

## ADDENDUM

### **Late Items for the Easter Meeting of Chief Pleas – 27 April 2022**

Under the Provisions of Rule 12(11) of the Rules of Procedure of the Chief Pleas of Sark, the Speaker of Chief Pleas has waived the notice required under Rule 1(4) and allowed, by request of the Education Committee and the Policy and Finance Committee, the following Items to be added to the Agenda:

- Item 7. The EDUCATION COMMITTEE'S Report and the Service Level Agreement are enclosed.
  
- Item 18. To CONSIDER a Report from the POLICY and FINANCE COMMITTEE entitled "**The Public Functions Law**" and to APPROVE the Projet de Loi entitled "**The Public Functions (Transfer and Performance) (Bailiwick of Guernsey) (Amendment) Law, 2021**" (copies enclosed).

12 April 2022

Lt. Col. RJ Guille MBE  
Speaker of Chief Pleas

**EDUCATION COMMITTEE**

Report with Proposition to Easter Chief Pleas, 27th April, 2022

**EDUCATION MATTERS**

**Timeline of Sark Education matters post Michaelmas.**

At the Michaelmas meeting of Chief Pleas (6<sup>th</sup> October 2021) there were three agenda items relating to Sark Education:

- Item 10 – Transfer of functions – Safe-guarder.
- Item 16 – SARK SCHOOL ANNUAL REPORT.
- Item 20 – Education Committee Structure.

This is what has happened since, and how the Committee has and is dealing with it.

**Resignation of DoE 8<sup>th</sup> October 2021**

Immediately after the Michaelmas meeting on the 8<sup>th</sup> October, citing Chief Pleas' decision to allow no more than two parents on the Education Committee, Sark's Director of Education Ms Beverley Gates terminated her contract with Chief Pleas "*effective immediately*". Ms Gates had already submitted a letter of resignation 14.06.21 but had offered to remain in post until January 2022 to assist and complete an orderly handover. After the Michaelmas meeting this offer to assist handover was withdrawn. To replace this support function Conseiller Donovan been working on negotiating a Service Level Agreement with Guernsey's director of Education Nick Hynes and this agreement will provide Education on Sark with support facilities that were previously provided by the Director of Education.

**Service Level Agreement**

The Education Committee spent a considerable amount of time discussing the requirements of a Director of Education, and how this key role should interact with and guide education on Sark. During our discussions it quickly became apparent that a single person, whilst relatively easy to implement and manage, had several downsides. One of these was that this key role was reliant upon a single person and point of failure, as evidenced by the recent resignation of Beverley Gates.

As a result of these considerations, we discussed our requirements in depth with the Director of Education in Guernsey, Nick Hynes. We have since designed, in partnership with his team, a service level agreement that will provide a range of services and support mechanisms to build upon the good work already conducted by our current and previous educational professionals on Sark. The agreement will help to fill the gaps of knowledge and experience that is not readily available on island.

Once signed, a team of professionals, including an experienced key identified officer, will conduct a 3-day review of education on Sark, working with the Head of School, Board of Education and Education Committee.

Learnings from this review will form the basis of a support plan for the coming academic year. This support plan will provide access to a range of professionals and services which can be accessed quickly and as the need arises.

Examples of this targeted support include Special educational needs specialists, learning improvement officers, educational psychologists, and other experienced officers that will work closely with the Head of School and the Board of Education to drive and deliver excellent education on Sark.

The agreement will be advisory in nature, with regular high-level communication set up between Sark and Guernsey's Education Committees.

The budget for this agreement was based upon previous costs allocated for the Director of Education and is calculated as follows on an annual basis:

Item	Detail	Total
Education Officer support and consultancy	Calculated at an average cost of a range of officers available across service areas	£376 per officer per day
Preparation costs	Calculated at a rate of 0.2 per day delivered	£75 per officer
Report writing	Calculated at a rate of 0.2 per day delivered	£75 per officer
Travel	Calculated at return rate	£32 per officer per visit
TOTAL Day Rate		£558
TOTAL Days Allocated		X 44
<b>TOTAL COST</b>		<b>£24, 552</b>

It is important to point out that these services are being provided to Sark without additional margin and are competitive when compared to normal corporate consultancy rates.

The Education Committee believes that this agreement represents both good value for money and a framework to create a strong foundation of continual improvement of Education on Sark.

Without this agreement in place, we will put the School and Board of Education in a position of risk and uncertainty. Considering the challenges highlighted in this report it is vital that this agreement is in place as soon as possible, and it is with this in mind that the Education Committee encourage fellow Conseillers to vote in favour of this proposition and allow the committee to sign the agreement without delay.

### **Resignation of Christopher Beaumont as Chair of the Board 4<sup>th</sup> February 2022**

On Friday 4<sup>th</sup> February Christopher Beaumont tendered his resignation as Chair of the Sark's Board of Education via email to Deputy Chair Paul Armorgie. On Monday 7<sup>th</sup> February Paul Armorgie informed the Board of the resignation stating that he would share Christopher's "*reasons for resigning outside of tonight's meeting if asked, but not during.*" The published minutes of this meeting describe as above, and then go on to explain the process of replacing Christopher as Chair.

Paul Armorgie said "*he would continue to Chair this meeting but explained that he has taken advice Re he himself taking on Chair role. As a result, he feels it's not appropriate for him to become Chair when considering his other responsibilities with Chief Pleas.*"

As the Board has recently absorbed four new members it was decided that Paul Armorgie would remain 'Acting Chair' until September when he would be replaced by one of the newer members who by then would have settled in.

