

ISLAND OF SARK

EASTER MEETING of the Chief Pleas to be held on 27th April 2022 at 5 pm
in the ASSEMBLY ROOM.

AGENDA

1. Matters Arising from the Christmas Meeting held on 19 January 2022.
2. Matters Arising from the Extraordinary (Special) Meeting held on 19 January 2022.
3. Matters Arising from the Extraordinary Meeting held on 16 February 2022.
4. Questions Not Related to the Business of the Day
5. To CONSIDER a Report with Proposition from the POLICY and FINANCE COMMITTEE entitled "**Amendment to Customs Law**" and to approve the Projet de Loi entitled "**The Customs and Excise (General Provisions) (Bailiwick of Guernsey) (Amendment) Law, 2022**" (copies enclosed).
6. To CONSIDER a Report with Proposition from the POLICY and FINANCE COMMITTEE entitled "**Legislation Relating to the Investigation of Economic Crime**" and to approve the Projet de Loi entitled "**The Economic and Financial Crime Bureau and Financial Intelligence Unit (Bailiwick of Guernsey) Law, 2022**" (copies enclosed).
7. To CONSIDER a Report with Proposition from the EDUCATION COMMITTEE entitled "**Education Matters**" and to approve the Service Level Agreement entitled "**Education Services for Sark School**" (see Note 2.)
8. To CONSIDER a Report with Proposition from the POLICY and FINANCE COMMITTEE entitled "**Amendment to the Reform Law for the Constable – New Role**" (copy enclosed).
9. To CONSIDER a Report with Propositions from the POLICY and FINANCE COMMITTEE entitled "**The Investigation for Air Accidents and Incidents**" (copy enclosed).
10. To CONSIDER a Report with Proposition from the POLICY & FINANCE COMMITTEE entitled "**2021 Financial Statements**" (copy enclosed).
11. To CONSIDER a Report with Proposition from the POLICY and FINANCE COMMITTEE entitled "**Donation to Ukraine**" (copy enclosed).
12. To CONSIDER a Report with Proposition from the DEVELOPMENT CONTROL COMMITTEE entitled "**Amendment to Development Control Legislation**" (copy enclosed).

13. To CONSIDER a Report with Proposition from the POLICY AND FINANCE COMMITTEE entitled “**Amendment to the Rules and Procedures for Chief Pleas**” (copy enclosed).
14. To CONSIDER an Information Report from the POLICY AND FINANCE COMMITTEE entitled “**Sark Electricity Limited Update**” (copy enclosed).
15. To CONSIDER an Information Report from the POLICY and FINANCE COMMITTEE entitled “**The Bailiwick Police Force**” and to NOTE “**The Police Force (Bailiwick of Guernsey) (Amendment) Law, 2021 (Commencement) Ordinance, 2022**” (copies enclosed).
16. COMMITTEE ELECTIONS: To Elect Conseillers to Committees, as required:
17. COMMITTEE and PANEL ELECTIONS: To Elect Non-Chief Pleas Members and Panel Members to Committees and Panels, as required:

LAID BEFORE

The Capacity (Lasting Powers of Attorney) (Bailiwick of Guernsey) Ordinance, 2022

(Came into force on the 31st March 2022)

Lt Col RJ Guille MBE
Speaker of Chief Pleas

05 April 2022

Notes:

1. Anyone wishing to see any of the Reports and Supporting Papers may do so at the Committee Offices, Monday to Friday, 11 am to 3 pm; copies may be obtained from the Committee Office. The Agenda, Reports and Supporting Papers may also be seen on the Sark Government Website at www.sarkgov.co.uk

2. The Education Report and Service Level Agreement at Item 7 is to be circulated not later than the 15th April.

POLICY & FINANCE COMMITTEE

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

AMENDMENT TO THE CUSTOMS LAW

The States of Guernsey propose to amend the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972 (“the Customs Law”) in order to allow certain functions of HM Procureur or Comptroller to be delegated to appropriate Guernsey Border Agency (“GBA”) officers in relation to the sale or destruction of certain seized perishable goods. This is an important part of maintaining biosecurity post Brexit.

The States agreed the Bailiwick’s participation in the UK-EU Trade and Cooperation Agreement (“TCA”)1 in December 2020. Whilst the TCA included the Bailiwick in the Sanitary and Phyto-Sanitary (SPS) chapter, the importation of SPS goods (animals, plants and food) from the EU has changed, and will continue to change during the phased implementation of SPS border controls up until March 2022. SPS goods that are imported that fail to comply with new requirements will need to be seized at the border. As COVID-related travel restrictions ease these seizures are likely to increase as a consequence when plants and food are imported from France without the necessary documentation. This is important for maintaining the integrity of the SPS territory and ensuring biosecurity which is essential for human, animal and plant health.

In anticipation of this, the Committee for Home Affairs (“the Committee”) has identified a way in which to condemn certain seized perishable goods straight away, rather than have to wait the normal one-month appeal period as is the case under the Customs Law at the moment. This will allow the GBA (Guernsey Border Agency) to deal with perishable goods, normally by way of destruction, soon after seizure rather than hold onto them for a month.

Currently, under Paragraph 15(b) of Schedule 1 to the Customs Law, where goods of a perishable nature have been seized, the Committee may, with the concurrence of Her Majesty's Procureur or Comptroller (“HMP/C”), sell or destroy the item(s). This means that the GBA have to seek concurrence every time an item of perishable goods is seized. In anticipation of increased volume of seized goods of this nature, it is proposed that that the Committee and HMP/C’s functions should be expanded in order to enable concurrence to be given to particular descriptions or types of SPS goods and also be capable of being delegated to operational officers.

The Policy & Finance Committee considers the proposed amendments to the Customs Law to be an appropriate and timely response to the challenges faced by those responsible for maintaining biosecurity in the Bailiwick and advise that Chief Pleas approves this amendment.

Proposition –

That Chief Pleas approves the Projet de Loi entitled, ‘The Customs and Excise (General Provisions) (Bailiwick of Guernsey) (Amendment) Law, 2022’.

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

PROJET DE LOI

ENTITLED

The Customs and Excise (General Provisions) (Bailiwick of Guernsey) (Amendment) Law, 2022

THE STATES, in pursuance of their Resolution of the 30th September, 2021^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 Bailiwick of Guernsey.

Amendment of the 1972 Law.

1. Paragraph 15 of the First Schedule to the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972^b is amended as follows.
2. Renumber that paragraph as paragraph 15(1).
3. In the renumbered paragraph 15(1), delete ", with the concurrence of Her Majesty's Procureur or Comptroller".
4. Immediately after the renumbered paragraph 15(1), insert the following subparagraphs –

^a Article VIII of Billet d'État No. XIX of 2021.

^b Ordres en Conseil Vol. XXIII, p. 573. This enactment has been amended.

"(2) The Committee must not exercise a power in subparagraph (1) without the approval of Her Majesty's Procureur or Comptroller.

(3) Her Majesty's Procureur or Comptroller may approve the exercise of a power for the purposes of subparagraph (2) –

- (a) generally by reference to a class or description of things, or specifically in relation to any particular thing,
- (b) before, while or after the thing is seized, and
- (c) subject to any condition or limit specified by Her Majesty's Procureur or Comptroller.

(4) Her Majesty's Procureur or Comptroller may arrange for an officer of Customs and Excise to perform the functions of Her Majesty's Procureur or Comptroller under subparagraphs (2) and (3).

(5) An arrangement made under subparagraph (4) has effect as if it were an arrangement made in accordance with section 4(1)(b) of the Public Functions (Transfer and Performance) (Bailiwick of Guernsey) Law, 1991 for those functions to be performed by the delegate in the name of Her Majesty's Procureur or Comptroller; and section 4(2), (3) and (5)(a) of that Law applies in relation to that arrangement accordingly.

(6) For the avoidance of doubt, if the Committee has arranged for an officer of Customs and Excise to exercise the Committee's power in subparagraph (1), and Her Majesty's Procureur or Comptroller has

arranged under subparagraph (4) for the officer to perform the functions of Her Majesty's Procureur or Comptroller, that officer must not rely on an approval given by himself or herself in order to exercise the Committee's power in respect of any thing."

Citation.

5. This Law may be cited as the Customs and Excise (General Provisions) (Bailiwick of Guernsey) (Amendment) Law, 2022.

POLICY & FINANCE COMMITTEE

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

**LEGISLATION RELATING TO THE INVESTIGATION OF
ECONOMIC CRIME**

Guernsey's Committee for Home Affairs recommends that legislation be introduced to create a statutory office of Director of the Economic and Financial Crime Bureau (EFCB), a new specialist investigative organisation. This proposal follows recent discussions between the Bailiwick authorities about enhancing the jurisdiction's investigative capacity in respect of money laundering, terrorist financing and other forms of economic crime.

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

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

The component parts of Guernsey's Law Enforcement services, such as the Economic Crime Division, the Joint Emergency Services Control Centre, Trading Standards and the Financial Intelligence Service, are established by way of simple administrative arrangement. It would also be possible for the EFCB to continue to operate on the basis of the administrative changes that have been made to the allocation of Law Enforcement resources. However, this would be

undesirable, because there would be a lack of clarity around the legal basis on which the EFCB was purporting to exercise investigatory powers and no legally enforceable way to maintain or protect its resources. These matters are perceived to affect its ability to discharge its functions effectively and its operational independence.

In order to alleviate any concerns in relation to the above matters, HMC has suggested that legislation should be enacted to provide a legal basis for the activities of the EFCB. This would have the additional advantage of making an unambiguous statement to parties both within and outside the jurisdiction of the Bailiwick's commitment to enhancing its capacity to investigate economic crime.

HMC recommends the introduction of legislation to create a statutory office of Director of the EFCB, to which appointment and removal would be made by the Committee. This will allow matters to be taken forward quickly, and consideration can be given in the longer term to putting the EFCB on a full statutory footing in the future.

The legislation placed before Chief Pleas today establishes the office of the Director of the Economic and Financial Crime Bureau and details functions of the aforesaid Director. The Policy & Finance Committee believe that it is in the best interests of Sark and the Bailiwick as a whole to be able to effectively combat economic crime; therefore it recommends the approval of the attached Projet de Loi.

Proposition –

That Chief Pleas approves the Projet de Loi entitled, 'The Economic and Financial Crime Bureau and Financial Intelligence Unit (Bailiwick of Guernsey) Law, 2022'

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

PROJET DE LOI

ENTITLED

The Economic and Financial Crime Bureau and Financial Intelligence Unit (Bailiwick of Guernsey) Law, 2022

ARRANGEMENT OF SECTIONS

PART I OFFICE OF THE DIRECTOR

1. Establishment of Office of the Director.

PART II FUNCTIONS OF THE DIRECTOR

2. Functions of the Director.
3. Meaning of "economic and financial crime".

PART III THE FINANCIAL INTELLIGENCE UNIT

4. The Financial Intelligence Unit.
5. Ringfencing.
6. Guidance from the Director.

PART IV MISCELLANEOUS AND FINAL

Statutory references to police officers, disclosure of information and consequential amendments

7. References in PPACE to police officers.

8. References in Schedule 2 enactments to police officers etc. and disclosure of information.
9. Consequential amendment to the Regulation of Investigatory Powers Law.
10. Consequential amendment to the Data Protection Law.
11. Consequential amendments relating to the FIU.
12. Consequential amendment relating to the rehabilitation of offenders.
13. Power to make other consequential provision by Ordinance.

Final provisions

14. Exclusion of liability.
15. Power to amend by Ordinance for specified purposes.
16. General provision as to subordinate legislation.
17. Extent.
18. Citation.
19. Commencement.

SCHEDULE 1: Office of the Director.

SCHEDULE 2: Relevant enactments.

PROJET DE LOI

ENTITLED

The Economic and Financial Crime Bureau and Financial Intelligence Unit (Bailiwick of Guernsey) Law, 2022

THE STATES, in pursuance of their Resolution of the 24th November, 2021^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 Bailiwick of Guernsey.

PART I

OFFICE OF THE DIRECTOR

Establishment of Office of the Director.

1. (1) There is hereby established an office to be known as the Office of the Director of the Economic and Financial Crime Bureau.

(2) The holder of that office shall be known as the Director of the Economic and Financial Crime Bureau ("**the Director**").

(3) Subject to subsection (9), the Director shall be appointed by the States Committee for Home Affairs ("**the Committee**").

^a Article III of Billet d'État No. XXIII of 2021.

(4) The Office of the Director is not a committee of the States, the States of Alderney or the Chief Pleas of Sark and, except to the extent provided otherwise in this Law or any other enactment –

(a) is not subject to any rule of law relating to committees of the States, the States of Alderney or the Chief Pleas of Sark, and

(b) does not have any of the rights or privileges vested in such committees.

(5) The Director shall, subject to the terms and conditions of his or her appointment, exercise the functions assigned or transferred to him or her under this Law or any other enactment.

(6) The Director may do anything that appears to him or her to be necessary, conducive or expedient to or for the carrying out of the Director's functions or incidental to their proper discharge.

(7) For the purposes of the Public Functions (Transfer and Performance) (Bailiwick of Guernsey) Law, 1991^b -

(a) the Office of the Director is a public office, and

(b) the Director is an office holder.

^b Ordres en Conseil Vol. XXXIII, p. 478. This enactment has been amended.

(8) The provisions of Schedule 1 have effect in respect of the Office of the Director.

(9) The appointment of the Director may be varied or terminated at any time, but without prejudice to anything done pursuant to the appointment or to the making of a new appointment.

PART II

FUNCTIONS OF THE DIRECTOR

Functions of the Director.

2. (1) The functions of the Director are –
 - (a) to prevent, detect and investigate the commission of economic and financial crime (including, for the avoidance of doubt, working collaboratively with investigatory bodies in or outside the Bailiwick, whether as part of a joint investigation team or otherwise),
 - (b) to assist Her Majesty's Procureur (as and when requested by Her Majesty's Procureur) with –
 - (i) the prosecution of offences of economic and financial crime,
 - (ii) the discharge of his or her functions as central authority for mutual legal assistance, and

- (iii) the freezing, restraint, forfeiture and/or confiscation of the proceeds of criminal conduct and/or the proceeds of unlawful conduct, whether in response to a request for mutual legal assistance or otherwise,
- (c) to identify and trace the proceeds of criminal conduct and/or the proceeds of unlawful conduct,
- (d) to exercise the powers conferred on police officers and customs officers under the enactments set out in Part IV and Schedule 2,
- (e) to put in place the measures required of the Director under Part III, and
- (f) to carry out such other functions as may be assigned or transferred to the Director –
 - (i) under this Law and any other enactment, and
 - (ii) by Ordinance of the States made under and for the purposes of this section.

(2) Save that the functions under subsection (1)(e) may only be exercised by the Director or a Deputy Director appointed under Schedule 1, the functions of the Director conferred under subsection (1) may be exercised by persons designated by the Director for that purpose ("**designated persons**"; and references to "**a designated person**" shall be construed accordingly).

(3) For the avoidance of doubt, designated persons exercising powers under section 2(1)(d) who are not police or customs officers shall not be treated as police or customs officers for disciplinary or other employment-related purposes.

(4) For the avoidance of doubt, the provisions of this section (including subsection (3) as it applies to members of the FIU under section 4(10)) are without prejudice to any powers of police officers and customs officers under any enactment, or customary law.

(5) The Director shall provide to the Committee annually -

(a) a report on -

(i) the activities (including the effectiveness of those activities) undertaken in the preceding year by the Director and those acting on behalf of the Director to discharge the functions in subsection (1), and

(ii) such other matters relevant to the discharge of the Director's functions as the Director may think fit,

(b) a financial statement setting out details of the expenditure of the Director in the previous year in the discharge of the functions in subsection (1), and

(c) a copy of the annual report from the Head of the FIU

for the relevant year that has been provided to the Director under section 4(7)(b)(i).

- (6) In this section –
- (a) "**proceeds of criminal conduct**" has the meaning it has for the purposes of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999^c, under and in accordance with section 4 of that Law, and
 - (b) "**proceeds of unlawful conduct**" is to be construed in accordance with section 59 of the Forfeiture of Money, etc in Civil Proceedings (Bailiwick of Guernsey) Law, 2007^d.
- (7) The Committee may amend Schedule 2 by regulations.

Meaning of "economic and financial crime".

3. In this Law, "**economic and financial crime**" means –
- (a) any offence committed within the Bailiwick that generates, or is intended to generate, a financial or economic benefit, resource or loss for any person, including (but not limited to) –

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

^d Order in Council No. XVII of 2008. This enactment has been amended.

- (i) money laundering (within the meaning of section 17 of the Disclosure (Bailiwick of Guernsey) Law, 2007^e),
 - (ii) terrorist financing (within the meaning of section 79 of the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002^f), and
 - (iii) a breach of any sanctions measure within the meaning of the Sanctions (Bailiwick of Guernsey) Law, 2018^g (including but not limited to breach of any enactment implementing a sanctions measure), and
- (b) conduct ancillary to an offence falling within paragraph (a).

PART III

THE FINANCIAL INTELLIGENCE UNIT

The Financial Intelligence Unit.

4. (1) The Director shall, in consultation with the Committee, maintain, or arrange for the maintenance of, the unit known as the Financial Intelligence Unit ("FIU") which -

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

^f Order in Council No. XVI of 2002. This enactment has been amended.

^g Order in Council No. VII of 2019. This enactment has been amended.

(a) comprises persons responsible for the receipt, analysis and dissemination within the Bailiwick and elsewhere, of -

(i) ☐ disclosures made under Part I of the Disclosure (Bailiwick of Guernsey) Law, 2007 and Part III of the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002 which are more commonly known as or referred to as suspicious transaction reports or suspicious activity reports, and

(ii) ☐ other information relevant to economic and financial crime, and

(b) ☐ is operationally independent in the discharge of its functions.

(2) Subject to subsection (4), the Director shall -

(a) appoint a person ("**the Head of the FIU**") to exercise the functions listed at subsection (7),

(b) ensure that the Head of the FIU has the necessary authority and financial, human, technical and other resources to enable the FIU to discharge its functions effectively, including, without limitation -

(i) control of an annual budget to be determined in accordance with subsections (5) and (6), and

(ii) the authority to employ senior managers and other staff members or to engage third parties to provide specific services, as necessary to meet the operational needs of the FIU, and

(c) take such other steps as the Director may think fit to ensure that the FIU remains operationally independent and autonomous.

(3) The appointment of the Head of the FIU may be varied or terminated at any time, but without prejudice to anything done pursuant to the appointment or to the making of a new appointment.

(4) The appointment of the Head of the FIU (including, for the avoidance of doubt, the variation or termination of such an appointment) shall be made in consultation with the Committee.

(5) The annual budget of the FIU shall -

(a) include specific provision for the costs of training and travel for its members,

(b) subject to subsection (6), be agreed between the Director and the Head of the FIU in the year preceding that to which it relates, and

(c) not preclude the Head of the FIU from making a request to the Director or any appropriate third party for resources in addition to those in the annual budget if the Head of the FIU considers this necessary.

