the International Criminal Court Act 2001[a], is pleased, by and with the advice of Her Privy Council, to make the following Order:

1. This Order may be cited as the International Criminal Court Act 2001 (Guernsey) Order 2021 and shall come into force on the same day as the International Criminal Court (Guernsey) Law 2021 comes into force.

2. The following provisions of the International Criminal Court Act 2001 shall extend to the Bailiwick of Guernsey –

(a) section 23(5) (extension of powers under United Nations Act

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[a] 2001 c.17

1946[b]);

(b) sections 44 and 45 (transfer of prisoners), subject to the modifications set out in the Schedule to this Order, and

(c) section 83 and Schedule 10 (repeals), so far as they relate to section 1(4) of the Geneva Conventions Act 1957, the Genocide Act 1969 and section 1(5) of the Geneva Conventions (Amendment) Act 1995.

SCHEDULE

MODIFICATIONS OF CERTAIN PROVISIONS OF THE 2001 ACT IN THEIR EXTENSION TO THE BAILIWICK OF GUERNSEY

1. In section 44 (Transfer to another part of the United Kingdom: transfer of ICC sentence) –

(a) in the heading omit the words "another part of";

(b) in subsections (1) and (3), for the words "the relevant Minister" substitute "Secretary of State";

(c) in subsection (1), for the words "to another part of the United Kingdom" substitute "from the Bailiwick of Guernsey to any part of the United Kingdom";

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b 1946 c.45.

(d) for subsection (2) substitute –

"(2) No such order shall be made without the agreement of the States Committee for Home Affairs; and no such order shall be made for the transfer of the prisoner to Scotland without the agreement of the Scottish Ministers."; and

(e) omit subsections (4), (5) and (6).

2. In section 45 (Transfer to another part of the United Kingdom: transfer for temporary purposes) –

(a) in the heading omit "another part of";

(b) in subsections (1), (2) and (4), for the words "relevant Minister" substitute "Secretary of State";

(c) in subsection (1)(a) and (b), for the word "another" substitute "any";

(d) for subsection (3) substitute –

"(3) No such order shall be made without the agreement of the States Committee for Home Affairs; and no such order shall be made for the transfer of the prisoner to Scotland without the agreement of the Scottish Ministers."; and

(e) omit subsections (5) and (6).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order extends to the Bailiwick of Guernsey specified provisions of the International Criminal Court Act 2001 (c.17) (the 2001 Act) subject to the modifications set out in the Schedule.

In particular, section 23(5) of the 2001 Act enables United Nations Security Council (UNSC) resolutions which might, depending on their wording, override any immunities attaching to representatives of all States, including non-parties, to be implemented in the Bailiwick, where the UNSC refers a situation to the International Criminal Court (ICC) for investigation and prosecution. Section 44 of the 2001 Act enables the transfer of prisoners between the United Kingdom and the Bailiwick to serve the remainder of an ICC sentence. Section 45 of the 2001 Act provides for the temporary transfer of a prisoner in custody between United Kingdom jurisdictions and the Bailiwick for the purpose, for example, of attending criminal proceedings against the prisoner.

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THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE

AMENDMENTS TO LEGISLATION RELATING TO IMPLEMENTATION OF INTERNATIONAL SANCTIONS MEASURES

The States are asked to decide:-

Whether, after consideration of the Policy Letter dated 2nd August, 2021 of the Policy & Resources Committee, they are of the opinion:-

1. To agree to remove from the Sanctions (Bailiwick of Guernsey) Law, 2018, the power to implement sanctions measures enacted by the European Union and other provisions relating to the implementation of such measures; the power to amend the definition of sanctions measures by Ordinance (as set out in section 3);

2. To agree to clarify the scope of the criminal offences in the Sanctions (Bailiwick of Guernsey) Law, 2018 for breaching sanctions measures or for providing false or misleading information (as set out in section 4); and

3. To direct the preparation of such legislation as may be necessary to give effect to the foregoing.

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)(c) of the Rules of Procedure of the States of Deliberation and their Committees.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE

AMENDMENTS TO LEGISLATION RELATING TO IMPLEMENTATION OF INTERNATIONAL SANCTIONS MEASURES

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

2nd August, 2021

Dear Sir

1 Executive summary

1.1 The purpose of this Policy Letter is to recommend some amendments to the Sanctions (Bailiwick of Guernsey) Law, 2018 (the Sanctions Law).

1.2 Some amendments arise as a result of the United Kingdom (UK) leaving the European Union (EU) and bringing into force its own sanctions measures. These amendments concern the removal of provisions relating to the implementation within the Bailiwick of sanctions measures enacted by the EU.

1.3 Other amendments clarify the application of criminal offences under the Sanctions Law.

2 Background

2.1 The Sanctions Law enables the Policy & Resources Committee (the Committee) to give effect to sanctions measures throughout the Bailiwick by regulations. The Sanctions Law also provides that breach of prohibitions or requirements of sanctions measures that have been implemented in this way is a criminal offence.

2.2 Sanctions measures for these purposes are defined as EU sanctions imposed under certain treaties, United Nations (UN) sanctions imposed under the UN

Charter and UK sanctions imposed under the Sanctions and Anti-Money Laundering Act 2018 (SAML Act). This definition reflects the fact that when the Sanctions Law was introduced, the UK was still a member of the EU and therefore had an ongoing obligation to implement EU sanctions. This meant in turn that the Sanctions Law had to make provision for both the implementation of EU sanctions until the point when the UK left the EU, and any sanctions that the UK might make under the SAML Act thereafter.

2.3 UN sanctions are included in the definition of sanctions measures to ensure that the Bailiwick has a legal mechanism in place under which it can take direct action to meet its obligations under the UN Charter if required. However, it has not been necessary to invoke that mechanism to date. This is because UN sanctions have been given effect as part of the sanctions regimes enacted by both the EU and now by the UK (see below).

2.4 The Sanctions Law does however provide for the automatic but temporary implementation in the Bailiwick of new UN sanctions, whether new regimes or new listings under existing regimes, pending their adoption by the EU. This interim provision was needed because under the EU's internal processes, there is a delay between the enactment of a new UN measure and its adoption by the EU. The temporary implementation provisions in the Sanctions Law effectively replicate measures taken by the UK to remove any gaps in complying with UN obligations in that intervening period. This is on the basis that by the end of the temporary period, the EU would invariably have enacted its own sanctions measure to implement the new UN sanctions regime and those measures would in turn be implemented domestically.

2.5 The Sanctions Law has been relied on to give effect to a number of EU regimes. However, as a result of the UK leaving the EU with effect from 31st December, 2020, all measures giving domestic effect to EU sanctions have been repealed. This includes Ordinances made under the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994, regulations made under the Sanctions Law in the period before the UK left the EU and provisions of the Sanctions Law giving temporary effect to new UN listings related to existing EU sanctions. These measures have been replaced by regulations giving effect to UK sanctions that are broadly in line with the corresponding EU sanctions. These are now the only sanctions applicable in the Bailiwick, although as indicated above, they include UN sanctions within their scope.

2.6 There is no longer any need to provide for temporary implementation of new UN listings under existing regimes, as these are incorporated automatically within the relevant UK sanctions. With regard to new UN regimes, these can be implemented directly if required by the Committee using its regulation making power referred to above. However, this is unlikely to be necessary save in

exceptional circumstances, such as where the UN enacts a new regime and there is an urgent operational need to give effect to it in the Bailiwick before the UK has enacted the necessary regulations under the SAML Act.

3 EU sanctions

3.1 As indicated above, before the UK had left the EU the Bailiwick needed the power in the Sanctions Law to implement EU sanctions, so as to ensure that the Bailiwick's sanctions regime could mirror that applicable to the UK as an EU member state. This mirroring of the UK position was not only in line with the longstanding constitutional position on foreign policy issues, but at a practical level it meant that Bailiwick businesses with UK links would not have to apply a sanctions regime which differed from that applicable to their UK counterparts. In addition, implementing EU sanctions was an effective way of meeting the Bailiwick's obligations under the UN Charter. These reasons no longer apply now that compatibility with the UK's position and the implementation of UN sanctions measures has been achieved by giving effect to UK sanctions.

3.2 In expectation of this, at the time when the Sanctions Law was introduced it was envisaged that once the UK had left the EU the Bailiwick would no longer implement EU sanctions or retain the power to do so. It was recognised that in addition to being unnecessary, there were strong policy arguments against the Bailiwick seeking to implement EU sanctions in future.

3.3 This was on the basis that implementation of EU sanctions could be incompatible with the UK position. This would cause not only a deviation from UK foreign policy but also confusion and practical difficulties for Bailiwick businesses with close ties to the UK. That expectation has been confirmed by the autonomous sanctions that the UK has enacted, because although they are broadly in line with the EU sanctions that they replace, they are not identical to them. There are differences not only at a technical level (for example as to the scope of restrictive measures and licensing criteria) but also at a practical level, because not all parties listed by the EU have been listed by the UK. There may well be further divergences in future.

3.4 Similar considerations arise in respect of the power to amend the definition of sanctions measures by Ordinance in the Sanctions Law. Its purpose was to enable the swift removal of the reference to EU sanctions as appropriate once the UK had left the EU. This power will therefore no longer be required once the reference to EU sanctions has been removed. Leaving the power in place could cause difficulties from a constitutional perspective, at least theoretically, as it would open up the possibility of the Bailiwick making significant foreign policy changes by secondary legislation without reference to the UK. The undesirability of both this situation and the retention of the power to

implement EU sanctions after Brexit was underlined by the UK authorities in discussions before the Sanctions Law received royal assent.

3.5 Therefore, it is proposed that the power to implement EU sanctions (including to give temporary effect to new UN regimes pending their adoption by the EU) and to amend the definition of sanctions measures by Ordinance should be removed. This would have the dual benefits of giving certainty to financial services businesses and other sectors about the scope of the Bailiwick's sanctions regime, and allaying any concerns that might otherwise arise about the Bailiwick adopting a different foreign policy position from that in the UK in future.

4 Criminal Offences

4.1 Section 3 of the Sanctions Law provides that contravention of any of the prohibitions or requirements of sanctions measures implemented in the Bailiwick is a criminal offence. This does not explicitly cover the situation where a prohibition or requirement is contained in an underlying instrument such as a licence or a direction that has been issued under a sanctions measure. The Committee has been advised by the Law Officers that while a prohibition or requirement contained in an underlying instrument is implicitly covered by section 3, it would be beneficial to amend the Sanctions Law to put the issue beyond doubt.

4.2 The Law Officers have further advised that it would be beneficial to clarify that the offences at section 17 of the Sanctions Law, which relate to the provision of information, apply to information provided voluntarily in relation to a UK sanctions measure (for example in connection with an application for a licence) in the same way as to information provided in response to a specific request from the Committee.

4.3 It is therefore proposed that the scope of these offences is clarified as advised by the Law Officers.

5 Consultation

5.1 The Law Officers have been consulted and raise no legal objection to the proposals in this Policy Letter.

6 Alderney and Sark

6.1 The Committee has consulted with the Policy and Finance Committee of the States of Alderney and the Policy and Finance Committee of the Chief Pleas of Sark. The committees support the proposals in this Policy Letter.

7 Resources

7.1 The Committee does not consider there to be any resource implications associated with the implementation of these proposals.

8 Recommendations

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

- To agree to remove from the Sanctions (Bailiwick of Guernsey) Law, 2018, the power to implement sanctions measures enacted by the European Union and any provisions relating to the implementation of such measures; the power to amend the definition of sanctions measures by Ordinance;

- To agree to clarify the scope of the criminal offences in the Sanctions (Bailiwick of Guernsey) Law, 2018 for breaching sanctions measures or for providing false or misleading information; and

- To direct the preparation of such legislation as may be necessary to give effect to the foregoing.

9 Compliance with Rule 4

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

9.2 In accordance with Rule 4(1)(a), the Propositions contribute to Priority 2 of the Government Work Plan by enabling the Bailiwick to manage the effects of Brexit and meet international obligations.

9.3 In accordance with Rule 4(1)(b), the consultation undertaken with relevant stakeholders in the preparation of the Propositions is detailed in sections 5 and 6 of this Policy Letter.

9.4 In accordance with Rule 4(1)(c), the Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications.

9.5 In accordance with Rule 4(1)(d), there should be no additional financial implications to the States of Guernsey of carrying the proposals into effect.

9.6 In accordance with Rule 4(2)(a), the Propositions relate to the Committee's responsibilities for the policy framework for the regulation of financial services.

9.7 In accordance with Rule 4(2)(b), it is confirmed that the Propositions accompanying this Policy Letter are supported unanimously by the Policy & Resources Committee.

Yours faithfully

P T R Ferbrache
President

H J R Soulsby MBE
Vice-President

J P Le Tocq

M A J Helyar

D J Mahoney

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THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE

THE HUMAN RIGHTS (BAILIWICK OF GUERNSEY) LAW, 2000
– AMENDMENT OF LEGISLATION

The States are asked to decide:-

Whether, after consideration of the Policy Letter entitled '' The Human Rights (Bailiwick of Guernsey) Law- amendment of legislation" dated 4th August, 2021, they are of the opinion:-

1. to agree to amend section 9(2) of the Human Rights (Bailiwick of Guernsey) Law, 2000, to enable a court to award compensation to a person in respect of a judicial act done in good faith, in the circumstances set out in paragraph 2.5 of that Policy Letter.

2. to direct the preparation of such legislation as may be necessary to give effect to the above decision.

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

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE

THE HUMAN RIGHTS (BAILIWICK OF GUERNSEY) LAW, 2000
– AMENDMENT OF LEGISLATION

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

4th August, 2021

Dear Sir

1 Executive Summary

1.1 In the 2016 judgment in the case of Hammerton v UK[1], the European Court of Human Rights found that the UK, as the State party to the case, had breached certain rights of the applicant, Mr Hammerton, under the European Convention of Human Rights[2] (the Convention). The breach related to a statutory bar in the Human Rights Act 1998[3] (the UK legislation) which prevented damages being awarded in the circumstances of a judicial act done in good faith, except to compensate a person in respect of any deprivation of liberty. The UK, under the terms of the Convention and as a Member of the Council of Europe, is obliged to implement judgments in cases to which it is party. Accordingly, the UK Government has now amended the Human Rights Act 1998 to address the lack of domestic remedy available.

1.2 The Convention was extended and given effect in the Bailiwick with the enactment of the Human Rights (Bailiwick of Guernsey) Law 2000[4] (the Bailiwick legislation). The Bailiwick legislation largely mirrors the UK legislation and, in a similar way, includes a statutory bar against the provision of damages being awarded in the circumstances arising in the Hammerton case.

[1] Hammerton v The United Kingdom 6287/10- Judgment of the European Court of Human Rights
[2] European Convention on Human Rights (also known as The Convention for the Protection of Human Rights and Fundamental Freedoms)
[3] The Human Rights Act 1998
[4] The Human Rights (Bailiwick of Guernsey) Law, 2000

1.3 Constitutionally, due to the Bailiwick's historic relationship with the Crown, the UK has responsibility for the Bailiwick's international relations and for ensuring that it meets human rights obligations and compliance with the Convention. In practice, it is for the Bailiwick to make legislation and policies to fulfil its international obligations. The UK Government has invited the Bailiwick authorities to consider amending its domestic human rights legislation in a similar way to the UK to ensure compliance. The UK Government would wish to see the alignment of the Bailiwick's position with the UK's to ensure that the UK and Bailiwick continue to meet their international obligations.

1.4 The Policy & Resources Committee recommends that the required legislative changes should be made to fulfil these obligations for Guernsey.

1.5 As the legislation applies Bailiwick-wide, consultation has taken place with Alderney and Sark. The relevant committees in those islands agree that the legislative changes should be made and that this Policy Letter will be used for consideration and decision making by the three Bailiwick parliaments.

1.6 If approved by the three Bailiwick parliaments, a Projet de Loi will be required to introduce the legislative changes.

2 Background

2.1 The circumstances in the case of Hammerton v UK related to domestic child contact proceedings brought in the English courts, which resulted in Mr Hammerton's committal to prison following his breaches of an undertaking and an injunction. In 2016, the European Court of Human Rights found that Mr Hammerton's Article 6[5] right to a fair trial under the Convention had been breached, as he had been committed to prison for a longer period than he would otherwise have been, due to a judicial act which did not allow him certain rights under Article 6. This judicial act deprived him of legal representation when deciding whether to commit him to prison. However, section 9(3) of the UK's Human Rights Act 1998 operated as a statutory bar to an award of damages, in that it did not permit Mr Hammerton to claim damages in the domestic courts in respect of a judicial act done in good faith (the principle of judicial immunity), except to compensate to the extent required by Article 5(5) of the Convention[6] in respect of a person's deprivation of liberty.

2.2 Mr Hammerton then applied to the European Court of Human Rights due to the lack of domestic remedy available. The European Court of Human Rights determined that the statutory bar in Section 9(3) of the Human Rights Act 1998, which prevented a remedy being obtained as a result of a judicial act in good

[5] European Convention on Human Rights, Article 6 pages 9-10
[6] European Convention on Human Rights, Article 5 page 8

faith, was a breach of Article 13 of the Convention[7], regarding a person's right to obtain an effective remedy.

2.3 The UK remains committed to the Convention. The EU-UK Trade and Cooperation Agreement[8] agreed following the UK's withdrawal from the EU, includes provisions relating to these continuing obligations. The Council of Europe's Committee of Ministers monitors the implementation process for judgments by the European Court of Human Rights for Member States. The UK, under the terms of the Convention, as a Member State of the Council of Europe and as the State Party to Convention, is obliged to implement judgments in cases to which it is party. Accordingly, in order to implement the Hammerton judgment, the UK government decided to amend its Human Rights legislation by removing the statutory bar on the award of damages in these circumstances.

2.4 Following scrutiny by the Houses of Parliament's Joint Committee of Human Rights of the proposed amendment, as set out in the Joint Committee's Report in November 2018[9], the final amendment introduced by the UK Government provided for a slightly wider scope for an award of damages to be made than originally proposed.[10] The UK Government has now completed the process to amend its legislation and the amended legislation came into force in October 2020.

2.5 The amendment to the UK legislation makes the following changes in terms of remedies. In addition to the existing a provision for compensation under Article 5(5) of the Convention for deprivation of liberty, the amendment now enables the UK courts to award damages to compensate a person in respect of a judicial act done in good faith where:

- the judicial act is incompatible with Article 6, and
- the breach of Article 6 causes the person to be

(i) detained when they would not otherwise have been, or
(ii) subjected to a longer period of detention than they would otherwise have been.

2.6 The UK Government has now invited the Bailiwick authorities to consider amending its domestic human rights legislation in a similar way. This would be amended by including a provision to amend S9(2) of the Human Rights (Bailiwick of Guernsey) Law, 2000.

[7] European Convention on Human Rights, Article 13 page 13
[8] Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland, of the one part, and the European Union and the European Atomic Energy Community, of the other part – signed in Brussels and London 30 December 2020, full text available on gov.uk, Article 524
[9] Joint Committee on Human Rights Report published 21 November 2018
[10] Draft Human Rights Act 1998 (Remedial) Order 2019 published 15 October 2019

3 Previous States of Deliberation and Bailiwick decisions regarding the European Convention of Human Rights

3.1 Following the consideration by the States of Deliberation in April 2000 and the making of relevant resolutions to introduce human rights legislation for the Bailiwick[11], the European Convention of Human Rights was extended and given effect in the Bailiwick by way of enactment of the Human Rights (Bailiwick of Guernsey) Law, 2000. The Bailiwick legislation came into force in September 2006.[12]

3.2 The Bailiwick legislation largely mirrors the UK legislation. Section 9(2) of the Human Rights (Bailiwick of Guernsey) Law, 2000 follows the wording of the unamended UK legislation regarding judicial acts and, therefore, no damages nor effective remedy would be available in respect of a breach resulting from a judicial act done in good faith should a similar case to Hammerton come before the Bailiwick courts in the future.

3.3 The Law Officers of the Crown have advised that the Bailiwick legislation should be amended in a similar way to the UK's legislation, to remedy the current incompatibility of the legislation with the Convention. If the States recommends that the changes are introduced, a Projet de Loi would need to be prepared to amend the legislation as the amendment will introduce new provisions.

3.4 The UK Government wishes the Bailiwick's position to be aligned to ensure that the UK continues to meet its international obligations and in order to protect its reputation. The UK has a responsibility for the international relations of the Bailiwick, including monitoring compliance with the Convention. If the Bailiwick refused to make similar provision to the UK by not amending its legislation and a situation like Hammerton arose, with one of the Bailiwick jurisdictions found to be in contravention of the Convention, this would potentially place the UK, as a Member of the Council of Europe, in breach of its Convention obligations.

4 Engagement and Consultation

4.1 The Law Officers have been consulted and have provided advice, as set out in this Policy Letter.

4.2 The Human Rights (Bailiwick of Guernsey) Law, 2000 is a Bailiwick-wide law. Consultation has taken place with Alderney and Sark regarding the proposed amendment. Alderney and Sark's Policy & Finance Committees[13] have confirmed

[11] Policy Letter "Incorporation of the European Convention for the Protection of Human Rights and Fundamental Freedoms into Bailiwick Legislation" by the States Advisory and Finance Committee, Billet d'État IX of 2000 and Resolutions of 5th April, 2000 (not available online)

[12] The Human Rights (Bailiwick of Guernsey) Law 2000, (Commencement) Ordinance, 2006

[13] Sark P&F Committee decision 18 May 2021, Alderney P&F Committee decision 20 May 2021

their agreement to the amendment of the Bailiwick legislation. These Committees have also agreed that they are content for the same Policy Letter to be used for the three jurisdictions parliaments, at or about the same time.

4.3 Discussions are taking place with the Ministry of Justice, at officer level, as the UK Government Department responsible for the implementation of judgments of the European Court of Human Rights and with responsibility for managing the UK's constitutional relationship with the Bailiwick, regarding the steps being taken to amend the Bailiwick legislation.

5 Conclusion and Recommendations

5.1 It is recommended that the Bailiwick legislation is amended in a similar way to the UK legislation, as outlined in Section 2.5 of this Policy Letter, to provide a remedy in those defined circumstances and to ensure that the Bailiwick continues to meet its Convention obligations.

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 Rule 4(1)(a) - The Propositions for this Policy Letter relate to the States' objectives and policy plans for managing the States' international obligations[14], by ensuring compliance with the Convention obligations.

6.3 Rule 4(1)(b) - The Committee's engagement and consultation with other parties is outlined in section 4, in accordance with Rule 4(1)(b).

6.4 Rule 4(1)(c) - The Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications.

6.5 Rule 4(1)(d) - There are no financial implications from these proposals and no additional resources will be required to fulfil these Propositions.

6.6 Rule 4(2)(a) - The Propositions relate to the purpose, policy responsibilities and duties of the Policy & Resources Committee in terms of its responsibilities for external relations and international and constitutional affairs, which includes the Island's constitutional position.

6.7 Rule 4(2)(b) - It is confirmed that the Propositions have the unanimous support

[14] Policy & Resources Committee - Government Work Plan 2021-2025 Billet d'État XV of 2021 (Stage 2 of GWP) (including pages 18-20, 40 and 41) and Resolutions of 23rd July, 2021

of the members of the Committee.

Yours faithfully

Policy & Resources Committee

P T R Ferbrache
President

H J Soulsby
Vice-President

M A J Helyar
J P Le Tocq
D J Mahoney

Guernsey Legal Aid Service – 2020 Annual Report

New Jetty,
White Rock, St Peter Port GY1 2LL

This Report covers the period 1st January 2020 to 31st December 2020

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GUERNSEY LEGAL AID SERVICE ANNUAL REPORT 2020

Introduction

The principal purpose of the Legal Aid (Bailiwick of Guernsey) Law 2003 is:-

"For the efficient provision (at reasonable cost to the States, the States of Alderney, the Chief Pleas of Sark, and any other provider of financial assistance under this law) of legal assistance throughout the Bailiwick with a view, when the interests of justice so require, to helping persons who might otherwise be unable to obtain that assistance on account of their means."

Legal Aid provides access to free or reduced cost legal advice in criminal and civil cases arising in the Bailiwick of Guernsey (i.e. the Islands of Guernsey, Alderney, Herm and Sark) for those who cannot otherwise afford an Advocate.

The Guernsey Legal Aid Service is the office that administers the Legal Aid schemes under the direction of the Legal Aid Administrator.

The Legal Aid Administrator is an independent statutory official appointed by the States of Guernsey on a five year term basis. She has full discretion to grant or refuse Legal Aid within the terms of the scheme which the States prescribes.

Background and Governance

The Guernsey Legal Aid Service ("GLAS") came into existence on 1st September 2001, at first offering assistance in criminal matters only, broadly modelled on the voluntary scheme already in operation.

The Legal Aid Administrator ("the Administrator") was appointed by the then Advisory and Finance Committee to bring the schemes into effect on an extra-statutory basis.

The scheme for assistance with civil matters commenced on 1st January 2002. There had been no previous voluntary scheme in place.

It was recognised from the outset that it would take some time to develop this new and potentially complex service, to establish and refine procedures, set up an office, negotiate arrangements with the Guernsey Bar and, in particular, to take account of constantly evolving legislation which would have an impact on the service and its scope. Accordingly, it was decided to initially operate the schemes for civil and criminal legal aid on an extra-statutory basis, pending development and review of the schemes and the subsequent drafting and States' approval of the Ordinance.

The Legal Aid (Bailiwick of Guernsey) Law 2003 ("The Legal Aid Law") was brought into effect in 2005 and the Legal Aid (Guernsey and Alderney) (Schemes and Miscellaneous Provisions) Ordinance 2018 ("the Ordinance") on 1st January 2019 which set up the various Statutory Schemes. As Sark was undertaking a general

review, it was decided that the Ordinance should not extend to Sark at that time which, as a consequence remains extra –statutory.

Since May 2016, the responsibility for political oversight of legal aid has fallen within the mandate of the Committee for Employment and Social Security, having transferred from the Policy Council.

The Ordinance also created the Office of the Legal Aid Commissioner who, when requested, reviews the decisions of the Administrator.

There is a legislative requirement to produce an annual report since the Legal Aid Law came into effect but in practice it was accepted that these would not be prepared as the Administrator had no schemes to administer until the Ordinance was implemented on 1st January 2019.

The Legal Aid Office and Staffing

The Legal Aid Office is located at New Jetty, White Rock, St Peter Port, Guernsey. GLAS

There are 5 full time members of Staff:

Legal Aid Administrator

Deputy Legal Aid Administrator

Administration & Finance Manager

Senior Executive Officer

Executive Assistant

Legal Aid Schemes

Under the Ordinance, three main Legal Aid Schemes were established, each specified by Rules of the Committee which came into effect on 1st November 2019:

- **The Legal Aid, Advice and Assistance Scheme – "the Green Form Scheme"**
- **The Criminal Legal Aid Scheme**
- **The Civil Legal Aid Scheme**

The legal matters that are funded by GLAS are categorised into two areas: Civil and Criminal.

Civil matters: The civil scheme covers such areas as:

- private law family matters such as the future arrangements for the children where parents have separated – primarily applications made under Section 17 of The Children (Guernsey and Alderney) Law 2008 - divorce and ancillary relief proceedings
- public law proceedings (children being removed from the care of their parents)
- affiliation & maintenance proceedings when supported by Employment and Social Security
- personal injury and medical negligence claims
- confiscation proceedings relating to proceeds of crime and drug trafficking
- appeals to the Mental Health Review Tribunal
- evidential hearings arising from the Child Youth and Community Tribunal ("CYCT") and in exceptional circumstances legal representation at the CYCT.

Criminal matters: The criminal scheme provides free legal advice from a Duty Advocate for anyone who has been detained by the Guernsey Police or Guernsey Border Agency or any person attending the police/border agency as a volunteer in respect of a matter for which they could otherwise be arrested. Apart from in the Royal Court and the Traffic Court, the Duty Advocate is also available at Court to provide assistance and representation for defendants who have been charged and who have not yet instructed their own Advocate.

The scheme also provides funding under a full legal aid certificate for certain criminal proceedings that meet the legal merits criteria. Some matters (e.g. minor motoring offences) are excluded from receiving legal aid for representation in court unless the applicant is unable to conduct their own defence due to language difficulties, mental/physical disability or other.

The Green Form Scheme: This provides applicants up to 2 hours advice and assistance for both criminal and civil matters. The Legal Aid Rules set out those legal matters that are generally included and excluded from the Scheme.

Eligibility for Green Form and other legal aid services is subject to the financial eligibility criteria. Financial eligibility is assessed by the Advocate at their office. There are no such criteria for the Duty Advocate advice, public law proceedings and appeals to the Mental Health Tribunal, which are provided at no charge to the individual.

For the services where the financial eligibility criteria applies, some applicants may be required to pay a contribution towards their costs and should any applicant recover or preserve assets in proceedings, they are required to reimburse GLAS all their costs in full.

In terms of Alderney, there are special arrangements with specific Guernsey Law Firms for the provision of legally aided services in Alderney including a Duty Advocate.

How the Legal Aid Process Works

An applicant who requires legal advice and assistance will initially see their Advocate under a 2 hour Green Form. The Advocate's office assesses whether the applicant is financially eligible for Green Form advice. If the Advocate is of the opinion that an application for a full legal aid certificate (which most commonly funds court proceedings) they will submit an application to GLAS.

When an application for a legal aid certificate is submitted to GLAS via the applicant's Advocate, the financial eligibility of the applicant is firstly assessed by the Senior Executive Officer or Executive Assistant. Financial assessment is undertaken over a period of 13 weeks prior to the date of the application. The applicant is required to produce evidence of all sources of income, capital, bank statements and evidence of rent/mortgage payments. If an applicant is in receipt of Income Support they are automatically financially eligible for legal aid. The file is then passed onto the Administrator or Deputy Administrator to check the financial eligibility assessment and to determine whether the application meets the legal merits criteria. If both criteria are met a Legal Aid Certificate is granted. Some applications involve very complex issues. Others do not meet the legal merits criteria (or the applicant is financially ineligible) and are refused.

If an application is refused because it does not meet the legal merits criteria, an Applicant can request the matter be referred to the Legal Aid Commissioner for a review of that decision.

Once a Legal Aid Certificate is granted, it continues to be monitored by GLAS. Should an applicant's financial circumstances change, they are reassessed to determine continued eligibility. In addition, for civil legal aid certificates, an Advocate can only undertake work within the limit authorised by GLAS. Any request for additional time needs to be justified by the Advocate and approved by GLAS. Any intended disbursements over £100 also require prior approval by GLAS.

At the conclusion of the case that is being funded under a legal aid certificate, the Advocate submits their files to GLAS to undertake the process of taxation. This is an assessment of the reasonableness of the costs claimed by the Advocate throughout the court proceedings (or matter that is being funded) to ensure they are correctly claimed and in accordance with the costs criteria laid down. Most cases are taxed by GLAS but large cases are sent to the UK to be assessed by a Costs Draftsman.

An agreement/compromise is usually reached with the Advocate as to the level of reductions but in the event the matter cannot be agreed, it is referred to the Costs Judge for Taxation on the Papers. If matters are still not agreed, an Oral Taxation Hearing is requested.

Administrator's Comments

This is the second annual report of the Guernsey Legal Aid Service which covers the period 1st January 2020 to 31st December 2020.

GLAS expenditure comprises a fixed Administration budget and a formula led budget. Formula led means that, whilst there is a budget based on reasonable predictions and other criteria, legal aid continues to be granted even if that budget has been exceeded, as is consistent with the interests of justice.

In 2020 there was an overall underspend of £449,000 for formula led expenditure compared to the budget. This is broken down to an underspend of £322,000 for civil expenditure and £127,000 for criminal expenditure.

It is difficult to pinpoint the exact reasons for our unusually large underspend but inevitably the period of lockdown from March to June 2020 was an influencing factor.

For criminal matters at the beginning of lockdown we saw a drop in the number of applications received but activity gradually increased from the middle of lockdown onwards. However, there was also a noticeable increase in the funding of drug related matters and this trend continued throughout 2020.

For civil matters the most active area over the past years (and this continues to be the case) is the provision of funding for family proceedings in the Domestic Proceedings Magistrates Court. This area of expenditure consists mostly of applications made under Section 17 of the Children (Guernsey and Alderney) Law, 2008 i.e. for Residence and Contact Orders in addition to Specific Issue Orders and Prohibited Steps Orders concerning children whose parents have separated and are unable to reach an agreement as to the future arrangements of their child/children. In addition, we fund a number of Affiliation and Maintenance Proceedings against the non-resident parent but only when supported by Employment & Social Security, plus Domestic Violence Injunctions. Whilst it is clear the Courts seek to avoid delay where possible, some Section 17 proceedings can be lengthy sometimes spanning 1 or 2 years and often involve the funding of experts reports such as psychological assessments of the parties which have been ordered by the Court.

There was a marked decrease in the number of applications to fund family matters received during lockdown. We were expecting to be inundated with applications once lockdown was lifted but this did not occur and this trend continued during 2020.Over all we processed less applications in 2020 compared with 2019.

We were also expecting to receive a large volume of applications for Domestic Violence Injunctions during the lockdown period as a result of family units spending more time together under the same roof but, again, this was not the case.

In terms of the funding of experts approved by us in both civil and criminal court proceedings, owing to the restrictions on entering the island through the majority of 2020, there was a reduction in expenses claimed by the experts in that we were only funding their professional fees. Some experts were undertaking assessments of parties and giving evidence at court hearings via videolink/skype/zoom but other assessments were deemed inappropriate to be undertaken remotely and were

postponed until the expert could meet a party in person. This resulted in us not having to fund the usual travel and accommodation expenses required for the expert to visit Guernsey from the UK.

The majority of applications for a full legal aid certificate are granted but some are refused. For those matters that are refused, we receive minimal annual requests for a review of the Administrator's decision. Only one matter was referred to the Legal Aid Commissioner for a review in 2020 who upheld our initial decision to refuse legal aid funding in those particular circumstances.

In terms of taxation of Advocate's costs, whilst personnel intensive, this is nevertheless an important process and helps to ensure the taxpayer receives value for money. Every year a number of reductions are made. In 2020, the net reductions in costs claimed by Advocates overall amounted to approximately £113,389.00.

Should an Advocate dispute the proposed reductions to their costs on taxation, they can request the matter be referred to the Costs Judge for Taxation on the Papers. No taxations disputes were referred to the Costs Judge in 2020.

In addition to processing applications for full legal aid, in 2020 we received 569 Green Forms for civil and criminal matters. This was a considerable reduction compared with 813 processed in 2019. We also processed 598 Detention Forms and 134 Duty Advocate invoices . All these require checking and processing for payment by the GLAS team.

Generally in 2020:

As with everyone, the lockdown period brought its various challenges but the Legal Aid office remained open throughout with staff on a rota so as to ensure social distancing requirements were met.

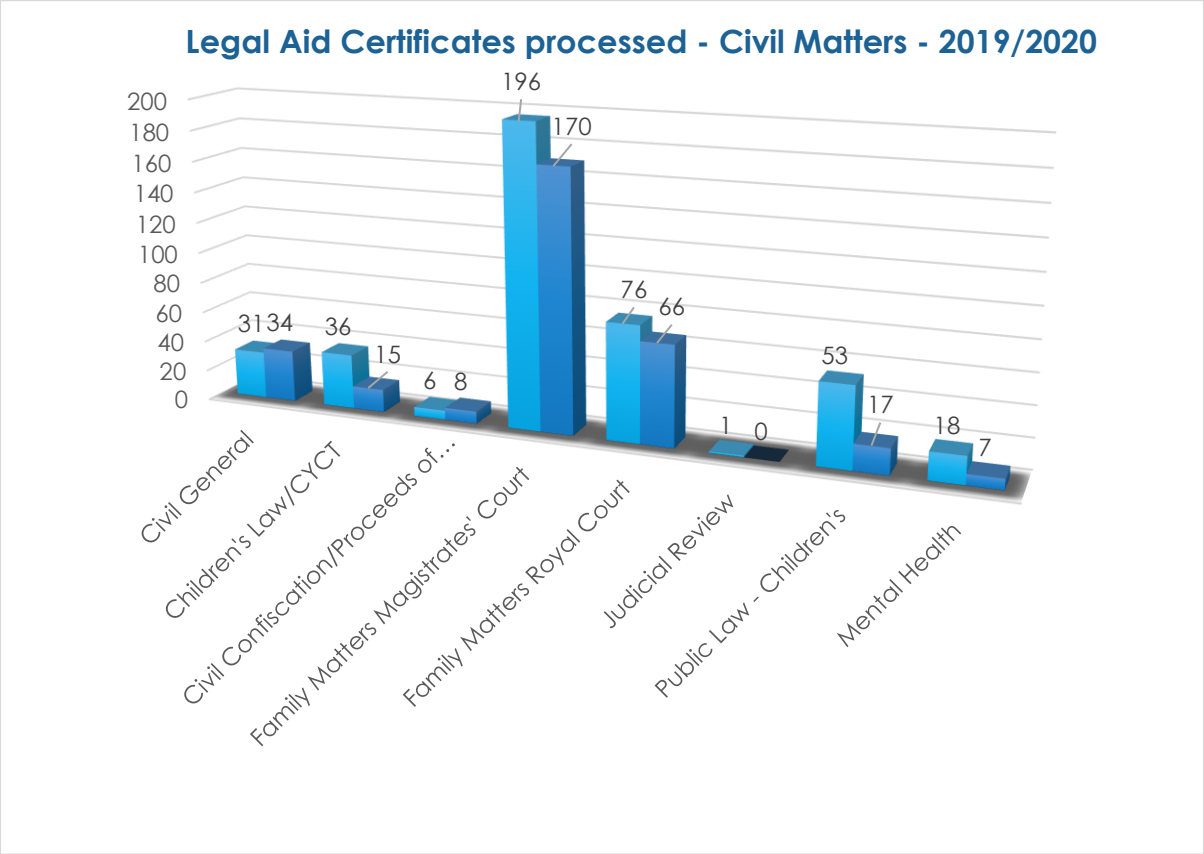
Various heads of Legal Aid in the home jurisdictions of the UK, Scotland, Northern Ireland, Southern Ireland, the Isle of Man, and Guernsey annually attend a Joint Consultative Committee meeting to exchange information. Guernsey was due to host this meeting in 2020 but owing to covid travel restrictions this has been postponed to 2021,providing the travel restrictions have lifted. Jersey who are reviewing their legal aid provision, will also attend.

Lockdown and other matters taking priority has led to a delay in our website going live but we hope to have this up and running by the end of 2021.

Summary of applications in 2020

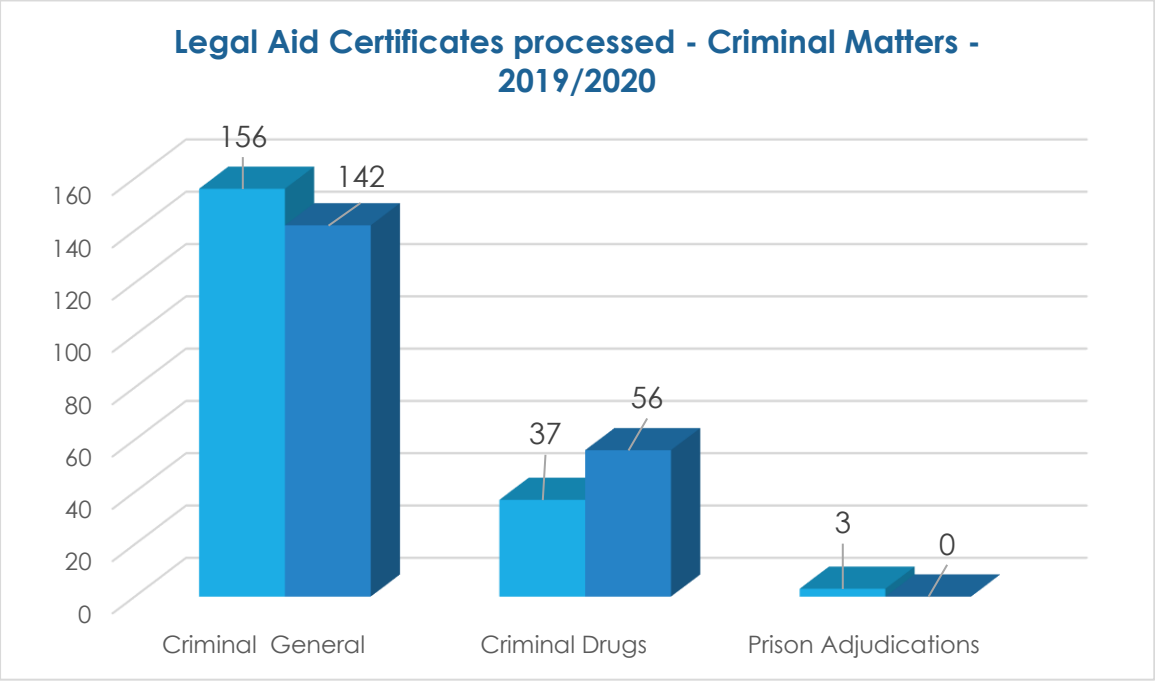
Civil Matters

During 2020 the Guernsey Legal Aid Service approved 317 Civil certificates, compared with 417 in 2019. The graph below breakdowns the various types of court proceedings that were funded.



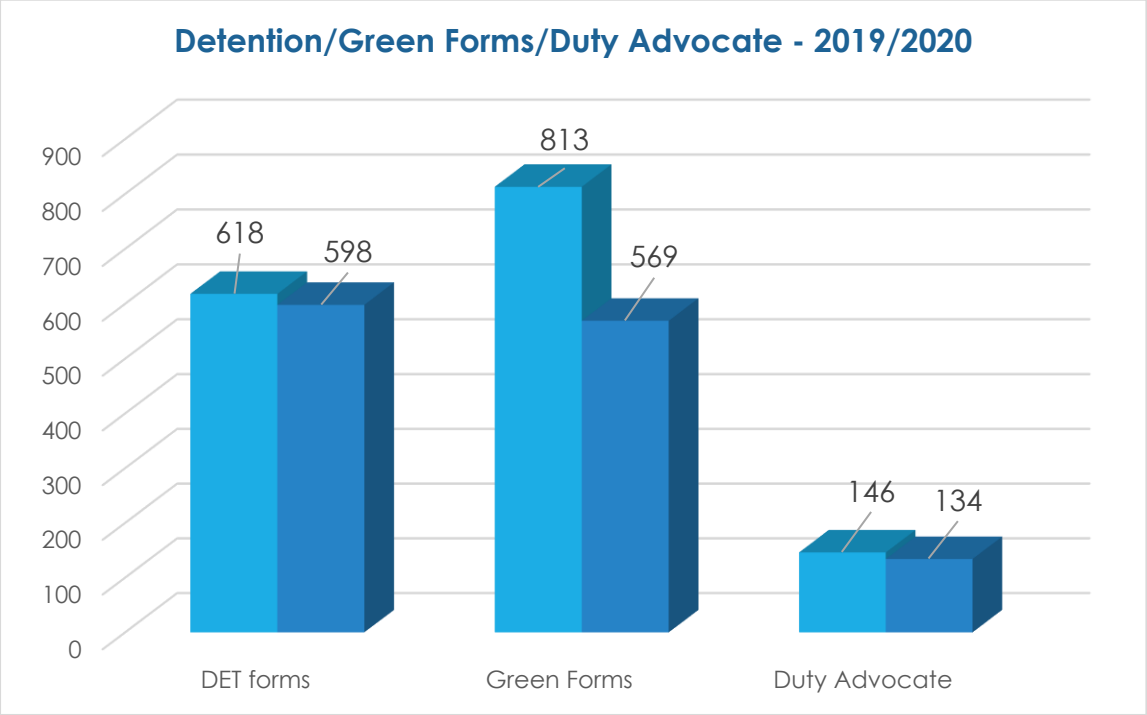
Criminal Matters

During 2020, 198 Criminal certificates were granted in Guernsey, compared with 196 in 2019.



Green Forms/Detention Forms and Duty Advocate Invoices

Funding was also provided for 598 Detention forms (where an individual has been detained by the Police or Border Agency and receives free legal advice from the Duty Advocate)in 2020 compared to 615 in 2019, 569 Green Form cases (in respect of both civil and criminal matters) and 134 Duty Advocate invoices for representation at Court (an individual appearing in court unrepresented in most cases is able to use the Duty Advocate to assist them) in 2020 compared to 813 Green Forms & 146 Duty Advocate invoices in 2019.



Alderney and Sark

The Guernsey Legal Aid Service covers all of the Bailiwick. The numbers of certificates approved in Alderney and Sark in 2019/20 were as follows:

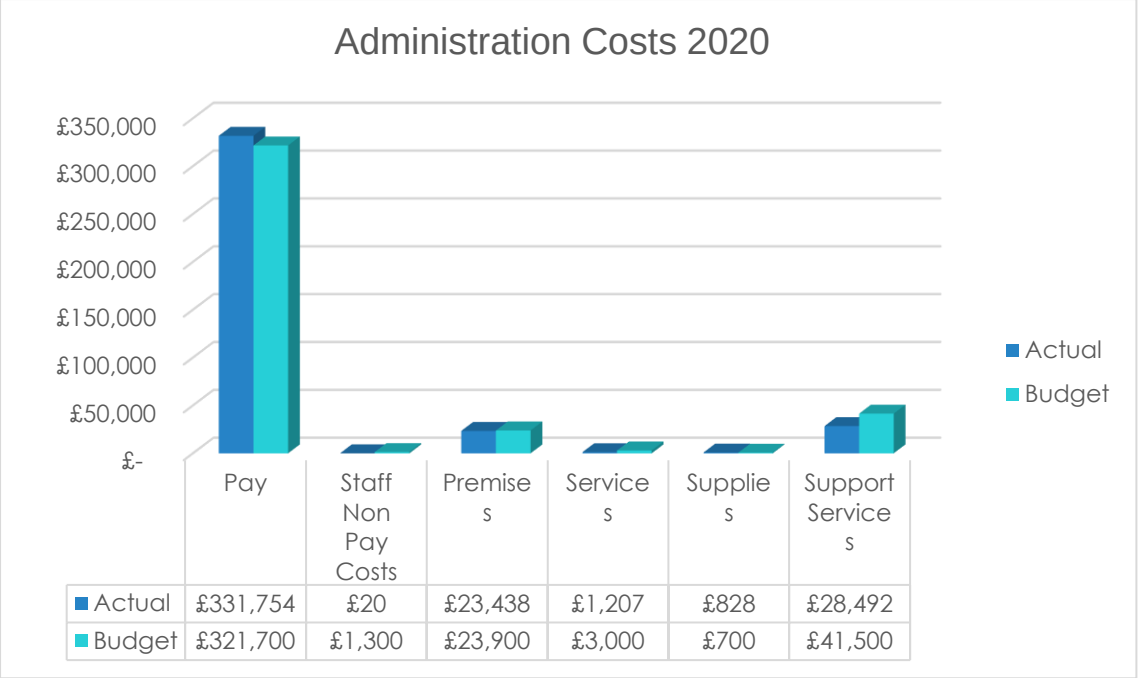
	2019		2020	
	Civil	Criminal	Civil	Criminal
Alderney	0	6	6	9
Sark	0	0	3	0

Summary of Legal Aid Expenditure in 2020

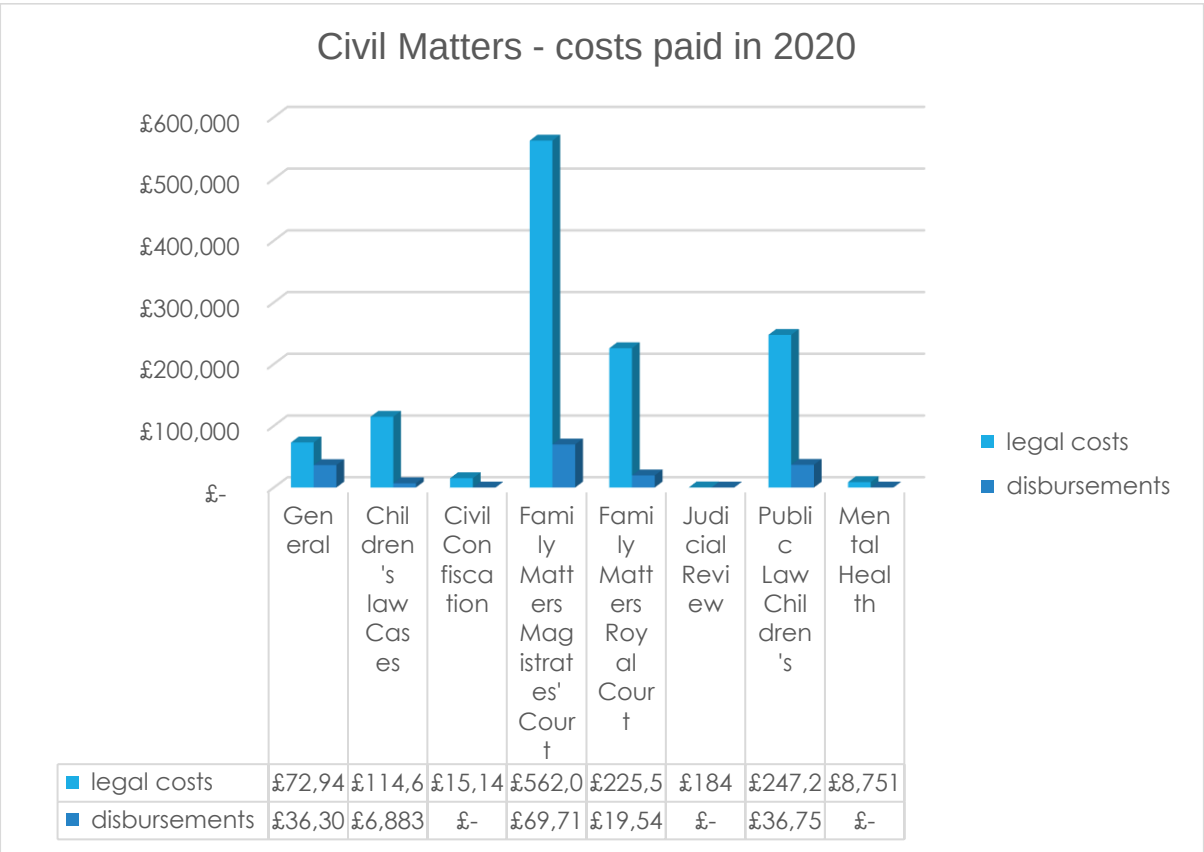
The cost of the Legal Aid Service in 2020 was £2,378,000 which was a £454,000 underspend compared to the budget of £2,832,000.