### **Other Changes in Board Membership**

Helen Walsh was formally invited to the Board and welcomed by the then Chair Christopher Beaumont at the Board meeting of November 11th 2021. Sabrina Burtleston and Jill Gill both resigned at the meeting of January 13th, both for personal reasons. Adam Turner and Zoe Adams were formally welcomed by the Board on January 22<sup>nd</sup> 2022. Rosalie La Trobe Bateman was formally welcomed by the Board on January 24th. The Education committee formalised the new members February 9<sup>th</sup>.

### **Other Board Matters**

At the board meeting on the 7<sup>th</sup> of February to improve cohesion, it was also decided that two Education Committee members would attend BoE meetings rather than just the Chair. This is proving effective, using only one Committee member to bridge the two separate and important bodies left too much room for omission and error.

At Chief Pleas on the 16<sup>th</sup> of October Conseiller John Guille as Chair of Policy & Finance requested that the mandates of the Education Committee and the mandates of the Board were overhauled. As we have a new board, a relatively new Education Committee and we are about to roll out a new SLA we are currently not able to fine tune our constitutions. This process will be on going and better served as the Board, the Committee and the new service level agreement move forward and better understand each other's roles.

### **Friends of Sark School Fund Raising**

The Sark School Playground Project organised by Friends of Sark School (FoSS) has progressed tremendously since it was first presented to members of the EC and Policy & Finance (P&F) in December of last year. FoSS has successfully secured the total amount of funding required for this project to proceed and they are currently on track for installation work to commence during the school summer holidays of this year. The intended timeline sees the project being completed by the start of the new academic year in September.

### **Head of School Nick Wolfe Completes Contract**

On 26<sup>th</sup> January Policy & Finance (P&F) contacted the Education Committee outlining their plans to conduct a full and external Head of School recruitment process. At the Michaelmas Chief Pleas meeting, item 20 proposition 3, had transferred the responsibility for teacher's contracts to Policy & Finance (P&F) for a period of six months, and P&F were exercising this responsibility. On the 28<sup>th</sup> January the Education Committee agreed to the proposals and that afternoon correspondence was forwarded to Nick Wolfe, the acting Head of School (HoS) explaining Chief Pleas' intention.

on 10<sup>th</sup> February, 2022 the advertisement for Sark's new HoS was uploaded to the Times Educational Supplement (TES) and also uploaded to Jobs.GG. The closing date for applications was 23rd February. There had been concerns raised that the timeframe for recruitment of a leadership role was too tight, but the advertisement was a great success and the Island received 27 applications!

On 28<sup>th</sup> February Mr Nick Wolfe informed the Education Committee of his decision not to apply for the permanent post. Please see appendix 2.

Five candidates were initially shortlisted by a panel which consisted of John Guille, Nick Hynes (Director of Education, Guernsey) Frank Makepeace, Helen Walsh and Sarah Smith. Three candidates were also selected in reserve. Of the five candidates shortlisted, three were unable

to attend interview, two because of inability to travel and one for personal reasons. Following receipt of this information, all reserve candidates were contacted. Three candidates travelled to Sark for the interview weekend of the 26th – 28th March.

Candidates were interviewed by Vaughan Bougourd (representing P & F), Sarah Smith (non-Chief Pleas member with educational experience) Helen Walsh (member of Board with Educational Experience) and Kim Hutchison (Head of Primary Leadership & Development, Education Services, Guernsey).

Michelle Brady was offered the position of Sark Head of School on 30<sup>th</sup> March, 2022. Michelle has had an extensive and impressive teaching career spanning 28 years, including qualifications and experience with pupils with special educational needs. She is currently the Head of Learning Enrichment at Elizabeth College Junior School. Michelle, who attended Blancheland College for Young Ladies in Guernsey herself, has a thorough understanding of Island Life and has visited Sark on many occasions.

### **Resignation of Jo Branson**

On the 17<sup>th</sup> December 2021 the Head of School informed the Education Committee that Teacher Joanne Branson had handed in one terms notice and intended to leave at the end of the Spring term.

Advertisements were placed in the Times Education Supplement & Guernsey Press 18th February 2022. The closing date for application was 18th March 2022. 10 applications were received and the Board of Education shortlisted candidates on 21st March. 4 Candidates made the short list and interviews will be held on Sark 7th – 9th May OR 14th – 16th May. The newly recruited Head of School Michelle Brady has agreed to join the interview panel.

### **Emily Starkie**

On 25<sup>th</sup> January Emily Starkie informed Policy and Finance of her intention to renew her contract at Sark school for a further 2 years.

### **Term Time Hosting**

The Education Review commenced in 2017 and then implemented in 2019 dismantled secondary education on Sark when it was determined that unless pupils were schooled at home, Sark's post 13 education would be offered exclusively at schools in Guernsey.

On the 14th February it was brought to the attention of the Education Committee that there was a problem with the provision of term time host families. This problem initially caused confusion and this confusion led to a delay in prognosis; it was the belief of both Chief Pleas, the Board, the Committee offices, and the Education Committee that when the 2017 Education Review had been rolled out, this fundamental provision had been both formalised and indeed contracted. We all believed that Guernsey was obligated to provide Sark with Term Time Hosts and we believed that if there was a shortage of host families then this was a problem that Guernsey would need to address rather than us.