(6) Where –

(a) agreement under subsection (5)(b) is not possible, or

(b) in the event of any other disagreement about resources between the Director and the Head of the FIU,

the Director or the Head of the FIU may refer the matter to the Committee, who will then, as the case may be, determine the budget of the FIU for the relevant year or give a direction to the Director and the Head of the FIU in relation to the disagreement about resources.

(7) The functions of the Head of the FIU are -

(a) to take such steps as the Head of the FIU may think fit to ensure that the FIU -

(i) is staffed by persons who -

(A) maintain high professional standards, including standards concerning confidentiality,

(B) are of high integrity and appropriately skilled and trained, and

- (C) have the appropriate security clearance levels for handling and disseminating sensitive and confidential information, and
 - (ii) discharges its functions effectively and in a way that takes into account, and is proportionate to, the risks to the Bailiwick from criminal conduct and unlawful conduct within the meaning of section 2, and is in accordance with -
 - (A) relevant international standards, and
 - (B) the principles and guidance issued by the Egmont Group of Financial Intelligence Units, and
- (b) to provide to the Director and to the Committee annually -
 - (i) a report on the activities and effectiveness of the FIU in the preceding year, and on such other matters relevant to the discharge of the functions of the FIU as the Head of the FIU may think fit, and
 - (ii) a financial statement setting out details of the expenditure of the FIU in the preceding year.

- (8) For the purposes of this section -
- (a) "**relevant international standards**" means -
- (i) the International standards on Combating Money Laundering and the Financing of Terrorism and Proliferation issued by the Financial Action Task Force as revised or reissued from time to time,
 - (ii) the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988,
 - (iii) the United Nations Convention for the Suppression of the Financing of Terrorism 1999,
 - (iv) the United Nations Convention against Transnational Organised Crime 2000, and
 - (v) the United Nations Convention against Corruption 2003, and
- (b) the functions of the FIU are the activities referred to in subsection (1)(a) and such other functions as may be assigned or transferred to the FIU under any enactment.

(9) The Committee may amend the definition of relevant international standards in subsection (8) by regulations.

(10) Members of the FIU may exercise the powers referred to in section 2(1)(f).

(11) Section 2(3) applies to members of the FIU as it applies to designated persons.

Ringfencing.

5. (1) The Head of the FIU may not be required by the Director or any other person to do anything in the course of his or her employment that would not fall within the functions listed at section 4(7) or be ancillary thereto.

(2) Subject to subsection (3), the financial, technical, human and other resources of the FIU may not be used, deployed or otherwise drawn upon by the Director or any other person outside the FIU.

(3) Subsection (2) does not prevent the Head of the FIU, or any other member of the FIU with the consent of the Head of the FIU, from -

(a) working with another domestic or international authority or organisation, or

(b) working for another domestic or international authority or organisation on secondment.

Guidance from the Director.

6. (1) The Director may, after consulting the Head of the FIU, give to the Head of the FIU in a manner deemed appropriate by the Director guidance of a general character concerning the strategic direction of the FIU.

(2) Subsection (1) is without prejudice to -

- (a) the operational autonomy and independence of the FIU in the discharge of its functions,
- (b) the exercise by the Head of the FIU of the functions listed at section 4(7), or
- (c) the provisions of section 5.

PART IV

MISCELLANEOUS AND FINAL

Statutory references to police officers, disclosure of information and consequential amendments

References in PPACE to police officers.

7. (1) With the exception of the provisions listed in subsection (2), any reference in the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003^h to a police officer includes a reference to the Director and a designated person.

(2) The provisions referred to in subsection 1 are –

^h Ordres en Conseil Vol. XLIII(2), p. 617. This enactment has been amended.

- (a) section 5,
- (b) section 31,
- (c) Part IV, and
- (d) sections 67 to 72.

(3) The Committee may by regulations amend the list of provisions at subsection (2).

References in Schedule 2 enactments to police officers etc. and disclosure of information.

8. (1) Unless the contrary intention appears, and subject to any regulations made subsection (3,) any reference to a police officer in the enactments listed in Schedule 2 includes a reference to the Director and designated persons and to members of the FIU.

(2) Unless the contrary intention appears, and subject to any regulations made under subsection (3), any power in an enactment to disclose information to a police officer or customs officer for a specified purpose includes a power to disclose that information to the Director and designated persons and to members of the FIU for the purpose of carrying out their functions.

(3) The Committee may, by regulations, specify –

- (a) references to police officers in the enactments listed in Schedule 2, and

- (b) powers in an enactment to disclose information to a police officer or customs officer for a specified purpose,

which do not include references to the Director or designated persons or members of the FIU, or powers to disclose that information to the Director or designated persons or members off the FIU for the purpose of the carrying out by the Director of his or her functions (as the case may be).

(4) For the avoidance of doubt, subject to any power to disclose information conferred under any enactment, information obtained by the Director, designated persons and members of the FIU in the discharge of their functions shall be treated as confidential.

Consequential amendment to the Regulation of Investigatory Powers Law.

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

(2) In section 6(1), after paragraph (b) insert –

"(ba) the Director of the Economic and Financial Crime Bureau,".

(3) After section 14(3)(c) insert –

"(ca) the Director of the Economic and Financial Crime Bureau and designated persons within

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

the meaning of the Economic and Financial Crime Bureau and Financial Intelligence Unit (Bailiwick of Guernsey) Law, 2022,".

(4) In section 20(1), in the table, after row (b) insert a row (ba) with the words "the Director of the Economic and Financial Crime Bureau" in the "*Designated Person*" column, and the words "Economic and Financial Crime Bureau" in the "*Relevant Public Authority*" column.

(5) In section 26(6), at the end of paragraph (a) delete "and", at the end of paragraph (b) for "." substitute ",", and at the end insert –

"(c) the Director of the Economic and Financial Crime Bureau."

(6) In section 29(6), at the end of paragraph (b) delete "or" and after that paragraph insert –

"(ba) the Director of the Economic and Financial Crime Bureau, or",

and in paragraph (c), for "(a) or (b)" substitute "(a), (b) or (c)".

(7) In section 40(4), after paragraph (b) insert –

"(ba) the Director of the Economic and Financial Crime Bureau,".

(8) In section 41(2), after paragraph (b) insert –

"(ba) the Director of the Economic and Financial Crime Bureau, or".

(9) In section 50(3)(a) and (b), in both places after "a customs officer" insert ", the Director of the Economic and Financial Crime Bureau, a designated person within the meaning of the Economic and Financial Crime Bureau and Financial Intelligence Unit (Bailiwick of Guernsey) Law, 2022,".

(10) In section 51, after paragraph (d) insert -

"(da) the Director of the Economic and Financial Crime Bureau,".

(11) In Schedule 1, after paragraph 14 insert –

"14A. The Director of the Economic and Financial Crime Bureau.".

Consequential amendment to the Data Protection Law.

10. (1) The Data Protection (Bailiwick of Guernsey) Law, 2017^j is amended as follows.

(2) In Schedule 1 (Application to the Crown, Public Committees and the Police), after paragraph 2 insert –

"2A. **Application to the Director of the Economic and Financial Crime Bureau.**

^j Order in Council No. VI of 2018. This enactment has been amended.

- (1) This Law applies to the Director of the Economic and Financial Crime Bureau (in this paragraph, "**the Director**") and his or her servants.
- (2) For the purposes of this Law, persons designated by the under and for the purpose of section 2(2) of the Economic and Financial Crime Bureau and Financial Intelligence Unit (Bailiwick of Guernsey) Law, 2022 are the Director's servants."

Consequential amendments relating to the FIU.

11. (1) Subject to subsection (2), in the provisions set out in subsection (3), the definition of the Financial Intelligence Service is deleted and replaced with the following –

"**Financial Intelligence Unit**" has the meaning given in Part III of the Economic and Financial Crime Bureau and Financial Intelligence Unit (Bailiwick of Guernsey) Law, 2022," "

(2) Subsection (1) also applies in respect of any provision set out in subsection (3) in which, on commencement of this Law, references to the Financial Intelligence Service have been amended to references to the Financial Intelligence Unit, and shall be construed accordingly.

(3) The provisions in this subsection are –

- (a) section 17 of the Disclosure (Bailiwick of Guernsey) Law, 2007,

- (b) section 79 of the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002,
- (c) paragraph 21 of Schedule 3 to the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999,
- (d) section 51 of the Charities etc. (Guernsey and Alderney) Ordinance, 2021^k,
- (e) section 13 of, and article 3 of the First Schedule to, the Transfer of Funds (Guernsey) Ordinance, 2017^l,
- (f) section 13 of, and article 3 of the First Schedule to, the Transfer of Funds (Alderney) Ordinance, 2017^m,
- (g) section 13 of, and article 3 of the First Schedule to, the Transfer of Funds (Sark) Ordinance, 2017ⁿ,
- (h) paragraph 15 of Schedule 4 to the Alderney eGambling Ordinance, 2009^o, and
- (i) regulation 7 of the Sanctions (Implementation of UK Regimes) (Bailiwick of Guernsey) (Brexit) Regulations, 2020^p.

k Ordinance No. XXIV of 2021.

l No. XXVII of 2017.

m Alderney Ordinance No. III of 2017.

n Sark Ordinance No. X of 2017.

o Alderney Ordinance No. X of 2009. This enactment has been amended.

p G.S.I. No. 162 of 2020.

Consequential amendment relating to the rehabilitation of offenders.

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

(2) In Schedule 1, Part II (Offices and Employments), after paragraph 5 insert –

"5A. The Director of the Economic and Financial Crime Bureau and the Head of the Financial Intelligence Unit within the meaning of the Economic and Financial Crime Bureau and Financial Intelligence Unit (Bailiwick of Guernsey) Law, 2022, or any employment in the Economic and Financial Crime Bureau or the Financial Intelligence Unit."

Power to make other consequential provision by Ordinance.

13. (1) The States may by Ordinance make such consequential, incidental and supplemental provision as they think fit in connection with the commencement of any provision of this Law.

(2) Without limiting subsection (1), an Ordinance under that subsection may make any amendment to an enactment consequential upon the coming into force of any provision of this Law that the States think fit.

Final provisions

Exclusion of liability.

14. (1) Subject to subsection (2), no liability shall be incurred by –

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

- (a) the States, the States of Alderney or the Chief Pleas of Sark, or any committee thereof,
- (b) the Director or any person –
 - (i) to whom the Director has, under paragraph 3 of Schedule 1, delegated any function, or
 - (ii) appointed as Deputy Director under paragraph 4 of Schedule 1,
- (c) designated persons,
- (d) the Head of the FIU or any of its members, or
- (e) any officer, servant or member of the States, the States of Alderney or the Chief Pleas of Sark or officer or servant of the Director,

in respect of anything done or omitted to be done after the commencement of this Law in the discharge or purported discharge of their functions, unless the thing was done or omitted to be done in bad faith.

(2) Subsection (1) does not apply so as to prevent an award of damages in respect of the act or omission on the ground that it was unlawful under section 6(1) of the Human Rights (Bailiwick of Guernsey) Law, 2000^r.

^r Ordres en Conseil Vol. XL p. 396. This enactment has been amended.

Power to amend by Ordinance for specified purposes.

15. (1) The States may by Ordinance amend this Law where it appears to them to be necessary or expedient to do so for the purpose of –

- (a) the enabling of any person or body within the Bailiwick with functions under this Law to carry out those functions,
- (b) enhancing or protecting the reputation or economic interests of the Bailiwick or any part thereof, or
- (c) discharging any international obligation to which the Bailiwick is subject,

and to make such other provision as they think fit for the purposes of carrying this Law into effect.

General provision as to subordinate legislation.

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

(2) The Committee shall consult the Policy and Finance Committee of the States of Alderney and the Policy and Finance Committee of the Chief Pleas of Sark before making regulations under this Law; but a failure to comply with this subsection shall not invalidate any regulations so made.

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

Extent.

17. This Law extends throughout the Bailiwick.

Citation.

18. This Law may be cited as the Economic and Financial Crime Bureau and Financial Intelligence Unit (Bailiwick of Guernsey) Law, 2022.

Commencement.

19. 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.

SCHEDULE 1

Section 1(8)

OFFICE OF THE DIRECTOR

Salary or fees of Director.

1. The Director shall be paid such salary or fees, emoluments and other allowances as the Committee, following consultation with the States Policy & Resources Committee, may determine.

Appointment of staff.

2. Without prejudice to the requirement to appoint a person as Head of the FIU under section (4), the Director may –

- (a) appoint such officers and servants, and
- (b) appoint and instruct such other persons,

upon such terms and conditions (whether as to remuneration, expenses, pensions or otherwise) as he or she thinks necessary for the exercise of his or her functions, subject to the approval of the Committee as to the maximum number of officers and servants that may, from time to time, be engaged by him or her.

Delegation of functions.

3. (1) Subject to section 2(2), the Director may, by an instrument in writing, either generally or otherwise as specified in the instrument, arrange for any of his or her functions to be exercised in his or her name by any person named or described in the instrument, other than this power of delegation.

(2) A function exercised by a delegate pursuant to an arrangement made under this paragraph is for all purposes exercised by the Director; and every decision taken or other thing done by a delegate pursuant to such an arrangement has the same effect as if taken or done by the Director.

(3) An arrangement made under this paragraph for the exercise of a function by a delegate -

(a) may be varied or terminated at any time by the Director, but without prejudice to anything done pursuant to the arrangement or to the making of a new arrangement,

(b) does not prevent the exercise of the function by the Director while the arrangement subsists.

(4) The provisions of this paragraph and of paragraph 3 are without prejudice to the provisions of the Public Functions (Transfer and Performance) (Bailiwick of Guernsey) Law, 1991.

Appointment of Deputy Director.

4. (1) Without prejudice to the generality of paragraph 2, the Committee may, in consultation with the Director and subject to such terms and conditions as it thinks fit, appoint any person as Deputy Director with authority to exercise the Director's functions during any period during which the Director is unavailable.

(2) A function exercised by a Deputy Director pursuant to an appointment under this paragraph is for all purposes exercised by the Director; and

every decision taken or other thing done by a Deputy Director pursuant to such an appointment has the same effect as if taken or done by the Director.

- (3) An appointment under this paragraph of a Deputy Director -
 - (a) may be varied or terminated at any time by the Committee in consultation with the Director, but without prejudice to anything done pursuant to the appointment or to the making of a new appointment,
 - (b) does not prevent the exercise of the function by the Director while the appointment subsists.

Proof of documents.

5. (1) In any legal proceedings the provisions of subparagraph (2) shall apply in relation to any document purporting to be –

- (a) issued by or on behalf of the Director or the Deputy Director appointed under paragraph 4, or
 - (b) signed by the Director, by any of the Director's officers or servants, by the Deputy Director appointed under paragraph 4 or by any person to whom, pursuant to paragraph 3, he or she has delegated authority to sign documents of that description.
- (2) The document shall, unless the contrary is proved, be deemed–
- (a) to be the document which it purports to be, and

- (b) to have been issued by or on behalf of the Director or Deputy Director or, as the case may be, to have been signed by the person by whom it purports to have been signed, without proof of his or her identity, signature or official capacity.

Legal proceedings relating to the FIU.

6. (1) Subject to subparagraph (2), legal proceedings concerning the activities of the FIU may be brought by or against the Director.

(2) Subparagraph (1) does not apply to any proceedings brought by the members of the FIU (including, for the avoidance of doubt, the Head of the FIU) in relation to their employment.

SCHEDULE 2

Section 2(1)(f)

RELEVANT ENACTMENTS

1. Each of the following enactments:

Offences against Police Officers (Bailiwick of Guernsey) Law, 1963^s

False Documents and Domicile, etc. (Bailiwick of Guernsey) Law, 1998^t

Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999

Drug Trafficking (Bailiwick of Guernsey) Law, 2000^u

Criminal Justice (International Cooperation) (Bailiwick of Guernsey) Law, 2001^v

Terrorism and Crime (Bailiwick of Guernsey) Law, 2002

Bail (Bailiwick of Guernsey) Law, 2003^w

Forgery and Counterfeiting (Bailiwick of Guernsey) Law, 2006^x

Criminal Justice (Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2006^y

Disclosure (Bailiwick of Guernsey) Law, 2007

Sanctions (Bailiwick of Guernsey) Law, 2018

Computer Misuse (Bailiwick of Guernsey) Law, 1991^z

^s Ordres en Conseil Vol. XIX, p. 125. This enactment has been amended.

^t Ordres en Conseil Vol. XXXVIII, p. 174. This enactment has been amended.

^u Order in Council No. VII of 2000. This enactment has been amended.

^v Order in Council No. VII of 2001. This enactment has been amended.

^w Ordres en Conseil Vol. XLIII, p. 485). This enactment has been amended.

^x Order in Council No. II of 2010. This enactment has been amended.

^y Order in Council No. XIII of 2006. This enactment has been amended.

^z Ordres en Conseil Vol. XXXIII, p. 140.

Forfeiture of Money, etc in Civil Proceedings (Bailiwick of Guernsey) Law, 2007

Criminal Justice (Fraud Investigation) (Bailiwick of Guernsey) Law, 1991^{aa}

Prevention of Corruption (Bailiwick of Guernsey) Law, 2003^{bb}

Theft (Bailiwick of Guernsey) Law, 1983^{cc}

Protection of Investors (Bailiwick of Guernsey) Law, 2020^{dd}

Terrorist Asset-Freezing (Bailiwick of Guernsey) Law, 2011^{ee}

Police Property and Forfeiture (Bailiwick of Guernsey) Law, 2006^{ff}

2. Any subordinate legislation made under an enactment listed in paragraph 1.

^{aa} Ordres en Conseil, Vol. XXXIII, p. 81. This enactment has been amended.

^{bb} Order in Council No. I of 2004. This enactment has been amended.

^{cc} Ordres en Conseil Vol. XXVIII, p. 5. This enactment has been amended.

^{dd} Order in Council No. XVIII of 2020.

^{ee} Order in Council No. XI of 2011. This enactment has been amended.

^{ff} Order in Council No. XXII of 2007. This enactment has been amended.

POLICY & FINANCE COMMITTEE

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

**AMENDMENT TO THE REFORM LAW FOR THE CONSTABLE –
NEW ROLE**

At the Easter Meeting of Chief Pleas, 22nd April 2020 (item 8) the Douzaine presented a report entitled 'The Constable Proposal' in which it outlined a move away from the traditional role of the Constable and Vingtenier to something that was more appropriate to what the Constable role was now expected to face. Chief Pleas was updated at the Midsummer Meeting 8th July 2020 (item 11) and the proposal was approved at the Extraordinary Meeting 25th August 2020 (item 4) with the changes coming into effect with the election of one Constable and three Assistant Constables at the Michaelmas Meeting 30th September 2020.

In its report to the Michaelmas Meeting, 6th October 2021 (item 17) the Douzaine explained that if the changes proposed in the 25th August 2020 report were fully adopted as written, there would need to be an amendment to sections 52 & 53 of **The Reform (Sark) Law, 2008**. The new structure was instead enacted to sit within the existing legislation, while accepting that in the long term, amendments would be required.