2020 Original Budget £'000s	2020 Total Authorised £'000s		2020 Actual £'000s	2019 Actual £'000s
		Formula-Led Expenditure:		
		Legal Aid		
1,620	1,620	*Civil Legal Aid*	1,299	1,531
820	820	*Criminal Legal Aid*	693	1000
2,440	2,440		1,992	2,531
		Non Formula-Led		
386	392	Administration	386	368
2,826	**2,832**	**Total Net Expenditure**	**2,378**	**2,899**

The budget is split into two discrete parts, £392,000 covers the costs of running the Legal Aid office and £2,440,000 relates to demand led expenditure i.e. the funding of legal fees for advocates (including disbursements such as court and experts fees).



	Pay	Staff Non Pay Costs	Premises	Services	Supplies	Support Services
Actual	£331,754	£20	£23,438	£1,207	£828	£28,492
Budget	£321,700	£1,300	£23,900	£3,000	£700	£41,500



	General	Children's law Cases	Civil Confiscation	Family Matters Magistrates' Court	Family Matters Royal Court	Judicial Review	Public Law Children's	Mental Health
legal costs	£72,94	£114,6	£15,14	£562,0	£225,5	£184	£247,2	£8,751
disbursements	£36,30	£6,883	£-	£69,71	£19,54	£-	£36,75	£-

	General	Drugs related	Prison Adjudication
legal costs	£469,748	£243,106	£1,704
disbursements	£6,910	£8,210	£-

Due to the length of time it can take for court proceedings to conclude there is no particular correlation between the costs paid in 2020 and the number of Certificates granted in 2020. Some court proceedings last a few months, others a few years.

Lucy Haywood

Legal Aid Administrator

July 2021

STATUTORY INSTRUMENT LAID BEFORE THE STATES

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

No. 39 of 2021

THE STATES REFORM (PERFORMANCE OF FUNCTIONS) (GUERNSEY HEALTH SERVICE FUND) REGULATIONS, 2021

In pursuance of sections 3 and 4 of the States (Reform) (Guernsey), Law, 2015, "The States Reform (Performance of Functions) (Guernsey Health Service Fund) Regulations, 2021", made jointly by the Policy & Resources Committee and the Committee *for* Employment & Social Security on 2nd September, 2021, are laid before the States.

EXPLANATORY NOTE

These Regulations make provision, for the purposes of section 3 of the States Reform (Guernsey) Law, 2015, for the investment functions of the Committee *for* Employment & Social Security relating to the monies held in the Guernsey Health Service Fund, under section 1(7) and (8) of the Health Service (Benefit) (Guernsey) Law, 1990, to be exercised by the Policy & Resources Committee.

It is intended that those investment functions will be performed by a sub-committee of the Policy & Resources Committee. The arrangement is intended to be a temporary one put in place until the planned closure of the Guernsey Health Service Fund and repeal of the functions in relation to which the arrangement is made. This will occur following the coming into force of the Health Service Benefit (Amendment and Miscellaneous Provisions) (Guernsey) Law, 2021.

These Regulations came into force on the 2nd day of September, 2021.

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

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THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

PROJET DE LOI

Entitled

THE HOUSING (STANDARDS AND REGULATION) (ENABLING PROVISIONS) (GUERNSEY) LAW, 2021

The States are asked to decide:-

Whether they are of the opinion to approve the draft Projet de Loi entitled "The Housing (Standards and Regulation) (Enabling Provisions) (Guernsey) Law, 2021", and to authorise the Bailiff to present a most humble petition to Her Majesty praying for Her Royal Sanction thereto.

EXPLANATORY MEMORANDUM

This Law is an enabling Law, empowering the States to make Ordinances in respect of certain specified matters, but otherwise making no substantive provision itself.

Section 1(1) contains the basic power to make Ordinances for the purpose of improving the quality of, and regulating the provision of, housing, and section 1(2) sets out examples of the sort of provision that may be made thereunder.

Section 1(3) makes further provision in relation to Ordinances under specified paragraphs of section 1(2). Sections 1(4) and 1(5) make provision in respect of consequential and supplementary provision that may be made in Ordinances under the Law, including providing that such provision may include the creation, and punishment of, offences. Section 1(6) contains limitations on the power to create offences, and section 1(7) contains further general provision, including a limitation of liability.

Sections 2 to 4 deal with interpretation, citation and commencement.

PROJET DE LOI

ENTITLED

The Housing (Standards and Regulation) (Enabling Provisions) (Guernsey) Law, 2021

THE STATES, in pursuance of their Resolution of the 3rd July, 2020[a], have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Islands of Guernsey, Herm and Jethou.

Power to make Ordinances in respect of housing.

1. (1) The States may by Ordinance make such provision as they think fit for the purpose of improving the quality of, and regulating the provision of, housing.

(2) Without prejudice to the generality of subsection (1), an Ordinance under this section may make provision in respect of –

(a) the assessment by specified persons of the quality of housing, and its fitness for human habitation,

(b) the specification, publication and enforcement of

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[a] Article VI of Billet d'État No. XIII of 2020.

minimum standards for rental housing,

(c) the licensing by the Committee of landlords of HMO housing,

(d) the establishment and maintenance by the Committee of a register of landlords of rental housing,

(e) the establishment and operation of a deposit protection scheme in respect of rental housing,

(f) the obligations, and rights, of landlords and tenants, and

(g) the protection of the public from threats to public health resulting from poor quality housing, including (but not limited to) the making of orders by the Committee mandating the demolition and clearance of dwellings where necessary for that purpose.

(3) For the avoidance of doubt, an Ordinance making provision of the type referred to in paragraphs (c) to (e) of subsection (2) may impose a requirement on landlords, or landlords of HMO housing, to be licensed, to be registered, or to place rental deposits in a deposit protection scheme (as the case may be).

(4) Without prejudice to the generality of subsections (1) to (3), an Ordinance under this Law may contain such consequential, incidental, supplementary, transitional, savings and other ancillary provisions as may appear

necessary or expedient, including (without limitation) –

(a) in an Ordinance making provision of the type referred to in subsection (2)(g), provision in relation to –

(i) the purchase of dwellings, and

(ii) the making and service of, and appeals against, orders of the type,

referred to therein,

(b) provision for its enforcement, including (without limitation) provision as to –

(i) the creation and punishment of offences in respect of contraventions of, or other non-compliance with, provisions of the Ordinance (subject to subsection (6)), and

(ii) the creation of new duties, obligations, liabilities, remedies, penalties, sanctions and other consequences, including (but not limited to) private warnings, public statements and discretionary financial penalties, and

(c) provision repealing, replacing, amending, extending, adapting, modifying or disapplying any rule of customary or common law.

(5) An Ordinance under this Law may contain provision making consequential amendments to any enactment, and in particular and without limitation, may amend or repeal any enactment making provision in respect of housing.

(6) The power conferred by subsection (4) to make provision as to the creation and punishment of offences does not include power -

(a) to provide for offences to be triable only on indictment,

(b) to authorise the imposition, on summary conviction of an offence, of a term of imprisonment or a fine exceeding the limits of jurisdiction for the time being imposed on the Magistrate's Court by section 9 of the Magistrate's Court (Guernsey) Law, 2008[b], or

(c) to authorise the imposition, on conviction on indictment of any offence, of a term of imprisonment exceeding two years.

(7) Without prejudice to the generality of the foregoing provisions of this Law, an Ordinance under this Law -

(a) may empower any committee of the States of Guernsey and any other body (including, without limitation, the

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b Order in Council No. XVIII of 2009; amended by Ordinance No. XXII of 2009; No. IX of 2016 and No. XXI of 2016.

Royal Court), to make or issue orders, rules, regulations, codes or guidance, for the purposes of this Law or any Ordinance or regulations made under it, and

(b) may provide that no liability shall be incurred by any specified person or body in respect of anything done or omitted to be done in the discharge or purported discharge of any of their functions under the Ordinance unless the thing is done or omitted to be done in bad faith (but may not prevent an award of damages in respect of an act or omission on the ground that it was unlawful as a result of section 6(1) of the Human Rights (Bailiwick of Guernsey) Law, 2000[c]).

Interpretation.

2. (1) In this Law -

"**Committee**" means the States Committee for the Environment & Infrastructure,

"**deposit protection scheme**" means a scheme or arrangement which protects rental deposits paid by tenants to landlords, and "**deposit**" shall be construed accordingly,

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[c] Order in Council No. XIV of 2000; amended by Order in Council No. I of 2005; Ordinance No. XXXVII of 2001; No. XXXIII of 2003; No. XX of 2015; No. IX of 2016; No. XXVI of 2018; and G.S.I. No. 27 of 2006.

"**dwelling**" means any premises or any part of any premises or any vessel used or usable for the purposes of human habitation,

"**HMO housing**" means rental housing that is occupied by more than one household,

"**housing**" includes any dwelling and, for the avoidance of doubt, includes States residential property within the meaning of the States Housing (Tenancies, Rent and Rebate Scheme) (Guernsey) Law, 2004[d],

"**landlord**" means a person who grants a lease or tenancy of housing to another person, or who otherwise grants another person a licence to occupy housing,

"**rental housing**" means housing that is occupied under a lease, tenancy or licence to occupy, and

"**tenant**" means a person granted a lease or tenancy of housing, or otherwise granted a licence to occupy housing; and see subsection (2).

(2) For the avoidance of doubt, any reference in this Law to a tenant includes all individuals who are joint tenants in respect of the dwelling to which the tenancy relates.

Citation.

3. This Law may be cited as the Housing (Standards and Regulation)

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d No. IV of 2005; amended by Ordinance No. IX of 2016.

(Enabling Provisions) (Guernsey) Law, 2021.

Commencement.

4. This Law shall come into force on the day appointed by Ordinance of the States; and different dates may be appointed for different provisions and for different purposes.

P.2021/106

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE and COMMITTEE *for* ECONOMIC DEVELOPMENT

DELIVERING NEXT GENERATION DIGITAL INFRASTRUCTURE

The States are asked to decide: -

Whether, after consideration of the policy letter entitled 'Delivering Next Generation Digital Infrastructure' dated 13th September 2021 they are of the opinion: -

1. To endorse the policy objectives for the delivery of next generation digital infrastructure as set out in **Appendix 2**.

2. To agree the funding capped to a maximum of £12.5m in order to enable the accelerated roll-out of fibre cable connections.

3. To direct the Policy & Resources Committee to finalise the contract with Sure, and for such member of the Policy & Resources Committee as that Committee may determine, to sign the contract, on behalf of the States of Guernsey, to enable the accelerated roll-out of fibre cable connections to commence.

4. To direct the Committee *for* Economic Development to submit a Policy Letter on licensing of next generation mobile technology by no later than 31 December, 2022.

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

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE and COMMITTEE *for* ECONOMIC DEVELOPMENT

DELIVERING NEXT GENERATION DIGITAL INFRASTRUCTURE

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

13th September 2021

Dear Sir

1 Executive Summary

1.1 This policy letter seeks States endorsement of the objectives and policy actions necessary to deliver a highly effective, resilient and safe 'next generation' digital infrastructure for the island of Guernsey. It seeks States approval for the States investment required to achieve an accelerated roll-out of fibre broadband to all premises in Guernsey.

The need for next generation digital infrastructure – a Digital Framework

1.2 Next generation digital infrastructure will deliver resilient, fast, future-proof and ubiquitous digital connectivity to homes and business through investment in fibre cable connections to premises and setting a clear pathway for future implementation of the latest mobile connectivity technologies. Networks will also need to be safe, secure and minimise environmental impact.

1.3 Delivering these next generation digital infrastructure capabilities is a critical part of the 'Digital Framework' suite of actions which are an important action in the Government Work Plan ("GWP"). This Framework builds on the Digital Sector Strategic Framework published in 2017[1] and will continue to be developed with industry and stakeholders. This will ensure that Guernsey continues to maximise and take advantage of its digital capability.

1.4 A world class digital infrastructure is a critical requirement for future economic growth and prosperity and is the foundation required for a successful and thriving digital economy. It will also enable delivery of social and cultural

[1] CHttpHandler.ashx (gov.gg)

outcomes through universal coverage and digital access. This will be achieved by promoting inclusivity of access to digital resources, enabling the people of Guernsey to maximise the opportunities that exists in this digital age.

1.5 More detail on the Digital Framework is set out in section 3 of this policy letter and summarised in **Appendix 1**.

Developing a Telecoms Strategy

1.6 Development of the Island's digital connectivity is an evolutionary process. In 2017, the Committee *for* Economic Development published a strategy document entitled "The Future of Telecoms"[2]. This document set out the strategic direction for digital connectivity for the period up to 2021. Three key objectives were set out, focusing on achieving fibre access to key business districts, attaining super-fast broadband access to residential properties and the provision of next generation mobile (5G) as this became available.

1.7 Whilst fibre access to business districts has continued to be rolled out by local telecommunications providers ("telcos"), there has been less substantive progress on the other two objectives. The impact of the pandemic on working practices, including the increased requirement to enable effective working from home, has underlined the critical strategic importance of fast and ubiquitous digital connectivity across the Island. Replacing the existing legacy copper-based telecommunications networks with fibre cables is critical in order to ensure islanders and businesses can make optimum use of digital technology for family life and for business growth and development.

1.8 A key first objective of the Digital Framework is therefore to establish a first-class digital infrastructure for the Island. This will ensure that:

- Guernsey is a first class, well connected, digitally enabled jurisdiction;
- digital connectivity acts as an accelerator for all businesses in the Island;
- innovation and business growth through test bed capability is enabled;
- the evolution of technical capability of networks over time as new technologies emerge is facilitated;
- economic recovery post COVID-19 and resilience is strengthened; and
- flexible working and productivity increases are enabled.

1.9 This policy letter therefore sets out the policy objectives and investment required to enable the rapid development of the Island's telecommunication networks with a key objective of completing a 100% island wide roll-out of fibre connectivity so that all premises are connected by 2026 and enabling deployment of next generation (5G or successor technologies) mobile networks

[2] CHttpHandler.ashx (gov.gg)

from 2023.

1.10 This includes the necessary funding that will be required from the States of Guernsey to ensure an accelerated and universal rollout of fibre to premises in Guernsey. Ubiquitous, fair and equal access to a fibre network will enable all islanders and businesses to access the speeds and services they need.

Next generation digital infrastructure – policy objectives

1.11 In order to achieve these outcomes, several policy actions will be needed throughout the chain of telecoms connectivity. This starts with the data cables connecting the Island to the outside world and ends with the operating practices and management of the networks which will make them safe, secure, robust and dependable. The strategy objectives needed to deliver a next generation digital infrastructure are set out in **Appendix 2**.

Evaluating the options – The Broadband Working Group

1.12 A Broadband Working Group, comprising representatives from the Policy & Resources Committee, the Committee *for* Economic Development, and the Committee *for* Education, Sport & Culture was formed by the Policy & Resources Committee immediately after the 2020 General Election in order to consider the required development of the Island's telecommunications network and the delivery of the objectives set out in **Figure 1** and **Appendix 2**.

1.13 The work of this Group included assessing the various network technologies available and how these would best serve to meet the telecommunications infrastructure objectives. The conclusion reached was that fibre technology will remain the best long-term infrastructure option that is able to deliver equality of access across all parts of the Island. This is explained in more detail in section 4 below.

1.14 A key area of focus has therefore been on how to deliver the objective of achieving roll-out of fibre to all premises within a five-year period (Objective 3 of the policy actions).

1.15 In order to reach the conclusions and recommendations made within this Policy Letter, extensive consultation and engagement has taken place with the telcos and other stakeholders.

Recommended solution – ubiquitous and equitable full fibre broadband network

1.16 The recommended solution is a proposal from Sure to achieve a ubiquitous and equitable full island fibre to the premises wholesale broadband network. This will comprise:

- A fibre network capable of initial speeds of up to 1 Gbps (Giga-bits per second, with the capability of access to higher speeds of up to 10 Gbps to fulfil future demand).
- A goal to achieve a single regulated wholesale fibre network with 100% ubiquitous coverage to all premises.
- 100% of premises to be able to access services at the same wholesale cost.
- All licensed telco operators will have non-discriminatory access to the wholesale network at the regulated rates approved by the Guernsey Competition and Regulatory Authority ("GCRA"), ensuring competition at the retail level.
- A time period of five years from start to completion – target completion by end 2026.
- Consumers who do not already have fibre, will be able to access fibre services as and when they are connected, with the last connections being made in 2026.
- Reinforcement of the critical network infrastructure role Sure provides for Guernsey leveraging and building on its existing sub-sea, fixed and mobile network assets.

1.17 To achieve this, the engineering programme delivered by Sure will require a capped (£12.5m) 'Digital Accelerator Investment' in the form of a grant from the States of Guernsey that will both assist accelerating the build time and also importantly cover uneconomic areas of the Island. The bulk of the costs of installing the fibre network (estimated at circa £37.5m) will be borne by Sure.

1.18 In order to enable universal access to fibre, when the roll-out is completed, the existing copper network will be retired, on a phased basis as the fibre network is rolled out. Copper networks comprise the copper-based telephone wiring that exists in homes and through phone lines. Digital Subscriber Line (DSL) networks like ADSL and VDSL have historically relied on copper networks, which is how most broadband services are delivered across the Island today. Whilst copper networks are created with bulky copper wires that use electrons for data transmission, fibre uses thin bundles of optical fibres, or strands of glass, that use photons to transmit data. In essence, copper networks use electrical pulses (electrons) versus light (photons) for fibre. Since light is faster than electrical pulses, fibre offers faster data transmission and higher bandwidth.

1.19 All households and businesses will need to agree to be switched over to fibre. Importantly there will be no additional cost to businesses and individuals in the switch over to like-for-like services. When completed, users will experience an upgraded service (faster connectivity for the same price) but also have the choice of faster-still connectivity if they need it, albeit at a higher price.

1.20 Civil engineering works will be required to install the fibre cabling, including the

need for road closures. However, where possible, existing ducts will be used, micro-trenching utilised, or existing telegraph poles employed. This will minimise disruption, but it must be expected that a certain number of road closures will be required over the five-year period of the roll-out. The impacts will be mitigated by the careful scheduling and planning of road closures over the period of the roll-out.

1.21 A commercial contract has been negotiated with Sure which will ensure that States funds are safeguarded and only used when services have been delivered. More details are set out in section 7.

Ensuring fair access and retail competition

1.22 An important element of the arrangement is to ensure that competition is maintained at the retail level (the point at which customers buy network services). This ensures that consumer choice is maintained with healthy competition encouraged amongst telcos. The GCRA already has an important role in this area, and this will continue to ensure that meeting consumers' expectations of the cost and quality of services is maintained. This will include ensuring that telcos are able to compete fairly and procure fibre broadband services at a wholesale level based on a level playing field.

Next generation mobile services – setting the pathway

1.23 A complementary network to the island fibre network will be the provision of a next generation mobile network. The current intention is that steps will be taken to license this from 2023. As such the States are not being asked to make a decision on this through this policy letter. Further work will be undertaken during 2022, with a licensing framework to be debated by the States Assembly prior to any licensing of 5G (or its successor) in 2023.

Definitions and technical terms

1.24 This policy letter contains a number of technical terms in the field of telecommunications and digital policy. A glossary of these terms can be found, for reference, in **Appendix 3.**

2 The 2017 Future of Telecoms document – setting the path for investment

2.1 In 2017, the Committee *for* Economic Development published a strategy document entitled "The Future of Telecoms"[3]. This set out three core objectives for delivering 'next generation' digital infrastructure. These were:

[3] CHttpHandler.ashx (gov.gg)

- Provision of fibre to business districts;
- Provision of high quality super-fast broadband to all residential properties; and
- Provision of next generation mobile technology in line with, or earlier than the UK.

2.2 Whilst roll-out of fibre to business districts has continued, there has been less substantive progress on the other two objectives. Most homes continue to have broadband services delivered over a network that uses a combination of fibre to roadside cabinets and a "final mile" of copper to the subscriber. Whilst speeds have increased due to technological advances, it is likely that speeds above 100Mbs (megabits per second) will be difficult to achieve using this legacy technology. Some properties that are a long distance from a cabinet are unable to access fast internet speeds as signals degrade over long lengths of copper wire.

2.3 Whilst local telcos are proceeding with programs to deliver fibre connections, these programs are long term, and unlikely to be completed within the next decade. In addition, even when these programs are completed, there will still be areas of the Island which will not have been connected because it is not commercially viable to do so. This is due to lower population densities and properties that would require long cable runs to be connected.

2.4 In terms of next generation mobile, whilst work has been done with the regulator and local telcos, there are still a number of policy steps to be completed before this can be rolled out. Issues such as network sharing, mast sharing, environmental impact and safety and security need to be carefully examined and addressed.

2.5 In addition, locally, there is not yet a compelling case for deployment of 5G. This is largely down to the fact that existing 4G services already provide good speed data connections. This contrasts with the position in some UK cities where the high number of users requires greater bandwidth.

2.6 The requirement to deploy a high speed 'next generation' mobile infrastructure does however, remain a key medium term policy objective. The Broadband Working Group considers that an appropriate time for deployment of this technology would be from 2023 onwards.

2.7 As such, a further policy letter will be submitted to the States in 2022. This will set out detailed policy objectives and considerations required for the deployment of next generation mobile through an appropriate licensing framework. This will include examination of use cases, economic, social and environmental impacts, network sharing, and safety and security of the network.

3 Strategic Context – the Digital Framework

3.1 The Government Workplan ("GWP") includes a recovery action entitled "Digital Framework – Invest in and develop the local digital economy". This includes an action to establish a future telecoms strategy, building on the 2017 Future of Telecoms Strategy. The Digital Framework comprises the actions to implement a universal fibre broadband network and establish a 5G licensing framework.

3.2 A revised Digital Framework is currently being developed. The Framework covers three themes: infrastructure, digital skills and innovation and entrepreneurship.

3.3 The first theme, *Investing in and facilitating critical digital infrastructure investment*, is a vital part of Guernsey's digital capability. It will act as a launchpad for further innovation and business growth in the economy. In addition to the 'hard' infrastructure requirements such as fibre and mobile networks, 'soft' infrastructure such as enabling regulation and legislation will be important so that Guernsey is able to capitalise on its digital capability.

3.4 The second theme focuses on improving digital skills at all levels in society. This will become increasingly important – both for businesses but also for individuals at all stages of life. This second theme is interdependent and linked to the development of a Skills Strategy / Human Capital Plan as part of the Government Work Plan.

3.5 The third theme will concentrate on unlocking and fostering a thriving entrepreneurial eco-system that is capable of delivering innovation and growth in new areas. There is already good progress being made in the area of Fintech (Financial Technology), but there is also potential to foster growth in other areas such as Creative Industries, Data and Healthtech. It will also be important to develop and promote to the outside world Guernsey's successes and digital capability. This in turn will attract inward investment.

3.6 The Framework reflects the fact that there are now important drivers for change surrounding the adoption of digital technology. Previously, digital policies focused on developing a specific digital sector within the economy. It is increasingly apparent that the developing strategy needs to be holistic rather than sector specific. This is because the following drivers for change are important:

- Technological change affects all sectors of the economy;
- Government is driving the digitisation of public service delivery to increase efficiency and support innovation;
- Digital inclusion is essential for community connectedness and wellbeing;
- New skills and cultural change are required by all across society; and
- Technology drives economic, social and environmental innovation.

3.7 A key foundation of the Digital Framework is to accelerate the ability for individuals and businesses to access a high speed, reliable and universal 'next generation' digital network.

3.8 By accelerating the Bailiwick digital capability, our ambition is to ensure our community, business and government can maximise the opportunities of the technological and information age to ensure economic, social and environmental resilience, sustainability and innovation.

3.9 Critical outcomes for the delivery of next generation digital infrastructure are set out below:

- **Economic outcomes:**

  - Guernsey is a first class, well connected, digitally enabled jurisdiction;
  - Digital connectivity acts as an accelerator for all businesses in the Island;
  - Enables innovation and business growth through test bed capability;
  - Facilitates the evolution of technical capability of networks over time as new technologies emerge;
  - Aids economic recovery post COVID-19 and strengthens resilience; and
  - Enhances flexible working and greater productivity for businesses.

- Delivery of **social and cultural** outcomes through universal coverage and digital access: this will be achieved by promoting inclusivity of access to digital resources, enabling the people of Guernsey to maximise the opportunities that exists in this digital age.

- Enabler for greater digitisation of the **public sector.**

- Maintaining and protecting our **environment** by efficient allocation and use of resources.

- Telecoms infrastructure delivered at the best possible **cost** for consumers and business users through the promotion of retail competition and **transparent** and effective regulation.

- Delivery of the **connectivity** speeds required to place Guernsey in the top 5% of jurisdictions in terms of connectivity. Using data from cable.co.uk, Guernsey currently ranks 45th compared to Jersey which ranks 4th. In 2019, the mean average download speed for Guernsey was 18.26mbs (megabits per second) and Jersey was 67.5mbs. For Guernsey to be in the top 10 would require a mean average download speed greater than

38.9mbs. Note: achieving this metric would require consumer uptake of faster speed services.

- Delivery of a **safe** telecoms infrastructure by ensuring international standards relating to any possible effects of mobile network electromagnetic field emissions are closely monitored and are complied with.

- Ensuring a **secure** telecoms infrastructure by meeting the recommendations of the UK Department of Culture, Media and Sport and the National Cyber Security Centre on the use of equipment for the provision of mobile networks.

3.10 An outline of the Digital Framework and the 11 action areas is attached in **Appendix 1**.

4 Technology options – the economic case for a ubiquitous fibre network

4.1 An important consideration in developing a Telecoms Strategy is what benefits any investment would bring. There are several studies and examples of economic and social benefits of increased digital connectivity.

4.2 A study conducted by WIK for OFCOM, the UK's Communications regulator, entitled "The Benefits of Ultra-fast Broadband Deployment" concluded that[4]:

"Our analysis of the supply and demand conditions for ultrafast broadband, as well as our analysis of the literature concerning its direct benefits and wider economic impact, leads us to reach the following conclusions:

- *Current and next generation applications including video, cloud computing and virtual reality (which has applications in the field of gaming, education and be-yond), will require an increasing amount of bandwidth – upstream as well as downstream. Homeworking is likely to add to bandwidth demand. Quality parameters such as low latency will also be vital for certain applications which require very quick response times. These developments alongside trends towards the use of multiple devices within each household, mean that it is reasonable to assume that a high proportion of households will require … bandwidths of 300Mbit/s and above by 2025, while some will require Gigabit connectivity.*

- *Meeting user needs in the longer term when speeds of 1 Gbit/s with a greater degree of symmetry may be demanded by some users is likely to require network upgrades … to replace the copper network with FTTP*

[4] See WIK-Consult report - The Benefits of Ultrafast Broadband Deployment (ofcom.org.uk)

[Fibre to the Premises]. Copper upgrades to VDSL supervectoring and G.fast[5] may serve users' shorter term needs, but they are unlikely to be readily upgradable to deliver on the bandwidth and quality needs of the most demanding groups of customers as substantial speed and quality increases would re-quire further significant investments to deploy fibre closer to the customer. 5G will provide an important complement but is unlikely to be a substitute for full-fibre for most households.

- *The experience in countries in which FTTP is prevalent suggests that it can bring benefits in fields such as digital homecare as well as fostering teleworking and increasing the attractiveness of specific regions for business incorporation. In turn, these benefits can translate into higher employment (including in rural areas) and reduced pollution. One of the effects may be to distribute social and economic benefits more evenly across the country.*

- *A number of academic and expert studies have also found links between increasing broadband speeds and economic growth. It seems plausible that the UK could reap economic benefits through an accelerated deployment of ultra-fast broadband. However, the scale of these effects cannot be estimated with any certainty, as literature is based on an analysis of previous data, and it is not clear to which extent the relationship can be extrapolated for much larger in-creases in speeds in the future."*

One study[6] of Organisation for Economic Co-operation and Development (OECD) countries dating from 2012 estimated that doubling the connection speed in a jurisdiction resulted in an additional 0.3 percentage points to annual GDP growth. WIK, together with Ecorys and VVA[7] also identified a correlation between broadband speeds across the EU and Total Factor Productivity across a number of sectors in the context of a study for the European Commission, and concluded that if past relationships between broadband speed and GDP growth were to be replicated going forwards, an accelerated deployment of FTTP (Fibre to the Premises) infrastructure which resulted in 55% of households using FTTP by 2025 could result in GDP levels 0.54% higher than the status quo.

4.3 GDP impact rises to 0.95% over the same period for a ubiquitous fibre network. Similarly, the FTTH (Fibre to the Home) Council (2014) provides an early overarching estimate on GDP increase. Based on evidence from the US, it suggests that providing full fibre to just half of all premises could result in a 1.1%

[5] See the Glossary in Appendix 3 for an explanation of these terms

[6] Rohman, I.K. and E.Bohlin (2012), Does broadband speed really matter for driving economic growth? Investigating OECD countires, SSRN.2034284.

[7] WIK, Ecorys and VVA (2016) support for the Commission in the Impact Assessment for the Review of the EU framework for electronic communications SMART 2015/0005

rise in annual GDP.

4.4 As these studies focus on countries with at least some comparable characteristics to Guernsey within the dataset, it also seems plausible that the effects described might apply to Guernsey, with impacts of doubling broadband speed resulting in a GDP increase of between 0.3% (conservative case) and 1% (optimistic case).

4.5 GDP for 2019 is estimated at £3,252m, so a 1% increase would equate to an annual increase of £32.5m and a 0.3% increase would equate to an annual increase of £9.7m in GDP. The conservative case estimate would therefore quickly repay the States investment in terms of economic benefit.

4.6 The WIK report also provided an analysis of future demand for broadband services. This demonstrated that increasing use for broadband services is being driven by demands for greater bandwidth and access to greater amounts of data. Data requirements are being driven by demands for use of streaming video services serving high end audio-visual equipment (such as 4K/8K televisions and virtual reality applications), the increased use of cloud computing services, and gaming applications.

4.7 In the future, home working and other new developments are expected to drive bandwidth demand.

4.8 **Table 1** below provides data presented in the WIK report for OFCOM illustrating the projected bandwidth required for certain application uses by 2025.

Table 1: Projected bandwidth requirements by applications by 2025

Application Category	**2015 downstream bandwidth (Mbits/s)**	**Bandwidth requirement growth rate (%)**	**Projected 2025 downstream bandwith (Mbits/s)**	**Projected 2025 upstream bandwith (Mbits/s)**
Basic internet	2	25	20	16
Home office / VPN	16	30	250	250
Cloud computing	16	30	250	250
State of the Art media and entertainment (4K, 3D, UHD)	14	20	90	20
Progressive media and entertainment (8K, virtual reality)	25	30	300	60

Communication	1.5	20	8	8
Video communication (HD)	8	15	25	25
Gaming	25	30	300	150
E-Health	2.5	30	50	50
E-home/E-Facility	2.5	30	50	50
Mobile offloading	2	30	15	12

Source: WIK (adapted)

4.9 **Table 1** shows that bandwidth requirements are growing rapidly. In terms of technology choices, these greater bandwidth and latency[8] requirements can only be achieved by full fibre connectivity and the demand for this bandwidth is approaching rapidly. Fibre connectivity will provide a long-term investment which provides the best 'future-proof' technology solution. Whilst mobile networks (such as 4G and 5G) may be able to meet these requirements, the investment costs and rapidly changing technology run the risk of costly investments being quickly superseded by new technology. This can result in stranded assets and lower the propensity for telcos to invest in new technology when it is available. This would result in slow adoption of new technology and significant impact on business, government and the community.

4.10 Fibre provides a more stable long-term environment and remains capable of taking advantage of new technologies that have not yet become apparent, but may be likely to emerge in the next 10 to 20 years (for example quantum computing).

5 Proposed objectives and the actions to achieve them – the Telecoms Strategy objectives

5.1 In order to achieve the outcomes set out above a number of policy actions will be needed throughout the chain of telecoms connectivity. This starts with the data cables connecting the Island to the outside world and ends with the operating practices and management of the networks which will make them safe, secure, robust and dependable.

5.2 The objectives and actions are set out in more detail in **Appendix 2** and cover six broad areas:

- Customers (home and business users experience);
- Connectivity in the home;

[8] In computing, latency is the delay before a transfer of data begins following an instruction for its transfer. Some applications (e.g. driverless cars) will require fast latency.

- On-island connections and networks (Fibre to the premises and 5G mobile);
- Off-island connectivity and resilience;
- The environment, resilience and health and safety; and
- Telecoms network security.

5.3 Further details of each of these is set out in **Appendix 2.**

6 Fibre Broadband – developing and evaluating the options

6.1 Bearing in mind the aims set out through the Digital Framework, the Broadband Working Group set out the following objectives for delivery of an island-wide fibre network:

- 100% of homes and business premises to be connected with fibre within 5 years (by end of 2026);
- Technology allowing high connectivity speeds and high-quality performance for users;
- A future-proof technology investment;
- Roll-out to be achieved within reasonable cost;
- Ensure equitable and fair access to the network for OLOs (other licensed operators) at the wholesale level;
- Minimal disruption and impact on the environment; and
- Achievable proposal with minimum complexity and minimum States investment.

6.2 Throughout 2020 and during the first part of 2021 a series of discussions were held with on-island telcos and other interested parties. Proposals were invited from each and these were considered and evaluated by the Broadband Working Group using the criteria set out above.

6.3 From the evaluation carried out by the Broadband Working Group, the proposal submitted by Sure was the only one that would deliver a near 100% roll-out of fibre across the Island within the desired timescale and was by far the most cost-effective proposal received to achieve that outcome. Other telcos, such as JT have fibre networks, but Sure's is the most extensive.

6.4 The recommended proposal from Sure will achieve a ubiquitous and equitable full island fibre to the premises wholesale broadband network. This will comprise:

- A fibre network capable of speeds up to 10 Gbps (Giga-bits per second);
- A goal to achieve a single regulated wholesale fibre network with 100% ubiquitous coverage to all premises;

- 100% of premises to be able to access services at the same wholesale cost;
- All licensed operators will have non-discriminatory access to the wholesale network at the regulated rates approved by the GCRA, ensuring competition at the retail level;
- A time period of five years from start to completion – target completion end 2026; and
- Reinforcement of the critical network infrastructure role Sure provides for Guernsey leveraging and building on its existing sub-sea, fixed and mobile network assets.

6.5 Other proposals submitted were attractive from the point of view of using a single shared network. However, it was not clear how achievable this would be, or what cost would be incurred in achieving this. It is likely that these proposals would require substantial investment from the States or potentially the purchase of one or more telcos by the States. These proposals would require the agreement of key telcos, which is uncertain, and may require legislation to achieve the required outcome. Critically, timescales for delivery were likely to be considerably longer than the Sure proposal.

6.6 Another factor was that other telcos currently have less extensive fibre networks than Sure. This means that more work would be required to lay fibre cables, resulting in greater costs and longer timescales to complete the work, and more disruption to island-life.

6.7 Sure has the greatest physical presence and ownership of assets in Guernsey (both in terms of on and off-island cables). It already has a considerable network of fibre laid in the Island (over 500km). Currently the broadband network is delivered through Fibre to the Cabinet (FTTC) with copper circuits providing the final connection to the home. Most households are currently using copper for the final connection, with VDSL technology allowing maximum connection speeds of circa 100Mbs (Mega-bits per second). There is already a limited program of fibre roll-out in place, but under normal investment cycles this is expected to take well over ten years to achieve and will not be inclusive.

7 Commercial agreement and funding considerations

7.1 It is critical to ensure that the benefits of fibre broadband are ubiquitous in Guernsey – across geographic areas and parishes, across the community and across the economy. It is imperative that there is equity of access to support digital inclusion, which is critical to the long-term upskilling of Guernsey's population and economy. That will require as close as possible to 100 per cent coverage in Guernsey.

7.2 It is also critical to economic and community recovery to further enhance

Guernsey's digital infrastructure at pace. A reasonable expectation for a project of this scale and complexity would be a time period of 8-15 years. Guernsey's business representative bodies have emphasised the importance of increased resilience, speed and security to support business; the ongoing digital transformation of government services requires the same. Waiting for up to two decades to achieve this will be too long and will put the brakes on recovery in the short-term and lead to barriers in the longer-term. Achieving the target in five years is in line with the quickest of roll-outs in other jurisdictions.

7.3 The role of the States, then, is to ensure that the 100 per cent target is met, and in an accelerated timeline. It would not be economic for any of the telcos to achieve that in Guernsey without some level of government intervention. For that reason, having considered the different mechanisms by which the States could provide that intervention, the recommendation is for the most transparent financial intervention – that is, where it will directly support and accelerate the engineering work required, and where it would not provide a competitive advantage to any of the telcos. The Guernsey Competition and Regulatory Authority has provided advice to the States on the heads of terms of the contract with the preferred provider, which has helped to ensure that this is the case. The regulator will also work to ensure that this continues to be the case.

7.4 The States are being asked to agree **up to** £12.5 million of funding in order to provide the financial support to ensure equity of access and accelerated delivery. This is an estimated cost to support engineering that will be capped at £11.25 million, plus a contingency of up to £1.25 million if there are significant changes to the scope of the technical demands of the project.

7.5 Appropriate and detailed financial due diligence has been undertaken. The States' contribution will be in arrears, following a detailed demonstration of the work that has been undertaken and the costs incurred, and will be based on an 'open book' financial relationship with the provider on this project.

7.6 The contract will be finalised subject to the States agreeing the Propositions in this Policy Letter. The regulator will have sight of the contract but the contract will not be published more widely due to its commercial sensitivity for both the States and the preferred provider.

7.7 There will also be economic benefits to the work being undertaken in this way. The overall project will lead to the creation of 75 jobs and of the overall £37.5 million of direct investment in this project, £30 million (80 per cent) will be in local engineering contractors and suppliers.

8 Ensuring competition – the role of the GCRA

8.1 An important element of the fibre roll-out proposal is to ensure that competition

is maintained at the retail level (the point at which customers buy network services). This ensures that consumer choice is maintained with healthy competition encouraged amongst telcos.

8.2 The Guernsey Competition and Regulatory Authority ("GCRA") is responsible for regulating the telecoms sector in Guernsey as well as encouraging competition. This is achieved by encouraging best practice in the telecoms sector, while giving new operators access to the existing network within realistic timescales and at realistic costs.

8.3 The GCRA licenses operators to provide services. Operators may also require spectrum licences, currently issued by Ofcom.

8.4 Although the fibre network will be owned and operated by Sure, other telcos will be able to provide services through this network using wholesale arrangements, with the wholesale charge being the same for all telcos. This means that competition can be encouraged at the retail level through innovation in terms of products, packages and service bundles. The wholesale arrangement will be no different to the one used for copper today.

8.5 The proposed fibre roll-out solution will enable 100% of properties to access services which will be delivered over a single regulated wholesale network *at the same cost with no postcode lottery or economic cherry picking.*

8.6 All licensed operators will have non-discriminatory access to the wholesale network at the regulated rates approved by the GCRA, ensuring competition at the retail level.

8.7 The GCRA's view is that wholesale network access provides a common, yet essential tool for increasing the intensity of competition, improving competitors' ability to provide bespoke products to better meet end user demand. Licence condition 34 provides a mechanism for commercial negotiations on new products and services between the network operator and other telcos.

8.8 To ensure the roll-out programme goes smoothly to the benefit of all parties, constructive engagement between all parties will commence immediately on agreement of the contract. Over the course of the roll-out, regular sessions overseen by the Broadband Working Group, assisted and advised by the GCRA as appropriate to its role, will take place. This group will co-ordinate the roll-out following the broad principles set out below:

- Input at an early stage by other operators into technology features;
- Customer freedom of choice at the point of switchover (with no pre-requirement to re-sign contacts with existing providers);
- Clear escalation path to ensure everything possible is done to avoid

disconnections;

- Co-ordination of road openings and road digs for use by all other utility companies in Guernsey, in a way that encourages full use to be made of such works;
- Linking States of Guernsey payments under the contract to clear annual connection targets, and also linked to a timeline for full completion of fibre rollout. The funding will be paid in arrears, dependent on properties passed, retail connections made and final completion of zoned phases of the project;
- Wholesale products and prices should be similar to those available in similar sized jurisdictions in which Sure operates, to ensure Guernsey remains competitive;
- Existing operators will collaborate and share experiences and learnings, engineering know-how and all intellectual property without applying charges;
- All homes should have the ability to access up to 1 Gbit/s speeds, to ensure Guernsey remains competitive and the rollout is future proofed;
- Opportunity to prioritise a number of connections per retail operator per month, such as a fast track process, where deemed to be in the economic interests of Guernsey (this was available to all operators in Jersey and worked really well, with government departments providing input);
- Clear and demonstrable 'Chinese walls' in place between the Sure network team rolling out the network and the retail arm that is competing with other operators in the market;
- Overarching presentation to be shared setting out rollout plans and follow-up workshops to allow collaborative engagement;
- Advance notice (at least 3 months) of planned rollout and migration with the ability of other operators to act on customers' behalf (to manage individual customer's migration from copper to fibre);
- All communications relating to the wholesale fibre network must be operator neutral and agreed in advance by all operators; and
- Approach to router subsidies and battery back-up arrangements to be agreed in workshops between the parties.

9 Transitioning to a fibre network

9.1 Civil engineering works will be required to install the fibre cabling, including the need for road closures. However, where possible, existing ducts will be used, micro-trenching utilised, or existing telegraph poles employed. This will minimise disruption, but it must be expected that a certain number of road closures will be required over the 5-year period of the roll-out. The impacts will be mitigated by the careful scheduling and planning of road closures over the period of the roll-out as set out in the principles mentioned above.

9.2 At the end of each phase of the fibre roll-out, all properties in each geographic

area will have been connected to fibre in Guernsey unless the property owner actively objects, and the old copper network within that area will be retired as this will be redundant. New buildings will be connected to fibre only. This will mean that a 'mandatory' upgrade to the fibre network will be needed for all households and businesses. Those property owners who do not wish to have fibre installed will be advised that this may result in occupants not being able to access a fixed telecommunications network.

9.3 This transition will require careful communications with islanders in order to ensure that property owners upgrade when the roll-out reaches them. Upgrading during the roll-out means property owners would have no cost to bear. Choosing not to upgrade as the roll-out passes a household could mean that connection incurs a cost at a later date. It is not anticipated that property owners will be 'forced' to accept the upgrade through legal means, since anecdotal evidence suggest most will be supportive of the additional connectivity offered by fibre. As such no specific legislation is planned.

9.4 It should be noted that as premises are connected to the fibre network, they will then be able to access those fibre services. In other words, many households and businesses in Guernsey will be likely to be able to access faster fibre services well before 2026 when the last properties are expected to be connected.

10 Next generation mobile – the pathway to 5G

10.1 The requirement to deploy a high speed 'next generation' mobile infrastructure for Guernsey remains a key policy objective. The Broadband Working Group considers that an appropriate time for deployment of this technology would be from 2023 onwards.

10.2 Environmental impact (especially visual and electro-magnetic spectrum) needs careful consideration in the deployment of mobile networks. Logic dictates that one single network would avoid duplication of effort and cost and have least environmental impact. However, downsides include less resilience and the need to ensure a level playing field access to this network. However, delivery of one network across multiple operators may be difficult to achieve practically, at least in the short term until technologies evolve and merge.

10.3 Another factor is the likely propensity and ability of local telcos to invest in the latest 5G technologies. Capability to invest is likely to be constrained where there is an obligation to replace current Chinese manufactured equipment in networks (Huawei and ZTE).

10.4 The need to replace Chinese manufactured equipment has come about because the UK Government is seeking to introduce a new telecoms security framework which imposes statutory duties for UK telecoms providers. This will be

introduced through a security framework comprising of a UK Telecoms Security Bill, a Code of Practice and Telecoms Security Requirements (TSR)[9]. In practice, these statutory duties require compliance, with key deadlines being set for the removal of High Risk Vendor (HRV) equipment from essential parts of telecoms networks and a suite of detailed TSR.

10.5 The Committee *for* Home Affairs has considered the UK Department of Culture Media and Sport's ("DCMS") policy position and conducted further work with the National Cyber Security Centre ("NCSC"). The Committee has concluded that local operators will need to remove Chinese High Risk Vendors supplied equipment by 28 Jul 2025 from the active core parts of their networks (this is the UK date plus 18 months due to supply chain issues). The remaining core network equipment, through the designation of local telecommunications companies as Tier 2 (regionally significant telcos) will need to be removed by 2027. This position is endorsed by the NCSC[10]. These dates therefore drive a timeline for replacement of the mobile networks in the 2023-2025 period and hence, in part, the need to complete 5G licensing in this timescale.

10.6 With these factors in mind, it is considered that the best solution in the short term would be to conclude the tender process through the GCRA for the issuing of a 5G licence or licences. The conditions of the issuing of a licence would be configured to ensure development of a network architecture that would *encourage and facilitate* network sharing as the optimal solution if possible. The intent would be to encourage retail competition, not network competition. This work will be undertaken during 2022, with a licensing framework to be debated by the States Assembly in 2022 prior to any licensing of 5G in 2023.

11 Conclusion

11.1 Next generation digital infrastructure will deliver resilient, fast, future-proof and ubiquitous digital connectivity to homes and business through investment in fibre cable connections to premises and setting a clear pathway for future implementation of the latest mobile connectivity technologies. Networks will also need to be safe, secure and minimise environmental impact.

11.2 First class digital infrastructure is essential for delivering economic, social and community benefits. A number of policy interventions will be needed in order to ensure that next generation digital infrastructure is delivered for the people of Guernsey.

11.3 A key policy objective will be to accelerate the provision of fibre connections to

[9] TSRs are statutory duties and requirements for the UK's public telecoms providers.
[10] Exact timings may change due to ongoing consultation between DCMS, NCSC and telcos. Further legislative delays of the 3rd Reading of the Bill (currently scheduled for Oct 2021) may occur.

properties in Guernsey within a five-year period. Fibre connections will be needed to deliver the expected bandwidth and data speed requirements needed by households and businesses by 2026. Only a ubiquitous fibre network will be able to deliver a future proof network to premises in the Island ensuring fair and equitable access for all users.

11.4 The Broadband Working Group has consulted with all the Island telcos to seek solutions for delivering these objectives. Having evaluated all submissions, the Group concluded that a proposal submitted by Sure was the best fit with the States' objectives.

11.5 To achieve this accelerated roll-out of fibre connectivity to all premises within a five year period, the States are being asked to agree **up to** £12.5 million of funding in order to provide the financial support to ensure equity of access and accelerated delivery. This is the cost to support engineering that will be capped at £11.25 million, plus a contingency of up to £1.25 million if there are significant changes to the scope of technical demands of the project.

11.6 The requirement to deploy a high speed 'next generation' mobile infrastructure in Guernsey remains a key policy objective. The Broadband Working Group considers that an appropriate time for deployment of this technology would be from 2023 onwards and the intention is to submit a further policy letter on licensing next generation mobile technology by the end of 2022.

11.7 Taken together these actions will deliver a strong, robust and future proof digital infrastructure for the Island that will have significant economic, social and community benefits. A first-class digital infrastructure is an essential foundation of the Digital Framework, the aim of which is to ensure that we can accelerate Guernsey's digital capability for the benefit of all members of society.

12 Compliance with Rule 4

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

12.2 In accordance with Rule 4(1), the Propositions:

- Determine the approach to commence implementation of enhancing digital infrastructure which is one of the top ten recovery actions in the Government Work Plan to be significantly advanced in the remainder of this year;
- Have been developed in consultation with other States' Committees, including the Committee *for the* Environment & Infrastructure, the Committee *for* Home Affairs and the Development & Planning Authority;
- Have no additional recurring revenue funding implications for the States beyond the requested investment funding set out in this policy letter to

achieve accelerated fibre roll out as previously set out in the Funding & Investment Plan approved by the Assembly at its Meeting on 21st July 2021.

12.3 In accordance with Rule 4(2)(a), the Propositions relate to:

(a) The duties of the Policy & Resources Committee to co-ordinate policy, including leading the policy planning process, the allocation and management of resources, including the States' budget and facilitating cross-committee policy development; and

(b) the duties of the Committee *for* Economic Development to advise the States and to develop and implement policies on matters relating to its purpose, which is to secure prosperity through the generation of wealth and the creation of the greatest number and widest range of employment opportunities possible by promoting and developing business, commerce and industry in all sectors of the economy.

12.4 In accordance with Rule 4(2)(b) of the Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the Propositions above have the unanimous support of the both the Policy & Resources Committee and the Committee *for* Economic Development, which are jointly submitting this Policy Letter.