Since the 14th of February the Education Committee has been in meetings with Guernsey's Health and Social Care (HSC) and Guernsey's Director of Education Nick Hynes and they have explained, that the arrangement whereby Guernsey states provides Sark children with host families was never formalised and there is no contract currently in place to ensure the provision of host families to Sark; indeed neither is there any safeguarding Service Level Agreement currently in place to cost and frame secondary care provision, access to Guernsey health care and assignment of a GP for example. Guernsey Health and Social Care are willing to continue providing services outside any formal SLA to the Sark children that are already placed with host families in Guernsey, and on the 14<sup>th</sup> March they informed the Education Committee that *"provisional work has commenced regarding costings for Sark to be*

*incorporated into an SLA and that further conversations will be had about this in due course.”*  
The Education Committee will inform the house as these secondary costings transpire.

Our immediate problem however is that the HSC are currently experiencing a shortfall in host families and this shortage leaves them currently seeking 7 more families for Alderney students. Alderney States signed an agreement in 1948 whereby they pay tax contributions to Guernsey and these contributions accrue to pay for services. These services are described as designated services and they include health; education; policing and immigration; and Alderney Airport. We have no such transfer agreement in place, and we do not contribute to the Guernsey Exchequer.

Considering this they have requested that we reach out to Sark families and ask if they know of any households in Guernsey that would be willing to place a Sark student. The placements will be vetted by the states and the households will receive the supplement for hosting at £25.40 per night, this is paid by both parents and Sark.

Alongside the Board and the Education Committee, Rosalie La Trobe Bateman and Conseiller Pippa Donovan orchestrated an advertising campaign seeking Sark specific host family recruits. The campaign ran from mid-March to the end of April and included a postal campaign, social media advertising, and traditional media (including TV and Radio). There is a dedicated email address created to deal with this situation and the Sark Government website has a new page whereby prospective recruits can apply. At the time of writing there have been 7 Registrations of Interest for Sark specific term time hosts. Of these 7, 3 have confirmed that they wish to advance to the next stage in the process, and their details have been sent to Guernsey HSC. However, these applicants must still be subject to enhanced vetting checks carried out by HSC before they are approved.

We have 5 children at Sark school who will be commencing year 9 in September 2022 and for these children we will find some solution. If, however, new families with young teenagers arrive on Sark during the summer break then, as directed in the amended Education (Sark) Ordinance, 2003 (Consolidated text) we are obliged to educate them, but we will have nowhere to send them. We have approached the Law Officer requesting clarification on our position should this occur, and we are awaiting a reply. The decisions that need to be made surrounding this situation are far too large for the Education Committee to steer unilaterally; perhaps we need another review but this needs to be shouldered and discussed by the entire House and the Education Committee will be adding post 13 education as an agenda item at the next PDG.

### **Proposition –**

**That Chief Pleas approves the proposed Service Level Agreement with the States of Guernsey, acting by and through the Committee for Education, Sport & Culture.**

**Conseiller Nichola McHugh**

**Chairman, Education Committee**



**Service Level Agreement**

**Education Services for Sark School**

Between:

- (1) The States of Guernsey acting by and through the Committee *for* Education, Sport & Culture; and**
- (2) Sark Chief Pleas acting by and through the Sark Education Committee**

Dated: **01/05/2022**

Agreement dated: [ • ] 2020

**Between:**

- (1) The States of Guernsey acting through the Committee *for* Education, Sport & Culture, Sir Charles Frossard House, La Charroterie, St Peter Port, Guernsey, GY1 1FH (**ESC**); and
- (2) Sark Chief Pleas acting by and through the Sark Education Committee whose address is La Chasse Murette, Sark, Channel Islands, GY10 1SF (**Sark Education**)

**Agreement Overview**

- a) This service level agreement (the **Agreement**) covers the delivery of education services for the Island of Sark.
- b) This Agreement relates to the provision of education services only. These services will be delivered in consultation with the Headteacher of Sark School, the Board of Education (BoE) and the Committee *for* Education, Sport & Culture and are inclusive of:
  - A two day partnership review of Education on Sark to determine the scope and operating plan for services to be delivered;
  - Advise on the identification and setting of key performance targets for the Headteacher;
  - Access to a range of Education Development Officer support - specific to phase and age range;
  - Bi-weekly coaching and consultancy (virtually) for the Sark Headteacher from a suitably qualified and experienced Education Officer;
  - Termly visits by the lead Education Officer identified above to Sark to meet with the Headteacher and Board of Education;
  - Carry out identified home education checks on behalf of The Education Committee' advising them of any recommended actions;
  - Attend Board of Education meetings (as appropriate) in the capacity as an advisor to the Board of Education;
  - Generic consultation and advice regarding Special Education Needs and Disability (SEND) – this agreement does not provide for any individual pupil support or casework for identified pupils or their families;
  - Access to identified and/or planned continued professional development (CPD) onsite and/or remotely;
  - Support for the Headteacher and Board of Education, with the production of an annual budget and operating plan, submitted to the Education committee;
  - Act as an independent advisor in the management of the complaints and grievance procedure at Sark School, both internally and externally, reporting to the Sark Education Committee where necessary;
  - Support the Headteacher and Education Board (as necessary) with the management of disciplinary procedures involving staff at Sark School taking appropriate action where necessary in line with agreed policies.