The Douzaine has reviewed **The Reform (Sark) Law, 2008** and identified the relevant sections that need to be amended. It has also noted that a change in the 2008 Law will have an effect on other legislation, for example **The Motor Vehicles (Sark) Law, 2013**.

The Douzaine would now wish that the Policy & Finance Committee speak with the Law Offices to produce a draft of the amendments required, understanding that it will be necessary to do this by Projet de Loi.

Proposition –

That Chief Pleas directs the Policy & Finance Committee to speak with the Law Officers of the Crown to draft an amendment to 'The Reform (Sark) Law, 2008' to bring into effect the changes mentioned in this report.

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

POLICY & FINANCE COMMITTEE

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

THE INVESTIGATION FOR AIR ACCIDENTS AND INCIDENTS

The United Kingdom ('UK'), through the Department for Transport ('DfT'), has requested that the Bailiwick of Guernsey ('the Bailiwick') updates its legislation relating to the investigation of air accidents and incidents.

The International Civil Aviation Organisation ('ICAO') routinely carries out audits of its Member States, including the UK, and these audits include consideration of the legislation that each Member State government establishes to effectively implement ICAO standards and recommended practices. For the purposes of ICAO, the Bailiwick is one of the territories for which the UK is responsible.

The DfT has requested that the Bailiwick updates its legislation before the next ICAO audit. The Acting Director of Civil Aviation for the Bailiwick of Guernsey has advised that the necessary legislation should be updated as soon as possible.

Appended to this report is the full Policy Letter produced by Guernsey's Policy & Resources Committee which outlines what an update to legislation would entail. In paragraph 4.1, it is explained that for Regulation 996/2010 to be implemented throughout the Bailiwick, the States of Deliberation, the States of Alderney, and the Chief Pleas of Sark must each make Ordinances, under the Implementation Law, to implement Regulation 996/2010 in their own jurisdictions. It is anticipated that a draft Ordinance for this will be ready to bring to the Midsummer Meeting of Chief Pleas.

Proposition 1 –

That Chief Pleas agrees that the legislation which currently applies to the Bailiwick of Guernsey regarding the investigation of air accidents and incidents is updated, in particular to implement: (a) Annex 13 to the Chicago Convention as required; and (b) Regulation (EU) 996/2010 on the investigation and prevention of accidents and incidents in civil aviation.

Proposition 2 –

That Chief Pleas agrees to the substance of the proposed Order in Council (set out in paragraphs 4.2 and 4.3 of the appended Policy Letter) for the purposes of Article 72A of the Reform (Guernsey) Law, 1948, as amended.

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



THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *FOR* HOME AFFAIRS

LEGISLATION RELATING TO THE INVESTIGATION OF ECONOMIC CRIME

The States are asked to decide:-

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

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

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

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE FOR HOME AFFAIRS

LEGISLATION RELATING TO THE INVESTIGATION OF ECONOMIC CRIME

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

27th September 2021

Dear Sir

1 Executive Summary

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

2 Background

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

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

3 Legal recognition of the EFCB

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

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

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

4 Recommendation

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

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

5 Financial Intelligence

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

6 Compliance with Rule 4

- 6.1□ Rule 4 of the Rules of Procedure of the States of Deliberation and their Committees sets out the information which must be included in, or appended to, motions laid before the States.
- 6.2□ In accordance with Rule 4(1)(a), the Proposition contributes to Priority 2 of the Government Work Plan by ensuring compliance with international agreements and standards.
- 6.3□ In accordance with Rule 4(1)(b), the Committee has consulted the Policy & Resources Committee, States of Alderney, Sark Chief Pleas and the Head of Law Enforcement.
- 6.4□ In accordance with Rule 4(1)(c), the Proposition has been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications.
- 6.5□ In accordance with Rule 4(2)(a), the Proposition relates to the duties of the Committee to advise the States and to develop and implement policies on matters relating to its purpose including law enforcement, including policing and customs.
- 6.6□ In accordance with Rule 4(2)(b), it is confirmed that the proposition above was supported unanimously by the Committee Members.

Yours faithfully

R G Prow
President

S P J Vermeulen
Vice-President

S Aldwell
M P Leadbeater
A W Taylor

P A Harwood
Non-States Member

POLICY & FINANCE COMMITTEE
Report with Proposition to Chief Pleas, 27th April 2022

2021 Financial Statements

The Policy & Finance Committee presents the Financial Statements of the Island of Sark for the year ended 31 December 2021. They have been reviewed and signed by an independent accountant, Brehon Limited, as required by The Reform (Sark) Law, 2008.

2021 saw a dramatic upturn in fortunes compared to the previous year. It resulted in a surplus of £206,683 for the year, which has boosted reserves back to pre-Covid levels and careful cash management has returned balances to over £1 million. The Island was open for the majority of the year, new residents made Sark their home, and visitor numbers increased, resulting in increases to all main income streams. Direct taxation, Impôt, Property Transfer Tax and Poll Tax combined saw increases of £295k compared to the previous year.

The 2021 Financial Statements include a change in the accounting treatment of Medical Services and Public Works income. Both income streams have previously been included on a cash basis, where the income recorded is the cash received in the year. They are now shown on an accruals basis, where income that was invoiced during the year but not received by the year end is still included as income. The corresponding figure is shown as a Debtor on the balance sheet. This now unifies the treatment of all income and expenditure for the Island to an accruals basis.

The accounting treatment of Procureur expenditure has also changed. Historically, expenditure covering the cost of Islander's residential care in Guernsey that was repayable to the Island was shown as a cost in the year it was spent. When it was repaid this was treated as income in the year it was received. This same treatment was used for short term loans given out. After confirmation from our independent accountant, a change has been implemented to the way loans are treated in the accounts. Any repayable loans made are now recorded as a long-term debtor and do not affect the Procureur expenditure in the year they were made.

These two changes have been reflected in a restatement of 2020 figures in the 2021 Financial Statements. It has increased income by £7,180 and reduced expenditure by £127,915 and the deficit for 2020 has reduced by £135,095 from £224,044 to £88,949.

Finally, all income is now shown under 'Income' in the Revenue Account on page 3, rather than being netted off against committee expenditure. This is the recognised correct presentation under all accounting standards.

Attached to this Report are schedules comparing the 2021 Revenue Account with the 2021 Budget (Appendix 1) and with the previous year (Appendix 2). These schedules give detailed explanations of any variances. The headline variances (any variance over £10k) are also noted below in this report.

The page numbers referred to in the following report relate to the page numbers of the Financial Statements accompanying this report.

REVENUE ACCOUNT – page 3

Income:

The total income for the year was £1,801,922 which was £369,546 higher than the total income in the previous year, and £126,922 higher than budget.

The reasons for significant variances in income when compared to budget are:

- **Direct taxation** - £25,748 higher than budget. New resident taxpayers had an impact on receipts, and some old outstanding debts were finally paid in 2021.
- **Impôt** – £100,724 higher than budget. This is a significant increase on budget. There were no Impot rate rises for 2021 and maybe this had a positive impact. The Treasurer arranged a meeting with the GBA in June to discuss collection of duties and work is underway to solidify this arrangement.
- **Property transfer tax** - £32,178 lower than budget. Land Reform did not have quite the effect on sales as expected when setting the budget, but PTT receipts for the year were still the highest for 10 years.
- **Medical Services income** - £10,443 higher than budget. Increase seen in Doctor and Nurse consultancy fee income.
- **Miscellaneous income** - £17,083 higher than budget. The budget was set before the north end electricity situation arose, and therefore there was £13k of unbudgeted income. Parental contributions towards Guernsey accommodation and travel costs were £5k higher due to increased pupil numbers compared to budget. Other small variances to budget.

The reasons for significant variances in income when compared to 2020 are:

- **Direct Tax** - £107,248 higher than 2020, due to increase in tax rates for 2021, along with an increase of tax paying residents and old debts being settled.
- **Impôt** - £142,529 higher than 2020. The additional visitors and events held during the year have a positive impact on Impot compared to 2020. The meeting with the GBA in June 2021 also seems to have positively affected returns.
- **Property Transfer Tax** - £26,622 higher than 2020, due to increased level of property transactions in 2021.
- **Poll Tax** - £18,164 higher than 2020 due to increase in number of visitors to Sark compared to 2020.
- **Medical services income** - £38,332 higher. Prior to 2021, the £18k annual PSF dispensing fee had been paid directly to the Doctor. This is now included as income for the Island (but paid back to the Doctor as part of her salary). Other doctor and nurse consultancy fee income has increased in part from PCR testing. Allowance for debtors at year end is now also included as income.
- **Miscellaneous income** - £14,383 higher than 2020, mainly due to electricity charges to the north end residents.

Ordinary expenditure:

The total expenditure on ordinary activities was £1,553,216 for the year, which was £93,482 lower than budget but £57,159 higher than the comparative figure for the previous year.

The reasons for significant variances in expenditure when compared to budget are:

- **Public works** – £45,180 higher than budget. Rubbish collection costs were higher than budget as were incinerator running costs. Expenditure was only £6k higher than 2020, so the 2021 budget of £75k budget was on reflection rather ambitious.
- **Island maintenance & repairs (Douzaine)** - £40,524 lower than budget. Underspend from Island, roads & cliff path maintenance. Island workers have spent more time in 2021 on rubbish collection than budgeted and less work was done on the roads than budgeted.
- **Agriculture, Environment & Sea Fisheries** - £11,539 lower than budget. The budgeted £4k lime subsidy was not spent. This is now budgeted for 2023. The preventative measures budget was not needed during the year, and the new Abattoir running costs and number of animals slaughtered were lower than anticipated.
- **Tourism** - £46,195 lower than budget. Savings mostly in advertising and printing & production/distribution. This was due to Covid travel restrictions and therefore reduced need for advertising outside the Bailiwick. The brochure was not printed in 2021.
- **Seigneur, Officers, Civil Service & Treasury** - £18,019 lower than budget, as the Assistant Chief Secretary recruitment was postponed due to Covid. CSO hours were increased to deal with the increased workload through the office.
- **Legal & Professional fees** - £23,620 lower than budget. The Price Control Commissioner's legal costs were lower than budget by £3k and the £20k budget for other professional fees was not used.

The reasons for significant variances in expenditure when compared to 2020 are:

- **Education** - £35,330 higher than 2020. The cost of education continues to rise, reflecting the increased number of children attending schools in Guernsey. In 2021 the costs were £23k more than the previous year. There was also an £11k increase in teaching costs due to increased pupil numbers at Sark School.
- **Medical & Emergency Services** - £38,343 lower than 2020. Medical Services relied heavily on expensive Locum cover during 2020, but with the recruitment of a permanent Doctor and nurse this has been greatly reduced, saving £26k overall on staffing costs. Recruitment/Introduction costs were zero in 2021 compared to £20k in 2020. There were increases in other costs such as surgery supplies and CFR training and equipment compared to 2020.
- **Island maintenance & repairs (Douzaine)** - £56,062 lower than 2020. Costs for Island property maintenance, heat & light were £33k more in 2020 than 2021, mainly due to renovations of the Doctors House last year. Expenditure on general Island maintenance & road repairs were £23k less in 2021 as more time was spent by Island workers on Rubbish collection and disposal compared to 2020.
- **Depreciation** - £15,386 higher than 2020. Recent major purchases have increased depreciation charges for 2021. The Abattoir's first full year of depreciation cost £11k for 2021 compared to £1.7k in 2020. The new Maseline fendering charge for 2021 added another £2k, as did the new bathrooms/boilers in the teachers' houses.

- **Island policing** - £34,122 higher than 2020. This expenditure line includes the SLA cost with Guernsey for providing Policing and Prisoner support along with the Police provision on Sark. The actual cost of the Guernsey SLA in 2020 was zero due to release of previous years' accruals, but £15k in 2021. 2021 reflects a full year of the new Sark policing structure which cost £17k more than 2020.
- **Procureur** - £93,392 more than 2020. Procureur costs for 2020 have been restated from £122k in the 2020 Financial Statements to £40k in 2021 Financial Statements. This reduction reflects repayable loans made in previous years that were recorded as an expense in that year but are now stated as long-term debtors in the Balance Sheet. As such the £93k is an artificial variance. Comparable actual expenditure for 2020 was £139,178.
- **Tourism** - £22,303 lower than 2020. Main reductions in expenditure were in advertising, printing & production compared to 2020. This was due to Bailiwick only advertising, and no brochure being printed in 2021.
- **Seigneur, Officers, Civil Service & Treasury** - £35,116 more than 2020. CSO hours increased during the year, reflecting the huge increase in work through the office. RPI increased costs by £7k.
- **Legal & Professional fees** - £39,328 lower than 2020. PCC legal costs were £29k lower at £7k for 2021 compared to 2020. £19k of 'other professional fees' was spent in 2020, but this cost was zero for 2021. Lieutenant Seneschal costs were £9k higher than 2020 due to type of cases heard, and support provision for the new Seneschal
- **Unforeseen expenditure** - £16,755 higher than 2020. £10k increased cost of running the north end electricity supply for a full year. £6k electrical cable survey cost incurred in 2021.

Unforeseen revenue expenditure:

The unforeseen expenditure for 2020 was £42,023, against a budget of £25,000 and was £16,755 higher than that of 2020. The costs charged to unforeseen in the year were £35,833 in relation to the North End electricity provision for maintenance, fuel and running costs, and £6,190 to fund the electrical cable survey in October.

Surplus for the year:

There is a surplus arising on the Island's ordinary activities of £248,706. The unforeseen expenditure amounting to £42,023 resulted in an overall surplus of £206,683 which has increased the accumulated reserves by that amount.

STATEMENT OF BALANCES – page 4

Tangible assets:

The movements in tangible assets are detailed in Note 25 on pages 11 and 12 of the financial statements. Additions in the year totalled £121,932. This was £23,932 over budget but included £19,619 of final costs for the Abattoir that had been included as a capital commitment in the 2020 Financial Statements. The main additions in the year were the new fendering for Maseline Harbour at £38,927 and new boilers and bathrooms in the Teacher's houses at £30,475. Depreciation provided in the year was £50,214.

Investments:

The cost of Chief Pleas' investment in Isle of Sark Shipping Company Limited ("IoSS") reduced by £20,000 during 2021 with the repayment of cash loaned during 2020. The net assets of IoSS as shown by its latest accounts to 30 September 2021 were £697,861. This is still below the level of Chief Pleas' investment, but recovery is expected during 2022.

Net current assets:

Net current assets have increased in the year by £115,374. Cash balances have increased by £178,033. Debtors, including prepayments have decreased by £11,753, and creditors & accruals have increased by £75,256, of which £66,179 was due to Guernsey Law Officers (this was paid in December the previous year).

Accumulated fund:

The accumulated fund (being the Island's general reserves) has increased from the restated £2,947,892 to £3,154,575 by the surplus for the year of £206,683. General reserves have now surpassed the pre Covid levels of 2019's total £3,036,841.

La Ville Roussel fund:

The fund has assets, mainly bank balances, of £101,323 and accumulated reserves of the same figure. The fund is under the control of the Trustees of La Ville Roussel Trust for the benefit of the Island.

IN SUMMARY

The Financial Statements have been signed by the Treasurer and Conseiller John Guille, with the approval of the Policy and Finance Committee, and are presented for adoption.

Proposition –

That the Financial Statements of the Island for the year ended 31 December 2021 be adopted.

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

COMPARISON OF 2021 REVENUE ACCOUNT WITH 2021 BUDGET

	2021 RESULTS COMPARED TO BUDGET			COMMENTS
	ACTUALS	BUDGET	VARIANCE	
INCOME				
Direct Taxation	881,748	856,000	25,748	Tax receipts were above budget by £26k. New resident tax payers had an impact on receipts, and some old outstanding debts were finally paid in 2021.
Impot	428,724	328,000	100,724	A very good result for Impot for 2021. A meeting was held with the GBA in June 2021, and receipts increased dramatically from then onwards. Meetings with the GBA will be held annually now. No increase was made to rates for 2021, increasing the differential between Guernsey and Sark rates which has had a positive effect.
Property transfer tax	92,822	125,000	(32,178)	Whilst it was anticipated the introduction of Land Reform would have more of an impact on property sales when setting the budget, this is still the highest PTT received for 10 years and the buoyant market continues into 2022.
Poll tax	41,689	40,000	1,689	Small increase in passenger numbers and therefore income compared to budget.
Public Works income	85,733	80,000	5,733	There has been a change of accounting treatment from a cash receipts basis to accruals basis for Public Works income for 2021 onwards. This means that any invoices raised in 2021 but not paid by the end of the year have been included in 2021 income figures, hence the small increase on budget.
Harbour & Crane income	63,134	57,000	6,134	Harbour income was on budget, and crane income was £6k above budget due to the number of freight charters and loan out for the construction of the Dairy.
Licence fee income	29,288	30,000	(712)	On budget
Medical Services income	75,743	65,300	10,443	Increase in consultancy fee income for Dr and Nurses, in part from PCR testing. 13 months of PSF dispensing fees charged to 2021 (Dec 20 received in Jan 21).
Tourism & Public Health income	18,213	15,880	2,333	Advertising income was lower than budget by £3.4k as the brochure was not printed for 2021. Income from catering, accommodation permits & water testing was slightly above budget. Income from mobility scooter and moorings hire had previously been recorded as shop income, but this now falls under Tourism committee income bringing in £3.6k against a zero budget.
Property rental income	31,272	41,120	(9,848)	Rent for teachers houses was reduced for 2 months whilst waiting for repair work to be completed. A rental agreement finished during 2021 reducing income in the year.
Investment income	6,073	6,300	(227)	On budget
Other income	47,483	30,400	17,083	This budget line includes income from north end electricity provision, bringing in an unbudgeted £13k of income. The number of children attending secondary education in Guernsey was higher than budget, bringing in an additional £5k towards the cost of travel & accommodation.
	1,801,922	1,675,000	126,922	
EXPENDITURE				
Education services	236,900	244,902	8,002	Savings of £8k for the year across most cost centres, negating the over spend in Guernsey Education costs and safeguarding officer salary increase.
Medical and Emergency Services	214,641	218,556	3,915	Savings were made on recruitment costs (£10k) and health visitor costs (£5.6k) compared to budget. However the cost of provision of Covid vaccinations and PCR tests negated some of this saving.
Public Works	120,180	75,000	(45,180)	All costs for rubbish collection and disposal were higher than anticipated. The £75k budget was unrealistically low when looking at last years total costs of £114k.
Island Maintenance & Repairs (Douzaine)	120,956	161,480	40,524	Savings of £40k mainly from Island, roads & cliff path maintenance. Island workers have spent more time this year on rubbish collection than budgeted (PW cost) and less work was done on the roads than budgeted. This goes a lot of the way to negating the £45k overspend in PW.
Depreciation	50,214	49,500	(714)	On budget
Island policing	62,249	61,780	(469)	On budget
Procureur	133,363	124,000	(9,363)	Increased medical & care workers costs pushed Procureur expenditure over budget for the year.
Harbours, Shipping, Crane & Pilotage	61,995	60,280	(1,715)	Small overspend on the crane operation budget due to increased freight charters and charge out to the Dairy project, but this is negated by the income above.
Agriculture, Environment & Sea Fisheries	14,439	25,978	11,539	Budgeted £4k Lime subsidy was not used. Preventative measures and spend on agriculture & environment budgets were not needed during the year.
Tourism	63,335	109,530	46,195	Savings mostly on advertising and printing/production/distribution. This was due to Covid travel restrictions and therefore reduced need for advertising. The brochure was not printed in 2021.
Central Island Costs				
Seigneur, Officers, Civil Service & Treasury	237,694	255,713	18,019	The recruitment of the Assistant Chief Secretary was postponed due to Covid. CSO hours were increased to cover the additional work.
Legal and professional costs	122,728	146,348	23,620	Guernsey Law Officer costs on budget at £66k. Price Control Commissioner legal costs £3k under budget, and the other professional fees budget of £20k was not spent.
Island Insurance	51,899	48,500	(3,399)	There was a larger than anticipated increase on last year's premium and therefore budget, mainly due to increase in Employers & Public/Products liability insurance cost.
Grants to other organisations	17,444	18,400	956	On budget
Miscellaneous expenditure	45,179	46,731	1,552	Small savings across expenditure lines
	1,553,216	1,646,698	93,482	
Unforeseen expenses	42,023	25,000	(17,023)	The majority of this budget line has been spent on the provision of electricity to the north end of the Island. Costs include fuel, distribution and generator maintenance. £6k was also spent on the unbudgeted electrical cable survey.
2021 SURPLUS				
	206,683	3,302	203,381	