Yours faithfully

Policy & Resources Committee:

P T R Ferbrache
President

H J R Soulsby MBE
Vice-President

M A J Helyar
J P Le Tocq
D J Mahoney

Committee *for* Economic Development:

N R Inder
President

S J Falla
Vice-President

N G Moakes
A Kazantseva-Miller
S P J Vermeulen

APPENDIX 1: The Digital Framework

The Digital Framework 2021-2025, seeks to invest in the islands digital economy, with the primary aim of ensuring that *"by accelerating the Bailiwick's digital capability, our ambition is to ensure our community, business and government can maximise the opportunities of the technological age to ensure economic, social and environmental resilience, sustainability and innovation."*

The Digital Framework supersedes the Digital Sector Strategic Framework published in 2017 and has a wider focus, moving away from focusing solely on the so called "digital sector" to instead looking at the ability of digital technology to enhance Guernsey's entire economy.

The main drivers for the change in shift of policy can be summarised as follows:

- Technological change affects all sectors of the economy;
- Government is driving the digitisation of public service delivery to increase efficiency and support innovation;
- Digital inclusion is essential for community connectedness and wellbeing;
- New skills and cultural change are required by all across society; and
- Technology drives economic, social and environmental innovation.

There are 11 key action areas in the Framework, which are arranged into three main pillars as the key enablers of a successful digital jurisdiction. These are: "Establishing Infrastructure", "Developing Digital Skills and Pathways" and "Innovation, Transformation & Entrepreneurial Growth".

The 2021 – 2025 Digital Framework Action Areas

By accelerating the Bailiwick's digital capability, our ambition is to ensure our community, business and government can maximise the opportunities of the digital age to ensure economic, social and environmental resilience, sustainability and innovation

1 Enabling Infrastructure

1. World-class digital connectivity
2. Digitally visionary government
3. Responsive legislation and regulation
4. Inclusive access to technology

2 Developing Digital Skills and Pathways

5. Digital leadership in Business, Community & Government
6. Grow and develop external (off-island) pipelines to digital talent
7. Increased digital skills across the economy

3 Innovation, Transformation & Entrepreneurial Growth

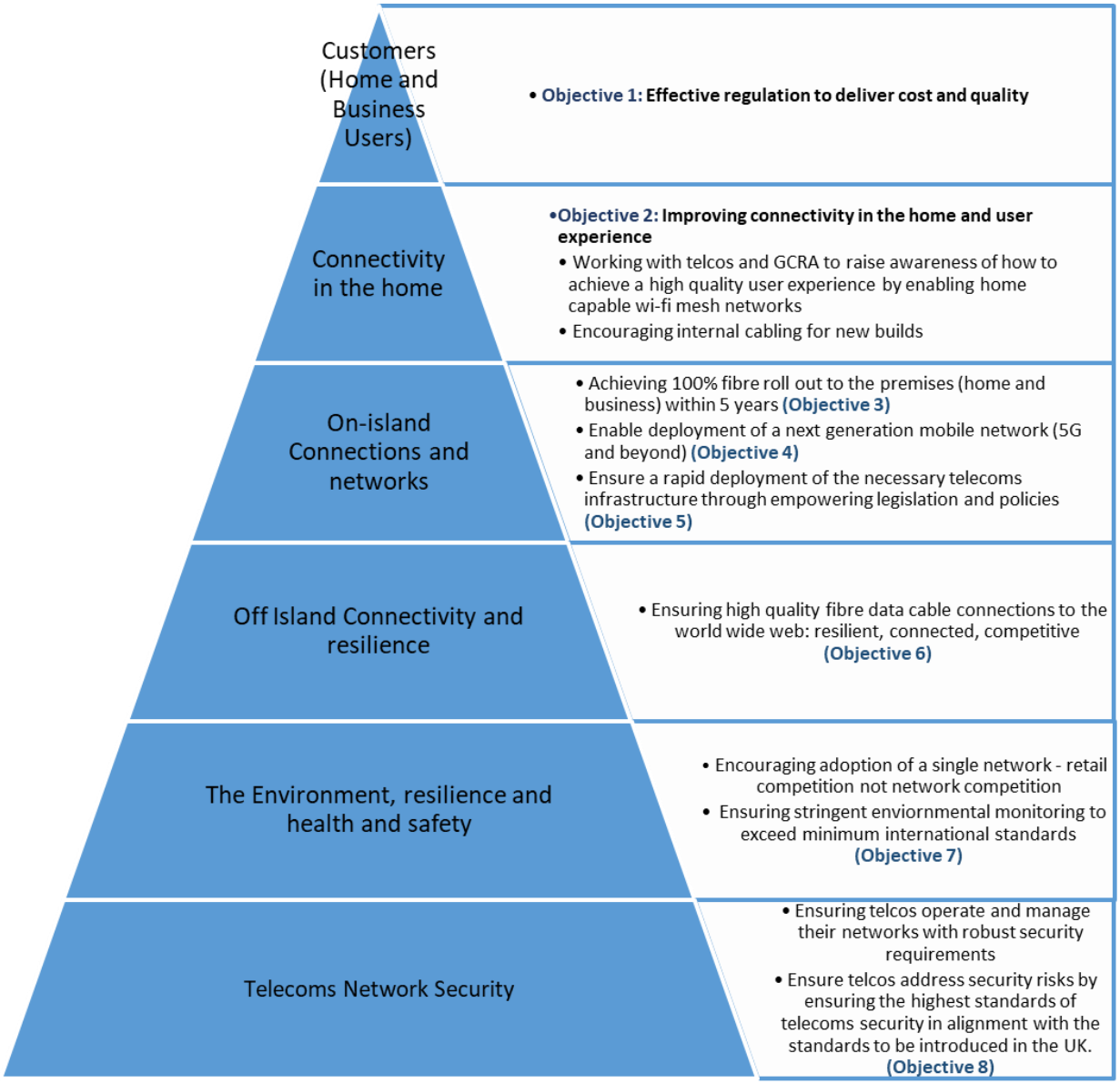
8. Digital transformation across all sectors
9. Economic, environmental & social innovation
10. Unlock and foster the entrepreneurial ecosystem
11. Promote Guernsey's digital capability to a wider audience

APPENDIX 2: DELIVERING NEXT GENERATION DIGITAL INFRASTRUCTURE: SUMMARY OF OBJECTIVES and ACTIONS

KEY OBJECTIVE: To ensure the Bailiwick of Guernsey is one of the most digitally connected jurisdictions in the world where society, culture and the economy can leverage, and maximise, the opportunities of the digital age whilst ensuring maintenance and protection of the environment.

To achieve this key objective several policy interventions are required at all points of the connectivity journey – from off-island cables to maximising connectivity in the home. These are set out in summary below (**Figure 1**) and in more detail through a series of summary tables setting out the objectives and the actions required to achieve the key objective set out.

Figure 1: Summary of Policy interventions required across the telecoms connectivity journey



Actions to deliver objectives

1. <u>Customers (Home and Business Users)</u>

OBJECTIVE 1: Effective regulation to deliver cost and quality
This objective will ensure that the experience of home and business users when they use telecommunication services meets cost and quality expectations for the level of service purchased. This will continue to be an important part of the work of the GCRA.

ACTIONS:

- Continue to work with GCRA to ensure delivery of high-quality telecommunication services ***Responsible Committee: CfED***

2. <u>Connectivity in the home</u>

OBJECTIVE 2: Improving connectivity in the home and user experience
Although the States of Guernsey will not mandate which connection speeds users subscribe to, government should consider ways of enabling better connectivity by identifying opportunities to improve fixed wiring in homes or delivering modern wi-fi networks (e.g. Mesh networks) in new builds, and working with telcos and the GCRA to raise awareness of best practice to maximise connectivity in the home.

ACTIONS

- Work with GCRA to ensure that telcos deliver the expected and advertised user experience standards.
  Responsible Committee: CfED.
- Work with GCRA, telcos and other bodies to enable access to, and reasonable cost of, enhanced accessibility within the home ***Responsible Committee: CfED.***

3. <u>On-island connections and networks</u>

Fibre to the home
OBJECTIVE 3: Achieve 99+% fibre to the premises within 5 years
This objective will ensure accelerated roll out of fibre connectivity to all premises. Fibre connectivity ensures the best 'future-proof' solution for fixed data and voice connections.

ACTIONS:

- Work with telco provider(s) to achieve a rapid programme for fibre roll-out to ensure all premises are connected to fibre within 5 years (end of 2026)
  Responsible Committee: P&RC and CfED
- Work towards creating a single regulated network infrastructure – GCRA to ensure retail competition not network competition
  Responsible Committee: CfED

- Agree mechanism for possible States investment which may be required where this is of most benefit to the economy and the community to achieve an accelerated roll-out.
  Responsible Committee: P&RC

Telecoms infrastructure enablement through enabling legislation
OBJECTIVE 5: Explore and implement enabling legislation to allow rapid deployment of enhanced telecoms networks:
This objective deals with the States legislation and processes which will need to be eased or temporarily suspended to allow rapid deployment of infrastructure.

ACTIONS:

- Investigate the need to amend existing or implement enabling legislation in order to allow the rapid deployment telecoms infrastructure (Fibre and 5G). This may include, inter alia, the need to suspend road embargoes, and enable wayleaves.
  Responsible Committee: E&I / STSB/ P&RC
  Continue to review and adapt planning policy to encourage the rapid rollout and densification of the 5G network.
  Responsible Committee: E&I
- Investigate ways in which the States of Guernsey should take a role in the commercial aspects of the future 5G network. (Note: The States of Guernsey, either directly or indirectly, owns a range of transmitter sites, street furniture, buildings, underground ducts and off-island cables. In addition to direct funding, as identified in the Medium-Term Financial Plan, these physical assets may be made available to accelerate the delivery of a 5G network. This may include the purchase/lease of new telecommunications infrastructure subject to a commercial business case being made.)
  Responsible Committee: P&RC

Next generation mobile network (5G)
OBJECTIVE 4: Delivering a next generation mobile network (5G and its successors)
This objective will ensure the delivery of a 'next generation' (5G) mobile network. Mobile networks will be essential for Internet of Things (IoT) applications and devices that operate away from a fixed network (home or office) environment. The optimum solution is a single 5G network – due to economic and environmental considerations.

ACTIONS:

- Conclude a tender process through the GCRA to build and operate a (preferably) single 5G network (Mobile National Network "MNN")
  Responsible Committee: CfED
- Ensure the criteria for the 5G network licence provide connectivity to meet the current and future needs of the Island and encourage multiple service providers to offer services using the MNN
  Responsible Committee: CfED
- Ensure steps to develop a single network sharing architecture to enable transition from 4G legacy services to a 5G single network

Responsible Committee: CfED

- Ensure 5G network licence will promote and facilitate retail competition, not network competition

  Responsible Committee: CfED
- 5G Backhaul - GCRA to ensure the regulation of the interconnect cost of fibre backhaul to 5G transmitter sites. In this way no existing fibre operator can extract a commercial advantage when it comes to rolling out 5G to areas where fibre is scarce.

  Responsible Committee: CfED
- 5G Spectrum - GCRA to consider the availability of spectrum with the obligation to develop a single network and to ensure sufficient spectrum is available.

  Responsible Committee: CfED
- Licence conditions to be set to ensure maintenance and protection of the environment:
  - Exceed minimum health and safety standards
  - Minimise mast proliferation

  Responsible Committee: CfED

4. <u>Off-island connectivity and resilience</u>

OBJECTIVE 6: Maintaining off-island connectivity and resilience

Off-island connectivity is the lifeblood of a truly connected society and key to economic growth. Driving digital sector growth, one of the key elements of government policy, can only be achieved if connectivity is available, affordable, reliable and competitive with other jurisdictions.

ACTIONS:

- Work with telcos and the GCRA to review off-island connectivity and capability, ensuring that this connectivity is competitive

  Responsible Committee: P&R and CfED

  Investigate future opportunities for States of Guernsey investment with a suitable partner to provide additional/new cable capacity (when life expired) with a modern cable system, opening up new capacity and encouraging new business models.

  Responsible Committee: P&R and CfED

  Investigate strategic links to the internet back-bone, including point of presence on island.

  Responsible Committee: P&R and CfED

5. <u>The environment, resilience and health and safety</u>

OBJECTIVE 7: Ensuring protection of the environment and health and safety

This objective ensures that the benefits of an enhanced digital infrastructure are delivered whilst ensuring the maintenance and protection of the environment, and the safety of users at the same time as ensuring the resilience of data connectivity.

ACTIONS:

- Implement policies to deliver single shared networks to minimise duplication of resources and inefficient delivery of services

  Responsible Committee: CfED

- Encourage single 5G network to minimise mast proliferation and equipment on the masts
  Responsible Committee: CfED
- Ensure licence conditions are set to ensure that mast emissions must not exceed minimum international Health and Safety standards.
  Responsible Committee: CfED
- Ensure regular monitoring and reporting of mast emissions through the GCRA
  Responsible Committee: CfED
- Work with the GCRA to ensure that the telecoms network is resilient, secure and future proofed – achieved through licence conditions.
  Responsible Committee: CfED

6. Telecoms network security

OBJECTIVE 8: Ensuring network security and secure operational practices

This objective will ensure that telcos operate their networks and manage their supply chains in accordance with robust security requirements, and addresses the security risk posed by suppliers, in particular, high risk vendors. These security requirements will ensure the highest standard of telecoms security, in alignment with standards to be introduced in the UK.

ACTIONS

- Develop and introduce Bailiwick Telecoms Security Requirements (TSR) and ensure alignment with the UK TSRs.
  Responsible Committee: CfHA
- Develop and introduce guidance and legislation to ensure that telecoms operators, overseen by the GCRA and Government, design, manage and operate their networks to meet the new security requirements.
  Responsible Committee: CfHA
- Ensure alignment of telco security requirements across the Crown Dependencies to ensure parity and consistency of approach.
  Responsible Committee: CfHA
- Ensure that changes required by the TSR are implemented by the agreed timeframes.
  Responsible Committee: CfHA

APPENDIX 3: Glossary of Terms

- **ADSL-** This stands for “asymmetric digital subscriber line”, and is a type of technology that is used to transmit digital data over telephone lines
- **Bitstream Access-** This refers to when third parties are able to access existing broadband infrastructure in order to be able to offer their own products and services
- **Chinese Walls-** A term used to describe a ethical barrier which is set up to block the exchange of information between two different arms of the same organisation.
- **Digital Subscriber Line (DSL)-** This is a type of technology that is used to transmit digital data over telephone lines
- **Downstream Bandwidth-** The speed/extent to which data is able to download directly from the internet onto one’s device.
- **Ecorys-** A research and consultancy company originally from the Netherlands.
- **FTTC-** Abbreviation for “fibre to the cabinet”. This refers to when broadband is delivered to people’s homes via an external cabinet. Fibre cables transport data to an external cabinet and this data is then transferred from the cabinet to various homes through copper cabling.
- **FTTH-** Abbreviation for “fibre to the home”- This refers to when fibre cables go directly to someone’s home/premises, rather than via an external cabinet, thereby leading to faster speeds.
- **FTTP-** Abbreviation for “fibre to the premises”. This means the same thing as FTTH.
- **Gbps-** Abbreviation for “Giga-bits per second”
- **GCRA-** Abbreviation for “Guernsey Competition & Regulatory Authority”
- **GFast-** This is an enhanced and faster form of FTTC.
- **Internet Backbone-** A term which refers to the largest and highest performance networks in the internet and the routers and connections between them.
- **Internet of Things (IoT)-** The concept of embedding physical objects with internet connectivity so as to allow it to perform new functions. Examples include smart microwaves, self-driving cars and wearable fitness devices.
- **Micro-trenching-** Micro-trenching involves digging a narrow trench of one or two inches wide and up to two foot deep. These trenches can then hold conduits for fibre cable.
- **OFCOM-** Abbreviation for the Office of Communications. They are the UK government-approved regulatory and competition authority for broadcasting and telecommunications industries.
- **Spectrum-** This refers to the invisible radio frequencies, allocated to the mobile industry, that allow wireless signals to travel over the airways.
- **Supervectoring-** A technical term for a specific technique that is sometimes used to improve broadband speeds.
- **telco-** Abbreviation for “telecommunications provider”
- **Upstream Bandwith-** The speed/extent to which data is able to be uploaded from one’s device onto the internet.

- **VDSL-** This stands for “very high-speed digital subscriber line”, and is a type of technology that is used to transmit digital data over telephone lines
- **VVA-** A consultancy company originally from Italy.
- **Wayleave-** An agreement between two parties, where the landowner grants rights for the grantee to access their land in order to carry out specified activities e.g. the installation of fibre cabling.
- **WIK-** The name of a German telecommunications consultancy.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *FOR* EMPLOYMENT & SOCIAL SECURITY

CONTRIBUTORY BENEFITS AND CONTRIBUTION RATES FOR 2022

The States are asked to decide:

Whether, after consideration of the Policy Letter entitled 'Contributory Benefits and Contribution Rates for 2022', dated 13th September 2021, they are of the opinion:

1. To increase the percentage contribution rate for employers and employees into the Guernsey Insurance Fund in increments of 0.1% each per year over ten years, and for self-employed persons, and non-employed persons under pension age in increments of 0.2% per year over ten years, with effect from 1st January 2022, as set out in paragraph 3.11 of that Policy Letter.

2. To increase the percentage contribution rate for employees, self-employed persons, and non-employed persons under and over pension age, into the Long-term Care Insurance Fund in increments of 0.1% per year over four years, with effect from 1st January 2022, as set out in paragraph 3.18 of that Policy Letter.

3. If Propositions 1 and 2 are approved, to direct the Committee *for* Employment & Social Security to:

   a) review, in consultation with the Policy & Resources Committee, its ten year plan for increasing contributions each year, and

   b) report to the States each year, in its annual Policy Letter on contributory benefits and contribution rates, on whether to pursue or to adjust the plan, particularly in light of the resolutions following the debate on the Tax Review, the economic circumstances of the Island and other relevant factors at the time.

4. To set the upper weekly earnings limit and the upper monthly earnings limit for employed persons and employers at £3,027.00 and £13,117.00 respectively, from 1st January 2022.

5. To set the lower weekly earnings limit and the lower monthly earnings limit for employed persons and employers at £152.00 and £658.67 respectively, from 1st January 2022.

6. To set the upper and lower annual earnings limits for self-employed persons at £157,404.00 and £7,904.00 respectively, from 1st January 2022.

7. To set the upper and lower annual income limits for non-employed persons at £157,404.00 and £19,760.00 respectively, from 1st January 2022.

8. To set the allowance for non-employed persons at £8,904.00 per year, from 1st January 2022, in line with the uprating policy for contribution rates and to agree that section 8(4) of the Social Insurance (Guernsey) Law, 1978, is amended to allow for the same.

9. If Proposition 8 is approved, to set the voluntary contribution for non-employed persons at £22.34 per week, from 1st January 2022, in line with the minimum weekly amount payable by a non-employed person under pension age.

10. To set the overseas voluntary contribution at £103.45 per week for non-employed people and £114.37 per week for self-employed people, from 1st January 2022.

11. To set the standard rates of contributory social insurance benefits as set out in Table 10 of that Policy Letter, from 3rd January 2022.

12. To set the contribution (co-payment) required to be made by the claimant of care benefit, under the Long-term care Insurance Scheme, at £256.83 per week, from 3rd January 2022, and at £271.67 per week, from 4th July 2022.

13. To set the maximum weekly long-term care benefit at the rates set out below, from 3rd January 2022:

    a) £532.98 per week residential care benefit for persons resident in a residential home;

    b) £696.64 per week elderly mentally infirm (EMI) benefit for qualifying persons in a residential home; and

    c) £961.59 per week nursing care benefit for persons resident in a nursing home or the Guernsey Cheshire Home.

14. To set the maximum weekly respite care benefit:

    a) at the rates set out below, from 3rd January 2022:

        i) £789.81 per week for persons receiving respite care in a residential home;

        ii) £953.47 per week for the elderly mentally infirm (EMI) rate for persons receiving respite care in a residential home; and

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

b) at the rates set out below from 4th July 2022:

i) £804.65 per week for persons receiving respite care in a residential home;

ii) £968.31 per week for the elderly mentally infirm (EMI) rate for persons receiving respite care in a residential home; and

iii) £1,233.26 per week for persons receiving respite care in a nursing home or the Guernsey Cheshire Home.

15. To approve, in principle, the policy options set out in paragraphs 6.21 to 6.39 of this Policy Letter in respect of changing the residency conditions to be satisfied to qualify for long-term care benefit, introducing a sliding scale of long-term care benefit entitlement based on length of residency in aggregate in Guernsey, Alderney, Herm or Jethou, and taking into account the capital value of a person's home in the income support means test if the person is living in a residential or nursing home and the property is not occupied by the person's spouse, partner or dependent relative(s).

16. If Proposition 15 is approved, to direct the Committee *for* Employment & Social Security, in consultation with the Policy & Resources Committee, to return to the States with detailed policy proposals in respect of the policy outlined in paragraphs 6.21 to 6.39 of this Policy Letter at the earliest opportunity, but no later than October 2022.

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

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *FOR* EMPLOYMENT & SOCIAL SECURITY

CONTRIBUTORY BENEFITS AND CONTRIBUTION RATES FOR 2022

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

13th September 2021

Dear Sir

1. Executive summary

1.1. This annual Policy Letter contains propositions concerning contributions to, and benefits funded from, the Guernsey Insurance Fund and the Long-term Care Insurance Fund and contributions to the Guernsey Health Service Allocation.

1.2. Most matters concerning benefits under the Guernsey Health Service Fund have, since 1st June 2020, become the responsibility of the Committee *for* Health & Social Care. This follows the entry into force of The Machinery of Government (Transfer of Functions) Ordinance, 2020[1]. The legislative changes that will enable the final processes are intended to be implemented in January 2022. These include the closure of the Guernsey Health Service Fund, the repeal of provisions in the Health Service (Benefit) (Guernsey) Law, 1990, relating to Medical Benefit and other benefits, and the transfer of the balance of the Guernsey Health Service Fund to be ring-fenced within General Revenue (where it will be held as the Guernsey Health Reserve).

1.3. The Committee *for* Employment & Social Security ('the Committee') made it clear to the States in its Policy Letter on contributory benefits and contribution rates for 2021[2], and in its companion Policy Letter entitled 'Supported Living and Ageing Well Strategy: Extending the Life of the Long-

1 The Machinery of Government (Transfer of Functions) Ordinance, 2020

2 Contributory Benefits and Contribution Rates for 2021 (Billet d'État XVI of 2020, Article IV)

term Care Insurance Scheme'[3], that the current contribution rates were insufficient to support the long-term financial sustainability of the Guernsey Insurance Fund and the Long-term Care Insurance Fund. Acknowledging that the Long-term Care Insurance Scheme was not financially sustainable without a change in revenues or a change in policy, the States resolved, on 19th August 2020, to direct the Committee, if the Tax Review did not identify measures to ensure the long-term stability of the Fund, to propose, in this report, an increase in the contribution rates of a maximum of 1.3% with effect from 1st January 2022.

1.4. The position outlined above is strongly reinforced by the latest actuarial projections of the Funds that were completed in 2020 for the period ending 31st December 2019. These were laid before the States in February 2021[4]. The UK Government Actuary's Department (GAD) has calculated that the Guernsey Insurance Fund will be exhausted by 2039 unless something is done to address this matter. It is a matter of deep concern that the pension fund could be exhausted in just 18 years if no measures are taken to prevent this. GAD projected that the balance in the Long-term Care Insurance Fund will fall to zero in 2053. This does not take into account the decision in principle, taken by the States of Deliberation in August 2020, to extend the coverage of the Long-term Care Scheme to cover care delivered in peoples' homes. Taking this policy change into account, the balance in the Long-term Care Insurance Fund is projected to fall to zero by 2038.

1.5. As a result, the Committee proposes that the percentage contribution rates of relevant Classes of contributors to the Guernsey Insurance Fund be gradually increased over a ten year period and to the Long-term Care Insurance Fund over a four year period, with effect from 1st January 2022, in order to address the sustainability of the contributory Funds. The Committee proposes to review this plan annually, in consultation with the Policy & Resources Committee, to ensure that it aligns with relevant economic and policy considerations, such as the resolutions made by the States following the debate of the Tax Review[5]. This approach is designed to be deliberately flexible, while allowing for some small steps in the right direction to be taken immediately.

1.6. The Committee is recommending that the States pension and all other benefits financed from the Guernsey Insurance Fund be increased by 2.4% from January 2022, and that benefits financed from the Long-term Care

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3 Supported Living and Ageing Well Strategy: Extending the Life of the Long-term Care Insurance Scheme (Billet d'État XVI of 2020, Article V)

4 Guernsey Insurance Fund - Actuarial Review as at 31st December 2019 and Long-term Care Insurance Fund - Actuarial Review as at 31st December 2019 (Appendices to Billet d'État V of 2021)

5 The Tax Review (Lodged on 20th August 2021 - P.2021/97)

Insurance Fund be increased by 2.3% from January 2022, in accordance with the States-approved uprating policies for the two Funds. The Committee is recommending that upper and lower earnings and income limits for contributions and the Class 3 income allowance are also increased by 2.4% from January 2022.

PART 1: INTRODUCTION

2. Uprating Policy

2.1. Since 2016, the States-approved pensions uprating policy has been to apply increases of RPIX plus one third of the real increase in median earnings. This has been the agreed policy since 2016[6] and was most recently endorsed by the States in February 2020[7]. It is worth noting that this is less generous than the triple lock rule that has been applied in the UK since 2011. Under the triple lock, the state pension increases each year in line with the rising cost of living seen in the Consumer Prices Index (CPI) measure of inflation, increasing average wages, or 2.5%, whichever is highest.

2.2. The reason for applying an uprating policy which is based on a point between RPIX and median earnings is to ensure that income replacement benefits and contribution rates keep pace with the cost of living (i.e. the pension should represent the same buying power for essential goods and services (by following RPIX)), and keep pace, to a lesser extent, with the income of the working population (by following median earnings). This means that the pension should partly retain its value relative to the income of the wider population, and the difference in the quality of life between the retired and non-retired population should remain stable (disregarding the impact of any private or occupational pensions).

2.3. A more conservative uprating policy would ultimately result in a gradual increase in pensioner poverty, which would increase income support expenditure. A more generous uprating policy, for example which kept pace with median earnings, would gradually increase the cost of providing pensions over time and result in a need for further increases in revenues. The pension uprating policy was agreed by the States on the basis that it provided the most appropriate balance in the interests of contributors, pensioners, and public funds.

2.4. The June 2021 annual RPIX figure was 2.3% and the nominal change in median earnings as at December 2020 was 2.5%. The calculation of the uprating percentage based on the approved policy is shown below:

$$(2.5\% - 2.3\%) \div 3 + 2.3\% = 2.4\%$$

2.5. On the assumption that, in the long-term, earnings increase by more than prices, the uprating policy ensures that at least part of that gain is shared with pensioners and other recipients of earnings-replacement benefits. The

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6 Benefit and Contribution Rates for 2016 (Billet d'État XVIII of 2015, Article VIII)

7 Uprating Policy for States Pension (Billet d'État V of 2020, Article IX)

Committee is therefore recommending that contributory benefits provided from the Guernsey Insurance Fund are increased in line with the uprating policy figure of 2.4% in 2022. The Committee recommends that the same increase should apply to the upper and lower earnings and income limits for contributions and the class 3 income allowance.

3. Sustainability of the contributory funds

3.1. While the upper and lower weekly, monthly and annual earnings/ income limits increase by the uprating policy each year, there has been no change to the percentage contribution rates since 2017. There was an unsuccessful attempt, by the Committee's predecessor in February 2020[8], to increase contribution rates by 0.3% for employers and 0.2% for employees (i.e. 0.5% in total) as a first step towards addressing the financial sustainability of the Guernsey Insurance Fund.

3.2. The Committee is strongly of the view that action must be taken in order to secure the financial sustainability of the Guernsey Insurance Fund and the Long-term Care Insurance Fund. Obtaining States agreement on future funding is a top priority for the Committee.

3.3. In January 2020, the States directed the Policy & Resources Committee to:

> "…conduct a review to ensure that Guernsey's tax base is capable of raising sufficient revenues to meet long-term government expenditure needs in a sustainable manner within the boundaries of the Fiscal Policy Framework".

The Tax Review Steering Group was established to undertake the task, with representation from the Policy & Resources Committee and the Committee *for* Employment & Social Security. Due to the timing of the two debates, this Policy Letter will have been submitted in advance of knowing the outcome of the debate on the Tax Review. The Tax Review proposes significant changes to the structure of social security contributions, however, it must be acknowledged that it will take time to implement complex operational transformations.

3.4. The Committee is mindful that its long-term plans for increasing contribution rates to address the sustainability of the funds will need to align with the outcome of the debate of the Tax Review. However, it is of the view that it will be a small positive step in the right direction to implement a small increase in contribution rates in the meantime, regardless of the outcome of that debate.

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8 Uprating Policy for States Pension (Billet d'État V of 2020, Article IX)

3.5. This Policy Letter sets out a ten year plan for increasing the percentage contribution rates to ensure the sustainability of the Funds, commencing on 1st January 2022. The intention is that the Committee's proposals will complement the States resolutions that will be made following the debate of the Tax Review, as ultimately the direction of travel will be the same - both are aimed at finding a solution to the same problem. To this end, the Committee is proposing that it will review, in consultation with the Policy & Resources Committee, its ten year plan and report to the States annually in its Policy Letter on contributory benefits and contribution rates, in order to ensure that the increments remain necessary and in line with other economic and policy considerations at the time.

3.6. The most recent actuarial reviews of the Guernsey Insurance Fund and the Long-term Care Insurance Fund, undertaken by the UK Government Actuary's Department (GAD), covering the period 1st January 2015 to 31st December 2019, were laid before the States at its meeting on 24th February 2021[9].

3.7. The actuarial reviews provide future projections to assess the adequacy of contribution rates and the sustainability of the Funds based on the latest financial information in respect of the Funds and using a set of economic and demographic assumptions. The projections have a 60 year time horizon from 2020 to 2080.

3.8. The actuarial reviews of both Funds confirm that further measures will be required in the coming years to ensure the sustainability of the Funds in the longer term.

The Guernsey Insurance Fund

3.9. The actuarial review of the Guernsey Insurance Fund showed that the Fund had a balance equivalent to 4.7 times annual expenditure in 2019. GAD has calculated that the Guernsey Insurance Fund will be exhausted by 2039 unless something is done to address this matter.

3.10. Currently, the target is to hold a balance in the Fund of at least twice annual expenditure. Using the principal assumptions, it has been calculated that the Class 1 contribution rate (which represents the combined contribution of employers and employees to the Guernsey Insurance Fund) will need to increase to 11.3% from January 2022 to target a balance of twice annual

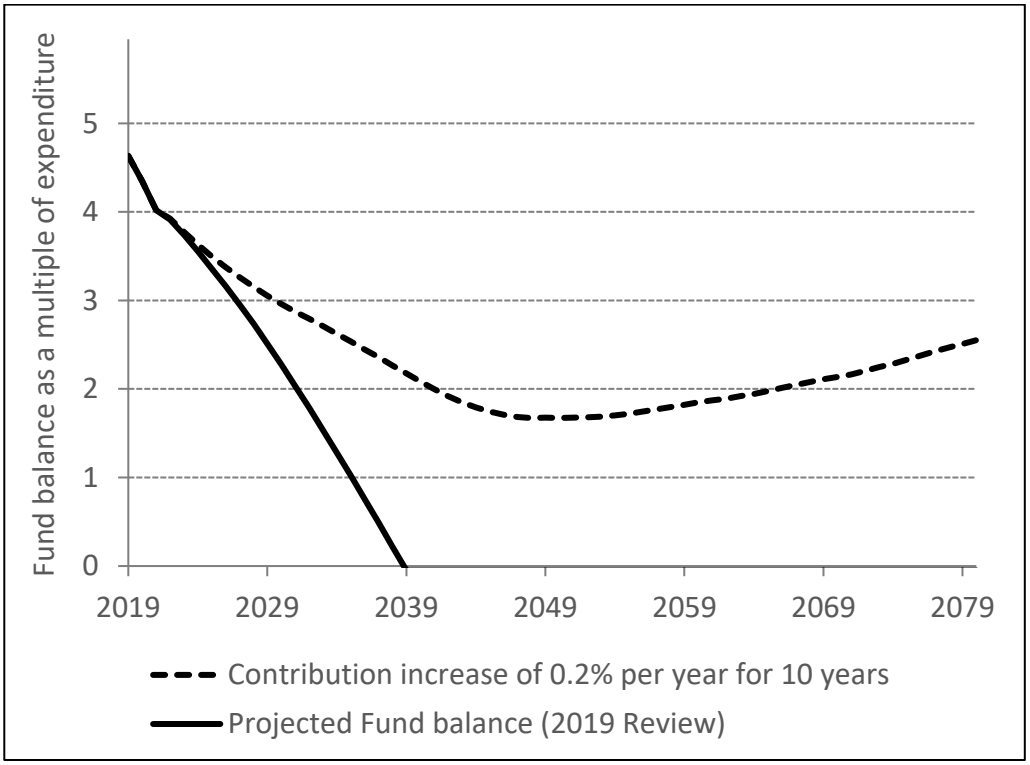
9 Guernsey Insurance Fund – Actuarial Review as at 31st December 2019 and Long-term Care Insurance Fund – Actuarial Review as at 31st December 2019 (Appendices to Billet d'État V of 2021)

expenditure in 2080. This compares with the anticipated rate from 2022 of 9.55%[10], so an increase of 1.75% overall.

3.11. Following careful consideration of a variety of contribution scenarios, the Committee is proposing to increase employer and employee contribution rates to the Guernsey Insurance Fund by 0.1% each (i.e. 0.2% overall for class 1 contributors) per year for ten years, and to increase contribution rates for self-employed persons and non-employed persons under pension age (pensioners do not contribute to the Guernsey Insurance Fund) by 0.2% each per year for ten years.

3.12. The projections show that, under this scenario, by 2080, income less expenditure would be sufficient to allow the balance of the Fund to grow relative to expenditure. However, it is worth noting that the balance of the Fund will drop below the target buffer of two times annual expenditure for a period of time. This is shown in Figure 1 below.

Figure 1 – Projected balance of the Guernsey Insurance Fund with and without the proposed contribution increase



[10] This anticipated rate is based on the contribution allocations approved by the States following consideration of the Policy & Resources Committee's Policy Letter entitled 'Reform of Health Care Funding' (Billet d'État No. X of 2019, Article VII)

The Long-term Care Insurance Fund

3.13. The States resolved to note, in August 2020, following debate of the Policy Letter entitled 'Supported Living and Ageing Well Strategy – Extending the life of the Long-term Care Insurance Scheme'[11], that if the foregoing propositions were approved (which they were), and future benefit rates were maintained in line with the same methodology, it was estimated that the contribution rate necessary to ensure the sustainability of the Long-term Care Insurance Fund would need to increase by 0.9%, taking it from 1.8% to 2.7% for people under pension age and from 1.9% to 2.8% for people above pension age.

3.14. The States also noted that, if the States agreed that the Long-term care Insurance Scheme should be extended to incorporate care provided at home (which was given in principle approval by the States), the estimated contribution rate necessary to ensure the sustainability of the Long-term Care Insurance Fund, referred to above, would need to increase by a further 0.4%, taking it to a total of 3.1% for people under pension age and 3.2% for people above pension age (i.e. a 1.3% increase). Further, the States directed the Committee to propose, in this Policy Letter, an increase in the contribution rates of up to 1.3%, with effect from 1st January 2022, if the Tax Review did not identify measures to ensure the long-term stability of the Fund.

3.15. This figure of 1.3% was based on modelling done when the SLAWS Policy Letter was being prepared. This has since been superseded by the results of the actuarial review covering the period 2015 to 2019 (inclusive). Figure 2 overleaf shows that if the scope of the Long-term Care Insurance Scheme and the level of contribution rates into the Fund remain unchanged, the balance of the Fund is projected to be exhausted in 2053. This is brought forward to 2038 if the scope of the Long-term Care Insurance Scheme is expanded to cover the provision of care at home.

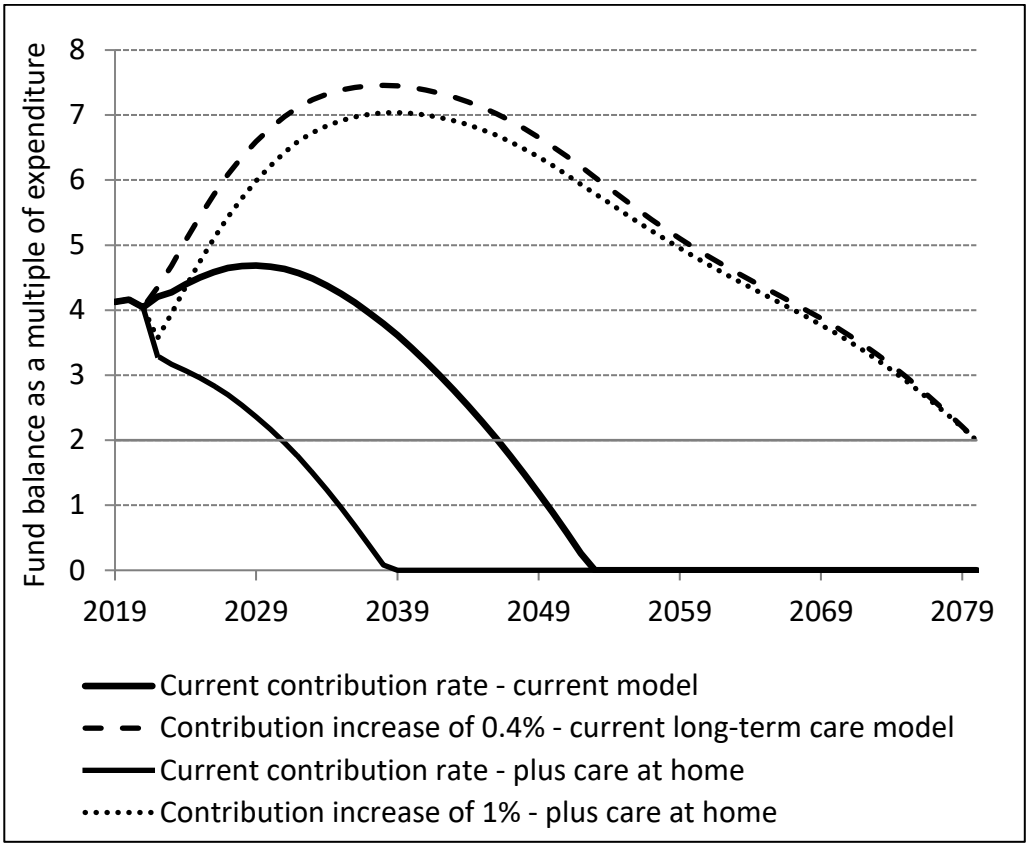
3.16. GAD calculated that, if the Long-term Care Insurance Scheme was extended to cover the provision of care delivered at home, the percentage contribution rates would need to increase by 1% to make the Long-term Care Insurance Fund sustainable in the long-term. Based on the current model of long-term care funding (i.e. excluding the provision of care at home), the actuarial review projected that a contribution rate increase of approximately 0.4% would be adequate to target a fund balance of at least twice annual expenditure in 2080.

3.17. The upper line in Figure 2 shows that, if contribution rates are increased by 0.4%, the target of having a Fund balance of twice annual expenditure by 2080 is projected to be achieved. The dotted line directly below the upper line

11 Supported Living and Ageing Well Strategy: Extending the Life of the Long-term Care Insurance Scheme (Billet XVI of 2020, Article V)

shows the effect on the Fund balance of extending the Long-term Care Scheme to cover the provision of care at home as well as increasing contribution rates by a further 0.6% (i.e. 1% above current rates).

Figure 2 – Projected progress of the balance of the Long-term Care Insurance Fund based on various scenarios



3.18. The Committee is therefore proposing a gradual increase in contribution rates of 0.1% per year for all contribution classes, except employers (who do not contribute to the Long-term Care Insurance Fund), over a period of four years until the target of 0.4% is reached in 2025.

3.19. In view of the foregoing, the current percentage contribution rates and proposed contribution rates for all Classes of contributors over the next ten years are shown in Table 1 overleaf.

Table 1 – Current and proposed contribution rates for 2022 to 2031

	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031
Class 1	**13.2%**	**13.5%**	**13.8%**	**14.1%**	**14.4%**	**14.6%**	**14.8%**	**15.0%**	**15.2%**	**15.4%**	**15.6%**
Employer	6.6%	6.7%	6.8%	6.9%	7.0%	7.1%	7.2%	7.3%	7.4%	7.5%	7.6%
Employee	6.6%	6.8%	7.0%	7.2%	7.4%	7.5%	7.6%	7.7%	7.8%	7.9%	8.0%
Class 2											
Self-employed	11.0%	11.3%	11.6%	11.9%	12.2%	12.4%	12.6%	12.8%	13.0%	13.2%	13.4%
Class 3: Non-employed											
under pension age	10.4%	10.7%	11.0%	11.3%	11.6%	11.8%	12.0%	12.2%	12.4%	12.6%	12.8%
over pension age	3.4%	3.5%	3.6%	3.7%	3.8%	3.8%	3.8%	3.8%	3.8%	3.8%	3.8%

3.20. If Propositions 1 and 2 are approved, the effect from 1st January 2022 will be to take the current contribution rates from 6.6% to 6.7% for employers, 6.6% to 6.8% for employees (i.e. a combined Class 1 contribution 13.5%), 11.0% to 11.3% for self-employed people, 10.4% to 10.7% for non-employed people under pension age, and 3.4% to 3.5% for non-employed people over pension age.

3.21. The estimated cost to General Revenue of increasing the employers' contribution rate by 0.1% in 2022 is £225,000-£250,000. However, it is noted that this measure alone will increase overall revenue to the Guernsey Insurance Fund in 2022 by an estimated £1.22m. The estimated additional cost to General Revenue of increasing the employers' contribution rate to 7.6% in year ten of the plan (i.e. in 2031) is £2.2m-£2.5m. An impact analysis of the increase in social security contributions by 2031, consistent with that included in the Tax Review, is shown in Figures 3 and 4 and Tables 2 and 3 overleaf.

3.22. This analysis includes an assumption that Income Support households will be compensated for any increase in their contributions, because the assessment is calculated on net income, which reduces the average impact for some low-income households, at a cost of between £0.5m-£1m per year by 2031. The application of an allowance for non-employed people under pension age and all people over pension age also means that the application of increases for those groups is more progressive than it is for employed or self-employed people.

3.23. As it is only the increase to the Long-term Care Insurance Fund (+0.4%) that is applied to those over pension age (they do not contribute to the Guernsey Insurance Fund), this means that 97% of the revenue raised is from working age people and employers, as shown in Table 2 below.

Figure 3 – Net impact on households by household income (%)

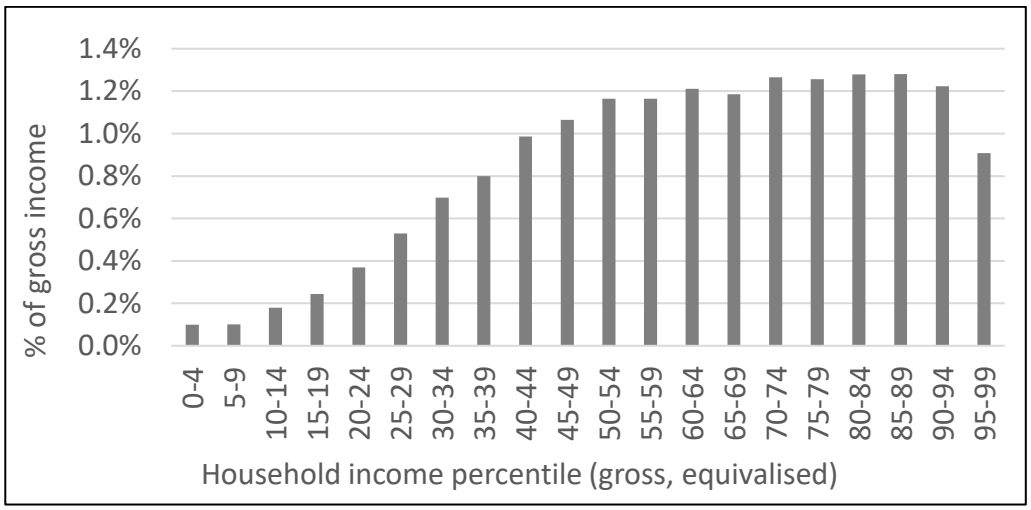


Figure 4 – Net impact on households by household income (£)

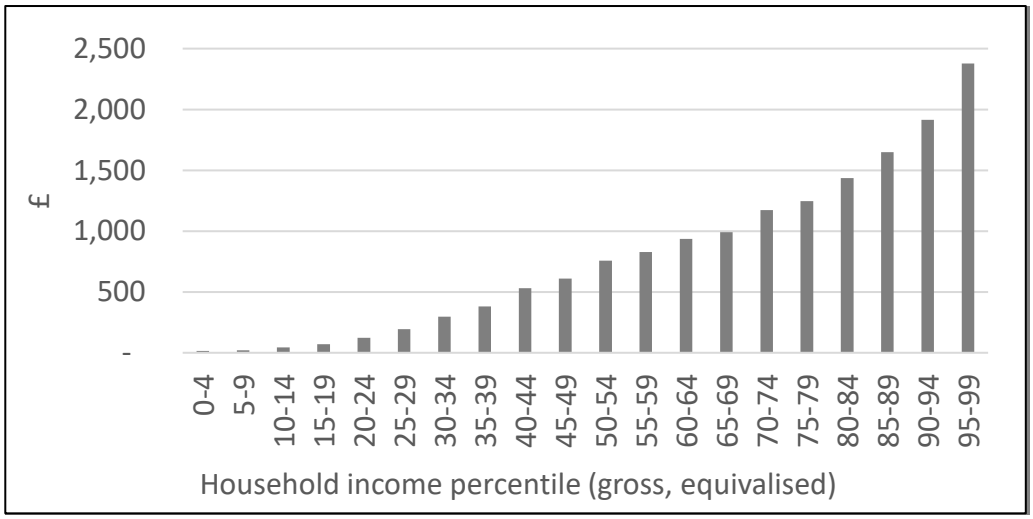


Table 2 – Estimated revenue raised from proposed contribution increases for various contributors

	Estimated revenue raised	**Percentage**
Working age people	£21m	62%
Pensioners	£1m	3%
Employers	£12m	35%
Total	**£34m**	**100%**
Estimated cost to income support	£0.5m - £1m	-

Table 3 – Impact of proposed contribution increases on different types of household, shown as a percentage according to gross, equivalised household income percentile

	Household income percentile (gross, equivalised) (%)																			
	0-4	5-9	10-14	15-19	20-24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-64	65-69	70-74	75-79	80-84	85-89	90-94	95-99
One adult 16-64	0.3	0.4	0.7	0.7	0.5	0.8	1.0	1.2	1.4	1.4	1.4	1.4	1.4	1.4	1.4	1.4	1.4	1.4	1.4	1.2
One adult 16-64 with child(ren)	0.2	0.2	0.4	0.7	0.8	0.9	1.1	1.1	1.3	1.3	1.4	1.4	1.3	1.5	1.3	1.4	1.4	1.5	1.4	1.1
One adult 65 and over	0.0	0.0	0.0	0.0	0.2	0.2	0.2	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.4	0.3	0.4	0.4	0.3
Two adults 16-64 with child(ren)	0.3	0.1	0.4	0.5	0.9	1.0	1.3	1.3	1.4	1.4	1.4	1.4	1.4	1.4	1.4	1.5	1.5	1.4	1.3	1.0
Two adults 16-64	0.2	0.5	0.7	0.8	0.7	0.9	1.1	1.1	1.2	1.4	1.4	1.4	1.4	1.4	1.4	1.4	1.4	1.4	1.5	1.2
Two adults 65 and over	0.0	0.0	0.0	0.0	0.1	0.2	0.2	0.2	0.2	0.3	0.3	0.3	0.3	0.3	0.3	0.4	0.3	0.3	0.4	0.3
Two adults one 16-64 one 65 and over	0.1	0.2	0.3	0.3	0.4	0.5	0.6	0.6	0.8	0.8	0.8	0.9	0.9	0.9	0.9	0.9	0.9	0.7	0.9	0.7
Grand Total	**0.1**	**0.1**	**0.2**	**0.2**	**0.4**	**0.5**	**0.7**	**0.8**	**1.0**	**1.1**	**1.2**	**1.2**	**1.2**	**1.2**	**1.3**	**1.3**	**1.3**	**1.3**	**1.2**	**0.9**

PART 2: INCOME

4. Proposed contribution rates and limits for 2022

Proposed contribution rates for 2022

4.1. The percentage contribution rates proposed for 2022 are set out in Tables 4, 5 and 6 below and overleaf, alongside the rates for 2021. These tables also show how the contribution income from each class will be split between the Guernsey Insurance Fund, the Long-term Care Insurance Fund and the Guernsey Health Service Fund (expected to be renamed the Guernsey Health Service Allocation with effect from 1st January 2022).