- c) The financial information in this Agreement covers the period 1 January 2022 up to and including 31 December 2022 and will be subject to annual financial review.
- d) This Agreement forms the basis of a partnership between ESC and Sark Education in relation to the provision of education services to Sark School.

Key stakeholders in this Agreement are:

- Sark Education;
- ESC including The Education Services;

This Agreement does not include the costs of any support delivered as part of the Headteacher recruitment process, this will need to be agreed and charged separately and is beyond the scope of this Agreement.

**Operative Provisions:****Definitions**

**Affiliate** means any legal person which directly or indirectly controls, is controlled by or is under common control of the Party.

**Authority,** take the respective meaning given in the DP (GDPR) Law

**Controller, Data**

**Protection Officer,**

**Data Subject,**

**Personal Data,**

**Personal Data**

**Breach,**

**Processor,**

**Unauthorised**

**Jurisdiction**

**Business Days** means any day which is not a Saturday, a Sunday or a bank or public holiday in Guernsey.

**Contract Year** will run from and including the Commencement Date until 1 January 2022 and on the twelve calendar month anniversary of those dates every year until the expiry or termination of this Agreement.

**Commencement Date** 1 January 2022.

**Confidential Information** is all information and data (of whatever nature and however recorded or preserved)

- relating to this Agreement or the Disclosing Party, including its activities, disclosed by the Disclosing Party, its Personnel, representatives, advisors or Affiliates; or
- the information contained in the Documents; or
- information that may come to the attention of or discovered by either Party, in the course of the activities carried on by the Parties under or in relation to this Agreement.

Confidential Information does not include information which

- is generally available to the public, other than as a result of disclosure by the Receiving Party or its Personnel, representatives, advisors or Affiliates contrary to their obligations of confidentiality;

- becomes available to the Receiving Party otherwise than under or in relation to this Agreement and is free of any restriction as to its use or disclosure;
- the Receiving Party or its Personnel, representatives, advisors or Affiliates are required to disclose pursuant to the applicable laws, regulations, including by any court or judicial, governmental, supervisory, administrative or regulatory body or authority;
- the disclosure is consistent with the States of Guernsey Code of Practice for Access to Public Information, good public sector governance or decision making, for the purposes of external or internal audit, or a public sector review of services, provided, for the avoidance of doubt, that Data Protection Legislation must also be complied with where relevant.

**Data Protection Legislation** the DP (GDPR) Law, the DP (CAT) Ordinance, the DP (LED) Ordinance, the DP Regulations and all applicable Law about the processing of personal data and privacy.

**Data Protection Impact Assessment** an assessment by the Controllers of the impact of the envisaged processing on the protection of Personal Data.

**Data Loss Event** any Personal Data Breach and / or any other event that results, or may result, in unauthorised access to Personal Data held by the Parties under this Agreement, and / or actual or potential loss and / or destruction of Personal Data in breach of this Agreement.

**Data Subject Access Request** a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.

**Documents** means

- this Agreement, the Specification and all other records, reports, documents, papers, artwork, blocks, plates, negatives and data stored on disk, tape or other computer media, and other items of whatever nature originated by or on behalf of either Party in connection with this Agreement or the provision of the Services,
- reports and supporting papers and all other documents handled by the Parties pursuant to the Services, and whether in draft or final form.

**DP (CAT) Ordinance** Data Protection (Commencement, Amendment and Transitional) Ordinance, 2018

**DP (GDPR) Law** Data Protection (Bailiwick of Guernsey) Law, 2017

**DP (LED) Ordinance** Data Protection (Law Enforcement and Related Matters) (Bailiwick of Guernsey) Ordinance, 2018

**DP Regulations** Data Protection (General Provisions) (Bailiwick of Guernsey) Regulations, 2018

**Force Majeure Event** an event outside either Party's control making it impractical for the affected Party to fulfil the obligations of the Agreement including an act of God, act of parliament, pandemic, fire, war, embargoes, strikes, governmental order and any other recurrence (whether or not similar to those specified) beyond the control of either Party.

**Law** means any law, ordinance, subordinate legislation within the meaning of the Interpretation and Standard Provisions (Bailiwick of Guernsey) Law, 2016, bye-law, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Parties are bound to comply;

**Party** meaning a Party to this Agreement and such Party when disclosing Confidential Information being the **Disclosing Party** and when receiving Confidential Information being the **Receiving Party**.

**Personnel** means all directors, officers, employees, agents, consultants and contractors of the relevant Party engaged in the performance of the Parties' obligations under this Agreement.

**Protective / Security Measures** means appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it.

**Review Date** December 2022

**Services** means the services to be provided by ESC and the obligations to be complied with contained in this Agreement including (but not limited to) the Schedules.

**Sub-processor** means any third Party appointed to process Personal Data on behalf of either Party related to this Agreement.

## **1. Interpretation**

- 1.1. The headings in this Agreement are inserted only for convenience and do not affect its construction.
- 1.2. Where appropriate, words denoting a singular number only include the plural and vice versa and words denoting the masculine genders include the feminine and neuter genders and vice versa.
- 1.3. Reference to any statute or statutory provision includes a reference to the statute or statutory provisions as from time to time amended, extended or re-enacted.
- 1.4. Any phrase introduced by the terms 'including', 'include', 'in particular' or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

## **2. Services to be Charged**

- 2.1. ESC will charge for the delivery of identified and agreed education services at Sark School.
- 2.2. Services relating to the support or casework of individual pupils and/or their families are not included in this agreement.
- 2.3. A report following each visit will be provided to the Headteacher within 10 working days of each visit.