COMPARISON OF 2021 REVENUE ACCOUNT TO 2020

	2021 RESULTS COMPARED TO 2020			COMMENTS
	2021	2020	VARIANCE	
INCOME				
Direct Taxation	881,748	774,500	107,248	An increase in tax rates along with new tax paying residents and old debts repaid has raised an additional £107k compared to 2020.
Impot	428,724	286,195	142,529	Additional visitors and events held during the year have a positive impact on Impot. The meeting with the GBA in June 2021 also seems to have positively affected returns.
Property transfer tax	92,822	66,200	26,622	Increased number of Property sales in 2021 compared to 2020.
Poll tax	41,689	23,525	18,164	Increased visitors to the island has seen Poll Tax increase. Still not quite back to the pre Covid levels of about £60k per year, but far better than 2020.
Public Works income	85,733	57,575	28,158	Income was reduced in 2020 due to Covid lockdowns and businesses being closed. 2021 has seen increased revenues. For 2021 onwards, Public Works income is now being shown on an accruals basis rather than cash basis, so outstanding invoices have been included in 2021's figure.
Harbour & Crane income	63,134	59,237	3,897	All income streams...Harbour services, dues and rents, and Crane income, slightly higher than 2020
Licence fee income	29,288	19,862	9,426	Licence fees were increased in 2021. This, along with increased number of licences sold, raised an additional £9k during the year.
Medical Services income	75,743	37,411	38,332	Prior to 2021, the £18k PSF dispensing fee had been paid directly to the Doctor. This is now included in this budget line. Other doctor and nurse consultancy fees have increased in part from PCR testing charges. Allowance for debtors at year end is now also included as income.
Tourism & Public Health income	18,213	24,820	(6,607)	As the brochure was not reprinted in 2021 this affected the level of advertising income received compared to 2020.
Property rental income	31,272	40,045	(8,773)	Rent for teachers houses was reduced for 2 months whilst waiting for repair work to be completed.
Investment income	6,073	9,906	(3,833)	Investment income has dropped over the last year as investments were cashed in due to the uncertainty that Covid brought. Cash reserves are increasing again and P&F will be looking to re-invest soon.
Miscellaneous income (inc gain on disposal of fixed assets)	47,483	33,100	14,383	£10k more income received in 2021 compared to 2020 re the north end electricity provision. £8k increase in parental contributions towards Guernsey accommodation costs due to pupil number increase. Other small variances compared to last year.
	1,801,922	1,432,376	369,546	
EXPENDITURE				
Education services	236,900	201,570	(35,330)	£23k increase in Guernsey education costs due to increased pupil numbers. There was also an £11k increase in teaching costs due to increased pupil numbers at Sark School.
Medical and Emergency Services	214,641	252,984	38,343	In 2020 Medical Services relied heavily on expensive Locum cover, but with the recruitment of a permanent Doctor and nurse this has been greatly reduced, saving £26k overall. Recruitment/introduction costs were zero in 2021 compared to £20k in 2020. There were increases in other costs such as surgery supplies and CFR training and equipment compared to 2020.
Public Works	120,180	114,278	(5,902)	Incinerator operating costs increased due to repairs and increased cost of oil.
Island Maintenance & Repairs (Douzaine)	120,956	177,018	56,062	Costs for Island property maintenance, heat & light were £33k more in 2020 than 2021, mainly due to renovations of the Doctors House last year. Expenditure on general Island maintenance & road repairs were £23k less in 2021 as more time was spent by Island workers on Rubbish collection and disposal compared to 2020.
Depreciation	50,214	34,828	(15,386)	Increased cost compared to 2020 due to Slaughterhouse depreciation along with depreciation on the new Fendering and boilers/bathrooms at the teachers' houses.
Island policing	62,249	28,127	(34,122)	This expenditure line includes the SLA cost with Guernsey for providing Policing and Prisoner support along with the Police provision on Sark. The actual cost of the Guernsey SLA in 2020 was zero due to release of previous years' accruals, and £15k in 2021. 2021 reflects a full year of the new Sark policing structure which cost £17k more than 2020.
Procureur	133,363	39,971	(93,392)	Procureur costs for 2020 have been restated from £122k in the 2020 Financial Statements to £40k in 2021 Financial Statements. This reduction reflects repayable loans made in previous years that were recorded as an expense in that year but are now stated as long term debtors in the Balance Sheet. As such the £93k is an artificial variance. Comparable actual expenditure for 2020 was £139,178.
Harbours, Shipping, Crane & Pilotage	61,995	60,947	(1,048)	Very similar overall expenditure levels to last year. However crane operation was £3k higher & maintenance £10k lower than 2020, but Harbour running costs £8k higher.
Agriculture, Environment & Sea Fisheries	14,439	21,986	7,547	Purchases of uncapitalised small pieces of equipment for the Abattoir were made in 2020 but not in 2021.
Tourism	63,335	85,638	22,303	Main reductions in expenditure were in advertising, printing & production compared to 2020. This was due to Bailiwick only advertising, and no brochure being printed in 2021.
Central Island Costs				
Seigneur, Officers, Civil Service & Treasury	237,694	202,578	(35,116)	CSO hours increased during the year, reflecting the huge increase in work through the office. RPI increased costs by £7k.
Legal and professional costs	122,728	162,056	39,328	PCC legal costs were £29k lower at £7k for 2021 compared to 2020. £19k of 'other professional fees' was spend in 2020, but this cost was zero for 2021. Lieutenant Seneschal costs were £9k higher than 2020 due to type of cases heard, and support provision for the new Seneschal
Island Insurance	51,899	47,325	(4,574)	There was an increase on last year's premium, mainly due to increase in Employers & Public/Products liability cost.
Grants to other organisations	17,444	19,142	1,698	Small reduction in grants made - no Island Games.
Miscellaneous expenditure	45,179	47,609	2,430	Office expenses were £12k lower than 2020, as the new website was built in 2020. Costs for Liberation 75+1, and 2 Vin d 'honours cost £8k in 2021 compared to zero in 2020.
	1,553,216	1,496,057	(57,159)	
Unforeseen expenses	42,023	25,268	(16,755)	£10k increased cost of running the north end electricity supply for a full year. £6k electrical cable survey cost incurred in 2021.
2021 SURPLUS/(DEFICIT)	206,683	(88,949)	295,632	



Island of Sark

Financial statements

Year Ended 31 December 2021

Island of Sark

Statement of responsibilities

Chief Pleas are responsible for preparing financial statements for each financial year, in accordance with the accounting policies set out in note 1 and Section 62 of The Reform (Sark) Law, 2008, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error. The financial statements have been prepared for the purpose of compliance with The Reform (Sark) Law, 2008.

Chief Pleas is responsible for the maintenance and integrity of the corporate and financial information included on Chief Pleas' website, and for the preparation and dissemination of financial statements. Legislation in Sark and the Bailiwick of Guernsey governing the preparation and dissemination of financial statements may differ from legislation in other jurisdictions.

John Guille
Chair
Sark Policy and Finance Committee

Sarah Hudson
Treasurer
on behalf of Chief Pleas

Date:

Date:

Island of Sark

Independent Chartered Accountant's Report on the Review of the Unaudited Financial Statements of Island of Sark

This report is made solely to Island of Sark, in accordance with our terms of engagement. Our review has been undertaken so that we might state to Island of Sark those matters that we have agreed to state to it in this report, and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than Island of Sark for our review work, for this report, or for the conclusions we have reached.

Chief Pleas' Responsibilities

The Chief Pleas are responsible for preparing the financial statements in accordance with the accounting policies set out in note 1, and section 62 of The Reform (Sark) Law, 2008, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error. The financial statements have been prepared for the purpose of compliance with the Reform (Sark) Law, 2008.

Our responsibilities

As a practising member firm of the Institute of Chartered Accountants in England and Wales (ICAEW), we are subject to its ethical and other professional requirements. These are detailed within the ICAEW's regulations and guidance at:<http://www.icaew.com/en/membership/regulations-standards-and-guidance>.

In order to assist you to fulfil your duties under section 62 of the Reform (Sark) Law, 2008, we have reviewed the financial statements of Island of Sark for the year ended 31 December 2020. These comprise the Statement of Balances at 31 December 2020, the Revenue Account for the year then ended, together with the related notes comprising significant accounting policies, and other information and explanations.

Based on our review, nothing has come to our attention that causes us to believe that the financial statements are not prepared in accordance with the accounting policies set out in note 1, as selected by the Policy & Finance Committee of Chief Pleas, and section 62 of the Reform (Sark) Law, 2008.

Brehon Limited
Chartered Accountant

Mayfield House
Grande Rue
St Martin
Guernsey, GY4 6AA

Date:

Island of Sark

Revenue Account

For the year ended 31 December 2021

	Notes	Total 2021 £	Budget 2021 £	Total 2020 Restated £
Income				
Direct Taxation	2	881,748	856,000	774,500
Impot	3	428,724	328,000	286,195
Property Transfer Tax		92,822	125,000	66,200
Poll Tax		41,689	40,000	23,525
Public Works income	4	85,733	80,000	57,575
Harbour and Crane income	5	63,134	57,000	59,237
Licence Fee income		29,288	30,000	19,862
Medical Services income	6	75,743	65,300	37,411
Tourism & Public Health income	7	18,213	15,880	24,820
Property rental income	8	31,272	41,120	40,045
Investment income	9	6,073	6,300	9,906
Other Income	10	47,483	30,400	31,455
Gain on disposal of fixed assets		-	-	1,645
Total Income		1,801,922	1,675,000	1,432,376
Expenditure				
Education services	11	236,900	244,902	201,570
Medical and emergency services	12	214,641	218,556	252,984
Public Works	13	120,180	75,000	114,278
Island Maintenance & Repairs (Douzaine)	14	120,956	161,480	177,018
Depreciation		50,214	49,500	34,828
Island Policing	15	62,249	61,780	28,127
Procureur	1 & 16	133,363	124,000	39,971
Harbours, Crane, Shipping & Pilotage	17	61,995	60,280	60,947
Agriculture, Environment and Sea Fisheries	18	14,439	25,978	21,986
Tourism services	19	63,335	109,530	85,638
Seigneur, Officers, Civil Service & Treasury	20	237,694	255,713	202,578
Legal and Professional costs	21	122,728	146,348	162,056
Island Insurance		51,899	48,500	47,325
Grants to other organisations	22	17,444	18,400	19,142
Miscellaneous expenditure	23	45,179	46,731	47,609
Total Ordinary Expenditure		1,553,216	1,646,698	1,496,057
Surplus on Ordinary Operations		248,706	28,302	(63,681)
Unforeseen Expenditure	24	42,023	25,000	25,268
SURPLUS/(DEFICIT) FOR FINANCIAL YEAR		206,683	3,302	(88,949)

Island of Sark

Statement of balances

As at 31 December 2021

	<i>Notes</i>	2021 £	2020 £ Restated
Tangible assets	1 & 25	1,336,942	1,265,224
Investments	1 & 26	720,054	740,054
Long term debtors	27	167,506	127,915
La Ville Roussel fund	28	101,323	100,988
Current assets			
Debtors and prepaid expenses	29	157,206	168,959
Bank balances		<u>1,048,401</u>	<u>870,368</u>
		<u>1,205,607</u>	<u>1,039,327</u>
Liabilities falling due within one year			
Creditors	30	204,876	129,620
Held for internal organisations	31	<u>70,658</u>	<u>95,008</u>
		<u>275,534</u>	<u>224,628</u>
Net current assets		930,073	814,699
Total assets less current liabilities		<u><u>3,255,898</u></u>	<u><u>3,048,880</u></u>
Funded by			
Accumulated fund	34	3,154,575	2,947,892
La Ville Roussel fund	35	<u>101,323</u>	<u>100,988</u>
Reserves	36	<u><u>3,255,898</u></u>	<u><u>3,048,880</u></u>

John Guille
Chair
Sark Policy and Finance Committee

Sarah Hudson
Treasurer
on behalf of Chief Pleas

Date:

Date:

The notes on pages 5 to 15 form part of these financial statements.

Island of Sark

Notes forming part of the financial statements

1 Principal accounting policies

The following accounting policies have been applied consistently in dealing with items which are considered material in relation to the financial statements of the Island of Sark ("the Island") :

Basis of preparation

The financial statements have been prepared in accordance with Section 62 of The Reform (Sark) Law, 2008 and the accounting policies detailed below, as selected by the Policy and Finance Committee of Chief Pleas. They have been prepared on the historical cost basis and on a going concern basis. The budgeted revenue and expenditure figures have been included for illustrative purposes only.

Revenue Income & Expenditure

Income and expenditure have been included on the accruals basis.

Tangible assets

Tangible assets are stated at cost less depreciation.

Depreciation

Depreciation is provided for Island assets, although no provision is made for depreciation of Maseline Harbour or other Island land & property (with the exception of the new Island Abattoir) as it is the Island's policy to maintain these assets in good condition to prolong their useful lives. Depreciation is charged on a straight line basis to write off those assets over their estimated useful lives. The principle rates of depreciation are:

Cranes	6.7% to 10%
Maseline Harbour fendering	10%
Tractors	10%
Incinerators	10%
Rollers	10%
Trailers	10%
Stone crusher	10% (fully depreciated)
Borehole pump	10% (fully depreciated)
Sewage system	10% (fully depreciated)
Water bowser	10% (fully depreciated)
Water treatment	10% (fully depreciated)
Sewage tanker	10% (fully depreciated)
Rubbish skips	20%
Lawnmowers	20%
New Abattoir	2.50%
Abattoir equipment	10% to 20%
Emergency services equipment	10% to 20%
Generator	33.33%
Constables equipment	33.33%
Medical equipment	33.33%
Office equipment	33.33%
School computers & printers	33.33%
School and Office furniture	10%
School houses boilers & bathrooms	10%
Island finger signs	20%

Island of Sark

Notes forming part of the financial statements - continued

1 Principal accounting policies (continued)

Investments

Unquoted investments are stated at cost.

Funds held for internal organisations

Funds are held on behalf of the Ambulance Service, Old Hall Trust, Hathaway Settlement, Harbour Donation Fund, School fund, Playground fund and Tourism Trading Accounts as these organisations do not hold accounts of their own. The amounts held are shown in the balance sheet as current liabilities.

Procureur expenditure

Procureur expenses are recognised on an accruals basis. Prior to 2021, assistance given in the form of loans was written off as it was provided. The expense was presented net of income received from assistance loans repaid and donations received. For 2021 onwards any assistance given in the form of repayable loans is now shown as a long term debtor on the balance sheet. 2020 has been re-stated in this format.