Table 4 – Current contribution rates, proposed contribution rates for 2022, and the proportions of income split between the funds for employed persons (Class 1)

Employed persons (Class 1)	2021	2022
Employer	**6.6%**	**6.7%**
Guernsey Insurance Fund	5.0%	6.7%
Guernsey Health Service Fund/Allocation	1.6%	-
Long-term Care Insurance Fund	-	-
Employee	**6.6%**	**6.8%**
Guernsey Insurance Fund	3.5%	3.05%
Guernsey Health Service Fund/Allocation	1.3%	1.85%
Long-term Care Insurance Fund	1.8%	1.9%
Combined	**13.2%**	**13.5%**
Guernsey Insurance Fund	8.5%	9.75%
Guernsey Health Service Fund/Allocation	2.9%	1.85%
Long-term Care Insurance Fund	1.8%	1.9%

Table 5 – Current contribution rates, proposed contribution rates for 2022, and the proportions of income split between the funds for self-employed persons (Class 2)

Self-employed persons (Class 2)	2021	2022
Totals	**11.0%**	**11.3%**
Guernsey Insurance Fund	6.5%	7.55%
Guernsey Health Service Fund/Allocation	2.7%	1.85%
Long-term Care Insurance Fund	1.8%	1.9%

Table 6 – Current contribution rates, proposed contribution rates for 2022, and the proportions of income split between the funds for non-employed persons (Class 3)

Non-employed persons (Class 3)	2021	2022
Under pension age	**10.4%**	**10.7%**
Guernsey Insurance Fund	5.7%	6.8%
Guernsey Health Service Fund/Allocation	2.8%	1.9%
Long-term Care Insurance Fund	1.9%	2.0%
Over pension age	**3.4%**	**3.5%**
Guernsey Insurance Fund	-	-
Guernsey Health Service Fund/Allocation	1.3%	1.3%
Long-term Care Insurance Fund	2.1%	2.2%

4.2. The changes to the splits largely arise from resolution 11b made by the States on 13th June 2019, following debate of the Policy & Resources Committee's Policy Letter entitled 'Reform of Health Care Funding'[12]. The States agreed that the allocation of contributions to the Guernsey Insurance Fund, the Guernsey Health Service Fund and the Long-term Care Insurance Fund be as set out in table 6.1 of that report, which is appended to this Policy Letter at Appendix 1. Appendix 2 shows how the figures in Table 6.1 of the Reform of Health Care Funding Policy Letter have been adjusted to take account of the contribution rate increases proposed by the Committee for 2022.

4.3. It should be noted that the above changes in the contribution rates will be reflected in changes to the percentage allocations to the Long-term Care Insurance Fund and the Guernsey Health Service Allocation.

4.4. This reallocation of contribution income, whereby more contribution income is allocated to the Guernsey Insurance Fund and less to the Guernsey Health Service Allocation than is currently allocated to the Guernsey Health Service Fund, allows the General Revenue grant to the Guernsey Insurance Fund (currently 14.7% of contribution income) to be withdrawn (in accordance with Resolution 11a following the debate on Article VII of Billet d'État X of 2019). The purpose of this is to avoid what would otherwise be a flow of General Revenue in both directions: one being a transfer from overall contribution collections by way of a Guernsey Health Service Allocation and the other being an inward transfer of a grant from General Revenue to the Guernsey Insurance Fund. The effect of this will be that the Guernsey Insurance Fund will be funded entirely from contribution income and investment returns.

4.5. The relevant section in the Social Insurance (Guernsey) Law, 1978, relating to the grant is planned to be repealed from 1st January 2022 when the Health

[12] Reform of Health Care Funding (Billet d'État X of 2019, Article VII)

Service Benefit (Amendment and Miscellaneous Provisions) (Guernsey) Law, 2021, is planned to come into force.

Proposed contribution earnings and income limits, non-employed income allowance and voluntary contribution rates for 2022

4.6. The Committee is recommending that all contribution earnings and income limits, the non-employed income allowance and the overseas voluntary contribution rates for self-employed and employed persons are increased by approximately 2.4%, in accordance with the uprating policy set out in paragraph 2.1. Tables 7, 8 and 9 below and overleaf show the effects of this increase for all contributor classes, compared with the 2021 limits and rates.

Table 7 – Class 1 contribution limits and rates for 2022 compared to 2021

Class 1 – Employed persons	**2021**	**2022**
Upper Earnings Limit:		
Weekly	£2,955.00	**£3,027.00**
Monthly	£12,805.00	**£13,117.00**
Lower Earnings Limit:		
Weekly	£148.00	**£152.00**
Monthly	£641.33	**£658.67**
Weekly rate (employee):		
Maximum	£195.03	**£205.84**
Minimum	£9.77	**£10.34**
Weekly rate (employer):		
Maximum	£195.03	**£202.81**
Minimum	£9.77	**£10.18**

Table 8 – Class 2 contribution limits and rates for 2022 compared to 2021

Class 2 – Self-employed persons	**2021**	**2022**
Annual Earnings Limit:		
Upper	£153,660.00	**£157,404.00**
Lower	£7,696.00	**£7,904.00**
Weekly rate:		
Maximum	£325.05	**£342.05**
Minimum	£16.28	**£17.18**
Overseas voluntary contribution	£111.69	**£114.37**

Table 9 – Class 3 contribution limits and rates for 2022 compared to 2021

Class 3 – Non-employed persons	2021	2022
Annual Income Limit:		
Upper	£153,660.00	**£157,404.00**
Lower	£19,240.00	**£19,760.00**
Allowance (under and over pension age)	£8,695.00	**£8,904.00**
Weekly rate (under pension age):		
Maximum	£289.93	**£305.57**
Minimum	£21.09	**£22.34**
Weekly rate (over pension age):		
Maximum	£94.78	**£99.95**
Minimum	£6.89	**£7.31**
Overseas contribution (weekly)	£101.03	**£103.45**
Voluntary contribution (weekly)	£21.09	**£22.34**
Special rate non-employed (weekly)	£21.09	**£22.34**

4.7. Employers, employees, and self-employed people whose earnings are at, or above, the lower earnings limit, will be liable to pay contributions on all of their earnings up to the relevant upper earnings limit, at the percentage rates set out in Table 1.

4.8. With effect from 1st January 2021, self-employed and non-employed individuals pay contributions based on their current year earnings/income rather than from two years prior, as was previously the case. This is part of the ongoing transformation programme to streamline the collection of tax and contributions. Customers were also able to elect to be assessed on a current year basis in 2020, if their income had fallen as a result of COVID-19.

4.9. Self-employed and non-employed contributors are liable to pay contributions at the maximum rate, unless an application is made to pay earnings-related contributions (if self-employed) or income-related contributions (if non-employed). People with income at some point between the upper and lower earnings/income limits (as appropriate) pay pro-rata.

4.10. There are two categories of non-employed contributions:

- Non-employed adults under pension age are liable to pay full percentage rate contributions to cover social insurance, health service and long-term care liabilities, based on their personal income.
- Non-employed people over pension age are liable to pay a lower rate of contributions which go towards funding the specialist health insurance scheme and the long-term care insurance scheme.

4.11. Where a non-employed person's annual income is below the lower income limit, that person will be exempt from the payment of contributions. However, this could affect future entitlement to the States pension for those people who are under pension age. A voluntary contribution, which counts towards States pension, can be paid by, or on behalf of, non-employed people under pension age, with personal income below the lower income limit. For self-employed and non-employed people living outside of Guernsey and Alderney, a voluntary contribution may be paid, and this is charged at an overseas rate.

4.12. The voluntary class 3 contribution rate for people living in Guernsey and Alderney is calculated by multiplying the Guernsey Insurance Fund element of the non-employed contribution rate for people under pension age (6.8% for 2022, as shown in Table 6) by the lower annual income limit and then dividing the sum by 52 to obtain a weekly amount of the contribution. The formula used in this calculation is set out in section 8(4) of the Social Insurance (Guernsey) Law, 1978[13]. When the non-employed allowance was introduced, it was set at a value that would produce a minimum weekly amount payable which aligned with the voluntary class 3 contribution rate. The reason for this was two-fold. Firstly, it was important to ensure that a person with income below the lower annual income limit would not be required to pay an amount higher than a person who had income at or above the lower annual income limit. Secondly, it also prevents an opportunity where a person might arrange their circumstances so that they are liable to pay whichever is the lower amount.

4.13. As explained in paragraphs 4.2 and 4.3, as a result of resolution 11b arising from the debate of the June 2019 Reform of Health Care Funding Policy Letter, the splits of contribution income to the Funds are expected to be adjusted from January 2022. This has the effect that the Guernsey Insurance Fund element of the non-employed contribution rate, when added to the Committee's proposed contribution increase of 0.2%, moves from 5.7% to 6.8%, as shown in Table 6.

4.14. The reason for highlighting this is because this figure is used to calculate both the voluntary class 3 contribution rate and is linked to the level at which the non-employed class 3 allowance is set, as explained in 4.12 above. In applying the usual formula to calculate the allowance, as shown in Appendix 3, this unusually high increase in the Guernsey Insurance Fund only contribution rate has the unintended consequence of causing the non-employed allowance to decrease to £7,202, when compared to the 2021 allowance of £8,695.

13 The Social Insurance (Guernsey) Law, 1978 (consolidated text)

4.15. The Committee is uncomfortable with this unintended consequence of the change in the split of contribution rates to the Funds, as a reduction in the non-employed allowance would mean that, combined with the increased contribution percentage rates proposed for 2022, a non-employed person would be required to pay a higher rate of contribution on more of their income. The Committee does not wish for an anomaly in the calculations to have this impact of 'double hitting' this group of contributors, and therefore proposes to simply uprate the non-employed allowance by 2.4%, in line with the uprating policy for contribution rates. This takes the allowance to £8,904 for 2022.

4.16. In doing this, the maximum and minimum weekly amounts payable by non-employed people with income above the lower income limit, are affected. This is because they are calculated by deducting the allowance from the upper or lower income limits, as appropriate, then multiplying by the relevant percentage rate (10.7% for under pension age and 3.5% for over pension age) and finally dividing by 52 to obtain a maximum and minimum weekly figure payable (as shown in Appendix 3). This proposed adjustment of the allowance then causes the minimum weekly amount payable to differ from the voluntary class 3 contribution rate. As explained in paragraph 4.12, these two rates should align.

4.17. In order to ensure that the allowance can be set at a level that the Committee deems to be appropriate going forwards, the Committee proposes that the voluntary class 3 contribution rate is simply aligned with the minimum weekly amount payable by a non-employed person under pension age. The Committee is of the view that it is acceptable to move away from the formula described in paragraph 4.12 when calculating the voluntary contribution rate. This is because a non-employed person, who is under pension age, will contribute into the Long-term Care Insurance Fund and the Guernsey Health Service Allocation, as well as the Guernsey Insurance Fund. Therefore, it is proposed to amend section 8(4) of the Social Insurance Law accordingly.

4.18. A special rate non-employed contribution is payable by insured people who would normally rely upon their employee contribution record for their contribution credit. The rate of this contribution is aligned with the voluntary contribution rate.

PART 3: EXPENDITURE – CONTRIBUTORY BENEFITS

5. Expenditure financed by the Guernsey Insurance Fund

5.1. The Committee is recommending that benefits funded from the Guernsey Insurance Fund are increased by 2.4%, in line with the States-approved uprating policy.

5.2. The proposed new weekly rates of benefit, effective from 3rd January 2022, are set out in Table 10 below. These rates and grants apply to people who have fully satisfied the contribution conditions. Reduced rates of benefit are payable on incomplete contribution records, down to threshold levels, after which no benefit is payable.

Table 10 – Proposed and current rates of social insurance benefits

Weekly paid benefits	**2021**	**2022**
Old age pension		
Insured person	£228.37	**£233.85**
Increase for dependent wife[14]	£114.39	**£117.14**
Total	£342.76	**£350.99**
Survivor's benefits		
Widowed parent's allowance	£240.16	**£245.92**
Bereavement allowance[15]	£206.50	**£211.46**
Maternal health allowance, newborn care allowance, and parental allowance	£228.83	**£234.29**
Unemployment benefit, sickness benefit, and industrial injury benefit	£168.07	**£172.13**
Incapacity benefit	£201.95	**£206.78**
Industrial disablement benefit (100%)[16]	£184.03	**£188.45**
One off grants:		
Maternity grant and adoption grant	£421.00	**£431.00**
Death grant	£657.00	**£673.00**
Bereavement payment	£2,074.00	**£2,124.00**

5.3. If the proposals for benefit rates are approved, the 2022 estimated expenditure from the Guernsey Insurance Fund will be £171.3m (2021 Forecast: £169.1m), as shown in Table 11 overleaf.

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14 For people whose marriages took place before 1st January 2004, and who reached pension age before 1st January 2014.

15 Widow's pension is also payable at this rate. New applications cannot be made but there are still historic cases in payment.

16 Lower rates are payable based on degree of disability.

5.4. This estimate includes:

- the proposed 2.4% increase in the general rate of benefits (2021: 2.6% increase),
- an anticipated increase in the number of pension claims as a result of the aging demographic,
- an anticipated increase in the number of people claiming unemployment benefit during the COVID-19 pandemic,
- other policy decisions previously approved by the States, such as increasing pension age.

5.5. Benefits paid from the Guernsey Insurance Fund are statutory entitlements based, almost wholly, on the number of contributions paid. States pension expenditure accounts for over 85% of the total benefit expenditure of the Guernsey Insurance Fund. As of 1st July 2021, there were 18,727 people in receipt of a pension from Guernsey (1st July 2020: 18,566). Pension expenditure is increasing due to larger numbers of people reaching pension age, but it is also affected by lower mortality rates, meaning that people are enjoying longer retirements, with many more people living into and beyond their 80s. The increasing of the States pension age, which started from 1st January 2020, will have the effect of slowing this increase in expenditure. Pension age is increasing by two months every ten months, until it reaches age 70 by 2049.

5.6. Table 11 below shows annual benefit and administration expenditure for the Guernsey Insurance Fund for the years 2018 to 2020, the budget forecast for 2021 and an estimate for 2022.

Table 11 – Summary of expenditure for the Guernsey Insurance Fund

	2018 Actual £m	**2019 Actual £m**	**2020 Actual £m**	**2021 Forecast £m**	**2022 Budget £m**
States Pension	123.5	128.7	133.9	139.4	144.4
Incapacity	8.6	8.8	9.5	10.4	10.7
Sickness	4.1	4.5	4.7	4.4	4.7
Parental	2.3	2.5	2.6	2.6	2.6
Travelling Allowance Grant	2.8	2.5	2.5	3.2	-
Bereavement	1.8	1.8	1.7	2.0	2.0
Unemployment	0.9	0.9	2.1	1.4	1.0
Industrial	0.9	1.0	0.9	0.9	1.0
Total benefit expenditure	**144.9**	**150.7**	**157.9**	**164.3**	**166.4**
Administration	4.6	4.4	4.3	4.8	4.9
Total expenditure	**149.5**	**155.1**	**162.2**	**169.1**	**171.3**

5.7. The Travelling Allowance Grant has been removed from the budget for 2022, in line with a resolution following the debate of the Reform of Health Care Funding Policy Letter. This directed that the responsibility for the provision of the grant be transferred to the Committee *for* Health & Social Care.

Updates on States pension policy

5.8. This section provides a brief update on States Resolutions relating to the States pension.

5.9. The negotiation of a reciprocal social security agreement on pensions between Guernsey and Latvia entered into force on 1st June 2021. The Agreement allows partial pensions to be paid on relatively small numbers of contributions made in either jurisdiction. This is where insufficient contributions have been paid to qualify for a minimum rate pension in one jurisdiction, but if the contribution records of both jurisdictions were combined, the threshold would be met. The agreement also allows pension entitlements earned through contributing to the Latvian system to be paid to pensioners residing in Guernsey. (Guernsey already pays pensions overseas without the necessity of a reciprocal agreement).

6. Expenditure financed by the Long-term Care Insurance Fund

6.1. The Long-term Care Insurance Fund pays benefits to assist with the fees for private residential and nursing homes.

6.2. Long-term care benefits are uprated by RPIX, which for June 2021 was 2.3%. The proposed benefit rates set out in this section are based on this uprating figure, with the exception of the co-payment, which is mid-way through a planned uplift to £280.00, in 2020 terms.

Co-payment (personal contribution) from person in care

6.3. Under the long-term care insurance scheme, it is a condition of entitlement to benefit that the person in care should make a contribution, known as the co-payment. It should be noted that the personal contribution, plus the cost of care funded by the Long-term Care Insurance Fund sets the level of fees to be charged for accommodation in States-run homes and long-stay wards. This includes the Corbinerie (or Lighthouse) Wards and the long-stay beds at the Mignot Memorial Hospital in Alderney.

6.4. Following debate of the August 2020 Policy Letter entitled 'Supported Living and Ageing Well Strategy: Extending the Life of the Long-term Care Insurance

Scheme'[17], the States agreed that the combination of the long-term care benefit and co-payment was insufficient to meet the cost of providing care and accommodation and ensure the stability of the private care market. It was agreed that the grant and co-payment should be increased to reflect this, with the co-payment amount increased by £20.00 to £229.37 with effect from October 2020. The States also resolved that the co-payment should increase further to £280.00 (in 2020 terms) by January 2023, that being the estimated cost of living expenses and accommodation.

6.5. A further Policy Letter[18], considered by the States in March 2021, outlined proposals for the increments and timeframe within which the co-payment would be increased to £280.00 (in 2020 terms). An increment was applied with effect from 5th July 2021, taking the co-payment to £242.06 per week, with further increments, due every six months in January and July, taking into account annual inflationary changes, until the final adjustment in January 2023. Based on June 2021 RPIX figure of 2.3%, the target amount of the co-payment should be adjusted to £286.44 per week, noting that this target will need adjusted again based on the June 2022 RPIX figure.

6.6. This Policy Letter recommends the increments to take effect on 3rd January 2022 and 4th July 2022. Table 12 below shows this, along with the estimated increment for January 2023, prior to adjustment for inflation.

Table 12 – Previous, current and proposed co-payment rates

Co-payment increment dates	Rate	Increment
6th January 2020	£209.29	Q2 2019 RPIX
5th October 2020	£229.37	£20.08
5th July 2021 (current rate)	£242.06	£12.69
3rd January 2022 (proposed rate)	£256.83	£14.77
4th July 2022 (proposed rate)	£271.67	£14.84
2nd January 2023 (prior to adjustment for inflation)	£286.44	£14.77

6.7. In addition to the long-term care benefit payment and the personal contribution by the individual, many people in private care homes will be required to pay additional fees set by the homes. These 'top-up fees' are paid by approximately two thirds of those in care. Any beds available without the need to pay a top-up are known as 'States-rates beds'. Table 13 overleaf explains the breakdown of funding, for information.

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17 Supported Living and Ageing Well Strategy: Extending the Life of the Long-term Care Insurance Scheme (Billet d'État XVI of 2020, Article V)

18 Implementation of approved rate of Long-term Care co-payment (Billet d'État VIII of 2021, Article X)

Table 13 – Overview of weekly long-term care benefit and fees (2021 values)

Element of funding		Cost	Paid by
Type of care	Residential	£521.00	Long-term Care Insurance Fund
	Residential (dementia/EMI)	£681.00	
	Nursing	£940.00	
Personal contribution (co-payment) (from 5th July 2021)		£242.06	Resident (or income support)
Top-up fees (homes may charge top-up fees above the States approved rate)		Discretionary	Resident

Long-term care benefit rates

6.8. The Committee recommends that the rates of long-term care benefit be increased by 2.3%, with effect from 3rd January 2022, as set out in Table 14.

Table 14 – Proposed and current weekly rates of long-term care benefit

	2021	2022
Residential care benefit	£521.00	**£532.98**
Residential – dementia (Elderly mentally infirm)	£681.00	**£696.64**
Nursing care benefit	£940.00	**£961.59**

Respite care benefit

6.9. People needing respite care in private sector residential or nursing homes are not required to pay a co-payment. The Long-term Care Insurance Fund pays instead. This is to acknowledge the value of occasional investment in respite care in order to allow the person concerned to remain in their own home for as long as practicable. It also acknowledges that people having respite care continue to bear the majority of their own household expenditure at the same time. The respite care benefits therefore, are the sum of the co-payment and the residential care benefit with or without residential-dementia care, or nursing care benefit, as appropriate.

6.10. The Committee recommends that the rates of respite care benefit are set as shown in Table 15 overleaf, with effect from 3rd January 2022, and also proposes the change that will be required to the respite rates with effect from 4th July 2022 as a result of the increment being proposed in respect of the co-payment at that time.

Table 15 – Proposed and current weekly rates of respite care benefit

	Current rate (w.e.f. 5th July 2021)	Proposed rate (w.e.f. 3rd January 2022)	Proposed rate (w.e.f. 4th July 2022)
Residential care respite benefit	£763.06	**£789.81**	**£804.65**
Residential-dementia respite benefit	£923.06	**£953.47**	**£968.31**
Nursing care respite benefit	£1,182.06	**£1,218.42**	**£1,233.26**

Summary of expenditure financed by the Long-term Care Insurance Fund

6.11. Table 16 below summarises the impact of the proposed benefit rates on projected expenditure from the Long-term Care Insurance Fund for 2022, along with the 2021 revised forecast at the time of writing, compared with the actual expenditure figures for 2018-2020.

Table 16 – Summary of expenditure for the Long-term Care Insurance Fund

	2018 Actual £m	2019 Actual £m	2020 Actual £m	2021 Forecast £m	2022 Budget £m
Residential care	10.6	10.7	10.4	11.9	12.4
Nursing care	9.0	9.7	10.0	10.8	11.2
Total benefits expenditure	**19.6**	**20.4**	**20.4**	**22.7**	**23.6**
Administration	0.3	0.4	0.4	0.3	0.5
Total	**19.9**	**20.8**	**20.8**	**23.0**	**24.1**

The future of long-term care funding

6.12. In August 2020, the States debated the Policy Letter entitled 'Supported Living and Ageing Well Strategy: Extending the Life of the Long-term Care Insurance Scheme'. The analysis undertaken in the development of the Policy Letter illustrated that, while some care homes were profitable, there was a decline in profitability generally across the sector, but particularly so in the not-for-profit homes, with none of them achieving a 'reasonable surplus', and in fact four of the six incurred material operating deficits after rent payments.

6.13. To address this, a substantial increase in the grants paid from the Long-term Care Insurance Fund towards the cost of care was implemented in October 2020, along with a phased increase in the co-payment amount paid by individuals in respect of their accommodation and living costs. This was intended to ensure that the combined States rate equalled the mid-point of the benchmark set through the LaingBuisson analysis, which calculated the reasonable operating costs of efficient care homes. It is, however, recognised

that the ongoing challenges surrounding the management of the COVID-19 pandemic will have increased the cost of care home provision since this earlier analysis was carried out.

6.14. Increasing the benefit rates was a first step, while recognising the potential for efficiencies to be made within the operating models of some of the homes. Alongside this, it was identified that addressing the future demand for long-term care services by developing policies to support and encourage private investment in the care sector, may provide the opportunity to increase the capacity and stability of the sector. Again, this needs to be further considered in the light of the changing operational context arising from COVID-19; the staffing challenges being experienced as a result of Brexit; together with rising supply costs and supply chain disruption. Difficulties in recruiting care staff across the public and private care sectors are currently being experienced, as well as a shortage of care beds, meaning that there is a lack of capacity within the current model of care to meet demand.

6.15. Further reviews of the appropriateness of benefit rates are due to be undertaken every five years alongside the actuarial review of the Long-term Care Insurance Fund. It is envisaged that this will include a consideration of the sustainability of the Fund and impact on General Revenue expenditure through Income Support provided to those accessing long-term care services, as well as the affordability of care at an individual level.

6.16. In particular, resolution 9, following the debate of the August 2020 Policy Letter, agreed in principle the introduction of a higher rate of benefit for exceptional and complex cases. The Committees *for* Employment & Social Security and Health & Social Care were directed to develop suitable eligibility and assessment criteria for access to this benefit by no later than December 2020. While some policy work has been undertaken, this requires further work in the context of the wider pressures on care home capacity. It is a challenging matter to address, but an important one.

6.17. Resolution 11, following the debate of the August 2020 Policy Letter, agreed in principle that the Long-term Care Insurance Scheme should be expanded to cover the cost of providing care in people's own homes, with the Committee and the Committee *for* Health & Social Care directed to develop detailed implementation plans by June 2022. The Committee *for* Health & Social Care provides community care free of charge to the service-user, but in addition there are also a number of private care providers whose services are not presently eligible for funding from the Long-term Care Insurance Scheme. This urgently needs to be addressed, but the biggest challenge is resourcing an increased offering of community care, with difficulties in recruiting care staff at present.

6.18. Effectively, introducing assessment criteria to provide care in people's own homes, as well as for exceptional and complex cases within a care home setting, adds further complexity and cost to the Long-term Care Insurance Scheme. The splitting of care costs (funded by the States) and accommodation costs (funded by the individual), which has largely been implemented already, will assist with developing a fair model for the provision of long-term care, regardless of whether that is in a care home setting or a person's own home.

6.19. The development of personal budgets (referred to in resolution 1j following debate of the February 2016 Supported Living and Aging Well Strategy Policy Letter[19]) would enable people to choose whether to receive long-term care at home or in a residential or nursing home, depending on their level of need and personal circumstances, and the availability of care. In order to implement the increased provision of care at home, as well as a complex case rate within care home settings, it has been identified that a digital solution needs to be developed. The current manual assessment process is not considered suitable due to the need for an increased number of assessments for long-term care and the added complexity of providing additional benefit options and rates.

6.20. This resolution relating to care at home will not be quick or simple to implement. This is due to the resourcing challenges mentioned above in recruitment to community care roles, as well as policy and clinical time to develop the proposals, and the staffing resources required to commission care through a new electronic system. However, the current levels of demand for care make this an urgent and core component of modernising long-term care provision within the Bailiwick.

Review of the residency conditions for long-term care benefit

6.21. Although the Committee is of the view that increasing the level of contribution income is likely to be the key way of ensuring the financial sustainability of the Long-term Care Insurance Fund, the Committee has been considering the potential for reducing benefit expenditure in a way that does not deny anyone the care that they require.

6.22. The Committee is exploring two potential policy changes which may result in a modest level of savings to the States overall. This work supports the policy objective set out under Priority 4 of the Government Work Plan[20] to sustain government finances.

6.23. Firstly, the Committee has been considering whether the current residency tests required to qualify for long-term care benefit should be changed with

19 The Supported Living & Ageing Well Strategy (Billet d'État III of 2016, Volume II, Article XIV)

20 Government Work Plan 2021-2025 (Billet d'État XV of 2021, Article I)

the aim of reducing the likelihood that people who have paid minimal social security contributions will qualify for full long-term care benefit.

6.24. Section 3(2) of the Long-term Care Insurance (Guernsey) Law, 2002 ('the Long-term Care Law') sets out the conditions to be satisfied to be entitled to benefit. The conditions are that the person concerned:

a) is a person in need of long-term care in accordance with the provisions of section 9 of the Long-term Care Law[21],

b) is ordinarily resident and present in Guernsey[22],

c) has at any time been ordinarily resident and present in Guernsey for a continuous period of five years,

d) has, immediately before the date in respect of which benefit is claimed, been ordinarily resident and present in Guernsey for a period of not less than twelve months, and

e) in the cases of care benefit and respite care benefit, is a resident of an approved care establishment which is not wholly owned by the States.

6.25. The Committee is concerned that people who may have lived in Guernsey for a continuous period of five years during their childhood, who return to Guernsey in later life, can qualify for long-term care benefit (subject, of course, to meeting the other criteria) after one year of residence following their return to the island. If the person was not working, and had income below the lower income limit, they would qualify for this valuable benefit (£940 per week for nursing care benefit in 2021, or £48,880 per year), having made no contributions to the Long-term Care Insurance Fund during their life.

6.26. The States were aware, when they approved proposals for the Long-term Care Insurance Scheme in February 2001[23], that while the scheme would be funded from contributions and a States Grant[24], eligibility would be residence based, and therefore, many people who received benefit would have paid minimal contributions to the Scheme, and perhaps no contributions at all.

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21 Section 9 of the Long-term Care Law states:
"9. (1) For the purposes of this Law and subject to the provisions of any regulations made under subsection (2), "a person in need of long-term care" is a person who –
(a) by reason of bodily or mental disability, or a combination of bodily and mental disability, is so disabled that he may suffer harm whilst undertaking the normal activities of daily life without substantial assistance or attention from another person, or
(b) is not so disabled, but in respect of whom there is good reason to believe that he would suffer such harm without such assistance or attention."

22 References to Guernsey in this section also include Alderney, Herm and Jethou

23 Long-term Care Insurance Scheme for Guernsey & Alderney (Billet d'État III of 2001, Article VII)

24 The States grant was removed with effect from 7 January 2008

6.27. The cost of care in a residential or nursing home is high, but the risk of requiring such care is relatively low. Table B.1 (page 40) in the most recent Actuarial Review of the Long-term Care Insurance Fund[25] shows that, under age 80, well under 1% of the age group are receiving permanent nursing care. Even at age 90-95, it only reaches 5-15% depending on age and sex. Further, with the possible exception of dementia care, claim duration is relatively short. The aim of the approach taken was to pool risk and spread the costs of long-term care across the whole community, recognising that not everyone in the community is liable to pay contributions (i.e. if their earnings/income is below the lower earnings/income limit, as appropriate).

6.28. Given the current financial constraints, and in light of the agreed objective to 'sustain government finances' under Priority 4 of the Government Work Plan, the Committee is minded to introduce a requirement for the period of residence assessed, in respect of criteria c) above, to be during adulthood only, as is the case under the equivalent scheme in Jersey. This will increase the likelihood that a person claiming long-term care benefit will have contributed towards the Long-term Care Insurance Scheme.

6.29. The Committee is also minded to change the requirement for the five year period of residence to be continuous, to aggregate, on the basis that a person who has resided in Guernsey during their adult life for five years continuously, or in aggregate, is likely to have contributed an equal amount to the Long-term Care Insurance Scheme. However, further work is necessary to determine the financial implications of this potential policy change.

6.30. Secondly, the Committee is investigating the option of introducing (for new claims only) a sliding scale of benefit entitlement based on length of residency in Guernsey as an adult, assessed at the point at which the applicant enters a care home, along the following lines:

- no entitlement for less than five years aggregate residency in Guernsey
- 25% of the full rate of benefit for individuals who have been ordinarily resident in Guernsey for an aggregate period of 5-10 years
- 50% of the full rate of benefit for individuals who have been ordinarily resident in Guernsey for an aggregate period of 10-15 years
- 75% of the full rate of benefit for individuals who have been ordinarily resident in Guernsey for an aggregate period of 15-20 years
- 100% of the full rate of benefit for individuals who have been ordinarily resident in Guernsey for an aggregate period of 20+ years

[25] Long-term Care Insurance Fund – Actuarial Review as at 31 December 2019 (Appendix to Billet d'État V of 2021)

6.31. The majority of individuals do pay social security contributions during their adult lives. Therefore, while not moving to a contributions-based scheme per se, the above policy changes are expected, in most cases, to translate to less benefit being paid to people who have contributed less and more benefit being paid to people who have contributed more. This is considered fairer for the general population of contributors.

6.32. A review of current claimant data (as a proxy for future claimants) has shown that most of the current cohort of claimants would qualify for 100% of benefit if this system were applied to them. It is important to be clear that the Committee is strongly of the view that the potential new rules should only apply to new claimants upon implementation of amending legislation. The Committee would envisage that current claimants would have 'grandfather rights', meaning that they would retain entitlement to the full rate of long-term care benefit. That said, it is anticipated that a modest level of savings would be achieved that would reduce, to some extent, any future increase in contribution rates to the Long-term Care Insurance Fund.

6.33. Of course, consideration needs to be given to the complex interaction that this policy change would have with income support. This currently provides a financial safety net for people who cannot afford their long-term care co-payment and/or their personal expenses, and, in a few cases where a person does not qualify for long-term care benefit, their care home fees up to the relevant benefit limitation. If a sliding scale of benefit entitlement is introduced, as briefly outlined above, people who require long-term care in a residential or nursing home who are not entitled to the full rate of long-term care benefit by virtue of not having resided in Guernsey for an aggregate period of 20 years or more, may need to be provided with financial support through income support to cover the funding gap. This will increase costs to General Revenue, but it is anticipated that there would be a saving to States expenditure as a whole, given that some people will have sufficient income or capital resources to cover the funding gap themselves.

6.34. In 2001, when the States approved proposals from the former Social Insurance Authority to introduce a Long-term Care Insurance Scheme, the States resolved, amongst other things, that the Supplementary Benefit (Implementation) Ordinance 1971, as amended (now the Income Support (Implementation) Ordinance, 1971[26]), be further amended to provide for the value of the former residence to be ignored in the means tested assessment for assistance towards the co-payment and/or personal allowance, whether in the private or public sector. This amendment took effect upon the implementation of the Long-term Care Insurance Scheme in 2002.

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26 Income Support (Implementation) Ordinance, 1971 (consolidated text)

6.35. The rationale for this decision, as explained by the Authority at the time, was that it believed that there was an implicit commitment with the introduction of the Scheme that people should not be forced to sell the family home to pay for long-term residential or nursing care.

6.36. The Committee is of the view that in the current financial context and particularly in the context of the aforementioned potential policy change, which could lead to more income support claims being made, this provision is too generous. Taxpayers are essentially subsidising a person who has considerable wealth tied up in their property.

6.37. It is envisaged that, if a sliding scale of benefit entitlement was introduced, there would also need to be a change in income support policy, whereby the capital value of a person's home would be taken into account in the income support means test if they, their spouse or partner, or their dependant(s)[27] were no longer living in the property. In practice, this would mean that a person who owned their own home, who was living alone prior to their move into a care home, would not qualify for financial support through income support if they could not afford the balance of their care home fees. In this scenario, the person concerned would need to release some of the value of their home either by renting it out, which would assist with housing provision, by releasing some of the equity in their home, if such a scheme were available locally, or by selling their property. The Committee is of the view that this is entirely reasonable in the circumstances. Further consideration is needed in respect of whether the amount of money a person would be expected to pay in this scenario should be capped.

6.38. Further policy work is required to fully develop this proposal in order to ensure that the aims of the policy will be achieved, without unintended consequences. This policy work includes, but is not limited to:

- further financial modelling work to determine the potential level of cost savings to the Long-term Care Insurance Fund and increased costs to General Revenue (through income support);
- further consideration of the interaction with income support and the development of policy proposals to mitigate the transfer of financial liability from the Long-term Care Insurance Fund to General Revenue, in particular in respect of taking into account the value of a person's home in the income support means test; and
- consultation with key stakeholders such as the Policy & Resources Committee, the Committee *for* Health & Social Care and care homes.

[27] The definition of 'dependant' will need to be considered as part of the further policy work to be undertaken if Propositions 15 and 16 are approved.

6.39. At this stage, the Committee is seeking in principle approval of the States in respect of the aforementioned policy options, prior to carrying out further policy work. Subject to States approval of Propositions 15 and 16, the Committee will return to the States with detailed policy proposals at the earliest opportunity, but no later than October 2022. Subject to the approval of Proposition 2 of the Tax Review[28], this savings opportunity will be examined by the Committee in the context of the States-wide exercise to identify and develop options to reduce expenditure or mitigate the anticipated increase in the cost of public services.

7. Expenditure financed by the Guernsey Health Service Fund

7.1. As responsibility for the benefits provided under the Health Service (Benefit) (Guernsey) Law, 1990, has transferred to the Committee *for* Health & Social Care, reports and recommendations on those benefits will no longer form part of this annual Policy Letter.

7.2. At the request of the Committee *for* Health & Social Care, the Committee notes that the Committee *for* Health & Social Care intends to set the prescription charge per item of pharmaceutical benefit at £4.30, from 1st January 2022. The Committee *for* Health & Social Care has advised as follows:

> "Over 1.5 million prescription items for drugs and medicines were dispensed as pharmaceutical benefit in Guernsey and Alderney in 2020, at a cost of £19.87 million. Approximately two thirds of all such prescription items issued were exempt from a prescription charge. For the 532,716 paid prescriptions, prescription charges paid by islanders amounted to £2.19 million.
>
> The prescription charge has been set at £4.10 for the last two years given a decision in 2020 to freeze the rate for 2021 in order to allow the Committee *for* Health & Social Care opportunity to undertake a more wide-ranging review, which would reconsider the prescription charge as part of the broader piece of work in relation to the model and funding of primary and community care. The review has not been able to proceed as intended due to the impact of the COVID-19 pandemic and subsequent second lockdown.
>
> In the meantime, and despite the work of the Prescribing Support Unit, the cost of drugs and medicines continues to rise due to increasing demand. This makes the anticipated review

[28] The Tax Review (Lodged on 20th August 2021 – P.2021/97)

more important than ever to ensure sustainability of the funding model and the Committee is progressing this as a priority.

This review will retain the fundamental principle that patients should be able to obtain drugs, some of which cost hundreds or thousands of pounds, for a standard prescription charge, unless exempt from paying altogether, but give consideration to:

- How such a standard rate should be set;
- Whether there should be an annual 'prescription cap' for people who need multiple/repeat prescriptions;
- Whether, through the rearrangement of funds, some Pharmaceutical Benefit could be used (in conjunction with wider changes in funding) to provide certain patient groups with a designated number of low-cost appointments per year for the purpose of obtaining repeat prescriptions; and
- Whether the more effective targeting of Pharmaceutical Benefit could release funding to support the introduction of NICE approved drugs.

However, while this work is ongoing, and given the wider pressures on the States of Guernsey's finances, the Committee consider that it is unsustainable to retain the current prescription charge of £4.10. In 2020 alone, the average net ingredient cost per dispensed (drug) prescription item dispensed in 2020 was £10.01, up 4.8% on 2019 and it shows no sign of reducing this year.

Therefore, in order to take account of the above, the Committee *for* Health & Social Care intends to increase the charge for 2022 by twenty pence by Regulation, bringing the prescription charge to £4.30 per item."

PART III: FINANCIAL POSITION

8. Financial position of the Guernsey Insurance Fund

8.1. The recent financial performance of the Guernsey Insurance Fund is shown in Table 17 below. It is estimated that the operating deficit will be £38.3m in 2022 (2021 forecast: £39.4m deficit). The Fund has now been in deficit, before investment returns are taken into account, since 2009.

8.2. The operating deficit arises when expenditure on benefits and administration exceeds contribution income and the States grant. This shortfall is met by drawing down the Fund's reserves and, although the drawdown has been planned, it results in the number of years' expenditure cover remaining in the Fund reducing. It also reduces the extent to which investment income can contribute to the financing of the scheme.

8.3. An economic crisis, such as the one that is being faced as a result of the COVID-19 pandemic, will cause the Fund to go deeper into deficit as contribution income reduced in 2020 and is not expected to get back to pre-pandemic levels during 2021, while expenditure on sickness/incapacity and unemployment benefits has increased substantially.

Table 17 – Financial performance of the Guernsey Insurance Fund

	2018 Actual £m	2019 Actual £m	2020 Actual £m	2021 Forecast £m	2022 Budget £m
Income	125.9	130.6	127.4	129.7	133.0
Expenditure	(149.5)	(155.1)	(162.2)	(169.1)	(171.3)
Operating deficit	(23.6)	(24.5)	(34.8)	(39.4)	(38.3)
Investment returns	(33.1)	52.8	(3.6)	19.5	20.0
Net surplus/(deficit) for the year	(56.8)	28.3	(38.4)	(19.9)	(18.3)
Net assets at 1st January	769.3	712.5	740.8	702.4	682.5
Net assets at 31st December	712.5	740.8	702.4	682.5	664.2
Expenditure cover in years	4.8	4.8	4.3	4.0	3.9

9. Financial position of the Long-term Care Insurance Fund

9.1. The financial performance of the Long-term Care Insurance Fund is shown in Table 18 overleaf. The 2022 budget estimates that the operating surplus will increase to £6.8m (2021 forecast: £5.5m surplus).

Table 18 – Financial performance of the Long-term Care Insurance Fund

	2018 Actual £m	2019 Actual £m	2020 Actual £m	2021 Forecast £m	2022 Budget £m
Income	28.0	28.3	27.9	28.6	30.9
Expenditure	(19.9)	(20.8)	(20.8)	(23.1)	(24.1)
Operating surplus	8.1	7.4	7.1	5.5	6.8
Investing activities	(3.9)	6.1	-	2.5	2.5
Net surplus/(deficit) for the year	4.2	13.5	7.1	8.0	9.3
Net assets at 1st January	75.0	79.2	92.7	99.8	107.8
Net assets at 31st December	79.2	92.7	99.8	107.8	117.1
Expenditure cover in years	4.0	4.5	4.8	4.7	4.9

10. Investment returns

10.1. The reserves of the Guernsey Insurance Fund are invested jointly in a portfolio supervised by a Sub-Committee and advised by investment professionals. Implementation of a revised strategic asset allocation was completed in 2018. The revised allocation reduced the level of risk in the portfolio. The expected return of the investments on a 10 year forward view is LIBOR plus 3.7%. Actual performance in the calendar year 2020 was -0.24%. For the period January to June 2021, there has been a positive return of 7.3%.

10.2. On 24th March 2021, the States considered the joint Policy Letter from the Policy & Resources Committee and the Committee *for* Employment & Social Security entitled "Improving the Governance of the States of Guernsey's Investment Funds"[29] and resolved, inter-alia, to establish a States' Investment Board as a sub-committee of the Policy & Resources Committee and that responsibility for the management of the Common Investment Fund be transferred from the Committee *for* Employment & Social Security to that Committee. This transfer took place on 15th July 2021 when the Machinery of Government (Transfer of Functions) Ordinance, 2021[30], came into force.

11. Compliance with Rule 4 of the Rules of Procedure

11.1. Rule 4 of the Rules of Procedure of the States of Deliberation and their Committees sets out the information which must be included in, or appended to, propositions laid before the States. In accordance with Rule 4(1)(a), it is confirmed that propositions 1 and 2, in respect of increasing contribution rates to the Guernsey Insurance Fund and the Long-term Care Insurance Fund,

29 Improving the Governance of the States of Guernsey's Investment Funds (Billet d'État VIII of 2021, Article IV)

30 The Machinery of Government (Transfer of Functions) Ordinance, 2021

align with the priority set out in the Government Work Plan[31] to 'sustain government finances' under the 'reshaping government' workstream.

11.2. In accordance with Rule 4(1)(b), it is confirmed that the Committee has engaged with the Policy & Resources Committee throughout the preparation of this Policy Letter, except in respect of paragraphs 6.21 to 6.39 which were a late addition to the Policy Letter. 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. She has advised that there is no reason in law why the Propositions should not be put into effect. In accordance with Rule 4(1)(d), estimates of the financial implications to the States of carrying the proposals into effect is set out in paragraph 3.20 and sections 8 and 9 of this Policy Letter.

11.3. In this Policy Letter, the Committee has set out its proposals for benefit rates and contribution rates and limits for 2022. In accordance with Rule 4(2)(a), it is confirmed that the propositions accord with the Committee's purpose:

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

11.4. In accordance with Rule 4(2)(b), it is confirmed that the Propositions have the unanimous support of the Committee.

Yours faithfully

P J Roffey
President

H L de Sausmarez
Vice-President

T L Bury
S J Falla
J A B Gollop

M R Thompson
Non-States Member

R J Le Brun
Non-States Member

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31 The Government Work Plan 2021 – 2025 (Billet d'État XV of 2021, Article I)

APPENDIX 1

Table 6.1 from the Policy & Resources Committee's Policy Letter entitled 'Reform of Health Care Funding'[32] below shows how the split of contribution income will change when the Health Service Benefit (Amendment and Miscellaneous Provisions) Law, 2021[33] comes into force on 1st January 2022.

Table 6.1: Contribution Allocations (based on 2018 accounting data)

		Current contribution rate	2018 value (£m)	Proposed contribution rate	Estimated value (£m)
Combined contribution rate	Employers	6.6%	£76.3	6.60%	£76.3
	Employee	6.6%	£75.8	6.60%	£75.8
	Self-employed	11.0%	£16.8	11.00%	£16.8
	Non-employed	10.4%	£3.0	10.40%	£3.0
	>65	3.4%	£6.9	3.40%	£6.9
	Total		**£178.7**		**£178.7**
Guernsey Insurance Fund	Employers	5.0%	£57.8	6.60%	£76.3
	Employee	3.5%	£40.2	2.95%	£33.9
	Self-employed	6.5%	£9.9	7.35%	£11.2
	Non-employed	5.7%	£1.6	6.60%	£1.9
	>65	0.0%	£0.0	0.0%	£0.0
	Revenue Grant		£16.2		£0.0
	Less Travelling Allowance Grant		-£2.5[1]		
	Total		**£123.2**		**£123.3**
GHSF/ Guernsey Health Service Allocation	Employers	1.6%	£18.5	0.0%	£0.0
	Employee	1.3%	£14.9	1.85%	£21.2
	Self-employed	2.7%	£4.1	1.85%	£2.8
	Non-employed	2.8%	£0.8	1.90%	£0.5
	>65	1.3%	£2.6	1.30%	£2.6
	Total Health Service Allocation				**£27.1**
	Former GIF revenue grant				£16.2
	Plus Travelling Allowance grant		£2.5		
	Total		**£43.5**		**£43.4**
Long Term Care Fund	Employers	0.0%	£0	0.00%	£0.0
	Employee	1.8%	£20.7	1.80%	£20.7
	Self-employed	1.8%	£2.7	1.80%	£2.7
	Non-employed	1.9%	£0.5	1.90%	£0.5
	>65	2.1%	£4.3	2.10%	£4.3
	Total		**£28.2**		**£28.2**

[1] TAG in 2018 was unusually high, with spending increased by atypical demand for emergency medical transfers. 2019 estimates are used instead.

32 Reform of Health Care Funding (Billet d'État X of 2019, Article VII)

33 Health Service Benefit (Amendment and Miscellaneous Provisions) Law, 2021

APPENDIX 2

Table 19 – Current and proposed split of contributions into the Guernsey Insurance Fund

Contribution class	2021	2022		
		Reform of health care funding	Proposed increases	Proposed contribution rates for 2022
Class 1 – Employer	5.00%	6.60%	0.10%	6.70%
Class 1 – Employee	3.50%	2.95%	0.10%	3.05%
Class 2 – Self-employed	6.50%	7.35%	0.20%	7.55%
Class 3 – Non-employed under pension age	5.70%	6.60%	0.20%	6.80%
Class 3 – Non-employed over pension age	0.00%	0.00%	0.00%	0.00%

Table 20 – Current and proposed split of contributions into the Long-term Care Insurance Fund

Contribution class	2021	2022		
		Reform of health care funding	Proposed increases	Proposed contribution rates for 2022
Class 1 – Employer	0.00%	0.00%	0.00%	0.00%
Class 1 – Employee	1.80%	1.80%	0.10%	1.90%
Class 2 – Self-employed	1.80%	1.80%	0.10%	1.90%
Class 3 – Non-employed under pension age	1.90%	1.90%	0.10%	2.00%
Class 3 – Non-employed over pension age	2.10%	2.10%	0.10%	2.20%

Table 21 – Current and proposed split of contributions into the Guernsey Health Service Fund (to become 'Guernsey Health Service Allocation' from 1st January 2022)

Contribution class	2021	2022		
		Reform of health care funding	Proposed increases	Proposed contribution rates for 2022
Class 1 – Employer	1.60%	0.0%	0.0%	0.0%
Class 1 – Employee	1.30%	1.85%	0.0%	1.85%
Class 2 – Self-employed	2.70%	1.85%	0.0%	1.85%
Class 3 – Non-employed under pension age	2.80%	1.90%	0.0%	1.90%
Class 3 – Non-employed over pension age	1.30%	1.30%	0.0%	1.30%

APPENDIX 3

CALCULATION OF CONTRIBUTION RATES

In order to explain how to calculate the class 3 non-employed allowance, voluntary contribution rate and minimum weekly amount payable by a non-employed person under pension age, it is first necessary to set out how contribution rates are calculated from the outset, as they are interlinked and stem from the calculation of class 1 rates.

Class 1 – Employed persons

Class 1 weekly and monthly upper earnings limit

The calculation of the upper weekly earnings limit is the starting point for the calculation of most of the contribution rates and limits set out in Tables 7, 8 and 9 of this Policy Letter. It is set by applying an uplift in line with the uprating policy (2.4% for 2022) to the current class 1 upper weekly earnings limit (£2,955 in 2021). However, due to the way that the contributions computer system works, this figure must be a whole number that can be multiplied by 52 weeks and divided by 12 to obtain a monthly figure, which must also be a whole number, as shown below:

£2,955 + 2.4% = £3,025.92

£3,025.92 is not a whole number, and when rounded to £3,026, it does not result in a whole number when multiplied by 52 and divided by 12. The closest whole number that does this is £3,027, making this the proposed upper weekly earnings limit for 2022. When multiplied by 52 and divided by 12, this generates a monthly upper earnings limit of £13,117.

Class 1 lower weekly and monthly earnings limit

The lower earnings limit is calculated in the same way as the upper earnings limit, except that the computer system does not require the monthly limit to be a whole number. The weekly figure must be rounded to be a whole number before calculating the monthly figure, as shown below:

2021 rate of £148 + 2.4% = £152 when rounded to the nearest whole number.
Monthly rate is £152 x 52 ÷ 12 = £658.67

Weekly full rate contribution rates

The maximum and minimum weekly amounts that an employer or employee would be required to pay are calculated by multiplying the upper or lower weekly earnings limit by the percentage contribution rate for an employer or employee, as shown below:

Maximum employer: £3,027 x 6.7% = £202.81
Maximum employee: £3,027 x 6.8% = £205.84
Minimum employer: £152 x 6.7% = £10.18
Minimum employee: £152 x 6.8% = £10.34

Class 2 – self-employed persons

Class 2 upper and lower annual earnings limits

The class 2 upper annual earnings limit is set by multiplying the class 1 upper weekly earnings limit (£3,027) by 52 weeks, which for 2022 is proposed to be £157,404.

The class 2 lower earnings limit is set by multiplying the class 1 lower weekly earnings limit (£152) by 52 weeks, which for 2022 is proposed to be £7,904.