## **3. Charges and Financial Management**



- 3.1. ESC will charge the agreed annual rate of up to £24, 552 per year dependent upon actual days of support delivered. This charge will be divided by three and invoiced on the first day of each term to Sark Education to be paid within 30 days of the date of the invoice.
- 3.2. Any accommodation costs will be met by Sark and invoiced separately as required.
- 3.3. Detail of costs are as below:

Item	Detail	Total
Education Officer support and consultancy	Calculated at an average cost of a range of officers available across service areas	£376 per officer per day
Preparation costs	Calculated at a rate of 0.2 per day delivered	£75 per officer
Report writing	Calculated at a rate of 0.2 per day delivered	£75 per officer
Travel	Calculated at return rate	£32 per officer per visit
TOTAL Day Rate		£558
TOTAL Days Allocated		X 44
<b>TOTAL COST</b>		<b>£24, 552</b>

#### 4. Safeguarding

- 4.1. ESC will ensure that any member of staff providing a service to Sark School will have undertaken relevant safeguarding checks.

#### 5. Confidentiality

- 5.1. Both Parties agree to keep as strictly confidential all Confidential Information and
  - (a) not to use Confidential Information except for the purpose of the provision of the Services; and
  - (b) not to use Confidential Information for its own purposes or so as to procure any advantage over the other Party.
- 5.2. Sark Education agrees to:
  - (a) not disclose or divulge the Confidential Information which has not at the time been published by the States of Guernsey to any third party, except on the express prior instructions in writing of ESC; and
  - (b) procure that any of its Personnel, representatives, advisors or Affiliates are aware of the obligations of confidentiality.
- 5.3. Survival of Provisions  
The obligations under this clause 7 shall survive the expiry or the termination of this Agreement for whatever reason.

#### 6. Data Protection

- 6.1. The Parties acknowledge that for the purposes of the Data Protection Legislation, ESC and Sark Education will act as joint Controllers.



- 6.2. Either Party shall notify the other Party immediately if it considers that any of its instructions infringe the Data Protection Legislation or any other Law.
- 6.3. The Parties shall provide all reasonable assistance to each other in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Party undertaking the Data Protection Impact Assessment, include:
- (a) a systematic description of the envisaged processing operations and the purpose and / or objectives of the processing;
  - (b) an assessment of the necessity and proportionality of the processing operations in relation to the Services;
  - (c) an assessment of the risks to the rights and freedoms and other significant interests of Data Subjects; and
  - (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 6.4. The Parties shall, in relation to any Personal Data processed in connection with its obligations under this Agreement:
- (a) process that Personal Data only in accordance with this Agreement, unless otherwise required to do by Law. If a Sub-processor is required, the Party instructing the Sub-processor shall promptly notify the other Party before the Personal Data is processed unless prohibited by Law; and
  - (b) ensure that Protective / Security Measures are in place, which have been reviewed and approved by EDC as appropriate to protect against a Data Loss Event having taken account of all relevant matters (including those measures in section 41(3) of the DP (GDPR) Law), and including the:
    - (i) nature of the data to be protected;
    - (ii) harm that might result from a Data Loss Event;
    - (iii) state of technological development; and
    - (iv) cost of implementing any measures;
  - (c) ensure that:
    - (i) Personal Data is processed in accordance with this Agreement;
    - (ii) all reasonable steps are taken to ensure the reliability and integrity of any Personnel, representatives, advisors or Affiliates who have access to the Personal Data and ensure that they:
      - (A) are aware of and comply with Parties' duties under this clause 8;
      - (B) are subject to appropriate confidentiality undertakings with the Parties or any Sub-processor;
      - (C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by ESC or as otherwise permitted by this Agreement; and
      - (D) have undergone adequate training in the use, care, protection and handling of Personal Data; and



(d) not transfer Personal Data to an Unauthorised Jurisdiction unless the prior written consent of ESC has been obtained and the following conditions are fulfilled:

- (i) the Parties have provided appropriate safeguards in relation to the transfer (in accordance with section 56 of the DP (GDPR) Law or section 44(1) of the DP(LED) Ordinance) as determined by ESC;
- (ii) the Data Subject has enforceable rights and effective legal remedies;
- (iii) the Parties comply with their obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses best endeavours to assist the recipient in meeting their obligations); and
- (iv) Each Party complies with any reasonable instructions notified to it in advance by the other Party with respect to the processing of the Personal Data;

(e) at the written direction of either Party, delete or return Personal Data (and any copies of it) to the directing Party on termination of the Agreement unless required by Law to retain the Personal Data.

6.5. Subject to clause 8.6, each Party shall notify the other Party immediately if it:

- (a) receives a Data Subject Access Request (or purported Data Subject Access Request);
  - (b) receives a request to rectify, block or erase any Personal Data;
  - (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
  - (d) receives any communication from the Authority or any other regulatory authority in connection with Personal Data processed under this Agreement;
  - (e) receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law;
- or
- (f) becomes aware of a Data Loss Event.