	Total 2021 £	Budget 2021 £	Total 2020 £
2 Direct Taxation			
Property Tax	484,434		469,310
Personal Capital Tax	<u>397,314</u>		<u>305,190</u>
	<u>881,748</u>	<u>856,000</u>	<u>774,500</u>
3 Impot			
Tobacco	161,774		110,543
Beer	90,274		51,115
Wines	91,702		51,824
Spirits	67,991		66,654
Cider	30,976		15,263
Oils	<u>775</u>		<u>655</u>
	443,492		296,054
<i>Less : Collection charges</i>	14,768		9,859
	<u>428,724</u>	<u>328,000</u>	<u>286,195</u>
4 Public Works income			Restated
Rubbish	62,793		41,284
Sewage	<u>22,940</u>		<u>16,291</u>
	<u>85,733</u>	<u>80,000</u>	<u>57,575</u>
5 Harbour income			
Crane income	24,641	19,000	23,467
Harbour services	31,839	32,000	31,577
Harbour dues	4,360	4,000	2,199
Harbour rents and sundry income	<u>2,294</u>	<u>2,000</u>	<u>1,994</u>
	<u>63,134</u>	<u>57,000</u>	<u>59,237</u>

Island of Sark

Notes forming part of the financial statements - continued

	Total 2021 £	Budget 2021 £	Total 2020 £
6 Medical Services Income			Restated
Doctor & Nurse consultancy fees	56,259	47,800	37,411
Dispensing fees	19,484	17,500	-
	<u>75,743</u>	<u>65,300</u>	<u>37,411</u>
7 Tourism & Public Health Income			
Brochure & Website Advertising income	3,030	6,450	16,372
Income from moorings and scooter hire	3,625	-	-
Catering & Accommodation Permit income	7,275	5,750	6,123
Water testing income	4,283	3,680	2,325
	<u>18,213</u>	<u>15,880</u>	<u>24,820</u>
8 Property rental income			
Island property rent and ground rent	3,682	4,400	4,125
Trustee property rental income (school houses)	27,590	36,720	35,920
	<u>31,272</u>	<u>41,120</u>	<u>40,045</u>
9 Investment income			
Bank deposit interest	118		3,636
Loan interest	5,955		6,270
	<u>6,073</u>	<u>6,300</u>	<u>9,906</u>
10 Other Income			
Abattoir income	7,742	8,500	7,626
Parental contributions to Guernsey Accommodation	11,328	6,200	3,187
Court and registration fees	1,510	3,000	1,160
Hotel and public house licences	5,235	5,200	5,435
Share of CI Lottery profit/import duties	5,546	5,500	5,291
Development control application fees	2,090	1,000	555
North End electricity income	12,771	-	2,115
Sundry income	1,261	1,000	6,086
	<u>47,483</u>	<u>30,400</u>	<u>31,455</u>

Island of Sark

Notes forming part of the financial statements - continued

	Total 2021 £	Budget 2021 £	Total 2020 £
11 Education			
Salaries, including pension contributions	181,874	184,169	170,457
CPD, training & expenses	3,846	10,000	5,329
Pupil resources	6,218	5,000	5,637
Repairs, maintenance, heat and light	5,867	10,000	3,434
Guernsey based tuition and accommodation	35,034	22,333	9,485
Home education	1,311	6,400	1,043
Recruitment expenses	2,750	7,000	6,185
	<u>236,900</u>	<u>244,902</u>	<u>201,570</u>
12 Medical and emergency services			
Medical Practice salaries	144,729	170,451	51,857
Locum & Paramedic cover	37,129	-	155,826
Other surgery expenses	26,026	38,500	37,563
Fire Services	6,757	9,605	7,738
	<u>214,641</u>	<u>218,556</u>	<u>252,984</u>
13 Public Works			Restated
Rubbish disposal costs	26,470		26,416
Rubbish collection costs	43,993		32,487
Incinerator operating costs	29,398		24,337
Sewage collection costs	15,151		26,293
Administration	5,168		4,745
	<u>120,180</u>	<u>75,000</u>	<u>114,278</u>
14 Island Maintenance & Repairs (Douzaine)			Restated
Island work programme	10,936	23,500	25,528
Maintenance of Island Roads	33,830	50,000	37,607
Machinery repairs & maintenance	17,279	22,000	23,226
Maintenance of Cliff Paths	22,355	26,950	24,045
Toilets and harbour stores	13,893	12,990	10,175
Douzaine office administration costs	1,815	2,040	2,165
Repairs & Maintenance of Island properties:			
Heat and light	5,649	8,000	10,196
School houses	6,214	8,250	9,527
Medical Centre	4,380	3,750	31,686
Committee office and fire station	3,659	360	255
Court/assembly room	747	360	23
La Coupee	-	2,560	-
Visitors Centre	-	360	-
Other Island property	199	360	2,585
	<u>120,956</u>	<u>161,480</u>	<u>177,018</u>

Island of Sark

Notes forming part of the financial statements - continued

	Total 2021 £	Budget 2021 £	Total 2020 £
15 Island Policing			
Island Constables	39,794	40,160	22,888
Constables office costs	7,455	6,620	5,239
Guernsey Police/Customs support	10,000	10,000	-
Guernsey Prisoners support	5,000	5,000	-
	<u>62,249</u>	<u>61,780</u>	<u>28,127</u>
16 Procureur			Restated
Procureurs' office	6,092		6,008
Medical insurance premiums	64,559		91,050
Medical costs and care workers	22,803		11,957
Groceries, meals, laundry and sundries	-		937
Rent and tax	585		1,075
Cash grants	18,960		22,760
Funeral Costs	1,000		-
Fuel assistance	7,636		4,996
Residential care	2,475		(101,702)
Other Costs	9,253		2,890
	<u>133,363</u>	<u>124,000</u>	<u>39,971</u>
17 Harbours, Shipping & Pilotage			
Harbour maintenance, salaries and training	46,176	45,500	39,374
Crane operation, repairs and maintenance	15,819	14,780	21,773
Pilotage	-	-	(200)
	<u>61,995</u>	<u>60,280</u>	<u>60,947</u>
18 Agriculture, Environment and Sea Fisheries			
Slaughterhouse management	12,603	15,478	16,145
Agriculture & Environment	97	5,900	384
Preventative measures	-	2,000	2,928
Sea Fisheries	1,739	2,600	2,529
	<u>14,439</u>	<u>25,978</u>	<u>21,986</u>
19 Tourism Services (including Public Health)			
Advertising, printing, production & distribution	8,943	49,000	24,037
Tourism officers	32,728	36,000	33,538
Website costs	9,190	9,000	10,522
Public Health costs (Permits & water testing)	3,669	3,680	3,171
Office & other costs	8,805	11,850	14,370
	<u>63,335</u>	<u>109,530</u>	<u>85,638</u>

Island of Sark

Notes forming part of the financial statements - continued

	Total 2021 £	Budget 2021 £	Total 2020 £
20 Seigneur, Officers, Civil Service & Treasury			
Seigneur and Island Officers	98,416	100,023	93,147
Chief Secretary and Committee support officers	92,527	107,219	63,359
Treasury function	46,035	46,671	46,072
Training & development	716	1,800	-
	<u>237,694</u>	<u>255,713</u>	<u>202,578</u>
21 Legal & Professional Costs			
Guernsey Law Officers	66,179	67,848	65,265
EPC Commissioner (including legal costs)	17,075	20,000	46,759
Lieutenant Seneschal & court costs	12,474	11,500	3,871
Legal Aid	27,000	27,000	27,000
Orther Professional costs	-	20,000	19,161
	<u>122,728</u>	<u>146,348</u>	<u>162,056</u>
22 Grants to other organisations			
Island Hall Trustees	10,044	10,000	9,742
St John's Marine Ambulance Fund	5,000	5,000	5,000
St Peter's Church	2,000	2,000	2,000
Methodist Church	500	500	500
Floral Sark	250	250	250
RNLI	650	650	650
Island Games	(1,000)	-	1,000
	<u>17,444</u>	<u>18,400</u>	<u>19,142</u>
23 Miscellaneous expenditure			
Tax administration	7,098	7,500	7,183
Independent practitioner's review fee	2,925	6,000	3,297
Office expenses	22,663	20,000	35,036
Digimap licensing	2,826	2,831	-
Hansard recordings	1,664	2,400	2,093
Civic entertaining	8,003	8,000	-
	<u>45,179</u>	<u>46,731</u>	<u>47,609</u>
24 Unforeseen expenses			
North Island Electricity Contingency	35,833		25,268
Electricity Cable Survey	6,190		-
	<u>42,023</u>	<u>25,000</u>	<u>25,268</u>

Island of Sark

Notes forming part of the financial statements - continued

25 Tangible assets

		Cost				Depreciation				Net book values	
		At 01.01.21	Additions	Disposals	At 31.12.21	At 01.01.21	Provided	Disposals	At 31.12.21	At 01.01.21	31.12.21
		£	£	£	£	£	£	£	£	£	£
Maseline harbour		61,329	-	-	61,329	-	-	-	-	61,329	61,329
Land	Les Laches	516	-	-	516	-	-	-	-	516	516
	La Maseline	413	-	-	413	-	-	-	-	413	413
	Harbour Hill path	1	-	-	1	-	-	-	-	1	1
		930	-	-	930	-	-	-	-	930	930
Property	Ivy Cottage	118,731	-	-	118,731	-	-	-	-	118,731	118,731
	Teacher's houses	98,295	-	-	98,295	-	-	-	-	98,295	98,295
	Fire station	82,335	-	-	82,335	-	-	-	-	82,335	82,335
	Assembly room/new offices	101,528	-	-	101,528	-	-	-	-	101,528	101,528
	Visitor centre	34,217	-	-	34,217	-	-	-	-	34,217	34,217
	Crane shed	26,803	-	-	26,803	-	-	-	-	26,803	26,803
	Creux Harbour shelter	15,000	-	-	15,000	-	-	-	-	15,000	15,000
	Greffe and committee offices	10,350	-	-	10,350	-	-	-	-	10,350	10,350
	Medical centre	27,100	-	-	27,100	-	-	-	-	27,100	27,100
	School adaptation	5,915	-	-	5,915	-	-	-	-	5,915	5,915
	Vieux Clos	2,055	-	-	2,055	-	-	-	-	2,055	2,055
	Prison improvements	1,702	-	-	1,702	-	-	-	-	1,702	1,702
	Harbour Quarry shed	33,243	-	-	33,243	-	-	-	-	33,243	33,243
	La Coupée toilets	38,190	-	-	38,190	-	-	-	-	38,190	38,190
	Harbour Café	-	7,556	-	7,556	-	-	-	-	-	7,556
		595,464	7,556	-	603,020	-	-	-	-	595,464	603,020
Carried forward		657,723	7,556	-	665,279	-	-	-	-	657,723	665,279

Certain properties held by the Island Trustees are not included in tangible assets until such times as their values can be ascertained.

Island of Sark

Notes forming part of the financial statements - continued

25 Tangible assets - continued

		Cost				Depreciation				Net book values	
		At 01.01.21	Additions	Disposals	At 31.12.21	At 01.01.21	Provided	Disposals	At 31.12.21	At 01.01.21	31.12.21
		£	£	£	£	£	£	£	£	£	£
Abattoir	Abattoir Building	319,688	15,054	-	334,742	1,332	8,369	-	9,701	318,356	325,041
	Abattoir Equipment	27,303	4,565	-	31,868	3,703	2,857	-	6,560	23,600	25,308
Machinery & Equipment											
	Cranes	434,319	-	-	434,319	239,118	17,763	-	256,881	195,201	177,438
	Maseline fendering	-	38,927	-	38,927	-	1,622	-	1,622	-	37,305
	Tractors	56,562	-	-	56,562	42,254	2,533	-	44,787	14,308	11,775
	Trailers	23,874	3,695	-	27,569	20,621	1,167	-	21,788	3,253	5,781
	Lawnmowers	853	-	-	853	171	170	-	341	682	512
	Stone crusher	8,947	-	-	8,947	8,947	-	-	8,947	-	-
	Rollers	34,851	-	-	34,851	13,845	2,802	-	16,647	21,006	18,204
	Boilers/Bathrooms - teachers houses	-	30,475	-	30,475	-	1,524	-	1,524	-	28,951
	Constables equipment	1,100	-	-	1,100	1,100	-	-	1,100	-	-
	Incinerators	83,848	-	-	83,848	68,463	3,077	-	71,540	15,385	12,308
	Rubbish skips	12,312	8,658	-	20,970	10,842	735	-	11,577	1,470	9,393
	Sewage tankers	13,498	-	-	13,498	13,498	-	-	13,498	-	-
	Sewage system	9,750	-	-	9,750	9,750	-	-	9,750	-	-
	Water treatment	5,288	-	-	5,288	5,288	-	-	5,288	-	-
	Borehole pump	1,169	-	-	1,169	1,169	-	-	1,169	-	-
	Emergency services equipment	16,282	6,465	-	22,747	14,159	757	-	14,916	2,123	7,831
	Water bowser	4,397	-	-	4,397	4,397	-	-	4,397	-	-
	Medical equipment	3,381	783	-	4,164	3,381	261	-	3,642	-	522
	Generator	-	2,400	-	2,400	-	800	-	800	-	1,600
	School computers & printers	11,957	(228)	-	11,729	8,809	1,368	-	10,177	3,148	1,552
	School furniture	2,523	-	-	2,523	-	252	-	252	2,523	2,271
	Island Finger Signs	2,000	-	-	2,000	-	400	-	400	2,000	1,600
	Office furniture	1,114	-	-	1,114	939	35	-	974	175	140
	Office equipment	27,702	3,582	-	31,284	23,431	3,722	-	27,153	4,271	4,131
		1,102,718	114,376	-	1,217,095	495,218	50,214	-	545,431	607,501	671,663
Total		1,760,441	121,932	-	1,882,374	495,218	50,214	-	545,431	1,265,224	1,336,942

Island of Sark

Notes forming part of the financial statements - continued

26 Investments	2021 £	2020 £
<i>Unquoted</i>		
Isle of Sark Shipping Company Limited:		
Ordinary shares of £1 each	451,000	451,000
Long term loan	269,054	269,054
Short term loan	-	20,000
	720,054	740,054

Isle of Sark Shipping Company Limited ("IoSS") is a Guernsey registered company, wholly owned by the Island of Sark. As at 30 September 2021 the net assets of IoSS were £697,861 (2020 - £722,972).

The long term loan bears interest at the variable HMRC (UK) rate for beneficial loans (currently 2.00 % p.a.). A new loan agreement came into force on the 1 September with a term of 5 years and is repayable on 31 August 2026.

27 Long term debtors	2021 £	2020 £ Restated
Repayable Procureur residential care assistance loans	167,506	127,915

28 La Ville Roussel Fund	2021 £	2020 £
Debtors	173	207
Bank balances: Deposit	100,120	99,910
Current	1,030	871
	101,323	100,988

29 Debtors due within 1 year	2021 £	2020 £ Restated
Accrued income	103,888	133,759
Prepayments	16,739	18,341
Trade debtors	36,579	16,859
	157,206	168,959

A prior year adjustment has been made to trade debtors, which now includes £7,180 owing in relation to Dr & Nurse consultancy fees as at 31 December 2020.

30 Creditors due within 1 year	2021 £	2020 £
Trade creditors	186,991	113,406
Deferred income	17,885	16,214
	204,876	129,620

Island of Sark

Notes forming part of the financial statements - continued

31 Held for internal organisations	2021	2020
	£	£
Ambulance account	14,938	13,522
Hathaway Trust	18,641	18,641
Old Hall fund	458	186
Harbour donation account	-	11,608
School fund	12,327	12,546
Tourism trade account	11,170	22,859
Playground fund	10,198	15,646
Friends of Sark School fund	2,926	-
	<u>70,658</u>	<u>95,008</u>

32 Contingent liabilities

Chief Pleas has guaranteed overdraft facilities granted to IoSS up to a maximum of £150,000 (2020 - £220,000). Chief Pleas has also guaranteed loan facilities granted to IoSS up to a maximum of £350,000, of which £170,000 has been drawn down (2020 - £170,000). The Island will only be liable to honour those guarantees in the event that IoSS defaults on repayments in relation to the overdraft or loan. At 31 December 2021 the contingent liability arising from those guarantees was £nil (2020 - £nil).

33 Financial Commitments

As at the 31st December 2021 the Island had no capital commitments. (2020 - £30,989)

34 Accumulated fund	2021	2020
	£	£ Restated
Balance at 1 January	2,947,892	3,036,841
Surplus/(Deficit) for the financial year	206,683	(88,949)
Balance at 31 December	<u>3,154,575</u>	<u>2,947,892</u>

A prior year adjustment has been made to the the 2020 deficit. Amounts owing to the Procureur (£127,915 in 2020) have now been recorded as long term debtors, and Medical services debtors (£7,180 in 2020) has been recorded as trade debtors due within 1 year. The 2020 deficit has been adjusted accordingly from £224,044 and re-stated as £88,949.

35 La Ville Roussel fund	2021	2020
	£	£
Income		
Bank interest	210	399
Rent	125	125
	<u>335</u>	<u>524</u>
Expenditure		
Repairs	-	-
Bank charges	-	70
	<u>-</u>	<u>70</u>
Balance at 1 January	100,988	100,534
Surplus for the financial year	335	454
Balance at 31 December	<u>101,323</u>	<u>100,988</u>

Island of Sark

Notes forming part of the financial statements - continued

36 Reserves	2021	2020
	£	£ Restated
Balance at 1 January	3,048,880	3,137,375
Increase/(decrease) in accumulated fund	206,683	(88,949)
Increase in La Ville Roussel fund	335	454
Balance at 31 December	<u>3,255,898</u>	<u>3,048,880</u>

37 Ultimate Controlling Party

The ultimate controlling party is the Chief Pleas of the Island of Sark.

38 Post Balance Sheet Events

There have been no material subsequent events up to the date of approval of these financial statements other than referred to in the notes above.

ITEM 11

POLICY & FINANCE COMMITTEE

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

DONATION TO UKRAINE

At a meeting held on 15th March, 2022, the Committee discussed the suggestion made by Conseiller Frank Makepeace via email that Sark should make a donation to the Ukraine. This has been done by Guernsey, Jersey and Alderney.

The Committee proposes making a donation of £4,000, matching the proceeds of the recent Jumble Sale held for this cause. The donation will be split between the UN refugee agency and Red Cross organisations.

The Committee believes it is important for Sark to join in the support of the Ukrainian people in their time of need and urges Chief Pleas to support this donation.

Proposition –

That Chief Pleas agrees to the donation of £4,000 in aid to the Ukraine.

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

ITEM 12

DEVELOPMENT CONTROL COMMITTEE **Report with Proposition to Easter Chief Pleas, 27th April 2022**

AMENDMENT TO DEVELOPMENT CONTROL LEGISLATION

At the Michaelmas Meeting, 5th October 2011 (item 14) the Development Control Committee (the Committee) submitted a report with proposition to consult with the Law Officers to draft a Law to 'replace and update the **Development Control (Sark) Law, 1991**', the proposition to the report was approved. A progress update was delivered to the Christmas Meeting, 18th January 2012 (item 13) setting out a framework of the proposed 2013 Law (*as was its working title*), with a note that there would be 'regular reports to Chief Pleas as to the progress on the new Law, with an ongoing opportunity for input by the public'. From January 2014 onward the work done on the new Law was detailed within the regular reports to Chief Pleas under the umbrella title of *Securing Sark's Future*. The task of working on the new Law was taken from the Committee and handed to the Development Control Law Policy Development Team in 2015, which in turn became the Development Control Law (Special) Committee in 2019.

No blame is directed at any of the people that have worked on the new Law, however the Committee, as well as Chief Pleas, has been waiting more than 10 years for the replacement Law. As it is unlikely that the 2013 Law will be presented to Chief Pleas in the foreseeable future the Committee is of the opinion that an amendment to the existing legislation may be used to bring some of the protection contained within the proposed 2013 Law, in to effect sooner, rather than later.

The Committee wishes to look at two aspects, specifically 'historic buildings' and 'trees', in that there should be some form of protection from unsympathetic development or redevelopment for buildings of a particular historic value to Sark, and separately, protection for certain trees, which by their age or species makes them of particular value to Sark as a whole. The Committee wishes to then speak with the Law Officers of the Crown as to how best to amend existing legislation to bring about the desired protection(s) if it is at all possible.

Proposition –

That Chief Pleas directs the Committee to consult with the Law Officers of the Crown regarding the proposed amendments mentioned in this report.

Conseiller Simon Couldridge
Chairman, Development Control Committee

POLICY & FINANCE COMMITTEE

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

AMENDMENTS TO THE RULES OF PROCEDURE FOR CHIEF PLEAS

The Chief Pleas of Sark Rules of Procedure were first implemented in 2002 and since that time several amendments have been made in order to ensure that the document reflects current requirements and good practice.

Convening of Meeting: Section 4.

With the introduction of the new Chief Pleas website and the move towards using online access rather than paper documents it is proposed that all Chief Pleas papers, including Hansard reports, are sent electronically to all Conseillers, with paper copies available on request. It is noticeable that not all Conseillers collect paper copies of documents, equally the demand from Sark residents for paper copies is now almost non-existent.

Statements, new section. Section 7

Conseillers are able to request to make statements, either political and pertaining to their Committee or personal statements before the commencement of the published business of the day.

It is proposed that questions may be tabled in respect of political statements, however this will not apply to personal statements. In order to allow Conseillers to table questions it is proposed that an additional section (Section 7) be added to the Rules of Procedure.