Weekly full rate contribution rates

The maximum and minimum weekly amounts that a self-employed person would be required to pay are calculated in accordance with Regulation 10(2)(a) of the Social Insurance (Contributions) Regulations, 2000, by multiplying the class 2 upper or lower annual earnings limit by the percentage contribution rate for a self-employed person, and dividing by 52 to obtain a weekly figure, as shown below:

Maximum:	£157,404 x 11.3% ÷ 52	= £342.05
Minimum:	£7,904 x 11.3% ÷ 52	= £17.18

Class 3 – non-employed persons

Class 3 upper and lower annual income limits

The class 3 upper annual income limit is equal to the class 1 upper annual earnings limit x 52, in accordance with section 8(1) of the Social Insurance (Guernsey) Law, 1978. For 2022, this is proposed to be £157,404.

The class 3 lower annual income limit is set by dividing the lower annual earnings limit for class 1 contributors by 40%, in accordance with Regulation 55 of the Social Insurance (Contributions) Regulations, 2000[34], as shown below:

£7,904 ÷ 40% = £19,760

Calculation of the voluntary class 3 contribution rate

Before the maximum and minimum weekly amounts payable by a non-employed person under or over pension age can be calculated, in accordance with Regulation 10 of the Social Insurance (Contributions) Regulations, 2000, the voluntary contribution rate needs to be calculated, as this is used in the calculation of the non-employed allowance.

As explained in paragraph 4.12 of this Policy Letter, the non-employed allowance is used to calculate the maximum and minimum weekly amounts payable by a non-employed person.

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[34] The Social Insurance (Contributions) Regulations, 2000 (consolidated text)

The calculation of the voluntary contribution rate is set out in section 8(4) of the Social Insurance (Guernsey) Law, 1978, and is as follows.

The following acronyms are used in the calculation shown below:
A = non-employed allowance
LIL = class 3 lower income limit (£19,760 for 2022)
VCR = voluntary contribution rate
CPR = contribution percentage rate (10.7% for 2022)
GIF = Guernsey Insurance Fund contribution percentage rate (6.8% for 2022)

$$VCR = \frac{LIL \times GIF}{52 \text{ weeks}}$$

$$VCR = \frac{19{,}760 \times 6.8\%}{52 \text{ weeks}}$$

Voluntary contribution rate = £25.84

Section 8(5) of the Social Insurance (Guernsey) Law, 1978, determines that a special rate of contribution can be paid by a non-employed person who would ordinarily be classed as an employed person, and is aligned with the voluntary contribution rate.

Calculation of the non-employed allowance

In accordance with section 8(2) of the Social Insurance (Guernsey) Law, 1978, the class 3 allowance is determined by Ordinance. As described in paragraph 4.12 of this Policy Letter, it is set at a value that will generate a minimum weekly amount payable by a non-employed person under pension age that equals the voluntary contribution rate. The calculation is shown below.

$$A = LIL - \left(\frac{VCR \times 52 \text{ weeks}}{CPR}\right)$$

$$A = 19{,}760 - \left(\frac{25.84 \times 52 \text{ weeks}}{10.7\%}\right)$$

A = £7,202 when rounded to the nearest whole number

Weekly full rate contribution rates

The weekly full rate maximum and minimum contribution rates for non-employed people are calculated by deducting the non-employed allowance from the upper or lower annual income limit and then multiplying the resultant amount by the percentage contribution rate for a non-employed person under or over pension age, and finally dividing by 52 to obtain a weekly figure, as follows:

Maximum under pension age: (£157,404 - £7,202) x 10.7% ÷ 52 weeks = £309.07
Maximum over pension age: (£157,404 - £7,202) x 3.5% ÷ 52 weeks = £101.10
Minimum under pension age: (£19,760 - £7,202) x 10.7% ÷ 52 weeks = £25.84
Minimum over pension age: (£19,760 - £7,202) x 3.5% ÷ 52 weeks = £8.45

Calculations according to adjusted non-employed allowance

The calculations set out above show how the adjustment of the split of contribution income into the Guernsey Insurance Fund, resulting from resolution 11b following the June 2019 debate of the Reform of Health Care Funding Policy Letter impacts on the calculation of the voluntary contribution rate, and thus the level at which the non-employed allowance is set. As explained in paragraph 4.15 of the Policy Letter, the Committee is uncomfortable with the rate of the allowance decreasing compared with the 2021 allowance because of its double impact on non-employed people. The Committee therefore proposes to set the allowance for 2022 by uprating it from the 2021 allowance in line with the uprating policy for contributions of 2.4%. This equals £8,904 (£8,695 + 2.4% and rounded to the nearest whole number).

When calculating the maximum and minimum weekly amounts payable by non-employed people based on this adjusted allowance figure, the rates are as follows:

Maximum under pension age: (£157,404 - £8,904) x 10.7% ÷ 52 weeks = £305.57
Maximum over pension age: (£157,404 - £8,904) x 3.5% ÷ 52 weeks = £99.95
Minimum under pension age: (£19,760 - £8,904) x 10.7% ÷ 52 weeks = £22.34
Minimum over pension age: (£19,760 - £8,904) x 3.5% ÷ 52 weeks = £7.31

The minimum weekly amount payable by a non-employed person under pension age is calculated to be £22.34, which differs from the voluntary contribution rate calculated according to section 8(4) of the Social Insurance (Guernsey) Law, 1978. As explained in paragraph 4.12 of this Policy Letter, it is important that these two figures align. Therefore, it is necessary to amend the calculation set out in the above Law so that it enables the rates to align now that the allowance is to be set using a different formula.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *FOR* EMPLOYMENT & SOCIAL SECURITY

CONTRIBUTORY BENEFITS AND CONTRIBUTION RATES FOR 2022

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

13th September 2021

Dear Sir

Preferred date for consideration by the States of Deliberation

In accordance with Rule 4(3) of the Rules of Procedure of the States of Deliberation and their Committees, the Committee *for* Employment & Social Security requests that 'Contributory benefits and contribution rates for 2022' be considered at the States' Meeting due to commence on 13th October 2021.

In order that contribution rates and limits can be uprated in 2022, it is imperative that the above-named Policy Letter is considered by the States before the end of October. This is due to the system requirements and processes that need to take place before the end of the year, in order that the new rates and limits can be implemented from 1st January 2022, which is the only time of year that contribution rates and limits can be adjusted.

Yours faithfully

P J Roffey
President

H L de Sausmarez
Vice-President

T L Bury
S J Falla
J A B Gollop

M R Thompson
Non-States Member

R J Le Brun
Non-States Member

P.2021/102

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE AND STATES' TRADING SUPERVISORY BOARD

THE AURIGNY GROUP – FINANCIAL SUSTAINABILITY

The States are asked to decide:-

Whether, after consideration of the policy letter 'The Aurigny Group – Financial Sustainability" dated 3rd September, 2021, they are of the opinion:-

1. To note the Air Policy Framework which includes the Shareholder Objectives for Aurigny;

2. To approve the recapitalisation of the Aurigny Group in respect of its cumulative losses up to 31st December, 2020, in the sum of £46.8m in accordance with the provisions of section 6 of that policy letter and in accordance with such terms as the Policy & Resources Committee and the States' Trading Supervisory Board shall deem appropriate;

3. To approve the recapitalisation of the Aurigny Group in respect of its losses for the year-ending 31st December, 2021, in accordance with the provisions of section 6 of that policy letter and in accordance with such terms as the Policy & Resources Committee and the States' Trading Supervisory Board shall deem appropriate;

4. To authorise the Policy & Resources Committee to provide or guarantee overdraft facilities to the Aurigny Group in accordance with the provisions of sections 5 and 6 of that policy letter and on such terms as the Policy & Resources Committee shall deem appropriate.

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

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE AND STATES' TRADING SUPERVISORY BOARD

THE AURIGNY GROUP – FINANCIAL SUSTAINABILITY

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

3rd September, 2021

Dear Sir

1. Executive Summary

1.1 The Aurigny Group[1] maintains lifeline scheduled and medevac air services for the Bailiwick and at no time has that role proved to be more important than during the COVID pandemic. Nevertheless, it has accumulated substantial losses in the five years since it was last recapitalised by the States. This policy letter sets out proposals to recapitalise Aurigny in respect of its accumulated losses up to 2020, which will require an injection of £46.8m into the company, and in respect of its 2021 losses, which are projected to be £16.1m. The States have previously made provision in their Accounts for the prior-year losses made by Aurigny so the recapitalisation will be funded by drawing down this provision, as well as an additional allowance that has been made in the General Revenue Reserve in respect of the 2021 losses.

1.2 Aurigny has developed a new business plan which is based firmly on the presumption that it will become financially self-sustainable by 2023. However, it is acknowledged that there is no realistic prospect of the airline being able to cover from future revenues the losses which have accumulated. **A recapitalisation of the airline needs to be considered and, given that the States have made provision for the historic losses and its projected losses for 2021, doing so would have no net effect on the States' overall financial position.**

[1] The Aurigny Group (hereinafter referred to as Aurigny) is made up of three companies: Cabernet Ltd; Aurigny Air Services Ltd; and, Anglo Normandy Aero Engineering Ltd. The States of Guernsey owns all of the shares in Cabernet Ltd which acts as the holding company for the two other companies and is their sole shareholder.

1.3 In consultation with the Committee *for* Economic Development (C*f*ED) and the States' Trading Supervisory Board (STSB), the Policy & Resources Committee (P&RC) has developed a new Air Policy Framework, which defines the strategic roles and responsibilities of key stakeholders, including Aurigny. It also includes new Shareholder Objectives for Aurigny that have been developed by the STSB in response to the role set out within the Framework for Aurigny.

1.4 Building on the restructuring that has taken place within the airline during the pandemic and the Public Service Obligation (PSO) contract that has now been put in place for its Alderney services, Aurigny has developed a new business plan that is consistent with its new Shareholder Objectives and which also takes into account the recommendations of previous fleet and efficiency reviews commissioned by the States. The plan sets out how Aurigny intends to be an economic and social enabler more efficiently and more sustainably. It is strongly focused on Aurigny becoming financially self-sufficient as it recovers from the pandemic and indicates that it will start returning modest profits from 2023 onwards.

2. Background – Aurigny Historic and Current Funding Arrangements

2.1 Following consideration of a policy letter from the former Treasury & Resources Department (T&RD) in 2015, the States agreed[2], inter alia, to recapitalise Aurigny in respect of its accumulated losses of £19.9m up to 31st December 2014 and its forecast losses of £5.3m for the years 2015 to 2017.

2.2 The policy letter assumed that, by 2018, a new PSO contract for the operation of Aurigny's Alderney services would have been introduced and, from that point, the losses on those services would no longer fall to Aurigny to absorb. The financial projections provided by Aurigny at the time indicated that, from 2018 onwards, it would reach a breakeven position if a PSO contract was in place. That contract was not established until 2021, but in any event, it would not have offset all of Aurigny's losses, which exceeded those projections in the following years. The policy letter did also acknowledge the volatility of the commercial environment within which Aurigny operated. Accordingly, the States also agreed[3] to authorise the T&RD to provide short-term borrowing facilities to Aurigny to ensure its ongoing operation, provided that it reported the details of and reasons for such facilities to the States within 6 months.

2.3 Aurigny's accumulated losses between 2015 and 2020 are set out in Table 1 below:

[2] Resolution 1 of Article XII of Billet d'Etat XX of 2015: Cabernet Ltd - Recapitalisation

[3] Resolutions 2 and 3 of Article XII of Billet d'Etat XX of 2015: Cabernet Ltd - Recapitalisation

Table 1: Aurigny Losses (£m)

2015	2016	2017	2018	2019	2020	**2015-2020**	2021 (forecast)	**TOTAL**
3.2	5.2	5.2	4.9	9.7	28.3	**56.5**	16.1[4]	**72.6**

Accumulated losses are forecast to be £72.6m by the end of 2021. Those losses can be broken down as follows: £30.6m are attributable to the impact of the COVID pandemic in 2020/21; £16.3m are attributable to the operation of its services to Alderney between 2015 and 2020; £5.3m relate to impairment in aircraft values (the majority of which occurred during the pandemic). The balance relates to "general" operational losses. Aurigny's financial performance has been reported to the States each year in their annual Budget Reports, which have on occasion flagged the likely requirement to consider a further recapitalisation in future.

2.4 The net asset position in the balance sheet, which takes into account the balance of the agreed recapitalisation funds, was (£48.1m) at the end of 2020 and is expected to be (£64.2m) at the end of 2021. This includes a net £1.3m of non-cash temporary timing differences that will 'reverse out' in future years which are accounting adjustments arising from the application of Accounting Standard FRS102. These are in respect of the year-end valuation of financial instruments used to fix interest rates for external loan finance to purchase aircraft and forward contracts (commodity and currency) for the purchase of fuel. Therefore, in respect of the losses up to the end of 2020, the recapitalisation required is £46.8m.

2.5 It is acknowledged that the States have previously agreed to provide funding and financing to Aurigny through various other mechanisms, including long-term loans and loan guarantees for aircraft acquisitions and temporary overdraft facilities for operational purposes. The following loans and loan guarantees for aircraft acquisitions have been agreed previously by the States:

- A guarantee of up to £51m for a long-term loan with Royal Bank Scotland International Ltd (RBSI) for the acquisition of the three ATR 72-600 aircraft. Aurigny drew down £48.8m against this facility and the balance now stands at £42.5m following scheduled repayments; and,

- Long term loans totalling £37.5m with the States (using proceeds from the States of Guernsey Bond Issue) for the acquisition of an Embraer 195 and

[4] Projected losses for 2021 are net of payments from the States to Aurigny under the PSO contract for the operation of Alderney air services.

Dornier 228 aircraft. These facilities have been fully drawn as at 31st December, 2020, but the outstanding balance currently stands at £27.6m through scheduled repayments.

It should be stressed that the proposals set out in this policy letter do not relate to the above loans, which will continue to be serviced by the airline's normal trading activities.

2.6 The following overdraft and overdraft guarantees have been agreed previously by the States:

- A temporary overdraft facility with the States to support Aurigny's trading activities. The States have previously authorised[5] the P&RC to provide an overdraft of up to £53m until 31st December, 2021; and,

- A guarantee for an operational loan with RBSI comprising an overdraft facility up to a maximum of £1.25m. The balance drawn against this facility as at 31st December 2020 was £nil;

The proposals set out in this policy letter will effectively enable Aurigny to repay its overdraft facility with the States. The overdraft facility with RBSI would be maintained in order to efficiently manage day-to-day operational cash flow.

3. 2021 – Aurigny Funding Update

3.1 In preparing the financial forecasts for Aurigny for inclusion within the States' 2021 Budget Report, the following assumptions were agreed with the airline:

- By the start of 2021, a testing on arrival scheme would still be in place, but there would be no requirement to self-isolate upon receipt of a negative test result;

- There would be no further lockdowns during 2021;

- A fuller flying programme would be introduced with effect from 1st January, with services and frequencies being built up over the course of the year, but with passenger numbers likely to be 30%-40% lower than 2019.

The 2021 Budget Report acknowledged that there was a considerable risk to Aurigny's forecasts, as there was significant uncertainty around many of the underlying assumptions that were outside of its control. Self-evidently, the assumptions proved to be invalid, with additional lockdowns in both the Bailiwick and the UK during 2021, together with ongoing restrictions on travel.

[5] Resolution 19 of Billet d'Etat XXVI of 2020

3.2 As a result, Aurigny has updated its forecasts for 2021. Its original forecast was for a loss of £14m on its UK services, with an accumulated cash (overdraft) requirement of £53m. As a result of the delay in returning to a fuller flying programme, it is now forecasting a loss of £16.1m and anticipates that it will fully utilise its current overdraft facilities during October.

3.3 Aurigny took the following steps during the pandemic to reduce losses:

- A reduction of 18% in its employee headcount through contract terminations, redundancies and natural attrition;
- A reduction[6] in the size of the fleet;
- The operation of an internal furlough scheme in Guernsey, where all staff have been subject to reductions in their salaries;
- The furloughing of its UK based staff under the UK Government's scheme;
- The pursuit of other flying activity that could contribute positively to fixed overheads, including the Isle of Man airbridge (in 2020) and the Formula 1 charter programme.

3.4 At the request of the States, the airline has been kept in a state of operational readiness to enable it: firstly, to maintain lifeline services to Southampton and Alderney; and, secondly, to ensure it has been able to scale up its operations as quickly as possible and without delay as and when conditions have allowed. As a result, since July, it has supported the Bailiwick's exit from lockdown by quickly and progressively restoring services on all but one[7] of its pre-pandemic routes, including the reinstatement of routes formerly provided by Flybe to Birmingham and Exeter.

3.5 The P&RC has now put in place a PSO contract with Aurigny that secures the operation of Alderney's air services to and from Guernsey and Southampton. The contract sets out the levels of services to be provided and establishes clear limits on the amount that will be paid in return. In consultation with the States of Alderney and, supplemented by comprehensive reporting, the contract provides for a range of control mechanisms to be applied by the parties to achieve a target contract payment of no greater than £2m, with a provision for a

[6] During the course of 2021, Aurigny is returning one ATR72-500 to its lessor and is proceeding with the planned disposal of two Dornier 228 (Classic).
[7] Services to London Stansted remain suspended.

maximum sum of £2.5m[8]. It should be noted that Aurigny's projected losses for 2021 (Table 1 above) take account of payments to Aurigny under this contract.

4. Air Policy Framework

4.1 The Government Work Plan's Priority 3 (delivering the recovery actions) identifies the need to secure transport connectivity and infrastructure as a key area of focus and includes the development of an air links policy in 2021 and support for air route connectivity over the remainder of this political term.

4.2 In tandem with the above, the P&RC has established an Air Policy Framework for the period 2021-26. This has been developed in consultation with the Committee *for* Economic Development (C*f*ED) and the STSB and identifies the roles and responsibilities of key stakeholders to ensure that the Framework can be developed and implemented in a coordinated and cohesive manner. The Framework reviews the air policy challenges facing the Bailiwick. It reviews and updates the States' objectives for air connectivity and sets out a number of policies and initiatives in response to those, including the recapitalisation of Aurigny in 2021. A copy of the Framework is attached as Appendix 1.

4.3 The Framework identifies the strategic role of Aurigny as follows:

"*Aurigny is to maintain reliable air transportation services, in the first instance to protect designated economic, medical, and social lifeline air routes to and from the Bailiwick, and thereafter more broadly to grow air connectivity, directly and through partnership, in a financially sustainable manner. It is expected that Aurigny, as a carrier substantially based within Guernsey, will support the developmental objectives of the States by supporting local employment where practical and financially viable, will forsake a profit motive beyond that needed to be financially self-sufficient in favour of affordable air travel and, where called on by the States but not to the financial detriment of Aurigny, cooperate with the States in terms of route development initiatives.*"

In support of this role, the Framework sets out in priority order three core shareholder objectives for Aurigny that have been established by the STSB, which can be summarised as follows:

- Objective 1 - Provide security of essential routes (Guernsey-Gatwick; Guernsey-Southampton; and, Guernsey-Alderney);
- Objective 2 – Achieve a financial breakeven result during the next 5 years; and,
- Objective 3 - Support the core strategic objectives of the States of Guernsey.

[8] The contract excludes 2021 from being subject to the maximum deficit sum, in recognition of the impact of COVID-19 on the operation of the services.

The full detail around these objectives is set out in the Framework.

4.4 Aurigny has developed a new business plan in response to the Framework and the shareholder objectives set out therein. Details of that plan, which sets out how Aurigny will move to a sustainable financial position, are set out below.

5. Aurigny – Sustainable Business Plan - 2022 Onwards

5.1 In response to the new Air Policy Framework, Aurigny has developed a new business plan that is financially sustainable and demonstrates that it can operate without ongoing taxpayer support unless otherwise expressly agreed by the States through, for example, PSO arrangements akin to those agreed for the Alderney services or support for the development of new routes in accordance with strategies agreed by the States for the Island's economic development. The business plan also takes account of a number of previous reviews and, in particular, the Fleet Review[9] commissioned by the STSB in 2018 and the Efficiency and Benchmarking Review[10] of Aurigny that was commissioned jointly by the STSB and the Scrutiny Management Committee in 2019. An Executive Summary of the business plan is attached as Appendix 2 (given that Aurigny operates in a competitive marketplace, the full business plan is not being published for reasons of commercial confidentiality).

5.2 In moving towards a sustainable financial position, this plan directly confronts the challenges that arise from Aurigny's small scale and size. It analyses and benchmarks the increases in the airline's cost base since the 2015 recapitalisation and, building on the restructuring that has started during the pandemic, identifies steps to further redress those. It is focused on delivering passenger growth and improving the Bailiwick's connectivity by both increasing its own productivity and developing partnerships with other airlines.

5.3 Key elements of the new business plan include:

- Identifying further opportunities to reduce costs and improve efficiency by reducing the size and/or complexity of the current fleet. The measures already taken in this area are now generating recurring combined savings of £1.4m per annum in reduced aircraft lease and salary costs.

  Whilst the structural changes in the aviation market arising from the pandemic will have profound implications for the aviation industry, they may also present opportunities, notably in terms of the fleet structure. The fleet will remain under review to ensure that it is aligned with the prevailing

[9] Article 17 of Billet d'Etat XXVII of 2018: STSB – Aurigny Aircraft Acquisitions (Section 2 – Fleet Review)
[10] Aurigny - Efficiency & Benchmarking Review - States of Guernsey (gov.gg)

commercial environment and levels of passenger demand as the Island emerges from the pandemic.

Significant opportunities to standardise more of Aurigny's operations around its ATR turboprop aircraft would arise in the event that a decision is made in due course to extend the runway at Alderney Airport. Alternatively, if additional slots can be acquired at Gatwick to enable higher frequency ATR services on the route sufficient to meet post-pandemic demand, the requirement to retain the Embraer jet reduces.

Aurigny will also be reviewing ownership structures for the fleet. With the support and assistance of both the P&RC and STSB, it will be investigating the pros and cons of a fleet that achieves a balance between owned and leased aircraft assets, acknowledging that one advantage of leasing is that the airline would no longer bear the risk associated with fluctuations in aircraft values;

- Improving productivity by increasing utilisation of the now smaller fleet without compromising essential connectivity for the Island. This has included the reinstatement of the former Flybe services to Birmingham and Exeter and, looking forward, will include more pursuit of marginal flying activity that can make a positive contribution to fixed overheads, such as the new direct service being introduced to Dublin. These new routes, together with the ongoing operation of the Southampton service in conjunction with Blue Islands, are expected to increase revenues by circa £1.2m per annum;

- A review of the efficiency of the maintenance function, including working practices and support functions. Maintenance currently represents 19½% of Aurigny's total costs, more than double the average for other IATA[11] carriers, so there are opportunities for improvements here both generally and in line with the ongoing simplification of the fleet;

- Improving connectivity for both Guernsey and Alderney and extending the airline's "reach" without adding to net costs by agreeing interline and codeshare arrangements with other carriers. For example, Aurigny is developing an agreement with British Airways that will enable customers to connect with British Airways' flights at Gatwick, Heathrow and Southampton with a single ticket bookable through either carrier. Customers will benefit from reduced Air Passenger Duty charges and Guernsey will benefit from being marketed and visible through British Airways' sales and marketing channels. Aurigny is currently also finalising agreements with one other major international airline and two regional carriers and expects to announce details of those shortly;

[11] IATA – International Air Transport Association

- Reducing overheads by cooperating with other carriers on procurement and to share fixed costs in areas such as ground handling and maintenance. In addition, the interest charges incurred by Aurigny will reduce by circa £400,000 per annum in the event that the proposals set out in this policy letter for the recapitalisation of the airline are approved; and,

- Undertaking more joint work with the local visitor and hospitality sectors, including Visit Guernsey, to promote the Bailiwick and offer flight-inclusive packages, with a particular focus on making use of spare capacity available during the shoulder months.

Aurigny has already identified £3m in increased revenues / reduced costs that can be delivered from the above initiatives, with others still in the pipeline. If account is also taken of the new PSO contract for the Alderney services, then its financial performance can be expected to improve by circa £5m per annum.

5.4 One of the most tangible examples of the new business plan is the co-operation agreement between Blue Islands and Aurigny, which will include the following initiatives: the harmonisation of their schedules between Guernsey, Jersey, Exeter and Birmingham to offer same-day return services; working together to rebuild sustainable flight frequencies between Guernsey and Southampton; and, the establishment of a connecting service between Alderney and Jersey via Guernsey. The agreement will provide more certainty and choice to both Islanders and passengers from the UK, noting that pricing and customer care will continue to be managed by each airline independently to ensure competition remains. Under the agreement, both carriers will share some ground handling and maintenance facilities to reduce costs.

5.5 Table 2 below summarises Aurigny's expected revenue and profit evolution between 2022-25. The forecast has been provided against a backdrop of unprecedented uncertainty around the longer-term effects which the COVID pandemic may have on demand for air travel to and from the Bailiwick, especially within the business sector. It is sensitive to changes in the underlying assumptions around the commercial environment in which Aurigny operates and some of these are also identified below.

5.6 Whilst conservative in its approach, the forecast assumes that testing and self-isolation requirements will gradually reduce and that traffic will continue to recover during 2022. Within that context, the forecast indicates Aurigny will start returning modest profits from 2023 onwards:

Table 2: Aurigny – Forecast Revenue and (Loss)/Profit (£m)[1]

£000s	2022	2023	2024	2025
Revenue	44.6	46.8	47.6	47.6
PSO Income	2.0	2.1	2.2	2.1
Total Revenues	**46.6**	**48.9**	**49.8**	**49.7**
Operating costs	(40.7)	(41.4)	(42.1)	(41.6)
EBITDA[2]	5.9	7.5	7.7	8.1
Depreciation	(5.5)	(5.5)	(5.6)	(6.4)
Interest	(1.8)	(1.7)	(1.5)	(1.4)
(Loss)/Profit	**(1.4)**	**0.3**	**0.6**	**0.3**

Cumulative Projected Loss – 2022-2025: (£200,000)

Notes:
1. Figures do not include allowance for inflation
2. EBITDA – Earnings before Interest, Taxes, Depreciation & Amortisation

5.7 Aurigny's projections are based on a number of modelling assumptions in areas outside of the airline's control which are very difficult to predict in the pandemic environment, including:

- COVID related travel restrictions and self-isolation requirements in Guernsey, the UK and further afield;
- The speed of recovery in passenger demand, notably in the business sector, and the load factors and revenue yields that will be achievable;
- The prevailing competitive environment in both the air and sea markets, together with the associated air route licensing and quasi-open skies arrangements; and
- Jet fuel prices and foreign exchange rates (noting that fuel is purchased in US dollars).

5.8 Aurigny has undertaken sensitivity analyses of a range of different factors that could impact its financial performance over the 4-year forecast period (2022-25) and examples of some of these include:

- A 1% variance in its projected passenger numbers could impact performance by £1.4m;

- A 1% variance in its projected load factors could impact performance by £2m;
- A 1% variance in its projected yields (the average ticket price achieved) could impact performance by £1.9m;
- A movement in the projected fuel price of $10 per metric tonne could impact performance by £236,000; and,
- A movement in the projected US$ exchange rate of 5 cents could impact performance by £500,000.

5.9 It should be noted that, in 2025, Aurigny is forecasting significant planned maintenance expenditure of £9.2m on the Embraer jet. Options for the financing of this expenditure remain under review, noting that this would be a capital expense spread over the remaining anticipated life of the aircraft. In any event, this will be subject to a review of whether the Embraer should be retained within the fleet, which is expected to be completed well before this point.

5.10 The forecast indicates that Aurigny's losses will reduce substantially to £1.4m in 2022 as the airline continues its recovery from the pandemic and that, from 2023, it anticipates returning modest profits. Over the forecast period, those profits will almost offset the loss anticipated in 2022.

5.11 Acknowledging the unpredictable environment within which Aurigny operates and its susceptibility to external forces, the P&RC is proposing that it should have delegated authority to provide Aurigny with (or to guarantee) overdraft facilities to manage its cash-flow and ensure it has sufficient liquidity to address such challenges in the short-term and adjust its business plan accordingly.

5.12 In consultation with the C*f*ED and the STSB, the P&RC will be reviewing annually the air connectivity and investment objectives set out in the Air Policy Framework. This process will provide an opportunity to review any variances in Aurigny's forecast financial performance and any policy interventions that may be required from the States as a result.

6. Aurigny – Recapitalisation

6.1 The States have previously made provision in their Accounts for the prior-year losses made by Aurigny so the recapitalisation will be funded by drawing down this provision, as well as an additional allowance that has been made in the General Revenue Reserve in respect of the 2021 losses.

6.2 Whilst Aurigny's new business plan is based firmly on the presumption that it will become financially self-sustainable by 2023, it is acknowledged that there is no realistic prospect of the airline being able to repay from future revenues the losses which have accumulated. **A recapitalisation of the airline needs to be considered and, given that the States have made provision for the historic**

losses and its projected losses for 2021, doing so would have no net effect on the States' overall financial position.

6.3 A recapitalisation has been anticipated in previous Budget Reports and is identified as an initiative in the Air Policy Framework. Therefore, the P&RC and the STSB are proposing that the States adopts a phased approach to the recapitalisation of the airline as follows:

- Firstly, a recapitalisation in respect of £46.8m in respect of its accumulated losses to 31 December 2020, after excluding net £1.3m of non-cash temporary timing differences that will 'reverse out' in future years which are accounting adjustments arising from the application of Accounting Standard FRS102; and

- Secondly, in respect of its projected losses for the year-ending 31st December, 2021, a recapitalisation in the sum of its loss (currently projected to be £16.1m), again net of any adjustments in respect of Accounting Standard FRS102, which can only be determined at the end of the financial year. Given that this element of the recapitalisation is based on a projection, it is proposed that the States delegates authority to the P&RC to determine the recapitalisation required for this period upon the finalisation of Aurigny's accounts for 2021.

The recapitalisation will be implemented through a share issue and share subscription arrangement, with the States - acting through the STSB in its role as shareholder - undertaking to purchase additional shares in Aurigny equivalent in value to the recapitalisation sum. Whilst it is anticipated that the first phase of the recapitalisation should be completed by the end of 2021, the P&RC will need to continue to provide short-term overdraft facilities to Aurigny in Q4, given that the airline is currently projecting that it will be fully utilising its current facilities in October of this year and the recapitalisation in respect of the 2021 losses will not take place until mid-2022.

6.4 During the course of this process, it is intended that the companies within the Group will be re-organised. The current holding company structure reflects a historic focus of Anglo Normandy Engineering (ANE) as an independent entity generating revenues from engineering and maintenance services to third parties. However, ANE has for some years now had a focus dedicated almost entirely on providing services to Aurigny, essentially operating as a division of the airline. It no longer needs to be held and maintained as an independent maintenance and repair organisation. Therefore, the three existing entities (Cabernet Ltd, ANE Ltd and Aurigny Ltd) will be combined into one under the Aurigny name in order to reduce the associated administrative overheads. It is anticipated that this process will be complete by early 2022 and the precise detail of the recapitalisation will take account of this proposed Group restructure.

7. Compliance with Rule 4

7.1 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.

7.2 In accordance with Rule 4(1):

a) The Propositions contribute to Priority 3 of the Government Work Plan (delivering recovery actions), which identifies the need to secure transport connectivity and infrastructure as a key area of focus and includes the development of an air links policy in 2021 and support for air route connectivity over the remainder of this political term;

b) The Policy & Resources Committee has consulted with the Committee *for* Economic Development and the States' Trading Supervisory Board on the development of the Air Policy Framework that provides the basis for the Propositions. It also received representations from external stakeholders in developing the Framework. The States' Trading Supervisory Board has consulted with Aurigny in the development of the airline's shareholder objectives and the Propositions for the recapitalisation of the airline;

c) The Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications; and,

d) The financial implications to the States of Guernsey of carrying out the Propositions are set out in sections 5 and 6 of this policy letter.

7.3 In accordance with Rule 4(2):

a) The Propositions relate to:

- firstly, the duties of the Policy & Resources Committee to advise the States on fiscal policy, economic affairs and the financial and other resources of the States;

- and, secondly, the States' Trading Supervisory Board's duties to carry out the States' role as shareholder in Aurigny; and,

b) It is confirmed that the Propositions accompanying this policy letter are supported unanimously by the Policy & Resources Committee and the States' Trading Supervisory Board.

Yours faithfully

Policy & Resources Committee:	**States' Trading Supervisory Board:**
P T R Ferbrache President	P J Roffey President
H J R Soulsby MBE Vice-President	C N K Parkinson Vice-President
M A J Helyar J P Le Tocq D J Mahoney	N G Moakes S J Falla CBE J Hollis

APPENDIX 1

Guernsey's Air Policy Framework 2021-26

The air policy challenge for Guernsey and the Bailiwick

1. In December 2018 the States agreed Guernsey's air and sea connectivity and investment objectives, including the role of Aurigny as a strategic asset. Since then, the world has changed – and, during 2020-21 in particular, Guernsey's air policy challenges have shifted. This policy framework provides a clarification and in places an update on how those objectives will be met in the context of those changes. The Policy & Resources Committee has consulted with the Committee *for* Economic Development and the States' Trading Supervisory Board and it has received representations from stakeholders outside of the States.

The changing regional aviation and economic environment

2. The post-Brexit Trade and Co-Operation Agreement provides an economic context that will require an outward looking economy that has first-class resilient air connectivity. The economic and community recovery from the impact of Covid-19 means the States will need to invest in air connectivity given the changing landscape of the regional aviation sector, and it will need to set clear objectives for Aurigny to maximise its benefits as a strategic asset. Many regional airlines and airports have struggled in the aftermath of Covid-19 and its impact on air travel and the loss of Flybe in particular has had a significant impact on Bailiwick connectivity. Guernsey is fortunate that it has ownership of a regional airline and a regional airport.

Fair and proportionate competition

3. Fair and proportionate competition means realising that for a jurisdiction as small as Guernsey, there is an economy of scale: essential routes need security of operation through slot ownership (Gatwick), route licensing (Southampton) or a Public Service Obligation (Alderney). Open competition on other non-essential routes should continue to be allowed, with checks and balances in place to ensure that the operation of those routes does not damage the operation of essential routes, and by extension of Guernsey's overall objectives. The Airport's role in ensuring equality of treatment of carriers is important in this respect.

Stability and certainty

4. Guernsey's government needs to provide a stable approach to the post-2021 challenge, one that ensures as much certainty as possible for all stakeholders: the community, the finance sector, the visitor economy, the wider economy, health care providers, Aurigny, commercial airlines, Guernsey Airport, Alderney and its Airport. Certainty will enable investment; investment will improve service and choice. This policy framework is intended to provide that. This means that the air policy should only change to meet new challenges or

opportunities – but otherwise the framework set out here should be established for five years, through to Q4 2026, and be reviewed in Q1/Q2 2026.

5. It is important to emphasise that this is a framework. The States need to create an environment in which Aurigny, Blue Islands and other airlines can operate with a minimum of government intervention. In response to this framework, Aurigny will soon finalise its new business plan which will also cover the next five years, ie. the same period. The States should not seek to run Aurigny as a business, directly or by stealth. It needs to set clear objectives, as below, and then as the shareholder be assured that these objectives are being met.

Guernsey Airport

6. During this period the Airport will undertake and complete the development of a 'land use masterplan' in order to enhance its operational infrastructure, optimise the value of its estate, and maximise its non-aeronautical revenue. This latter point is vital, as it should enable the Airport in the future to have greater flexibility in respect of landing or other operational charges; this flexibility can then be applied in order to enable the Airport to attract more carriers on new routes, and increase passenger numbers to the Island. The Airport's role as a wider economic enabler needs to be understood and supported, including through the States' approach to route development support. It is clear that there will be tension between the Airport's current plan to increase landing fees in order to reach breakeven and the aim of the policy framework to hold or, where possible, reduce the level of landing fees. This tension will need to be managed between the Policy & Resources Committee and the States' Trading Supervisory Board until such time as a balanced budget can be achieved through non-aeronautical revenue.

Monitoring and review

7. The Policy & Resources Committee, the Committee *for* Economic Development and the States' Trading Supervisory Board have agreed the air policy framework. They will work to support it through annual monitoring meetings.

Air policy framework – 2021-26

Growth, wellbeing and resilience

8. The States will pursue an air connectivity policy that enables the reliable, efficient and sustainable movement of people, goods and services between the Bailiwick and destinations within the UK, Europe and further afield with whom it shares important trade, tourism, health and community connections. The purpose of this is to support growth within the local economy, the enhanced wellbeing of the residents of the Bailiwick, and the overall effective resilience of our community.

Retention of 'quasi-open skies'

9. The States will continue to encourage fair and proportionate competition (see paragraph 3) through the 'quasi-open skies' regime established in 2018, but will do so without undermining the Bailiwick's overall policy and interests.

Essential air links

10. One way of protecting the overall Bailiwick interest will be through the designation of essential routes to support and protect the Bailiwick's strategic interests, as with the Guernsey-Southampton link in Q3 2021. The decision to designate Southampton as an essential link was made in 2021 on the basis of the environment and factors set out in paragraphs 2-4 above.

11. The basis of the designation of a route as an essential link is set out in the review of air transport licensing agreed by the States in July 2018. These criteria remain fit-for-purpose, but as a next step the **Committee *for* Economic Development is asked to monitor routes to ascertain if other routes in the future should be designated as essential**.

12. In addition to this, the development of the air policy framework has demonstrated the ongoing importance of the slots at London Gatwick while the aviation sector is going through a period of significant change and retrenchment. On that basis, Guernsey-Gatwick will remain an essential link until Q3 2026, with a review in Q1 2026 if circumstances do not change significantly in the interim.

13. In Q1 2021 a Public Service Obligation (PSO) agreement was put in place on the essential Alderney-Guernsey service for a period of up to five years.

Route development

14. Notwithstanding Guernsey's move to open skies in 2018 on all but two essential routes at that time (now three essential routes), route development support may still be required to open up new routes to increase passenger numbers and enhance connectivity.

15. Any government or Airport financial support in the development of new routes must meet the following criteria which are compatible with the air policy framework:

a) A new route with no operator on it;
b) A route which increases overall passenger numbers;
c) In achieving (b), a route or service that does not directly cannibalise passengers from other routes currently in operation, in particular essential routes, and does not have a demonstrable and significant detrimental impact on the operation of that other route;
d) A route where there is agreed potential with the operator for the route to be operated for the same period annually for a minimum of three years if the route is successful; and
e) Onward connectivity to routes of economic interest to Guernsey.

16. The States need to remain watchful that routes that are near a licensed essential route or feed from the same catchment area, but that are not designated as essential routes themselves, serve as inter-route competition and thereby impact the viability of the lifeline route itself and risks prejudicing the States' objectives for the lifeline routes. Any issues in this respect should be considered as part of the annual review of the effectiveness of the policy framework (see paragraph 7).

17. As a next step, the **Committee *for* Economic Development will be asked to work with the Airport to ensure that these route development criteria are the basis for route development support**.

18. The Airport, Aurigny and all airlines also have shared objectives, such as increasing passenger numbers to Guernsey, and they will be able to explore joint initiatives for meeting these objectives. A direct initiative may be to taper landing charges so that the fee is reduced as passenger numbers increase. An indirect initiative may be to focus landing charge discounts on new routes which do not cannibalise existing essential routes. On that basis – as a next step – **the Airport will be asked to review the potential for a landing charge discount scheme to support passenger number growth which reflects the criteria set out in paragraph 15.**

19. In addition **the Policy & Resources Committee will explore the potential connectivity benefits of providing airlines serving the Bailiwick with Bailiwick 'base carrier' status,** which is in line with airports in other jurisdictions.

The States' objectives for air connectivity

20. In December 2018 the States of Guernsey agreed their objectives for air connectivity. These have been updated in the context of the changes set out in paragraph 1, and given the current economic, financial and community context for Guernsey. The updated objectives are set out in the table below:

Core Strategic Objectives	
What are our key requirements for air links?	• Provide stability on current essential routes • Provide flexibility to meet the future requirements of the residents of the Bailiwick, for example destinations that support health care (currently London and Southampton) • Stimulate economic growth through the routes that are operated, such as UK regions and non-UK destinations • Focus any financial stimulus on new routes which do not cannibalise existing routes being operated, particularly essential routes • Increase visitor numbers back to 2015 levels

Critical Success Factors	
What needs to be done well in order to achieve the Core Strategic Objectives?	• Be affordable to the community • Be sustainable – seasonal operations on new routes are welcome to support the visitor economy or business travellers, but should look to be year-on-year where possible • Optimise choice and flexibility of connections • Provide reliability and security of essential services
Affordability • Reduce Aurigny's costs and losses in order to enable it to sustainably offer market competitive fares • Enable the Airport to work with other carriers to encourage competitive fares without negatively impacting the interests of other commercial carriers on existing routes	
Connectivity • Encourage development of regional (UK and Europe) connectivity in partnership with Aurigny and other commercial carriers following the stabilisation of the operation of essential routes • Security of connection to London Gatwick • Explore with Aurigny and other commercial carriers the potential connection to an additional UK or a non-UK international hub following the stabilisation of the operation of essential routes • Take into account the impact of additional routes on the essential services to London Gatwick and Southampton • Security of connectivity to Alderney through the operation of the PSO • Broaden UK and European connectivity (scheduled and Charter services) • Access for Bailiwick residents to specialist healthcare and emergency evacuation services	
Reliability • Investment in airport infrastructure, with private investment encouraged • Aurigny fleet review and reconfiguration	

21. Given the opportunities for Aurigny to provide connections to non-UK hubs and into France and Europe generally, it is important to note that Aurigny does not at this stage have automatic traffic rights into the European Union under the Trade and Co-Operation Agreement. In the case of scheduled services, this will be reliant on our agreeing (via the UK) authority for Aurigny to fly into Europe on a country by country basis. Any evaluation of

options for connecting into Europe will therefore need to take account of the issues on traffic rights.

Clarification of roles and responsibilities

22. The current structure of the States, and the various mandates relating to air policy within that structure, was implemented in 2016 following the review of the States Review Committee. There are areas of cross-over and duplication which need to be removed. These areas can be considered as part of the review of the machinery of the States during this term, but in the meantime the following roles should be adhered to:

23. Role of government - co-ordinated by the Policy & Resources Committee

- In consultation with the Committee *for* Economic Development and the States' Trading Supervisory Board, review on an annual basis the air connectivity and investment objectives for the Bailiwick and ensure wider government policies are aligned to support these objectives and the wider air policy framework;
- In consultation with the Airport, explore the potential benefits for designating Bailiwick base carriers;
- Re-capitalise Aurigny on the basis of the airline working to meet clear objectives – enabling a clean slate post-Covid; and
- Ensure that the government's ownership of Aurigny is compliant with relevant rules such as the World Trade Organisation and the Trade and Co-Operation Agreement/Air Transport Agreement.

24. Role of the Committee *for* Economic Development

- Ensure that route development support and marketing is aligned with the air policy framework;
- Engage with the airline industry on the development of new routes which are in line with the route development criteria;
- Maintain a watching brief on the requirement for designating any routes as essential links; and
- Ensure a close alignment with Aurigny on the tourism strategy and the work of Visit Guernsey.

25. Role of the States' Trading Supervisory Board

- Carry out the shareholder function to ensure that Aurigny's objectives set by government are met, reviewing and updating these as necessary;
- Management and operation of the Airport and agreement of its business plan and strategic objectives, working with the Policy & Resources Committee and the Committee *for* Economic Development, in order to ensure alignment with wider government policies; and
- Work with the Policy & Resources Committee to ensure the Airport continues to achieve a breakeven position while supporting the objectives set out in the air policy framework.

26. Role of the Airport

- Undertake, complete and implement a programme to maximise non-aeronautical income during 2021-26;
- Explore initiatives with carriers to meet objectives in respect of increased passenger number targets;
- Assess schemes to reduce landing charges in line with passenger number increases to enable financial balancing, and in due course to potentially lower fares on essential routes and deliver increased load factors; and
- Support the further development of general and commercial aviation through private investment into infrastructure and reduced landing charges.

27. Role of the Aurigny board

- The development and implementation of a business plan to deliver the shareholder objectives, including:
    - Ensure safety standards are met;
    - Ensure international regulatory standards are being adhered to;
    - Explore how the airline can meet international ESG standards;
    - Support strategic relationships with other operators;
    - Ensure effectiveness and efficiency are benchmarked; and
    - Provide performance data to government.

28. The role of Aurigny

- Aurigny is to maintain reliable air transportation services, in the first instance to protect designated economic, medical, and social lifeline air routes to and from the Bailiwick, and thereafter more broadly to grow air connectivity, directly and through partnership, in a financially sustainable manner. It is expected that Aurigny, as a carrier substantially based within Guernsey, will: support the developmental objectives of the States by supporting local employment where practical and financially viable; forsake a profit motive beyond that needed to be financially self-sufficient in favour of affordable air travel; and, where called on by the States but not to the financial detriment of Aurigny, cooperate with the States in terms of route development initiatives. To do this it will support the objectives set out in paragraph 20 above; and,

- Aurigny will have shareholder objectives in order to support the States in pursuing and delivering their air policy objectives. These will be to:

    1. Provide security of essential routes;
    2. Achieve a financial breakeven result during the next five years; and
    3. Support the core strategic objectives of the States of Guernsey

Aurigny's shareholder objectives

Objective 1

29. The overarching strategic need is for Aurigny to retain its AOC in order to provide security of essential routes. The specific routes of relevance that are or will be designated as essential routes for a minimum period of five years, include: Guernsey-Gatwick; Guernsey-Southampton; Guernsey-Alderney; and Alderney-Southampton. Where essential services are economically non-viable, such service(s) shall be provided under fully funded PSO construct(s). Aurigny shall ensure that it maintains its current number of landing and take-off slots at Gatwick Airport.

Objective 2

30. The need for Aurigny to be cost-efficient by benchmarked standards and financially sustainable, following an appropriate level of recapitalisation of the business. In this regard, the States of Guernsey require Aurigny to present a strategy that achieves a financial breakeven result during the next five years and profits beyond breakeven may be compromised in facilitating greater passenger volumes to the Bailiwick. Aurigny should investigate the desirability of a fleet strategy that achieves a balance between owned and leased aircraft assets.

Objective 3

31. Aurigny to support the core strategic objectives of the States of Guernsey through:

- Where financially feasible, operating air services between Guernsey and other destinations in accordance with consumer demand (both Islanders and visitors) and thereby supporting the key economic sectors of the Bailiwick's economy;
- Developing and maintaining relationships with other airlines such that the overall air connectivity to and from Guernsey is enhanced, for the benefit of the States of Guernsey and individual travellers;
- Supporting the States in route-development initiatives, potentially including a non-UK hub, under the understanding that such route development initiatives will be funded through PSO constructs if not financially self-sustainable; and
- Directly contributing to the Bailiwick fiscus, including where possible through the creation of on-island employment within Aurigny, and the consequent taxation flows to the States of Guernsey.

Progress made in 2021

32. The development of the air policy framework was originally planned for April 2020 but has been delayed for a number of reasons:

- The change of executive at Aurigny;
- Changes to the regional aviation market further to the impact of Covid-19;

- Moving to a post-lockdown set of circumstances where Aurigny and Blue Islands are able to operate with less restrictions;
- The requirement to develop a new tourism strategy;
- An assessment of the impact of the 'quasi-open skies' regime and the designation of the Guernsey-Southampton route as an essential route; and
- Finalising the Alderney-Guernsey PSO.

33. Since November 2020, the following steps and actions have been taken in order to support the development of the air policy framework:

- The discussion and agreement of the shareholder objectives set out in the framework;
- The development of a five-year Aurigny business plan by the new Chief Executive and Chairman, supported by the executive and Board;
- Work on the Aurigny re-capitalisation policy letter, which will be submitted for the States to consider in October 2021;
- The designation of the Guernsey-Southampton route as an essential route in Q3 2021;
- Finalising the Alderney-Guernsey PSO in Q2 2021;
- Establishment – with regulatory oversight – of a commercial co-operation agreement between Aurigny and Blue Islands;
- The launch of a tourism marketing plan for Q3/Q4 2021 and the ongoing development of a new tourism strategy for 2022 onwards; and
- The start of the Guernsey Airport masterplan process with a clear timeline for completion, and the publication of an updated Guernsey Airport business plan.

Ownership

34. A question that emerges from time-to-time is whether Aurigny should remain a States-owned commercially-operated business, or become a commercially-owned and operated business. The view of the Policy & Resources Committee and many stakeholders internal and external to the States is that for the foreseeable future (and certainly the period of 2021-26) there is no benefit in considering a different ownership model. This is based on the need for investment, the current financial position, and the draft Aurigny business plan that has a path to breakeven post-recapitalisation. Whilst the States do not operate Aurigny, the relationship of alignment of Aurigny's operations with the Bailiwick's connectivity objectives is an important consideration at this stage of economic and community recovery, and a relationship that is unlikely to be replicated in a different ownership model.

Runway infrastructure

35. This framework is set out prior to any future debate on the potential for extending the Guernsey Airport runway. In due course the Committee *for* Economic Development will return to the States of Deliberation with a business case for the extension of the runway. Subject to the decision of the States of Deliberation, aspects of this air policy framework will then be reviewed as required.

Next steps

36. The Policy & Resources Committee, the Committee *for* Economic Development and the States' Trading Supervisory Board have agreed the air policy framework. They will work to support it, along with Aurigny and Guernsey Airport, through twice-yearly monitoring meetings.