6.6. The Parties will provide full assistance to each other in relation to their obligations under Data Protection Legislation and any complaint, communication or request (and insofar as possible within the timescales reasonably required by ESC) including by promptly providing:

- (a) each other with full details and copies of the complaint, communication or request;
- (b) such assistance as is reasonably requested by either Party to enable the relevant Party to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
- (c) each other with any Personal Data held in relation to a Data Subject on request;
- (d) assistance as requested by either Party following any Data Loss Event;
- (e) assistance as requested by either Party with respect to any request from the Authority, or any consultation by ESC with the Authority.



- 6.7. The Parties shall maintain complete and accurate records and information to demonstrate its compliance with this clause and the Data Protection Legislation.
- 6.8. Sark Education shall allow for audits of its Data Processing activity (including that of any Sub-Processor) by ESC or ESC's designated auditor promptly following any request of ESC.
- 6.9. Sark Education shall designate a data protection officer if required by the Data Protection Legislation.
- 6.10. Before a Party may allow any Sub-processor to process any Personal Data related to this Agreement, the relevant Party must:
  - (a) notify the other Party in writing of the intended Sub-processor and processing;
  - (b) obtain the written consent of the other Party;
  - (c) enter into a written agreement with the Sub-processor which gives effect to the terms set out in this clause 8 such that they apply to the Sub-processor; and
  - (d) provide the other Party with such information regarding the Sub-processor as that Party may reasonably require.
- 6.11. The Party instructing a Sub-processor shall remain fully liable for all acts or omissions of that Sub-processor.
- 6.12. ESC may, at any time on not less than 30 Business Days' notice, revise this clause by replacing it with any applicable Controller to Processor standard clauses or similar terms forming part of an applicable certification scheme.
- 6.13. The Parties agree to take account of any guidance issued by the Authority. ESC may on not less than 30 Business Days' notice to Sark Education amend this Agreement to the extent that ESC considers it necessary in order to ensure that it complies with any guidance issued by the Authority.

## **7. Authorised Contacts**

- 7.1. The authorised contacts for the management of this Agreement are:

Nick Hynes – Director of Education  
Sophie Roughsedge – Head of Education Operations

- 7.2. The authorised contacts for the operational management of this agreement are:

Kim Hutchison – Head of Primary Leadership and Development

- 7.3. The authorised contacts for Sark Education are:

– Chair of the Education Committee of Chief Pleas





7.4. In the event that an authorised contact leaves their role listed above then ESC and Sark Education will agree a replacement authorised contact as soon as reasonably practicable.

## **8. Variation of Agreement Terms**

- 8.1. Exceptional circumstances beyond the reasonable control of either party may prevent the discharge of the conditions in whole or part. As soon as this necessity becomes apparent, both Parties must discuss any proposed variations to this Agreement and agree a timetable leading to the resumption of normal contractual arrangements. This is in order that any charge of non-performance can be avoided.
- 8.2. For the avoidance of all doubt, the provision of this clause does not permit ESC to withhold its obligations in part or in whole without a justifiable cause.
- 8.3. ESC shall not be liable for failure to perform the Agreement directly or indirectly caused by a Force Majeure Event. Should either Party not be able to perform its obligations under the Agreement due to a Force Majeure Event, the obligations under this agreement will be suspended for a period of up to 12 weeks during which time the affected Party must make all reasonable endeavours to mitigate any damage or loss and continue to fulfil its obligations in so far as it can. If the affected Party is still unable to fulfil its obligations after 12 weeks then the Parties must negotiate with each other to find a reasonable solution before seeking to terminate the Agreement.

## **9. Term of Agreement**

- 9.1. The term of the Agreement is from 1 January 2022 to 31 December 2022 however each party has the right to terminate this Agreement with three months' notice in writing.

## **10. Renewal of the Agreement**

- 10.1. Each Contract Year including a minimum of three months prior before the expiration of the Agreement and in accordance with the financial review of the Agreement, ESC will work with Sark Education to undertake a review of the services provided in accordance with its requirements. The outcome of this review will enable any variations to the Agreement to be jointly developed. Subject to clause 11.1, a renewal will not be unreasonably withheld.

## **11. Termination**

- 11.1. The Agreement shall terminate automatically on expiry of its term.
- 11.2. ESC or Sark Education, in the event of an incurable breach of any material provision of the Agreement, can terminate the Agreement immediately by notice in writing. At all other times, the Agreement can be terminated with three months' notice in writing by either Party.

## **12. Governing Law and Jurisdiction**

- 12.1. The law of Guernsey shall govern the validity, construction and performance of the Agreement.



# States of Guernsey

12.2. All disputes, claims or proceeding between the parties relating to the validity, construction or performance of the Agreement shall be subject to the exclusive jurisdiction of the Royal Court of Guernsey.

This Agreement has been signed and takes effect on the date stated at the beginning of it.

Signed:

(1) States of Guernsey acting by and through the Committee *for* Education, Sport & Culture

\_\_\_\_\_

Authorised Signatory

Name: \_\_\_\_\_

Title: Deputy Bob Murray, Vice-President of the Committee *for* Education, Sport & Culture

(2) Chief Pleas of Sark acting by and through the Sark Education Committee

\_\_\_\_\_

Authorised Signatory

Name: .....

Title: .....

## APPENDIX 2



SARK SCHOOL

*'Une petite êkole duve d'grans ambitions'*

Dear Parents and Carers,

8th March 2022

As most of you will be aware, the Policy and Finance and Education Committees have recently been advertising for the role of Head of School to start at the beginning of the next academic year in September.