Rules of Debate: Section 10

The reference to the Finance & Resources Committee is updated to reflect the change to the Policy & Finance Committee.

Declaration of Interest. Section 15

Currently, all Conseillers need to complete an annual declaration of interests form and lodge it with the Greffier.

Following consultation with the Greffier and Speaker, it is proposed that the following words are added to this section: *“The declaration of interests form is a living document and must be updated whenever the circumstances of a Conseiller change”*.

Alternatively, it is proposed that the annual return requirement be removed and the following words added to this section *“The declaration of interests form is a living document and must be updated whenever the circumstances of a Conseiller change. The declaration of interest document is valid for the Conseillers elected term of office”*.

A tracked change version of the proposed Rules of Procedure is attached to this Report.

Proposition 1:

That Chief Pleas approve the amendment to Section 4 of the Rules of Procedure.

Proposition 2:

That Chief Pleas approve the addition of Section 7 to the Rules of Procedure.

Proposition 3:

That Chief Pleas approve the amendment to Section 10 of the Rules of Procedure

Proposition 4:

That Chief pleas approve the addition of the words “ The declaration of interests form is a living document and must be updated whenever the circumstances of a Conseiller change.” to section 15 of the Rules of Procedure.

Proposition 5:

That Chief Pleas approve the addition of the words “The declaration of interests form is a living document and must be updated whenever the circumstances of a Conseiller change The declaration of interest document is valid for the Conseillers elected term of office” to section 15 of the Rules of Procedure and remove the requirement for an annual update.

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

CHIEF PLEAS OF SARK RULES OF PROCEDURE

Current Rules of Procedure were made by Resolution of Chief Pleas on the 2nd Day of October 2002 as amended by further Resolutions of Chief Pleas on 19th Day of January 2005, 2nd Day of July 2008, 22nd Day of April 2009, 14th Day of April 2010 and consequential upon amendment made to the Law by The Reform (Sark) (Amendment) (No. 2) Law, 2010.

Accepted by Michaelmas Chief Pleas at its meeting on 2nd October 2013 and further approved, as presented to Chief Pleas, on 1st October 2014 and further amended 15th April 2015, 30th September 2015, 10th November 2016 and 26th April 2017

The Chief Pleas of Sark, in exercise of the powers conferred upon it by Section 36 of the Reform (Sark) Law, 2008, has approved the following Rules of Procedure in relation to the proceedings of Chief Pleas.

Convening of Meetings

1. (1) In accordance with the provisions of The Reform (Sark) Law, 2008 the Chief Pleas shall meet in each year on the first Wednesday after 15th January (Christmas Meeting), the second Wednesday after Easter (Easter Meeting), the second Wednesday after the 24th June (Midsummer Meeting) and the first Wednesday after the 29th September (Michaelmas Meeting), and shall in addition meet;
 - (a) whenever they are so directed by His Excellency the Lieutenant Governor and Commander-in-Chief (herein after referred to as "the Lieutenant Governor"),
 - (b) are summoned by the Speaker of Chief Pleas (hereinafter referred to as "the Speaker") with the consent of the Seigneur, or
 - (c) with the consent of the Speaker, whenever requested in writing so to do by at least nine Conseillers.
- (2) Subject to the Lieutenant Governor's said right, every Meeting of Chief Pleas (hereinafter referred to as "a Meeting") shall be convened by the Speaker by means of an Agenda containing particulars of the matters to be debated thereat together with Propositions designed to enable Chief Pleas to take Resolutions thereon.
- (3) The Speaker shall accept Reports and Propositions from Chief Pleas Committees for inclusion on the Agenda. The Speaker may also accept Reports/Propositions from any Conseiller if duly seconded, provided that the matter has been rejected by the Policy Development Group and that only one such item will be considered for inclusion on the agenda for any one Chief Pleas meeting. Any Meeting that is

required to adjourn with unfinished business shall reconvene at the same place and the same start time on the following day (excluding weekends).

- (4) A notice (in French) of every Meeting shall be signed by the Seigneur and Speaker, placed in the official Island Notice Boxes no later than twenty- one days before all Meetings, together with the Agenda. At the same time the Agenda and all relevant papers shall be distributed electronically to all Members; paper copies will be available upon request to the Committee Office. All Reports must be publicly available in paper form and posted on the official Sark Government Web site (www.sarkgov.co.uk). The Speaker is to notify the Lieutenant Governor, the Bailiff and H M Procureur when the papers are posted on the website.

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Extraordinary Meetings

2. Notwithstanding section 1. (4) above where a matter of urgency needs to be put to Chief Pleas the Speaker may waive the notice period of twenty one days to a lesser notice period as is deemed necessary when an Extraordinary Meeting (see Section 4. (1)) is required (see also rule 12. (11)).

Informal Meeting of Chief Pleas

3. At the request of a Chief Pleas Committee which wishes to discuss a matter that it has been directed by Chief Pleas to investigate, or on which it needs to brief Chief Pleas Members, may request the Speaker to give notice to Chief Pleas Members to attend an Informal Meeting and that such time and place to be contained in the notice sent. For the avoidance of doubt an Informal Meeting means a Meeting to which only Chief Pleas Members are to attend and that no Propositions can be put forward in any documentation circulated to Members. Minutes shall be taken of the Meeting and these shall be circulated to all Members.

The Speaker must attend an Informal Meeting but shall not be required to preside over the Meeting unless requested by the Committee to do so; any other Officer of Chief Pleas may attend at their own discretion.

His Excellency the Lieutenant Governor

4. (1) The Speaker, before convening an Extraordinary Meeting, shall inform the Lieutenant Governor of the date proposed for the Meeting and shall, so far as possible, endeavour to meet the convenience of His Excellency.

(2) If the Lieutenant Governor decides to attend any Meeting, the Prévôt shall escort him into Chief Pleas and announce him.

Opening and Closing Prayers

5. The Greffier shall recite the Lord's Prayer (in French) at the commencement of a Meeting and shall pronounce the Grace (in French) at its close.

Roll Call (Evocation)

6. (1) The Greffier shall, immediately after the opening prayer, call the roll of Members. Members present when their names are called shall reply "Présent".
- (2) A Member who is absent when his name is called shall not be entitled to speak or vote until his presence has been recorded.

Statements:

- 7.
- (1) Prior to the commencement of the published business of the day statements may be made.
- (2) Committee Chairman may request of the Speaker to make a political statement pertaining to their Committee. Questions from Conseillers may be tabled.
- (3) A member of Chief Pleas may request of the Speaker to make a personal statement. No questions may be tabled.

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Questions not related to the Business of the Day

- 8.
- Before the commencement of the business contained in the Agenda, unless the Speaker otherwise directs, questions not related to the published business may be addressed to the Chairman of the Chief Pleas Committee concerned. Provided that a Conseiller shall not address a question, other than a supplementary question, unless;
- (a) He has furnished a written copy thereof to the Speaker and to the Chairman of the Committee concerned not less than five clear days before the day of the Meeting, or;
- (b) having furnished a written copy thereof to the Speaker and to the Chairman of the Committee concerned before the commencement of the Meeting, the Chairman of that Committee acquiesces in the putting of that question.

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Provided also that, if, at the conclusion of twenty minutes after the commencement of question time, all the questions have not been disposed of, the Speaker shall postpone dealing with questions not then disposed of until the matters on the Agenda for discussion have been dealt with.

Supplementary Questions not related to the Business of the Day

9. Supplementary questions on matters not related to the business of the day may be addressed to the Chairman of the Committee concerned at any Meeting by any Conseiller as may be allowed by the Speaker:

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Provided that -

- (a) such a supplementary questions arise out of a reply to a question of which notice has been given is put or the business of the day is proceeded with, as the case may be; and
- (b) the Chairman of the Committee to whom a supplementary question is addressed may decline to answer the question if, in his opinion, any answer might be inaccurate or misleading provided the answer is given to the Chief Pleas at its next sitting.

Questions not in the Public Interest

10. The Speaker may, on grounds of public interest, decline to allow a question to be put, or rule that a question need not be answered, providing that any Conseiller shall be entitled to ask for a disclosure of what constitutes the public interest in the particular question.

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The Business of the Day

11. The business contained in the Agenda shall be taken in the order in which that business appears therein:

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Provided that Chief Pleas may resolve, on the basis of developments after the Agenda is published, that the order of business be changed. The Speaker or any Conseiller may propose a change to the order of business and if supported by a simple majority the order of business shall be altered.

Order

12. (1) The Speaker shall be responsible for maintaining order at a Meeting and, subject to the provisions of these rules, shall regulate the conduct of business therein.

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(2) The Speaker shall be assisted in the preservation of order by the Prévôt, who in turn may call upon the assistance of the Constable.

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(3) It shall be the duty of every Conseiller to observe due decorum in a Meeting and, in particular, to observe the rulings of the Speaker.

(4) The Speaker, after having called the attention of Chief Pleas to the conduct of a Conseiller who persists in irrelevance or tedious repetition of his or other

Conseiller's arguments in the debate, may direct the said Conseiller to discontinue his speech.

- (5) The Speaker may order a member of the public whose conduct is grossly disorderly to withdraw from the precincts of the building within which the Meeting is being held until close of business of the Meeting.
- (6) If on any occasion the Speaker considers that the conduct of a Conseiller is grossly disorderly, or offensive, or with malice he may forthwith put the following proposition in relation to the said Conseiller, namely -

"Conseiller (Naming the said Conseiller) be suspended from the service of Chief Pleas"

And no debate on or amendment to any such proposition shall be allowed. A Conseiller suspended as aforesaid shall be directed forthwith by the Speaker to withdraw from the Meeting and leave the precincts of the building and such suspension shall continue to have effect until the close of business of the Meeting.

- (7) Where a case of grave disorder arises in a Meeting the Speaker may, if he thinks it necessary, adjourn the Meeting without putting a proposition.

Rules of Debate

13. (1) The Speaker shall read aloud each Agenda item and such propositions as have been made in support of the matter.

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- (2) Any two or more Conseiller may solicit an amendment to any proposition contained in the Agenda by delivering, in writing, signed copies thereof to the Speaker, and the Greffier four clear working days before the matter is due to be debated in Chief Pleas PROVIDED THAT the Speaker may, in his discretion, dispense with this requirement by permitting it to be moved either with lesser notice or without notice. This rule does not apply to a Committee submitting a matter for debate which wishes to move an amendment to its proposition from the floor.
- (3) A debate on any matter before a Meeting, including an amendment, shall be opened by a representative of the Committee or those Conseiller from whom the matter originated and a representative of the Committee or of those Conseiller shall be entitled to reply on the debate.
- (4) Where an amendment to any matter before a Meeting is proposed the Chairman of the Committee from whom the matter originated shall have the right to speak on the said amendment if he has not already spoken thereon immediately before the proposer of the said amendment exercises his right to reply to the debate on the amendment.

- (5) Where an amendment goes further than the original proposition so as that Chief Pleas Members and the Committee concerned are taken to have no foreknowledge of the matter within the scope of the amendment because it goes beyond the original proposition, the amendment should be delivered, in writing, to the Speaker, Greffier and the Chairman of the Committee concerned, five working days before the matter is to be debated in Chief Pleas.
- (6) Debate must be relevant to the matter before the Meeting.
- (7) A Conseiller may speak more than once on the same matter.
- (8) Where more than one amendment to the same matter is proposed, the Speaker shall, at his discretion, decide the order in which amendment shall be debated and voted upon. If an amendment is carried, the original matter shall be put as amended if need be. An amendment may be, or include, a proposition to withdraw the matter, or refer it back to the Committee, or to defer the vote until the next Meeting of Chief Pleas.
- (9) Where a Conseiller proposes to move an amendment to a Projet de Loi or a draft Ordinance he shall send the amendment to the Committee bringing the legislation forward no later than ten working days before the
Chief Pleas Meeting. No such restriction shall apply to an amendment proposed on behalf of the Committee submitting the original legislation.
- (10) Where a Conseiller or Committee proposes to spend a sum of money not previously budgeted for, that Conseiller must inform the Chairman of the Policy & Finance Committee of their intention at least thirty days before the Chief Pleas Meeting save that, when circumstances are deemed necessary when prior notice is given to the Policy & Finance Committee, by a simple majority of Chief Pleas, this requirement may be waived.
- (11) When circumstances prevail in which a Committee needs to put propositions urgently before Chief Pleas at lesser notice than specified in rule 1. (4), the Speaker may waive the requirement as to notice (see also rule 2.).

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Motion to annul or disapply an Ordinance or Order (Statutory Instrument, Regulation etc)

- 14. (1) This Rule applies to any Ordinance or Order laid before the Chief Pleas pursuant to a Law or Ordinance providing that it may be annulled (or disapplied).
- (2) Every motion to annul must be in writing, and must state the name of its proposer and seconder.

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- (3) A Conseiller who proposes to move a motion of annulment (or disapplication) must furnish the proposed motion to the Speaker and send a copy to the Chairman of the Committee laying before Chief Pleas the Ordinance or Order. The motion is to be delivered not later than 5 clear days (excluding Saturdays, Sundays and Public Holidays) before the meeting of the Chief Pleas at which the motion is proposed to be moved. Immediately after the closing date for the receipt of such motions the Speaker shall cause a copy thereof to be delivered to each Member. Where such motion to annul is received the Chairman of the Committee shall immediately cause a copy thereof to be sent to H.M. Procureur.
- (4) When notice of a proposed motion of annulment has been given in accordance with subparagraph (3), the Speaker shall invite the Chairman of the Committee which made the Ordinance or Order to speak first on the matter. The proposer and seconder shall then be entitled to speak. After general debate, if any, the Chairman of the Committee may respond to the debate, following which the proposer of the motion shall be entitled to respond to the debate.

Declaration of Interest

15. (1) Conseillers shall submit a declaration of interests form to the Greffier on or before, or within two days of being sworn in to the office of Conseiller.

The Declaration of Interest Form is a living document and must be updated whenever the circumstances of a Conseiller change. The Declaration of Interest form is valid for a Conseillers term of office.

- (2) Subject to paragraph (3), where any Conseiller of Chief Pleas has a direct pecuniary interest, being an interest which is immediate and personal and not merely of a general or remote character, in the subject submitted to the Assembly he shall, as soon as practical, declare his interest and withdraw from the Chamber during the consideration of, and voting on the issue.
- (3) When a Conseiller declares an interest in accordance with paragraph (2), The Speaker shall ask if there are any requests for that Conseiller to remain in the Chamber and, if any other Conseiller then requests for that Conseiller to remain and the request is supported by a simple majority of Chief Pleas, the Conseiller may remain in the Chamber during the consideration of and voting on the issue in question.
- (4) A Conseiller who remains in the Chamber in accordance with paragraph (3) may not take part in general debate of, or vote on the issue in question however, if so requested by any other Conseiller, he may contribute factual or technical information for the purpose of any general debate of the issue in question.

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Deleted: These will be updated by the Greffier requesting changes/updates annually during December. Forms can be examined at the Greffe Office but will not be placed on the Government Website. A further copy of the declarations shall be held by the Speaker of Chief Pleas. Observation of this rule of procedure, as with all other rules of procedure, shall be a requirement of taking part in meetings of Chief Pleas. Conseillers failing to submit a form, or provide updated information when requested, shall be named at each meeting and shall not speak or vote until a written declaration, any updated information, is submitted. ¶

Code of Conduct

16. Conseillers shall abide by the "Code of Conduct – Conseillers of Chief Pleas".

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Points of Order

17. A point of order may only be raised for the purpose of drawing the attention to a breach of a Rule of Procedure or on seeking clarification from the Speaker on the Rules of Procedure.

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Interruptions on Points of Order and Corrections or Explanations of Statements

18. A Member shall not interrupt another Member who is addressing a Meeting save:

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- (1) on a point of order or clarification of the subject;
- (2) to correct an inaccurate or misleading statement made by that other Member;
- (3) to explain any statement previously made by him in the course of the debate that is being misconstrued.

Communications with Members of the Public etc

19. (1) A Conseiller shall not, during a Meeting communicate (whether orally or in writing or otherwise) with a member of the public.

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- (2) Electronic devices (Mobile telephones, recorders, cameras etc., other than those devices used by Members of Chief Pleas to read stored records of Chief Pleas, agendas and other Chief Pleas related documents) are not to be activated during a Meeting of Chief Pleas unless such devices are for the express purpose of official recordings by Chief Pleas. This rule does not apply to members of the Sark Emergency Services or Constables but their electronic devices must be set to silent, if that facility exists. The Constable is to ensure that members of the public do not use such devices as aforementioned in the Assembly Room or its equivalent if a Meeting is held elsewhere.

Election to Committees

20. Where in any election by Chief Pleas the number of candidates exceeds the number of vacancies a vote shall be conducted. The Conseiller with the greatest number of votes shall be elected. Where two or more candidates secure an equal number of votes, and the addition of one vote would have entitled one of them to be declared elected, a second vote shall be conducted. Should

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a second round of voting result in a further tie the Speaker may either rule that a further ballot shall be held or the vote be deferred until the next Meeting of Chief Pleas.

Motions of No Confidence

21. (1) If any seven Conseillers address a petition in writing to the Speaker that a motion of no confidence be laid before Chief Pleas, the Speaker shall include the motion in the Agenda for the next Meeting.
- (2) For the purpose of this rule a "motion of no confidence" is one that requires the immediate resignation of all Members of a Committee of Chief Pleas, including the Chairman of that Committee.
- (3) Where a motion of no confidence is brought against a Committee the Chairman of that Committee shall have the right to reply to the debate immediately prior to the reply by the proposer and this is in addition to his right to speak in response to the proposition.
- (4) Where a motion of no confidence in respect of a Committee is approved by Chief Pleas; all Members of that Committee including the Chairman thereof shall thereupon be deemed to have tendered their resignation from such membership and those resignations shall be deemed accepted by Chief Pleas. The motion shall be deemed to include such propositions to Chief Pleas as may be appropriate for the election at that Meeting of new Members of the Committee and a Chairman thereof, to complete the unexpired portion of the term of office (if applicable).

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Conduct of Voting

22. (1) Votes shall usually be taken by a show of hands, both for and against a proposition, and the Speaker shall declare the proposition "Carried" or "Lost" and if no Conseiller challenges his statement it shall be recorded. Where on a show of hands a vote is close or indeterminate the Speaker or any Conseiller may call for an *appel nominal* (NAMED vote), whereupon the Greffier shall call the names of the Conseillers and each Conseiller present shall respond "Pour" or "Contre", or may abstain from the voting.
- (2) The Speaker, at his discretion, or at the request of a Conseiller, may require an *appel nominal* on any proposition. As soon as the Greffier has taken the votes the Speaker shall state the numbers voting "Pour" or "Contre" respectively, and shall declare the result. If a Conseiller states that he voted in error or his vote has been counted wrongly, he may claim to have his vote altered if his claim is made before the result is declared, but not thereafter.