Summary - Guernsey's air policy framework principles

1. Meet our core strategic objectives for air connectivity (paragraph 20):

- *Stability on current essential lifeline routes to ensure resilience and encourage investment in service;*
- *Flexibility to meet the future requirements of the residents of the Bailiwick, for example destinations that support health care (currently London and Southampton);*
- *Stimulate economic growth through the routes that are operated, such as UK regions and non-UK destinations;*
- *Focus any financial stimulus on new routes which do not cannibalise existing routes being operated, particularly essential routes; and,*
- *Increase visitor numbers back to 2018 levels;*

2. Maintain fair and proportionate competition balanced with licensing on essential, strategic routes (paragraphs 3, 9-13);

3. Ensure stability in the air policy framework to allow for planning and investment and to minimise government intervention (paragraphs 4-5);

4. Ensure route development support is deployed to support the overall objectives of the air policy framework (paragraphs 14-18) and that landing fee charges are competitive (paragraph 6);

5. Ensure that government and other stakeholders act in line with their roles within the air policy framework (paragraphs 22-28);

6. Measure Aurigny's performance against three clear overall shareholder objectives (paragraphs 29-31):

- *Provide security of essential routes (objective 1)*
- *A financial breakeven result during the next five years (objective 2)*
- *Support the core strategic objectives of the States of Guernsey (objective 3); and,*

7. Explore the potential connectivity benefits of designating carriers as the Bailiwick's base carrier(s) (paragraph 19).

APPENDIX 2

GUERNSEY'S AIRLINE

aurigny

September 2021

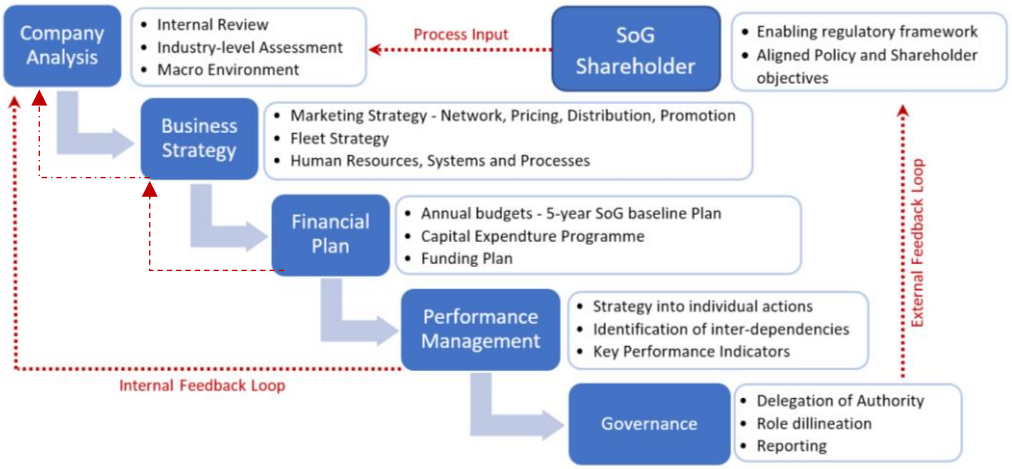
Strategy 2021 - 2025

Introduction and Approach

Air links are essential to the Bailiwick of Guernsey. They maintain important connections for the Islands' population, supporting business and helping to attract inward investment, they help maintaining friends and family contacts, and they serve to enable access to social services such as medical facilities and treatments and access to training and education off-island. There are few, if any, sectors of our economy or sections of our society that are not directly, as a user or supplier, or indirectly, reliant on air transportation to/from the Bailiwick.

Airlines act as critical economic and social enablers, through the transport of people and goods and to the extent that that their supply chains and the employment they create, directly stimulate economic activity. As it relates to the Bailiwick, no airline transports more passengers on more flights from or to more destinations, no airline employs more Guernsey residents or expends greater funds on local supply-chains and none has done it for longer than Aurigny. This 5-year Strategy (2021 – 2025) outlines how Aurigny intends being an economic and social enabler, owned by the States of Guernsey, into the future: more efficiently and more sustainably.

Figure A.: Strategy Development Process and Implementation Approach



Aurigny's strategy development **is a process**, depicted in Figure A above, that fundamentally relies on an in-depth and honest analysis and assessment of the Company's context, to accurately define the problems we are solving, and to present realistic potential strategic solutions which Stakeholders can consider and assess for optimal suitability. **The process is iterative** and consists of repeated cycles of (1) analysis, (2) problem framing and solution refinement, (3) evaluation and, if needed, further input, until a strategy is finally agreed for implementation. **The process aims to ensure alignment** – alignment in the collective understanding Stakeholders have of both the challenges at hand as well as the Organisation's capabilities to address those challenges, alignment of actions and activities to a coherent strategy and plan, alignment of the Organization's internal resources to deliver effectively and efficiently on that plan, and alignment on what the end goal is, how attainment will be measured and reported on, and how it will be rewarded.

"Building a visionary company requires one percent vision and 99 percent alignment." — Jim Collins & Jerry Porras in their book Built to Last: Successful Habits of Visionary Companies

The strategy development process being followed employs the Expanded McKinsey 7-S analysis framework, which has at its core the alignment of Goals/Objectives, enabling organisational factors (including Strategy) and

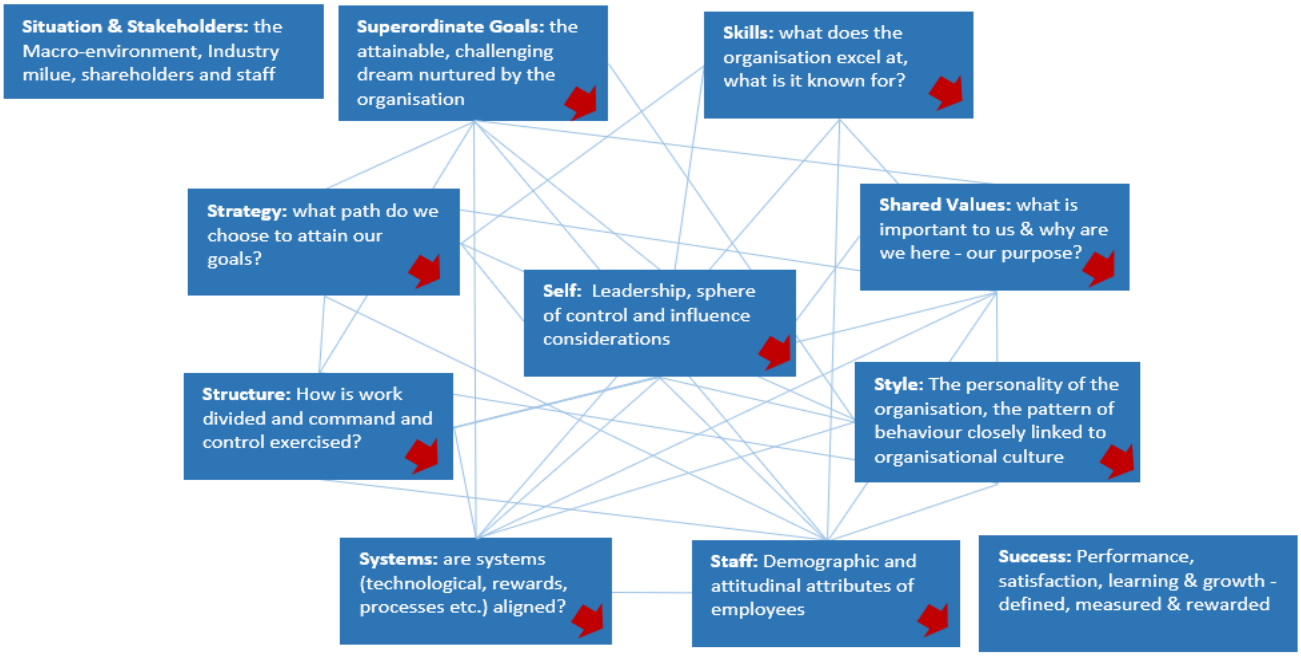
expected outcomes (Figure B below). The Business Overview and analysis that flows from the application of this framework is contained in Section 1 - 3 of this document.

The 7-s framework postulates the point of departure in strategy formulation to be an in-depth understanding of the environment (both at macro and industry-levels) in which a company operates – its Situation, and, with reference to the company's stakeholders, to gain an understanding of what **the overall purpose** of the business is and what objectives the business are pursuing. Given previous public reports that Aurigny needs clarity in terms of its purpose and given the fact that Aurigny is owned by the States of Guernsey, with a dual commercial and developmental mandate, extensive effort has been applied to define/clarify, through a process of Stakeholder engagement, Aurigny's Purpose, and the Objectives that directly align thereto. **Understanding Shareholder, Customer and Regulatory (including Environmental) requirements** have been key to this process. You simply must know both the origin and destination before you can start a flight plan.

Continuing the aviation analogy, any flight plan has a clear reference to what weather conditions it will be operating in – much the same way as Aurigny needs to understand the **Market conditions** in which it operates. The analysis done includes an assessment of both air and sea transportation to and from the Bailiwick, the main transportation suppliers/competitors to Aurigny and how markets and competitors have evolved over time. Importantly, the analysis also includes an assessment of both Aurigny's revenue and cost **performance, over time**, within this competitive context and the effect thereof on its capital base and funding requirements.

A flight plan is cognisant of both the capabilities of the aircraft in use and how it is configured. In this regards the analysis reviews the extent to which Aurigny's corporate and organisational **structure** is aligned to its strategic direction, and how the **systems and processes** in use within the Business supports or impedes its strategy. Known factors such as Aurigny's complex fleet composition comes into stark focus, whilst flight controls, Aurigny's Governance Framework, including Risk Management, also receives attention.

Figure B: McKinsey's Expanded 7-s Analysis Framework



The interaction a passenger has with crew on a flight often leaves a lasting impression, possibly more-so than any other product dimensions. The analysis looks at Aurigny's **Human Capital**, and reviews aspects such as Employee demographics, organisation culture and skillsets, as well as the "attitude" or personality and service ethic displayed by Aurigny's people.

The analysis further looks at **Leadership** and considers the experience and skills composition of the Leadership Team, including the Board, whilst paying attention to succession planning.

Finally, the analysis considers the current **Strategy** and its suitability, in context of a fluid environment. Given Aurigny's internal strengths and weakness, and the opportunities and threats it is confronted with, what adjustments are needed to the strategy adopted by the Company? Importantly, the analysis also assesses the extent to which Aurigny has a system for aligning effort through an appropriate **Performance Management, Reporting and Reward** system, and how this is measured and reported on – what are our journey waypoints and how will we track progress?

As may be noted, the strategy development process adopted is analytically intense: 80% of the effort is in analysis (Sections 1 – 3 of this document). The analysis aims to arrive at a succinctly defined organisational purpose, along with four overriding objectives to be pursued, given the organisation's strengths and weaknesses, Stakeholder expectations and competitive and macro environments.

Sections 4, 5 and 6 of the document is markedly more succinct and employs the Objectives, Goals, Strategies and Measures (OGSM) framework to derive strategies that support the attainment of the Company's objectives, and ultimately, its purpose. The process of cascading objectives down to actionable strategies is done with reference to a consistent aspirational theme – in the case of Aurigny Efficiency, doing more with less in the process of minimising revenue and optimising cost, has been adopted. This key theme flows throughout, and manifest in a drive towards simplification, standardisation and leverage of partnership and collaboration to achieve efficient, consistent, and reliable outcomes.

Each of the four objectives are supported by several quantifiable goals which the Company is pursuing – 19 goals in total have been identified. Goals are supported by strategies.

Strategies, or plans, are mapped to specific goals, and 39 strategies have been identified. Each strategy, in turn, has a defined measure that is used to track progress towards goals, objectives and ultimately the attainment of the Company's purpose. A practical example: Objective: Protect Lifeline Routes, Goal: Maintain AOC, Strategy: Maintain Safe Operations, Measure: Safety Management System outcomes.

The OGSM framework results in initiatives and actions that, in accordance with the Company's performance management system, are assigned to individual accountability. In this way performance management is directly linked to the attainment of Company objectives.

Sections 7 and 8 of the document outline the expected financial outcomes in the form of financial projections, and the key underlying assumptions, for the next 5-years. These sections also deal with sensitivity analysis pertaining to key input variables.

Sections 9 - 12 of the document transitions from planning to implementation, and aims to identify interdependencies, cascading of objectives into the organisation, specifically aiming to identify interdependencies and risks, as well as dealing with practicalities such as reporting format and frequency. Sections 9 – 12 are completed once the Strategy is settled and accepted.

Executive Summary

Background

Guernsey, according to studies conducted by PwC (2018) and York Aviation (2009), is well connected via air routes for its relatively small size, and indeed is better connected than other crown dependencies such as the Isle of Man or Jersey, on measures such as flights per capita, seats-per-workforce or seats-per-available-tourist bed-night. Whether it is for socio-economic lifeline purposes, high-frequency London connections as a competitive advantage to Guernsey's Finance sector or connecting to England's Regions to support tourism, Aviation is a key social and economic enabler to the Bailiwick of Guernsey.

Aurigny is a 53-year-old regional air carrier, the second-oldest Regional Airline Brand in the UK and is owned by the States of Guernsey (SoG). Aurigny is the primary provider of air transportation intra-Bailiwick and on services between the Bailiwick and mainly the United Kingdom, and is the only airline based in Guernsey. The SoG acquired the Carrier, and its maintenance division, Anglo Normandy Engineering in 2003, with the objective of protecting lifeline services to London Gatwick airport. In 2019 Aurigny transported c. 530,000 passengers, more than 50% of which were on the route between Gatwick and Guernsey, and c. 54,000 of which were on lifeline services between Alderney and Guernsey and between Alderney and Southampton.

The ***lifeline services*** which Aurigny operates are solely designated to Aurigny, albeit that an open-skies regime, implemented in 2019 by the SoG, allows ***competition on routes with a shared source-market, notably in the Southeast of England.*** Aurigny accordingly faces indirect competition on its largest Market, whilst it competes in unrestricted markets within the remainder of England. In 2019 Aurigny held a 66% share of air traffic between Guernsey and England, 5% lower than 2018. The Company generated its largest losses, up to that time, of c. £9.7 million during 2019.

The losses suffered by Aurigny in 2019 were not solely attributable to the change in market access regulations ('quasi-open skies) in that year, although it was a relevant factor. Aurigny has been generating losses since 2008, with those losses increasing as the level of fleet complexity within the Business increased. The Company was consequently recapitalised, to the extent of c. £25 million, in 2015, which consisted of c.£ 19.9 million in accrued losses up to 31 December 2014 (***equivalent to £3.58 per passenger***) and c. £5.3m million in then anticipated losses up to the end of 2017 (from when the Company was expected to break even with Alderney services being operated under a Public Service Obligation contract).

In practice Aurigny generated ***£13.5m in losses between 2015 and 2017, of which c. £7.2m (53%) related to Alderney services.*** The introduction of the Dornier fleet was associated with substantial unanticipated aircraft delivery delays, resulting in a protracted entry-into-service starting in 2015 and only being completed in 2019. During this period Aurigny had substantial fleet complexity in its small-gauge fleet, at some point operating a mixture of Dornier Classic aircraft (with different configurations from each other), Dornier NG and Trislander aircraft, all at the same time, for passenger volumes that constituted less than 12% of the Company's overall volumes. This, whilst being confronted with escalating maintenance cost with the ageing fleet operating beyond anticipated timeframes. In the absence of a PSO, a further loss of £5.6 million (pre-FRS102) was made on the Alderney services for the two financial years ending December 2019. ***The implementation of the PSO contract for Alderney services with effect 1 January 2021 now protects Aurigny against these losses, whilst a potential extension of Alderney's runway would further reduce the PSO cost to taxpayers, deliver more seats and a more robust air service solution to the residents of Alderney.***

Fleet and Maintenance

Whilst challenges were being faced with the small gauge aircraft, Aurigny operated numerous types of ATR aircraft (ATR 42-500, ATR 72-200, ATR 72-500), with multiple of these types simultaneously in fleet, and also acquired the Embraer E195 jet in 2014 for the purpose of adequately servicing the Gatwick route with the slots available. After the exit of the ATR 42-500 aircraft in 2019 another variant overlap occurred, when the first ATR 72-600 was introduced. The introduction of the ATR 72-600 was, as with the D228 NG's, also occasioned by substantial aircraft delivery delays, in part caused by delays in the cutting-edge Clear Vision technology on these aircraft. ***The extent of fleet complexity, for a small carrier, was (and still is) exceptional (especially during the 2015 – 2019 period).***

The choice of aircraft or the fleet modernisation decisions, per se, are not what is in debate. ***There was a legitimate need to modernise Aurigny's ageing fleet and a requirement to move to two-pilot operations in the case of the Trislanders.*** What is however being highlighted is the cost that was associated with this process, especially considering material unanticipated delivery delays in both the D228 NG as well as the ATR 72-600 transitions. In each case, apart from the fleet being rather complex/diverse post the fleet renewal process, leading to crew and maintenance inefficiencies, the anticipated efficiencies from the transition processes were slower to materialise.

Beyond cost consequent to fleet transitioning, Aurigny suffered ***aircraft impairment charges*** in 2019 and again in 2020, with the latter charge in 2020 in part resulting from the ***global economic downturn in demand for air travel associated with the Covid-19 pandemic.*** Accordingly, the cost attached to Aurigny's aircraft fleet transition (including maintenance, crew, and impairments), which has now been absorbed, was the single biggest driver of cost increases between 2015 and 2019, resulting in cost-growth of 15% over this period. An efficiency review conducted by independent consultants, Nyras, on behalf of the SoG in 2019 indicated that, although Aurigny was efficiently managed, lack of scale and fleet complexity served as barriers to profitability. ***This Strategy aims to address these impediments to profitability, and this strategy, the assumptions on which it is based and expected financial outcomes, are again being submitted to Nyras for independent validation.***

The implications of the Company's current fleet to Aurigny's future Fleet Strategy are:

- The Company now has one of the most modern fleets in operation, with the ATR 72-600 serving as mainstay. During 2021 two aircraft types will be removed from Aurigny's fleet (The ATR 72-500 being returned to its lessor, one of the Dornier Classic's being sold for zero emission powertrain research and the other being retired and dismantled for spares), which will leave the airline with three aircraft types (ATR 72-600, Embraer EMB 195, and Dornier 228 NG). Subject to a runway extension in Alderney the Dornier 228 NG's could be removed, whilst potential slot-availability at Gatwick may allow the replacement of the EMB 195. Feasibility assessments of the jet operations are in progress, aiming to address both the operational risk and cost-implication of operating a single aircraft of a type within a fleet.
- The Company must aim to manage its future exposure to aircraft asset values and adopt a longer-term asset lifecycle management approach to the assets it has in its fleet and an appropriate balance between owned and leased assets that will meet the future strategic role of the airline.
- Aurigny requires a robust fleet plan for the future that adopts formalised project management methodologies to aircraft fleet entries and exits.

It is inescapable that the complexity of Aurigny's fleet leads to maintenance inefficiencies – in 2019 maintenance cost constituted 19.5% of Aurigny's total cost, more than double the average for IATA carriers (noting that IATA represents a mix of carriers). It has also previously been identified that the Cabernet Group structure, which holds Anglo Normandy Engineering as a separate legal entity to Aurigny, has outlived its usefulness and a case exists for collapsing the separate maintenance

organisation into Aurigny. The strategic focus for Aurigny's part-145 Maintenance function, apart from maintaining safe operations, dispatch reliability and fleet simplification, includes:

- Corporate integration of Anglo Normandy with Aurigny.
- As part of the corporate integration process, and in-line with a simplification of the fleet, a complete review of the efficiency of the function, including work practices and support systems.
- Ensuring cost-visibility for major maintenance events, in support of an overall lifecycle management approach to Aurigny's fleet.

Sales and Revenue

From a revenue perspective, between 2015 and 2019, the Company realised a very marginal revenue increase of 0.5%, on the back of declining passenger volumes and increasing average fares (necessitated by the increase in average cost of delivery). ***Whilst the Brand evidenced an ability to sustain a growth in income per passenger broadly equivalent to RPIX over the period***, it does raise questions as to sustainability, and desirability, of such increases going forward. Ideally Aurigny wishes to reduce the average cost of air travel and make its services more accessible, and more affordable, to more travellers to and from the Bailiwick, thereby improving its own competitive position and being more effective as a social and economic enabler.

To address ***perceptions/reality of Aurigny's ticket prices becoming more expensive*** the Airline has, in 2020, adopted a pricing/revenue management approach that represents a narrower band of pricing options to the consumer (e.g., higher entry-level prices or fewer of them, and lower top-end prices). This approach appears to be more coherent with managing favourable perceptions pertaining to Aurigny's Brand, and effort in this regard is continuing. ***Independent studies, conducted by firms such as PwC, found Aurigny's fares to have been comparable to fares on routes out of Jersey in 2019***, however, there was a fare differential of between c. £15 (peak season) and c. £30 (shoulder season) per flight when specifically comparing Aurigny's pricing between Guernsey and Gatwick with Low Cost Carrier (LCC) pricing between Jersey and Gatwick. This fare differential should be considered in the context of the basis of comparison (e.g., adding a single cabin bag on an LCC, which is included in Aurigny's pricing, would eliminate the peak season fare differential), as well as the high-frequency connectivity and schedules timed for the needs of Guernsey businesses travellers in contrast with seasonal/reduced frequency and flight timings suitable to leisure travellers.

Regardless of the above observation, Aurigny's fares may, firstly, be made sustainable through the cost benefit of a simplified fleet that is used more productively (an estimated 8% reduction in unit cost from 2019 to 2022, together with the implementation of the Alderney PSO, resulting in forecasted 2022 losses reducing to c. £1.4 million). Beyond the impact of cost reductions, fares may then be reduced consequent to increases in load factors, and in this regard ***Aurigny is looking to work with Industry stakeholders (Visit Guernsey, accommodation providers, tour operators, etc) to present value-based offerings, specifically in support of inbound tourism.*** A relatively smaller portion (c. 25%) of the overall cost incurred by a visitor to Guernsey relates to transportation cost, and whilst discounts in air travel could reduce the cost-delta to LCC pricing, an overall price-competitive offering for Guernsey as a destination will require cooperation throughout the value chain.

Brand and Service

Aurigny's Brand proposition, as encapsulated within its Customer Charter, is generally being delivered upon. From a reliability perspective, Aurigny was the only carrier to maintain uninterrupted lifeline services throughout the ongoing Covid-19 pandemic, albeit that this came at considerable expense during 2020 and 2021. Aurigny's on time performance (79% in 2019) is above the UK average as reported by the UK CAA, above that of LCC carriers and on-par with its direct Regional carrier

competitors. With Aurigny's fleet renewal now complete and looking towards the implementation of ClearVision technology on the ATR fleet in 2022, the Company will be aiming to reach its Customer Charter target of 85% on-time performance.

The Airline has started to make progress in forming ***partnerships for purposes of codeshare and interline connectivity and enhanced network reach***, aligned to an objective set to the Company by its Shareholder and for purposes of increasing overall air connectivity to Guernsey. This partnership approach will complement Aurigny's own route development initiatives (Birmingham and Exeter routes commenced in 2021, Dublin to be introduced in 2022), as well as cooperation with the SoG in terms of ongoing hub (UK/EU) feasibility assessment.

To meet the Company's strategic objectives Aurigny's Commercial Strategy must:

- ***Clearly define and consistently apply Aurigny's Brand and ensure that it is aligned to the key strategic objectives.*** Thereafter ensuring that Aurigny's product, pricing/revenue management and service delivery fully reflects and is compliant with Aurigny's Brand and what it stands for.
- Manage and innovate product (including ancillaries)/schedule/network/pricing/distribution and service propositions to minimise cost, maximise revenue and enhance service, however, within context of the Company's affordance air travel objectives and Brand.
- Develop targeted and efficient marketing and communication capabilities, across all platforms (but favouring digital), to effectively communicate Aurigny's proposition and maintain top-of-mind awareness.
- Develop relationships with other carriers to increase network reach, leverage resources, improve buying power, and to innovate.

Aurigny has delivered ***safe and reliable air services***, despite the challenges caused by the underlying fleet complexity. Apart from the foremost focus on safety, and pursuing efficiencies that flow from fleet simplification, the Flight and Ground Operations functions of the Business have the following strategic focus areas in support of the overall Company Strategy:

- Deliver an evolved level of service at Customer touchpoints, beyond delivering the basic functions correctly and consistently – personal and sincere interaction that reflects Aurigny's Brand essence.
- ***Build on Aurigny's Customer focussed culture*** and create an understanding throughout the Organisation of the significance of delays, cancellations, and good communication. Cultural enhancement, supported by technology such as ClearVision, would support a value-proposition based on reliability, and in that a point of differentiation.
- Improve cost-efficiency, through a clearer linkage of variable rewards to output (e.g., variable pay for flight crew) and value chain improvements (review in or outsource of certain functions, like the Operations Centre).
- Better leverage technology for internal process efficiencies and improved Customer service delivery.

<u>Financial Management, Human Capital and ESG Responsibility</u>

The Business has greatly improved the integrity of its financial planning and accounting processes between 2015 and 2019, whilst it has also improved its overall risk management maturity and maintained stability in the information technology environment which Aurigny needs to operate. Future work remains in this area to ensure that the Business continues to innovate and provide relevant solutions that best serves the Business and all its Stakeholders.

Aurigny, towards the latter part of the 2015 -2019 period, made significant progress in focussing on Cultural Values within the Business. Effort must now be applied to ensure alignment between internal cultural values and external Brand values. ***The Company has a loyal and committed***

workforce, predominantly Guernsey-based and contributing to the Guernsey economy (Aurigny is responsible for c. 0.75% of total Employment in the Bailiwick, amounting to c. £10 million in annual salaries and wages). Whilst Employees are committed and no reason exists to believe that Aurigny does not get delivery from its investment in human capital, productivity is not overtly measured, and the Company's performance management system is immature. Strategic focus areas in this part of the Business accordingly include:

- Implementation of a performance management and reward approach directly linked to Company objectives, throughout the Business.
- Continued focus on employee engagement and organisational values.
- Development of succession planning for key roles.

Whilst the Business has been focussed on delivering to Stakeholder expectations, the Company has not made many inroads as it relates to its Environmental obligations. *A near term strategic objective is accordingly to review Aurigny's Environmental, Social and Governance obligations, and to develop an appropriate ESG delivery plan.*

The Future

The effect of the Covid-19 pandemic on the Global Aviation Industry in 2020 and 2021 has been unparalleled throughout history. According to the International Civil Aviation Organisation, aviation industry losses in 2020 alone exceeded $370 billion, funded by c. $220 billion in State aid and c. $130 billion in new debt and equity, along with drawing on pre-Covid cash resources. Despite taking various measures, including employee redundancies, supply-chain renegotiations, fleet reductions and curtailment of operations, Aurigny has not escaped this global pandemic impact, the Company's debt-burden doubled during the Pandemic, and liquidity has been under pressure. *Accordingly, and whilst 2021 trading is progressing in line with expectations showing a marked improvement relative to 2020, the pandemic, along with the impact of Aurigny's performance during 2015 – 2019 on cash reserves and debt-levels, leaves Aurigny in need of capitalisation.* A dialogue with Aurigny's Shareholder is currently in progress, aiming for resolution by September/October 2021. *The envisaged capitalisation, which had been anticipated, would not require the injection of further cash into the Business, beyond that already provisioned by the SoG for Aurigny losses up to December 2021*, and the proceeds from the capitalisation will be used to settle working capital loan facilities from the SoG that primarily arose during the period of support in the 2020/21 Covid-19 pandemic.

This retrospective analysis provides insight of what has contributed to Aurigny's historic performance and an understanding of the business that now exists, indicating what needs to be done to improve on the status quo. However, it is impossible to be 100% confident because the actions will take place in the uncertain environment in which Aurigny will operate in the future. Trading conditions within the Aviation Industry remain volatile and subject to the ongoing impact of Covid-19, which will endure for some time and may leave a permanent mark. *The Company's projections, which forecast a break-even position from 2023/24 onwards, to the best extent possible takes into account the current market uncertainties and effort has been applied to model input sensitivities and to identify relevant risks. Input assumptions have been reviewed by the SoG and are being subjected to independent 3rd party review (Nyras).*

Despite the uncertainty that exists within aviation, it is believed that a succinct organisational purpose supported by clear objectives and well-defined goals, pursued though nimble strategies and plans, implemented in accordance with appropriate and relevant governance, risk management and monitoring processes, by a Company that is internally aligned and customer focused, is likely to yield success. This Strategy, the development of which entailed the alignment of Aurigny's purpose and

objectives with the draft SoG Air Policy Framework, together with a supporting Shareholder and a strengthening of relationships with all stakeholder groupings, will see Aurigny delivering more with less, and fulfil its purpose:

> "***To be the primary supplier of safe, reliable, and efficient air services, intra-Bailiwick and between the Bailiwick of Guernsey and such places with which the Islands share social, economic, cultural, or critical service links, in a sustainable manner, and thereby being an effective social and economic enabler".***

P.2021/101

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *FOR* EMPLOYMENT & SOCIAL SECURITY

AMENDMENTS TO STATUTORY MINIMUM WAGE ARRANGEMENTS TO COME INTO FORCE ON 1ST JANUARY 2022

The States are asked to decide:-

Whether, after consideration of the Policy Letter entitled 'Amendments to Statutory Minimum Wage Arrangements to Come into Force on 1st January 2022', dated 13th September 2021, they are of the opinion:-

1. To approve the Minimum Wage (Prescribed Rates and Qualifications) (Guernsey) (Amendment) Regulations, 2021 (as set out in the Appendix to this Policy Letter), which pursuant to sections 1(3) and 3(1) of the Minimum Wage (Guernsey) Law, 2009, prescribe the hourly minimum wage rates set out below with effect from 1st January 2022:

    a. adult minimum wage rate: £9.05 per hour (for workers aged 18 and over), and

    b. young person's minimum wage rate: £8.60 per hour (for workers aged 16 and 17).

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *FOR* EMPLOYMENT & SOCIAL SECURITY

AMENDMENTS TO STATUTORY MINIMUM WAGE ARRANGEMENTS TO COME INTO FORCE ON 1ST JANUARY 2022

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

13th September 2021

Dear Sir

1. Executive Summary

1.1. In accordance with the provisions of the Minimum Wage (Guernsey) Law, 2009 ("the Law"), the Committee *for* Employment & Social Security ("the Committee") is seeking States' agreement to its proposals to increase the statutory minimum wage and young person's minimum wage rates.

1.2. Section 31(3) of the Law provides that Regulations made by the Committee that set the hourly minimum wage rates shall not have effect unless and until approved by a resolution of the States.

1.3. In November 2018, the States noted the Committee's medium-term plan for minimum wage rates to be increased in equal annual increments over the course of five years, until the minimum wage rate reached the target of 60% of the median earnings of employees in Guernsey, based on a 40 hour working week, by 2023.

1.4. Having consulted with representative groups of employers and employees, in the ongoing context of the COVID-19 pandemic and the consequences for the local economy, the Committee recommends a pause in the implementation of the medium-term plan for the second year running. The Committee instead proposes increasing the minimum wage and associated rates for 2022 by 4.0%. This is half-way between the latest available RPIX figure of 2.3% (Q2 2021) and the 5.7% increase that would be required if the medium-term plan were to resume in 2022.

1.5. The proposed 4% increase, which is slightly higher than the increase in the median earnings of employees during the year ending March 2021 (3.2%), consolidates the progress made towards the target of 60% of median earnings and ensures that the gap between the level of the minimum wage and the target will not widen.

1.6. On this basis, the Committee recommends the setting of the following minimum wage rates, to take effect from 1 January 2022:

- Adult minimum wage rate at £9.05 per hour (currently £8.70 per hour) for workers aged 18 and over.
- Young person's minimum wage rate at £8.60 per hour (currently £8.25 per hour) for workers aged 16 and 17.

1.7. The Minimum Wage (Prescribed Rates and Qualifications) (Guernsey) (Amendment) Regulations, 2021, appended to this Policy Letter, have been drafted to give effect to the change in rates.

1.8. The Committee also intends to increase the associated accommodation and food offsets, with effect from 1 January 2022. These offsets set the maximum amount an employer is permitted to deduct from an employee's wage in compensation for providing accommodation and meals. These changes, which do not require States approval, are set out below for members' information:

- Accommodation and food offset: £122.00 per week (currently £117.00 per week).
- Accommodation only offset: £87.00 per week (currently £84.00 per week).

1.9. The Committee is of the view that the underlying strategy should remain the same and the medium-term plan will resume when the rates are set for 2023. The target date for the minimum wage to equal 60% of median earnings will be extended accordingly to 2025.

2. Policy background

2.1. On 1 November 2007, following consideration a Policy Letter from the Commerce and Employment Department entitled 'Report on the Introduction of Minimum Wage Legislation in Guernsey'[1], the States approved proposals for minimum wage legislation. In so doing, the States supported the fundamental principle that it is unacceptable for employees and workers to be paid low wages to the point of exploitation.

[1] Report on the Introduction of Minimum Wage Legislation in Guernsey (Billet d'État XXII of 2007, Article 9).

2.2. The minimum wage rates are not intended to reflect a 'living wage', particularly as different households have different family compositions and different financial needs. There are several initiatives operated by the Committee, such as a wide range of benefits, grants and social housing, which are intended to help to meet the basic needs of people on low incomes.

2.3. On 28 May 2010, following consideration of a Policy Letter from the Commerce and Employment Department entitled 'Statutory Minimum Wage – Rates and Commencement'[2], the States approved an Amendment laid by Deputy Fallaize which stated:

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

2.4. On 30 November 2017, following consideration of a Policy Letter from the Committee *for* Employment & Social Security entitled 'Amendments to Statutory Minimum Wage Arrangements to Come into Force on 1 January 2018'[3], the States approved an Amendment laid by Deputy Roffey ('the 2017 Amendment') which stated:

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

2.5. The Committee was mindful of both of these Resolutions when determining the minimum wage rates for 2022.

3. The medium-term plan for increasing minimum wage rates

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

3.2. In preparing its proposals in respect of minimum wage rates for 2019, the Committee considered a variety of options for minimum wage levels over the

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[2] Statutory Minimum Wage – Rates and Commencement (Billet d'État XI of 2010, Article 11).

[3] Amendments to Statutory Minimum Wage Arrangements to Come into Force on 1 January 2018 (Billet d'État XXIII of 2017, Article 9).

medium-term and invited the community to offer their views on the matter during consultations. Among the options that were examined, the Committee considered whether minimum wage rates should be linked to median earnings, or whether it would be more appropriate for the minimum wage rate to increase in line with inflation (RPIX).

3.3. On 28 November 2018, following consideration of a Policy Letter from the Committee *for* Employment & Social Security entitled 'Amendments to Statutory Minimum Wage Arrangements to Come into Force on 1st January 2019'[4], the States noted the Committee's policy intent that the minimum wage rates should be linked to median earnings, so that a person working a full-time (40 hour) working week should earn at least 60% of the median earnings of employees. This would ensure that the gap between the Island's lowest paid workers and the workforce average could never grow too wide.

3.4. As the gap between the 2018 minimum wage (£7.75 per hour) and 60% of the then median earnings figure (£9.33 per hour when converted to an hourly rate) was large, it was considered necessary to gradually increase the minimum wage rate in equal increments over a five-year period, starting in 2019, in order to reach the target by 2023.

3.5. The medium-term plan was followed in 2019 and 2020, with the minimum wage increasing by £0.35 (4.50%) to £8.10 per hour in 2019 and by £0.40 (4.95%) to £8.50 per hour in 2020. In 2020, a decision was taken to pause the implementation of the medium-term plan in 2021 due to the negative impact of the pandemic on the island's economy. Instead, the minimum wage was increased by Guernsey's annual rate of inflation as at the end of June 2020, as measured by changes in the RPIX (2.4%), to £8.70 per hour. The date for reaching the target of 60% of median earnings of employees was put back by one year to 2024.

3.6. The median earnings of employees as at quarter 1 2021 was £35,497 per annum. Taking 60% of this figure and dividing it by 52 weeks and then by 40 hours, produces an hourly rate of £10.24. This figure is 60% of the median earnings of employees when converted to an hourly rate and is the current target of the medium-term plan.

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[4] Amendments to Statutory Minimum Wage Arrangements to Come into Force on 1st January 2019 (Billet d'État XXV of 2018, Article 13).

4. Factors to be taken into account

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

- the current rate of the minimum wage in the United Kingdom, the Isle of Man and Jersey,
- the current economic and trading conditions prevailing in Guernsey,
- the rate of inflation in Guernsey,
- the rate of unemployment in Guernsey,
- current rates of pay in Guernsey,
- the increase or decrease in rates of pay in Guernsey over the previous twelve months,
- and such other factors as appear to be relevant.

Current rate of the minimum wage in the United Kingdom, the Isle of Man and Jersey

4.2. The current minimum wage rates for the UK, the Isle of Man and Jersey are set out below in table 1:

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

Minimum Wage Rates (Hourly)			
	Young Person	**Adult**	**Effective from**
Guernsey	**£8.25** (aged 16-17)	**£8.70** (aged 18 and over)	1 Jan 2021
United Kingdom	**£4.62** (aged 16-17) **£6.56** (aged 18-20)	**£8.36** (aged 21-22) **£8.91** (23+ known as the 'Living Wage')	1 Apr 2021
Isle of Man	**£6.15** (aged over 16 but under 18)	**£8.25** (aged 18 and over, except development workers) **£7.30** (development worker)	1 Oct 2019
Jersey	Trainee rate year 1: **£6.24** Trainee rate year 2: **£7.28**[5]	**£8.32** (aged 16 and over)	1 Apr 2020

4.3. The Government's target is for the NLW to be set at two-thirds of median earnings by 2024. This is 6.7% higher than the target of Guernsey's medium-term plan.

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

4.4. In Jersey, the current minimum wage rate of £8.32 per hour was implemented on 1 April 2020. Since then, the COVID-19 pandemic has prevented the Employment Forum from consulting on minimum wage rates and providing a report and recommendations to the Social Security Minister, as required by the Employment (Jersey) Law, 2003[6].

4.5. Earlier this year, the Minister for Social Security conducted a public consultation on various minimum wage issues including the timing and level of the next minimum wage increase. The Minister has submitted a proposition seeking the approval of the States Assembly to use the provisions of the Covid-19 (Enabling Provisions) (Jersey) Law 2020[7] to make Regulations to provide for a one-off power to set rates for the level of the minimum wage and offsets without requiring the Employment Forum to consult. The accompanying report says that the combination of COVID-19 restrictions and changes following Brexit has led to reports of a shortage of workers across low-paid sectors and a substantial rise in wages being offered in some sectors. If the COVID-19 (Employment – Minimum Wage) (Jersey) Regulations are approved by the Assembly, the Minister intends to set the minimum wage rate at £9.22 per hour from 1 January 2022, achieving the target of 45% of mean average earnings agreed by the States Assembly on 6 March 2018. The earliest date for debate of this proposition is 2 November 2021.

4.6. In the Isle of Man, the current minimum wage rate of £8.25 was implemented on 1 October 2019. This is currently under review.

Economic and trading conditions

4.7. Economic trading conditions in Guernsey are stronger than may have been expected given the disruption caused by COVID-19. The latest published data, for March 2021, show that 12 of the 19 economic sectors have recovered employment levels to the same level or more than experienced in March 2019.

4.8. Of the seven sectors which have contracted, the largest is the finance sector and this relates primarily to restructuring decisions made in late 2019, unrelated to COVID-19. This sector pays well above minimum wage and will be little impacted by these discussions.

4.9. Of more relevance is the contraction in those sectors which represent the largest employment of unskilled labour, including Wholesale retail and repairs; Hostelry; Transport and storage; and Administrative and support service activities (a sector which includes services like cleaning and facilities management).

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[6] Employment (Jersey) Law, 2003.
[7] Covid-19 (Enabling Provisions) (Jersey) Law, 2020.

4.10. There are likely a number of contributing factors at play for these sectors. In March 2021 there were still tight controls in place for travel into Guernsey and this has caused significant disruption for Hostelry and Transport and storage in particular. While this has been partially offset by strong domestic demand, the net effect has been negative. With the gradual release of travel restrictions this can be expected to ease but until restrictions are lifted entirely and travel returns to normal it will likely continue. A full recovery of these sectors is not anticipated until the beginning of the 2022 tourist season at the earliest.

4.11. Domestic unemployment has fallen close to its pre-COVID-19 level (1.36% of the working population as at 31 July 2021) which mean the pool of local labour available is small. The combination of COVID-19 and the implementation of new UK visa requirements for EU nationals working in the UK Common Travel Area (including Guernsey) following BREXIT has also made recruitment from outside of Guernsey more difficult. As a result, many businesses are struggling to recruit sufficient staff to run their operations at full capacity, even allowing for the restricted tourist season. This is likely to mean an upward pressure on wages in sectors most dependent on imported labour, which are also those who most commonly pay at the minimum wage.

4.12. Those sectors most likely to be impacted by an increase in minimum wage may be more vulnerable to increases in costs than they might be under normal circumstances. However, the upward pressure on wages because of recruitment issues may exceed the impact of any modest increase in the minimum wage.

Rate of inflation

4.13. At the end of June 2021, Guernsey's annual inflation, as measured by the changes in the RPIX, was 2.3%[8]. The RPIX, which excludes the mortgage interest item, is the States' preferred measure of inflation. Given current issues with the global supply chain, it is anticipated that inflation measures will be pushed upwards through the second half of 2021.

Rate of unemployment

4.14. There were 417 people wholly unemployed at the end of July 2021. This compares with the abnormally high number of 856 at the same time last year.

[8] Guernsey Quarterly Inflation Bulletin – Quarter 2 2021

Rates of pay

4.15. Nominal median earnings increased by 3.2% between the year ending March 2020 and the year ending March 2021, from £34,409 to £35,497[9]. It should be noted that the loss of lower value employment in the Hostelry sector, in particular, is likely to have resulted in an upward pressure on median earnings. It is therefore not yet clear to what extent this increase reflects a genuine increase in wages.

Such other factors that appear to the Committee to be relevant

4.16. The following additional factors were identified as relevant when considering the statutory minimum wage rates:

- public and political expectations,
- ensuring Guernsey remains competitive with the UK, Jersey and the Isle of Man,
- the impact on businesses,
- the In-Work Poverty review by the Scrutiny Management Committee,
- the impact of Brexit,
- the impact of COVID-19.

5. Duty to consult

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

> "…consult such organizations, or associations of organizations, representative of employers and employees in Guernsey, and such other organizations and bodies, as appear to the Committee to be appropriate."

5.2. In 2018, the Committee carried out a large-scale public consultation on minimum wage rates. However, as the Committee is now ordinarily working to a five-year plan approved by the States, the Committee decided, for the third year running, to undertake a targeted consultation.

5.3. In late May 2021, the Committee wrote to the main employer/industry representative groups (which included, but was not limited to, groups representing the retail, hospitality, building, care and finance sectors), unions and relevant civil society groups, inviting feedback on the Committee's proposal, which at that stage, was to increase minimum wage rates in 2022 by 3% to £9.00 per hour for adults and £8.50 for 16 and 17 year olds. This figure was modestly above the latest available (at that time) RPIX figure of 1.7% (Q1 2021).

[9] Guernsey Quarterly Population, Employment and Earnings Bulletin - issued 29th July 2021.

5.4. From the 21 letters sent, the Committee received seven responses - four from employer/industry representative organisations, two from civil society groups and one from the States of Guernsey as an employer. There was general support from respondents for a 3% increase in the minimum wage and associated rates in 2022, accepting that those on lower incomes, in particular, should be supported through the current challenging economic times. On that basis, the general consensus was that the proposed 3% increase was fair and proportionate in the circumstances.

5.5. The publication in July 2021 of the RPIX figure for the year ending 30 June 2021 and the median earnings figure for the year ending 31 March 2021, caused the Committee to reconsider whether a 3% rise in the minimum wage for 2022 was adequate. RPIX increased from 1.7% in March 2021 to 2.3% in June 2021 and nominal median earnings increased by 3.2% between the year ending March 2020 and the year ending March 2021, compared to 2.5% between the year ending December 2019 and the year ending December 2020. The Committee was concerned that if the minimum wage were uplifted by less than the increase in median earnings, the gap between the level of the minimum wage and the target of 60% of median earnings would increase, thereby increasing the level of uplifts required in 2023, 2024 and 2025 to reach the target. Consequently, the Committee decided to consult in August 2021 with the same group of consultees regarding a proposal to increase the minimum wage in 2022 by 4% to £9.05 per hour for adults and £8.60 per hour for young people.

5.6. The Committee received responses to this second consultation from seven organisations – the Committee *for* Economic Development (which had not received the first consultation letter due to an administrative error), the Policy & Resources Committee (in its role as employer), three employer/industry representative organisations, one civil society group and one union.

5.7. The feedback received was mixed. The responses received from a union and a civil society group supported the proposal to increase the minimum wage and associated rates by 4%. The civil society group pointed out that a single person with no dependents who worked full-time for the minimum wage would require financial assistance from income support, even if they lived in social housing where rents are lower than the private sector. One of the industry/employer representative organisations was of the view that a 4% impact would have little impact on their industry given current upward pressures on wages in that sector. While two industry/employer representative organisations were broadly content with the original proposal to increase the minimum wage and associated rates by 3%, neither organisation supported the revised proposal to increase rates by 4%. The Policy & Resources Committee advised that the States of Guernsey continues to pay all grades above the proposed minimum wage.

5.8. The Committee for Economic Development commented as follows in respect of the proposed 4% increase:

> "The Committee *for* Economic Development also notes that no data or information has been provided by the Committee *for* Employment and Social Security on the potential costs to business or the potential economic impact of these minimum wage proposals. Some industry sectors are more likely to employ individuals on the minimum wage than others (for example the hospitality, retail and agriculture sectors) and there is therefore scope for some industry sectors to be more significantly affected by larger increases in the minimum wage and associated rates. In the absence of this data it is very difficult to establish whether the proposed increases to the minimum wage rates could have unintended consequences for inflation and unemployment.
>
> The Committee *for* Economic Development[10] is therefore not supportive of CfESS's revised proposal to increase the minimum wage by 4% and - by majority - would support an increase for the minimum wage and associated rates in line with the Q2 RPIX (+2.3%) from 1st January 2022, in line with the approach followed in 2021 and sufficient to cover a cost of living increase."

6. Proposed rates for 2022

6.1. Ideally, the Committee would have wanted to resume the medium-term plan after a one year pause in 2021 when the minimum wage was increased by RPIX only. However, this would necessitate a 5.7% increase in the rate of the minimum wage in 2022 to £9.15 per hour. Given the continued economic uncertainties due to COVID-19, the Committee has decided instead to recommend a 4% increase to £9.05 per hour. This is half-way between the latest available RPIX figure of 2.3% (Q2 2021) and the 5.7% increase that would be required if the medium-term plan were to resume in 2022.

6.2. The Committee has taken into account the views of the Committee *for* Economic Development which is not supportive of the proposal to increase the minimum wage by 4%. That Committee would, by a majority, support an increase in line with the Q2 RPIX figure of 2.3% from 1 January 2022, in line with the approach followed in 2021 and sufficient to cover a cost of living increase. Under this proposal, the minimum wage for adults and young people would increase by £0.20 to £8.90 per hour and £8.45 per hour respectively.

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[10] Excluding Deputy Falla who, as a member of the Committee *for* Employment & Social Security, recused himself from the Committee *for* Economic Development's consideration of the matter on 26 August 2021.

6.3. The Committee notes that by increasing the minimum wage by less than the annual increase in median earnings, low paid workers' wages would fall further behind the median and the gap to make up when the medium-term plan resumed would be larger.

6.4. The proposed 4% increase, which is slightly higher than the increase in the median earnings of employees during the year ending 31 March 2021 (3.2%), consolidates the progress made towards the target of 60% of median earnings and ensures that the gap between the level of the minimum wage and the target will not widen.

6.5. The Committee notes that the proposed adult minimum wage rate for 2022 of £9.05 per hour is £0.17 less than the rate being proposed by the Social Security Minister in Jersey. The Committee recognises the need for employers to attract and retain quality staff. The Committee considers that in order to do so, Guernsey must, among other things, offer pay rates that are attractive compared with other competitive jurisdictions.

6.6. The Committee intends to resume the implementation of the medium-term plan in 2023. The target date to achieve the aim of the medium-term plan (i.e. for a person working forty hours per week at the minimum wage to earn an amount equal to 60% of the median earnings of employees) will therefore be pushed back to 2025.

Adult minimum wage rate

6.7. The Committee proposes that the adult minimum wage rate is increased from £8.70 to £9.05 per hour, with effect from 1 January 2022.

Young person's minimum wage rate

6.8. The Committee proposes that the young person's minimum wage rate is increased from £8.25 to £8.60 per hour, with effect from 1 January 2022.

6.9. While the States has resolved to equalise the young person's rate with the adult minimum wage rate over time, the Committee is of the view that increasing it by the same percentage as the adult minimum wage rate is prudent given the current economic conditions. Efforts to narrow the gap between the young person's rate and the adult rate will continue when the medium-term plan resumes.

Accommodation and food offsets

6.10. The Committee also intends to increase the associated accommodation and food offsets by 4%, rounded to the nearest pound. These offsets set the maximum amount an employer is permitted to deduct from an employee's wage in compensation for providing accommodation and meals. These

changes, which do not require States approval, are shown below for information:

- Accommodation and food offset: £122 per week (currently £117)
- Accommodation only offset: £87 per week (currently £84)

7. Compliance with Rule 4 of the Rules of Procedure

7.1. 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, propositions laid before the States.

7.2. In accordance with Rule 4(1)(b), the Committee has consulted in the development of these proposals (see section 5 for further information).