I took the decision not to apply for the role and will, as a result, be leaving Sark School upon the expiry of my current contract as Acting Head of School at the end of August this year. I felt that the time was right for me and the school to seek new challenges and fresh starts.

Although it feels far too early to be discussing this (and by extension the end of the year!), some of the children have asked me directly this week about my future and I know that some of you have been approaching members of the Board of Education for clarity too. With this in mind, I felt it correct to send this out sooner rather than later.

While I am of course saddened at the prospect of moving away from such a unique setting and inspirational group of children after (what will be in August) four years here on Sark, I am excited for the School as it embarks upon a fresh chapter in its story with a new Head of School at the helm and with a new class teacher in place too.

I am also looking forward to what I'm sure we all hope will be a bright and sunny second half to the year - full of hard work, fun and great opportunities to bring our learning outside.

Sincerely,

*Mr Nick Wolfe*

**POLICY & FINANCE COMMITTEE**  
**Report with Proposition to Easter Chief Pleas, 27<sup>th</sup> April 2022**

**THE PUBLIC FUNCTIONS LAW**

On the 30th June 2010, the States of Deliberation in Guernsey resolved as follows:

“After consideration of the Report, dated 30th April, 2010, of the Policy Council: To approve the enactment, amendment and repeal of legislation on the lines set out in the report of the Parochial Legislation Working Party appended to that Report, i.e. that —

- (a) the legislative provisions listed in Appendix I thereto which are no longer thought necessary be repealed;
- (b) other sundry legislation concerning parochial matters be consolidated in a general parochial administration ordinance;
- (c) the Public Functions (Transfer and Performance) (Bailiwick of Guernsey) Law, 1991 be amended to allow the States from time to time, by Ordinance, to transfer appropriate functions from the States to the Constables and/or Douzaines of one, or some, or all of the Parishes, and vice-versa;
- (d) the Royal Court shall no longer be involved in matters relating to the establishment of cemeteries, brick-yards and quarries etc., the erection of cranes in St Peter Port and the installation of ovens in St Peter Port;
- (e) the Douzaines’ function relating to bornements shall continue in respect of buildings within 1.5 metres of a public road;
- (f) a mechanism be introduced enabling any person who is dissatisfied by any decision of a Constable or Douzaine which is directed to that person alone (or to a discrete group of which that person is a member) to appeal against that decision;
- (g) persons who fail to observe the requirements of legislation regarding the cutting of hedges etc. and cleaning of streams be dealt with by way of civil rather than criminal proceedings
- (h) the maximum which may be held in a Parish Reserve Fund be increased to £250,000 plus accrued interest;
- (i) Dog Tax be increased to £10 per dog.

2.

To authorise the Policy Council

- (i) to pursue discussions with the Douzaines regarding the establishment of a Charter between the States and the Douzaines setting out the working relationship between the respective parties;
- (ii) to agree the terms of the charter;

(2) To authorise the Chief Minister (or other Minister appointed in that behalf by the Policy Council) to sign the charter on behalf of the States.

3. To direct the Culture and Leisure Department, in association with the Constables of St Peter Port, to review and report back to the States on the present-day issues regarding itinerant performers and street entertainers.

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

On the 29th day of September, 2015, the States of Deliberation resolved as follows:

“XII.- After consideration of the Report dated 27th July, 2015 of the Policy Council:-

1. To approve the proposals set out in the letter from H.M. Procureur reproduced at paragraph 2 of that Report.
2. To direct the preparation of such legislation as may be necessary to give effect to the above decision.”

On the 16th day of June 2021, the States of Deliberation resolved as follows: “To approve the draft Projet de Loi entitled “The Public Functions (Transfer and Performance) (Bailiwick of Guernsey) (Amendment) Law, 2021”, and to authorise the Bailiff to present a most humble petition to Her Majesty praying for Her Royal Sanction thereto.”

The Policy & Finance Committee recommend that Chief Pleas approve the attached Projet de Loi which is primarily applicable to Guernsey but has application in Sark.

**Proposition –**

**That Chief Pleas approves the Projet de Loi entitled, ‘Public Functions (Transfer and Performance) (Bailiwick of Guernsey) (Amendment) Law, 2021.**

**Conseiller John Guille  
Chairman, Policy & Finance Committee.**

# PROJET DE LOI

ENTITLED

## **The Public Functions (Transfer and Performance) (Bailiwick of Guernsey) (Amendment) Law, 2021**

THE STATES, in pursuance of their Resolutions of the 30<sup>th</sup> June, 2010<sup>a</sup> and the 29<sup>th</sup> September, 2015<sup>b</sup>, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Bailiwick of Guernsey.

### **Amendment of the Public Functions Law.**

1. (1) The Public Functions (Transfer and Performance) (Bailiwick of Guernsey) Law, 1991<sup>c</sup> is amended as follows.

(2) For section 1, substitute –

### **"Transfer of functions of Committees etc.**

1. (1) The States may by Ordinance vary any relevant enactment which (in whatever words) –

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<sup>a</sup> Article III of Billet d'État No. XV of 2010.

<sup>b</sup> Article XII of Billet d'État No. XVI of 2015.

<sup>c</sup> Ordres en Conseil Vol. XXXIII, p. 478; as amended by Recueil d'Ordonnances Tome XXIX, p. 406 and Ordinance No. IX of 2016.