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Interpretation

23. In these Rules, references to the Speaker shall be deemed to include a person elected in accordance with "The Reform (Sark) Law, 2008", as amended. Reference to the Seigneur, Greffier and Prévôt shall be deemed to include reference to the Deputies appointed to those offices. Reference to any period of time, whether expressed in days, or hours, shall mean the number of consecutive days or hours referred to regardless of whether or not any day comprises in that day a working day.

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POLICY & FINANCE COMMITTEE
Information Report to Easter Chief Pleas, 27th April 2022

SARK ELECTRICITY COMPANY UPDATE

Progress report from Policy & Finance Committee regarding mediated engagement with Sark Electricity Limited and the Director of that company, Mr A Witney-Price.

At the extraordinary Chief Pleas meeting held on the 21st December 2021, the Assembly approved the Projet du Loi entitled “The Compulsory Purchase (Electricity) (Sark) Law, 2021”.

This legislation was then processed through the recognised channels and received Royal Assent on the 16th February 2022 and was subsequently registered in the Royal Court in Guernsey on the 21st February 2022.

This Law will be brought into force through Regulations made by the Policy & Finance Committee and different dates may be appointed for different provisions and for different purposes.

Since the Christmas Chief Pleas meeting on the 19th January 2022 the Committee has continued to work closely with advisors from Guernsey and our appointed mediator Mr. Andrew Ozanne. MBE.

Andrew Ozanne has met with Mr Witney-Price and his legal advisors on several occasions to try and reach a mediated agreement for the commencement of negotiation for Chief Pleas to purchase the assets of Sark Electricity Limited by private treaty. The Committee remain of the opinion that a purchase through private treaty remains the preferred option.

It remains the Committee’s preference to reach a negotiated agreement, rather than by compulsory purchase.

Mr. Witney-Price has provided some data via an electronic data room however this data is incomplete and repeated requests for more information have not produced any meaningful response.

In early November, Mr Nigel Bird, the engineer who carried out the distribution network survey for Chief Pleas, was approached by Sark Estate Management limited to carry out a survey of the Power Station site and equipment.

At the Christmas meeting of Chief Pleas, Conseiller K Delaney noted that as agent for the Landlord of the land and power station building there was some concern regarding the potential “clean up” costs at the end of the current lease on 12th February 2031, less than nine years hence

and as Landlord he intended to commission a survey of the site. The Committee have not received any update on this matter.

The Committee, together with Andrew Ozanne and Guernsey advisors are continuing their endeavours to progress this matter.

Conseiller John Guille

Chairman, Policy & Finance Committee

POLICY & FINANCE COMMITTEE
Information Report to Easter Chief Pleas, 27th April 2022

THE BAILIWICK POLICE FORCE

At the Michaelmas Chief Pleas held on 2nd October, 2019, the Policy and Finance Committee issued a report requesting that Chief Pleas support an amendment to the Police Force (Guernsey) Law, 1986 to cover Sark. This is to enable police officers from other jurisdictions to lawfully conduct their duties in the island. This is particularly important where Guernsey Police are invited by Sark authorities to assist with policing events such as Royal visits, major investigations or critical incidents including those where civil contingency planning is required.

At the Easter Chief Pleas held on 14th April 2021, the Committee brought the Projet de Loi which gave effect to these amendments entitled, '**The Police Force (Bailiwick of Guernsey) (Amendment) Law, 2021.**' There were no obvious changes to what has been happening for many years, other than greater legal clarity. The current Service Level Agreement remains in force.

Today, the Committee appends to this report the Ordinance entitled '**The Police Force (Bailiwick of Guernsey) (Amendment) Law, 2021 (Commencement) Ordinance, 2022**', which brings the aforementioned law into force for your information.

Conseiller John Guille
Chairman, Policy & Finance Committee.

The Police Force (Bailiwick of Guernsey) (Amendment) Law, 2021 (Commencement) Ordinance, 2022

THE STATES, in exercise of the powers conferred on them by section 5 of the Police Force (Bailiwick of Guernsey) (Amendment) Law, 2021^a, and all other powers enabling them in that behalf, hereby order:-

Commencement of Law.

1. The Police Force (Bailiwick of Guernsey) (Amendment) Law, 2021 shall come into force on 31st March, 2022.

Citation.

2. This Ordinance may be cited as the Police Force (Bailiwick of Guernsey) (Amendment) Law, 2021 (Commencement) Ordinance, 2022.

^a Order in Council No. I of 2022.

The Capacity (Lasting Powers of Attorney) (Bailiwick of Guernsey) Ordinance, 2022

THE STATES, in exercise of the powers conferred on them by sections 1(5), 23, 78(1) and 79 of the Capacity (Bailiwick of Guernsey) Law, 2020^a, and all other powers enabling them in that behalf, hereby order:-

Creation.

1. (1) Subject to subsection (2), a lasting power of attorney is created where -

- (a) the grantor ("P") has executed the relevant instrument,
- (b) P makes an application to Her Majesty's Greffier for the relevant instrument to be registered, and
- (c) the relevant instrument has been registered by Her Majesty's Greffier.

(2) A lasting power of attorney can only be created where, at the time when P applies to register the relevant instrument, P -

- (a) has attained the age of 18, and

^a Order in Council No. II of 2021.

- (b) has capacity to -
 - (i) execute the relevant instrument, and
 - (ii) apply to register the relevant instrument, and
- (c) the provisions of the Law and this Ordinance are complied with.

(3) For the avoidance of doubt, where -

- (a) P executes the relevant instrument, but
- (b) the relevant instrument is not registered,

no lasting power of attorney is created.

(4) Where -

- (a) any document purports to create a lasting power of attorney, but
- (b) that document does not comply with the provisions of the Law and this Ordinance,

no lasting power of attorney is created.

(5) Subject to subsection (6), the relevant instrument to be executed for the purposes of this section shall be in the prescribed form.

(6) If -

(a) a document provides the information and authentication required in accordance with section 2(1),

(b) that document is not in the prescribed form, but

(c) that document differs only in an immaterial respect in form or mode of expression from the prescribed form,

it is to be treated by Her Majesty's Greffier as sufficient in point of form and expression.

(7) In any proceedings, the Court or the Tribunal may declare that a relevant instrument which is not in the prescribed form is to be treated as if it were, if it is satisfied that P intended it to provide the information and authentication required to create a lasting power of attorney.

(8) For the avoidance of doubt, a person may make both types of lasting power of attorney set out in section 22(1)(a) and (b) of the Law using the same relevant instrument.

Requirements as to content of relevant instruments.

2. (1) A relevant instrument must include -
 - (a) the prescribed information about the purpose of the instrument and the effect of a lasting power of attorney,
 - (b) a statement by P to the effect that P -
 - (i) has read the prescribed information or a prescribed part of it (or has had it read to P), and
 - (ii) intends the authority conferred under the instrument to include authority to make decisions on P's behalf in circumstances where P no longer has capacity,
 - (c) a statement by the attorney ("A") or, if more than one, each A to the effect that A -
 - (i) has read the prescribed information or a prescribed part of it (or has had it read to A), and
 - (ii) understands the duties imposed on an attorney of a lasting power of attorney under sections 3 (the principles) and 6 (best interests) of the Law.

- (2) For the avoidance of doubt, where a relevant instrument -
 - (a) provides the information and authentication required in accordance with section 2(1), but
 - (b) was executed before the commencement of this Ordinance,

that relevant instrument shall be a valid relevant instrument for the purposes of the Law and this Ordinance and accordingly -

- (i) P may apply for it to be registered, and
- (ii) it may be registered,

in accordance with section 3.

- (3) For the avoidance of doubt –
 - (a) where a person ("B") is required to give consent for the purposes of the relevant instrument or to sign any other prescribed document for the purposes of this Ordinance -
 - (i) B must sign the relevant instrument in the presence of a witness who is not an attorney for the purposes of that lasting power of attorney, and

- (ii) the witness must sign the relevant document in B's presence,
- (b) for the purposes of paragraph (a) "sign" in relation to B includes where a third person ("C") signs the relevant instrument in B's presence and at B's direction,
- (c) where C signs the relevant instrument in accordance with paragraph (b), B must -
 - (i) acknowledge the signature in the presence of a witness who is not an attorney for the purposes of that lasting power of attorney, and
 - (ii) that witness must sign the relevant instrument in B's presence, and
- (d) article 1(d) of the Electronic Transaction (Exemptions) Order, 2001 shall apply in relation to a relevant instrument or other prescribed document as it would apply to a power of attorney.

Registration.

3. (1) An application to Her Majesty's Greffier for the registration of the relevant instrument -

- (a) must be made in the prescribed form, and
 - (b) must include any prescribed information.
- (2) An application under subsection (1) must be made by P in person.
- (3) The application must be accompanied by -
 - (a) the relevant instrument, and
 - (b) any fee provided for under rules of court.
- (4) A person who, in an application for registration, makes a statement which that person knows or believes to be false in a material particular is guilty of an offence and is liable -
 - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding level 5 on the uniform scale, or both,
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine, or both.
- (5) Before a lasting power of attorney is registered by Her Majesty's

Greffier -

(a) Her Majesty's Greffier may request the Committee to investigate -

(i) whether P has capacity to -

(A) execute the relevant instrument, and

(B) apply to register the relevant instrument, and

(ii) the circumstances in which the instrument has been executed, and

(b) the Committee may investigate the matters set out in paragraph (a) using the powers set out in section 9.

(6) For the avoidance of doubt, Her Majesty's Greffier may refuse to register the relevant instrument where Her Majesty's Greffier reasonably believes that -

(a) P did not have capacity to -

(i) execute the relevant instrument, or

(ii) apply to register the relevant instrument,

when P applied to do so, or

(b) P has been put under undue pressure to execute the relevant instrument or to apply to register that instrument.

(7) Where Her Majesty's Greffier refuses to register the relevant instrument, P or A may appeal to the Court in accordance with rules of court.

(8) Where Her Majesty's Greffier is satisfied that -

(a) P had capacity to -

(i) execute the relevant instrument, and

(ii) apply to register the relevant instrument,

when P applied to do so,

(b) P has not been put under pressure to execute the relevant instrument or to apply to register that instrument, and

(c) P has complied with the requirements of this section,

Her Majesty's Greffier shall register the relevant instrument as a lasting power of attorney.

(9) Where Her Majesty's Greffier has registered the relevant instrument as a lasting power of attorney, Her Majesty's Greffier shall notify P.

Activation.

4. (1) Subject to subsection (2), where a lasting power of attorney in relation to property and financial affairs has been registered by P, A may act in accordance with that lasting power of attorney at any time after such registration (whether before or after a prescribed certificate has been completed in accordance with subsection (4)), provided that P has given A authority so to act, in the relevant instrument or otherwise, at a time when P had capacity to give that authority.

(2) Where P -

- (a) does not give A authority in the relevant instrument to act in accordance with that lasting power of attorney described in subsection (1), but
- (b) gives that authority subsequently,

A may only act in accordance with that lasting power of attorney where P has notified Her Majesty's Greffier in the prescribed form.

(3) Where -

- (a) a lasting power of attorney in relation to -
 - (i) health and welfare, or

- (ii) property and financial affairs (other than one described in subsection (1) or (2)),

has been registered by P, and

- (b) A reasonably believes that P no longer has capacity in relation to health and welfare or property and financial affairs matters (as the case may be) such that it is appropriate that the lasting power of attorney is activated,

A must request a prescribed person to assess whether P has capacity in relation to health and welfare or property and financial affairs matters (as the case may be).

(4) The prescribed person shall assess whether P no longer has capacity in relation to health and welfare or property and financial affairs matters (as the case may be) such that it is appropriate that the lasting power of attorney is activated and, if so satisfied, shall complete a prescribed certificate.

(5) Except in the case set out in subsection (1) or (2), A may only act in accordance with a lasting power of attorney where -

- (a) A has provided to Her Majesty's Greffier -

- (i) the prescribed certificate completed in accordance with subsection (4) which states that P no longer has capacity in relation to health and welfare or

property and financial affairs matters (as the case may be) such that it is appropriate that the lasting power of attorney is activated, and

(ii) any fee provided for in rules of court, and

(b) Her Majesty's Greffier has completed the prescribed form.

(6) Before Her Majesty's Greffier completes the prescribed form -

(a) Her Majesty's Greffier may request the Committee to investigate the circumstances in which the prescribed certificate has been completed, and

(b) the Committee may investigate those circumstances using the powers set out in section 9.

(7) For the avoidance of doubt, Her Majesty's Greffier may refuse to complete the prescribed form where Her Majesty's Greffier reasonably believes that -

(a) P retains capacity in relation to health and welfare or property and financial affairs matters (as the case may be) such that it is not appropriate that the lasting power of attorney is activated, or

(b) the circumstances in which the prescribed certificate has been completed are such that the prescribed form should not be completed until a further assessment is carried out for the purposes of subsection (4).

(8) Where Her Majesty's Greffier refuses to complete the prescribed form, P or A may appeal to the Court in accordance with rules of court.

(9) Where Her Majesty's Greffier completes the prescribed form, Her Majesty's Greffier shall -

(a) notify P and A of that fact, and

(b) update the Register accordingly.

(10) For the avoidance of doubt, A may act in accordance with the lasting power of attorney upon notification by Her Majesty's Greffier in accordance with subsection (9)(a).

(11) For the purposes of this section and section 6 -

(a) A,

(b) A's spouse or civil partner, or

(c) any child of A,

cannot act as the prescribed person in relation to a lasting power of attorney created by P.

Amendment.

5. (1) Where P wishes to amend a lasting power of attorney, including by

-

- (a) substituting a different A, or
- (b) amending any conditions or restrictions specified in the relevant instrument,

P must -

- (i) complete the prescribed form, and
- (ii) apply in person to Her Majesty's Greffier.

(2) A lasting power of attorney can only be amended where, at the time P applies to register the prescribed form, P -

- (a) has attained the age of 18, and
- (b) has capacity to -
 - (i) amend the lasting power of attorney, and

(ii) apply to register the prescribed form.

(3) The application must be accompanied by -

(a) the prescribed form, and

(b) any fee provided for in rules of court.

(4) Before an amendment is registered by Her Majesty's Greffier -

(a) Her Majesty's Greffier may request the Committee to investigate -

(i) whether P has capacity as required in subsection (2)(b), and

(ii) the circumstances in which the amendment has been made, and

(b) the Committee may investigate the matters set out in subparagraph (a) using the powers set out in section 9.

(5) For the avoidance of doubt, Her Majesty's Greffier may refuse to register an amendment to a lasting power of attorney where Her Majesty's Greffier reasonably believes that -

- (a) P does not have capacity as required in subsection (2)(b), or
- (b) P has been put undue pressure to amend the lasting power of attorney.

(6) Where Her Majesty's Greffier refuses to register an amendment to a lasting power of attorney, P or A may appeal to the Court in accordance with rules of court.

(7) Where Her Majesty's Greffier registers an amendment to a lasting power of attorney, Her Majesty's Greffier -

- (a) shall notify -
 - (i) P, and
 - (ii) A, and
- (b) update the Register accordingly.

(8) For the avoidance of doubt -

- (a) where A may act in accordance with the lasting power of attorney as set out in section 4(1) or (2), A must act in accordance with that lasting power of attorney as it has

been amended upon notification by Her Majesty's Greffier in accordance with subsection (7)(a)(ii), and

- (b) in any other case, A must act in accordance with the lasting power of attorney as it has been amended when A is authorised to so act.

Suspension.

6. (1) Where A believes, or has reasonable grounds to believe, that P has regained capacity in relation to health and welfare or property and financial affairs matters (as the case may be) such that it is appropriate that the lasting power of attorney is suspended, A shall request a prescribed person to assess P's capacity and complete the prescribed certificate.

(2) The prescribed person shall assess whether P has capacity in relation to health and welfare or property and financial affairs matters (as the case may be) such that it is appropriate that the lasting power of attorney is suspended and, if so satisfied, shall complete a prescribed certificate.

(3) Where a prescribed person has completed the prescribed certificate on the basis that -

- (a) P has regained capacity in relation to health and welfare or property and financial affairs matters (as the case may be) such that it is appropriate that the lasting power of attorney is suspended -

(i) A must immediately, except where A is authorised by P to act in accordance with section 4(1) or (2) -

(A) notify Her Majesty's Greffier that the lasting power of attorney has been suspended using the prescribed form,

(B) notify any other A of the suspension of the lasting power of attorney, and

(C) cease to act in accordance with that power of attorney,

(ii) upon notification in accordance with subparagraph (i)(B), any other A must cease to act in accordance with that power of attorney, or

(b) P has not regained capacity in relation to health and welfare or property and financial affairs matters (as the case may be) such that it is appropriate that the lasting power of attorney is suspended, A may continue to act in accordance with the lasting power of attorney.

(4) Where Her Majesty's Greffier receives notification under subsection (3)(a)(i)(A), Her Majesty's Greffier must update the Register.

(5) Where -

- (a) a lasting power of attorney has been suspended under subsection (3)(a), and
- (b) A reasonably believes that P no longer has capacity in relation to health and welfare or property and financial affairs matters (as the case may be) such that it is appropriate that the lasting power of attorney is activated,

A must act in accordance with section 4(3).

(6) If, other than where A is authorised by P to act in accordance with section 4(1) or (2), A -

- (a) does not, on the basis of the information known to A -
 - (i) request a prescribed person to assess P's capacity and complete the prescribed certificate, or
 - (ii) notify Her Majesty's Greffier,

in circumstances where a reasonable person might reasonably believe that P had regained capacity in relation to health and welfare or property and financial affairs

matters (as the case may be) such that it is appropriate that the lasting power of attorney is suspended, or

- (b) continues to act in accordance with the lasting power of attorney where a prescribed person has completed the prescribed certificate on the basis that P has regained capacity in relation to health and welfare or property and financial affairs matters (as the case may be) such that it is appropriate that the lasting power of attorney is suspended,

A is guilty of an offence.

- (7) Where A is guilty of an offence under subsection (6), A is liable -
 - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding level 5 on the uniform scale, or both,
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine, or both.
- (8) Where -
 - (a) A has disposed of any of P's property, and
 - (b) any of the circumstances set out in subsection (6) apply,

P may apply to the Court to make any order which the Court sees fit -

- (i) for the purpose of -
 - (A) preventing any further disposal of the property in question, or
 - (B) returning that property to P, and
- (ii) for any purpose ancillary to the purposes set out in subparagraph (i).

(9) For the avoidance of doubt -

- (a) the Committee may give guidance as to the meaning of "has capacity" or "regain capacity", especially in relation to cases of fluctuating capacity, in any Code of Practice issued under the Law, and
- (b) any person (including a court) must take any such guidance into account for the purposes of this Ordinance.

Revocation, etc.

7. (1) Where P wishes to revoke the lasting power of attorney, P must -

- (a) complete the prescribed form, and
- (b) apply in person to Her Majesty's Greffier.

(2) A lasting power of attorney can only be revoked where, at the time P applies to register the prescribed form, P -

- (a) has attained the age of 18, and
- (b) has capacity to -
 - (i) revoke the lasting power of attorney, and
 - (ii) apply to register the prescribed form.