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

7.4. In accordance with Rule 4(1)(d), the Policy & Resources Committee has confirmed that there will be no additional cost to the States of Guernsey's payroll of increasing the rate of the minimum wage by 4% as no States employees are paid less than the proposed rate of £9.05 per hour. The Payroll Co-funding Scheme will close on 30 September 2021, i.e. prior to the introduction of the new rate. The Committee has been advised by Treasury that the proposed increase in the minimum wage will have minimal impact on the residual schemes of financial support.

7.5. In this Policy Letter, the Committee has set out its proposals for increasing the minimum wage and associated rates with effect from 1 January 2022. In accordance with Rule 4(2)(a), it is confirmed that the propositions accord with the Committee's purpose:

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

7.6. In particular, the Propositions relate to the Committee's mandated responsibilities:

> "To advise the States and to develop and implement policies on matters relating to its purpose, including…labour market legislation and practices;"

7.7. In accordance with Rule 4(2)(b), it is confirmed that the Propositions have the unanimous support of the Committee.

Yours faithfully

P J Roffey
President

H L de Sausmarez
Vice-President

T L Bury
S J Falla
J A B Gollop

M R Thompson
Non-States Member

R J Le Brun
Non-States Member

APPENDIX

GUERNSEY STATUTORY INSTRUMENT

2021 No.

The Minimum Wage (Prescribed Rates and Qualifications) (Guernsey) (Amendment) Regulations, 2021

Made	*8th September, 2021*
Coming into operation	*1st January, 2022*
Laid before the States	*, 2021*

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

Substitution of Schedule to principal Regulations.

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

Interpretation.

2. In these Regulations, "**the principal Regulations**" means the Minimum Wage (Prescribed Rates and Qualifications) (Guernsey) Regulations, 2012[b].

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[a] Order in Council No. I of 2010; as amended by Order in Council No. XIII of 2010; and Ordinance No. IX of 2016.

[b] G.S.I. No. 40 of 2012; as amended by G.S.I. Nos. 15 and 49 of 2014; No. 40 of 2015; No. 42 of 2016; No. 89 of 2017; No. 60 of 2018; No. 85 of 2019 and No. 104 of 2020.

Transitional and savings provisions.

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

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

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

Citation and commencement.

4. These Regulations may be cited as the Minimum Wage (Prescribed Rates and Qualifications) (Guernsey) (Amendment) Regulations, 2021, and come into force on the 1st January, 2022.

Dated this 8th day of September, 2021

P. J. ROFFEY

President of the Committee for Employment & Social Security

For and on behalf of the Committee

SCHEDULE

Regulation 1

SCHEDULE TO BE SUBSTITUTED FOR THE SCHEDULE TO THE PRINCIPAL REGULATIONS

"SCHEDULE

MINIMUM WAGE RATES

Regulations 1(1) and 2(1)

Adult Minimum Wage Rate	£9.05 per hour.
Young Person's Minimum Wage Rate	£8.60 per hour."

EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations replace the minimum wage rates for adults and young persons with the new rates of £9.05 per hour and £8.60 per hour, respectively, for the purposes of the Minimum Wage (Guernsey) Law, 2009 ("the Law").

Under section 31(3) of the Law, these Regulations do not have effect until approved by a Resolution of the States. If so approved, these regulations will come into force on the 1st January, 2022. The new rates will then take effect on and from the first day of the first pay reference period (as defined in regulation 3) of each worker in respect of any particular work.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *FOR* EMPLOYMENT & SOCIAL SECURITY

AMENDMENTS TO STATUTORY MINIMUM WAGE ARRANGEMENTS TO COME INTO FORCE ON 1ST JANUARY 2022

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

13th September 2021

Dear Sir

Preferred date for consideration by the States of Deliberation

In accordance with Rule 4(3) of the Rules of Procedure of the States of Deliberation and their Committees, the Committee *for* Employment & Social Security requests that 'Amendments to Statutory Minimum Wage Arrangements' be considered at the States Meeting due to commence on 13th October 2021.

It would be helpful for the Policy Letter to be considered at the earliest opportunity as employers need time to prepare for the increase in the minimum wage prior to implementation on 1st January 2022.

Yours faithfully

P J Roffey
President

H L de Sausmarez
Vice-President

T L Bury
S J Falla
J A B Gollop

M R Thompson
Non-States Member

R J Le Brun
Non-States Member

P.2021/104

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *FOR* EMPLOYMENT & SOCIAL SECURITY

DISCRIMINATION ORDINANCE: GROUNDS OF i) RELIGION OR BELIEF AND ii) SEXUAL ORIENTATION

The States are asked to decide: -

Whether, after consideration of the Policy Letter entitled "Discrimination Ordinance: Grounds of i) Religion or Belief and ii) Sexual Orientation" (dated 13th September, 2021), they are of the opinion: -

1. To agree that the ground of **'religion or belief'** should replace the ground of **'religious belief'** in phase one of the new Discrimination Ordinance (the drafting of which was agreed by the States on 17th July 2020) and that the definition of this ground should be based on the UK definition of 'religion or belief' with the addition of the five tests from Grainger plc v Nicholson (2010), as set out in paragraph 4.1, and the exclusion of single issue or political beliefs.

2. Subject to exception number 48, to agree the exceptions to the Discrimination Ordinance as explained in section 4 and set out in Appendix 2.

3. To agree that exception number 48 with respect to senior leadership positions in religious/faith schools should apply for a period of five years from the date of the Discrimination Ordinance coming into force.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *FOR* EMPLOYMENT & SOCIAL SECURITY

DISCRIMINATION ORDINANCE: GROUNDS OF i) RELIGION OR BELIEF AND ii) SEXUAL ORIENTATION

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

13th September, 2021

Dear Sir

1. EXECUTIVE SUMMARY

1.1 This policy letter discharges the States resolution of 17th July 2020 for the Committee *for* Employment & Social Security ('the Committee') to report back to the States with a policy letter on the proposed exceptions relating to the grounds of sexual orientation and religious belief in the new Discrimination Ordinance.

1.2 This policy letter also asks the States to reframe the ground of 'religious belief' as 'religion or belief'. The Committee recommends aligning the definition of 'religion or belief' with the equivalent definition in the UK Equality Act 2010 with the addition of the tests from Grainger plc v Nicholson (2010)[1] and the exclusion of single issue or political beliefs.

1.3 The policy letter sets out details of the closed consultation that took place in the autumn of 2020 on the grounds of sexual orientation and 'religious belief' or 'religion or belief', key points relating to the responses received and the Committee's recommendations.

[1] XpertHR Law Report relating to the case Grainger plc v Nicholson [2010] IRLR 4 EAT. Available at https://www.xperthr.co.uk/law-reports/religion-or-belief-discrimination-asserted-belief-about-climate-change-capable-of-protection-as-philosophical-belief/99646/?cmpid=ILC|PROF|HRPIO-2013-110-XHR_free_content_links|ptod_article&sfid=701w0000000uNMa.

1.4 This policy letter is specific to the grounds of sexual orientation and religion or belief. The States will have the opportunity to review phase one of the new Discrimination Ordinance in full when the draft Ordinance returns to the States for consideration - it is estimated that this will be in the first quarter of 2022.

1.5 The Committee recommends that additional exceptions be added into the new Discrimination Ordinance (relating to Ministers of religion, events and services related to religion or belief (acts of worship), religious buildings, religious organisations and recruitment to senior leadership positions in religious schools) and that two of the original exceptions on admissions and curriculum be modified.

1.6 The Committee recommends, by a majority, including an exception in the Discrimination Ordinance which would allow religious/faith schools and schools with a religious ethos (hereafter referred to as 'religious schools') to take religion into account in their admissions policies.

1.7 The Committee is proposing an exception to allow religious schools to alter their curriculum so that they focus religious education primarily on their own religion and/or may provide only a chaplain of one religion, provided that religious schools actively teach students about the existence of, respect for and equality of people who do not conform to their religious beliefs.

1.8 The Committee is proposing an exception to permit the ground of religion or belief (but not the ground of sexual orientation) to be taken into account when a person is recruited into employment which is for the purposes of organised religion.

1.9 The Committee is proposing an exception to allow the provision of goods or services for a religious purpose only to people of a particular religious group, as explained in paragraphs 4.11-4.14.

1.10 The Committee is proposing an exception to allow organisations managing religious buildings, such as places of worship, to take their religious ethos into account in lettings policies if to not do so would run counter to the purpose/doctrine of the religion. The Committee is of the opinion that this exception should only cover church halls and other buildings which are predominantly used for religious purposes.

1.11 The Committee is proposing an exception to allow religious organisations to restrict membership or registration on the ground of religious belief. It is proposed that religious organisations will also be able to restrict the makeup or membership of their board, committees, trustees and councils on the grounds of religion or belief.

1.12 It is proposed that religious mutual organisations may continue to provide benefits on the basis that members have contributed on an individual member basis for the membership benefits.

1.13 The Committee has reservations regarding the inclusion of an exception that would allow religion or belief to be taken into account in recruitment to senior leadership positions at religious schools and recommends that this exception should apply for a period of five years from the date of the Discrimination Ordinance coming into force. During this period, discussions could take place between representatives of the Policy & Resources Committee, the Committee *for* Education, Sport & Culture, the Committee *for* Employment & Social Security, the Voluntary Schools, the grant-aided Catholic School and the Catholic Church, with the aim of discussing and attempting to resolve the issue of discrimination on the grounds of religion or belief in recruitment, remuneration, promotion and termination processes in respect of senior leadership positions at religious schools. The Committee appreciates that there are competing rights in this situation –the right of teachers and senior leaders not to be discriminated against on the ground of religion or belief (or lack of it) and the duty on the State to respect the right of parents to have their child educated in conformity with their own religion. The Law Officers have provided advice in respect of the complex issue of competing rights, which is included in section 5 of this policy letter. The Committee (by a majority) is recommending the inclusion of this exception for a period of five years whilst discussions take place. Deputy Bury does not support the inclusion of the exception at all but agrees that, if an exception is to be included in the Discrimination Ordinance, it should be for a time-limited period of five years.

2. INTRODUCTION AND BACKGROUND

2.1 In 2003 (Billet d'État XXI of 2003, Article XIV[2]), the States of Guernsey discussed the principle of introducing multi-ground discrimination legislation. The first tranche of this legislation, prohibiting discrimination on the grounds of sex, marriage and gender reassignment in employment, was introduced in 2006[3].

2.2 In 2013 (Billet d'État XXII of 2013, Article IX[4]), the States of Deliberation unanimously agreed to develop proposals for legislation to protect disabled people and carers from discrimination as part of the Disability and Inclusion

[2] States Advisory and Finance Committee – Proposals for Comprehensive Equal Status and Fair Treatment Legislation (Billet d'État XXI of 2003, Article XIV). Available at: https://www.gov.gg/CHttpHandler.ashx?id=3754&p=0 .

[3] Maternity leave and adoption leave were added to the Sex Discrimination (Employment) (Guernsey) Ordinance, 2005 with effect from 1 April, 2016.

[4] Policy Council - Disability and Inclusion Strategy (Billet d'État XXII of 2013, Article IX). Available at: https://www.gov.gg/article/150421/States-Meeting-on-27th-November-2013-Billet-XXII.

Strategy. In June 2018[5], the States unanimously agreed to extend this to the development of proposals for a piece of legislation to cover multiple grounds of protection. In line with the Resolution from June 2018, the Committee consulted in the summer of 2019 on draft policy proposals for multi-ground discrimination legislation. The quantity of feedback on the details of these proposals, and the desire from some key stakeholders (who supported the principle of introducing new discrimination legislation) for a phased approach to implementing the legislation, meant that the previous Committee decided to recommend a phased approach to the introduction of the new multi-ground discrimination legislation.

2.3 In July 2020, the States of Deliberation considered policy proposals from the Committee for a new Discrimination Ordinance[6]. On 17th July 2020, the States agreed unanimously to the preparation of an Ordinance to outlaw discrimination on the grounds of disability, carer status and race. The States also approved an amendment[7] to the Committee's proposals, which added religious belief and sexual orientation into the first phase of the development of the Ordinance and amended the number of implementation phases from three to two.

2.4 The Committee was directed to report back to the States, as soon as possible in the next States term (i.e. now the current States term), with a policy letter on the proposed exceptions for the grounds of sexual orientation and religious belief and that this should take place in parallel to the legislative drafting of the new Ordinance. An exception sets out when it would be permitted to treat people differently based on one of the protected grounds. The States noted in July 2020 that the Committee would have the power to prescribe exceptions to the Ordinance by Regulation.

2.5 The relevant States Resolutions referred to in paragraphs 2.3 and 2.4 are set out in full below:

> *"1A. To agree that prevention of discrimination on the ground of **sexual orientation** (meaning, in accordance with the Committee for Employment & Social Security's Technical Proposals of July 2019, "a person's sexual orientation towards persons of the same sex, or persons of a different sex, or persons of the same sex and persons of a different sex") shall be included within the Ordinance prepared in accordance with Proposition 1.*

[5] https://gov.gg/article/163879/States-Meeting-on-5-June-2018-Billet-dtat-XV.

[6] Committee *for* Employment & Social Security – Proposals for a New Discrimination Ordinance (Billet d'État XV of 2020, Article XV). Available at https://gov.gg/article/176559/Proposals-for-a-New-Discrimination-Ordinance.

[7] P.2020/41 Parkinson and Tooley Amendment 2 to the Committee *for* Employment & Social Security's Proposals for a New Discrimination Ordinance (Billet d'État XV of 2020, Article XV). Available at https://gov.gg/CHttpHandler.ashx?id=127724&p=0

*1B. To agree that prevention of discrimination on the ground of **religious belief** (meaning, in accordance with the Committee for Employment & Social Security's Technical Proposals of July 2019, "a person's religious belief, which includes their religious background or outlook, and also includes not having a religious belief") shall be included within the Ordinance prepared in accordance with Proposition 1.*

1C. To direct the Committee for Employment & Social Security to report back to the States as soon as possible in the next States term with a policy letter on the proposed exceptions for the grounds of sexual orientation and religious belief and that this should take place in parallel to the legislative drafting of the new Ordinance."

2.6 This policy letter meets the requirement of Resolution 1C for the Committee to report back on the proposed exceptions for the two additional grounds of protection. This policy letter also asks the States to agree to reframe the ground of 'religious belief' to 'religion or belief'.

2.7 This policy letter is specific to the grounds of sexual orientation and religion or belief. The States will have the opportunity to review phase one of the new Discrimination Ordinance in full when the draft Ordinance returns to the States for consideration - it is estimated that this will be in the first quarter of 2022.

2.8 The following additional information is appended:

- Appendix 1 - The exceptions to the new Discrimination Ordinance that were approved by the States in July 2020.

- Appendix 2 - The additional and modified exceptions (in addition to those already approved and set out in Appendix 1) that the Committee is proposing be included within the new Discrimination Ordinance on the grounds of sexual orientation and religion or belief (note there are no additional exceptions on the ground of sexual orientation being proposed).

- Appendix 3 - The consultation document that was issued to stakeholders in the autumn of 2020 in relation to the two additional grounds of protection.

- Appendix 4 - The list of organisations consulted on the questions in Appendix 3.

3. STAKEHOLDER ENGAGEMENT / CONSULTATION PROCESS

3.1 On 14th September 2020, the former Committee approved a consultation document on the two additional grounds of protection and related exceptions

and agreed that it should be sent out to key stakeholders prior to the end of the previous States' term, with a view to the responses informing the deliberations of the new Committee. The consultation document is attached at Appendix 3 and the consultees are listed in Appendix 4. 22 responses were received from a range of organisations listed in Appendix 4.

3.2 The consultation was subdivided into two parts. Part A asked about the definition of religious belief and whether, instead of protecting people from discrimination on the basis of their religious belief (or lack of religious belief) akin to legislation in Ireland, the Guernsey legislation should follow the UK and protect people on the ground of 'religion or belief', i.e. also protecting people from discrimination on the basis of philosophical belief (or lack of philosophical belief). People were asked to state their preference and the reasons for their preference and also to explain what, if any, test(s) should apply to the definition of a philosophical belief. Part B asked about what exceptions should be included in the Ordinance on the two additional grounds of protection.

Consultation responses - Part A

3.3 Regarding Part A of the consultation document, the UK Equality Act 2010 makes it unlawful to discriminate against someone because of religion or belief, or because of a lack of religion or belief. For example, the Act protects Christians if they are discriminated against because of their Christian beliefs. It also protects those who are discriminated against because they are not Christians, regardless of whether they have another religion or no religious belief. 'Religion or belief' is defined in the Equality Act as follows:

"*Religion or belief*

(1) Religion means any religion and a reference to religion includes a reference to a lack of religion.

(2) Belief means any religious or philosophical belief and a reference to belief includes a reference to a lack of belief.

(3) In relation to the protected characteristic of religion or belief —

(a) a reference to a person who has a particular protected characteristic is a reference to a person of a particular religion or belief;

(b) a reference to persons who share a protected characteristic is a reference to persons who are of the same religion or belief."

3.4 Whether a particular belief constitutes a 'philosophical belief' for the purposes

of the Equality Act 2010 is open to interpretation and case law has informed this debate over time. An important case in terms of setting some parameters was Grainger plc v Nicholson [2010][8] in which the Employment Appeals Tribunal said that for a philosophical belief to fall within the Equality Act 2010 it must:

- be genuinely held;
- be a belief and not an opinion or viewpoint based on the present state of information available;
- be a belief as to a weighty and substantial aspect of human life and behaviour;
- attain a certain level of cogency, seriousness, cohesion and importance;
- be worthy of respect in a democratic society, not be incompatible with human dignity and not conflict with the fundamental rights of others.

3.5 'Religion or belief' is a protected characteristic under the Isle of Man's Equality Act, 2017. It is defined in exactly the same way as under the UK Equality Act 2010. Discrimination on the basis of 'religious belief' or 'religion or belief' is not currently covered under the Discrimination (Jersey) Law 2013.

3.6 Broadly speaking, four different views emerged from the consultation with respect to the questions posed in Part A.

i) <u>Those who supported retaining religious belief and not expanding this ground to cover philosophical beliefs</u>
This view was espoused by three religious organisations and one response from a law firm, which did not think it necessary to protect people from discrimination on the basis of philosophical belief at this point in time.

ii) <u>Those who supported changing the ground to 'religion or belief' (including the five tests established through Grainger plc v Nicholson that the belief must:</u>

- be genuinely held;
- be a belief and not an opinion or viewpoint based on the present state of information available;
- be a belief as to a weighty and substantial aspect of human life and behaviour;
- attain a certain level of cogency, seriousness, cohesion and importance;
- be worthy of respect in a democratic society, not be incompatible with human dignity and not conflict with the fundamental rights of others).

[8] XpertHR Law Report relating to the case Grainger plc v Nicholson [2010] IRLR 4 EAT. Available at https://www.xperthr.co.uk/law-reports/religion-or-belief-discrimination-asserted-belief-about-climate-change-capable-of-protection-as-philosophical-belief/99646/?cmpid=ILC|PROF|HRPIO-2013-110-XHR_free_content_links|ptod_article&sfid=701w0000000uNMa.

Two law firms, humanist, equality, and business organisations supported this approach. Another industry body indicated that it would accept the extension of the ground to include philosophical beliefs (i.e. religion or belief) provided that the tests from the Grainger plc v Nicholson case were included. One law firm responded to say that it would recommend one amendment to the Grainger plc v Nicholson tests to add the underlined text: '…and not conflict with the fundamental rights of <u>other living persons'.</u> Another law firm felt that the UK definition was preferable to (and narrower than) the ground of 'religious belief' as defined under the Irish Equal Status Acts which incorporated background/outlook.

iii) <u>Those who were happy to change the ground to 'religion or belief' provided that, in addition to the requirements under point (ii), an additional test was added that the belief should be a belief system analogous to a religion</u>
Three religious organisations said they would be prepared to accept this proposal. A humanist organisation felt that if Guernsey was not going to adopt option ii), then it should, as a minimum, consider option iii). Another response supported widening the ground to cover philosophical belief but with an additional test to those established under Grainger plc. v Nicholson that the belief must be 'analogous to religion' in order to avoid single issue beliefs, such as political beliefs, being protected… "*the belief should be more general than a singular whim."* However, two law firms did not appear to favour of this approach because of the difficulty of defining what was meant by 'analogous to religion', instead arguing for aligning the definition with that used in the UK and the Isle of Man (i.e. approach (ii)) but excluding political and single issue beliefs too (i.e. approach (iv) below). One lawyer took a different view by not favouring extension of the ground to philosophical belief but, if the ground *were* to be extended to cover philosophical beliefs, then preferring this option.

iv) <u>An additional suggestion was that in addition to the tests in (ii) single issue beliefs and political beliefs should not be considered a 'belief' for the purposes of the Discrimination Ordinance.</u>
As explained above, this option was suggested as an alternative to approach (iii) because of the potential difficulty of defining a belief that was 'analogous to religion' and the complications this would cause when trying to interpret UK case law, in the respondent's view.

Consultation responses – Part B

3.7 With respect to Part B, many of the religious organisations who responded to the consultation, supported the inclusion of the exceptions proposed in the consultation document, which are similar to those in the UK and Isle of Man (Jersey does not include protection from discrimination on the ground of religious belief or religion or belief).

Applying an exception for Ministers of Religion on both the grounds of sexual orientation and religion or belief

3.8 There were opposing views expressed about the proposed exceptions in relation to the ground of sexual orientation, especially in relation to recruitment of Ministers of Religion. This exception, proposed in the consultation document by the former Committee, had suggested that the ground of religion or belief or sexual orientation may be taken into account when a person is recruited into employment which is for the purposes of organised religion. This would apply to the recruitment of ministers, celebrants or leaders of that religion or religious denomination, but this may also include, in a limited range of circumstances, others employed in religious capacities where the job involves representing or promoting the religion (e.g. youth workers who have a role in promoting a religion). It does not cover individuals recruited by religious organisations to undertake roles which are not related to representing or promoting that religion. It was proposed that this exception would only be applied if the grounds of protection specified in recruitment are in line with the doctrine of the religion. This was originally based on Paragraph 2 of Schedule 9 of the UK Equality Act 2010 which provides that discrimination on grounds of sex, gender reassignment, marriage and civil partnership, marriage to a person of the same sex, and sexual orientation is permitted if, among other requirements, it is shown that the employment is for the purposes of an organised religion. In the UK, the requirement must be one that is either being applied so as to comply with the doctrines of the religion, or so as to avoid conflicting with the strongly held religious convictions of a significant number of the religion's followers.[9]

3.9 However, several respondents expressed strong concerns about the proposed exceptions, especially about the interaction of rights relating to sexual orientation and rights relating to religious belief / religion or belief. For example:

"*We are concerned at the apparent linking of the grounds of religion and sexual orientation under the matter of employment. We suggest that these are two distinct and separate issues."*

"*An exception allowing prejudice on the grounds of sexual orientation appears to go against the point of discrimination legislation…. forcing religious individuals to hide their sexual orientation if they want to pursue their career violates fundamental human rights e.g. freedom of expression… the exception could be particularly damaging e.g. for clergy who rely on their place of work for their home as well as their income."*

[9] https://www.equalityhumanrights.com/sites/default/files/research-report-97-review-of-equality-and-human-rights-law-relating-to-religion-or-belief.pdf

"We feel that the exception 'if a significant number of the followers of the religion would be offended' should be removed from all categories and the exception should be limited to fundamental issues of doctrine. The wording is currently imprecise and does not necessarily afford protection to minorities, a key characteristic of discrimination legislation"

3.10 Others felt that *"The "Ministers of Religion" exception needs to clarify what it means by "representing or promoting the religion"* and that this definition should be wide. They argued*: "From a Christian perspective, the call is on everyone connected with a church to be an ambassador of Christ. This means anyone involved with the church or church building should be doing that regardless of their role. An administrator working for the church or a building caretaker should be doing this as much as a minister or youth worker."*

3.11 One response noted that the proposed exception regarding Ministers of Religion covered recruitment only and should extend to termination. The respondent argued that it should be possible that regard may be had, in connection with the termination of the employment or engagement of any person covered by this exception, to any conduct on his/her part which was incompatible with the precepts, or with the upholding of the tenets, of the religion or religious denomination so specified and that this should be incorporated into the exception of Ministers of Religion. One request went further and asked for there to be a *requirement* for any person employed by a religious organisation, who may choose to change their characteristic, so that the characteristic was no longer compatible with the doctrine/beliefs of that religious organisation, to be required to advise the organisation as soon as they were aware of the change.

3.12 There is no easy answer to reconcile opposing views. The Committee's view is explained in section 4.

References to religion to also cover religious denomination

3.13 There was a request that references to religion be extended to cover "religion or religious denomination". A religious denomination is a sub-group within a larger religious organisation that follows a common faith, practice, has an identity and traditions. This has been added into the proposed relevant exceptions.

Religious organisations

3.14 There was also a request that religious organisations should be able to restrict the makeup or membership of their board, committees, trustees and councils on the grounds of religion or belief, which has been included.

Religious buildings

3.15 There were conflicting consultation responses about the proposed exception relating to religious buildings (i.e. that organisations managing religious buildings, such as places of worship, may take their religious ethos into account in lettings policies). One view was that some respondents would expect that this exception would include church halls and community centres which were owned or managed by the local church and that the lettings policy for such buildings could take account of the religious ethos of the local church. The opposing view put forward by others was that, in their view, the exception relating to religious ethos should be available to intrinsically sacred/religious buildings/places of worship only, but that it should not necessarily be extended to encompass secular buildings used by religious groups (e.g. halls and other public spaces). The Committee's recommendation is included in section 4.

Exceptions relating to schools – admissions, curriculum and staffing

3.16 The Committee *for* Education, Sport & Culture (C*f*ESC) wrote to the Committee to request that an additional exception be included with respect to the Catholic Schools. Guernsey currently has two States maintained Catholic primary schools, Notre Dame du Rosaire Primary School and St Mary and St Michael Primary School and a Catholic private school, Blanchelande College. C*f*ESC has advised that where a school is established as a Catholic school, it requires the permission of the Bishop of the local Diocese. Guernsey is part of the Catholic Diocese of Portsmouth and its Catholic schools must submit to the authority of the Bishop of Portsmouth in all matters to do with the faith. The Bishops' Conference of England and Wales issues directives which Catholic Schools are obliged to follow. The appointment of senior staff is covered in the Memorandum on Appointment of Teachers to Catholic Schools and states that senior posts are reserved exclusively for practising Catholics. As a minimum requirement, the Bishops expect that the posts of Head Teacher or Principal, Deputy Head Teacher or Deputy Principal and Head or Co-ordinator of Religious Education are to be filled by practising Catholics. C*f*ESC therefore requested that the Discrimination Ordinance includes an exception which will enable Guernsey's Catholic schools to meet these requirements.

3.17 Some respondents were in favour of the exceptions that would allow religious selection in admissions criteria and permitting religious schools to only offer religious education in line with their own faith perspective. Other responses called for these proposed exceptions not to be included in the Ordinance as they were of the view that religious selection damaged social cohesion between different groups and often led to de facto ethnic and socio-economic selection. They argued that all children were entitled to have a broad and balanced education that allowed them to consider philosophical and fundamental questions from different perspectives and that every child should

have the opportunity to learn about a range of different beliefs. These exceptions were supported by some of the other religious denominations who responded to the consultation. Again, the Committee's views are explained in section 4.

4. COMMITTEE'S RECOMMENDATIONS

Definition of religion or belief

4.1 The Committee recommends reframing the ground 'religious belief' as 'religion or belief' in order to protect people from discrimination on the basis of their religion (or lack of religion) or their religious or philosophical belief (or lack of belief), in line with the UK Equality Act 2010 and Isle of Man Equality Act 2017. In addition, the Committee recommends the application of the five tests from Grainger plc v Nicholson [2010][10] and an additional test excluding single issue and political beliefs. The five tests are that the belief must:

- be genuinely held;
- be a belief and not an opinion or viewpoint based on the present state of information available;
- be a belief as to a weighty and substantial aspect of human life and behaviour;
- attain a certain level of cogency, seriousness, cohesion and importance;
- be worthy of respect in a democratic society, not be incompatible with human dignity and not conflict with the fundamental rights of others).

4.2 In reaching this decision, the Committee has taken into consideration the strong arguments from equality stakeholders and humanist groups that people should also be protected from discrimination on the basis of non-religious beliefs, provided that they meet certain tests. This will ensure that humanists can enforce their right not to be discriminated against on the basis of their humanist beliefs. The Committee's view was that just to protect people from discrimination on the ground of religious belief (or lack of religious belief) was too limited. The Committee accepted concerns expressed by business groups and some legal professionals that if the ground was to be reframed as 'religion or belief' then it would be sensible and pragmatic to adopt the tests from Grainger plc v Nicholson. The Committee accepted the argument made by some legal professionals that it would not be desirable to limit the protection from discrimination on the basis of philosophical beliefs to those beliefs that were 'analogous to religion' as it was not clear what this meant and could lead

[10] XpertHR Law Report relating to the case Grainger plc v Nicholson [2010] IRLR 4 EAT. Available at https://www.xperthr.co.uk/law-reports/religion-or-belief-discrimination-asserted-belief-about-climate-change-capable-of-protection-as-philosophical-belief/99646/?cmpid=ILC|PROF|HRPIO-2013-110-XHR_free_content_links|ptod_article&sfid=701w0000000uNMa.

to protracted debate within the Tribunal setting, but to instead exclude single issue or political beliefs (e.g. opposition to fox-hunting, taxation issues, educational model, etc). The Committee agreed that it supported the policy intent that the belief should not conflict with the fundamental rights of other *living* persons, but the precise wording of that test would be a matter for the legal drafting team.

Exceptions

Admissions policies (no.22)

4.3 The Committee recommends, by a majority, including an exception in the Discrimination Ordinance which would allow religious schools to take religion into account in their admissions policies. This exception is included in the UK Equality Act 2010, a similar exception exists in the Isle of Man Equality Act 2017 and this exception reflects current practice in Guernsey. This exception is supported by the C*f*ESC, within whose mandate the provision of education in Guernsey falls. The Committee's deliberations in this area are discussed further in paragraphs 4.20-4.30 of this policy letter.

Curriculum exceptions (no.23)

4.4 The Committee is proposing an exception to allow religious schools to alter their curriculum so that they focus religious education primarily on their own religion and/or may provide only a chaplain of one religion, provided that religious schools actively teach students about the existence of, respect for and equality of people who do not conform to their religious beliefs. The Committee is of the view that all children are entitled to have a broad and balanced education that allows them to consider philosophical and fundamental questions from different perspectives and that every child should have the opportunity to learn about a range of different beliefs.

Ministers of religion

4.5 The Committee is proposing an exception to permit the ground of religion or belief to be taken into account when a person is recruited into employment which is for the purposes of organised religion. This would apply to the recruitment of ministers, celebrants or leaders of that religion or religious denomination, but this may also include others employed in religious capacities where the job involves representing or promoting the religion (e.g. youth workers who have a role in promoting a religion). It will not cover individuals recruited by religious organisations to undertake roles which are not related to representing or promoting that religion.

4.6 This exception may only be applied if the grounds of protection specified in recruitment are in line with the doctrine of the religion.

4.7 The Committee agreed to add into the proposed exception on Ministers of Religion that regard may be had, in connection with the termination of the employment or engagement of any person covered by the exception, to any conduct on their part which was incompatible with the precepts, or with the upholding of the tenets, of the religion or religious denomination so specified. The Committee therefore proposes that regard may be had, in connection with the termination of the employment or engagement of any person covered by the exception, to any conduct on their part which was incompatible with the precepts, or with the upholding of the tenets, of the religion or religious denomination so specified, subject to the paragraph below.

4.8 The Committee took into consideration the feedback reported in paragraphs 3.8-3.11 of this policy letter. A majority of Committee Members thought that permitting discrimination in the field of employment on the basis of sexual orientation went against the spirit of equality legislation. The Committee is, therefore, not proposing the inclusion of an exception in the Discrimination Ordinance which would allow religious organisations to take sexual orientation into account when recruiting Ministers of Religion. Removing the ground of sexual orientation from this exception means that the Committee is not proposing any additional exceptions on the ground of sexual orientation in this policy letter. This is different to the UK and the Isle of Man. The UK Equality Act 2010 provides that discrimination on grounds of sex, gender reassignment, marriage and civil partnership, marriage to a person of the same sex, and sexual orientation is permitted if, among other requirements, it is shown that the employment is for the purposes of an organised religion. The Isle of Man has a similar exception. Jersey's 2013 Discrimination Law doesn't protect from discrimination on the grounds of religion or belief but does cover the ground of sexual orientation. However, an act of discrimination is not prohibited by where an employer aims to recruit a person for the purposes of an organised religion and requires the person recruited to be of a particular sex, to have a particular sexual orientation; or to be or not to be a transgender person. The Law Officers have also provided a relevant comment – please refer to their advice in section 5 of this policy letter.

4.9 Members of the Committee were concerned with the wording included in the consultation document "or so as to avoid conflicting with the strongly held religious convictions of a significant number of the religion's [or religious denomination's] followers" because it could create a situation where a group of people were treated unfairly because the majority group placed its own interests above the interests of the minority group and were intolerant of their differences. The Committee has, therefore, removed this phrase from the

proposed exception and recommends that it just be limited to matters of religious doctrine.

4.10 The Committee is not recommending including a requirement for any person employed by a religious organisation who might change a personal characteristic in a way that was not compatible with the doctrine/beliefs of that religious organisation, to have to advise the organisation as soon as they are aware of the change, as suggested by a respondent to the consultation.

Events and services related to religion or belief

4.11 The Committee is proposing an exception to allow the provision of goods or services for a religious purpose only to people of a particular religious group.

4.12 The Committee proposes that acts of worship and other religious observance are not subject to this legislation including (but not limited to) the format of worship and ceremonies and the use of religious texts and teaching. However, this exception is not intended to exempt religious organisations from all requirements to comply with the legislation. For example, religious organisations will still need to consider the access needs of disabled people and provide reasonable adjustments etc.

4.13 It is recommended that religious celebrants of weddings would not be subject to a complaint of discrimination under the proposed legislation if they refuse to marry a couple on grounds of their religion or sexual orientation. However, it may not be necessary to have a specific exception within the discrimination legislation itself in relation to sexual orientation, as this is already covered by section 8 of the Same Sex Marriage (Guernsey) Law, 2016.[11]

4.14 The Committee decided to remove reference to offending the religion's followers for the same reason as given above with respect to the exception on Minsters of Religion.

Religious buildings

4.15 The Committee is proposing an exception to allow organisations managing religious buildings, such as places of worship, to take their religious ethos into

[11] Marriage according to religious rites: no compulsion to solemnise etc. 8. (1) A person, including a religious organisation, may not be compelled by any means (including by the enforcement of a contract or a statutory or other legal requirement) – (a) to conduct a relevant marriage, (b) to be present at, carry out, or otherwise participate in, a relevant marriage, or (c) to consent to a relevant marriage being conducted, where the reason for the person not doing that thing is that the relevant marriage concerns a same-sex couple. (2) In subsection (1), "relevant marriage" means a marriage of a same-sex couple solemnised in a place of worship or in another place in accordance with religious rites or usages

account in lettings policies if to not do so would run counter to the purpose/doctrine of the religion.

4.16 The Committee is of the opinion that this exception should only cover church halls and other buildings which are predominantly used for religious purposes, such as locations that are intrinsically sacred or used as places of worship.

Religious organisations

4.17 The Committee is proposing an exception to allow religious organisations to restrict membership *or registration* on the ground of religious belief. It is proposed that religious organisations will also be able to restrict the makeup or membership of their board, committees, trustees and councils on the grounds of religion or belief.

4.18 Religious mutual organisations may continue to provide benefits on the basis that members have contributed on an individual member basis for the membership benefits; for example, a mutual insurance company which provides insurance cover for organisations of a particular religion or religious denomination.

Recruitment to senior leadership positions in religious schools

4.19 The Committee's recommendations in this area and rationale are covered in paragraphs 4.20-4.30 of this policy letter.

Exceptions relating to religious schools and schools with a religious ethos

4.20 The Committee faced a number of ethical dilemmas when considering the exceptions relating to religious schools. Committee Members were uncomfortable that the States schools' admissions policy was discriminatory in that only parents/guardians of Catholic children effectively have a choice in relation to which primary school their child would attend (i.e. their catchment school or a Voluntary Catholic school). However, the Committee, by a majority, has decided to take a pragmatic approach and recommend the inclusion of an exception to the legislation which would continue to allow the Catholic schools to give priority to Catholic children, in line with similar exceptions in the UK and Isle of Man. The Committee is also aware of the right under Article 9(2) of the Human Rights Law that "Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others."

4.21 The Catholic primary schools were established at a time when the vast majority

of residents in Guernsey were either Protestant or Catholic, to serve a predominantly Catholic Irish immigrant population, and when the alternative form of education was the local parish-run Church of England school. The States took over the funding of the running costs (but not building maintenance) of the Catholic schools shortly after it was agreed that the other Parish-run schools would be centrally funded from the perspective that the States would pay all the salaries, unburdening parishes from some of the taxes they had to levy. This did not immediately apply to Catholic and Voluntary schools. Canon Hickey, who at the time had a seat in the States, spoke up for the Voluntary schools and was successful in his amendment to include the Catholic schools with the parish schools in this change, with the aim of achieving equality for all the primary schools on the Island at the time, both Church of England and Catholic. However, over time, the States schools' admissions policy has meant that some parents effectively have a choice of primary school for their child(ren) whereas others do not.

4.22 The following extract is taken from the C*f*ESC's schools admissions policy[12]: "*Children should be registered for admission to their catchment primary school, or if baptised Catholics whose parents/carers wish them to go there, either of the Catholic Voluntary schools ……There are two Catholic Voluntary Primary Schools, namely Notre Dame du Rosaire and St. Mary & St. Michael. These schools do not have defined catchment areas, but generally families living in the North of the Island will attend St. Mary & St. Michael Catholic Primary School and those living in the South will attend Notre Dame du Rosaire Catholic Primary School. Places are intended for children whose parents/carers can demonstrate affiliation to the denomination in whose interest the school is managed, by means of baptismal certificate for the child from a Catholic church….Parents/carers of children who are not baptised Catholics but who wish their child to attend these schools should advise the Committee for Education, Sport & Culture of this. For reception-age children such requests must be received before the end of the defined registration period. Their child will usually only be considered for a place if there is no space available within the catchment school for that child or if additional children are required to make a class in the Voluntary school viable."*

4.23 The States do not own the buildings that currently house the voluntary schools. These are owned and maintained by the Catholic Church, with the States paying other running costs. The Catholic Church in Guernsey falls under the Diocese of Portsmouth and is required to follow guidance and policies set by the Diocese, including that Catholic schools should give first priority to Catholic applicants.[13] Should the Catholic Church decide that it no longer wishes the schools to continue for any reason, the Education (Guernsey) Law, 1970 allows the States use of the buildings free of charge for two years in order to continue the

[12] ADMISSIONS: PRIMARY (gov.gg)

[13] http://www.casoportsmouth.org.uk/admissions/

operation of the school during that time.

4.24 The C*f*ESC wrote to C*f*ESS to request that an additional exception be included with respect to the Catholic Schools. C*f*ESC requested that the Discrimination Ordinance include an exception which would enable Guernsey's Catholic schools to meet the Bishop's minimum requirement that the posts of Head Teacher or Principal, Deputy Head Teacher or Deputy Principal and Head or Co-ordinator of Religious Education are to be filled by practising Catholics.

4.25 Under the Equality Act 2010, religious schools are permitted to take into account religious considerations in employment matters relating to head-teachers and teachers, in accordance with the School Standards and Framework Act 1998 ('the 1998 Act'). Under the 1998 Act, regard may be had by the governing body of faith schools, in connection with the termination of the employment of a teacher at the school, to any conduct by a teacher which is incompatible with the precepts of, or with the upholding of the tenets of, the school's religion. In relation to independent faith schools, section 124A of the 1998 Act provides that:

> "(2) Preference may be given, in connection with the appointment, promotion or remuneration of teachers at the school, to persons–
> (a) whose religious opinions are in accordance with the tenets of the religion or the religious denomination specified in relation to the school under section 124B(2), or
> (b) who attend religious worship in accordance with those tenets, or
> (c) who give, or are willing to give, religious education at the school in accordance with those tenets.
> (3) Regard may be had, in connection with the termination of the employment or engagement of any teacher at the school, to any conduct on his part which is incompatible with the precepts, or with the upholding of the tenets, of the religion or religious denomination so specified."

4.26 Section 60 of the 1998 Act covers foundation and voluntary-aided schools and a similar provision exists in section 62 of the Education Act 2011 for Academies. Guernsey doesn't have an equivalent to the 1998 Act. For these practices to not be considered discriminatory for the purposes of the new Discrimination Ordinance, an additional exception would be required, along the lines of the text set out in paragraph 4.25 above. Within the state-funded sector all Roman Catholic Schools in England are either Voluntary Aided Schools or Academies, not Voluntary Controlled Schools.[14] The difference is that the governing body is the employer of the staff at Voluntary Aided Schools. In Voluntary Controlled Schools all members of staff are employed by the Local Authority; Voluntary Controlled

[14] FAQs (catholiceducation.org.uk)

Schools may appoint reserved teachers to teach religious education but this is different to the requirements of Catholic Schools in relation to senior leadership positions.[15] The ethical dilemma for the Committee is that in Guernsey the Voluntary Schools (or their governing bodies) are not the employer and the senior leaders are States of Guernsey employees when the States of Guernsey is not a religious organisation.

4.27 The Committee is uncomfortable recommending an exception which would permit discrimination in recruitment, remuneration, promotion and termination of teachers in senior leadership posts on the basis of 'religious belief' or 'religion or belief' especially when, in the case of the voluntary schools, the States of Guernsey is the employer. The Committee does not consider that the States, as employer, should be permitting discrimination when it comes to the recruitment, remuneration, promotion and termination of teachers in senior leadership positions as this would deny promotion opportunities to some teachers compared with others. Members are particularly uncomfortable with allowing the States, as the employer of the teachers at the Voluntary Schools (Notre Dame du Rosaire and St Mary and St Michael Catholic Primary Schools), to discriminate on the grounds of religious belief, even if this exception only related to senior leadership positions (Headteacher, Deputy or Assistant Head and Head of Religious Education).

4.28 The Committee is also aware of the requirements of Article 2 of Protocol 1 of the European Convention on Human Rights which states: "In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions." Legal advice regarding this matter can be found in section 5.

4.29 After meeting the C*f*ESC, considering the legal advice set out in section 5 of this policy letter and extensive deliberations, the Committee has decided, by a majority, to recommend that an exception be included in the Discrimination Ordinance based on the relevant section of the 1998 Act, for a period of five years from the date of entry into force, to allow for discussions to be held between representatives of the Policy & Resources Committee, the Committee *for* Education, Sport & Culture, the Committee *for* Employment & Social Security, the Voluntary Schools, the grant-aided Catholic School and the Catholic Church, with the aim of discussing and attempting to resolve the issue of discrimination on the grounds of religion or belief in recruitment, remuneration, promotion and termination processes in senior leadership positions at religious schools.

4.30 It is therefore recommended that an additional exception for all religious schools be based on section 124A of the 1998 Act with some amendments (in italics),

[15] What is the difference between VA & VC Schools? - Rochester Diocese (rdbe.org.uk)

subject to any drafting modifications considered necessary by the legal drafting team at St James' Chambers but maintaining the policy intent:

> "Preference may be given, in connection with the appointment, promotion or remuneration of teachers *in senior leadership positions (Headteacher (or Principal), Deputy Headteacher, Assistant Head Teacher, Head of Religious Education or Co-ordinator of Religious Education) at religious schools (including those appointed by the States of Guernsey to teach in religious schools),* to persons –
>
> (a) whose religious opinions are in accordance with the tenets of the religion or the religious denomination specified in relation to the school […], or
>
> (b) who attend religious worship in accordance with those tenets, or
>
> (c) who give, or are willing to give, religious education at the school in accordance with those tenets.
>
> Regard may be had, in connection with the termination of the employment or engagement of any *teacher in the senior leadership positions specified above* at the school, to any conduct on his part which is incompatible with the precepts, or with the upholding of the tenets, of the religion or religious denomination so specified."

5 COMPLIANCE WITH RULE 4 OF THE RULES OF PROCEDURE

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

5.2 In accordance with Rule 4(1)(a) this policy letter contributes to priority 3 of the Government Work Plan, which is "Delivering the recovery actions". Specifically, introducing the discrimination ordinance falls under the area of focus on Community Investment.

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

5.4 The Law Officers have advised that, in human rights terms, there are competing rights at issue. In basic terms, the legal issue is that it is not sufficient for the Committee's proposals to look solely to prevent discrimination on the grounds of religion or belief (a right protected by Article 14 of the European Convention

on Human Rights); this aim must be balanced against other competing human rights – most notably here the Article 9 protection for freedom of religion, and Article 2 of Protocol 1, which protects a parent's right to have their child educated in conformity with their own religion. These are set out below:

> "Article 9 (Freedom of thought, conscience and religion)
>
> 1. Everyone has the right to freedom of thought, conscience and religion: this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.
> 2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.
>
> Article 2 of Protocol 1
>
> No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions."

5.5 The Committee has been advised that other jurisdictions, most notably the UK, have "drawn the line" as between competing rights in a different place from the Committee's proposals, which it is fair to say are more orientated towards "preventing discrimination" than "protecting religious freedom". However, we are advised that it is not possible to give definitive legal advice on the compatibility with Convention rights of the proposals as they stand. The case law directly on point is limited and in some cases contradictory, and it is based on the legislative position in other jurisdictions.

5.6 On the issue of the recruitment of senior leaders to religious schools, this concerns the difficult issue of the competing rights of the religious schools to autonomy and self-determination and a job applicant's right to not be discriminated against for not having a particular religion or belief. Added to this are the rights of the parents to have their child educated in accordance with their own religion or belief, a right which the European Court of Human Rights has held to have as its objective "the safeguarding of pluralism in education, essential for the preservation of a democratic society."[16] By time limiting the

[16] Kjeldsen, Busk Madsen v Denmark (1976)) 1 E. H. R. R. 71 (para 50)

exception which will allow religion or belief to be taken into account when recruiting to those positions, this raises the question of what will happen when the exception expires. We are advised that it may be arguable by the Catholic schools that they are unable to continue to operate as such if they are unable to comply with the requirements set by the Bishop in the Memorandum referred to above, and that Article 9 (and Art 2 of Protocol 1) rights are engaged.

5.7 As mentioned above, it is worth noting that the UK has "drawn the line" in a different place to Guernsey in the Equality Act 2010 when it comes to striking the balance between preventing discrimination in employment on the basis of religion, and freedom to practice a religion. In the UK, there are "occupational requirements" (OR) exceptions that employers might rely on – a general OR for religion or belief, one for employment in organised religion, and one for employers with a religious ethos. The Committee's proposals for exceptions are drawn more narrowly than this (as set out in appendix 4), with no general OR for religion or belief, a narrower exception for recruitment of ministers (which allows religion to be taken into account when recruiting, but not for instance sexual orientation) and the time limited exception for recruitment to senior leadership positions in religious schools.

5.8 In summary, there is at least a risk of a successful legal challenge on human rights grounds, but the Committee understands that it is hard to quantify the likelihood of this. In terms of the legislation – the new Ordinance itself - the Human Rights Law means that it will be read and given effect to, so far as it is possible, in a way that gives effect to all of the Convention rights. If that is not possible, the Royal Court[17] may, on application being made to it, declare a provision of it incompatible with the Convention rights.

5.9 In accordance with Rule 4(1)(d), the Committee has considered whether it needs to include propositions relating to funding in order to implement the proposals set out in this Policy Letter. Aside from the Law Officer's advice, the financial implications for the States of Guernsey of implementing the inclusion of these two additional grounds of protection in phase one of the Discrimination Ordinance are negligible (now that the policy work has been undertaken) provided that the exceptions list is approved. The number of expected enquiries and cases before the Employment and Discrimination Tribunal on these two grounds is likely to be smaller than the uncertainty in the number of enquires and complaints expected under the other grounds in phase one, which has already been incorporated into the budget estimates for phase one and the funding already approved by the States in July 2020 (the 2021 element of which has been included in the Committee's budget allocation for

[17] The Court of Appeal and the Judicial Committee of the Privy Council may also make such declarations.

2021). The legal drafting of the new Discrimination Ordinance is already underway.

5.10 In accordance with Rule 4(2) (a), the Propositions relate to the Committee's purpose:

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

5.11 In particular, the Propositions relate to the Committee's mandated responsibilities:

> "To advise the States and to develop and implement policies on matters relating to its purpose, including… equality and social inclusion, including in relation to disability… [and] labour market legislation and practices;"

5.12 In accordance with Rule 4(2)(b), it is confirmed that the Propositions have the unanimous support of the Committee, apart from two of the proposed exceptions - exception 22 and exception 48 in Appendix 2 - which are not supported by Deputy Bury. Deputy Bury does support the proposal that exception 48 should cease to apply after five years.

5.13 The Committee has consulted extensively throughout the process of the development of these proposals. All principal States Committees and the Policy & Resources Committee were consulted with in advance of, and as part of, the public consultation regarding the draft policy proposals for a multi-ground Discrimination Ordinance in July 2019. These draft proposals included the grounds of religious belief and sexual orientation and proposed exceptions on these grounds. The Committee carried out a closed consultation in the Autumn of 2020 in relation to the matters covered in this policy letter with the organisations listed in Appendix 4, the details of which are set out in section 3 of this policy letter.