- (a) confers a function on -
  - (i) a named Committee of the States,
  - (ii) the Constables, the Constables and the Douzaine, the Douzaine, or the Douzeniers of any Parish or any named Parish, or
  - (iii) a named public office or the holder of a named public office, or
  
- (b) empowers the States to confer a function on –
  - (i) a named Committee of the States,
  - (ii) the Constables, the Constables and the Douzaine, the Douzaine, or the Douzeniers of any Parish or any named Parish, or
  - (iii) a named public office or the holder of a named public office,

so as to transfer that function to, or as the case may be, so as to empower the States to confer that function on any person, or office referred to in subsection (2).

(2) For the purpose of subsection (1), the persons and

offices are –

- (a) in the case of a named Committee of the States –
  - (i) a Committee of a different name (whether formed for the purpose or existing at the time),
  - (ii) the Constables, the Constables and the Douzaine, or the Douzaine, of any Parish, or any named Parish, or
  - (iii) a named public office, or the holder of a named public office,
- (b) in the case of the Constables, the Constables and the Douzaine, or the Douzaine, of any Parish, or any named Parish –
  - (i) a named Committee of the States,
  - (ii) the Constables, the Constables and the Douzaine, or the Douzaine, of any Parish, or any different named Parish, or



(iii) a named public office, or the holder of a named public office,

(c) in the case of a named public office, or the holder of a named public office –

(i) a named Committee of the States,

(ii) the Constables, the Constables and the Douzaine, or the Douzaine, of any Parish or any named Parish, or

(iii) a different named public office or, the holder of a different named public office."

(3) After section 1, insert –

**"Transfer of functions of Committees etc: Alderney and Sark.**

**1A.** (1) This section applies where a relevant enactment that is applicable throughout the Bailiwick confers a function on a Committee of the States of Alderney or the Chief Pleas of Sark.

(2) Where this section applies, the States of Alderney or the Chief Pleas of Sark may by Ordinance transfer that function to, or empower the States of Alderney or the Chief Pleas of Sark (as the case may

be) to confer that function on, such other Committee of the States of Alderney or the Chief Pleas of Sark (as the case may be) as may be prescribed in that Ordinance."

(4) For section 3, substitute -

**"Ordinances.**

3. (1) An Ordinance under this Law -

(a) may be amended or repealed by a subsequent Ordinance hereunder, and

(b) may contain such consequential, incidental, supplementary, transitional and savings provisions as may appear to be necessary or expedient (including, without limitation, provisions making consequential amendments to this Law and any other enactment).

(2) Any power to make an Ordinance under this Law may be exercised -

(a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases,

(b) so as to make, as respects the cases in relation to which it is exercised -

- (i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise),
- (ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class of case for different purposes,
- (iii) any such provision either unconditionally or subject to any prescribed conditions.

(3) Without prejudice to the generality of the foregoing provisions of this Law, an Ordinance under this Law -

- (a) may empower any Committee, and any other body, to make or issue orders, rules, regulations, codes or guidance, for the purposes of this Law or any Ordinance made under it,
- (b) may make provision under the powers conferred by this Law notwithstanding the provisions of any enactment for the time being in force,
- (c) may make provision for the purpose of dealing

with matters arising out of or related to matters set out in sections 1, 1A, or 2,

(d) may repeal, replace, amend, extend, adapt, modify or disapply any rule of custom or law, and

(e) without prejudice to the generality of the foregoing, may make any such provision of any such extent as might be made by Projet de Loi, but for the avoidance of doubt may not provide that a person is to be guilty of an offence as a result of any retrospective effect of the Ordinance."

(5) In section 4(1), for paragraph (b), substitute –

"(b) a public office may arrange for any of its functions to be performed in its name by any officer responsible to that office, and the holder of a public office may arrange for any of that office-holder's functions to be performed by an officer responsible to that office-holder."

(6) In section 4(2) and (3), wherever it appears for "the Committee or office holder concerned" substitute "the Committee, office-holder or public office concerned", and in section 4(2) for "the Committee concerned", substitute "the Committee or public office concerned".

(7) In section 4(4)(b), for "the holder of a public office" substitute "a public office, or the holder of a public office,".

(8) In section 4(6), delete from the start to "Committee of the States; and," .

(9) In section 5 –

(a) in the definition of "function", for "Financial Services Commission," substitute "a public office",

(b) for the definition of "officer", substitute –

""**officer**" means an employee of the States, or of the public office concerned (as the case may be); and an officer is "**responsible to**" a Committee if that officer is an employee of the States, and is "**responsible to**" a public office, or to the holder of a public office, where that officer is an employee of that public office or the holder of that public office,"

(c) for the definition of "public office", substitute –

""**public office**" means any office, authority or body, however created, to which functions of a public nature are specifically assigned by an enactment, and for the avoidance of doubt includes the Financial Services Commission, and "**office-holder**" and related terms are to be construed accordingly," and

(d) in the definition of "**the States**", for " or the holder of a

named public office in Alderney" substitute ", a named public office in Alderney or the holder of a named public office in Alderney", and for " or the holder of a named public office in Sark" substitute ", a named public office in Sark or the holder of a named public office in Sark".

**Citation.**

2. This Law may be cited as the Public Functions (Transfer and Performance) (Bailiwick of Guernsey) (Amendment) Law, 2021.

**Commencement.**

3. This Law shall come into force on the date of its registration in the records of the Island of Guernsey.