(3) The application must be accompanied by -

- (a) the prescribed form, and
- (b) any fee provided for in rules of court.

(4) Before the revocation is registered by Her Majesty's Greffier -

- (a) Her Majesty's Greffier may request the Committee to investigate -

- (i) whether P has capacity as required in subsection (2)(b), and
 - (ii) the circumstances in which the amendment has been made, and
- (b) the Committee may investigate the matters set out in subparagraph (a) using the powers set out in section 9.

(5) For the avoidance of doubt, Her Majesty's Greffier may refuse to register the revocation of a lasting power of attorney where Her Majesty's Greffier reasonably believes that -

- (a) P does not have capacity as required in subsection (2)(b), or
- (b) P has been put undue pressure to revoke the lasting power of attorney.

(6) Where Her Majesty's Greffier refuses to register the revocation of a lasting power of attorney, P or A may appeal to the Court in accordance with rules of court.

(7) Where Her Majesty's Greffier registers the revocation of a lasting power of attorney, Her Majesty's Greffier -

- (a) shall notify -

(i) P, and

(ii) A, and

(b) update the Register accordingly.

(8) For the avoidance of doubt, A no longer has authority to act in accordance with a lasting power of attorney when Her Majesty's Greffier has given notification in accordance with subsection (7)(a)(ii).

(9) P's bankruptcy revokes the lasting power of attorney so far as it relates to P's property and financial affairs.

(10) The occurrence in relation to A of an event mentioned in subsection

(11) -

(a) terminates A's appointment, and

(b) except in the cases given in subsection (12), revokes the lasting power of attorney.

(11) The events are -

(a) the disclaimer of the appointment by A in accordance with the prescribed requirements,

- (b) subject to subsection (13), the death or bankruptcy of A or, if A is a person holding (or deemed to be holding) a primary or secondary fiduciary licence for the purposes of the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law, 2020^b, its winding-up or dissolution, or loss of its fiduciary licence held under that Law,
- (c) subject to subsection (14), the dissolution or annulment of a marriage or civil partnership between P and A, and
- (d) A's lack of capacity.

(12) The cases are -

- (a) A is substituted under the terms of the relevant instrument,
- (b) A is one of two or more persons appointed to act jointly and severally in respect of any matter and, after the event, there is at least one remaining A.

(13) The bankruptcy of A does not terminate A's appointment, or revoke the power, in so far as A's authority relates to P's health and welfare.

^b Order in Council No. XIX of 2020. This enactment has been amended.

(14) The dissolution or annulment of a marriage or civil partnership does not terminate A's appointment, or revoke the lasting power of attorney, if the relevant instrument provided that it was not to do so.

(15) For the avoidance of doubt -

(a) the Court under section 14 of the Law, or

(b) the Tribunal under section 18 of the Law,

may revoke a lasting power of attorney or A's appointment.

(16) Where Her Majesty's Greffier believes on reasonable grounds that

-

(a) A's appointment has been terminated or revoked, or

(b) the lasting power of attorney has been revoked,

Her Majesty's Greffier shall update the Register accordingly, subject to making such enquiries as may be reasonable in the circumstances.

(17) Where A knows or reasonably believes that an event has occurred in relation to A or another A which would -

- (a) terminate the appointment of any A, or
- (b) revoke the lasting power of attorney,

in accordance with subsection (10), A must notify Her Majesty's Greffier as soon as reasonably practicable.

(18) Where A does not notify Her Majesty's Greffier in accordance with the requirement set out in subsection (17), A is guilty of an offence.

(19) Where A is guilty of an offence under subsection (18), A is liable, on summary conviction, to imprisonment for a term not exceeding 2 years, to a fine not exceeding level 5 on the uniform scale, or to both.

(20) Without prejudice to subsection (16), where Her Majesty's Greffier has been notified in accordance with subsection (17) -

- (a) Her Majesty's Greffier may request the Committee to investigate whether an event has occurred which would terminate the appointment of any A or revoke the lasting power of attorney, and
- (b) the Committee may investigate the matters set out in subparagraph (a) using the powers set out in section 9.

Power of Court to suspend exercise of lasting power of attorney.

8. (1) In addition to any power of the Court under the Law, the Court, on application of the Committee, may direct that -

- (a) A may not act in accordance with a lasting power of attorney, or
- (b) A may only exercise that power, or make specified decisions under that power, with the consent of the Committee,

for a specified period to allow the Committee to investigate if it considers that -

- (i) fraud or undue pressure was used to induce P -
 - (A) to execute a relevant instrument, or
 - (B) to create a lasting power of attorney, or
- (ii) A has behaved, is behaving or proposes to behave in a way contrary to section 30(3)(b) of the Law.

(2) Where the Committee -

- (a) has completed its investigation under subsection (1), and

(b) reasonably believes that -

(i) fraud or undue pressure was used to induce P to act in one, or both, of the ways set out in subsection (1)(i), or

(ii) A has behaved, is behaving or proposes to behave in a way contrary to section 30(3)(b) of the Law,

it shall apply to the Court to decide whether to revoke A's appointment.

(3) Any application under subsection (1) or (2) shall be made in accordance with rules of court.

(4) Where the Court has notified Her Majesty's Greffier that it has made a direction under subsection (1), Her Majesty's Greffier shall update the Register accordingly.

Power of Committee to investigate.

9. (1) Without prejudice to any power under an Ordinance made under Part 9 of the Law, where -

(a) Her Majesty's Greffier has requested the Committee to undertake an investigation in accordance with this Ordinance, or

- (b) the Committee believes that A may -
 - (i) have behaved, or be behaving, in a way that contravenes A's authority or was not in the best interests of P,
 - (ii) be proposing to behave in a way that would contravene that authority or would not be in P's best interests, or
 - (iii) have failed to comply with the requirements of an order made, or directions given, by the Court or the Tribunal (as the case may be),

the Committee may exercise the powers set out in this section.

- (2) The Committee may require A -
 - (a) to provide specified information or information of a specified description, or
 - (b) to produce specified documents or documents of a specified description.
- (3) The information or documents must be provided or produced -

(a) before the end of such reasonable period as may be specified, and

(b) at such place as may be specified.

(4) The Committee may require -

(a) any specified information provided to be verified in such manner, or

(b) any specified document produced to be authenticated in such manner,

as it may reasonably require.

(5) For the purposes of this section, "**specified**" means specified in a notice in writing given to A by the Committee.

(6) A person who, in purported compliance with a requirement imposed under this section, does any of the following -

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

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

is guilty of an offence.

(7) A person guilty of an offence under subsection (6) is liable, on summary conviction, to imprisonment for a term not exceeding 2 years, to a fine not exceeding level 5 on the uniform scale, or to both.

(8) Without prejudice to any other power of the Committee to do so, where -

- (a) A does not provide any specified information or produce any specified document in accordance with the notice, or

- (b) A has provided the information or produced any document in accordance with the notice, but the Committee believes that A's conduct falls within subsection (1)(b),

the Committee may make an application to the Court in accordance with rules of court to make an appropriate order, including but not limited to, an order terminating A's appointment.

Disposal of real property.

10. (1) For the purposes of section 27 of the Law, where the real property is located -

- (a) in the Bailiwick, A must comply with the requirements set out in subsection (2),
- (b) outside the Bailiwick, A must comply with the requirements set out in subsection (4) if P is ordinarily resident in the Bailiwick.

(2) Where subsection (1)(a) applies, A may only dispose of P's real property where -

- (a) A has given at least 28 days' notice to -
 - (i) all other As, and

(ii) any person of whom A is aware, after reasonable investigation, has an interest (whether vested or contingent) in that real property,

of the application to the relevant court to make an order approving the disposal of the real property, and

(b) the relevant court has made an order approving that disposal.

(3) For the purposes of subsection (2)(b) -

(a) A may make an application to the relevant court in accordance with rules of court, and

(b) the relevant court -

(i) where P is ordinarily resident in Alderney, is the Court of Alderney,

(ii) where P is ordinarily resident in Sark, is the Court of the Seneschal, and

(iii) in any other case, is the Royal Court (sitting as an Ordinary Court).

(4) Where subsection (1)(b) applies, A may only dispose of P's real property where A has given at least 28 days' notice immediately preceding the date of that disposal to -

- (a) all other As (where relevant), and
- (b) any person of whom A is aware, after reasonable investigation, who has an interest (whether vested or contingent) in that real property,

of the disposal of the real property.

(6) For the purposes of subsection (4), "**dispose of**" P's real property which is located outside the Bailiwick means dealing with the real property in a way corresponding to one of ways set out in subsection (6) recognised by the jurisdiction in which the real property is located.

(7) For the purposes of subsections (2)(a) and (4), A satisfies this requirement where A sends a notice -

- (a) setting out A's intention to dispose of P's real property and provides sufficient detail to permit the person receiving the notice to understand the nature of the disposal and to object to that disposal when the Court considers making an order approving that disposal or when the real property is otherwise disposed of, and

- (b) satisfies any requirement set out in regulations made under section 19.

(8) For the purposes of this section and section 27 of the Law, "**dispose of**" P's real property means where A deals with the real property by -

- (a) selling or otherwise conveying the real property,
- (b) creating a charge over that property,
- (c) granting a long lease over the real property,
- (d) granting any person a life interest in the real property, or
- (e) granting an *usufruit, droit d'habitation, hypothèque* or servitude over the real property,

and cognate expressions shall be construed accordingly.

Offences.

11. (1) Where A -

- (a) may act in the exercise of A's authority under a lasting power of attorney,

- (b) does any thing which is not within A's authority to do, and
- (c) A knows that, or is reckless to whether, this thing is not within A's authority,

A is guilty of an offence.

(2) Where A -

(a) does any thing which -

(i) is not, or

(ii) is no longer,

within A's authority to do under a lasting power of attorney, and

(b) A knows that, or is reckless to whether, this thing is not, or is no longer, within A's authority to do,

A is guilty of an offence.

(3) Where A is guilty of an offence under subsection (1) or (2), A is liable -

- (a) on summary conviction, to imprisonment for a term not exceeding 2 years or a fine not exceeding level 5 on the uniform scale, or both,
- (b) on conviction on indictment, to imprisonment for a term not exceeding 10 years or a fine, or both.

Further provision.

12. (1) The Committee may by regulations make alternative provision in relation to any requirement in this Ordinance to do any act in person, notwithstanding any provision to the contrary, where the Committee is satisfied that there is a good reason to do so (including, but not limited to, a public health reason).

(2) Any regulations made under subsection (1) may only be in force for a period not exceeding 3 months.

Non-resident attorneys.

13. For the avoidance of doubt, A is not required to be ordinarily resident in the Bailiwick in order to be appointed as, or to exercise the functions of, an attorney in accordance with a lasting power of attorney.

Other powers of attorney.

14. For the avoidance of doubt -

- (a) the provisions of the Power of Attorney and Affidavits (Bailiwick of Guernsey) Law, 1995 do not apply in relation

to any lasting power of attorney created in accordance with this Ordinance, and

- (b) this Ordinance does not affect the law of agency or the operation of any power of attorney made in accordance with that Law.

Savings.

15. (1) For the avoidance of doubt, nothing in the Law or this Ordinance shall -

- (a) invalidate the registration by the Court before the date of commencement of this Ordinance of any lasting power of attorney created in accordance with the legislation of a jurisdiction outside the Bailiwick,
- (b) prevent the performance of any act or taking of any decision after the date of commencement in accordance with a lasting power of attorney registered in accordance with paragraph (a), or
- (c) prevent the registration after the date of commencement of this Ordinance by any court in the Bailiwick of any lasting power of attorney created in accordance with the legislation of a jurisdiction outside the Bailiwick.

(2) Accordingly, the provisions of this Ordinance shall not apply in relation to the creation, registration, activation, amendment or suspension of a lasting power of attorney created in accordance with the legislation of a jurisdiction outside the Bailiwick.

Saving of transactions for value without notice.

16. (1) Subject to any requirement in relation to real property set out in this Ordinance, where -

- (a) A has disposed of any of P's property other than in accordance with A's authority under a lasting power of attorney, and
- (b) that property has been acquired by a bona fide purchaser for value of the goods on the basis of A's ostensible authority to dispose of that property,

the acquisition of that property by that purchaser shall not be impugned by reason of a subsequent determination of any application by a court to decide the lawful ownership of the property or otherwise to oppose the disposal.

(2) Where subsection (1) applies, P's rights shall attach instead to the proceeds of sale received by A or to any property representing the proceeds of sale.

Appeal from the Royal Court.

17. (1) An appeal from a decision of the Court made in exercise of its powers in relation to a lasting power of attorney (whether under the Law or this Ordinance) on a point of law shall, with leave of the Court or the Court of Appeal, lie to the Court of Appeal.

(2) An application to the Court of Appeal for leave to appeal under subsection (1) shall be treated, for the purposes of section 21 of the Court of Appeal (Guernsey) Law, 1961, in respect of -

- (a) the powers that may be exercised by a single judge of the Court under section 21(1) of that Law, and
- (b) the entitlement of an applicant under section 21(2) of that Law,

as if it were an application made under Part II of that Law.

Applications to the Royal Court.

18. (1) For the avoidance of doubt, any application for the Royal Court to exercise any of the powers set out in section 30 or 31 of the Law, or any other power under the Law in relation to a lasting power of attorney, must be made in accordance with rules of court.

(2) Further to section 21 of the Law, no permission is required for an application to the Court by the Committee for the exercise of any of its powers under this Ordinance or under the Law in relation to a lasting power of attorney.

Service.

19. The Committee may by regulations make such provisions as it thinks fit in relation to the service of any document, howsoever named (but including, for the avoidance of doubt, a notification by Her Majesty's Greffier), for the purposes of this Ordinance.

Interpretation.

20. (1) For the purposes of this Ordinance, unless the context requires otherwise -

"**the Committee**", for the purposes of sections 3(5), 4(6), 5(4), 7(20), 8 and 9, includes any person appointed or otherwise directed by the Chief Pleas of Sark, or one of its committees, to deal with safeguarding matters,

"**the Court**" means the Royal Court sitting as an Ordinary Court, which may be properly constituted by the Bailiff sitting unaccompanied by the Jurats,

"**Her Majesty's Greffier**" includes -

(a) any Deputy Greffier or other person authorised by Her Majesty's Greffier to exercise any of the, or any specified,

functions of Her Majesty's Greffier under this Ordinance,
and

- (b) any person appointed for the time being by Her Majesty's Greffier for the purpose of exercising any of the, or any specified, functions of Her Majesty's Greffier under this Ordinance in Alderney or Sark,

"the Law" means the Capacity (Bailiwick of Guernsey) Law, 2020,

"long lease" means a lease granted for a term of years certain of 21 years or more, whether or not at a premium or rack rent and whether or not the lease is or may become terminable before the end of that term by notice given by or to the tenant or by re-entry, forfeiture or otherwise, and also any other lease which contains, or in relation to which there exists, a covenant, obligation or option -

- (a) for perpetual renewal, pursuant to which any party to the lease is entitled to enforce (whether or not subject to the fulfilment of any condition) the perpetual renewal or extension thereof,
- (b) for renewal, pursuant to which any party to the lease is entitled to enforce (whether or not subject to the fulfilment of any condition) the renewal or extension thereof (whether on one or more occasions, and whether or not for

a specified term) which, if exercised in accordance with the terms of the covenant, obligation or option, and on whatever number of occasions, would bring the aggregate of terms granted to 21 years or more,

and for the purposes of this Ordinance -

- (c) a lease for a fixed term and thereafter until determined shall be deemed to be a lease for a term equal to the fixed term together with such further period as must elapse before the earliest date upon which the lease can be determined,
- (d) a lease for life or for any term determinable with life or on marriage shall be deemed to be a lease granted for a term of years certain of 21 years or more,
- (e) without prejudice to the generality of paragraphs (a) and (b) above, any covenant, obligation or option to take a lease for a further or extended term shall be taken into account in calculating the length of the term for which the lease was originally granted, and accordingly (by way of example) a lease for a definite term with an option to renew or extend for a further definite term shall be deemed to be a lease for the aggregate term,

- (f) a renewal or extension of a lease which does not contain, and in relation to which there does not exist, a covenant, obligation or option described in paragraph (a) or (b) above shall be deemed to be a grant of a lease, and
- (g) the expression "lease" includes an underlease or other tenancy, and

"**notify**" means, subject to subsection (3)(b), giving notification of the required information in writing,

"**prescribed**" means prescribed by regulations of the Committee.

(2) Any term used in this Ordinance shall have the same meaning as found in the Law and cognate expressions shall be construed accordingly.

(3) For the avoidance of doubt -

- (a) any person appointed by Her Majesty's Greffier under section 20(1) is a person responsible to Her Majesty's Greffier for the purposes of section 34 of the Law, and
- (b) Her Majesty's Greffier may notify a person for the purposes of this Ordinance in such manner as Her Majesty's Greffier sees fit.

Amendments.

21. (1) In the Law -

(a) in section 1(1) -

(i) in the definition of "grantor" and "lasting power of attorney", for "21" substitute "22", and

(ii) insert the following definitions in the appropriate places -

""**dispose of**", for the purposes of section 27(1), means dealing with the real property by way of any legal transaction specified in an Ordinance made under section 23, and "**disposal**" shall be construed accordingly," and

""**full fiduciary licence**", for the purposes of the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law, 2000, includes a primary or secondary fiduciary licence for the purposes of the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law, 2020,"

(iii) in the definition of "**bankrupt**", after paragraph (e), add the following paragraph –

"(f) that an event, measure or procedure has occurred outside the Bailiwick in relation to the individual which corresponds as nearly as may be to any event, measure or procedure described in paragraphs (a) to (e),"

(b) for section 24(2), substitute the following subsection –

"(2) An individual who is bankrupt may not be appointed as A under a lasting power of attorney in relation to P's property and financial affairs –

(a) where one or more of paragraphs (a) to (e) of the definition of "bankrupt" apply -

(i) the declaration, appointment or order was made, or

(ii) the composition, compromise or arrangement was entered into,

(as may be applicable having regard to the definition of "bankrupt") less than 10 years before the appointment as A is made, and

(b) where paragraph (f) of the definition of "bankrupt" applies, that individual has not been discharged from bankruptcy for the purposes of the law of the other jurisdiction outside the Bailiwick under which that individual was made bankrupt."

(c) in section 29(4)(a), for "created" substitute "activated", and

(d) in section 34, for "22" substitute "23".

(2) In section 4(4)(b) of the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law, 2020 -

(a) in paragraph (iv), for "." substitute ",", and

(b) insert the following paragraph -

"(v) acting as an attorney under a lasting power of attorney created under the Capacity (Bailiwick of Guernsey) Law, 2020."

Citation and commencement.

22. This Ordinance -

(a) may be cited as the Capacity (Lasting Powers of Attorney) (Bailiwick of Guernsey) Ordinance, 2022, and

(b) shall come into force on 1st April 2022.

Extent.

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