Yours faithfully

P J Roffey
President

H L de Sausmarez
Vice-President

T L Bury
S J Falla
J A B Gollop

M R Thompson
Non-States Member

R J Le Brun
Non-States Member

APPENDIX 1

Exceptions list (approved by the States of Deliberation in July 2020)

1 Introduction - exceptions

If the discrimination legislation is agreed and comes into force then, as a general rule, any discrimination on the basis of carer status, disability, race, sexual orientation and religion or belief (or religious belief) will be unlawful (in addition to the grounds of marriage, sex and gender reassignment in the existing Sex Discrimination Ordinance).

However, there will be exceptions to that rule where different treatment is not considered discrimination for the purposes of the proposed legislation. The Committee is proposing that the Ordinance includes a power for the Committee to amend the list of exceptions by regulation. This list sets out the Committee's proposals for an initial list of exceptions.
It should be noted that this list might change, if amended during the States debate, and also potentially at the legal drafting stage.
The exceptions are numbered for ease of reference.

2 Reasons for different treatment which are not exceptions

The Committee's proposals include some provisions that are not exceptions but that can allow people to act in ways that would otherwise be considered discriminatory. These include positive action measures (which treat people differently to promote equality), providing reasonable adjustments to include disabled people (or not, if it is a disproportionate burden to do so), objective justification of certain types of discrimination and genuine and determining occupational requirements.

3 Exceptions that apply to all fields

The Committee is proposing that the exceptions in this section would apply in all (or multiple) fields – employment, goods or services provision, education provision (when commenced), accommodation provision and in membership of clubs and associations.

Requirements of the law (no. 1)
It is proposed that if someone is doing something that they are required to do by law this would not be discrimination for the purposes of the proposed legislation. This includes where someone is required to act in compliance with the law of another country. If someone believes that there are equality issues related to the operation of a law they should let us know (equality@gov.gg). It would then be for the States to consider whether, when and how to change the law. In some cases, if a person feels that a law is discriminatory, they may be able to take a case under the Human Rights (Bailiwick of Guernsey) Law, 2000.
This exception does not apply to contracts and leases. See exception no.4 on transitional

arrangements for contracts and leases.
It is also intended that the ability to make a discrimination complaint should not apply to anything done that is by the order of a court or tribunal or to judgements, awards or sentencing made by judges, magistrates, jurats, tribunals or others acting in a formal judicial capacity.

Wills and gifts (no. 2)
It is proposed that any person making a will or giving a gift can choose who benefits with regards to land, goods and property – this would not be subject to discrimination complaints. Any challenges to a will would be governed by existing legislation on wills and probate.

Preferential charging (no. 3)
It is proposed that people will be allowed to introduce or maintain preferential fees, charges or rates for anything offered or provided to carers or people with disabilities.

Transitional arrangements (no. 4)
There may be some historic schemes which have treated people differently with regards to the protected grounds (for example, in social insurance, insurance or pension plans) in a way which would not be permissible when the legislation comes into force. It is proposed that such schemes are not subject to complaints if: there are reasonable and proportionate transitional arrangements agreed prior to the legislation entering into force to phase out the scheme; and these are already being implemented at the time the legislation comes into force with a view to reaching a position which would be compliant. The Committee recommends that a two year period of grace from the commencement of the legislation should be allowed for discriminatory terms in pre-existing contracts or leases.

Protection from harm (no. 5)
Different treatment of persons with:
- a tendency to set fires,
- a tendency to steal,
- a tendency to physically or sexually abuse other persons, or
- a tendency towards exhibitionism or voyeurism,

that could be objectively justified in order to protect from harm other people and/or their property, would not constitute discrimination.
It would also not constitute discrimination for the prison or probation services to take into account a protected ground as part of a wider package of evidence-based risk factors when assessing the likelihood and impact of re-offending and where it can be objectively justified that they do so in order to protect from harm other people and/or their property.

4 Exceptions related to public functions

National security (no.6)

It is proposed that acts done for the purposes of safeguarding national security are exempt, but only where this is justified by the purpose.

Crown Employment (no.7)
It would not be discrimination to place requirements of residence, nationality, birth or descent for employment in the service of the Crown; employment by a public body (whether corporate or unincorporated) exercising public functions, or holding a public office.

Immigration (no. 8)
It is proposed that Immigration Officers and Police Officers would not be discriminating where they are acting in a way required to give effect to relevant UK immigration law or policy as extended to and in force in the Bailiwick of Guernsey.

Population Management (no. 9)
Guernsey has a Population Management Law. The Law is designed to regulate the size and make-up of the population in order to support the economy and community both now and into the future. The Law is supported by a number of policies designed to attract the diverse range of skilled people needed to strengthen Guernsey's workforce and to provide clarity to those already resident.
It is proposed that action taken to give effect, in a proportionate way, to the population management policy adopted by the States of Guernsey and/or the Committee *for* Home Affairs may take into account carer status, or nationality, national or ethnic origin. This includes relevant decisions related to permits for different categories of housing or permits for employment where based on strategic policy and informed by the identified needs of the population. Disability may be referred to but only when considering the extension and/or type of permits for people who are already resident.

Household composition for grants, loans, or benefits (no. 10)
It is proposed that any income assessment for grants, loans or benefits provided by the States of Guernsey may take into account household composition, as part of the income assessment.

Determinations (no. 11)
It is proposed that it would not be discrimination, for the purposes of the proposed legislation, for an officer or Panel, with delegated authority, to make determinations which may take into account carer status and disability in ways which are proportionate and necessary to give effect to the social insurance or social assistance policy agreed by the States of Guernsey or the relevant Committee thereof.

Residency status (no. 12)
It is proposed that a Committee of the States of Guernsey, or the States, may impose policy requirements which vary terms and conditions to access government services, facilities, grants, loans, benefits or access to employment or other opportunities based upon place of residence, length of residence and/or place of birth in order to distinguish between services for citizens/permanent residents and others. This would not constitute direct or indirect race discrimination for the purposes of the proposed legislation.

However, it should be noted that any such decisions made by the States or its Committees should otherwise align with Guernsey's human rights obligations.

See also social housing allocations – included in the "accommodation" section 11.

Ancient monuments – accessibility action plan (no 13)
It is proposed that the public sector duty to prepare accessibility action plans would not extend to ancient monuments where no other service is provided. For clarity, this exception does **not** apply to ancient monuments now used for another purpose or fee-paying visitor attractions or attractions where refreshments or souvenirs are sold.

5 – Employment

Safeguarding - employment (no. 14)
The Committee does not intend that anything in the proposals would require an employer to recruit, retain in employment or promote an individual if the employer is aware, on the basis of a criminal conviction of the individual or other reliable information, that the individual engages, or has a propensity to engage, in any form of sexual behaviour or violent or abusive behaviour which is unlawful and there are relevant safeguarding concerns.

Immigration and population management (no. 15)
It is intended that employers must continue to appropriately take into account immigration status and the requirements of Population Management – to do so would not be discrimination for the purposes of the proposed legislation.

Genuine and determining occupational requirements in part of a role (no. 16)
In some cases an employer may employ staff across a number of postings and duties, where some of these duties or postings could be considered to carry a genuine and determining occupational requirement (i.e. that a person of a particular description is required to perform those duties or hold those postings – for example, undertaking certain kinds of security search). In such a case, it is suggested that it would not be discrimination for the purposes of the proposed legislation to allocate a person to a particular duty or posting on the basis of their meeting the genuine and determining occupational requirement, where an employer must allocate a person of a certain description in order to maintain operations and meet requirements, provided that this is both objectively justifiable and is permissible in the employee's contract of employment.

Family situations (no. 17)
It is suggested that it would not be considered discrimination for the purposes of the proposed legislation, for employers to:
• grant individual requests for flexible working arrangements (provided that remuneration, leave and other benefits are equivalent on a pro-rata basis and that the right to request a flexible working arrangement is available to all employees),
• provide benefits in relation to care responsibilities (for family members) without this being a disadvantage to employees that do not have those responsibilities,

• provide a benefit to an employee in relation to a family situation (e.g. additional paid leave during a period of family illness).

Qualifications (no. 18)
It is proposed that it would not be indirect race discrimination, for the purposes of the proposed legislation, to require a person to hold a particular qualification to undertake a role. This might apply, for example, if someone had a professional qualification from another country which was not recognised in Guernsey (both for employers and for vocational bodies).

Supported employment (no. 19)
It is suggested that, for the purposes of the proposed legislation, a person may provide supported employment for people with a particular kind of disability without this being considered discrimination against people with other kinds of disability.

Genuine and Determining Occupational Requirements and Employment Services (no. 20)
It is intended that a provider of employment services (including vocational training) may restrict access to their training or services where employers they provide services to are operating Genuine and Determining Occupational Requirements which mean that they require persons of a particular description for those roles.

6 – Education

Different treatment based on assessed needs (no. 21)
It is proposed that it is not discriminatory for an education provider or authority to offer alternative or additional educational services in order to meet the assessed needs of a student where another student is not offered such services due to a difference in their assessed needs.

Admissions policies (no. 22)
It is proposed that a school may set an entry standard based on ability or aptitude. If an applicant does not meet the required standard for selection, for reasons related to, or in consequence of a disability, and despite reasonable adjustments having been offered or made available where relevant, then they, like other applicants who fail to meet that standard, may be refused a place.

Curriculum (no. 23)
It is proposed that when setting the curriculum, while representation might be desirable, it is not the intention of the Committee that someone could bring a complaint against the teaching of a subject on the basis that the set material or texts are not representative of all social groups or identities.

Please note that some of the other exceptions may be relevant for education providers. In particular see exceptions 37 on drama and 38 on sport.

7 – Financial services and pensions

Risk (no. 24)

It is intended that people who provide pensions (occupational or personal), annuities, insurance policies or any other services related to the assessment of risk would be allowed to use some of the protected grounds to undertake assessments and vary the service that they provide accordingly. However, this must be based on reliable and relevant data and differences in services provided should be proportionate to risk.
It is suggested disability would be a relevant ground. For example, insurance providers would be able to vary health or travel insurance premiums or exclude pre-existing conditions where based on reliable and relevant information and proportionate to the risk. Other financial services like banking services that do not relate to actuarial risk are not covered by this exception.

Occupational benefits, occupational pension schemes and personal pension schemes (no. 25)
All occupational benefits and pension schemes and employers or providers of such schemes would be covered by this exception. It also applies both to occupational pension schemes and to personal pensions and employment benefit schemes such as retirement annuity contracts and retirement annuity trust schemes and to trustees and administrators of schemes as well as employers. Occupational benefits mean schemes that provide benefits to all or a category of employees on their becoming ill, incapacitated or redundant. The Committee proposes that employers or providers of occupational benefits and pension schemes and administrators of personal pension schemes can use the following criteria when administering occupational benefits and pension schemes.
• A pension scheme or occupational benefit scheme may provide ill health benefits at any age.
• The amount of benefit may increase according to the severity of the illness or disability (e.g. total incapacity benefits may be higher than partial incapacity).

The law should require non-discrimination for future actuarial benefits but not for benefits acquired/accrued prior to the commencement of the legislation.

8 - Health and care related

Infectious disease (no. 26)
It is proposed that it would not be discrimination, for the purposes of the proposed legislation, to treat a person differently on the grounds of disability where the disability is an infectious disease, or where an assistance animal has an infectious disease, and different treatment is required for public health reasons.

Clinical judgement (no. 27)
It is proposed that if the difference in treatment (including prioritisation of treatment) of a person is solely based on a registered health and social care professional's clinical

judgement this would not be discrimination for the purposes of the proposed legislation. This is not intended to protect health and social care professionals from complaints if their use of a protected ground is prejudicial and not clinically relevant. This exception also does not remove the need to provide reasonable adjustments, where applicable.

Legal capacity (no. 28)
It is intended to include an exception that will permit difference in treatment where this is necessary in relation to a person's legal capacity status, in alignment with the new capacity legislation being developed.

Blood donation services (no. 29)
It is proposed that blood donation services may refuse to accept an individual's blood if the refusal is based on an assessment of the risk to the public or to the individual based on clinical, epidemiological or other relevant data. This is because services in this area are reliant on support from the UK NHS and, in order to ensure continuity of these essential services for Guernsey, there is a need to maintain a position that is consistent with the UK's.

Preventative public health services (no. 30)
It is intended to allow targeted preventative public health interventions including but not limited to screening programmes, immunisation programmes, access to primary care mental health and wellbeing services, diabetic retinopathy, provision of free contraception and other such measures which are strategically aimed at particular groups where this is objectively justified through epidemiological or other relevant data.

Care within the family (no. 31)
It is suggested that if people are providing care to other people as if they were a family member – including care for a child, an elderly person or a disabled person – the arrangements made for how, to whom and where they provide care are not subject to this legislation.

9 - Goods or Services (other)

Special interest services and services only suitable to the needs of certain persons (no. 32)
It is intended that goods or services providers may permit differences in treatment where these are reasonably necessary to promote bona fide special interests or where the goods or services in question can be reasonably regarded as only suitable to the needs of certain persons. Segregation on the basis of colour is not permissible.

Broadcasters and publishers (no. 33)
It is proposed that broadcasters and publishers can exercise editorial discretion over their content (not advertising) to be able to publish a range of views and permit free speech but this would not go so far as to allow them to promote/incite discrimination, harassment or hatred (note that there is separate legislation on racial hatred).

Web information services (no. 34)
Information Society Services Providers (ISSPs) provide services through a website. The Committee intends that ISSPs would not ordinarily be held responsible for the content of the data that they process, in particular where they are acting as a conduit, they provide caching of web pages, or they provide a "hosting service". As in the UK, an ISSP which creates cached copies of information, and becomes aware that the original information has been removed or disabled at source, must expeditiously remove or disable any cached copies it holds. Similarly, if an ISSP "hosting service" becomes aware that information they hold contravenes the proposed legislation they should expeditiously remove the information or disable access to it.

10 – Community, religion, cultural, entertainment, charities, sports, clubs and associations

Charities acting within their constituted aims (no. 35)
It is proposed that charities can provide benefits to people who share the same characteristic related to a protected ground if this is in line with their constituted aims and they can show that it is either a proportionate means of achieving a legitimate aim, or is compensating for a disadvantage linked to the characteristic. Charities may also restrict participation in activities (e.g. fundraising events) to promote or support the charity to people who meet a certain requirement. Racial segregation on the basis of colour is not permissible.

Clubs and associations – restricted membership (no. 36)
The Committee is proposing that clubs and associations can restrict their membership to people who share a particular characteristic related to a protected ground. However, it is not permissible to racially segregate on the basis of colour.

Drama and entertainment (no. 37)
It is suggested that the legislation should permit differences in treatment in relation to disability or race where this is reasonably required for the purposes of authenticity, aesthetics, tradition or custom in connection with a dramatic performance or other entertainment (for example, seeking a disabled actor to portray a character with a disability in a play).

Sports, games and other competitive activities (no. 38)
It is intended that it would not be considered discrimination, for the purposes of the proposed legislation, to exclude a person from a sporting, gaming or competitive activity if the person is not capable of performing the actions reasonably required in relation to the competitive activity (including with a reasonable adjustment). Similarly, it would not be considered discrimination, for the purposes of the proposed legislation, if someone is not selected as part of a team or as a participant if there is a selection process by a reasonable method on the basis of skills and abilities relevant to the competitive activity.
It is also intended that it would not be discrimination, for the purposes of the proposed legislation, to treat people differently according to disability, nationality or national origin

in relation to providing or organising sporting or gaming facilities or events or other competitions but only if the differences are reasonably necessary and relevant.

11 - Accommodation and premises

Premises not generally available to the public (no. 39)
It is proposed that if a person sells, lets or otherwise disposes of property without this being generally available to the public or a section of the public (for example, through advertising it via an estate agent) then decisions the person makes in relation to the sale, letting or disposal are exempt from this legislation. This is intended to exempt, for example, family property transactions or agreements between friends about house-sitting and so on.

Social housing and housing association allocations (no. 40)
It is intended that social housing providers and housing associations can treat people differently when allocating accommodation or managing waiting lists based on prioritisation in line with an allocations policy related to people's needs. This applies to the following grounds only: carer status, disability, and residency status (in so far as this is associated with the race ground).

Specialist accommodation (no. 41)
It is proposed that accommodation which is set aside for a particular use or for a particular category of people is permitted. For example, care homes, refuges, and sheltered accommodation.

Accommodation provided in someone's home (no. 42)
It is proposed that if a person is providing accommodation in a premises where they or a near relative live (i.e. where this would affect their private or family life) then they are exempt from this legislation and may choose who they wish to accommodate. It is intended that this would cover accommodating family members or friends in spare rooms or letting a room in a family house to a lodger where the premises remains primarily an individual's or family's home. It is not intended to exempt persons running guest houses or houses of multiple occupation or letting a separate and self-contained wing or apartment from the requirements of the legislation.

Population Management (no. 43)
It is proposed that accommodation providers must appropriately take into account population management requirements; to do so would not be discrimination for the purposes of the proposed legislation.

APPENDIX 2

Additional Exceptions on the Grounds of Sexual Orientation and Religion or Belief Recommended in this Policy Letter

The current Committee is proposing the following two exceptions approved by the States in July 2020 be expanded as follows (precise wording to be determined by the legal drafting team):

Admissions policies (no. 22)

"It is proposed that a school may set an entry standard based on ability or aptitude. If an applicant does not meet the required standard for selection, for reasons related to, or in consequence of a disability, and despite reasonable adjustments having been offered or made available where relevant, then they, like other applicants who fail to meet that standard, may be refused a place."

It is recommended to add into exception 22 that religious schools and schools with a religious ethos can take religion into account in their admissions policies.

Curriculum (no. 23)

"It is proposed that when setting the curriculum, while representation might be desirable, it is not the intention of the Committee that someone could bring a complaint against the teaching of a subject on the basis that the set material or texts are not representative of all social groups or identities."

It is recommended to add into exception 23 that religious schools and schools with a religious ethos may alter their curriculum so that they focus religious education primarily on their own religion and/or may provide only a chaplain of one religion, provided that religious schools actively teach students about the existence of, respect for and equality of people who do not conform to their religious beliefs.

The Committee is also proposing five additional exceptions be included in the Ordinance in addition to those already agreed by the States in July 2020 (precise wording to be determined by the legal drafting team):

Ministers of religion (no. 44)

The ground~~s~~ of religion or belief may be taken into account when a person is recruited into employment which is for the purposes of organised religion.

This applies to the recruitment of ministers, celebrants or leaders of that religion or religious denomination, but this may also include others employed in religious capacities where the job involves representing or promoting the religion or religious denomination (e.g. youth workers who have a role in promoting a religion). It will not cover individuals recruited by religious organisations to undertake roles which are not related to representing or promoting that religion or religious denomination.

This exception may only be applied if the grounds of protection specified in recruitment are in line with the doctrine of the religion.

Regard may be had, in connection with the termination of the employment or engagement of any person covered by the exception, to any conduct on their part which is incompatible with the precepts, or with the upholding of the tenets, of the religion or religious denomination so specified.

Events and services related to religion or belief (no. 45)

It would not be discrimination, for the purposes of the proposed legislation, to provide goods or services for a religious purpose only to people of a particular religious group.

The Committee proposes that acts of worship and other religious observance are not subject to this legislation including (but not limited to) the format of worship and ceremonies and the use of religious texts and teaching. However, this exception is not intended to exempt religious organisations from all requirements to comply with the legislation. For example, religious organisations will still need to consider the access needs of disabled people and provide reasonable adjustments etc.
Religious celebrants of weddings would not be subject to a complaint of discrimination under the proposed legislation if they refuse to marry a couple on grounds of their religion or sexual orientation (although the reference to sexual orientation may not be necessary within the Discrimination Ordinance as this is included within the Same-Sex Marriage (Guernsey) Law, 2016)

Religious buildings (no. 46)

Organisations managing religious buildings, such as places of worship, may take their religious ethos into account in lettings policies if to not do so would run counter to the purpose/doctrine of the religion). This exception should only cover church halls and other buildings which are predominantly used for religious purposes, such as locations that are intrinsically sacred or used as places of worship.

Religious organisations (no. 47)

Religious organisations are allowed to restrict their membership or registration on the ground of religion or belief. Religious organisations should be able to restrict the makeup or membership of their board, committees, trustees and councils on the grounds of religion or belief.

Religious mutual organisations may continue to provide benefits on the basis that members have contributed on an individual member basis for the membership benefits, for example a mutual insurance company which provides insurance cover for organisations of a particular religion or religious denomination.

Recruitment to senior leadership positions in religious schools (no. 48) (exception to be included for a period of five years from the date the legislation comes into force)

Preference may be given, in connection with the appointment, promotion or remuneration of teachers *in senior leadership positions (Headteacher (or Principal), Deputy Headteacher, Assistant Head Teacher, Head of Religious Education or Co-ordinator of Religious Education) at religious schools (including those teachers appointed by the States of Guernsey to teach in religious schools),* to persons –

(a) whose religious opinions are in accordance with the tenets of the religion or the religious denomination specified in relation to the school […], or

(b) who attend religious worship in accordance with those tenets, or

(c) who give, or are willing to give, religious education at the school in accordance with those tenets.

Regard may be had, in connection with the termination of the employment or engagement of any *teacher in the senior leadership positions specified above* at the school, to any conduct on his part which is incompatible with the precepts, or with the upholding of the tenets, of the religion or religious denomination so specified.

APPENDIX 3

COMMITTEE *FOR* EMPLOYMENT & SOCIAL SECURITY

ORIGINAL CONSULTATION PAPER ON RELIGIOUS BELIEF AND SEXUAL ORIENTATION

(Superceded by those exceptions set out in Appendix 2)

Introduction

In July 2020, the States of Deliberation considered proposals from the Committee *for* Employment and Social Security ('the Committee') for a new Discrimination Ordinance[18]. On 17th July 2020, the States agreed unanimously to the preparation of an Ordinance to outlaw discrimination on the grounds of disability, carer status and race. The States also approved an Amendment[19] to the Committee's proposals, laid by Deputy Parkinson and seconded by Deputy Tooley, which added religious belief and sexual orientation into the first phase of the development of the Ordinance.

The resolutions approved by the States included the following:

> *"1A. To agree that prevention of discrimination on the ground of **sexual orientation** (meaning, in accordance with the Committee for Employment & Social Security's Technical Proposals of July 2019, "a person's sexual orientation towards persons of the same sex, or persons of a different sex, or persons of the same sex and persons*

[18] Committee *for* Employment & Social Security – Proposals for a New Discrimination Ordinance (Billet d'État XV of 2020, Article XV). Available at https://gov.gg/article/176559/Proposals-for-a-New-Discrimination-Ordinance [accessed 20th August, 2020].

[19] P.2020/41 Parkinson and Tooley Amendment 2 to the Committee *for* Employment & Social Security's Proposals for a New Discrimination Ordinance (Billet d'État XV of 2020, Article XV). Available at https://gov.gg/CHttpHandler.ashx?id=127724&p=0 [accessed 20th August, 2020].

of a different sex") shall be included within the Ordinance prepared in accordance with Proposition 1.

*1B. To agree that prevention of discrimination on the ground of **religious belief** (meaning, in accordance with the Committee for Employment & Social Security's Technical Proposals of July 2019, "a person's religious belief, which includes their religious background or outlook, and also includes not having a religious belief") shall be included within the Ordinance prepared in accordance with Proposition 1.*

1C. To direct the Committee for Employment & Social Security to report back to the States as soon as possible in the next States term with a policy letter on the proposed exceptions for the grounds of sexual orientation and religious belief and that this should take place in parallel to the legislative drafting of the new Ordinance."

The Committee is conducting a closed consultation seeking the views of a targeted group of stakeholders regarding the following two matters:

1. The question of whether to propose to the States that the 'religious belief' ground of protection be reframed as 'religion or belief', in line with the UK Equality Act 2010 (see Part A of this consultation paper).

2. The exceptions to be included in the new Discrimination Ordinance in relation to the grounds of sexual orientation and 'religious belief' or 'religion & belief' (see Part B of this consultation paper).

What will the new Discrimination Ordinance do?

The new Discrimination Ordinance will apply to all aspects of employment, the provision of goods, services and education, the use or the disposal of premises and the treatment by an association of its members and guests. It will apply to all employers and service providers, whether they are public or private sector bodies, and regardless of their size. It will protect employees and other workers against discrimination in selection for employment, during employment, in dismissal and post-employment. It will similarly protect actual or potential service users against discriminatory treatment by service providers. The Ordinance will set out the different kinds of unlawful discrimination, such as direct discrimination, indirect discrimination, discrimination by

association, failure to provide a reasonable adjustment, harassment and victimisation. Finally, the Ordinance will set out some exceptions to the normal rules which prohibit discrimination.

The States has directed that the Ordinance is drafted. It then needs to return to the States for approval. Following approval there will be a six month lead-in period before the Ordinance enters into force. It is anticipated that the Ordinance will come into force some time in 2022.

Part A

DISCRIMINATION LEGISLATION – SHOULD THE 'RELIGIOUS BELIEF' GROUND OF PROTECTION BE REFRAMED AS 'RELIGION OR BELIEF'?

What has the States agreed in respect of religious belief?

By approval of the Amendment, the States agreed a definition of 'religious belief' as set out in the Committee's Draft Technical Policy Proposals[20] which were consulted on in the summer of 2019. The following policy intent was set out in that document:

> *"**3.2.17 Religious belief***
> *We intend that the religious belief ground would include a person's religious background or outlook and also include not having a religious belief.*
>
> *By religious outlook we intend to cover, for example, having conservative Christian views, as opposed to just being Christian – in recognition that there is a good deal of diversity within the major world religions. Religious background might include someone who is not practicing a religion but has been brought up in a particular faith."*

[20] States of Guernsey (July 2019) Discrimination Legislation – Technical Draft Proposals. Available at https://www.gov.gg/CHttpHandler.ashx?id=120055&p=0 [accessed 20th August, 2020].

Discrimination on the basis of a person's non-religious philosophical beliefs was not included within the scope of this ground of protection in the Committee's draft policy proposals and is therefore not included in the definition that was approved by the States in July 2020.

The Amendment directed the Committee to report back to the States as soon as possible in the next States term with a policy letter on the proposed exceptions for the grounds of sexual orientation and religious belief. This is necessary because the Committee's policy letter (considered in July 2020) did not include necessary exceptions for these two grounds of protection. Part B of this consultation paper separately invites feedback regarding the proposed exceptions.

Consultation feedback not taken into account by the States

Because religious belief was added to phase 1 of the development of the Ordinance by Amendment, the States was not briefed on feedback received through the public consultation on the Committee's proposed framing of the religious belief ground of protection.

The following is an extract from the Committee's report entitled "Consultation Findings: Draft Policy Proposals for Discrimination Legislation", published in January 2020[21]:

> *"Two organisations advocated, on the basis of different rationales, that the proposed protected ground of 'religious belief' should be reframed as 'religion or belief'. One respondent argued for discrimination on the basis of a person's philosophical beliefs analogous to religion (such as humanism) to be unlawful. Another respondent felt that the proposed definition of religious belief was too broad, as it referred to "outlook, viewpoint or perspective", but argued in favour of broadening the scope of the ground to include philosophical beliefs (in addition to religious belief), as set out below:*

[21] States of Guernsey (January 2020) Consultation Findings: Draft Policy Proposals for Discrimination Legislation. Available at https://www.gov.gg/CHttpHandler.ashx?id=123084&p=0 [accessed 20th August, 2020].

"On religion, we believe the protected ground should be 'religion or belief' rather than religious belief. It is important to ensure this protection applies to other deeply held beliefs. There is a body of case law in the UK defining a belief that would be covered and a similar approach could be taken in Guernsey (in Grainger plc v Nicholson 2010 the court held that to be protected the belief would need to be genuinely held, be a belief as to a weighty and substantial aspect of human life and behaviour, it must have a level of cogency, seriousness, cohesion and importance, and it must be worthy of respect in a democratic society)."

The Committee needs to consider whether to propose reframing the 'religious belief' ground of protection as 'religion or belief', in line with the UK, to address the issues raised by consultees and is inviting the views of a targeted group of stakeholders on this specific policy question.

The legal position in other comparable jurisdictions

United Kingdom

The Equality Act 2010 makes it unlawful to discriminate against someone because of religion or belief, or because of a lack of religion or belief. For example, the Act protects Christians if they are discriminated against because of their Christian beliefs. It also protects those who are discriminated against because they are not Christians, regardless of whether they have another religion or no religious belief.

'Religion or belief' is defined in the Equality Act as follows:

*"**10. Religion or belief***

(1) Religion means any religion and a reference to religion includes a reference to a lack of religion.

(2) Belief means any religious or philosophical belief and a reference to belief includes a reference to a lack of belief.

(3) In relation to the protected characteristic of religion or belief—

(a) a reference to a person who has a particular protected characteristic is a reference to a person of a particular religion or belief;

(b) a reference to persons who share a protected characteristic is a reference to persons who are of the same religion or belief."

Whether a particular belief constitutes a 'philosophical belief' for the purposes of the Equality Act 2010 is open to interpretation and case law has informed this debate over time. An important case in terms of setting some parameters was Grainger plc v Nicholson [2010][22] in which the Employment Appeals Tribunal said that for a philosophical belief to come within the Equality Act 2010 it must:

(i) be genuinely held;
(ii) be a belief and not an opinion or viewpoint based on the present state of information available;
(iii) be a belief as to a weighty and substantial aspect of human life and behaviour;
(iv) attain a certain level of cogency, seriousness, cohesion and importance;
(v) be worthy of respect in a democratic society, not be incompatible with human dignity and not conflict with the fundamental rights of others.

Jersey

Discrimination on the basis of 'religious belief' or 'religion or belief' is not currently covered under the Discrimination (Jersey) Law 2013.

Isle of Man

'Religion or belief' is a protected characteristic under the Isle of Man's Equality Act, 2017. It is defined in exactly the same way as under the UK Equality Act 2010.

Republic of Ireland

The Equality Acts 1998-2015 and the Equal Status Acts 2000-2015 make it unlawful to discriminate against someone because their 'religious belief'. Religious belief isn't defined as such in these Acts, but the following clarification is provided in the Act (Part 1 (2) Interpretation of the Equal Status Act, 2000):

""religious belief" includes religious background or outlook."

[22] XpertHR Law Report relating to the case Grainger plc v Nicholson [2010] IRLR 4 EAT. Available at https://www.xperthr.co.uk/law-reports/religion-or-belief-discrimination-asserted-belief-about-climate-change-capable-of-protection-as-philosophical-belief/99646/?cmpid=ILC|PROF|HRPIO-2013-110-XHR_free_content_links|ptod_article&sfid=701w0000000uNMa [accessed 20th August, 2020].

Part A policy questions

Organisations are invited to provide their views regarding the following policy questions:

1. In addition to protecting people from discrimination on the basis of religious belief (or lack of religious belief), do you think that the new Discrimination Ordinance should protect people from discrimination on the basis of philosophical belief (or lack of philosophical belief)? [N.B. It is important to understand that broadening protection in this way will not weaken the protection afforded to people on the basis of religious belief.]

2. If not, please explain why you think protection should not be broadened to cover discrimination on the basis of philosophical belief (or lack of philosophical belief).

3. If so, please explain why you think protection should be broadened to cover discrimination on the basis of philosophical belief (or lack of philosophical belief).

4. Do you agree that for a philosophical belief to fall within the scope of the Discrimination Ordinance it must (as is the case in the UK):
    - be genuinely held,
    - be a belief and not an opinion or viewpoint based on the present state of information available,
    - be a belief as to a weighty and substantial aspect of human life and behaviour,
    - attain a certain level of cogency, seriousness, cohesion and importance,
    - be worthy of respect in a democratic society, not be incompatible with human dignity and not conflict with the fundamental rights of others.

5. Do you think that any further tests should apply? For example, a further test which would narrow the scope of protection in respect of philosophical belief would be to require the belief to be a system of belief analogous to a religion. This would cover, for example, humanism, but would not cover, for example, veganism.

6. Do you have any other comments regarding this matter which you would like the Committee to consider?

Part B

EXCEPTIONS (SUPERCEDED BY APPENDIX 2)

What are 'exceptions'?

Exceptions describe situations where it would be lawful to treat people differently on the basis of a protected ground.

Possible exceptions re: sexual orientation and religious belief

This section of the consultation paper sets out some possible exceptions relating to the grounds of sexual orientation and religious belief, described in policy terms. Please note that they would still stand if the new Committee *for* Employment & Social Security decides to recommend to the States that the ground of religious belief should be reframed as 'religion or belief', as discussed in Part A.

Please note that the possible exceptions set out below are **in addition** to the exceptions already approved by the States for inclusion in phase 1 of the development of the new Discrimination Ordinance – these are set out in Section 8.3 of Appendix 4 of the Committee's Policy Letter entitled 'Proposals for a New Discrimination Ordinance' available at https://gov.gg/CHttpHandler.ashx?id=123704&p=0. Those exceptions will apply to the grounds of sexual orientation and 'religious belief' or 'religion or belief' (to be determined) unless the wording of the exception is explicitly limited to specific grounds.

The current Committee is proposing that two of the exceptions approved by the States in July 2020 be expanded as follows:

Admissions policies (no. 22)

To add into exception 22 that religious schools can take religion into account in their admissions policies.

Curriculum (no. 23)

To add into exception 23 that religious schools may alter their curriculum so that they focus religious education primarily on their own religion and/or may provide only a chaplain of one religion. However, religious schools should be required to teach students about the existence of, respect for and equality of people who do not conform to their religious beliefs.

Policy Letter (exceptions already agreed by the States)	Amendment to policy letter proposals
Admissions policies (no. 22) It is proposed that a school may set an entry standard based on ability or aptitude. If an applicant does not meet the required standard for selection, for reasons related to, or in consequence of a disability, and despite reasonable adjustments having been offered or made available where relevant, then they, like other applicants who fail to meet that standard, may be refused a place.	**Admissions policies (no. 22)** To add into exception 22:- "Religious schools can take religion into account in their admissions policies."
Curriculum (no. 23) It is proposed that when setting the curriculum, while representation might be desirable, it is not the intention of the Committee that someone could bring a complaint against the teaching of a subject on the basis that the set material or texts are not representative of all social groups or identities.	**Curriculum (no. 23)** To add into exception 23:- "Religious schools may alter their curriculum so that they focus religious education primarily on their own religion and/or may provide only a chaplain of one religion. However, religious schools should be required to teach students about the existence of, respect for and equality of people who do not conform to their religious beliefs."

The current Committee is proposing that four additional exceptions be added to those already agreed by the States in July 2020:

Although, at first glance, the titles suggest that they are primarily linked to the ground of religious belief (or religion or belief), there is also relevance for potential discrimination claims on the ground of sexual orientation.

Ministers of religion

The grounds of religion or sexual orientation may be taken into account when a person is recruited into employment which is for the purposes of organised religion.

'Recruitment for the purposes of organised religion' means primarily, the recruitment of ministers, celebrants or leaders of that religion, but this may also include, in a limited range of circumstances, others employed in religious capacities where the job involves representing or promoting the religion (e.g. youth workers who have a role in promoting a religion). It does not cover individuals recruited by religious organisations to undertake roles which are not related to representing or promoting that religion.

This exception may only be applied if the grounds of protection specified in recruitment are in line with the doctrine of the religion or if a significant number of the followers of the religion would be offended if a person who has a certain characteristic falling within the listed grounds of protection were to hold the post.

Religious events and services OR events and services related to religion or belief[23]

It would not be discrimination, for the purposes of the proposed legislation, to provide goods or services for a religious purpose only to people of a particular religious group.

Acts of worship and religious ceremonies are not subject to this legislation including (but not limited to) the format of worship, the choice and use of religious texts, language and teaching, the nature of rituals and symbolism, who is permitted to participate in certain rites and so on. However, this exception is not intended to exempt religious organisations from any requirement to comply with the legislation. For example, religious organisations should still consider the access needs of disabled people; and should not arbitrarily exclude or deny the attendance of a person at an event generally open to the public, on the basis of a protected ground, where the reason for doing so is not connected to the religious requirements or doctrine reasonably associated with the nature of the event taking place.
Persons should only be treated differently at religious events or in receipt of services if to not do so would run counter to the purpose/doctrine of the religion (or belief

[23] Depending on how the ground is defined – see Part A.

organisation), or if it would offend a significant number of the religion's (or belief's) followers because it was counter to their religious convictions or beliefs.

Religious celebrants of weddings would not be subject to a complaint of discrimination under the proposed legislation if they refuse to marry a couple on grounds of their religion or sexual orientation.

Religious buildings

Organisations managing religious buildings, such as places of worship, may take their religious ethos into account in lettings policies if to not do so would run counter to the purpose/doctrine of the religion), or if it would offend a significant number of the religion's followers' because it was counter to their religious convictions or beliefs.

Religious organisations

Religious organisations are allowed to restrict their membership on the ground of religious belief (or religion or belief).

Religious mutual organisations may continue to provide benefits on the basis that members have contributed on an individual member basis for the membership benefits, for example a mutual insurance company which provides insurance cover for organisations of a particular religious denomination.

Part B policy questions

Organisations are invited to provide their views regarding the following policy questions:

1. Do you agree with the inclusion and wording of these exceptions?

2. Are there any other exceptions that you think should be included, i.e. where there may be a good reason to treat people differently on the grounds of sexual orientation or religious belief (or religion or belief)?

Have your say

Organisations are invited to provide their views in writing on the policy questions set out in Parts A and B:

Address: Discrimination Legislation, Level 4, Edward T. Wheadon House, Le Truchot, St Peter Port, Guernsey, GY1 3WH
Email: equality@gov.gg

Please ensure that any responses have reached us by **16th November 2020**.

If you have any questions please do not hesitate to contact us at the above email address or by telephone on 01481 732518.

What will happen next?

The new Committee *for* Employment & Social Security will be appointed on 21st October 2020. The results of this consultation will be presented to the new Committee towards the end of 2020. The new Committee will need to take a view, informed by the results of this consultation, regarding whether or not to propose to the States that the 'religious belief' ground of protection should be reframed as 'religion or belief', or whether to leave the ground defined as agreed by the States in July 2020. If the new Committee decides to propose this to the States, a proposal will be included in the policy letter which the Committee has been directed to prepare setting out proposed exceptions for this ground of protection and for the ground of sexual orientation. The new Committee will also take into account the feedback received in respect of Part B of this consultation when preparing the policy letter setting out its proposed exceptions on the grounds of sexual orientation and religious belief (or religion or belief).

The Committee *for* Employment & Social Security will process any personal data which you provide, through this consultation, in accordance with the Data Protection (Bailiwick of Guernsey) Law, 2017. Further information about how your personal data is processed by the Committee *for* Employment & Social Security can be found at www.gov.gg/dp or by calling 01481 732518.

APPENDIX 4

List of Consultees the consultation document in Appendix 3 was sent out to - (22 responses were received)
The Dean of Guernsey
The Catholic Dean
Church of Scotland
Guernsey Islamic Charitable Trust
Zen Buddhist Group
Baha'i
Humanists UK/ Channel Island Humanists
Elim Pentecostal Churches (Vazon Elim Church & Eldad Church)
United Reformed Church
New Life Church
Salvation Army
Jehovah's Witnesses
Society of Friends (Quakers)
New Frontiers & New Ground, The Rock Community Church
Guernsey Evangelical Alliance
Bailiwick of Guernsey Methodist Circuit
Free Church Council
Evangelical Congregational Church
Baptist Union
Church of Jesus Christ of the Latter Day Saints
Jersey Synagogue
Church of Christ Scientist/Christian Science Society
Orthodox Community of All Saints
Bethesda (Strict) Baptist
Mission Halls
Evangelical Baptist Church
Equality Working Group
Liberate
Institute of Directors, Guernsey Branch
Guernsey Branch of the Chartered Institute of Personnel and Development
Guernsey Chamber of Commerce
Guernsey International Business Association
The Confederation of Guernsey Industry LBG
The Catholic National Mutual Ltd.
Guernsey International Insurance Association
Committee *for* Education, Sport & Culture
Committee *for* Economic Development
Gsy based lawyers who express interest in the consultation via the Bar Council or Employment Lawyers' Association

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *FOR* EMPLOYMENT & SOCIAL SECURITY

DISCRIMINATION ORDINANCE: GROUNDS OF I) RELIGION OR BELIEF AND II) SEXUAL ORIENTATION

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

13th September 2021

Dear Sir

Preferred date for consideration by the States of Deliberation

In accordance with Rule 4(3) of the Rules of Procedure of the States of Deliberation and their Committees, the Committee *for* Employment & Social Security requests that 'Discrimination Ordinance: Grounds of i) Religion or Belief and ii) Sexual Orientation' be considered at the States' Meeting due to commence on 13th October 2021.

The Committee intends to carry out a targeted consultation in respect of the draft Discrimination Ordinance in late 2021, in order to remain on schedule for entry into force in late 2022. The decisions taken by the States in respect of these Propositions, need to be reflected in the draft Ordinance on which the Committee consults. Debate of this matter in October 2021 will allow the Committee to proceed in accordance with the project timeline.

Yours faithfully

P J Roffey
President

H L de Sausmarez
Vice-President

T L Bury
S J Falla
J A B Gollop

M R Thompson
Non-States Member

R J Le Brun
Non-States Member

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THE STATES OF DELIBERATION

of the

ISLAND OF GUERNSEY

COMMITTEE *FOR* ECONOMIC DEVELOPMENT

PUBLIC HOLIDAYS IN 2022 AND BEYOND

The States are asked to decide:-

1. Whether, after consideration of the Policy Letter of the Committee *for* Economic Development entitled "Public Holidays in 2022 and Beyond", dated 2nd September, 2021, they are of the opinion:

a) To approve that Thursday 2nd June 2022 shall be a public holiday in place of Monday 30th May 2022,
b) To approve an additional public holiday on Friday 3rd June 2022,
c) To approve the retention of a public holiday on the 9th May, Liberation Day, each year even when 9th May falls on a Saturday or Sunday,
d) To approve that the Committee *for* Economic Development shall have authority by regulations to make future temporary changes to public holidays, as set out in paragraph 5 of the Policy Letter.
e) 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* ECONOMIC DEVELOPMENT

PUBLIC HOLIDAYS IN 2022 AND BEYOND

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

2nd September, 2021

Dear Sir

1 Executive Summary

1.1 The Committee *for* Economic Development is seeking States approval for changes in three areas to do with: creating a holiday in 2022 to celebrate Her Majesty The Queen's Platinum Jubilee; confirming on which day Liberation Day should be celebrated in future years; and the process for approving any future changes to public holidays.

1.2 The first proposal includes a change to the late May 2022 public holiday to designate Thursday 2nd June in place of 30th May (so moving the late May public holiday) as well as creating an additional public holiday on Friday 3rd June to celebrate Her Majesty The Queen's Platinum Jubilee. This will see a four-day weekend which will provide the opportunity for the public to celebrate the first British monarch to reach such a milestone. This proposed change also enables Guernsey to align itself to the United Kingdom (UK) which announced plans some months ago to mark The Queen's 70th Anniversary as Monarch.

1.3 As part of the consultation exercise undertaken with Guernsey businesses, Parish Officials and States Committees, the Committee *for* Economic Development also asked for views on whether the public holiday for Liberation Day should (as at present) remain on 9th May on those occasions when it falls on a Saturday or Sunday or whether the following Monday should be designated as a substitute public holiday for Liberation Day. The unanimous view was that 9th May is a significant date for Islanders and should not be moved. This does not prevent businesses making a decision as to whether to offer their staff time off in lieu for staff who normally work Monday to Friday. The Committee *for* Economic Development is, therefore,

proposing that going forward the Liberation Day public holiday should always remain on 9th May, even when this date falls on a Saturday or Sunday.

1.4 Finally, the States is also being asked to decide whether it wishes to continue to debate and approve any future changes to public holidays or whether it is minded to delegate that responsibility to the Committee *for* Economic Development. The Committee's intention would be that on the rare occasions when changes to public holidays are needed, a consultation exercise will continue to be undertaken so that the views of stakeholders are taken into account, but the final decision would then rest at Committee level rather than the full States of Deliberation, and necessary legislation will be made by way of regulations of the Committee subject only to the ability of the States of Deliberation to annul the regulations when laid before the States.

2 Her Majesty The Queen's Platinum Jubilee – June 2022

2.1 Earlier this year the UK Culture Secretary announced that, in 2022, for that year only, the late May Bank Holiday (Spring Bank Holiday) would be moved to Thursday 2nd June and an additional Public Holiday on Friday 3rd June would be created in order to make a four-day weekend to celebrate Her Majesty The Queen's Platinum Jubilee. This will be the first time any British monarch has reached this historic milestone.

2.2 As the Island of Guernsey determines dates for its own public holidays, the States needs to decide whether to follow suit and align with the UK to allow a four-day weekend to enable Islanders to join the extended celebrations of The Queen's Platinum Jubilee.

2.3 As a general principle, the Committee *for* Economic Development considers that changes to public holidays should only be made in exceptional circumstances as there is an impact on business costs and this needs to be taken into consideration before recommending any changes. It also appreciates that changes to public holidays may cause some inconvenience for education, travel or family occasions. The Policy & Resources Committee has advised that the financial implications to the States of an additional public holiday has been estimated to be £600,000 in staff costs.

2.4 The UK has announced plans for extensive celebrations and the Committee considers that it would be fitting for Guernsey, a Crown Dependency with a special relationship with The Queen, to also plan celebrations to mark this historic event. The Committee is aware that discussions are already taking place within States Committees and Government House on how Guernsey might celebrate.

2.5 With this in mind, the Committee has resolved to recommend to the States that the public holiday at the end of May 2022 is changed to designate Thursday 2nd June in place of 30th May as well as creating an additional public holiday on Friday 3rd June.

2.6 It considers that this will enable a long weekend of commemorations whilst minimising costs and disruption to businesses.

3 Liberation Day

3.1 Every few years, Liberation Day falls on a Saturday or Sunday and has, on some very few occasions, been moved to coincide with UK plans or a special anniversary.

3.2 On some previous occasions when Liberation Day has occurred on a Saturday or a Sunday, the view had been expressed that the Monday following Liberation Day should be specified as a public holiday. This in effect acts as substitute public holiday for 9th May. In 2010, the States of Deliberation moved the public holiday for Liberation Day to Monday 10th May to mark the 65th anniversary but five years later kept Saturday 9th May as a public holiday to mark the 70th anniversary.

3.3 The States of Deliberation was last asked to approve a change to public holidays in May 2019. This involved moving the early May 2020 public holiday to 8th May in order to align with the UK change in public holidays to mark the 75th anniversary of Victory in Europe (VE) Day (celebrated on 8th May, the day before Liberation Day) and to provide Guernsey with the opportunity to combine the celebrations for VE day with the 75th anniversary of Guernsey's Liberation Day by creating a long weekend.

3.4 Consultation undertaken at the time indicated that the majority view was to keep Liberation Day to 9th May regardless of which day of the week it fell on to retain the significance of the day. The responsibility would then lie with individual businesses to decide whether to offer their employees a day off in lieu at a later date.

3.5 The Committee feels that this might be an opportune time to make a decision on future Liberation Days that fall on weekend days and does not propose any alteration to the present position: the public holiday for Liberation Day remains on 9th May and is not moved to the previous Friday or following Monday.

4 Consultation

4.1 Earlier this year, the Committee undertook a comprehensive consultation and engagement exercise with representatives of business, employer groups, Parish Officials and States Committees to establish their views on an additional public holiday in 2022 and maintaining the public holiday for 9th May as Liberation Day on that day, even when it falls on the weekend.

4.2 The Committee received a good response from business and other organisations and the majority view was to align with the UK and move the May public holiday to Thursday 2nd June and create an additional public holiday on Friday 3rd June to make a four-day weekend so as to celebrate Her Majesty The Queen's Platinum Jubilee.

4.3 The proposal to designate the public holiday for Liberation Day as 9th May whether it falls on a weekend, was met with a unanimous view to keep the 9th May as the public holiday whatever day of the week it falls on. This is very much in line with the view held by business groups in 2019 where the point was made, quite strongly, that taking away the public holiday on the actual date itself would reduce the significance of the day.

5 Delegation of Authority

5.1 The Public Holidays Ordinance, 1994, is made under an enabling power in the Bills of Exchange (Guernsey) Law, 1958 under which the Committee *for* Economic Development has functions. The rationale for this is that, in addition to the customary public holidays such as Christmas and Easter, bank holidays are holidays when banks and many other businesses are closed.

5.2 Any proposed amendments to the Public Holidays Ordinance, 1994, even temporary ones for one year only, must be set out in a policy letter and approved by the States of Deliberation before being incorporated into an amending Ordinance and then approved by the States before coming into effect.

5.3 This policy letter asks Members whether they wish to continue to debate temporary changes or additions to public holidays in this way or whether they would be minded to delegate authority to make such changes to the Committee *for* Economic Development.

5.4 This could be achieved by an amendment to the 1994 Ordinance which would provide for temporary variations to be made by regulations of the Committee subject only to potential annulment by the States when the regulations are laid.

5.5 It is considered that this will enable a much quicker process to be undertaken on the rare occasions when public holidays need to be changed. There could be occasions in the future where amendments to public holidays may need to be made quickly. In addition, the Committee considers that debate of these matters by the States is not necessarily a good use of States time, and that this should be delegated to a States Committee with the appropriate mandate.

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), the Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications.

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

6.4 In accordance with Rule 4(5), the Propositions related to the duties of the Committee in the Bills of Exchange (Guernsey) Law, 1958 under which the Committee *for* Economic Development has functions.

6.5 Also in accordance with Rule 4(5), the Committee consulted with States Committees, Parish Officials, representatives of business and employer groups.

Yours faithfully

N R Inder
President

S J Falla
Vice-President

A Kazantseva-Miller
N G Moakes
S P J Vermeulen

A Niles
A Mancini
Non-States Members